

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

INDEX

Senate Confirmation Session

June 14, 1978

INDEX

First Special Session

September 6, 1978 — September 15, 1978

INDEX

Second Special Session

October 18, 1978

INDEX

Third Special Session

December 6, 1978

INDEX

APPENDIX

SENATE

December 6, 1978

In compliance with a proclamation of His Excellency, Governor James B. Longley, the Senators convened in the Senate Chamber at ten o'clock in the morning and were called to Order by the President.

Prayer by Father Valmont Gilbert, St. Augustine's Catholic Church, Augusta.

Father Gilbert: God, our Father, we come to You this morning at the opening of this session of the Senate, to ask Your guidance. We first Thank You for the Great resources of our State of Maine.

We ask You to bless all the Senators who are here present. Inspire them in all their deliberations. Help these men and women who represent the people of Maine, to serve in integrity, so that the State will have a fruitful economy born in justice and charity.

May all the people of Maine benefit from the outcome of this special session. We ask this in the name of Your Son. Our Lord. Amen.

Mr. Katz of Kennebec was granted unanimous consent to address the Senate.

Mr. KATZ: On Thanksgiving Sunday, a time when many of us were enjoying happy occasions with our families, Senator Peter Farley died in Biddeford.

I served with Senator Farley in the 103rd Senate. I knew him as one of those delightful strains of Democrats from the Biddeford area, who had his feet firmly on the ground.

He was a trucker, during his lifetime, he was a committed fighter. I remember his work in the Committee on Taxation and I remember with great fondness our service together.

Senator Farley did not use microphones in those days, I remember that he used to leave his microphone down, put his hands in his back pocket, rear back, and everybody in the Chamber knew exactly what Peter Farley had on his mind by the time he finished.

When Peter Farley died on Thanksgiving Sunday, we lost a good friend, a fine civic worker, a devoted father. I am sure that the Senate shares my sense of personal loss, at the death of this fine man.

The PRESIDENT: The Chair would ask the Senate to rise in a moment of Prayer, for our departed colleague.

The Secretary read the Proclamation.

STATE OF MAINE

PROCLAMATION

BY THE GOVERNOR

WHEREAS, the Legislature will be presented with a bill that will become a major industrial development tool allowing Maine to be competitive with other states in attracting quality industry; and

WHEREAS, this bill will provide firms with a major investment tax credit for expansion or location in Maine very similar in concept to the investment tax credit allowed by the federal government for economic stimulation and development; and

WHEREAS, there now exists for the people of Maine an extraordinary opportunity to attract to Maine an outstanding firm with a world-wide reputation for quality products and jobs; and

WHEREAS, the location of this firm in Maine would result in an investment of millions of dollars and in the creation of thousands of quality and skilled jobs;

NOW, THEREFORE, I, James B. Longley, Governor of the State of Maine, by virtue of the constitutional power vested in me as Governor, convene the Legislature of this state, hereby requesting the Senators and Representatives to assemble in their respective chambers at the Capitol at Augusta on Wednesday, the Sixth Day of December, 1978, at ten o'clock in the

morning, in order to receive communications and enact an industrial development and economic stimulation plan for the procurement and expansion of quality jobs for the people of the State of Maine.

Given at the Office of the Governor at Augusta, and sealed with the Great Seal of the State of Maine, this First day of December, One Thousand Nine-Hundred and Seventy-Eight and of the Independence of the United States of America, the Two Hundredth and Second.

James B. Longley

By the Governor

Deputy Secretary of State

A True Copy Attest

Deputy Secretary of State

Which was Read and Ordered placed on file.

ROLL CALL

The roll being called the following Senators responded to their names:

Carpenter, Chapman, Collins D., Collins S., Conley, Cummings, Danton, Farley, Greeley, Hewes, Huber, Jackson, Katz, Martin, McNally, Merrill, Minkowsky, Morrell, O'Leary, Pierce, Pray, Redmond, Speers, Trotzky, Usher, Wyman, Sewall.

27 Senator having answered to the roll call, the President declared that a quorum was present.

Subsequently, a message was received from the House, through Representative Tierney, of Lisbon Falls, informing the Senate that a quorum was present for the consideration of such business as might come before the House.

Out of Order and Under Suspension of the Rules:

On motion by MR. SPEERS of Kennebec, ORDERED, that a message be sent to His Excellency, the Governor, informing him that in obedience to his Proclamation, a quorum of Senators is assembled in the Senate Chamber for the consideration of such business as may come before the Senate.

Which was Read and Passed.

The President appointed Mr. Speers of Kennebec to carry the Message, the Senator, subsequently reported that he had delivered the message with which he was charged.

Out of Order and Under Suspension of the Rules:

On motion by MR. HUBER of Cumberland, ORDERED, that a message be conveyed to the House of Representatives informing that Body that a quorum of Senators is present for the consideration of such business as may come before the Senate.

Which was Read and Passed.

The President appointed Mr. Huber, of Cumberland to carry the message, the Senator retired to the House of Representatives and subsequently reported that he had delivered the message with which he was charged.

Mr. Merrill of Cumberland was granted unanimous consent to address the Senate.

Mr. MERRILL: Mr. President and Members of the Senate: When I came into Chamber this morning, as is usually my custom, I talked to the Senator from Kennebec, Senator Katz. He informed me that never has he seen such great discussion, of where people are going to sit, in an up-coming Senate body.

I would like to suggest, if I may be so bold, that this probably just represents the acumen on the part of the new Senators. Because as I look around this body, I have to recognize that all the new members, perspective members of leadership, come from one small segment of the chamber, over there. The rest of the Chamber is left in a bad regard indeed. I would like to extend my congratulations to Senator Katz, Senator Pierce and Senator Pray on their election. And point out that I think that there is a great deal, that probably comes about as a result of where we sit.

As a matter of fact this one here is probably one of the most ill-fated, seats of the Senate. I hope that the Senator from Kennebec, Senator Katz does not have too much trouble finding someone with the courage to fill this seat in the next session. Representing the bad fate that all the members of this seat have fallen on as of late.

(Off Record Remarks)

Out of Order and Under Suspension of the Rules:

On motion by Mr. Speers of Kennebec.

ORDERED, that a message be sent to the House of Representatives proposing a Convention of both branches in the Hall of the House at ten thirty o'clock for the purpose of extending to His Excellency, Governor JAMES B. LONGLEY, an invitation to attend the Convention and make such communication as pleases him.

Which was Read and Passed.

The President appointed Mr. Speers of Kennebec to carry the message, the Senator retired to the House of Representatives and subsequently reported that he had delivered the message with which he was charged.

(Senate at Ease)

Called to order by the President:

Subsequently a message was received from the House, borne by Mr. Richard Carey of Waterville, member of that body, informing the Senate that the House concurred in the proposal for a Joint Convention.

At this point the Senate retired to the Hall of the House of Representatives where a Joint Convention was formed.

(For proceedings of Joint Convention, see House Report).

AFTER JOINT CONVENTION
IN SENATE

Senate called to order by the President:

Communications

UNIVERSITY OF MAINE at Orono
Division of Research and Public Services
Bureau of Public Administration

November 16, 1978

Ms. Mary Ross
Secretary of the Senate
State House

Augusta, ME 04333

Dear Ms. Ross:

Enclosed please find the annual report on the operation of the State Government Summer Internship Program as required by the Maine State Statutes, Chapter 14, paragraph 294.

Sincerely,

KATHRYN H. GODWIN

Director

Which was Read and with accompanying papers, ordered placed on file.

Office of the Governor

November 21, 1978

Honorable Joseph Sewall

President of the Senate

and

Honorable John Martin

Speaker of the House

Dear Joe and John:

I am today nominating Donald G. Alexander of Mt. Vernon to serve as an at-large Judge on the Maine District Court. Mr. Alexander will be replacing Judge Simon Spill who is retiring from the bench on December 25, 1978.

I am also renominating current members to the Judiciary: Justice Ian McInnes of Bangor on the Superior Court; Justice Harry P. Glassman of Portland, also of the Superior Court; Chief Judge Nicholas W. Danton of Old Orchard Beach, Chief Judge of the Maine District Court; and F. Davis Clark, Judge of the District Court District III.

We are also nominating Judge Simon Spill to serve as an Active Retired Judge of the Maine District Court.

Pursuant to M.R.S.A., Title 4, Section 151; Title 4, Sec. 157; Title 4, Sec 157B, and Title 4, Sec. 101, these nominations require confirmation by the Joint Standing Committee on the Judiciary and the Maine Senate.

Thank you for your assistance.

Very truly yours,
JAMES B. LONGLEY
Governor

Which was Read and Ordered placed on file.

The Senate of Maine
Augusta

November 21, 1978

The Honorable Samuel W. Collins, Jr.
The Honorable Stephen T. Hughes
Chairmen, Judiciary Committee
108th Maine Legislature

Please be advised that Governor James B. Longley today nominated Donald G. Alexander of Mount Vernon to serve as an at-large Judge of the Maine District Court and Judge Simon Spill to serve as an Active Retired Judge of the Maine District Court.

Also renominated were current members to the Judiciary: Justice Ian MacInnes of Bangor to the Superior Court; Justice Harry P. Glassman of Portland, also of the Superior Court; Chief Judge Nicholas W. Danton of Old Orchard Beach, Judge of the Maine District Court; and F. Davis Clark, Judge of the District Court, District III.

These nominations require confirmation by the Joint Standing Committee on Judiciary.

Sincerely,
MAY M. ROSS
Secretary of the Senate

Which was Read and Ordered Placed on file.

Office of the Governor

November 27, 1978

Honorable Joseph Sewall
President of the Senate
and

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

I am today nominating Lionel C. Ferland, Sr. of Poland to serve on the State Board of Environmental Protection.

Mr. Ferland is being renominated to serve an additional term.

Pursuant to MRSA Title 38, Section 361, this nomination will require confirmation by the Joint Standing Committee on Natural Resources and by the Senate.

Thank you for your assistance.

Very truly yours,
JAMES B. LONGLEY
Governor

Which was Read and Order placed on file.

The Senate of Maine
Augusta

November 27, 1978

The Honorable Howard M. Trotzky
The Honorable William B. Blodgett
Chairmen, Natural Resources Committee
108th Maine Legislature

Please be advised that Governor James B. Longley today nominated Lionel C. Ferland, Sr. of Poland to serve on the Board of Environmental Protection.

Pursuant to 38 M.R.S.A., Section 361, this nomination is subject to review by the Committee on Natural Resources.

Sincerely,
MAY M. ROSS
Secretary of the
Senate of Maine

Which was Read and Ordered Placed on file.
Office of the Governor

November 28, 1978

Honorable Joseph Sewall
President of the Senate

Honorable John L. Martin
Speaker of the House

Dear Joe & John:

I am today nominating Charles L. Wyman of Lisbon Falls to serve on the Board of Environmental Protection.

Mr. Wyman has been nominated to replace Sylvia Lund who will be retiring from the Board to assume her responsibilities as State legislator on January 1, 1979

Pursuant to M.R.S.A., Title 38, Sec. 361, this nomination will require confirmation by the Joint Standing Committee on Natural Resources and confirmation by the Maine State Senate.

Thank you for your assistance.

Very truly yours,
JAMES B. LONGLEY

Which was Read and Ordered placed on file.

The Senate of Maine
Augusta

November 29, 1978

The Honorable Howard M. Trotzky
The Honorable William B. Blodgett
Chairmen, Natural Resources Committee
108th Maine Legislature

Please be advised that on November 28 Governor James B. Longley nominated Charles L. Wyman of Lisbon Falls to serve on the Board of Environmental Protection.

Mr. Wyman has been nominated to replace Sylvia Lund who will be retiring from the Board to assume her responsibilities as a State Legislator on January 1, 1979.

Pursuant to 38 M.R.S.A., section 361, this nomination is subject to review by the Committee on Natural Resources,

Sincerely,
MAY M. ROSS
Secretary of the
Senate of Maine

Which was Read and Ordered Placed on file.

State of Maine
Executive Department
Augusta, Maine

December 1, 1978

Honorable Joseph Sewall
President of the Senate
and Honorable John Martin
Speaker of the House
Dear Joe and John:

I am today nominating Rose Marie Butler of Lewiston to serve as a member of the State Board of Education. She has been nominated to replace Tobie Nathanson whose term on the Board will expire in December.

Pursuant to MRSA, Title 20, Section 51, this nomination will require confirmation by the Joint Standing Committee on Education, as well as by the Maine Senate.

Thank you for your cooperation.

Very truly yours,
JAMES B. LONGLEY
Governor

Which was Read and Ordered placed on file.

The Senate of Maine
Augusta

December 4, 1978

The Honorable Bennett D. Katz
The Honorable Arthur P. Lynch
Chairmen, Education Committee
108th Maine Legislature

Please be advised that Governor James B. Longley on December 1 nominated Rose Marie Butler of Lewiston to serve as a member of the State Board of Education.

Pursuant to MRSA, Title 20, Section 51, this nomination is subject to review by the Committee on Education.

Sincerely,
MAY M. ROSS
Secretary of the
Senate of Maine

Which was Read and Ordered Placed on File.

Charles L. Cragin
349 Gray Road
Falmouth, Maine 04105

December 4, 1978

The Honorable Joseph Sewall
President of the Senate
Office of the Senate President
Senate of Maine
State House

Augusta, Maine 04333

Dear President Sewall:

As you are aware, I am currently a candidate for the office of Attorney General of the State of Maine for the 1979-1980 biennium. Subsequent to the public announcement of my candidacy in mid-November, I undertook a thorough review of the various statutes relating to the office of Attorney General as well as opinions of the Maine Supreme Judicial Court concerning the common law powers of the Attorney General.

During the course of that review, I had occasion to consider the provisions of 5 MRSA § 15 entitled "Disqualification of former state employees and the former partners of present state employees from participation in certain matter". This statute reads as follows:

1. Former executive employee. Any person who has been a member of the classified or unclassified service employed by an executive agency shall be guilty of a Class E crime, if he:

A. Within one year after his employment has ceased, knowingly acts as an agent or attorney for anyone other than the State in connection with any official proceeding in which:

(1) The State is a party or has a direct and substantial interest; and

(2) The particular matter at issue was pending before his agency and was directly within his official responsibilities as a state employee at any time within one year prior to the termination of his employment.

B. Within one year after his employment has ceased, appears personally before any state or quasi-state agency for anyone other than the State in connection with any proceeding in which:

(1) The State is a party or has a direct and substantial interest; and

(2) The particular matter at issue was pending before his agency and was directly within his official responsibilities at any time within one year prior to the termination of his employment.

2. Partner of former executive employee. /sic/ Any former partner of a person who is currently a member of the classified or unclassified service employed by an executive agency shall be guilty of a Class E crime if that former partner, within one year after the partnership has ended, acts as agent or attorney for anyone other than the State in connection with any official proceeding in which:

A. The State is a party of has a direct and substantial interest; and

B. The subject matter at issue is directly within the official responsibility of the person, currently employed by an executive agency, who was formerly his partner.

3. This section shall not be construed to prohibit former state employees from doing personal business with the State.

As you are aware, I am currently a partner in the law partnership known as Verrill & Dana. The firm has its principal offices in Portland with offices elsewhere in the State of Maine. Verrill & Dana is engaged in the general practice of law throughout the State; its partners and associates appear in all courts in the State representing individuals, partnerships, joint ventures, corporations, and other legal entities; it also from time to time represents public agencies such as the Maine Health Facilities Authority; and in the course of its practice it may also advise, represent, and appear for its clients in civil and criminal matters before virtually all State officers, State departments, and State boards and commissions.

After reading the above cited statute (5 MRSA §15) I questioned its applicability to the position of Attorney General, not because of the prospective disabilities imposed upon whoever is elected Attorney General but, rather, because of the immediate and far reaching ramifications which it would have upon 30 other attorneys and their clients, were I to be elected to the position of Attorney General.

If elected Attorney General, I would immediately resign and withdraw from the partnership of Verrill & Dana. I would not participate in, and would disqualify myself, with respect to any official proceeding in connection with which either I or my former partners or associates had, at the time of my election, any responsibilities as lawyers in private practice which are directly within the official responsibilities of the Attorney General and in which the State is a party or in which the State has a direct and substantial interest. Furthermore, both my former partners and I would abide by the Code of Professional Responsibility adopted by the American Bar Association and the provisions of any rules, regulations or standards governing the professional conduct of attorneys promulgated by the Maine Supreme Judicial Court.

In the event I were to assume the office of Attorney General and the statute in question were to be interpreted as applying to the Attorney General, my former partners would be forced, without their consent and against their will, to forebear from representing clients in most "official proceedings" with the State of Maine because of the broad "official responsibilities" of the Attorney General. In the event my former partners were to continue to represent clients before the State because of the ambiguity of the statute, it might later be determined that each and every one of them had committed a crime leading to fines, imprisonment, as well as possible disbarment from the practice of law.

Because of the far reaching ramifications of the statute, both the firm of Verrill & Dana and I employed independent legal counsel, both within and without the State, to review the statute, its legislative history, and other relevant statutes and judicial opinions in an attempt to ascertain whether the statute, penal in nature, applied to constitutional officers elected by the Legislature. These questions included the following:

1. Is the Attorney General, as a constitutional officer, considered to be a person who is "a member of the classified or unclassified service employed by an executive agency", for purposes of 5 MRSA §15?

2. Is the Attorney General, as a constitutional officer, considered to be "a state employee", for purposes of 5 MRSA §15.

These questions were asked because the Maine Supreme Judicial Court and its Justices have, from time to time, opined that "there is a manifest difference between an office and an employment under the government." *Opinion of the Justices*, 3 Me. 481 (1822). See also, *Goud v. City of Portland*, 96 Me. 125 (1902).

3. Does the criminal provision relate only to former partners or does it relate also to former associates?

4. Does 5 MRSA §15 relate only to law partnerships or does it also relate to professional associations of attorneys?

5. Does the distinction between "officers" and "employees" indicated in various statutory provisions such as 5 MRSA § 14 and 5 MRSA § 711 indicate the nonapplicability of 5 MRSA § 15 because it speaks of "employed", "as a state employee", etc. and fails to mention officers?

Because of the various ambiguities contained in the statute and the total lack of legislative history behind the enactment of the statute, no independent counsel has been willing to say, with total certainty, that the criminal statute would not apply to my former partners and/or

associates were I to be elected Attorney General.

While I will continue to seek the nomination of the Republican members of the 109th Maine Legislature for the office of Attorney General, I wish to respectfully advise the Senate, through you, that I cannot, in good conscience, accept a position which I sincerely wish to undertake with the possibility existing that my election to the position would have such grave and significant effects upon my former partners and associates. Therefore, I believe that very significant questions of law now exist with respect to the prospective disabilities of the successful candidate for the office of Attorney General. I would respectfully suggest that the Senate consider propounding questions to the Justices of the Supreme Judicial Court in order that the question of the applicability of 5 MRSA §15 to the Attorney General of Maine might be resolved.

Very respectfully yours,
CHARLES L. CRAGIN

Which was Read and Ordered Placed on file.

Orders

On motion by Mr. Collins of Knox:

WHEREAS, on December 5, 1978, Charles L. Cragin, a partner of Verrill & Dana, a law firm located in Portland, Maine, with offices elsewhere in the State, was nominated for Attorney General in caucus of the Republican members of the Maine House of Representatives and Senate of the 109th Maine Legislature; and

WHEREAS, as a result of this nomination, Mr. Cragin's name will be submitted as a candidate for election to the office of the Attorney General of Maine by joint ballot of the Senators and Representatives in convention on January 3, 1979, pursuant to Article IX, Section 11 of the Constitution of the State of Maine; and

WHEREAS, Mr. Cragin has stated that he cannot accept election to this high office unless the inapplicability of Title 5, section 15, subsection 2, of the Maine Revised Statutes Annotated to the remaining partners of Verrill & Dana, after his resignation and withdrawal from the partnership in the event of election, is clarified; and

WHEREAS, the Senate is advised that Verrill & Dana is engaged in the general practice of law throughout the State; its partners and associates appear in all courts in the State representing individuals, partnerships, joint ventures, corporations, and other legal entities; it also from time to time represents public agencies such as the Maine Health Facilities Authority; and in the course of its practice it may also advise, represent and appear for its clients in civil and criminal matters before virtually all state officers, state departments and state boards and commissions; and

WHEREAS, Mr. Cragin has advised the Senate that, if elected: he will immediately resign and withdraw from the partnership and will not participate in, and will disqualify himself, as Attorney General, with respect to any official proceeding in connection with which he or his former partners and associates had, at the time of his election, any responsibilities as lawyers in private practice which are directly within his official responsibilities as Attorney General and in which the State is a party or in which the State has a direct and substantial interest; and both he and his former partners will, of course, abide by the Code of Professional Responsibility adopted by the American Bar Association, as from time to time amended, and the provisions of any rules, regulations or standards governing the professional conduct of attorneys contained in any "Maine Code of Professional Responsibility" promulgated by your honorable Court in response to its order establishing a Select Commission on Professional Responsibility, dated January 17, 1978, as supplemented by an order entered April 5, 1978; and

WHEREAS, if Title 5, section 15, subsection

2, of the Maine Revised Statutes Annotated (erroneously entitled "Partner of former executive employee.") has the consequence of making it a crime for any former partner of a constitutional officer of this State to continue to practice his or her profession in a manner consistent with all relevant ethical standards applicable to his or her professional conduct, at least two very serious consequences of great concern to the citizens of Maine would result:

A. Where relations among the partners are amicable, the poll of potential candidates for constitutional offices would be substantially reduced, thus depriving Maine of some of its most qualified citizens as public servants; and

B. Where the relations among the partners are hostile, the election to constitutional office of a partner could deprive his or her former partners of their ability to earn a livelihood in the practice of the profession in which they are trained, qualified and experienced, without any act, consent or forbearance on their part; and

WHEREAS, it appears to the members of the Senate of the 108th Maine Legislature that the following are important questions of law: that the occasion is a solemn one; and that the opinions requested hereby are designed to aid the members of the Senate who will also be members of the 109th Maine Legislature in the exercise of their constitutional responsibility pursuant to Article IX, Section 11, of the Constitution of the State of Maine to participate in the selection and election of the Attorney General; now, therefore, be it

ORDERED, that in accordance with and by virtue of the provisions of Article VI, Section 3, of the Constitution of the State of Maine, the Justices of the Supreme Judicial Court are hereby respectfully requested to give to the Senate their opinions on the following questions, to wit:

I.

Is a constitutional officer elected by the people or the Legislature and subject to removal by impeachment, for misdemeanor in office or on the address of both branches of the Legislature, pursuant to Article IX, Section 5, of the Constitution of the State of Maine, a person who is currently "a member of the classified or unclassified service employed by an executive agency" within the meaning of Title 5, section 15, subsection 2 of the Maine Revised Statutes Annotated?

II.

If the answer to question I is in the affirmative, is it a crime for a former partner of the Attorney General (or any other constitutional officer), within one year after the Attorney General has withdrawn from the partnership, to act "as an agent or attorney for anyone other than the State in connection with any official proceeding in which:

A. the State is a party or has a direct and substantial interest;" and

B. The subject matter at issue is directly within the official responsibility of the Attorney General;

if the Attorney General disqualifies himself from participating in any way in any official proceeding which was the subject of his professional responsibility as a private lawyer; from participating in any such official proceeding in which his former partners act as agents or attorneys; and from participating in any official proceeding in which he has an economic interest whatsoever, except as a general citizen?

III.

If the answers to questions I and II are in the affirmative, would conduct of former partners of the Attorney General (or other constitutional officers) proscribed by Title 5, section 15, subsection 2, of the Maine Revised Statutes Annotated constitute crimes if performed by associates or employees of former partners of the Attorney General?

IV.

Does Title 5, section 15, subsection 2, of the Maine Revised Statutes Annotated apply to at-

orneys who are employees of professional associations or professional corporations which are organized pursuant to the "Professional Service Corporation Act" (Title 13, chapter 22 of the Maine Revised Statutes Annotated)?

V.
Is Title 5, section 15, subsection 2, of the Maine Revised Statutes Annotated unconstitutional as applied to lawyers in violation of the separation of powers' provisions of Article III, Sections 1 and 2, of the Constitution of the State of Maine, especially if your honorable Court, in discharging its responsibilities of supervising the bar, promulgates by rule a Maine Code of Professional Responsibility governing the conduct of lawyers, lawyers in the public service, and former partners and associates (in a partnership or professional association or corporation) and employees of lawyers in the public service?

Which was Read.

On motion by Mr. Conley of Cumberland, tabled until later in today's session pending passage.

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

**Paper From the House
House Paper**

Bill, An Act Providing for a Jobs and Investment Tax Credit. (H. P. 2349) (L. D. 2215)

Comes from the House, referred to the Committee on Taxation and Ordered Printed.

Which was Referred to the Committee on Taxation and Ordered Printed, in concurrence.

Recessed until the sound of the bell.

The 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
Committee Report
Divided Report**

Eleven members of the Committee on Taxation on,

Bill, An Act Providing for a Jobs and Investment Tax Credit, (H. P. 2349) (L. D. 2215)

Report in Report A that the same Ought to Pass as amended by Committee Amendment "A" (H-1298)

Signed:

Senators:

WYMAN of Washington
JACKSON of Cumberland
MARTIN of Aroostook

Representatives:

MACKEL of Wells
CAREY of Waterville
IMMONEN of West Paris
MAXWELL of Jay
CHONKO of Topsham
CARTER of Bangor
TEAGUE of Fairfield
TWITCHELL of Norway

One member of the same Committee on the same subject matter Reports in Report B that the same Ought to Pass as amended by Committee Amendment "B" (H-1299).

Signed:

Representative:

POST of Owl's Head

One member of the same Committee on the same subject matter Reports in Report C that the same Ought Not to Pass.

Signed:

Representative:

COX of Brewer

Comes from the House, 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 and Members

of the Senate: I move the adoption of Committee Report "A" to L D 2215. I would like to speak to my motion.

The PRESIDENT: The Senator has the floor.
Mr. JACKSON: Mr. President and Members of the Senate: I feel that it is a great step forward with this piece of Legislation. I think on behalf of the Executive Branch, and Leadership of both Bodies that they have made a tremendous effort to attract, suitable industry to this State, which is environmentally acceptable.

I think that the whole process that they have used maybe criticized in the shortness of time. Will be well paid by the advantages that the State will receive from industrial development, in the great State of Maine. I feel that everybody has had an opportunity to read the Bill by now. We did pass out a position paper and I am sure that both parties of the Senate have received this and had an opportunity to discuss it, look it over.

If there are any questions pertaining to the amendment or to the Bill, I will address those as people bring them up. Thank you very much.

The PRESIDENT: The Senator from Cumberland, Senator Jackson moves that the Senate accept Report "A" of the Committee on Taxation L. D. 2215. Is this the pleasure of the Senate?

The Report was Accepted.

The Bill Read Once.

Committee Amendment "A" was Read and 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 forthwith to the Engrossing Department.

Out of order and Under Suspension of the Rules, the Senate voted to consider the following:

**Communications
State of Maine
EXECUTIVE DEPARTMENT
State Development Office**

November 29, 1978

Honorable Joseph Sewall,

President of the Senate

Honorable John Martin,

Speaker of the House of

Representatives

Dear Messrs. Martin and Sewall:

Pursuant to Section F, subsection 2, Chapter 579 of the Public Laws of 1977, the State Development Office is required to submit to the Legislature a brief annual assessment of the accomplishments of the Tourism, Promotion and Information Services matching fund program for the period ending 1 September.

The following is intended to comply with this requirement.

On May 1, 1978, the Maine Publicity Bureau was awarded a contract to serve as the private organization representing all major segments of the tourism industry in Maine. This contract made the Maine Publicity Bureau eligible for state matching funds over and above the \$100,000 the Bureau had initially raised from private sources.

As of September 1, 1978, the Maine Publicity Bureau had received \$14,349.50 in matching funds from the State Development Office for use in accordance with MPB's purpose and with the intent of the aforementioned legislation.

Efforts are continuing to secure additional private contributions and it is anticipated that the first full year will show a marked increase total funds dedicated to improving Maine tourism.

The State Development Office receives regular status reports from the Publicity Bureau which have indicated a successful fall foliage ad campaign and extensive plans for winter promotional activities.

If this office can provide additional information, please feel free to contact me.

Sincerely,
HADLEY P. ATLASS
Director

(H. P. 2350)

Comes from the House, Read and Placed on File.

Which was Read and Ordered Placed on File in concurrence.

Order

An Expression of Legislative Sentiment recognizing that:

WHEREAS, The Rams of Gorham High School have won the State Class L Soccer Championship,

(S. P. 782)

is presented by Senator Usher of Cumberland.

Which was Read and Passed. Sent down forthwith for concurrence.

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

**Communications
State of Maine**

One Hundred and Eighth Legislature
COMMITTEE ON JUDICIARY

December 6, 1978

The Honorable Joseph Sewall

President of the Senate of Maine

State House

Augusta, Maine 04333

Dear President Sewall:

In accordance with 3 M.R.S.A., Chapter 6, Section 151, and with Joint Rule 37 of the 108th Maine Legislature, the Joint Standing Committee on Judiciary has had under consideration the renomination of Chief Judge Nicholas W. Danton of Old Orchard Beach as Judge of the Maine District Court.

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

YEAS: Senators—3

Representatives—7

NAYS: Senators—0

Representatives—0

ABSENT: Rep. James E. Tierney

Rep. James S. Henderson

Rep. John M. Norris

10 members of the Committee having voted in the affirmative and none in the negative. It was the vote of the Committee that the renomination of Chief Judge Nicholas W. Danton of Old Orchard Beach as Judge of the Maine District Court be confirmed.

Sincerely,

SAMUEL W. COLLINS, JR.

Senate Chairman

STEPHEN T. HUGHES

House Chairman

Which was Read and Ordered placed on file.

Mr. PRESIDENT: The Joint Standing Committee on Judiciary has recommended that the nomination of Nicholas W. Danton be confirmed.

Mr. PRESIDENT: The pending question before the Senate is: Shall the recommendation of the Committee on Judiciary be overridden? In accordance with 3 M.R.S.A., Chapter 6, section 151, and with Joint Rule 37 of the 108th Legislature, the vote will be taken by the yeas and nays. A vote of Yes will be in favor of overriding the recommendation of the Committee. A vote of No will be in favor of sustaining the recommendation of the Committee. Is the Senate ready for the question?

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

Mr. DANTON: Mr. President due to an Apparent Conflict of Interest, I would like to ab-

stain from voting on this confirmation.

The PRESIDENT: The Senator from York, Senator Danton, now requests Leave of the Senate to refrain from voting on this matter due to the apparent appearance of a Conflict of Interest. Is this the pleasure of the Senate, to grant this leave? It is a vote.

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

ROLL CALL

YEAS — None

NAYS — Carpenter, Chapman, Collins, D.; Collins, S.; Conley, Cummings, Curtis, Farley, Hewes, Huber, Jackson, Katz, Levine, Mangan, Martin, McNally, Merrill, Minkowsky, Morrell, O'Leary, Pierce, Pray, Redmond, Speers, Trotzky, Usher, Wyman, Sewall

ABSENT — Greeley, Hichens, Lovell, Snowe

No Senators having voted in the affirmative and 28 Senators in the negative, 1 Senator abstaining and 4 Senators being absent and none being less than two-thirds of the membership present, it is the vote of the Senate that the Committee's recommendation be accepted. The nomination of Nicholas W. Danton is confirmed.

State of Maine
One Hundred and Eighth Legislature
Committee on Judiciary
December 6, 1978

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

Dear President Sewall:
In accordance with 3 M.R.S.A., Chapter 6, Section 151, and with Joint Rule 37 of the 108th Maine Legislature, the Joint Standing Committee on Judiciary has had under consideration the nomination of Judge Simon Spill to the position of Active Retired Judge of the Maine District Court.

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

YEAS: Senators—3
Representatives—8
NAYS: Senators—0
Representatives—0

ABSENT: Rep. James E. Tierney
Rep. James S. Henderson

11 members of the Committee having voted in the affirmative and none in the negative, it was the vote of the Committee that the nomination of Judge Simon Spill to the position of Active Retired Judge of the Maine District Court be confirmed.

Sincerely,
Samuel W. Collins, Jr.
Stephen T. Hughes
House Chairman

Which was Read, and Ordered placed on file.

Mr. PRESIDENT: The Joint Standing Committee on Judiciary has recommended that the nomination of Simon Spill be confirmed.

Mr. PRESIDENT: The pending question before the Senate is: Shall the recommendation of the Committee on Judiciary be overridden? In accordance with 3 M.R.S.A., Chapter 6, section 151, and with Joint Rule 37 of the 108th Legislature, the vote will be taken by the yeas and nays. A vote of YES will be in favor of overriding the recommendation of the Committee. A vote of NO will be in favor of sustaining the recommendation of the Committee. Is the Senate ready for the question?

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

ROLL CALL

YEAS—None

NAYS—Carpenter, Chapman, Collins, D.; Collins, S.; Conley, Cummings, Curtis, Danton,

Farley, Hewes, Jackson, Katz, Levine, Mangan, Martin, McNally, Merrill, Minkowsky, Morrell, O'Leary, Pierce, Pray, Redmond, Speers, Trotzky, Usher, Wyman, Sewall.

ABSENT—Greeley, Hichens, Huber, Lovell, Snowe.

No Senators having voted in the affirmative and 28 Senators in the negative 5 Senators being absent and none being less than two-thirds of the membership present, it is the vote of the Senate that the Committee's recommendation be accepted. The nomination of Simon Spill is confirmed.

State of Maine
One Hundred and Eighth Legislature
Committee on Judiciary
December 6, 1978

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

Dear President Sewall:
In accordance with 3 M.R.S.A., Chapter 6, Section 151, and with Joint Rule 37 of the 108th Maine Legislature, the Joint Standing Committee on Judiciary has had under consideration the nomination of Donald G. Alexander of Mt. Vernon to the position of At-large Judge of the Maine District Court.

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

YEAS: Senators—3
Representatives—8
NAYS: Senators—0
Representatives—0

ABSENT: Rep. James E. Tierney
Rep. James S. Henderson

11 members of the Committee having voted in the affirmative and none in the negative, it was the vote of the Committee that the nomination of Donald G. Alexander to the position of At-large Judge of the Maine District Court be confirmed.

Sincerely,
Samuel W. Collins, Jr.
Senate Chairman
Stephen T. Hughes
House Chairman

Which was Read and Ordered placed on file.

Mr. PRESIDENT: The Joint Standing Committee on Judiciary has recommended that the nomination of Donald G. Alexander be confirmed.

Mr. PRESIDENT: The pending question before the Senate is: Shall the recommendation of the Committee on Judiciary be overridden? In accordance with 3 M.R.S.A., Chapter 6, section 151, and with Joint Rule 37 of the 108th Legislature, the vote will be taken by the yeas and nays. A vote of Yes will be in favor of overriding the recommendation of the Committee. A vote of No will be in favor of sustaining the recommendation of the Committee. Is the Senate ready for the question?

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

ROLL CALL

YEAS — none

NAYS — Carpenter, Chapman, Collins, D.; Collins, S.; Conley, Cummings, Curtis, Danton, Farley, Hewes, Jackson, Katz, Levine, Mangan, Martin, McNally, Merrill, Minkowsky, Morrell, O'Leary, Pierce, Pray, Redmond, Speers, Trotzky, Usher, Wyman, Sewall

ABSENT — Greeley, Hichens, Huber, Lovell, Snowe

No Senators having voted in the affirmative and 28 Senators in the negative and 5 Senators being Absent and none being less than two-thirds of the membership present, it is the vote of the Senate that the Committee's recommen-

dation be accepted. The nomination of Donald G. Alexander is confirmed.

State of Maine
One Hundred and Eighth Legislature
COMMITTEE ON JUDICIARY
December 5, 1978

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

Dear President Sewall:

In accordance with 3 M.R.S.A., Chapter 6, Section 151, and with Joint Rule 37 of the 108th Maine Legislature, the Joint Standing Committee on Judiciary has had under consideration the renomination of Justice Ian MacInnes of Bangor to the Superior Court.

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

YEAS: Senators — 2
Representatives — 6
NAYS: Senators — 0
Representatives — 0

ABSENT: Sen. Thomas Mangan
Rep. James E. Tierney
Rep. Barry J. Hobbins
Rep. James S. Henderson
Rep. Richard A. Spencer

8 members of the Committee having voted in the affirmative and none in the negative, it was the vote of the Committee that the renomination of Justice Ian MacInnes of Bangor to the Superior Court be confirmed.

Sincerely,
SAMUEL W. COLLINS, JR.
Senate Chairman
STEPHEN T. HUGHES
House Chairman

Which was Read and Ordered placed on file.

Mr. PRESIDENT: The Joint Standing Committee on Judiciary has recommended that the nomination of Ian MacInnes be confirmed.

Mr. PRESIDENT: The pending question before the Senate is: Shall the recommendation of the Committee on Judiciary be overridden? In accordance with 3 M.R.S.A., Chapter 6, section 151, and with Joint Rule 37 of the 108th Legislature, the vote will be taken by the yeas and nays. A vote of Yes will be in favor of overriding the recommendation of the Committee. A vote of No will be in favor of sustaining the recommendation of the Committee. Is the Senate ready for the question?

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

Mr. MANGAN: Mr. President, due to circumstances beyond my control, I was detained this morning and did not make the hearings.

As far as Judge Ian MacInnes is concerned, I would be very strongly in favor of his renomination. I would wish to be counted as a Yea on the list of the Senate.

The PRESIDENT: The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEAS—None.

NAYS—Carpenter, Chapman, Collins, D.; Collins, S.; Conley, Cummings, Curtis, Danton, Farley, Hewes, Huber, Jackson, Katz, Levine, Mangan, Martin, McNally, Merrill, Minkowsky, Morrell, O'Leary, Pierce, Pray, Redmond, Speers, Trotzky, Usher, Wyman, Sewall.

ABSENT—Greeley, Hichens, Lovell, Snowe.

No Senators having voted in the affirmative and 29 Senators in the negative and 4 Senators being Absent and none being less than two-thirds of the membership present, it is the vote of the Senate that the Committee's recommendation be accepted. The nomination of Ian MacInnes is confirmed.

State of Maine
One Hundred and Eighth Legislature
COMMITTEE ON JUDICIARY
December 6, 1978

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

Dear President Sewall:

In accordance with 3 M.R.S.A., Chapter 6, Section 151, and with Joint Rule 37 of the 108th Maine Legislature, the Joint Standing Committee on Judiciary has had under consideration the renomination of Justice Harry P. Glassman of Portland, to the Superior Court.

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

YEAS:

Senators—2
Representatives—8

NAYS:

Senators—0
Representatives—0

ABSENT:

Sen. Thomas M. Mangan
Rep. John M. Norris
Rep. Swift Tarbell, III

10 members of the Committee having voted in the affirmative and none in the negative, it was the vote of the Committee that the renomination of Justice Harry P. Glassman of Portland to the Superior Court be confirmed.

Sincerely,
SAMUEL W. COLLINS, JR.
Senate Chairman
STEPHEN T. HUGHES
House Chairman

Which was read.

The PRESIDENT: The Chair recognizes the Senator from Androscoggin, Senator Mangan.
Mr. MANGAN: Mr. President again, and members of the Senate. I was detained on the nomination of Justice Harry P. Glassman.

Justice Glassman is one of the finest members of our Judiciary, and of any judiciary in the country. One of the most intellectual members of any judiciary any place. I would certainly support his renomination and I would urge you all to support his nomination today. Thank you.

Which was Ordered placed on file.

Mr. PRESIDENT: The Joint Standing Committee on Judiciary has recommended that the nomination of Harry P. Glassman be confirmed.

Mr. PRESIDENT: The pending question before the Senate is: Shall the recommendation of the Committee on Judiciary be overridden? In accordance with 3 M.R.S.A., Chapter 6, section 151, and with Joint Rule 37 of the 108th Legislature, the vote will be taken by the yeas and nays. A vote of YES will be in favor of overriding the recommendation of the Committee. A vote of NO will be in favor of sustaining the recommendation of the Committee. Is the Senate ready for the question?

The Doorkeepers will secure the chamber.
The Secretary will call the roll.

ROLL CALL

YEAS—none

NAYS—Carpenter, Chapman, Collins, D.; Collins, S.; Conley, Cummings, Curtis, Danton, Hewes, Huber, Jackson, Katz, Levine, Mangan, Martin, McNally, Merrill, Minkowsky, Morrell, O'Leary, Pierce, Pray, Redmond, Speers, Trotzky, Usher, Wyman, Sewall.

ABSENT—Farley, Greeley, Hichens, Lovell, Snowe.

No Senators having voted in the affirmative and 28 Senators in the negative and 5 Senators being Absent and none being less than two-

thirds of the membership present, it is the vote of the Senate that the Committee's recommendation be accepted. The nomination of Harry P. Glassman is confirmed.

State of Maine
One Hundred and Eighth Legislature
Committee on Judiciary
December 6, 1978

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

Dear President Sewall:

In accordance with 3 M.R.S.A., Chapter 6, Section 151, and with Joint Rule 37 of the 108th Maine Legislature, the Joint Standing Committee on Judiciary has had under consideration the renomination of Judge F. Davis Clark of the District Court, District III.

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

YEA: Senators—3

Representatives—9

NAYS: Senators—0

Representatives—0

ABSENT: Rep. Tierney

Members of the Committee having voted in the affirmative and none in the negative, it was the vote of the Committee that the renomination of Judge F. Davis Clark of the District Court, District III, be confirmed.

Sincerely,
SAMUEL W. COLLINS, JR.
Senate Chairman
STEPHEN T. HUGHES
House Chairman

Which was Read and Ordered placed on file.

Mr. PRESIDENT: The Joint Standing Committee on Judiciary has recommended that the nomination of F. Davis Clark be confirmed.

Mr. PRESIDENT: The pending question before the Senate is: Shall the recommendation of the Committee on Judiciary be overridden? In accordance with 3 M.R.S.A., Chapter 6, section 151, and with Joint Rule 37 of the 108th Legislature, the vote will be taken by the yeas and nays. A vote of YES will be in favor of overriding the recommendation of the Committee. A vote of NO will be in favor of sustaining the recommendation of the Committee. Is the Senate ready for the question?

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

ROLL CALL

YEAS—none

NAYS—Carpenter, Chapman, Collins, D.; Collins, S.; Conley, Cummings, Curtis, Danton, Farley, Hewes, Huber, Jackson, Katz, Levine, Mangan, Martin, McNally, Merrill, Minkowsky, Morrell, O'Leary, Pierce, Pray, Redmond, Speers, Trotzky, Usher, Wyman, Sewall.

ABSENT—Greeley, Hichens, Lovell, Snowe.

No Senators having voted in the affirmative and 29 Senators in the negative and 4 Senators being absent and none being less than two-thirds of the membership present, it is the vote of the Senate that the Committee's recommendation be accepted. The nomination of F. Davis Clark is confirmed.

Orders of the Day

On Motion of Mr. Speers of Kennebec, the Senate removed from the Table:

Senate Order — Relative to Questions to Supreme Judicial Court, relating to Charles Cragin

Tabled — Earlier in the Day by Senator Conley of Cumberland
Pending — Passage

The PRESIDENT: Is it now the pleasure of the Senate that this Order receive passage?

The Chair recognizes the Senator from Pe-

nobscot, Senator Pray.

Mr. PRAY: Mr. President and members of the Senate. At this time I wish to move the Indefinite Postponement of this Order.

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

Mr. HEWES: Mr. President and members of the Senate. I would like to speak against the pending motion.

I was intrigued this morning, when I read on the Senate Calendar, the Order and the accompanying letter from Charles L. Cragin, dated December 4, 1978.

I was very much aware of the Bill in its passage. The Bill on the matter, now 5 MRSA Section 15, because I was in the other body when it was passed. At about that time, I became associated with John G. Feehan who had been on the Public Utilities Commission, so was well aware of this Act which became effective several months after John Feehan left State Service.

But I have followed it, it being the law, and it was amended in the regular session a year ago. I feel that it was the intent of the Legislature, that this apply to employees and not to officers. Not to the Constitutional Officers, such as the matter with which we are concerned now.

As I read the Law as it is set forth, in our Calendar today, on Page 7 of our Senate Advance Journal and Calendar, there are actually two different laws mentioned. But I am concerned particularly with Section 15, Subsection 1.

As far as I see and looking at the law itself which was passed in 1975, Chapter 539 the title is "An Act Concerning The Disqualification Of Former State Employees And The Former partners Of State Employees In Matters Connected With Such State Employees Official Duties or Responsibilities."

Now in the matter in question, Mr. Cragin is not presently a State Employee. This Act as it might apply to him personally would apply only after his employment, if that is the right word, but after his State Service ends. It does not, this particular law does not apply to an individual perspective coming into State Service. So I submit that this particular Law Section 15 does not effect Mr. Cragin in any manner whatsoever.

Now coming down, that is Part 1 which relates to the employee. I do not agree, as I will say in a few minutes here that he as a Constitutional Officer would become an employee. I submit he is an officer and not an employee.

The second part relates to the partners of former executive employees and I call your attention to the case that is referred to on Page 8 of your Senate Advance Journal and Calendar which is the opinion of Justices 3 Me. 481. This decision was written in 1822 so it has stood as far as I can see as the Law of Maine for 150 odd years, for more than a century and a half.

I would like to quote on Page 482 of 3 Me. It says when discussing officers "There is a difference between an office and employment under the government." I submit that a Constitutional Officer is not an employee within the meaning of this Statute.

In fact in Chapter 59, title 5 Section 711, where unclassified service is defined it includes several categories, about 8 different categories, of Unclassified Service. One of those is "Officers Who Under Constitutional Statute Are Chosen By The Legislature." I would also state that another category includes Officers Employees of the Senate, House of Representatives, and Elected Officers, it goes on there are several categories.

One particular category includes Officers who under the Constitutional Statutes are chosen by Legislature. So I submit that Mr. Cragin would not be included within an employee under this statute, even if it applied retroactively, instead of perspective as it does.

Now in reference to Section 2, which relates to Partners Of A Former Executive Employee. That says that "Any Former of a Person who is

Currently a Member of a Classified or an Un-Classified Service, employed by an Executive Agency, shall be guilty of a Class E Crime, etc., etc.

I submit that Mr. Cragin when he becomes Attorney General will not be, an employee but instead is an officer, so that he would not be, one employed by an Executive Agency, so as to subject his former partners to any Class E Crime.

I would therefore vote against, I would urge you to vote against the pending motion, and hope that we do in fact eventually pass this Order. Thank you.

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

Mr. COLLINS: I wonder if the movers of the pending motion would be good enough to tell us their reasons for taking that position?

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

Mr. MERRILL: Mr. President and Members of the Senate. To the best of my knowledge there was only one mover of the present motion, but with the indulgence of the Senate, I would like to say why I, for one, will vote in favor of the motion to Indefinitely Postpone.

It does not go directly to the legal arguments, the final disposition that might be made in terms of the interpretation of the statute, but in fact, to the appropriateness of us asking the court for this decision at this time.

Under Article VI, Section 3 of the Maine Constitution, the Supreme Judicial Court of Maine, may only give opinions to the Senate, in this case upon important questions of Law and Solemn Occasions. The court, in the past has interpreted this to mean that the issues must be both important questions and a Solemn Occasion. That was spelled out again by the opinion of the Justices in the decision that is recorded Atlantic 2d, Volume 370, Page 654 and it is a decision that was made in 1977.

In the review of the cases the decisions under Article VI, Section 3 are making clear to me, at least, that certain requirements are necessary to establish an Important Question of Law and a Solemn Occasion. Those requirements, each which must be present, I think can be summed up at least as follows. The matter that the court is to give an opinion must be in a matter of instant concern, not past concern and not future concern. The phrase "live gravity" was used in a recent opinion of the Court to describe this requirement.

In that decision, the most recent one in which the phrase "live gravity" was used issued in 1976, the present Governor, Governor Longley had asked the court certain questions surrounding the executive council's power to require the Governor to fill the PUC vacancy with an individual holding certain qualification. The Supreme Judicial Court made it clear on that occasion that "The Justices of the Supreme Judicial Court cannot advise upon questions from the Governor which rise important questions of law unless these questions involve matters of instant, not past or future concerns, relate to things of live gravity".

I would suggest that there is nothing in this particular instance that meets that requirement. Reference is made in the request of the court that we are asked to act upon—upon some act that was taken by a joint caucus of the republican members or the prospective members of the 109th Legislature.

No action has been taken as of yet that has any constitutional or any legal weight. The positions that have been taken have been taken by people who have not even been sworn to be members of the 109th and it is in fact, hypothetical that they will be sworn to be members of the 109th, that they will in fact act as they agreed to act or allegedly to act in that joint convention. So there is nothing before us.

The only provision in our Constitution, in our laws, is the selection of an Attorney General; is that the Attorney General shall be chosen biennially by joint ballot of the Senate and the republicans in convention. The 109th has not yet been sworn, no act of legal or constitutional significance has been taken, therefore the first requirement that it be of "live gravity" is certainly not meant. What ever ad hoc extra legal actions have been taken with regard to the proposed candidacy of Mr. Cragin or others is not an act of such gravity as to meet that requirement. It certainly doesn't rise itself any greater than the case in which I pointed out where there was a sitting elected sworn Governor who was asking about prospective requirements for a nomination that he was considering.

The second, separate and distinct requirement before the court can issue was an opinion on a Solemn Occasion is that the matter upon which the opinion is requested, must touch on the performance of the duty of the board requesting it. That was recently upheld in the decision and it was first spelled out in great detail on the decision that was made in 1954 by the court. Now I might ask the members of the 108th how the 109th Legislature may or may not do touches on the performance of our duties as members of the Senate, of 108th Senate. There is in fact, no nexus there any where near meets the requirements of the court as they have been spelled down in these decisions over the years. Whom the 109th may nominate to the constitutional officers is not a matter of concern, is not one of the duties of the 108th Legislature. There is at the present time, an Attorney General, that was elected duly by the 108th Legislature, if a vacancy appeared in that office it would not be our responsibility to fill that vacancy. The vacancy for the duration of our terms would be filled by action of the Governor. So, therefore, I would say that the second requirement—the requirement that it touches upon the performance of our duties as Senators, is not met. Another requirement is that the issue which is in question must not already be one of law, must not be a law that is already passed. Now in this one the court has shown some more flexibility than on the two previous ones that I have discussed.

I think that is safe to sum up the decisions of the Justices as to say, that as a general rule, the court requires that it not be a law that is presently on the books, that the Legislature is asking an opinion of. In fact, they have been most receptive in recent decisions to act in cases where there was legislation pending right here in the Legislature not yet passed. I might also say that the court has held on many occasions that the question presented to the court must be very important.

Now the proper application of this requirement can best be seen in the 108th request to the Supreme Judicial Court to answer certain questions surrounding pending legislation involving the Uniform Property Tax. The court held that and I quote—"Question relating to major source of Tax Revenue". It was a question of great immediate concern. Whatever happened in the committee to the particular legislative issue, the Legislature would be directly involved with issues raised by the questions, about which court opinion was sought. The lack of this requirement having being met in the past this requirement that the issue be very important may be best illustrated in the 1925 case in which the high court held that the pendency of legislation involving the question of a citizen right to hunt and fish on unenclosed woodlands without the consent of the owner was not a Solemn Occasion.

Now in making a judgment about the importance, leaving out the other questions I have raised the importance of this question. This question as it is put in the opinion that we would send to the Chief Justices is not one that bars the right of Mr. Cragin or anyone else

from seeking the constitutional office, in this State, as rightly pointed out by the previous speaker. In fact there is a question at least an opening question, as to how that might affect the future gross income of the former partners or present partners of that individual. Although that may be a matter of great and important concern to that particular firm or other firms that would be likewise affected by similar action, I suggest that in the eyes of the law, the ability of that firm to continue to make an income at its present level and not be affected by this statute is not an important question such as to warrant to the Supreme Judicial Court, of this State, having to render an opinion as to their ability in the future to make money from these sources of legal activity if, in fact, they continue to engage in that type of legal work.

So I would suggest that in this present case for all the reasons that I have stated above, as much as many of us would like to see this issue resolved, there is not a Solemn Occasion. Now someone may be prompted to argue that that is not for us to decide, that the whole discussion which I have engaged in the last few minutes is not something we should be concerned with. I would suggest that it is something that we should be very much concerned with. It is an extraordinary power that we have here in Maine as Legislators, the Governor has the like power to ask the court for these opinions. That power should not be abused by us. We should use it sparingly, we should tax the resources of the court as little as possible. We should discipline and steal ourselves to avoid the temptation to put hot political questions to the Judiciary. I think that is, in fact, what we have before us.

I think that is inappropriate for the Senate to try to involve the Judiciary at this point. The Supreme Judicial Court has made it all too clear, the standards that it sets. I am afraid that this fails to meet those standards in many areas.

I would hope that the Senate here today by voting to Indefinitely Postpone would save the court, what I think, will obviously be the result here of them having to meet, confirm this and then send it back, saying that it certainly fails to meet the Solemn Occasion test and if anything is only a political question.

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

Mr. COLLINS: Mr. President. I compliment the Senator from Cumberland, Senator Merrill on his scholarly research, the usual articular expression that we have from his point of view.

I approached the thing from a different point of view, not only because of my political predilections. But because I see here a question of importance and of much more broader application than I think is seen by the Senator from Cumberland.

The language with which this statute, now in question, is written, is so broad; that for example, there is a serious question in the minds of many competent legal researchers, who have looked at this, in the last couple of weeks, as to whether it may not apply, not only, to a former partner, in the very strict sense of a partner with a written contract to partnership, but also to those closely associated in business in some way, such as two lawyers who have what is called an association, or professional corporation or professional service corporation or two accountants who have an accounting partnership or two businessmen who have a merchandizing partnership.

Suppose one of those merchandizing partners becomes lets say—Treasurer of the State of Maine, then comes a question as to whether his former partner from whom he detaches himself can sell goods or services to the State, for how long? Or suppose its a former partner that he had five years before, he dissolved the partnership and he has no connection for five years and then he becomes Treasurer of State. Per-

haps its a banking connection of some type. An Investment Banking Firm and there is a question about floating the bonds and the underwriters and this sort of thing. Does that former partnership of five years before cause the former partner to become a criminal if he does business with the State of Maine? These questions are much broader in application than is suggested by the fact that one person interested in being Attorney General has seen fit to raise them up right up front.

Here is another illustration that comes to mind. I believe, our present Commissioner of Finance is a Certified Public Accountant, he was associated with a firm. I don't know at this moment whether he was a partner or an associate or employee, an officer or director or what. But with accounting partnership it is quite common to have either a legal partnership or an association. That Commissioner of Finance has under his general jurisdiction the Bureau of Taxation, which is a State Executive agency. Now if his former partners are to continue in business of preparing tax returns and submitting them to the Bureau of Taxation, presenting data to that bureau, his former partners all become criminals, if you take one interpretation of this act. If you take another interpretation, they do not and there is a serious question about the usage of words here.

So I say to the Senate that this question has much greater importance than one single political office, soon to come before us in the 109th Legislature. The fact that we seek to test it with one specific illustration should not subvert us from the fact that many people, in many offices, in positions in State Government and former associations in business and professional life may be called in question.

The good Senator has spoken about this matter of Solemn Occasion. During the four years that I have served in the Senate, I believe, I have had a hand in perhaps 4 solemn occasion drafting questions. At least one of those solemn occasion questions in which I was interested, as a member of the Judiciary Committee, was carefully researched by the Attorney General's office.

The Committee and interested Legislators were advised that it seemed to be the solemn occasion under precedence then known, the question was sent to the law court. After a few weeks—the matter came back with an opinion from the court saying that they had decided that it was not a solemn occasion. So its quite clear that some of the best minds in the legal fraternity may disagree on this question. On other questions that we have sent to the court, the court has said that they were solemn occasions and has sent us back their answers. So I, for one, would hesitate to put myself in the position of giving a definitive answer to the question, of is this, or is this not a solemn occasion. It seems to me that no one could quarrel with the fact that it is an important question—one that ought to be resolved, because we may, right now, have in State Government situations that raise this issue. We're certain to have the issue in the next administration of state Government and with the experience of the next legislature, in choosing its constitutional officers. I take it that my colleague from Cumberland would prefer to wait until the 11th hour, then try to get an answer or else just not get any answer. That doesn't seem to me to be a very far sighted way or a very foresighted way or very practical or very intelligent way to try to get answers.

It seems to me that the Senate has a duty to try to get the answer to an important question. It is in the political arena, I agree with my colleague about that. But that makes it all the more important, that we have guidance from the most impartial and the most informed, trained source that is available to us, the Constitution provides that members of the Democratic Party who are interested in high office in the State have had former partners. I believe

that may be true of the Senator from Cumberland. It may be true of others, for all I know that seek constitution office or that would serve in the next administration as department heads. A part of this statute that we enacted in the 107th is certainly a very good law. I do not question the value of this kind of law, particularly in the first part of it. The second part of it I think that perhaps we did not realize just how broadly we were painting in the words. Frequently this happens when statutes are constructive.

This word "employee" for instance which the Senator from Cumberland, Senator Hewes has pointed out to us. I think Senator Hewes has done some very useful research in bringing this to our attention.

I am immediately caught with the problem for example the State Personnel laws under Title V say that an employee is any person holding a position subject to appointment by an appointing authority. Then, appointing authority, is defined as—the officer, board, commission, person, or group of persons, having the power by virtue of the constitution, of statute, or lawfully delegated authority to make appointments.

The Attorney General is, as a matter of law, an appointing authority. Sections 196, 197 and 198 of Title V authorize him to appoint Deputy Attorneys General, Assistant Attorneys General, Staff Attorneys, State Criminal Inspectors, Research Assistants and Clerks. He is authorized by statute to establish the rate of compensation of all the foregoing employees, except inspectors and clerks who compensation is subject to the State Personnel Law. The statutory provisions dealing with the unclassified service clearly distinguish between officers and employees. I think that Senator Hewes has already drawn to our attention this distinction in statutory language about the difference between officers and employees.

One other section of the laws that have been dealt with since I have been in the Senate, I think should be called to our attention. This appears in Title V, in Section 14. Members of the Senate will remember extensive debates between members of this body, concerning this issue. We said there—no officer or employee of this state shall directly or indirectly, interfere with the participation of any employee of this state in the non-partisan affairs of any municipality or other political subdivision of this state provided that no conflict of interest results—and, then, later in the same section—any officer or employee of the classified service of this state may make contributions to—and so on. This statutory distinction between officers and employees is the distinction that has been perceived since the earliest days of Maine's statehood, as the Senator from Cumberland, Senator Hewes has pointed out.

So I submit to the Senate that we ought not to put ourselves in the position of the court. We ought to be asking for all the light we can get on this question and as soon as we can get it, because it would be a shame to slow down the progress of this body or of the next administration by having an uncertainty about who might properly serve or who, if they serve, might be putting out of a job their former partners, employees, associates and the like. This might apply to many of the officers and department position that are to be filled in the days ahead. I hope you will vote no on the pending motion.

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

Mr. MERRILL: Mr. President and Members of the Senate: Let me touch on a few of the areas, that were discussed by the previous speaker, if I may.

First of all, in the discussion of whether or not we have before us, an important question, as that phrase has been used by the Supreme Judicial Court in Maine, in dealing with Solemn Occasion Questions. In the course of that discussion, several hypothetical possibilities, ten-

tative possibilities, prospects were discussed, by the Senator from Knox Senator Collins. Out side of the scope of the question that was raised, by the specific instance, here of Mr. Cragins' desire to determine the effect of his becoming Attorney General upon is former partners.

I think that the very discussion, that was engaged in to suggest the importance of the question, falls exactly into the area that the Supreme Judicial Court has told us in the past that they have no desire to tread upon. That is that as of yet and I quote "As Tentative Hypothetical and Abstract In the Eyes of the Law". — I suggest that what we had was a bunch of tentative, abstract, hypothetical prospects, discussed in order to buttress the case as to the importance of this matter. In order to take up the time of the Supreme Court with it.

Why all this discussion about Solemn Occasion? Why is the Supreme Judicial Court fashioned this barrier? Well, if you look in the practice of law, as it applies in the Federal Courts. You will find no parallel for this.

As a matter of fact one thing that all law students learn early on, is that as a general matter, courts want to have before them a live controversy, a case in controversy, with specific facts, at least our legal system as we practice it here in America, in at least 49 of the 50 states. Want to have a live case, before them so that they can deal with specifics and apply the law to those specifics.

Now we have an acceptance in our constitution which I have alluded to earlier. The question before us, here and the question that will be before the Court if we take the action urged upon us by the Senator from Knox Senator Collins, the question before us, is how broad should that be? Now the court has devised this standard of Solemn Occasion and important question, to try as much as it can, within this opening of allowing us on special occasions and allowing the Chief Executive to ask the court for its opinion. To define that as narrowly as possible, as to keep alive to the maximum extent those basic ideas of our System of Jurisprudence, that the court will make decisions in dealing with specific matters that are live controversies, or close to it. That is why this whole standard has arisen, it is not just to make things difficult for the Senate or for the House. It is to protect the court, and to make sure that when it decides these issues that there is a relatively specific fact pattern before it, that there are questions of true import to the whole State of Maine.

Now I suggest that specific instances of the matter be for us do not rise to that level. Consider again the example when the governor wanted to know whether or not the Executive Council could prescribe standards. Now that question has come great import I suppose over broad question, but the court refused to deal with it. Because of the time in which that it came up, because it was a future concern.

We do not have before us a statute to amend this law. This is not a live concern before us here today. I do not think that simply saying that some times the courts fine a Solemn Occasion and sometimes that they do not fine a Solemn Occasion or that sometimes any of us can be wrong should relieve the members of the Senate, particularly those of us who are lucky enough to have had the advantage of a Legal Education, from trying to look to the court and see what they have said in the past, what standards that they may have set. See if there is a strong reasonable argument, that it at least meets those standards, before we butt this one into the courts lap, this is obvious and an admitted political question.

So I have gone through the standards, and I assume that my interpretation of the cases as to lay out these standard is not a matter of question. Because the Senator from Knox Senator Collins, has not discussed them in any detail or tried to refute the basic standards that

I have laid out. It is not a matter of live gravity, there is not even a semblance of an argument, that it effects the duties of the 108th Legislature, as it is presently before us.

When people speak of what we are going to face soon in the 109th Legislature, that is the 109th Legislature is not yet a legal entity. Nobody has yet been sworn to it. It is up to the 109th Legislature as it faces the matter that may or may not effect it, as these other standards are met to get a determination of this question.

Not because I would like to have the question remain unresolved if, in fact, interpretations made by the Senator from Knox, Senator Collins may be true. I myself, if you would like an acceptance, may be effected. I do not think that is the case having read the statute. But be that as it may.

What we should do here I think is to ask ourselves what standards have the courts laid down. Are we acting properly taking advantage of this great and relatively easy tool that is given to us by our Constitution in a proper way, or are we ignoring the standards that the courts have laid down, in putting this question to them. I think that we are and I think that the fact that the standards as I laid them out have been relatively ignored in the discussion that has followed. It is probably ample proof of that fact, there has been no action of legal significance taken to date to make this question the least bit right. It is tentative with regards to Mr. Cragin. It is much more tentative, speculative then all the hypotheticals that were raised by the previous speaker.

So I would hope that all members would consider looking to the decisions the court has made in the past and recognize that we do not have a question before us which is appropriate for us to turn to the court, as much as we would like to help with this question. Either leave the matter to be resolved in what ever way it might be, previous to the 109th being seated. Or just have those who would seek Constitutional Office rely on the legal arguments that have been presented by the 2 Republican speakers here today. Which if those arguments are relied on of course mean that there would be absolutely no question of Constitutional Officers, and so to the extent that we want to rely on those opinions none of us have any problem of going ahead in that regard anyway.

There are all sorts of people out there that have problems and they would like to know ahead of time, what the court is going to prove for them. When those problems have to do with the civil law they can get a declaratory judgment in some cases. When they have to do with the criminal law they can not. All those occasions are sometimes very important to the individuals involved, but they are not matters of state wide importance and I think that it is entirely appropriate for the 108th Senate to put this question to the court. I would hope that we would respect the separation of power and do it now.

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

Mr. HEWES: Mr. President and Members of the Senate. I certainly concur with the good Senator from Cumberland, Senator Merrill, that we do not want to subject the Justices of the Supreme Judicial Court to political pressures.

But I submit how much greater the pressure will be, if after Mr. Cragin has left as Attorney General, then they are faced with the question that someone raises the question as to the applicability of this particular Section, Section 15 to Mr. Cragin's partners.

I submit that the bridge should, that we should know the ground rules before we take any action. Every now and then there has been a problem such as when John Quincy Adams, elected President over Andrew Jackson in the U.S., by the U.S. House of Representatives. Or even in this State when there was a dispute for

Governor here many years ago. When you have perhaps a political matter being decided after the fact, we should not do that.

Now the practical effect I believe of the nomination by the Republican Party of Mr. Cragin as Attorney General is according to the other good man who was nominated yesterday by his party, was that the other man would have 1 chance out of 4, in being elected, by which I interpret that Mr. Cragin therefore has 3 chances out of 4 of being elected.

Never within my memory has a nominee for constitutional office by the party that has the most members of the Legislature failed to be elected. So the practical effect of the nomination yesterday I submit is that Mr. Cragin will be elected to be Attorney General.

If he is elected and takes the oath of office then his partners may be a question of whether his partners, inadvertently unwittingly, are subjected to Criminal Prosecution, I submit that this is a Solemn Occasion and that we should in fact pass the order.

The PRESIDENT: Is the Senate ready for the question? The Chair recognizes the Senator from York, Senator Farley.

Mr. FARLEY: Mr. President and Members of the Senate. Mr. Cargin's letter to the President of this body, which is the basis for the issue before us today, I believe his question mentioned that he represented some Health Agency. The question here of course, is not just one of Mr. Cargin's but also of the firm involved, namely Dana & Verrill.

For the record I would like to list the officials and groups represented by this firm:

1977 — Associated Industries of Maine, Combined Insurance Company of America, Independent Gasoline Distributors of Maine Incorporated, Maine Blue Cross and Blue Shield, Maine Hospital Association, Maine Medical Association, Maine Public Service Company, Maine Water Utilities Association, Motion Picture Association, National Association of Social Workers-Maine Chapter, Portland Water District, Savings Banks Association, Scott Paper Company, Chemical Atlantic Pipelines Company, Theater Owners of New England Incorporated.

1978 — Associated Industries of Maine, Casco Bay Lines, Combined Insurance Agencies of America, Diocese of Portland-Office of Education, Maine Blue Cross and Blue Shield, Maine Medical Association, Maine Hospital Association, Maine Public Service Company, Maine Tax Limitation Commission, Motion Pictures Association of America, Savings Banks Association, National Association of Social Workers-Maine Chapter, and Scott Paper Company.

The PRESIDENT: A Roll Call has been requested.

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

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

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

The pending question before the Senate is a Motion by the Senator from Penobscot Senator Pray, that Senate Order Relative to the Question to the Supreme Judicial Court be Indefinitely Postponed.

A Yes vote will be in favor of Indefinitely Postponed.

A Nay vote will be opposed.

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

Mr. CONLEY: Just a mere point of order, I believe that the motion was made by the Senator from Cumberland Senator Conley.

The PRESIDENT: I would correct the good Senator, the Chair believes that the Motion to Indefinitely Postpone was made by the good Senator from Penobscot, the about-to-be Assistant Minority Floorleader, Senator Charles Pray.

A Yes vote will be in favor of Indefinite Post-

ponement.

A Nay vote will be opposed.

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

ROLL CALL

YEAS—Carpenter, Conley, Danton, Farley, Levine, Mangan, Martin, Merrill, Minkowsky, O'Leary, Pray, Usher.

NAYS—Chapman, Collins, D.; Collins, S.; Cummings, Curtis, Hewes, Huber, Jackson, Katz, McNally, Morrell, Pierce, Redmond, Speers, Trotzky, Wyman, Sewall.

ABSENT—Greeley, Hichens, Lovell, Snowe.

12 Senators having voted in the affirmative and 17 Senators in the negative and 4 Senators being Absent, the Motion to Indefinitely Postpone does not prevail.

Which was Passed.

(Senate At Ease)

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

Enactor

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

An Act Providing for a Jobs and Investment Tax Credit. (H. P. 2349) (L. D. 2215)

The Bill was Passed to be Enacted and having been signed by the President was 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:

Papers From the House

Joint Resolution

A Joint Resolution In Memoriam.

The Legislature has learned with deep regret of the death of Hon. Peter J. Farley of Biddeford,

(H. P. 2352)

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

Joint Order

An Expression of Legislative Sentiment recognizing that:

The Freeport High School Falcons and their coach, Steve York, have won the 1978 State Class B Soccer Championship for the third consecutive year,

(H. P. 2353)

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

Joint Order

WHEREAS, the Legislature is deeply concerned about the economic well-being of Maine's economy; and

WHEREAS, one of the best ways on ensuring a prosperous economy is by encouraging present Maine businesses to expand and new businesses to locate in Maine; and

WHEREAS, the experience of this State and of many other states shows that employment and investment tax credits are a great incentive to business expansion and to the attraction of new businesses; now, therefore, be it

ORDERED, the Senate concurring, that the Legislative Council shall, using its available joint standing committee resources and staff resources, conduct a study to determine a uniform state policy on the use of state employment and investment tax credits for all forms of businesses, large and small, including corporations, partnerships and businesses, large and small, including corporations, partnerships and sole proprietorships, in order to encourage a flourishing Maine economy; and be it further

ORDERED, that the Council shall complete this study no later than March 15, 1978 and submit to the Legislature within the same time period 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 each member of the Legislative Council.

(H. P. 2351)

Comes from the House, Read and Passed as amended by House Amendment "A" (H-1300) Which was Read.

House Amendment "A", Read and Adopted, in concurrence.

The Order, as amended, Passed, in concurrence.

At this point, a message was received from the House, through Representative Palmer, of Nobleboro, informing the Senate that the House had transacted all of its business and was ready to Adjourn Without Day.

Out of Order and Under Suspension of the Rules, on motion by Mr. Conley of Cumberland.

ORDERED, that a message be sent to the House of Representatives informing that Body that the Senate has completed all the business which has come before it and is ready to Adjourn Without Day.

Which was Read and Passed.

The President appointed the Senator from Cumberland, Senator Conley, to convey the message. The Senator retired to the House of Representatives and subsequently reported that he delivered the message with which he was charged.

Out of order and under suspension of the rules, on motion of Mr. Speers of Kennebec.

ORDERED, that a message be sent to His Excellency, Governor JAMES B. LONGLEY, informing him that the Senate has completed all the business which has come before it and is ready to Adjourn Without Day.

Which was Read and Passed.

Subsequently, the Sergeant-at-Arms delivered the message.

The PRESIDENT: The Chair would ask the Sergeant-At-Arms to escort the Senator from Washington, Senator Wyman, to the rostrum.

The Sergeant-at-Arms escorted Senator Wyman of Washington to the rostrum.

Mr. PRESIDENT: As one of my final duties as presiding officer of the 108th Senate, it is with mixed feelings that I convey to Senator Wyman, which I am sure are the sentiments of everyone in this Chamber, our regrets that he will not be returning with us to the 109th; also express to him the extreme pleasure and privilege it's been to serve with him over the many years, that many of us have been here and the years preceding that when he was here before many of us—I should say—maybe were even born. So it is with great pleasure that I give him this token of our love and affection—for Hollis—this State Flag was flown on the State House as late as last week. It is my pleasure to give it to Hollis to add to his collection of momentos and wish him God Speed.

Mr. WYMAN: Thank you, Mr. President. I've enjoyed serving the years I have over here and the one thing that I'll always remember and I won't forget is the friendships I've made. . . that's been the best part of it. We've had our ups, our downs and we win some, we lose some; but I've made some wonderful friends and I certainly hope that if you folks, any of you, get in the far eastern part of the country, way down in the puckerbrush, that you will stop in and see me in Milbridge. Thank you.

(Applause)

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

Mr. GREELEY: Mr. President and Members of the Senate. I have a feeling that this is going to be it for this Session. So being that way, I want to wish you all a very Merry

Christmas and a very Happy New Year. Now I move that this Senate Adjourn Sine Die.

The PRESIDENT: The Senator from Waldo, Senator Greeley, now moves that the Senate adjourn Sine Die. Is this the pleasure of the Senate? It is a vote.

Thereupon at 5:03 p.m. on Wednesday, December 6, 1978, the Honorable Joseph Sewall, President of the Senate, declared the Senate of the 108th Legislature adjourned Sine Die.