

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

***One Hundred and Tenth
Legislature***

OF THE

STATE OF MAINE

Volume II

FIRST REGULAR SESSION

MAY 4, 1981 to JUNE 19, 1981

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STATE OF MAINE
One Hundred and Tenth Legislature
First Regular Session
JOURNAL OF THE SENATE

May 6, 1981

Senate called to order by the President.

Prayer by the Reverend Richard W. Beebe of the First Congregational Church in Fryeburg.

REVEREND BEEBE: Let us pray. Eternal God, our true Father, we give You our thanks for today. We thank You that we are here, here in Your world, sharing the delights and sorrows of life. We thank You, too, for the gifts of reason and empathy, which we, as human beings, have been endowed with. May we use today, our God, to Your glory. May we enter this morning with the sureness of mind that today will be special for us. May we discover new ways of sharing Your love and caring with Your other children, our spiritual brothers and sisters. May we uncover even new opportunities in our activities of the day to touch the lives of others in ways we can be proud of. Finally, dear God, may we be open today, as always, to the awareness of Your presence within us, to know that Your infinite wisdom is available to all who seek You, hungering and thirsting for righteousness and truth. Amen.

Reading of the Journal of yesterday.

Paper from the House
Non-concurrent Matter

Bill, "An Act to Require Persons Being Licensed to Hunt for the First Time to Have Completed a Gun Safety Course." (H. P. 871) (L. D. 1040)

In the House, April 30, 1981, Passed to be En-grossed as amended by Committee Amendment "A" (H-269) as amended by House Amendment "A" (H-277) Thereto.

In the Senate, May 4, 1981, Minority Ought Not to Pass Report Read and Accepted, in non-concurrence.

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

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

Senator HICHENS: I move that the Senate Insist and Join In a Committee of Conference.

The PRESIDENT: The Senator from York, Senator Hichens, moves that the Senate Insist and Join In a Committee of Conference with the House.

The Chair recognizes the Senator from Cumberland, Senator Conley.

Senator CONLEY: Mr. President, I move the Senate Recede and Concur with the House.

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

The Chair recognizes the Senator from Penobscot, Senator Pray.

Senator PRAY: Mr. President and Members of the Senate, I would understand why, perhaps, by the title of this Bill, an individual who looks at it would feel that this is something we ought to pass into law. I have some other concerns and reservations about the Bill, dealing with more of the practicality side of it.

For example, this would require any individual after 83 to take a hunting safety course, which is comparable to the course which is now instructed by the National Rifleman's Association. My concern would be, perhaps some of the Committee members or some of those who support it, would tell me how, around this State, as large and rural as it is, an individual in some of the more remote areas of this State would have an opportunity, if one, there wasn't some civic group in the community which offered it, or two, if the school systems did not offer it? I think that's my basic objection to it.

If someone could answer that question, perhaps my objection could be withdrawn.

The PRESIDENT: The Chair recognizes the

Senator from Cumberland, Senator Usher.

Senator USHER: Mr. President and Members of the Senate, at the discussion in Committee on the rural areas, it was suggested that on Saturdays, two Saturdays, would be enough to handle the whole course. This would be advertised in the local school system, when the course would be available. There's been full cooperation throughout the State, and I mean in the northern part already. Local Lion's Clubs, and Rotary Clubs, and Kiwanis Clubs, and sporting clubs have already sponsored this. They all endorse it to date.

There's 41 or 42 states that already have it, mandatory, so it wouldn't be any problem with non-residents. It has been very successful to date.

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

Senator MINKOWSKY: Mr. President and Members of the Senate, reading over the Statement of Fact, I'm left with a little bit of apprehension regarding this Bill. It appears to me, from the Statement of Fact, that it's legal recognition of an organization as the only authorized association to teach the course. Was this factor taken into consideration by the committee at the time? Because if this is the case, this is not good legislation.

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

Senator CONLEY: Mr. President, based on the most recent information, I wish Leave to Withdraw of my motion to Recede and Concur.

The PRESIDENT: The Senator from Cumberland, Senator Conley, requests Leave of the Senate to Withdraw his motion to Recede and Concur.

Is it the pleasure of the Senate to Grant this Leave?

It is a vote.

The Chair recognizes the Senator from Aroostook, Senator Carpenter.

Senator CARPENTER: Mr. President, would the motion to Indefinitely Postpone be in order?

The PRESIDENT: The Chair would answer in the negative at this point in time, since we are out of concurrence.

The Chair recognizes the Senator from Penobscot, Senator Pray.

Senator PRAY: Mr. President, I'm a little concerned about the remarks of the Senator from Cumberland, Senator Usher, in reference to the fact that the local school systems will advertise and promote this program. In my home community of Millinocket, my brother happens to teach the course. As I said earlier, I think that it's a good thing, but to put it into the statutes and to require, I still, as I look through this House and Senate Register which comes out this year, and I look at some of the communities which some of the Members of this Senate represent, even if it's offered two Saturdays in a row, knowing some of the people that I represent, I think it would be a hardship upon them in many instances to have to drive perhaps 30 miles to a community that might be offering it. One, because the school budget's been cut and it's not being offered through the school facilities. Perhaps they don't have an individual that has the time.

I represent a number of communities which have less than 40 to 50 people in them. Many of them are very remote. Depending upon the time of year that the course is going to be offered, increases the hardship upon them.

As I said, I think if we look at it, the intentions are good, but I think the mode of doing it is incorrect. It it's presently working through volunteer efforts through many of the civic organizations which we have, I think that's great.

As I've looked over the number of years the recent hunting safety record of Maine hunters in the State of Maine, it's been pretty darn good. I don't see that this course, that we should necessarily pass this course at this

time.

I would hope we would defeat the existing motion to Insist and Join In a Committee of Conference.

The PRESIDENT: Is the Senate ready for the question?

The Chair recognizes the Senator from Aroostook, Senator Carpenter.

Senator CARPENTER: A parliamentary inquiry. If the motion to Insist and Join In a Committee of Conference fails, would then the motion to Indefinitely Postpone be in order?

The PRESIDENT: No, the motion then to Adhere would be in order and that would have the same effect.

The Chair will order a Division.

Will all those Senators in favor of the motion by the Senator from York, Senator Hichens, that the Senate Insist and Join In a Committee of Conference with the House, please rise in their places to be counted.

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

11 Senators having voted in the affirmative; and 14 Senators having voted in the negative, the motion to Insist and Join In a Committee of Conference does not prevail.

Is it now the pleasure of the Senate to Adhere?

It is a vote.

Non-concurrent Matter

Bill, "An Act to Provide a One Month Grace Period for Expired Motor Vehicle Registrations." (S.P. 356) (L.D. 1031)

In the Senate, May 1, 1981, Passed to be En-grossed as amended by Senate Amendment "A" (S-157), in non-concurrence.

Comes from the House, Passed to be En-grossed as amended by House Amendment "A" (H-298), in non-concurrence.

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

Senator HUBER: I move the Senate Recede and Concur with the House.

The PRESIDENT: The Senator from Cumberland, Senator Huber, moves that the Senate Recede and Concur with the House.

Is this the pleasure of the Senate?

The motion prevailed.

(Off Record Remarks)

Non-concurrent Matter

Bill, "An Act Providing Collective Bargaining Rights to Judicial Employees." (H.P. 823) (L.D. 979)

In the House, April 27, 1981, Passed to be En-grossed.

In the Senate, May 1, 1981, Passed to be En-grossed as amended by Committee Amendment "A" (H-214), in non-concurrence.

Comes from the House, that Body Having Adhered.

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

Senator COLLINS: I move that the Senate Adhere.

The PRESIDENT: The Senator from Knox, Senator Collins, moves that the Senate Adhere. The Chair recognizes the Senator from Penobscot, Senator Pray.

Senator PRAY: Mr. President, I move that the Senate Recede and Concur and ask for a Roll Call.

The PRESIDENT: A Roll Call has been requested. Under the Constitution, in order for the Chair to order a Roll Call it requires the affirmative vote of at least one-fifth of those Senators present and voting.

Will all those Senators in favor of ordering a Roll Call, please rise and remain standing until counted.

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

The pending question before the Senate is the motion by the Senator from Penobscot, Senator Pray, that the Senate Recede and Concur with

the House.

A Yes vote will be in favor of the motion to Recede and Concur.

A No vote will be opposed.

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

ROLL CALL

YEA—Brown, Bustin, Carpenter, Charette, Clark, Conley, Minkowsky, Najarian, Pray, Trafton, Usher, Violette, Wood.

NAY—Collins Devoe, Emerson, Gill, Hichens, Huber, McBreairey, Perkins, Pierce, Redmond, Sewall, C.; Shute, Sutton, Teague, Trozky.

ABSENT—Ault, Dutremble, Kerry, O'Leary. A Roll Call was had.

13 Senators having voted in the affirmative and 15 Senators in the negative, with 4 Senators being absent, the motion to Recede and Concur does not prevail.

Is it now the pleasure of the Senate to Adhere?

It is a vote.

The Chair recognizes the Senator from Knox, Senator Collins.

Senator COLLINS: I move Reconsideration.

The PRESIDENT: The pending motion before the Senate is the motion by the Senator from Knox, Senator Collins, that the Senate Reconsider its action whereby it voted to Adhere.

Will all those Senators in favor of Reconsideration, please say "Yes".

Will all those Senators opposed, please say "No".

A Viva Voce Vote being had, the motion to Reconsider does not prevail.

Non-concurrent Matter

Bill, "An Act to Make Changes in the Kennebec Water District Charter." (S.P. 207) (L.D. 572)

In the Senate, May 1, 1981, Passed to be Engrossed as amended by Committee Amendment "A" (S-153)

Comes from the House, Passed to be Engrossed as amended by Committee Amendment "A" as amended by House Amendment "A" (H-296) Thereto, in non-concurrence.

The PRESIDENT: The Chair recognizes the Senator from Somerset, Senator Teague.

Senator TEAGUE: Mr. President, I move we Recede and Concur.

The PRESIDENT: The Senator from Somerset, Senator Teague, moves that the Senate Recede and Concur with the House.

Is this the pleasure of the Senate?

The motion prevailed.

Communication House of Representatives

May 5, 1981

Honorable May M. Ross
Secretary of the Senate
110th Legislature
Augusta, Maine
Dear Madam Secretary:

The House voted today to Adhere to its action whereby it accepted the Majority "Ought Not to Pass" Report of the Committee on Agriculture on Bill "An Act to Require Legislative Confirmation of Harness Racing Commission Members" (H. P. 734) (L. D. 872)

Respectfully,
S/EDWIN H. PERT
Clerk of the House

Which was Read and Ordered Placed on File.

Order

A Joint Resolution in Memoriam:

WHEREAS, the Legislature has learned with deep regret of the death of Frank A. Howe, of Cape Elizabeth, Executive Director of the Maine Turnpike Authority. (S. P. 592)

Presented by Senator USHER of Cumberland (Cosponsors: Senator GILL of Cumberland and Representative MASTERTON of Cape Elizabeth).

Which was Read and Adopted.

Sent down for concurrence.

Committee Reports House

Leave to Withdraw

The Committee on Taxation on, Bill, "An Act Concerning the Qualifications of Persons and Firms in the Valuation of Property for Tax Purposes." (H. P. 1160) (L. D. 1392)

Reported that the same be granted Leave to Withdraw.

Comes from the House, the Report Read and Accepted.

The Committee on State Government on, Bill, "An Act to Increase Rental Unit Energy Conservation." (H. P. 1111) (L. D. 1316)

Reported that the same be granted Leave to Withdraw.

Comes from the House, the Report Read and Accepted.

The Committee on State Government on, Bill, "An Act Relating to Powers of the Maine State Housing Authority." (H. P. 730) (L. D. 863)

Reported that the same be granted Leave to Withdraw.

Comes from the House, the Report Read and Accepted.

The Committee on Health and Institutional Services on, Bill, "An Act to Prohibit Smoking in Food Stores and Portions of Restaurants." (H. P. 457) (L. D. 509)

Reported that the same be granted Leave to Withdraw.

Comes from the House, the Report Read and Accepted.

The Committee on Education on, Bill, "An Act Relating to Special Education, Vocational Education, and Transportation Operating Allocations." (H. P. 653) (L. D. 759)

Reported that the same be granted Leave to Withdraw.

Comes from the House, the Report Read and Accepted.

The Committee on Taxation on, Bill, "An Act to Amend the Jobs and Investment Tax Credit Law." (H. P. 830) (L. D. 986)

Reported that the same be granted Leave to Withdraw.

Comes from the House, the Report Read and Accepted.

The Committee on Energy and Natural Resources on, Bill, "An Act to Clarify the Permit Requirements for Large Hydroelectric Projects and to Protect Environmental Values." (H. P. 1006) (L. D. 1202)

Reported that the same be granted Leave to Withdraw.

Comes from the House, the Report Read and Accepted.

The Committee on Taxation on, Bill, "An Act to Amend the Sales Tax Refund Law on Depreciable Machinery and Equipment used in Farming and Fishing." (H. P. 437) (L. D. 484)

Reported that the same be granted Leave to Withdraw.

Comes from the House, the Report Read and Accepted.

The Committee on Health and Institutional Services on, Bill, "An Act Concerning Clean Indoor Air." (H. P. 1038) (L. D. 1257)

Reported that the same be granted Leave to Withdraw.

(Senator BUSTIN of Kennebec abstained.)
Comes from the House, the Report Read and Accepted.

Which Reports were Read and Accepted, in concurrence.

The Committee on Fisheries and Wildlife on, Bill, "An Act Restricting a Section of the Union River in Ellsworth to Fly Fishing Only." (H. P. 842) (L. D. 1008)

Reported that the same be granted Leave to Withdraw.

Comes from the House, Recommended to the Committee on Fisheries and Wildlife.

Which Report was Read.

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

Senator CONLEY: I move we Accept the Leave to Withdraw Report of the Committee.

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

Senator USHER: I ask for a Division. The main reason I asked for the Division is this morning we planned to work on this Bill again. There were some problems. It wasn't supposed to come out of Committee yesterday.

The PRESIDENT: A Division has been requested.

The Chair recognizes the Senator from Cumberland, Senator Conley.

Senator CONLEY: Mr. President, I request Leave to Withdraw my motion to Accept the Leave to Withdraw Report.

The PRESIDENT: The Senator from Cumberland, Senator Conley, Requests Leave of the Senate to Withdraw his motion to Accept the Leave to Withdraw Report of the Committee.

Is it the pleasure of the Senate to Grant this Leave?

It is a vote.

The Bill recommended to the Committee on Fisheries and Wildlife, in concurrence.

Ought to Pass — As Amended

The Committee on Local and County Government on, Bill, "An Act to Amend the Provisions for Election as Voter Member of a County Charter Commission." (H. P. 767) (L. D. 903)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-294)

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

The Committee on Public Utilities on, Bill, "An Act to Provide for the Termination of Cable Television Permits Issued Prior to July 1, 1965 without Fixed Termination Dates." (H.P. 236) (L.D. 250)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-293).

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

The Committee on Public Utilities on, Bill, "An Act to Assist Homeowners in Peak Power Conservation." (H.P. 1131) (L.D. 1348)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-292).

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

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

Divided Report

The Majority of the Committee on Labor on, Bill, "An Act to Protect the Integrity of the Unemployment Compensation Fund." (H.P. 641) (L.D. 763)

Reported that the same Ought Not to Pass. Signed:

Sensors:

SEWALL of Lincoln
SUTTON of Oxford
DUTREMBLE of York

Representatives:

BEAULIEU of Portland
HAYDEN of Durham
MARTIN of Brunswick
LEWIS of Auburn
FOSTER of Ellsworth
TUTTLE of Sanford
LAVERRIERE of Biddeford

The Minority of the same Committee on the same subject matter reported that the same

Ought to Pass as amended by Committee Amendment "A" (H-291).

Signed:

Representatives:

McHENRY of Madawaska

BAKER of Portland

Comes from the House, the Majority Ought Not to Pass Report Read and Accepted.

Which Reports were Read.

The Majority Ought Not to Pass Report of the Committee Accepted, in concurrence.

Divided Report

The Majority of the Committee on Labor on, Bill, "An Act Concerning Unemployment Compensation." (H.P. 925) (L.D. 1096)

Reported that the same Ought Not to Pass.

Signed:

Senators:

SEWALL of Lincoln

SUTTON of Oxford

DUTREMBLE of York

Representatives:

BEAULIEU of Portland

MARTIN of Brunswick

BAKER of Portland

LEWIS of Auburn

FOSTER of Ellsworth

LAVERRIERE of Biddeford

The Minority of the same Committee on the same subject matter reported that the same Ought to Pass as amended by Committee Amendment "A" (H-290).

Signed:

Representatives:

HAYDEN of Durham

TUTTLE of Sanford

McHENRY of Madawaska

Comes from the House, Bill and Papers Indefinitely Postponed.

Which Reports were Read.

The Majority Ought Not to Pass Report of the Committee Accepted.

Divided Report

The Majority of the Committee on Business Legislation on, Bill, "An Act to Repeal Continuing Education Requirements for Real Estate Brokers." (H.P. 449) (L.D. 496)

Reported that the same Ought Not to Pass.

Signed:

Senators:

SEWALL of Lincoln

CLARK of Cumberland

Representatives:

BRANNIGAN of Portland

JACKSON of Yarmouth

GAVETT of Orono

FITZGERALD of Waterville

PERKINS of Brooksville

GWADOSKY of Fairfield

POULIOT of Lewiston

MARTIN of Van Buren

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

Signed:

Senator:

SUTTON of Oxford

Representatives:

RACINE of Biddeford

TELOW of Lewiston

Comes from the House, Bill and Papers, Indefinitely Postponed.

Which Reports were Read.

The PRESIDENT: The Chair recognizes the Senator from Oxford, Senator Sutton.

Senator SUTTON: Mr. President, Ladies and Gentlemen of the Senate, I'm going to move the Ought Not to Pass Report of this Committee, although I am not in favor of it. I think the Senate should know, and the Record should show that there is a lot of dissension between real estate agents about this particular item. The continued education program has not gone the way that a lot of real estate people hoped it would. There is a lot of distress, especially in western Maine as far as the real estate people

are concerned. In fact, the vast majority of the people who contacted me with petitions, and letters, and phone calls, were against the continuing education because of the poor way it's been handled. We have put the Real Estate Commission and association on Record in this regard. I would certainly hope they would take it to heart and do something about it so that we don't have to face the situation again. Thank you, Mr. President.

On motion by Senator Sutton of Oxford, the Majority Ought Not to Pass Report of the Committee Accepted.

Divided Report

Seven members of the Committee on Health and Institutional Services on, Bill, "An Act to Remove Private Babysitting Arrangements from the Jurisdiction of the Department of Human Services." (H. P. 796) (L. D. 950)

Reported in Report "A" that the same Ought to Pass as amended by Committee Amendment "A" (H-272).

Signed:

Senators:

GILL of Cumberland

HICHENS of York

Representatives:

PRESCOTT of Hampden

RANDALL of East Machias

MacBRIDE of Presque Isle

BRODEUR of Auburn

HOLLOWAY of Edgecomb

Five members of the same Committee on the same subject matter reported in Report "B" that the same Ought Not to Pass.

Signed:

Senator:

BUSTIN of Kennebec

Representatives:

BOYCE of Auburn

RICHARD of Madison

KETOVER of Portland

MANNING of Portland

One member of the same Committee on the same subject matter reported in Report "C" that the same Ought to Pass.

Signed:

Representative:

McCOLLISTER of Canton

Comes from the House, the Bill Passed to be Engrossed as amended by Committee Amendment "A" (H-272) as amended by House Amendment "A" (H-295) Thereto.

Which Reports were Read.

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

Senator GILL: Mr. President, I would move Report "A", the Ought to Pass Report, as amended, by House Amendment "A".

The PRESIDENT: The Senator from Cumberland, Senator Gill, now moves that the Senate Accept the Majority Report "A" of the Committee.

On motion by Senator Conley of Cumberland, Tabled for 1 Legislative Day, pending the motion by the Senator from Cumberland, Senator Gill.

Divided Report

The Majority of the Committee on Aging, Retirement and Veterans on, Bill, "An Act Concerning Appointed Chief Administrative Officers of Local Districts under the Maine State Retirement Laws." (H. P. 418) (L. D. 465)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-289).

Signed:

Senators:

TEAGUE of Somerset

COLLINS of Knox

BROWN of Washington

Representatives:

NELSON of Portland

ARMSTRONG of Wilton

PARADIS of Old Town

PERRY of Mexico

STEVENSON of Unity

RICHARD of Madison

HICKEY of Augusta

THERIAULT of Fort Kent

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

Signed:

Representatives:

CROWLEY of Stockton Springs

WALKER of Skowhegan

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

Which Reports were Read.

On motion by Senator Teague of Somerset, the Majority Ought to Pass, as amended, Report of the Committee Accepted, in concurrence. The Bill Read Once. Committee Amendment "A" Read and Adopted, in concurrence. The Bill, as amended, Tomorrow Assigned for Second Reading.

Divided Report

The Majority of the Committee on State Government on, Bill, "An Act to Create a Maine Film Board." (H.P. 1209) (L.D. 1424)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-284).

Signed:

Senator:

VIOLETTE of Aroostook

Representatives:

KANY of Waterville

DIAMOND of Bangor

McGOWAN of Pittsfield

PARADIS of Augusta

LISNIK of Presque Isle

DILLENBACK of Cumberland

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

Signed:

Senators:

AULT of Kennebec

GILL of Cumberland

Representatives:

BELL of Paris

SMALL of Bath

WEBSTER of Farmington

MASTERTON of Cape Elizabeth

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

Which Reports were Read.

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

Senator AULT: I move Acceptance of the Ought Not to Pass Report.

The PRESIDENT: The Senator from Kennebec, Senator Ault, moves that the Senate Accept the Ought Not to Pass Report of the Committee.

The Chair recognizes the Senator from Cumberland, Senator Najarian.

Senator NAJARIAN: Mr. President and Members of the Senate, I hope that the Senate will not Accept the Ought Not to Pass Report. I think this is a good Bill. It's sort of an innovative idea in this Legislature, although 41 other states now have a state film board.

Currently, Maine is in the tourist promotion business. They have a contract between the development office and the Publicity Bureau to market Maine. This legislation would create economic development of an environmentally clean industry, the film industry. The current contractual agreement requires that the Publicity Bureau deal with inquiries relating to film production. However, due to budget constraints and obligations to different priorities, they provide at best a limited service.

This bill seeks to bring together a board of industry related personnel to serve a highly technical industry, and would supply the much needed support services to the Maine Publicity

Bureau.

Currently Maine is at a competitive disadvantage. Over the past six years, 41 states have enacted film boards. Among them are our New England neighbors of Massachusetts and New Hampshire. Since its inception in May 1980, the New Hampshire Film and Television Bureau has arranged for the production of three major films, among them was "On Golden Ponds," a feature length film Maine lost when New Hampshire formed their film bureau last spring, and actively courted the producers. While the figures are still being computed, the presence of the three film crews has returned \$5 million to \$6 million in new money to New Hampshire's economy. Monies were generated by such services as hotels and restaurants, in addition to the labor force.

Perhaps the strongest part of this Bill is its Fiscal Note. There is none. The Office of Legislative Finance stated that it appears the intent of this Bill is that it be self-supporting. Having obtained a total tentative commitment of approximately \$5000 in contributions, I believe this film board can provide the support services needed to make Maine competitive in the film industry.

To go one step further, if the private industry can't or won't support this public/private partnership sufficiently, there should be none. There is a three year sunset amendment, which reflects this philosophy.

In closing, I believe that criteria to measure the results of a film board is the economic benefit to the State. That is, the jobs produced and the monies generated here. With our total investment merely being this piece of legislation, I believe this financially self-supporting public/private partnership will provide a strong return on our commitment here today. Thank you.

I request a Division, Mr. President.

The PRESIDENT: A Division has been requested.

The Chair recognizes the Senator from Kennebec, Senator Ault.

Senator AULT: Mr. President and Members of the Senate, there's no question that the proposal does have merit in that it would attempt to bring industry into the State of Maine with these people making these films doing it here. It does create a new board, which consists of 15 members appointed by the Governor. There's no reason why the Maine Publicity Bureau under Peter Damborg or the State Development Office under Barbara Cottrell can not do the same thing right now.

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

Senator VIOLETTE: Mr. President, Ladies and Gentlemen of the Senate, simply in answer to the question formed by the gentleman from Kennebec, Senator Ault, the Tourism Board and the Maine Publicity Bureau are simply not in the position where they feel they have the time, and the money, and the expertise to deal with this particular area. The State Tourism Board, newly created by the Governor, feels that it has areas that it wishes to work within, which have a much greater priority.

Also, the Maine Publicity Bureau came before us. It stated that it simply did not have the time. It had other areas which it considered of a far greater priority where it ought to spend its dollars.

We have here a Bill, today, which would create, yes, another board. It would create another board in an area which it seems no other board or existing agency has the time, or the expertise, or wishes to use its dollars to deal with a situation which can enhance the State of Maine by bringing jobs to the State of Maine.

We have some people that are very concerned about this. They have simply asked the State of Maine to create a Maine Film Board. They are willing to lend the expertise, their time, their resources, and have made a commitment that they will raise the necessary

funding, and as such, this Bill will cost no money.

If this Film Board does nothing, or does not justify its existence over the next three years, this Board will simply be done away with. The Committee decided to add, in the form of a Committee Amendment, the sunseting of this particular Board. If it doesn't do anything, it doesn't stay on the books down the road.

I happen to feel it's going to do something. We had numerous people from this industry appear as proponents of this legislation. I believe that they're going to do something in this area, an area in which it seems no one else wants to do anything. They simply want to be able to compete with other New England states in what seems to be a growing market for on-location filming.

I think it's a good idea. I think we ought to give these people the opportunity to do this, give them the chance to do this, and see whether or not it's a viable, whether it's going to become a viable board. Then, if it's not, then let it die. At least give it this opportunity. Thank you.

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

Senator MINKOWSKY: Mr. President and Members of the Senate, just a question I have relevant to this. Is there any possibility that this Maine Film Board can receive grants or donations from the Maine Publicity Bureau, or from the State Development Office, in which to continue? That has not been clarified. I think these are your two main sources of funding, since I have not seen a balance sheet as to what their assets are at the present time.

I don't know exactly what the State of Massachusetts or New Hampshire does relative to their film board, but I assume that they are funded somehow or other through state funds. If there's some clarification exactly how solvent the Maine Film Board is, and there's reasonable assurance that there's no grant to them from either of those two departments I've mentioned to you, then I think that I could live with it.

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

Senator NAJARIAN: Mr. President and Members of the Senate, the Bill does allow the Maine Film Board to raise and accept funds from public and private sources on behalf of the State, to be used for most purposes of the chapter. It also says, Subsection 7015, it also says that any funds collected under Subsection 7015 may be forwarded by the Board to the Maine Publicity Bureau to be used in financing that Bureau's ongoing film project. Any funds forwarded to the Maine Publicity Bureau, under this section, may only be used to finance that film project and for no other purpose. Any funds received by the Bureau as matching funds to match any funds forwarded by the Board may only be used to finance that film project.

I just reiterate again, that I think this is an area that has a lot of potential. There are a lot of people interested. I think they just need a little motivation, and perhaps the Governor appointing 15 members to this, three of which must be industry related, will just maybe enough to get this thing going and to help the Maine Publicity Bureau.

I really don't see that we have a thing to lose by doing this. There's not a cent of State money. It's just sort of an incentive or catalyst to see if we can attract the film industry for television advertising, television programs and movies to be made here in the State of Maine.

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

Senator HICHENS: Mr. President and Members of the Senate, I see no reason whatsoever for this board. With a state like the State of Maine, with its beautiful seacoast, its mountains and so forth, we can encourage the film

industry to come here. A few years ago, they made a film down at the York Nubble Light. Two years ago, they made another film down along the coast, "Captain's Courageous." I think there have been several others made in the State of Maine. I don't think we need any film board to entice the industry to come into our state, because if they want that topography and that atmosphere in their films, they're going to come anyway.

I do not see anything in the Bill which restricts the Board or gives them direction as to the type of films which these people might produce. With some of the films which we're seeing advertised, both in our movie houses and on our television screens, I think maybe some of them, we don't want to be made in the State of Maine.

The PRESIDENT: Is the Senate ready for the question?

Will all those Senators in favor of the motion by the Senator from Kennebec, Senator Ault, that the Senate Accept the Ought Not to Pass Report of the Committee, please rise in their places to be counted.

The Chair recognizes the Senator from Cumberland, Senator Conley.

Senator CONLEY: I request the vote to be taken by the Yeas and Nays.

The PRESIDENT: A Roll Call has been requested. Under the Constitution, in order for the Chair to order a Roll Call it requires the affirmative vote of at least one-fifth of those Senators present and voting.

Will all those Senators in favor of ordering a Roll Call, please rise and remain standing until counted.

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

The pending question before the Senate is the motion by the Senator from Kennebec, Senator Ault, that the Senate Accept the Ought Not to Pass Report of the Committee.

A Yes vote will be in favor of Accepting the Ought Not to Pass Report of the Committee.

A No vote will be opposed.

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

ROLL CALL

YEA—Ault, Collins, Devoe, Emerson, Gill, Hichens, Huber, McBreairey, Minkowsky, Perkins, Pierce, Redmond, Sewall, C., Shute, Sutton, Teague, Trotzky.

NAY—Brown, Bustin, Carpenter, Charette, Clark, Conley, Najarian, O'Leary, Pray, Traf-ton, Usher, Violette, Wood.

ABSENT—Dutremble, Kerry.

A Roll Call was had.

17 Senators having voted in the affirmative and 13 Senators in the negative, with 2 Senators being absent, the motion to Accept the Minority Ought Not to Pass Report of the Committee in non-concurrence, does prevail.

Sent down for concurrence.

Divided Report

The Majority of the Committee on State Government on, RESOLUTION, Proposing an Amendment to the Constitution of Maine to Provide Counties, which have Adopted a Charter, with Home Rule Authority Regarding the Office of Sheriff. (H. P. 357) (L. D. 405)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-260).

Signed:
Senators:

GILL of Cumberland
VIOLETTE of Aroostook

Representatives:

KANY of Waterville
DIAMOND of Bangor
MASTERTON of Cape Elizabeth
LISNIK of Presque Isle
DILLENBACK of Cumberland
McGOWAN of Pittsfield
SMALL of Bath

The Minority of the same Committee on the

same subject matter reported that the same Ought Not to Pass.

Signed:

Senator:

AULT of Kennebec

Signed:

Representatives:

PARADIS of Augusta

WEBSTER of Farmington

BELL of Paris

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

Which Reports were Read.

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

Senator AULT: Mr. President, I move the Ought Not to Pass Report.

On motion by Senator Conley of Cumberland, Tabled until later in today's session, pending the motion by the Senator from Kennebec, Senator Ault.

Senate

Leave to Withdraw

Senator WOOD for the Committee on Agriculture on, Bill, "An Act to Promote the Maine Potato Industry." (S.P. 517) (L.D. 1439)

Reported that the same be granted Leave to Withdraw.

Which Report was Read.

On motion by Senator Collins of Knox, Tabled for 2 Legislative Days, pending Acceptance of the Committee Report.

Ought to Pass — As Amended

Senator EMERSON for the Committee on Taxation on, Bill, "An Act to Require that Industry Wide Taxes be Levied only after Referendum Approval of the Persons who would be Required to Pay the Tax." (S.P. 397) (L.D. 1190)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (S-169)

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

Divided Report

The Majority of the Committee on Fisheries and Wildlife on, Bill, "An Act to Prohibit Hunting of Bear with Bait." (S.P. 64) (L.D. 91)

Reported that the same Ought Not to Pass.

Signed:

Sensors:

REDMOND of Somerset

USHER of Cumberland

Representatives:

MacEACHERN of Lincoln

DAMREN of Belgrade

CLARK of Millinocket

CONNERS of Franklin

JACQUES of Waterville

PAUL of Sanford

SMITH of Island Falls

ERWIN of Rumford

PETERSON of Caribou

GILLIS of Calais

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

Signed:

Senator:

HICHENS of York

Which Reports were Read.

On motion by Senator Collins of Knox, Tabled for 1 Legislative Day, pending Acceptance of Either Committee Report.

Divided Report

The Majority of the Committee on Agriculture on, Bill, "An Act to Provide Loans for Family Farms." (S.P. 470) (L.D. 1326)

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

170).

Signed:

Sensors:

HICHENS of York

SHUTE of Waldo

WOOD of York

Representatives:

MAHANY of Easton

McCOLLISTER of Canton

LOCKE of Sebec

MICHAEL of Auburn

LISNIK of Presque Isle

SMITH of Island Falls

SHERBURNE of Dexter

CALLAHAN of Mechanic Falls

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

Signed:

Representatives:

CONARY of Oakland

NELSON of New Sweden

Which Reports were Read.

The Majority Ought to Pass, as amended, Report of the Committee Accepted. The Bill Read Once. Committee Amendment "A" Read and Adopted. The Bill, as amended, Tomorrow Assigned for Second Reading.

Senator Hichens of York was granted unanimous consent to address the Senate, On the Record.

Senator HICHENS: Thank you, Mr. President.

Nancy is a favorite name in books of history Associated in some way with the Presidency Nancy Lincoln, as you know, had a little boy named Abe

Who grew up to be a famous man from a Kentucky babe

And he's been revered down through the years as one of wisdom great

Who proved to be the captain true of our great ship of state.

Today there is a Nancy who aptly fills her place

As first lady of our land with beauty and with grace.

And here in Maine we're favored to have a Nancy too

Who serves with us in the Senate—and I need not tell you

That she is quite the lady who serves her people well

And just ask her constituents—most of them think she's swell.

Of course we can't quite understand how she got led astray

From the Republican ideas of the Nancy's named today

But we'll admit though we may not share her deep philosophy

She's made quite an impression on you and even me.

She speaks in a convincing way to present her point of view

And many times we have found out, it proves successful too.

So join with me this 6th of May, in wishing Nancy Clark

A very Happy Birthday—and may she now embark

On another year of pleasant days and may her dreams come true

In the manner she most wishes—as each day comes to view.

Second Readers

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

House

Bill, "An Act to Repeal the Double Affirmation Rule under the Employment Security Law." (H. P. 411) (L. D. 450)

Bill, "An Act Relating to Injured State Workers." (H. P. 765) (L. D. 902)

Bill, "An Act to Enable Continuation of the Highway Safety Defensive Driver Program

through an Increase in Student Registration Fees." (H. P. 1353) (L. D. 1539)

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

House — As Amended

Bill, "An Act to Limit Liability Regarding Donations to Food Banks." (H. P. 1010) (L. D. 1206)

Bill, "An Act to Regulate the Taking of Mahogany Quahogs." (H. P. 17) (L. D. 11)

Bill, "An Act to Provide 75% Reimbursement to a Municipality for General Assistance Costs." (H. P. 701) (L. D. 826)

Bill, "An Act to Regulate Motorized Bicycles." (H. P. 906) (L. D. 1073)

RESOLUTION, Proposing an Amendment to the Constitution of Maine to Amend the Law and Constitutional Provisions Relating to Consolidating Initiative and Referendum Elections to Dates of the Next General Election. (H. P. 1112) (L. D. 1317)

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

Bill, "An Act to Amend the Fee Schedule for the Payment of Appointed Forest Fire Wardens." (H. P. 506) (L. D. 557)

Which was Read a Second Time.

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

Senator PERKINS: Mr. President, I present Senate Amendment "A" to L. D. 557 under filing number S-168 and would speak briefly.

The PRESIDENT: The Senator from Hancock, Senator Perkins, offers Senate Amendment "A" to L. D. 557 and move its adoption. Senate Amendment "A" (S-168) Read.

The PRESIDENT: The Senator has the floor. Senator PERKINS: This amendment merely adds an appropriation to the Bill, and makes no other changes.

Senate Amendment "A" Adopted.

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

Sent down for concurrence.

Senate

Bill, "An Act to Authorize the Extension of Old Orchard Pier." (S. P. 476) (L. D. 1359)

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

Sent down for concurrence.

Senate — As Amended

Bill, "An Act Concerning the Transfer of Funds from One Appropriation to Another Appropriation." (S. P. 370) (L. D. 1112)

Bill, "An Act Relating to the Employment of Minors and Overtime Pay." (S. P. 188) (L. D. 490)

Bill, "An Act to Amend the Maine Nonprofit Corporation Act." (S. P. 542) (L. D. 1513)

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

Sent down for concurrence.

Bill, "An Act to Provide for Legislative Review of Agency Rules." (S. P. 505) (L. D. 1432)

Which was Read a Second Time.

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

Senator AULT: Mr. President and Members of the Senate, Committee Amendment "A" S-154 is actually the Bill, now. And I would like to have you read it, if you are interested in spending more of the taxpayers' money to pay for legislative trips to Augusta.

What this Bill proposes to do, is that any co-chairperson of any joint standing committee may go to, or send a designee to any public hearing on a proposed agency rule, and will be reimbursed expenses.

I move Indefinite Postponement of this Bill and all of its accompanying papers.

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

Senator CONLEY: Mr. President, would the Secretary be kind enough to read the Report of the Committee, please.

Which Reports were Read.

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

Senator GILL: Mr. President and Members of the Senate, this Bill was before the State Government Committee, really I signed it out for one reason. The reason was that in the past as many other legislators in this Body, and in the other Body, we have had difficulty with the various departments, that we deal with, under our committee's jurisdiction.

I particularly have had quite a bit of difficulty with the Departments of Human Services, because as I read the legislation that we pass at various times, we give authority to the various departments to promulgate rules and regulations, we have found that sometimes they go far beyond what the intent of the Legislative Body was in allowing them to promulgate certain rules and regulations.

I felt that if the legislators were involved when rules and regulations were heard and adopted, that perhaps they would abide by the intent of the Legislative Body.

Instead of having all the rules and regulations changes come before the prospective committees that would be dealing with the various departments. I felt that it would be more appropriate to select one or two members from the committee to attend those particular hearings as they took place, so that we could have a handle on just what rules and regulations were being promulgated. That is the reason why I hope that you will vote not to Indefinitely Postpone.

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

Senator SHUTE: I would like to ask a question to somebody on the Committee, if they could answer it, Mr. President. That is, what authority would the person attending the hearing have, as far as any rules being made? Would they have a vote on the board, or are they just there to observe what is going on? Also, how much would the Bill cost? Is there a Fiscal Note for the Bill? Who is going to pay the people who attend the hearings? And what the cost of it is?

The PRESIDENT: The Senator from Waldo, Senator Shute has posed some questions through the Chair to any knowledgeable Senator.

The Chair recognizes the Senator from Kennebec, Senator Ault.

Senator AULT: Mr. President and Members of the Senate, to answer the question, it is my understanding that the only reason that the legislator would attend is just to be informed of what the rule is.

There is a Fiscal Note on this amendment. It says, "Fiscal Note, This Bill will result in additional cost as it relates to a member of a joint standing committee attending a public hearing on a proposed rule while the Legislature is not in session, and being reimbursed for actual expenses."

No estimate is available because it is not known how many may be involved.

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

Senator CONLEY: Mr. President, I honestly wish that the good Senator from Kennebec, Senator Ault, had grabbed this Bill on its First Reading. I think that he is absolutely correct, and I would concur with his motion.

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

Senator TRAFTON: Mr. President, this Bill represents, I think, a much needed addition to our role in legislative oversight. There have been many proposals before us, some very complicated ones to try to somehow involve us in the oversight function that is delegated to us by our responsibility, and some involve very complicated procedures in which rules are

brought back to us and we may or may not have a vote.

We have not determined yet what the constitutionality is of separating the powers and then trying to bring them back. Those remain to be resolved in the State Government Committee.

This represents a very straight forward simple common sense approach which says, that if indeed we are responsible for legislative oversight of the promulgation of rules and regulations, to carry out our legislative intent, maybe, just maybe, it makes some sense for us to be there, when those rules and regulations are promulgated in the first instance. Rather than coming back, after the fact, after they have already been promulgated, after they have received department approval, perhaps it makes common sense for us to be there right when the action is taking place.

Now, what does this mean on a practical level? It would mean for example, let's talk about the Department of Environmental Protection. It would mean that if the Committee on Natural Resources recommended approval of a ground water bill, for example, which gave the authority to promulgate rules and regulations to the Department of Environmental Protection, and if such a bill came to this Chamber and to the other Body and received favorable treatment and was enacted into law. That when those rules and regulations were going to be promulgated, the department would notify the Senator and the respective House Chairman of the date of that hearing.

This would mean in this case that the good Senator from Aroostook, Senator McBreaity, would be notified. At that point he would have the opportunity to attend that hearing and participate to the fullest, that is when everyone has a chance to question the suggested rules and regulations, try to make improvements, change them in the first instance before they ever become law, or in effect law, to carry out our intent.

Hopefully by being involved in that process those rules and regulations that were eventually promulgated would indeed reflect what our legislative intent would be, and we would not have some of the problems that we have had down the road, with rules and regulations that seem to go far beyond the scope of what we had ever intended in our discussions and deliberations here on the floor.

There probably would be an expense as the Fiscal Note indicates it would be fairly minimal. We are talking about the mileage reimbursement for one or two individuals to travel to some of these hearings. Many of which are held during our legislative session, and in that case there would be no additional charge, but in those cases during the intervening period between our sessions there would be some additional Fiscal Note. Apparently it was so small that they could not even calculate what that would be.

Again, I think that this makes sense for us to be involved before the rules and regulations become law, and I would hope that you will give it favorable treatment.

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

Senator SHUTE: Mr. President and Ladies and Gentlemen of the Senate, one of the short comings, I feel, in this Bill is for example, last year there was an oil spill project approved for Long Cove in Waldo County. I am not on the Natural Resources Committee, and I do not know anyone in Waldo County that is on the Natural Resources Committee.

So this oil spill project was approved by the DEP and appealed, and awaiting for another decision on it.

That affects directly the people in my area, and under this Bill I would not, I could have attended the hearing of course, but why should people who are not even interested in my area, or interested in that section of the State, be reimbursed to go listen to a Bill that effects my

district and not their own?

I had a bill in on rule changes this year, for an Oversight Committee to review the rules. It seems that they told me that there were 340 rules made last year, so would this be an opportunity for 342 people, or I guess that we can double that up to 684 people attend rule making procedures next year and be reimbursed for that?

I think that the Bill does have some short comings and hope that you would kill the Bill.

The PRESIDENT: Is the Senate ready for the question?

The Chair recognizes the Senator from Androscoggin, Senator Trafton.

Senator TRAFTON: Mr. President, Men and Women of the Senate, in response to the good Senator's remarks. It would not necessarily mean that every rule making proceeding would involve a legislator. It would be up to the discretion of the respective chairmen, as to whether or not they felt that the proceedings deserved that legislative oversight.

The PRESIDENT: Is the Senate ready for the question?

The Chair will order a Division.

Will all those Senators in favor of the motion by the Senator from Kennebec, Senator Ault, that LD 1432 be Indefinitely Postponed, please rise in their places to be counted.

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

18 Senators having voted in the affirmative, and 10 Senators having voted in the negative, the motion to Indefinitely Postpone, does prevail.

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

Senator AULT: Mr. President, having voted on the prevailing side, I move Reconsideration.

The PRESIDENT: The pending question before the Senate is the motion by the Senator from Kennebec, Senator Ault, that the Senate Reconsider its action whereby LD 1432 was Indefinitely Postponed.

Will all those Senators in favor of Reconsideration, please say "Yes."

Will all those Senators opposed, please say "No."

A Viva Voce Vote being had, the motion to Reconsider does not prevail.

Sent down for concurrence.

Bill, "An Act to Amend the Maine Consumer Credit Code." (S. P. 172) (L. D. 422)

Which was Read a Second Time.

On motion by the Senator from Kennebec, Senator Pierce, the Senate voted to Reconsider its action whereby Committee Amendment "A" was Adopted.

Senator PIERCE: Mr. President, I present Senate Amendment "A" to Committee Amendment "A" under filing number S-171 and move its adoption.

The PRESIDENT: The Senator from Kennebec, Senator Pierce, offers Senate Amendment "A" (S-171) to Committee Amendment "A" and moves its adoption.

Senate Amendment "A" (S-171) to Committee Amendment "A" Read and Adopted. Committee Amendment "A", as amended, by Senate Amendment "A" Adopted. The Bill, as amended, Passed to be Engrossed.

Sent down for concurrence.

Enactors

The Committee on Engrossed Bills reported as truly and strictly engrossed the following: An Act to Create A Department of Corrections. (S. P. 376) (L. D. 1134)

On motion by Senator Huber of Cumberland, placed on the Special Appropriations Table, pending Enactment.

An Act to Appropriate Funds to the Maine Geological Survey for Ground Water Aquifer Mapping. (S. P. 453) (L. D. 1299)

On motion by Senator Huber of Cumberland,

placed on the Special Appropriations Table, pending Enactment.

(Off Record Remarks)

Orders of the Day

The President laid before the Senate the first Tabled and specially assigned matter:

Bill, "An Act to Amend the Maine Consumer Credit Code." (H. P. 394) (L. D. 437)

Tabled—May 4, 1981 by Senator SUTTON of Oxford.

Pending—Passage to be Engrossed.

On motion by Senator Pray of Penobscot, the Senate voted to Suspend its Rules.

On motion by Senator Pray of Penobscot, the Senate voted to Reconsider its action whereby it Adopted Committee Amendment "A" to LD 437.

Senator PRAY: Mr. President, I offer Senate Amendment "A" to Committee Amendment "A" under filing S-149 and move its adoption.

The PRESIDENT: The Senator from Penobscot, Senator Pray, now offers Senate Amendment "A" (S-149) to Committee Amendment "A" and moves its Adoption.

Senate Amendment "A" (S-149) Read.

The PRESIDENT: The Senator has the floor.

Senator PRAY: Thank you, Mr. President. Mr. President and Members of the Senate, this Amendment basically says that an individual who purchases a credit card, there will be a service fee of \$15 on that credit card. If he pays an interest in an amount greater than that the following year, he would not be charged up to the \$15 which is allowed under the service charge fee.

Basically, those who use the card and pay the interest would not have to pay the service charge.

The PRESIDENT: Is it now the pleasure of the Senate to Adopt Senate Amendment "A"?

The Chair recognizes the Senator from Androscoggin, Senator Minkowsky.

Senator MINKOWSKY: Mr. President and Members of the Senate, regardless of this particular Amendment or the entire Bill, it appears to me that this is a very inequitable thing to do insofar as the people who utilize credit cards in the State of Maine. Number one, to be assessed any type of a fee, since they have good credit and do pay their bill within the 25 day span of time that's authorized.

Number two, the banking industry apparently feels they're losing a great deal of money. In utilization of my credit card, and I do as most people, pay the cost of that particular purchase during the 25 day span of time, is they're losing money, through dramatic cost increase of fraud, and other abuses.

When I look at the banking industry as a whole, and the purchase I might have made as an individual, where I'm paying 3 or 4 percent, or the merchant who sold me the merchandise is paying the bank 3 or 4 percent for the purchase I made, I can not concur wholeheartedly that the banks are losing money. They should not be authorized here in the State of Maine to assess the people that they felt were good credit risks a \$15 service charge.

Regardless of how you do it, either through this Amendment that Senator Pray offers, or under the original Amendment, in my estimation, that in business there are other things called loss leaders in the banking industry. I think that if they are losing money, that's just plain tough as far as I'm concerned with that particular industry. They have variable interest rates running on every other thing in the State of Maine, including house mortgages, where they're not losing money at all. I think they had better assume the obligation of either tightening up the way they do business insofar as authorizing people to have credit cards.

This is a back door approach of ripping off the people who are ethical and honest that use credit cards in the State of Maine.

Mr. President, is the motion in order before

this Amendment is Adopted to Indefinitely Postpone this Bill and all accompanying papers?

The PRESIDENT: The motion to Amend is a higher priority motion, Senator Minkowsky. After the Amendments have been disposed of, then your thought would be in order.

The Chair recognizes the Senator from Somerset, Senator Redmond.

Senator REDMOND: Mr. President, would it be proper to Table this until later in today's session to give me a chance to understand it? I don't quite understand that Amendment.

The PRESIDENT: The motion to Table is always in order, but the chair would advise the Senator that it's not in order for him, however.

On motion by Senator Pray of Penobscot, Tabled until later in today's session, pending Adoption of Senate Amendment "A" to Committee Amendment "A".

The President laid before the Senate the second Tabled and specially assigned matter:

Bill, "An Act to Clarify the Definition of Commercial Applicator in the Maine Pesticides Control Act of 1975." (S. P. 373) (L. D. 1115)

Tabled—May 4, 1981 by Senator Collins of Knox.

Pending—Passage to be Engrossed.

On motion by Senator Wood of York, the Senate voted to Suspend its Rules.

On motion by Senator Wood of York, the Senate voted to Reconsider its action whereby it Adopted Committee Amendment "A".

Senator WOOD: I now present Senate Amendment "A" to Committee Amendment "A" with a filing number of S-172 and move its adoption.

The PRESIDENT: The Senator from York, Senator Wood, offers Senate Amendment "A" to Committee Amendment "A" and moves its adoption.

Senate Amendment "A" (S-172) Read and Adopted.

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

The Bill, as amended, Passed to be Engrossed.

Sent down for concurrence.

The President laid before the Senate the third Tabled and specially assigned matter:

Bill, "An Act Promoting the Availability of Health Care Services." (S. P. 303) (L. D. 847)

Tabled—May 4, 1981 by Senator Collins of Knox.

Pending—Motion of Senator Gill of Cumberland to Recede and Concur.

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

Senator BUSTIN: I had planned, or we had been trying to work out a compromise on both sides with this particular Bill. I just learned this morning that we can't compromise. I would like to have an opportunity to present my Amendment, but I do not have a compromise on that, either. I would just like to speak to this Bill and ask you to please defeat the Recede and Concur motion and ask for Indefinite Postponement of this Bill and all its accompanying papers.

There have been two amendments to this now. I'm offering a third. From the time that this Bill was presented to me to sponsor, I have said that the language was too broad, it covered too many things, and there would be too many law suits or cases taken to court to decide whether my small town of Augusta could tell a dentist that he couldn't locate in one place or another. That's just minor to what could happen the way the Bill was originally drafted.

It took out all the government, quasi-government, regulatory agencies that could affect anything to do with the location, specialty, or number of doctors, and made it just that the Human Services or its agents couldn't regulate

or affect any policy that would regulate the location and number of health care professionals. Then, in the House, they took off "or its agents" because they were worried that that would cause too many cases in court.

My amendment would have just said that the Department would not exercise its authority to register or license health care practitioners to limit solely on the basis, of area of expertise or geographic location, the number of such professionals. It provided that nothing in this section shall be construed to affect the authority of the Department to establish criteria, or conditions of eligibility for providing for participation and health of social service programs administered by the Department.

I'm still not happy with that particular thing, but in the spirit of compromise, I was willing to offer it and go with it. I still think we would have some problems with it. I would urge you to vote against the Indefinite Postponement, I mean, for the Indefinite Postponement of this bill and all of its papers.

In the first place, the Department is not setting any policy that would limit the location of doctors. It hasn't even considered that. This is a shot in the dark for the health care field. They are afraid that that's what's going to happen. I hope that we haven't come to the stage in the State of Maine where we have to be so paranoid that we've got to pass a bill so that a Department of our State doesn't do something it has no intention of doing.

I urge that you vote for the Indefinite Postponement, and I ask for a division.

The PRESIDENT: The Chair would advise the good Senator that the motion to Indefinitely Postpone is not in order at this time, because of the fact that we are not in concurrence with the unmentionable Body.

The Chair recognizes the Senator from Cumberland, Senator Gill.

Senator GILL: Thank you for that clarification. This particular Bill was presented to allow us, as legislators, to go on Record to show our opposition to any restriction of health care professionals within this State. So you won't think that I'm flailing at phantoms about this whole thing, restrictions have been proposed in other states. The State of Rhode Island proposed to limit the number of anesthesiologists, for instance, to 50, when there were already 55 practicing in the State.

In a recent edition of Medical Economics, the senior editor reported information that was developed from the Maine State Health Planners, that among new measures to control doctor supply being considered in the State of Maine, were altering the mix or numbers of medical students in residence and placing ceilings on medical licenses or franchising of new doctors. This means that only physicians who were needed in a particular area would be issued a certificate to practice in that area.

I happened, this summer, to have been asked to serve on a health facilities cost review advisory board to look into the legislation that was passed by this Legislature in the past two years, two years ago. Serving on that Committee, they talked about collection of data of different physicians practicing in different areas of the State. I might just read, "the advantages of the system in collecting of data would provide the accurate studies on physician work load and the impact in each hospital affected by physicians with multiple privileges could be measured," they say. "Physician's specialties can be characterized in terms of volume and composition of their practitioner's work load. Manpower distribution by specialty can be determined for planning and for recruitment."

I'll call your attention also to the newly revised edition of the Maine State Health Plan itself. It speaks about the statewide planning effort must carefully consider the question of need and demand for medical care, and the questions of supply and distribution.

I could go on with a lot more facts. I have a

large folder. It's true, we tried to work out some compromise but the language presented in the amendment that was brought to us yesterday does nothing to effect a compromise. In fact, it only gives the Department their way again.

The PRESIDENT: Is the Senate ready for the question?

The Chair recognizes the Senator from Cumberland, Senator Najarian.

Senator NAJARIAN: Mr. President and Members of the Senate, I really don't like to be in the position of speaking against this Bill at this point in time, because the Recede and Concur and the House Amendment that is the reason we're in non-concurrence is not really what I want to speak against. Since the debate is going, I'll just speak against the motion to Recede and Concur anyway, just to make some points.

I think the good Senator from Cumberland, Senator Gill, has touched upon some of the reasons why this Bill is in here in the first place. It was a panic reaction to an article that was printed in a great big Medical Economics Magazine, which has a lot in common with the National Enquirer, about some states that may be considered regulating the numbers of physicians through their state health plan.

The little State of Rhode Island was the only state that ever considered doing that. In fact, they ended up not doing that in their state health plan. Because of that, an alarm was sounded throughout the medical community in Maine, as though that were an imminent danger of happening here.

Even though the Bill attempted to address that problem, the concerns of the physician that the State might be by some method, primarily through the State Health Plan, be telling them where they could locate or what their practice could be. This refers to all health professionals. That includes nurses, physician's assistants, any dentists, pharmacists, anything you can think of.

It doesn't refer to the State Health Plan, the original Bill. As a matter of fact, the only two ways that the State, the Department of Human Services can not limit physicians practice or location without legislative approval. The only two ways they can do that, anyway, is through the State Health Plan, or the Certificate of Need, both of which the Committee Amendment exempts.

Now, what you're left with is what the physicians were concerned about, are exempt from the Bill. The only two ways that their activities or location could be controlled, and now the Bill applies to all other health care professionals through regulations.

Just to talk about the problems with this Bill, in the first place, it was so broad that it even covered like Blue Cross and Blue Shield contracts, it would have covered local zoning laws, so they had to exempt all of those things out of it.

For example, if the Department of Human Services has some certain regulations regarding minimum staffing standards in nursing homes. Well, if they determine that a nursing home wasn't needed in a certain area, or more were, because it just talks about number, it doesn't say whether it doesn't refer to a decrease in number, or an increase in number. Any regulation, which indirectly affected the need for nursing in the area, the could effectively say violated this law.

It would also apply to rural health care centers, community health services, and heavens knows what else.

I know a lot of physicians have called you and written you because they've written to me, urging, at the urging of their association to contact us. I'm sure they really don't know what this Bill does.

On the other hand, they don't know what it doesn't do. It doesn't do anything to address their original concerns, which had no basis, in

fact, they were in no imminent danger of being regulated in any way by the Department of Human Services.

I think it's a bad Bill. I hope, when it comes back for Enactment, this Senate will not stubbornly insist in going along with it. Thank you.

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

Senator GILL: Mr. President, I think in regard to Medical Economics Magazine, that evidently depends on what side of the Bill you're on, whether it's a grade A, a grade B, or whatever grade magazine. It's a publication published by a medical economics company, which is a subsidiary of the Litten Industries. I won't go into any more on that. I think it's been valued among the professionals and I think it depends on which side of the aisle you're sitting on.

I want to go back to the Maine State Health Plan, though, because it does say, and this is the new version that's going under hearings this coming—within the next week, the hearings on this start. It does say in the Maine State Health Plan that it is imperative that a manpower planning effort be established, and that primary care physician's supply and geographic distribution be developed.

I think, when you read these things into the Maine State Health Plan, you read about them in the Maine State Health Plan, all you have to do is look at the planning efforts that have taken place in various states. I mentioned before Rhode Island. Michigan planners have attempted to do the same thing. They come up with this in their Maine State Health Plan, or their State Health Plan, and then they promulgate. They have a very decided affect on what the State does. This is, after all, the goal of the State. I think that this is what the Department of Human Services does abide by.

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

Senator NAJARIAN: Mr. President and Members of the Senate, I can not understand why the good Senator from Cumberland, Senator Gill, keeps referring to the State Health Plan, when the Committee Amendment which she endorsed said, "specifically that nothing in this section shall diminish the requirements of the National Health Planning and Resource Development Act of 1974, which establishes and authorizes and requires a state health plan." It's specifically exempt from the provisions of this Bill in the first place.

Secondly, there may be some day a legitimate need for the state to regulate physicians. Every excess physician, studies have shown, cost the community \$250,000, for every excess community. Since I've been in the Legislature, I've heard about how there are no physicians in rural communities in this State. It was often debated on the floor of the House about requiring our medical school compact students to come back to the rural areas of the State. The Legislature has always rejected that, and I think for good reason. Some day that might be a legitimate move for the Legislature to take. Currently, the Department of Human Services can not do that.

The Attorney General's Office is arguing before the court that the State Health Plan does not have the force of law. Any more in that direction would have to come before the Legislature of the State of Maine.

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

Senator BUSTIN: Before you take this vote, I would like you to know some of the specifics that could happen under this Bill. One, emergency medical personnel may well be considered health care professionals. If so, the Department's regulation governing the licensing of such personnel would arguably affect their licensing and registration.

Two, the licensing regulations governing nursing homes establish minimum staffing requirements which included provisions for li-

censed administrators and licensed nurses, the need for such licensed personnel resulting from these regulatory requirements may well affect the number of administrators and nurses registering or being licensed.

Three, reimbursement methodologies under the Medicaid program, and other medical assistance programs, may also affect the number of health care professionals being attracted to practice in the State of Maine, and thus registering or being licensed. For example, recent testimony advanced in regard to a petition for an increase in the administrative allowance for nursing homes related the level of the allowance to the facility's ability to recruit qualified personnel. The level of fees to individual providers may encourage or discourage new practitioners thinking of setting up practice in Maine.

Finally, and this is the most important point to me. If, in view of budgetary cuts in the Medicaid program, which is what we're probably facing now and it's called a Medicaid cap, it were necessary to eliminate optional services, those services that are not considered necessary to sustaining life, such as physical therapy, mental health services, etc., there might be an affect on the registration and licensing of relevant health care professionals.

Please think carefully when you give your vote.

The PRESIDENT: Is the Senate ready for the question?

The Chair recognizes the Senator from Cumberland, Senator Gill.

Senator GILL: Could I request a Roll Call?

The PRESIDENT: A Roll Call has been requested. Under the Constitution, in order for the Chair to order a Roll Call it requires the affirmative vote of at least one-fifth of those Senators present and voting.

Will all those Senators in favor of ordering a Roll Call, please rise and remain standing until counted.

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

The pending question before the Senate is the motion by the Senator from Cumberland, Senator Gill, that the Senate Recede and Concur with the House.

A Yes vote will be in favor of the motion to Recede and Concur.

A No vote will be opposed.

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEA—Ault, Brown, Clark, Collins, Devoe, Gill, Hichens, McBreaity, Perkins, Pierce, Redmond, Sewall, C.; Shute, Sutton, Teague, Trotzky, Violette, Wood.

NAY—Bustin, Carpenter, Charette, Conley, Emerson, Huber, Kerry, Minkowsky, Najarian, O'Leary, Pray, Usher.

ABSENT—Dutremble, Trafton.

A Roll Call was had.

18 Senators having voted in the affirmative and 12 Senators in the negative, with 2 Senators being absent, the motion to Recede and Concur does prevail.

The Chair recognizes the Senator from Kennebec, Senator Pierce.

Senator PIERCE: Mr. President, I move Reconsideration.

The PRESIDENT: The pending question before the Senate is the motion by the Senator from Kennebec, Senator Pierce, that the Senate Reconsider its action whereby it voted to Recede and Concur with the House.

Will all those Senators in favor of Reconsideration, please say "Yes."

Will all those Senators opposed, please say "No."

A Viva Voce Vote being had, the motion to Reconsider does not prevail.

There being no objection all items previously acted upon were sent forthwith.

On motion by Senator Pierce of Kennebec.

Recessed until 4:30 this afternoon.

Recess

After Recess

The Senate called to order by the President.

The President laid before the Senate the fourth Tabled and specially assigned matter: Bill, "An Act to Regulate Entrance Fees Charged by Mobile Home Parks." (H.P. 779) (L.D. 924)

Tabled—May 5, 1981 by Senator PRAY of Penobscot.

Pending—Motion of Senator PRAY of Penobscot to Reconsider whereby this Bill was Passed to be Engrossed.

On motion by Senator Pray of Penobscot, the Senate voted to Reconsider its action whereby this Bill, was Passed to be Engrossed.

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

Senator PRAY: Mr. President, it's my understanding that the Senator from Kennebec, Senator Bustin, has an Amendment to offer to this which was agreed to by the parties that had some concern about it. The unexpected that we were going to start right off on LD 924 instead of the supplemental calendar, perhaps, caught a few of us slightly napping.

I hope somebody might move this until later in this afternoon's session.

On motion by Senator Hichens of York, Tabled until later in today's session pending Passage to be Engrossed.

The President laid before the Senate the fifth Tabled and specially assigned matter:

HOUSE REPORT — from the Committee on Taxation — Bill, "An Act to Authorize the Refunding or Crediting of Fuel Taxes Paid on Worthless Accounts." (H.P. 989) (L.D. 1177) Ought to Pass

Tabled — May 5, 1981 by Senator PIERCE of Kennebec.

Pending — Acceptance of Report.

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

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 Increasing Indebtedness of the Limestone Water and Sewer District." (H.P. 1424) (L.D. 1579)

Reference to the Committee on Public Utilities is suggested.

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

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

Senator TROTZKY: Mr. President, I move that this Bill be given its First Reading at this time, without Reference to Committee.

The PRESIDENT: The Senator from Penobscot, Senator Trotzky, moves that Under Suspension of the Rules the Bill be given its First Reading at this time without Reference to Committee.

Is this the pleasure of the Senate.

It is a vote.

Under Suspension of the Rules, the bill Read Twice.

The PRESIDENT: The Senator has the floor. Senator TROTZKY: Mr. President, I present Senate Amendment "A" to LD 1579 and move its adoption.

The PRESIDENT: The Senator from Penobscot, Senator Trotzky, now offers Senate Amendment "A" to LD 1579 and moves its adoption.

Senate Amendment "A" (S-177) Read and Adopted.

The Bill, as amended, Passed to be En-

grossed, Without Reference to Committee, in non-concurrence.

(Off Record Remarks)

Committee Reports House

Leave to Withdraw

The Committee on Taxation on, Bill, "An Act to Increase the Revenue Generated by Power Companies Exporting Electricity." (H.P. 1275) (L.D. 1490)

Reported that the same be granted Leave to Withdraw.

Comes from the House, the Report Read and Accepted.

Which Report was Read and Accepted, in concurrence.

Ought to Pass — As Amended

The Committee on Energy and Natural Resources on, Bill, "An Act to Establish Restrictive Covenants for Property Affected by Hazardous Waste." (H.P. 976) (L.D. 1164)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-301)

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

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

The Committee on Fisheries and Wildlife on, Bill, "An Act to Provide Free Fishing Licenses to Mentally Retarded and Chronically Mentally Ill Persons." (H. P. 840) (L. D. 1006)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-302)

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

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

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

Senator CONLEY: Mr. President, I wonder if some knowledgeable member of the Committee could inform us as to what the loss of revenue is anticipated from this little baby.

The PRESIDENT: The Senator from Cumberland, Senator Conley, has posed a question through the Chair to any knowledgeable member of the Fish and Wildlife Committee who may care to answer.

The Chair recognizes the Senator from Cumberland, Senator Usher.

Senator USHER: Thank you, Mr. President. I don't know if I'm knowledgeable or not. I can't recall the cost. I know two years ago, the law was passed to include all the State institutions. This was omitted in the Errors Bill. It was a mistake, and we included it this year when we corrected our mistakes. There was a very small amount involved.

We do give out free fishing licenses to all other institutions.

Committee Amendment "A" Adopted, in concurrence. The Bill, as amended, Tomorrow Assigned for Second Reading.

Senate

Leave to Withdraw

Senator BROWN for the Committee on Aging, Retirement and Veterans on, Bill, "An Act to Require Employers with Employee Pension Plans to Provide Status Information on Group Pension Plans upon Request." (S. P. 513) (L. D. 1469)

Reported that the same be granted Leave to Withdraw.

Senator O'LEARY for the Committee on

Energy and Natural Resources on, Bill, "An Act for the Siting, Construction and Financing of Hazardous Waste Treatment, Disposal and Storage Facilities." (S. P. 354) (L. D. 1059)

Reported that the same be granted Leave to Withdraw.

Senator TROTZKY for the Committee on Public Utilities on, Bill, "An Act Proposing an Advisory Referendum Concerning the Dickey-Lincoln Hydroelectric Project." (S. P. 347) (L. D. 990)

Reported that the same be granted Leave to Withdraw.

Senator TROTZKY for the Committee on Public Utilities on, Bill, "An Act to Clarify the Law Concerning the Measurement of the One-Year Period Following a Public Utility's Filing for a Rate Increase." (S. P. 255) (L. D. 724)

Reported that the same be granted Leave to Withdraw.

Which Reports were Read and Accepted.

Sent down for concurrence.

Ought to Pass — As Amended

Senator WOOD for the Committee on Agriculture on, Bill, "An Act to Provide for Identifying Natural, Nonimitation Food Products Sold in the State." (S. P. 485) (L. D. 1387)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (S-174).

Senator PERKINS for the Committee on Appropriations and Financial Affairs on, Bill, "An Act to Increase the Compensation Paid to Judges and Justices." (S. P. 382) (L. D. 1140)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (S-176).

Senator TROTZKY for the Committee on Education on, Bill, "An Act Withdrawing School Administrative District No. 62 from Participation in Vocational Region No. 10." (S. P. 259) (L. D. 741)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (S-175).

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

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

Senator CLARK: Mr. President, I move that we Suspend the Rule that restricts members from removing their jackets for the duration of today's session.

The PRESIDENT: The good Senator from Cumberland, Senator Clark, moves that the Senate Suspend the Custom that insists that Senators wear jackets.

Is it the pleasure of the Senate to Suspend its Custom?

It is a vote.

Senator SEWALL for the Committee on Labor on, Bill, "An Act to Ensure that the Provision for the Arbitration of Classification and Allocation Determinations in State Employee Collective Bargaining Agreements is not Inconsistent with the Personnel Law." (S. P. 402) (L. D. 1194)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (S-173).

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

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

Papers from the House Joint Orders

Expressions of Legislative Sentiment recog-

nizing:

Elizabeth S. Hoefler of Phillips, who has been named an alternate in the 1981 National Honor Society Scholarship Program. (H. P. 1422)

Lee G. McLaughlin of Houlton, valedictorian of Houlton High School, class of 1981. (H. P. 1425)

Michael Kramer, for his many contributions to the field of journalism. (H. P. 1426)

Come from the House, Read and Passed.

Which was Read and Passed, in concurrence.

Order

An Expression of Legislative Sentiment recognizing:

The Stratton Lumber Company, for its achievement and great contribution to the advancement of wood processing in the State of Maine. (S. P. 594)

Presented by Senator REDMOND of Somerset (Cosponsor: Representative DEXTER of Kingfield).

Which was Read and Passed.

Sent down for concurrence.

Orders of the Day

The President laid before the Senate:

HOUSE REPORTS — from the Committee on State Government—RESOLUTION, Proposing an Amendment to the Constitution of Maine to Provide Counties, which have Adopted a Charter, with Home Rule Authority Regarding the Office of Sheriff. (H. P. 357) (L. D. 405)—MAJORITY REPORT Ought to Pass as Amended by Committee Amendment "A" (H-260); MINORITY REPORT Ought Not to Pass.

Tabled—Earlier in the Day by Senator CONLEY of Cumberland

Pending—Motion of Senator AULT of Kennebec to Accept Minority Report

On motion by Senator Ault of Kennebec, Retabled for 1 Legislative Day.

The President laid before the Senate, Bill, "An Act to Amend the Maine Consumer Credit Code." (H. P. 394) (L. D. 437).

Tabled—Earlier in today's session, by Senator PRAY of Penobscot

Pending—Adoption of Senate Amendment "A" (S-149) to Committee Amendment "A" (H-241).

The Chair recognizes the Senator from Knox, Senator Collins.

Senator COLLINS: Mr. President, I rise to support the amendment and the Bill as amended. I am one of those people who has been having a free ride with credit cards for some years now, because I use the cards, but I pay before any interest accrues. I get a great deal of service for which I pay nothing, and I know the economics enough to realize that someone else bears that burden.

I think that it is only fair that those in my category should pay \$15 a year if they don't use up that much interest.

The other point I would like to make is that it's quite apparent that if this sort of thing doesn't happen, that the credit card business is going to pass to out-of-state banks, because out-of-state banks do have a much better situation in their states. We already, I think, are aware of American Express which is not exactly a bank, but it performs a similar function and people are perfectly willing to pay their \$15 or \$25 for American Express Cards.

When we drive this business out-of-state we are not really helping the State of Maine. So I hope that you will support this.

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

Senator CONLEY: Mr. President and Members of the Senate, as I stated yesterday, I am a true believer in the free enterprise system, but perhaps even more important, is the fact that I, for the first time in eighteen years, have co-sponsored, at this time, a bill that deals with banks. I felt after spending fourteen years in

this Senate that I always referred to this place as the "house of bankers", so I finally got on board.

This Bill, as far as I am concerned, is nothing more than a user fee. In fact, we will be having a little bill coming from taxation very shortly that deals with municipalities, that deals with user fees. I hope that the wisdom of the Senate will be exercised, today, and that good judgment will be exercised when that bill comes along, as well.

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

Senator MINKOWSKY: Mr. President and Members of the Senate, I am certainly overwhelmed with the response by the good Senator from Cumberland, Senator Conley, who has moved from that very liberal attitude that he has displayed for the past fourteen years, to a somewhat of a moderate, to a conservative attitude. I guess that I am really at a loss for words to really appraise it properly.

I think, basically when I discussed this issue this morning, I was somewhat on target, that the credit card holders in the State of Maine are not to be held hostage, because banks in the State of Maine are now facing higher interest rates, abuse of credit cards, and fraud, and whatever it may be.

They are still, no matter how they try to break it down, are still making money on the purchases that I make, even though I pay my bills off within the 25 day span of time.

If they are allegedly facing this dilemma, it should be incumbent upon the banking community to reassess the credit card distribution that they have in the State of Maine, and come up with new guidelines that will keep them solvent in that particular area.

It is not right and I do not think that it is a fair analogy to use American Express or other credit cards, where you do pay a users fee, which you submit to originally, for \$15, or \$25. For those particular cards, yes, you do pay for them, because you request them.

When you look at the banking community in the State of Maine, they have a number of diversified services, which I participate in, a house mortgage, where I am paying the fluctuating rate of interest, car payments. So like any business in the free enterprise system, if that term still exists, there are loss leaders, but it is incumbent upon them to address this particular situation and rectify their problem.

When you look at the proposed amendment, this afternoon, which is Senator Pray's amendment S-149. That was the second report from the Committee on Business Legislation which was not accepted. We accepted the A Report, if I am not mistaken. Now we are faced with this particular dilemma as a compromise, and now we are coming back with a second part of the Committee Report, which is under S-149.

No matter how you try to break it down, the users who applied for credit, were accepted by the banks because they had allegedly and hopefully excellent credit ratings, are now being discriminated against, by the banking community, because they claim that they are having a problem.

I am not that sympathetic toward the banking community. I think that it is incumbent upon them, as I said previously to rectify this problem the best way they know how. If it means out-of-state competition, so be it. They have enough staff, enough of a think tank, to solve this particular problem without passing this burden off to their good customers which I consider myself one of.

Mr. President, I would ask that amendment S-149 be Indefinitely Postponed.

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

Senator PRAY: Thank you, Mr. President. Mr. President and Members of the Senate, the intention of the amendment is, I think, to make the Bill a little bit better. Basically those indi-

viduals who are paying that amount of money to the bank for the use of that card, and the financial statements that go along with holding the card, be it whether or not you pay your money in the allotted time, or not, you end up paying no interest. Thus you then get a financial statement basically at their expense for no charge at all.

I think that the amendment just improves the Bill, a little bit better. I understand that there are objections to the total Bill, but at this time the question is whether or not we are going to adopt this amendment.

I would hope that we would separate the two, and at this time I hope that we defeat the motion by the Senator from Androscoggin, Senator Minkowsky, that this amendment be Indefinitely Postponed.

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

Senator CHARETTE: Mr. President, I too, agree with the good Senator Collins, I am one of those free riders. I believe that there ought to be a fee for that convenience. A convenience user should be able to pay its way.

Again, it has been mentioned that American Express, and so forth and then we all know about the Diners Club, Carte Blanche and it goes on, and on. Some of these fees are from \$35 to \$50. I do not see no reason why Visa or Mastercard or what have you under banking fees should not be applied for that type of credit card.

I think that it is a choice that people have, whether as a free rider on a credit card, it is to the individual's choice to have that card. So I have no problems with that fee.

I would hope that the Senate today vote in favor with that amendment and defeat the Postponement of that Amendment. Thank you.

The PRESIDENT: Is the Senate ready for the question?

The Chair will order a Division.

Will all those Senators in favor of the motion by the Senator from Androscoggin, Senator Minkowsky, to Indefinitely Postpone Senate Amendment "A", please rise in their places to be counted.

The Chair recognizes the Senator from Androscoggin, Senator Minkowsky.

Senator MINKOWSKY: I would request a Roll Call.

The PRESIDENT: A Roll Call has been requested.

Under the Constitution in order for the Chair to order a Roll Call it requires the affirmative vote of at least one-fifth of those Senators present and voting.

Will all those Senators in favor of ordering a Roll Call, please rise and remain standing until counted.

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

The pending question before the Senate is the motion by the Senator from Androscoggin, Senator Minkowsky, that Senate Amendment "A" be Indefinitely Postponed.

A Yes vote will be in favor of Indefinite Postponement.

A No vote will be opposed.

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll

ROLL CALL

YEA—Devoe, Dutremble, Gill, Hichens, Minkowsky, Perkins, Pierce, Sewall, C.; Teague, Usher.

NAY—Ault, Brown, Bustin, Charette, Clark, Collins, Conley, Emerson, Huber, Kerry, McBreairey, Najarian, O'Leary, Pray, Redmond, Shute, Trotzky, Violette, Wood.

ABSENT—Carpenter, Sutton, Trafton.

A Roll Call was had.

10 Senators having voted in the affirmative and 19 Senators in the negative, with 3 Senators being absent, the motion to Indefinitely Postpone Senate Amendment "A" does not prevail.

Senate Amendment "A" to Committee Amendment "A" Adopted.

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

Senator CLARK: Mr. President, I move that L. D. 437, as amended, with all its accompanying papers, be Indefinitely Postponed and would speak to my motion.

The PRESIDENT: The Chair would advise the Senator that the Bill has not, as yet, been amended. It is still in the amending position. The motion to amend takes priority over the good Senator's motion. If the Senator would defer for one moment, then the Bill would be in the proper position.

Committee Amendment "A", as amended, by Senate Amendment "A" Adopted, in non-concurrence.

The PRESIDENT: The Chair understands that the Senator from Cumberland, Senator Clark, now moves that the Senate Indefinitely Postpone this Bill and its accompanying papers.

The Chair recognizes that Senator.

Senator CLARK: Thank you, Mr. President. Mr. President, Men and Women of the Senate, while I realize that the pending motion of Indefinite Postponement will probably and rather obviously not prevail, I would share with you that there seems to be some negative, even liabilities, for some of us who have been around for a long time.

It was way back in the 106th Maine Legislature when I was a freshman legislator, that the issue before us was studied and a determination was made. I would quote to you from the Committee on Business Legislation's Study Report, which will provide you with some background information.

The Report summarizes the Maine Consumer Credit Code. It explains the work that the Committee did on the Bill, after the regular session of the 106th, and the changes that it recommended in the original Bill, which was introduced in the 106th Maine Legislature First Special Session, which is now in modern day terms, our Second Regular Session. I will then quote from a supplementary report covering action on the Bill of that Special Session.

"As originally proposed, this section that we're dealing with under the Maine Consumer Credit Code would have allowed annual charges to be imposed for the privilege of using a lender credit card, meaning primarily a bank credit card. Banks in this State do not now," and I'm referring to the previous date, "have such charges for their cards in addition to the monthly finance charges. The Committee did not wish to make it possible for them to make such annual charges." That was the report prior to the introduction of the Bill to the First Special Session of the 106th Maine Legislature.

Now I will report to you some further background. "Bank representatives asked then, as they have before this 110th Legislature, for the restoration of the original version of the section which would have allowed them to assess an annual charge in addition to the monthly finance charges on bank credit cards." I guess I would share with you parenthetically now that we're talking about bank credit cards. We're not talking about those American Express and Diner's Clubs, which are not bank credit cards.

The Committee had amended the section to allow only national associations, such as American Express, which already have annual charges, to use them. No banks in Maine currently assess such charges. The Committee declined then, in contrast to the Committee's Report this time, to change this part of the Bill to allow them to do so.

If you think back to earlier, or toward the end of last week, when the Committee Report was printed on our calendar. Unfortunately at that time, I didn't have an opportunity to debate the issue because my local superintendent and I were talking on the phone. So I take this opportunity to share with you my position on the Bill, which is obviously reflected in the motion that I made, before you now.

First, please, a word about credit cards themselves. Credit cards were heavily marketed both in Maine and nationally by banks in the late '60's and '70's. They were viewed at the time as a great source of new business by the banks, and responsible for an explosion in the growth of consumer credit. The cards were marketed as a credit device, as a way in which consumers could consolidate all their credit purchases and pay on an easy monthly basis. Surely, you as well as I, do remember the TV ads and the radio ads and the newspaper ads at that time. Perhaps some of you then, as some of you are not now, were recipients of a direct mail to all mailing lists which were available to banks at that time. As a matter of fact, you need not even apply. One, two, and sometimes more than that would arrive in the mail for your easy utilization.

Obviously, succumbing to a very concerted media campaign, and succumbing, quite naturally, to the convenience of credit cards, Maine citizens began to use them. These cards, as I mentioned, were routinely mailed to customers. They were not solicited. Congress outlawed this practice in 1973, which is why some of you who are a lot younger than I am probably didn't receive yours in an unsolicited fashion.

Every bank, big and small, got into the business of credit cards. Two national marketing and payment systems have developed that dominate that field. Most of us carry, if not one, if not two, at least one of those. One is now called Visa, it used to be BankAmericard. The other is called MasterCard, it used to be called MasterCharge.

Many banks market both cards. Many banks marketed then both cards. Many banks market now both cards. Open end credit, made available through this plastic money that all of us, or most of us, carry, or at least, I guess, I would suggest that the vast majority of us carry, for it is indeed convenient, was extended open end credit to the tune of \$135,143,358 in the calendar year 1979, an increase of slightly more than 100 percent over the 1976 volume of \$66,252,439. That's the earliest year in which the Bureau of Consumer Protection has figures and/or history, because the Bill creating the Bureau of Consumer Protection was passed and did not become effective until just earlier into that year.

Maine figures are not available, but 88 million Americans, about 57.1 percent of the adult population now hold 542 million credit cards. This is an average of 6.2 cards per card holder. Clearly, any decision that we make regarding the cost of credit and the cost of credit cards involves impact across the State.

The good Senator from Knox has suggested that if we don't address the dire financial straits of our Maine banking industry, that indeed Maine customers and citizens will be going out-of-state to secure the services and convenience of plastic money, because the Maine banks will be going out of the business.

I'm not quoting that fine Senator exactly, but I am sharing with you my understanding of his remarks. I would suggest to you that that will not happen, because banks in the State are not losing money in this narrow area of their economic activity, or their banking activity.

Why in the world would a citizen in the State of Maine want to go to City Bank of New York, for example, for one of their open end credit cards, or plastic money? Did you know that City Bank, card holders are charged 19.8 percent, annual percentage rate, plus the \$15 annual fee, if the card is used after January 19, 1981? I'm not going to New York. Are you?

If the banking institutions in this State are indeed responsive to Maine citizens, and I suggest to you that they are, and responsibly responsive, that they're going to continue to provide a service which they initiated. They can do so under the current conditions. They have charged an interest rate of 19 percent

since credit cards appeared in the State's economy, 18 percent. I would suggest to you that if one deducts the marketing cost and the operating cost, that they are still, still making a profit.

Granted, I would suggest that the prime interest rate has increased since 1976, when some of these figures initially became available. The fact of the matter remains that they still do deduct, from the merchants with whom they have contractual arrangements, a merchants fee of a certain percentage which generally varies between 3, 4, and in some instances 5% to cover the operation. This is a discounted reimbursement to the merchant.

The spread of the cost of the operation is spread to all card holders. And to suggest that the credit department or the classic money department, so to speak, is not profitable, I suggest to you is misleading.

I commend Maine's financial industry for the fine manner in which they presented their case before the Committee on Business Legislation at the public meeting held in March, but in response to inquiries from members of that Committee, the data which reflects not the national, but the state experience relative to plastic money, there were no answers. None. To substantiate their claim that plastic money in the banking business is now a losing opposition.

In response to that I composed a letter, and I asked certain questions in that letter, and I'm trying desperately on my desk now, thanks to some of the distractions from the good Senator from Penobscot, Senator Trotzky, to find the information. Here it is. I ask for information from small, medium, and large size banks, in Maine, relative to their credit card loans outstanding to substantiate and justify the claim that the Maine banks are losing money, because I don't want them to lose money either.

There were some non-respondents to the survey which went out, which was administered by the Maine Bankers Association. Small banks in Maine have about, considering the response to the questions that were sent, 2,535 credit card loans outstanding; Medium size banks have 4,664 credit card loans outstanding; large banks, of those responding, had 25,000 approximately. This is in 1977. Because I wanted to ask for a span of years. In 1980, small banks had 2,797. The amount of the loan was \$978,051. Medium size banks had credit card loans outstanding numbering 7,187, and even though some of the information was not available, I have another figure here which adds 1,443. For a net outstanding loan balance of approximately \$1.9 million. Large banks were perhaps not as good in responding to the question, with approximately 25,000 outstanding credit card loans in 1977. They went to 35,600 plus 17,000 in 1980. Now, the net amount outstanding is \$7,857,000.

I asked, what is the net profit or loss for the entire operation. And not one bank responded, whether it be small, medium, or large sized bank, that they were experiencing any net loss. Net profit for small banks was \$459,000, for medium size banks, approximately \$1.5 million, and for large size banks, \$6.9 million. And you are trying to tell me that they are losing money.

I stand before you as a strong proponent of the financial institutions in our State, and should, indeed, they merit an annual fee, as amended in L. D. 437 here, because of their financial need, then I would be supporting that.

I am suggesting to you that the data which is available does not substantiate that financial need.

Most credit cards were initiated, not by the card holder today, but initiated by the bank. At that time they charged an annual financial charge, and no annual fee.

What has changed the conditions today? What is the need that can, where is the need that can document their need for additional

money? Who will pay for this? The card holders in this State. Yes, indeed, there are many, many card holders in this State who utilize their plastic money for convenience, as testified here by the good Senator from Knox, Senator Collins.

Seldom, however, does that represent a majority. Only about 50% of Maine's credit card holders, based on testimony before the Committee on Business Legislation, fall into that bracket. It is also documented that one-third of those who use them only for convenience and never fall prey to a finance charge, one-third of those are inactive.

LD 437, as amended, by Senate Amendment A by the Committee Amendment A on the Bill does make this measure considerably more palatable. And that represents another Minority Report from the Joint Standing Committee on Business Legislation.

I would submit to you that the allegation that Maine's financial institutions are in dire financial straights is specious. I have considerable information here, not the least of which is contained in some of the National Banking journals, some of Maine's finest, and largest, and medium sized, and smallest, banks are enjoying profits. Can any of you provide a newspaper clipping or an annual report from any Maine bank that suggests that they are losing money? I submit to you that the news headlines are exactly the opposite. And, in many respects, taking into consideration total operations of our fine institutions in Maine that they're experiencing remarkable profits in a time of less than stable economic conditions nationally. Thank you.

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

Senator COLLINS: I request a Roll Call.

The PRESIDENT: A Roll Call has been requested. Under the Constitution, in order for the Chair to order a Roll Call it requires the affirmative vote of at least one-fifth of those Senators present and voting.

Will all those Senators in favor of ordering a Roll Call, please rise and remain standing until counted.

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

The pending question before the Senate is the motion by the Senator from Cumberland, Senator Clark, that the Senate Indefinitely Postpone L. D. 437.

A Yes vote will be in favor of Indefinite Postponement.

A No vote will be opposed.

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEA — Ault, Clark, Dutremble, Gill, Hichens, Minkowsky, Najarian, Pierce, Pray, Sewall, C.; Shute, Teague, Trafton, Usher, Violette, Wood.

NAY — Brown, Bustin, Charette, Collins, Conley, Devoe, Emerson, Huber, Kerry, McBreairey, O'Leary, Perkins, Redmond, Trotsky.

ABSENT — Carpenter, Sutton.

Senator Pray of Penobscot was granted permission to change his vote from Yea to Nay.

A Roll Call was had.

15 Senators having voted in the affirmative and 15 Senators in the negative, with 2 Senators being absent, the motion to Indefinitely Postpone L. D. 437 does not prevail.

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

Sent down for concurrence.

(Off Record Remarks)

The President laid before the Senate, Bill, "An Act to Regulate Entrance Fees Charged by Mobile Home Parks." (H. P. 779) (L. D. 924). Tabled earlier in today's session, by the Senator from York, Senator Hichens, pending Passage to be Engrossed.

On motion by Senator Pray of Penobscot, Resolved for 1 Legislative Day.

On motion by Senator Collins of Knox, there being no objections all items previously acted upon were sent forthwith.

Senator Usher of Cumberland was granted unanimous consent to address the Senate, Off the Record.

On motion by Senator Pierce of Kennebec, Adjourned until 8:30 o'clock tomorrow morning.