

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

***One Hundred and Eighth
Legislature***

OF THE

STATE OF MAINE

Volume I

January 5, 1977 to May 25, 1977

KJ PRINTING
AUGUSTA, MAINE

SENATE

Tuesday, May 10, 1977

Senate called to Order by the President.

Opening exercises by a delegation of the Baxter State School for the Deaf.

Prayer by Paula Thebeau of Gardiner.

English Interpretation by Patricia Brown of Bangor.

Miss THEBEAU: O, God, our Father in Heaven, we ask you to shine Your light of wisdom and guidance on our leaders, and direct them in their work in protecting and providing for Your people in Maine. Amen.

Star Spangled Banner by David Richards of South Berwick.

English Interpretation by the Instructor, Mrs. Mary Youngs.

The Senator from Kennebec, Senator Katz, was granted unanimous consent to address the Senate on the record.

Mr. KATZ: Mr. President and Members of the Senate, I was not aware that the youngsters were going to be down this morning. Mrs. Youngs and Joe Youngs, the Director of the school have done such an extraordinary job with youngsters over the years that I feel the Senate has been honored to have them here this morning.

I am particularly pleased that the Senate had some visible evidence of what special education is all about. It takes up a big hunk of the education budget and I, for one, hope that it will be bigger in the years to come. Special education is expensive, but I have a feeling of pride that I ask you to share in that Maine was one of the first States, not only to pass a comprehensive special education Bill, but in combination with L. D. 1994, we funded it.

As a coincidence, the Committee on Education will be shortly presenting for your consideration a report on the status of special education, so that you can share with us our pride in some of our successes, and also share with us a feeling of renewed dedication because of some of our failures. But the program, as you have seen this morning, is alive, it is off to a very, very good beginning, and I hope that you share in my commitment that it shall improve and grow and expand opportunities for these kids.

The PRESIDENT: The Chair also would like to reiterate the remarks of the good Senator from Kennebec, Senator Katz, and tell the students and their instructors how pleased we are to have them with us this morning and we would like to have the entire group from Baxter School rise and accept the greetings of the Senate.

The Senator from York Senator Lovell, was granted unanimous consent to address the Senate on the record.

Mr. LOVELL: Mr. President, as Chairman of the Committee on Human Resources, we had a hearing here several weeks ago for the deaf and mute, a two-hour hearing, and it was amazing to see the interpretation and the translation of this deaf language into English and back again so they could hear.

As a result, my Committee came out unanimously Ought to Pass for four new interpreters, which has passed the House and Senate, and I believe probably it may be on the Appropriations Table, but we are certainly very happy.

The deaf and the mute have not been given equal rights. When a deaf child goes to school at five or six, it is impossible for him to learn or be taught anything unless he has an interpreter or she has an interpreter. I think the Legislature is progressing very greatly in that subject.

The Senator from York, Senator Hichens, was

granted unanimous consent to address the Senate on the record.

Mr. HICHENS: Mr. President and Members of the Senate, it has been my privilege for the last three years to serve on the State Advisory Committee for the deaf and the hearing impaired. It has been a pleasure to work with these people who are interested in the Baxter School, who are interested in the problems that these people confront in the business world day after day.

And it has been my privilege this year to sponsor two Bills, one against discrimination of the deaf people regarding insurance policies; the other one to provide interpreter service for the deaf by our State agencies.

I was thrilled a few months ago when I attended the White House Conference for the Handicapped, to work with Mr. Nye, who is very active with the deaf people in the State of Maine, being deaf himself. And I was inspired by the message from the Representative from Washington who said there is no such thing as a handicap unless a person allows it to become one. And I think we have a great example this morning with these young people who have taken part in these opening exercises — that a handicap is only that, when we allow it to be one.

Reading of the Journal of yesterday.

(Off record remarks)

Papers from the House Non-Concurrent Matter

Bilal, "An Act to Repeal the Ban on Otter or Beam Trawls in Washington County Territorial Waters." (H. P. 626) (L. D. 767)

In the Senate May 5, 1977 Passed to be Engrossed as amended by Committee Amendment "A" (H-224).

Comes from the House, Passed to be Engrossed as amended by Committee Amendment "A" as amended by House Amendment "A" (H-278) and "B" (H-286) thereto, in non-concurrence.

On Motion by Mr. Chapman of Sagadahoc, the Senate voted to recede and concur.

Joint Orders

An Expression of Legislative Sentiment recognizing that: Fred M. West, who for 38 years has served the City of Portland School Department, is retiring as Director of Building Services. (H. P. 1541)

Comes from the House, Read and Passed.

Which was Read and Passed, in concurrence.

House Papers

Resolve received from the House requiring reference to Committee was acted upon in concurrence.

Senate Papers

Study Report — State Government

The Committee on State Government to which was referred the study relative to administrative agencies and procedures, pursuant to S. P. 511 of the 107th Legislature, have had the same under consideration and ask leave to submit its findings and to report that the accompanying Bill, An Act to Create the Maine Administration Procedure Act (S. P. 493) (L. D. 1768) be referred to this Committee for public hearing and printed pursuant to Joint Rule 17.

Which Report Was Read and Accepted and the Bill referred to the Committee on State Government.

Sent down for concurrence.

Committee Reports House

The following Ought Not to Pass reports shall be placed in the Legislative files without

further action pursuant to Rule 20 of the Joint Rules:

Bill, "An Act Relating to the Operation of Vending Machines." (H. P. 678) (L. D. 862)

Bill, "An Act Concerning Grocery Coupons." (H. P. 684) (L. D. 866)

Bill, "An Act to Require the Use of Auto Simulators in Driver Education Programs." (H. P. 1227) (L. D. 1436)

Bill, "An Act Requiring the Commission on Governmental Ethics and Election Returns to Transmit a Copy of its Findings of Fact and Opinion to the Governor." (H. P. 617) (L. D. 810)

Bill, "An Act Concerning Bass Fishing." (H. P. 263) (L. D. 331)

Bill, "An Act to Increase the Salary of the Sheriff of Cumberland County to \$15,000 per Year." (H. P. 830) (L. D. 1003)

Bill, "An Act Concerning Listing of Tax Exempt Real Property for Town Reports." (H. P. 1087) (L. D. 1311)

Bill, "An Act to Provide for the Purchase of Copies of 'Acton-Shapleigh, Maine, Past and Present' by the Acton and Shapleigh Historical Society." (H. P. 1245) (L. D. 1469)

Bill, "An Act Concerning Municipal Appropriations to a Volunteer Fire Department." (H. P. 592) (L. D. 719)

RESOLUTION, Proposing an Amendment to the Constitution to Reduce the Number of Signatures Necessary on Petitions to Initiate Legislation. (H. P. 596) (L. D. 722)

Leave to Withdraw

The Committee on Business Legislation on, Bill, "An Act Relating to Innkeepers, Victualers and Lodging Houses." (H. P. 607) (L. D. 744)

Reported that the same be granted Leave to Withdraw.

Comes from the House, the Report Read and Accepted.

The Committee on Business Legislation on, Bill, "An Act Relating to the Investigatory Powers of the Administrator of the Bureau of Consumer Protection." (H. P. 960) (L. D. 1152)

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 to Permit the Town of Orrington to Withdraw from School Union 91 and to Establish an Independent School Supervisory Unit." (H. P. 976) (L. D. 1173)

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 to Establish the Opening Date for School no Earlier than the First Monday Following Labor Day." (H. P. 1308) (L. D. 1545)

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 Appropriating Funds for the Winthrop Public Schools." (H. P. 973) (L. D. 1170)

Reported that the same be granted Leave to Withdraw.

Comes from the House, the Report Read and Accepted.

The Committee on Election Laws on, Bill, "An Act to Clarify Voter Registration Procedures." (H. P. 222) (L. D. 286)

Reported that the same be granted Leave to Withdraw.

Comes from the House, the Report Read and Accepted.

The Committee on Fisheries and Wildlife on, Bill, "An Act Establishing an Experimental Open Season on Moose." (H. P. 49) (L. D. 70)

Reported that the same be granted Leave to Withdraw.

Comes from the House, the Report Read and Accepted.

The Committee on Fisheries and Wildlife on, Bill, "An Act Concerning Ice Fishing on Reclaimed Ponds." (H. P. 1070) (L. D. 1262)

Reported that the same be granted Leave to Withdraw.

Comes from the House, the Report Read and Accepted.

The Committee on Local and County Government on, Bill, "An Act to Require That Maine Municipalities of 5,000 or More Population Have a Qualified Electrical Inspector." (H. P. 1229) (L. D. 1438)

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; Providing Approval Authority to the State Tax Assessor over Revaluation and Mapping Contracts." (H. P. 885) (L. D. 1093)

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 Financial and Other Types of Management Assistance." (H. P. 1218) (L. D. 1454)

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 Provide that the Chairman of the State Liquor Commission shall be the director of the Bureau of Alcoholic Beverages." (H. P. 1394) (L. D. 1564)

Reported that the same be granted Leave to Withdraw.

Comes from the House, the Report Read and Accepted.

Which Reports were Read and Accepted, in concurrence.

Ought to Pass

The Committee on Education on, Bill, "An Act Relating to the Payment to Provide for Waste Disposal at Mt. Ararat High School." (Emergency) (H. P. 1484) (L. D. 1701)

Reported that the same Ought to Pass.

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

The Committee on Education on, Bill, "An Act to Validate Proceedings Authorizing the Issuance of Bonds or Notes by Region 5 Vocational Region." (Emergency) (H. P. 1112) (L. D. 1365)

Reported that the same Ought to Pass.

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

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

Ought to Pass - As Amended

The Committee on Education on, Bill, "An Act Relating to the Establishment of a Revolving Account for Local Educational Assessment." (Emergency) (H. P. 1027) (L. D. 1276)

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

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 Education on, Bill, "An Act to Dissolve Vocational Region 9 and to

Establish a Vocational Center to Serve Northern Oxford County." (Emergency) (H. P. 1113) (L. D. 1372)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-273).

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

Which Report was Read and Accepted in concurrence.

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

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

Mr. O'LEARY: Mr. President, I would move Committee Amendment "A" be indefinitely postponed.

The PRESIDENT: The Senator from Oxford, Senator O'Leary now moves the Senate indefinitely postpone Committee Amendment "A".

On Motion by Mr. Katz of Kennebec, tabled until later in today's Session, pending adoption of Committee Amendment "A" pending the Motion to indefinitely postpone.

The Committee on State Government on, Bill, "An Act to Repeal the Designation of Emergency Interim Successors to Legislators." (H. P. 463) (L. D. 568)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-274).

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" was Read and Adopted in concurrence, and the Bill, as amended, Tomorrow Assigned for Second Reading.

Divided Report

The Majority of the Committee on Veterans and Retirement on, Bill, "An Act to Provide Retirement Credit to Charles J. Boetsch." (H. P. 1222) (L. D. 1449)

Reported that the same Ought Not to Pass.

Signed:

Sensors:

COLLINS of Knox
LOVELL of York

O'LEARY of Oxford

Representatives:

THERIAULT of Rumford
CLARK of Freeport
HICKEY of Augusta
BUNKER of Gouldsboro
MacEACHERN of Lincoln
LOUGEE of Island Falls
NELSON of Roque Bluffs
AUSTIN of Bingham

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

Signed:

Representative:

LAFFIN of Westbrook

Comes from the House, the Majority Report Read and Accepted.

Which Reports were read.

Majority Report Accepted in concurrence.

Divided Report

The Majority of the Committee on Veterans and Retirement on, Bill, "An Act Relating to Military Service Credit of State Employees under the State Retirement System." (H. P. 665) (L. D. 806)

Reported that the same Ought Not to Pass.

Signed:

Sensors:

COLLINS of Knox
O'LEARY of Oxford
LOVELL of York

Representatives:

THERIAULT of Rumford
BUNKER of Gouldsboro
CLARK of Freeport
LOUGEE of Island Falls
MacEACHERN of Lincoln

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

Representatives:

LAFFIN of Westbrook
NELSON of Roque Bluffs
HICKEY of Augusta
AUSTIN of Island Falls

Comes from the House, the Majority Report Read and Accepted.

Which Reports were Read.

Majority Report Accepted in concurrence.

Divided Report

The Majority of the Committee on Fisheries and Wildlife on, Bill, "An Act to Prohibit Fish and Game Wardens from Trapping for Animals unless a Local Trapper is Used for the Trapping." (H. P. 939) (L. D. 1136)

Reported that the same Ought Not to Pass.

Signed:

Sensors:

REDMOND of Somerset
USHER of Cumberland

Representatives:

MILLS of Eastport
PEARSON of Old Town
GILLIS of Calais
MASTERMAN of Milo
TOZIER of Unity
MacEACHERN of Lincoln
DOW of West Gardiner
McKEAN of Limestone
PETERSON of Caribou

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

Signed:

Sensor:

PRAY of Penobscot

Representative:

ROLLINS of Dixfield

Comes from the House, the Majority Report Read and Accepted.

Which Reports were Read.

On Motion of Mr. Usher of Cumberland, Majority Ought Not to Pass Report accepted in concurrence.

Divided Report

The Majority of the Committee on Veterans and Retirement on, Bill, "An Act to Increase Retirement Benefits for Teachers Who Taught Prior to July 1, 1942." (H. P. 344) (L. D. 434)

Reported that the same Ought to Pass in New Draft under same title. (H. P. 1530) (L. D. 1756)

Signed:

Sensors:

COLLINS of Knox
LOVELL of York

Representatives:

LAFFIN of Westbrook
BUNKER of Gouldsboro
AUSTIN of Bingham
MacEACHERN of Lincoln
CLARK of Freeport
NELSON of Roque Bluffs
HICKEY of Augusta
LOUGEE of Island Falls

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

Signed:

Sensor:

O'LEARY of Oxford

Representative:

THERIAULT of Rumford

Comes from the House, the Majority Report Read and Accepted, and the Bill, in New Draft, Passed to be Engrossed.

Which Reports were Read.

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

Mr. COLLINS: Mr. President, this Bill has a price tag on it of approximately \$960,000.00. The principle of the Bill is sound, in my judgment. The teachers who taught prior to 1942 have been eligible for benefits computed on a 1/60th basis. This Bill would change the formula for computing those benefits to a 1/50th basis, which is the same basis used for other teachers.

These teachers, of course, did not contribute to the system when they were teaching way back then. For that reason, unless we are to drain the retirement fund, we have to have an appropriation to fund this kind of Bill.

The teachers who expressed their views on this pointed out that there are not very many of them left, that they will be dropping away year by year and that the amount necessary for this Bill will decrease each year.

I think as a matter of principle that these teachers merit the same kind of treatment as other teachers. I do recognize the problem that we have in funding it.

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

Mr. O'LEARY: Mr. President, has a Motion been made to accept the Majority Ought to Pass Report of the Committee?

The PRESIDENT: The Chair would answer in the negative.

Mr. O'LEARY: Mr. President, I would move that the Senate accept the Minority Ought Not to Pass Report of the Committee.

I can only say that my heart goes out to these people, but they have been over the past years receiving benefits from a retirement system of which they never contributed to. I think that it behooves us at this time not to give these people any false hopes, and remind you that this appropriation is for \$988,000.00 in each of the next two years.

So I would urge the Senate to accept the Minority Ought Not to Pass Report of the Committee.

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

Mr. LOVELL: Mr. President and Members of the Senate, at this hearing we had a room full of teachers all the way up to 85 years of age, and these teachers, it was really pathetic, they are not getting enough to live on properly, eat properly and maintain their home, if they are in a home, or maintain their own home.

Now this Bill calls for appropriations, we will grant, but let us not kill it at the present time. Let us hold it in abeyance, because I can assure you after I saw those teachers, I really felt sorry. I have had over 100 letters from teachers from all over my area asking that this Bill be passed.

So I would urge you not to accept the Ought Not to Pass Report, but I would request a Division.

The PRESIDENT: A Division has been requested.

The Chair recognizes the Senator from York, Senator Danton.

Mr. DANTON: Mr. President and Members of the Senate, back during the 106th the teachers that this Bill refers to used to get 1/70th. At that time we brought it to 1/60th where it is today. The pension fund could stand it. I think we can reduce it again to 1/50th.

I think the Senator from Oxford, Senator O'Leary, said they did not contribute anything, but they really and truly did. They are the teachers that most of us had. They worked for nothing in those years, and I think they deserve this.

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

Mr. O'LEARY: Mr. President, I withdraw my Motion.

The PRESIDENT: The Senator from Oxford, Senator O'Leary, requests leave of the Senate

to withdraw his Motion. Is it the pleasure of the Senate to grant this leave? It is a vote.

On Motion of Mr. Lovell of York, Majority Ought to Pass in New Draft Report accepted in concurrence.

The Bill, in New Draft, Read once, and Tomorrow Assigned for Second Reading.

Senate

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

Bill, "An Act to Appropriate Moneys to the Maine State Housing Authority to Stimulate Housing Construction and Maintenance on Regional and Local Levels." (S. P. 352) (L. D. 1178)

Bill, "An Act to Clarify the Powers of Regional Planning Commissions." (S. P. 221) (L. D. 685)

Change of Reference

Mr. Morrell for the Committee on Appropriations and Financial Affairs on, Bill, "An Act to Provide Temporary Compensation to Incapacitated Persons Pending Application for State or Federal Aid." (S. P. 403) (L. D. 1386)

Reported that the same be referred to the Committee on Labor.

Which Report was Read and Accepted and the Bill referred to the Committee on Labor.

Sent down for concurrence.

Mr. Collins for the Committee on State Government on, Resolve, to Evaluate Substate Districts in Maine. (S. P. 148) (L. D. 390)

Reported that the same be referred to the Committee on Local and County Government.

Which Report was Read and Accepted and the Bill referred to the Committee on Local and County Government.

Sent down for concurrence.

Ought to Pass

Mr. Collins for the Committee on State Government on, Resolution, Proposing an Amendment to the Constitution to Repeal Provisions Relating to the Poll Tax and to Payment in Lieu of Military Duty. (S. P. 387) (L. D. 1300)

Reported that the same Ought to Pass.

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

Sent down for concurrence.

Ought to Pass — As Amended

Mr. Huber for the Committee on Appropriations and Financial Affairs on, Bill, "An Act to Allocate Money from the Federal Revenue Sharing Fund for the Fiscal Years Ending June 30, 1978 and June 30, 1979." (Emergency) (S. P. 106) (L. D. 235)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (S-128).

Which Report was Read.

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

Mr. MERRILL: Mr. President and Members of the Senate: A few words of explanation may be in order as far as this Bill is concerned. Traditionally in the past, these revenue sharing monies have been allocated to the educational monies that we allocated several weeks ago. This year they were not. This \$14 million was not as this Bill originally would have had. The amendment on it had \$14 million appropriated towards teachers' retirement.

The purpose for this change was to make sure that the Federal monies would not be in jeopardy in regards to the equal protection requirements that go with these monies from the Federal Government. However, I would like to point out to the Senate that it is the intent of the Appropriations Committee, the unanimous in-

tent, that when we pass the Part I budget, that there will be language in there that makes clear that the affirmative duties are to see to it that monies are used in a non-discriminatory manner. The \$290 million that we have already appropriated will be in that Bill.

So the Appropriations Committee is seeing to it that the requirement of the Department of Education and on all schools in the State to see to it that the monies that we give them are not used in a discriminatory manner, and will still be there without putting at any risk the Federal monies that come into the State.

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

Second Readers

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

House

Bill, "An Act Concerning Absentee Ballots for Maine Citizens Overseas." (H. P. 924) (L. D. 1423)

Bill, "An Act to Amend the Charter of the Winter Harbor Utilities District." (Emergency) (H. P. 1191) (L. D. 1439)

RESOLVE, for Laying of the County Taxes and Authorizing Expenditures of Cumberland County for the Year 1977. (Emergency) (H. P. 1528) (L. D. 1754)

Which were Read a Second Time and Passed To Be Engrossed, in concurrence.

House - As Amended

Bill, "An Act to Clarify Certain Liquor Laws." (H. P. 1190) (L. D. 1450)

Which was Read a Second Time and Passed To Be Engrossed, As amended, in concurrence.

Senate

Bill, "An Act Concerning Postgraduate Education in the Field of Medicine, Dentistry and Veterinary Medicine." (S. P. 490) (L. D. 1766)

Which was Read a Second Time and Passed To Be Engrossed.

Sent down for concurrence.

Senate - As Amended

Bill, "An Act Relating to the Law Governing the Manufacturers, Distributors and Dealers of Beverage Containers." (S. P. 213) (L. D. 662)

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

Sent down for concurrence.

Enactors

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

An Act Prohibiting the Sale of Certain Aerosol Sprays after January 1, 1979. (H. P. 290) (L. D. 371)

On Motion of Mr. Trotzky of Penobscot, Tabled for One Legislative Day, Pending enactment.

An Act to Permit the Inhabitants of Cranberry Isles to Withdraw from the Maine State Retirement System. (H. P. 62) (L. D. 83)

An Act to Redescribe the Boundary Line between the City of Brewer and the Towns of Orrington and Holden. (H. P. 770) (L. D. 977)

An Act to Repeal Certain Laws Relating to Public Safety. (H. P. 1121) (L. D. 1339)

An Act to Authorize the District Court to Order Psychiatric Evaluation in Criminal Cases. (H. P. 1143) (L. D. 1367)

An Act Concerning Ski Lift Services. (H. P. 958) (L. D. 1150)

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

"An Act to Authorize Sentencing Courts to Specify Places of Confinement of Persons Convicted of Crimes and to Remove Age Restrictions on Sentencing to the Maine Correctional Center." (H. P. 1082) (L. D. 1306)

The PRESIDENT: The Chair recognizes the Senator from York, Senator Farley, with reference to L. D. 1306.

Mr. FARLEY: Mr. President and Members of the Senate: I just wish that the good Chairman of that Committee would kind of explain to me just what the Bill does. I have no real objection, I do not believe, but I would like to have some information on this Bill.

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

The Chair recognizes the Senator from Knox, Senator Collins.

Mr. COLLINS: Mr. President, the purpose of this Act is to give a little more flexibility in the sentencing with regard to the places, particularly with respect to the institution at South Windham.

We have provisions in the existing law which say that no one older than 27 years old should be sentenced to South Windham. The Department, the Bureau of Corrections, has made a rather careful study of the places that are being used in the confinement of criminals, and they perceive something that I think many of us have perceived through the years, that we need to segregate some of our most dangerous criminals, have them in a particular part of the State Prison at Thomaston; and some of our less dangerous criminals need to be in other locations, or in other parts of that same institution.

Now because of the present sentencing provisions there can be cases where a criminal, because he is, say 29 years old, is sentenced to a relatively short sentence, say a couple of years, for a crime that is modest in relation to some of the crimes that are involved. He might, for example, have written a bad check and have a history of non-violence and other than his weakness for paperhanging he is not too bad. He needs confinement, but not in the same degree and in the same place as the murderers and rapists and burglars and violent criminals.

So that the idea of this Act is one step in a policy of trying to put people in groups, not only according to their age, but according to the type of sentence and their history with regard to their personal performance and their danger to the public, because the Bureau feels that they can work better with that kind of a setup.

I am very happy to say that the Bureau has come out with a new master plan of what they would like to achieve in this regard. It cannot be achieved all at once, obviously, for financial reasons. But this is a modest step in that program, one that is supported by former Warden Garrell Mullaney, who is now Associate Director of the Bureau of Corrections. Our Committee listened carefully to this idea and felt this was a good first step in that direction.

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

Emergency

"An Act to Provide an Increase in Retiree and Survivor Benefits." (H. P. 667) (L. D. 808)

This being an emergency measure and having received the affirmative votes of 30 members of the Senate, was Passed to Be Enacted and having been signed by the President, was by the Secretary presented to the Governor for his approval.

Emergency

RESOLVE, for Laying of the County Taxes and Authorizing Expenditures of Washington

County for the Year 1977. (H. P. 1504) (L. D. 1722)

This being an emergency measure and having received the affirmative votes of 30 members of the Senate, was Finally Passed and having been signed by the President, was by the Secretary presented to the Governor for his approval.

Constitutional Amendment

Resolution, Proposing an Amendment to the Constitution to Prohibit Referendum Voting at Primary Election. (H. P. 1449) (L. D. 1675)

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

Mr. KATZ: Mr. President, I rise to oppose enactment of this Constitutional Amendment. I did something very daring just now, I took out my copy of the Constitution to see exactly what the implications of this proposed change are.

I am convinced that the principal change will be a proliferation of special elections to deal with issues. There are three ways that the Constitution provides, either directly or by implication, now to take care of such things as Constitutional Amendment changes or petitions processes or other referenda, — the general election, the special election, or the primary election, and this Constitutional change would rule out the use of primary election day only.

You do not have to be very bright to figure out that there are two alternatives left, one of which is special election. I would suggest that the sponsors of this have created a situation unknowingly, where they are going to proliferate the expense of special elections, as well as putting a heavier burden on general elections.

I request a Division on the Motion and hope you will vote against enactment of what I consider to be an ill-advised change to our Constitution.

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

The FARLEY: Mr. President and Members of the Senate, the good Senator from Kennebec, Senator Katz, has brought his arguments forth. I would only suggest that the system we have now disenfranchises, at least almost 30 percent of our electorate here in the State of Maine, because the only reason they have to go to Primary Day is on a referendum question. They cannot vote for a candidate of their choice in June. We have, for example, coming up this November a repeal of our Uniform Property Tax. I just wonder since that is going to be the only thing on the ballot, how many people are going to really participate in the election process of a major issue like the Uniform Property Tax.

I would suggest that this is a good Amendment to the Constitution: It guarantees that everyone is going to have a chance to vote for reasons other than this opportunity, the referendum question itself.

I would ask the Senate go along and give this Amendment the two-thirds vote that is needed.

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

Mr. MARTIN: Mr. President, could the Secretary read the Committee report?

Committee Report read.

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

Mr. KATZ: Mr. President, I want to thank the Senator from York, Senator Farley for expressing my arguments much better than I did.

If the intent of the Senate is to go for a larger turn-out, to deal with these important questions, the proposed Constitutional change should be to mandate that they must be at the general elections. But this proposal does not do that at all. It increases the chances that there will be more special elections and 'disenfranchise' more and more people. I think I understand the intent of the proponent, but this is a very, very bad answer to their problem.

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

Mr. HICHENS: Mr. President, I rise to oppose the Motion to indefinitely postpone this Bill.

It surprises me that the good Senator from Kennebec, Senator Katz, did not present these arguments when the Bill first came out, or when the Report first came out, so that it could be amended to take care of the problems which he sees in it.

But I think when this comes to the enactment stage, that it can be passed and take care of this problem of much lesser vote at primaries than would be at a general election and then if someone wants to put in a Bill later on to change it, so that it is mandatory that all of these referendums come at a general election, fine, but I think this is too late in the game to try to kill this Bill now.

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

Mr. FARLEY: Mr. President, a few days ago when this Bill was a Second Reader and obviously just needed the two-thirds, I sent a note to the good Senator from Cumberland, Senator Hewes, in regards to his election in November; the turn-out, and I think he said somewhere in the neighborhood of about 15,000 people voted. They had a special election in February and 5,000 people turned out.

I think the message is there. Unless we took these major referendum questions involving the State on a general election, we are not going to get a consensus of the people of the State of Maine on particularly important issues.

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

Mr. HEWES: Mr. President and Members of the Senate, I would like to reply though, that there was only one office being voted at that special election in February, — Just one. I do not think that that argument necessarily follows when you would have primary candidates in a June primary and referendum as well. I would think you would have more than one-third of the turn-out.

I would like to point out also, in the general election there are many mistakes made. We found recount mistakes in both communities in which I was involved, and I really think that you are going to increase the number of special elections if this Constitutional amendment is made, with the result that you will have small turn-outs, just as you did for our special election in February.

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

Mr. FARLEY: Mr. President, having spoken twice, I request unanimous consent to address the Senate for a third time.

The PRESIDENT: The Chair would advise the Senator that it is within his prerogative to address the Senate three times at any time.

Mr. FARLEY: Mr. President and Members of the Senate, in response to the good Senator from Cumberland, Senator Hewes, in the primary election of last year, the people who voted on the referendum questions only, received ballots by mistake, and people were given ballots as an independent and those independents given ballots voted for either Democratic candidates or Republican candidates, by mistake. So the same mistake can be made at a primary election.

The PRESIDENT: Is the Senate ready for the question? The pending question is passage of this Constitutional Amendment. The Chair would advise the Senate that no Motion has been made to indefinitely postpone this Resolution.

The Chair recognizes the Senator from York, Senator Farley.

Mr. FARLEY: Mr. President, I request the votes be taken by the yeas and nays.

The PRESIDENT: A Roll Call has been requested. In order for the Chair to order a Roll

Call, it must be the expressed desire of one-fifth of those Senators present and voting. Will all those Senators in favor of a Roll Call please rise in their places to be counted.

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

The pending question is the passage of this Constitutional Amendment.

A Yes vote will be in favor of passage. A No vote will be opposed.

The Secretary will call the roll.

ROLL CALL

YEA — Carpenter, Conley, Curtis, Danton, Farley, Greeley, Hichens, Jackson, Levine, Lovell, Martin, McNally, Merrill, Minkowsky, O'Leary, Pray, Usher.

NAY — Chapman, Collins, D.; Collins, S.; Cummings, Hewes, Huber, Katz, Morrell, Pierce, Redmond, Snowe, Speers, Trozky, Wyman, Sewall.

ABSENT — Mangan.

17 Senators having voted in the affirmative and 15 Senators having voted in the negative, with one Senator being absent, and 17 being less than two-thirds of the membership present, this Resolution fails of passage.

Sent down for concurrence.

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

Mr. **HUBER**: Mr. President, I move that L. D. 1585, "An Act in Support of Regional Library Systems" be taken from the Special Appropriations Table.

The **PRESIDENT**: The Senator from Cumberland, Senator Huber, now moves the Senate remove from the Special Appropriations Table L. D. 1585. Is this the pleasure of the Senate? It is a vote.

The Chair recognizes the Senator from Kennebec, Senator Katz.

Mr. **KATZ**: Mr. President, I move under suspension of the rules that we reconsider our action whereby this Bill was Passed to be Engrossed.

The **PRESIDENT**: The Senator from Kennebec, Senator Katz, now moves under suspension of the rules the Senate reconsider its action whereby this Bill was passed to be Engrossed. Is this the pleasure of the Senate. It is a vote.

The Chair recognizes the Senator from Kennebec, Senator Katz.

Mr. **KATZ**: Mr. President, I offer Senate Amendment "A" (S-122) and move its adoption. This is simply an error in arithmetic being corrected.

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

Senate Amendment "A" (S-122) read and adopted. The Bill, as amended, by Senate Amendment "A", Passed to be Engrossed in non-concurrence.

Sent down for concurrence.

Orders of the Day

The following matters, in the consideration of which the Senate was engaged at the time of adjournment yesterday, have preference in the Orders of the Day and continue with such preference until disposed of as provided by Rule 25.

The President laid before the Senate:

Emergency

Resolve, for Laying of the County Taxes and Authorizing Expenditures of Penobscot County for the Year 1977. (H. P. 1498) (L. D. 1716)

The pending question before the Senate is the motion by the Senator from Cumberland, Senator Conley, that the Resolve be Tabled for one legislative day.

On motion by Senator Pray of Penobscot, a roll call has been ordered.

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

Mr. **PRAY**: Mr. President, I request leave to withdraw my motion, for a Roll Call.

The **PRESIDENT**: The Senator from Penobscot, Senator Pray, now requests leave of the Senate to withdraw his request for a Roll Call. Is it the pleasure of the Senate to grant this leave? It is a vote.

There is still one pending Motion still alive in this Body, that is the Motion by the Senator from Cumberland, Senator Conley, that this Resolve be tabled for one legislative day.

The Chair recognizes the Senator from Cumberland, Senator Conley.

Mr. **CONLEY**: Mr. President, I request leave to withdraw the Motion that it be tabled for one day.

The **PRESIDENT**: The Senator from Cumberland, Senator Conley now requests leave of the Senate to withdraw his Motion that this Resolve be tabled for one legislative day. Is it the pleasure of the Senate to grant this leave? It is a vote.

This being an emergency measure and having received the affirmative vote of 30 Members of the Senate, was Finally Passed and having been signed by the President was by the Secretary presented to the Governor for his approval.

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

Mr. **CONLEY**: Mr. President, I would move that under suspension of the Rules, that L. D. 1715, L. D. 1714, L.D. 1713 and L. D. 1703 be taken up together.

The **PRESIDENT**: The Senator from Cumberland, Senator Conley now moves that the Senate consider L. D. 1715, L. D. 1714, L. D. 1713 and L. D. 1703 as a group and that these Resolves be finally passed. Is this the pleasure of the Senate? It is a vote.

The President laid before the Senate:

Emergency

Resolve, for Laying of the County Taxes and Authorizing Expenditures of Sagadahoc County for the Year 1977. (H. P. 1497) (L. D. 1715)

Emergency

Resolve, for Laying of the County Taxes and Authorizing Expenditures of Waldo County for the Year 1977. (H. P. 1495) (L. D. 1714)

Emergency

Resolve, for Laying of the County Taxes and Authorizing Expenditures of Piscataquis County for the Year 1977. (H. P. 1494) (L. D. 1713)

Emergency

Resolve, for Laying of the County Taxes and Authorizing Expenditure of Franklin County for the Year 1977. (H. P. 1490) (L. D. 1703)

These being emergency measures and having received the affirmative vote of 28 Members of the Senate, were Finally Passed and having been signed by the President were by the Secretary Presented to the Governor for his approval.

The President laid before the Senate the first tabled and yesterday assigned item:

Bill, "An Act to Provide for Specially Designed Registration Plates for the Maine National Guard." (H. P. 504) (L. D. 623)

Tabled — May 5, 1977 by Senator Speers of Kennebec

Pending — Enactment.

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

Mr. **MINKOWSKY**: Mr. President, I now move the enactment of this Bill.

The **PRESIDENT**: The Senator from Androscoggin, Senator Minkowsky, now moves that L. D. 623 be passed to be enacted.

The Chair recognizes the Senator from Cumberland, Senator Conley.

Mr. **CONLEY**: Mr. President, I request a Division on the enactment.

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

The Chair recognizes the Senator from Androscoggin, Senator Minkowsky.

Mr. **MINKOWSKY**: Mr. President, I request a Roll Call.

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

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

The pending question before the Senate is enactment of L. D. 623, "An Act to Provide for Specially Designed Registration Plates for the Maine National Guard."

A Yes vote will be in favor of enactment. A Nay vote will be opposed.

The Secretary will call the roll.

ROLL CALL

YEA — Carpenter, Chapman, Collins, D.; Cummings, Curtis, Farley, Greeley, Hewes, Jackson, Levine, Lovell, Mangan, Martin, Merrill, Minkowsky, Morrell, O'Leary, Pierce, Pray, Redmond, Snowe, Speers, Usher, Wyman.

NAY — Collins, S.; Conley, Danton, Hichens, Huber, Katz, McNally, Trozky.

24 Senators having voted in the affirmative and 8 Senators having voted in the negative, and 24 being more than a majority of those Senators present and voting, this Bill is passed to be enacted.

The **PRESIDENT**: The Chair understands that the Senator from Aroostook, Senator Martin, now moves the Senate reconsider its action whereby this Bill was passed to be enacted.

The Chair recognizes the Senator from Cumberland, Senator Conley.

Mr. **CONLEY**: Mr. President, it is at moments like these that I think it is really far more appropriate that we either play the Maine Stein Song or the National Anthem. I hope the Senate votes against reconsideration.

A viva voce vote being had, the Motion to reconsider does not prevail.

The Bill having been signed by the President, was by the Secretary presented to the Governor for his approval.

The President laid before the Senate the second tabled and yesterday assigned item:

HOUSE REPORTS — from the Committee on Taxation — Bill, "An Act to Change the Sales Tax Basis on Fuel Oil from Price to Volume." (H. P. 784) (L. D. 936) **MAJORITY REPORT** — Ought to Pass: **MINORITY REPORT** — Ought Not to Pass.

Tabled — May 5, 1977 by Senator Wyman of Washington

Pending — Acceptance of Either Report
On Motion of Mr. Wyman of Washington, the Senate voted to accept the Majority Ought to Pass Report in non-concurrence.

Bill Read Once and Tomorrow Assigned for Second Reading.

The President laid before the Senate the third tabled and yesterday assigned item:

JOINT ORDER — Relative to Recalling from Governor's Office. (H. P. 1482) (L. D. 1698)
Resolve, Directing the Bureau of Taxation to Provide Credits for the Commuter's Income Tax Imposed by New Hampshire for the Period January 1, 1975 to March 19, 1975. (S. P. 489)

Tabled — May 6, 1977 by Senator Conley of Cumberland

Pending — Passage
On Motion of Mr. Speers of Kennebec, retabled for two legislative days.

The President laid before the Senate the fourth tabled and yesterday's assigned item:

House Reports — from the Committee on Taxation — Bill; "An Act to Remove the Manufacturer's Excise Tax on Tires from the Sales Tax." (H. P. 339) (L. D. 430) Majority Report — Ought to Pass with Committee Amendment "A" (H-209); Minority Report — Ought Not to Pass

Tabled — May 6, 1977 by Senator Speers of Kennebec

Pending — Motion of Senator Jackson of Cumberland to accept Minority Report

Minority Ought Not to Pass Report accepted in non-concurrence.

Sent down for concurrence.

The President laid before the Senate the fifth tabled and yesterday's assigned item.

Senate Report Committee of Conference on — Bill, "An Act Pertaining to License Fees for the Regulation of Certain Amusements." (H. P. 577) (L. D. 701) (Senate Recede and Concur with the House.)

Tabled — May 6, 1977 by Senator Pierce of Kennebec

Pending — Acceptance of Report

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

Mr. PIERCE: Mr. President and Members of the Senate, I would draw your attention to L. D. 701. It is a Bill similar to one which we dispensed with a week or so ago, and what this does is it would allow municipal fees, which are now \$10.00 for a license, to have no ceiling on them whatsoever.

The good Senator from Aroostook, Senator Carpenter, offered what I thought was a reasonable Amendment, which would put a ceiling of \$20.00 on this. However, the other Body in the Committee of Conference rejected his Amendment, so this would now revert to the Bill itself, which as I say, has no ceiling whatsoever established, and from a \$10.00 fee and \$5.00 fee the municipalities may be allowed to establish fees commensurate with the cost of inspection, enforcement regulation, etc, etc, I think this is just going to lead to unnecessarily high fees in some of the municipalities.

Therefore, I would ask through the Chair, is the proper Motion to reject the Committee of Conference Report and then move for indefinite postponement, or just move for indefinite postponement?

The PRESIDENT: The Chair would advise the Senator there are two Motions available, and they are either acceptance or rejection of the Committee Report.

Mr. PIERCE: Mr. President, then I would move rejection of the Committee of Conference Report at this time.

The PRESIDENT: The Senator from Kennebec, Senator Pierce now moves that the Senate reject the Committee of Conference Report.

The Chair recognizes the Senator from Cumberland, Senator Hewes.

Mr. HEWES: Mr. President and Members of the Senate, I have no strong objections to the good gentleman from Kennebec, Senator Pierce's feelings on this. However, I think if the feeling of this Body is that there should be a limit such as \$20.00 or some limit for the amount of fees for licenses for pool, billiards, or shooting galleries, or things of that nature, then so be it. If we reject this Committee of Conference, we can then request a new Committee of Conference, and perhaps the new Committee of Conference with Senator Pierce, the good Senator from Kennebec, would result in a Bill that is satisfactory to all concerned.

The PRESIDENT: The pending Motion before the Senate is the Motion by the Senator from Kennebec, Senator Pierce, that the Senate reject the Committee of Conference Report.

The Chair will order a Division.

Will all those Senators in favor of the Motion

to reject the Committee of Conference Report, please rise in their places to be counted.

Will all those Senator opposed to the Motion to reject the Committee of Conference Report, please rise in their places to be counted.

23 Senators having voted in the affirmative and 5 Senators having voted in the negative, the Committee of Conference Report is rejected.

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

Mr. CONLEY: Mr. President, is the Bill in the present posture where we can now ask for a second Committee of Conference?

The PRESIDENT: The Chair would answer the Senator in the affirmative.

Mr. CONLEY: Mr. President, I so move.

The PRESIDENT: The Senator from Cumberland, Senator Conley, now moves that the Senate request a second Committee of Conference with the House in regards to L. D. 701. Is this the pleasure of the Senate?

The Chair recognizes the Senator from Kennebec, Senator Pierce.

Mr. PIERCE: Mr. President, I guess I have no strong feelings on this one way or the other. I think perhaps it would save us some time if we did reject this, so I would ask for a Division.

The PRESIDENT: A Division has been requested.

The Chair recognizes the Senator from Aroostook, Senator Carpenter.

Mr. CARPENTER: Mr. President, Ladies and Gentlemen of the Senate: Just a brief background on this Bill. I did have an Amendment and I was on the first Committee of Conference. I would like to see the Senate go to a second Committee of Conference. We are not going to be wasting a lot of time. We are going to be here.

These fees have not been changed for some years, the ceiling on these fees, and apparently there is a small problem at least in some of our municipalities. I personally would like to see the fees upped somewhat, but with a ceiling on it. This is where the hassel seems to be coming on this Bill.

So I would hope you would oppose the remarks of the good Senator from Kennebec, Senator Pierce, and vote for a second Committee of Conference. Thank you.

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

Mr. PIERCE: Mr. President, I would withdraw my request for a Division.

The PRESIDENT: The Senator from Kennebec, Senator Pierce now withdraws his request for a Division. Is it now the pleasure of the Senate to request a second Committee of Conference with the House? It is a vote.

(Off Record Remarks)

The President laid before the Senate the sixth tabled and yesterday's assigned item: Bill, "An Act to Authorize the Issuance of Free Fishing Permits to Patients in Regular Nursing Homes." (H. P. 694) (L. D. 876)

Tabled — May 6, 1977 by Senator Speers of Kennebec

Pending — Passage to be Engrossed

The Bill passed to be Engrossed as amended in concurrence.

The President laid before the Senate the seventh tabled and yesterday's assigned item: Bill, "An Act to Provide for Consideration of the Economic Impact of Decisions made by the Board of Environmental Protection (H. P. 879) (L. D. 1070)

Tabled — May 6, 1977 by Senator Speers of Kennebec

Pending — Passage to be Engrossed

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

Mr. REDMOND: Mr. President, I move, un-

der suspension of the rules, that we reconsider adoption of Committee Amendment "A".

The PRESIDENT: The Senator from Somerset, Senator Redmond, now moves the Senate suspend its rules and reconsider its action whereby it adopted Committee Amendment "A". Is this the pleasure of the Senate?

The Chair recognizes the Senator from Penobscot, Senator Trotzky.

Mr. TROTZKY: Mr. President, I oppose the Motion to reconsider and request a Division.

The PRESIDENT: The Senator from Penobscot, Senator Trotzky, requests a Division.

The Chair recognizes the Senator from Somerset, Senator Redmond.

Mr. REDMOND: Mr. President, the Amendment to this Bill assures that an applicant may introduce evidence regarding the economic benefits of the proposal being reviewed by the DEP. It also requires that the DEP maximize the economic benefits without sacrificing the environment.

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

Mr. CONLEY: A point of order, Mr. President, I would like to know if the Motion to suspend the rules is debatable.

The PRESIDENT: The Chair will advise the Senator in the negative. The Motion to suspend the rules is not debatable. The Senator may debate the merit or demerit of his proposal, his feelings, his philosophies as concerns Committee Amendment "A".

The Chair recognizes the Senator from Cumberland, Senator Conley.

Mr. CONLEY: I believe the Motion before the Senate is a Motion to suspend the rules.

The PRESIDENT: The Chair would answer in the affirmative.

Mr. CONLEY: There is nothing else before the Senate?

The PRESIDENT: The Chair would answer in the affirmative.

The Senator from Somerset, Senator Redmond was granted unanimous consent to address the Senate on the record.

Mr. REDMOND: Mr. President and Members of the Senate, the Amendment assures that an applicant may introduce evidence

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

Mr. SPEERS: Mr. President, with great reluctance, I must protest the proceedings.

The PRESIDENT: The Chair hears objection. The Senator may not proceed.

The pending question before the Senate is the Motion by the Senator from Somerset, Senator Redmond, that the Senate suspend its rules in order to reconsider its action whereby it adopted Committee Amendment "A". A Division has been requested on that Motion.

Will all those Senators in favor of suspending the rules, please rise in their places to be counted.

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

28 Senators having voted in the affirmative and 3 Senators having voted in the negative, the rules are suspended.

The PRESIDENT: The pending Motion before the Senate is the Motion by the Senator from Somerset, Senator Redmond, that the Senate reconsider adoption of Committee Amendment "A".

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

The PRESIDENT: A Division has been requested on the Adoption of Committee Amendment "A".

Will all those Senators in favor of the Motion that the Senate reconsider its action whereby it adopted Committee Amendment "A", please rise in their places to be counted.

Will all those Senators opposed to the Motion to reconsider its action whereby Committee Amendment "A" was adopted, please rise in their places to be counted.

21 Senators having voted in the affirmative and 9 Senators having voted in the negative, the Motion does prevail.

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

Mr. REDMOND: Mr. President, I present Senate Amendment "A" (S-127) and move its adoption.

The PRESIDENT: The Senator from Somerset, Senator Redmond, now presents Senate Amendment "A" (S-127) and moves its adoption. The Secretary will read Senate Amendment "A".

Senate Amendment "A" (S-127) Read.

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

Mr. REDMOND: Mr. President, the Amendment assures an applicant may introduce evidence regarding the economic benefits of the proposal being reviewed by the DEP. It also requires that the DEP maximize the economic benefits without sacrificing the environment.

This amendment will force the DEP to balance the economic benefits with environmental consensus and not ignore the economic advantages.

The role of government in stimulating innovation can be to clarify and simplify Government regulatory programs so that they are perceived by managers as reasonable, well thought out and enforced in a fair and equitable manner.

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

Mr. TROTZKY: Mr. President, is it proper now to move the indefinite postponement of this Bill and its accompanying papers?

The PRESIDENT: The Chair would advise the Senator that the Motion to amend has a higher priority than the Motion to indefinitely postpone, therefore such a motion would be out of order.

The Chair recognizes the Senator from Cumberland, Senator Merrill.

Mr. MERRILL: Mr. President, I move the indefinite postponement of Senate Amendment "A" to Committee Amendment "A" and would like to speak to my Motion.

The PRESIDENT: The Senator from Cumberland, Senator Merrill now moves Senate Amendment "A" to Committee Amendment "A" be indefinitely postponed. The Senator has the floor.

Mr. MERRILL: Mr. President and Members of the Senate: This Amendment that is being offered would amend the Committee Amendment that the Senate has already accepted, and I would hope even though we voted to reconsider for the purpose of putting this Amendment before us, that the ultimate action of the Senate would be to stand by its previous action.

First of all, I have a technical problem with this Amendment, and it may just be because I am not familiar enough with it, but as I read the Amendment to the Committee Amendment, the Committee Amendment being filed under H-221, it says: "Amend the Amendment by striking out all of the third underlined paragraph and inserting in its place the following."

Maybe it is just my ignorance in reading the Amendment, but there is only one sentence, let alone three paragraphs in the Amendment. So I have that small technical problem with the wording of the Amendment.

But, more importantly, I am afraid that this Amendment that is being offered, even though its intentions are good, would raise considerable problems with our environmental laws.

First of all, it says that the Board shall receive and consider any testimony offered by the applicant on economic benefits. Well, I take

it then that economic testimony by people who are opposed to the application would therefore, not be admissible by the Board of Environmental Protection. I do not think that the Senate wants to have that effect, allow one side to introduce one form of evidence and not the other side. Secondly, of course, a strict reading of economic benefits would not allow any testimony to the economic detriment.

And finally, the final sentence of the Amendment that is offered, "The board shall treat the application in such a manner so as to maximize the economic benefits without unreasonably sacrificing the environmental purposes of this Title," It creates a whole new standard of review, which will require, I am sure, several Court cases to settle this as to exactly what it means, and I do not think it is necessary. I think the Board is taking environmental economic testimony now, as has been previously stated, and I am sure that they are taking it into consideration in their deliberations.

I think this Bill would cause a lot more trouble with this Amendment than it would accomplish, so I would urge the Senate to indefinitely postpone Senate Amendment "A" to Committee Amendment "A".

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

Mr. COLLINS: Mr. President, I would join with the Senator from Cumberland, Senator Merrill, in urging indefinite postponement.

If I were Counsel to the Board and had to read this Amendment, I would be very much at a loss to advise them how to proceed. Its standards are much too vague to really guide a Board that has to issue important licenses.

The PRESIDENT: The pending Motion before the Senate is the Motion by the Senator from Cumberland, Senator Merrill, that the Senate indefinitely postpone Senate Amendment "A".

The Chair will order a Division.

Will all those Senators in favor of the Motion to indefinitely postpone Senate Amendment "A", please rise in their places to be counted.

Will all those Senators opposed to the Motion to indefinitely postpone Senate Amendment "A", please rise in their places to be counted.

18 Senators having voted in the affirmative and 13 Senators having voted in the negative, the Motion to indefinitely postpone Senate Amendment "A" does prevail.

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

Mr. O'LEARY: Mr. President, I would move the indefinite postponement of this Bill and all its accompanying papers, and I would like to read into the record just what this Bill would do and it concerns me.

I think since we did not adopt Senator Redmond's Amendment, that we are just creating more problems. This Bill makes reference to the cost of economics not already in the Statute and that is the Great Ponds, Wetlands, Shorelands Zoning, Minimum Lot, Mining and Rehabilitation, classifications of waters, that is cause for treatment that is traditionally included in reports, reference to cost of economics found in the statute, waste water discharge license, air emission license, air quality criteria, air emission standards, variance to air quality criteria and air emission standards, municipal construction grants, site location, and solid waste management.

This Bill does little except add confusion to a complex issue. It states the Board shall consider economic impacts, and I believe I put it into the record the other day, and I think it has been said this morning by the good Senator from Cumberland, Senator Merrill, about the problems that we would have with the Courts and such, and that presently I have discussed this problem with the members of the Department of Environmental Protection, and they as-

sure me that the economic factor is included in their deliberations or their thoughts, although it may not be taken in testimony as such, but it is always considered in all of their applications.

This creates new burdens of proof for an applicant, and yet does not give him or the Board any guidance as to what he must address. Will it be necessary to provide information about payrolls, profits, taxes, burden on municipal sewers, schools, roads, public safety, ripple effects, or what have you? How could the average applicant gather this data.

This is what concerns me, and I think that rather than make any error and compound whatever we may have done in the past, I would move the indefinite postponement of this Bill and all its accompanying papers.

The PRESIDENT: The Senator from Oxford, Senator O'Leary, now moves that L. D. 1070 and all its accompanying papers be indefinitely postponed.

The Chair will order a Division.

Will all those Senators in favor of the Motion to indefinitely postpone this Bill, please rise in their places to be counted.

Will all those Senators opposing the Motion to indefinitely postpone this Bill, please rise in their places to be counted.

22 Senators having voted in the affirmative, and 7 Senators in the negative, the Motion to indefinitely postpone does prevail.

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

Mr. MERRILL: Mr. President, having voted on the prevailing side, I would move reconsideration and urge the Senate to vote against me.

The PRESIDENT: The Senator from Cumberland, Senator Merrill, now moves the Senate reconsider its action whereby it voted to indefinitely postpone L. D. 1070.

A viva voce vote being had,

The Motion to reconsider does not prevail.

The President laid before the Senate the eighth tabled and yesterday's assigned item:

Bill, "An Act to Establish a Presidential Primary in the State of Maine." (H. P. 187) (L. D. 249)

Tabled — May 6, 1977 by Senator Snowe of Androscoggin Pending — Adoption of Senate Amendment "C" to House Amendment "A" (S-121).

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

Mr. CONLEY: Mr. President, I would move that Senate Amendment "C" be indefinitely postponed.

The PRESIDENT: The Senator from Cumberland, Senator Conley, now moves that Senate Amendment "C" to House Amendment "A" be indefinitely postponed.

The Chair recognizes the Senator from Androscoggin, Senator Snowe.

Mrs. SNOWE: Mr. President, I would ask for a Division.

The PRESIDENT: A Division has been requested on the Motion to indefinitely postpone.

The Chair recognizes the Senator from Cumberland, Senator Conley.

Mr. CONLEY: Mr. President, I would like to have some discussion relevant to this particular Amendment.

It seems to me that this is somewhat foolhardy in a sense, because of the fact it addresses itself to the national primary being held on the second Tuesday of June each year when the President of the United States will be elected. The fact of the matter is that the State conventions are held generally prior to that, and it leaves the delegates totally uncommitted, and it seems to me that it makes it a bunch of hodge-podge, and the Senate Amendment serves no good point at all.

Therefore, I would hope the Senate would defeat the Motion.

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

Mr. LEVINE: Mr. President, I would rise to support the good Senator from Cumberland, Senator Conley's Motion to indefinitely postpone this Amendment.

I have a problem with the second section of the Amendment. This in itself would give us not a binding primary, but rather a preferential presidential primary, and I do not think the citizens of the State of Maine understand this. There was a move afoot here to kill this Bill entirely, and I feel what happened was after the people who wished to kill the Bill had an understanding of how the people of the State of Maine really felt about this, they decided they would in fact have to give them a presidential primary.

Well, in theory they are doing that. In fact, they are not doing that at all. This is not binding in any way. I still feel that the people of the State of Maine will still feel that their right to chose the party candidate of their choice for nomination for President of the United States will be lost.

I think perhaps we should indefinitely postpone this, and if the Amendment is felt to be germane by the Members of this Senate, and if a majority of the Members of this Senate really approve of the Amendment, perhaps they should change the Amendment and bring it back as Senate Amendment "D", and the change I would suggest that they make is in the title, — rather than title it "an Act to Establish a Presidential Primary in the State of Maine", perhaps they should title it "An Act to Pretend to Establish a Presidential Primary in the State of Maine."

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

Mr. HEWES: Mr. President and Members of the Senate, I hope you vote against the pending Motion to indefinitely postpone this.

I think a primary involves more involvement of the people to participate in their recommendations, but the expense of a special primary would be quite substantial to the people of the State, and I think the logical way to do it is to have the election on the same day as the present State primary, which is in June.

The good Senator from Cumberland, Senator Conley, suggests that the State conventions are traditionally held prior to the primaries, but there is nothing to prohibit the State conventions from being held subsequent to the primaries, and before the National convention. In fact, it seems to me, that this would be a chance for the State of Maine, in case of a close race for either National convention, for the State of Maine to receive much more publicity and interest than we presently do.

I do not think that we in Maine want to be the tail that is wagged by other States in New England. If there is a New England Primary, for example, I think the candidates would be more concerned with the larger, more populous States, such as Massachusetts and Connecticut, than they would with Maine.

I think if we have our Presidential primary on a day that we think is the best day, then I think we will get the attention that we want from National media or National candidates, and at the same time Maine people would express their preference for their candidates without additional expense to the people of the State of Maine.

I think the good gentlelady, the Senator from Androscoggin, Senator Snowe's Amendment is a good Amendment, and hopefully that it becomes the law.

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

Mrs. SNOWE: Mr. President and Members of the Senate, I guess I do not have the problems

that the other Senators have mentioned here today in regard to my Amendment.

As I see it, the State parties can adopt their own procedures and rules to determine how the results of the preference primaries could be used, and if they have a problem with the convention occurring before the primary, they certainly can change their rules to have the convention after the primary.

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

Mr. MERRILL: Mr. President, a question through the Chair of any Senator, preferably a member of the Election Laws Committee, who would care to answer. Is there not some requirement in the statutes at the present time as to when State conventions will be held?

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

The Chair recognizes the Senator from Cumberland, Senator Merrill.

Mr. MERRILL: Mr. President, I believe that it is in the statutes, and I have not had a chance to look it up, that they shall be held in the month of May, and I think that there is good reason for it, for holding our conventions before the primary elections are held and giving the Democrats a chance to get together and to hear the nominees for major offices in the State.

I might say that the present Amendment that is before us, if it is not going to require that we change when we hold our conventions, really makes a joke out of the whole caucus process. Now I am not an expert on the caucus process as it is carried out by Members of the Majority Party in this Senate, and I certainly am aware that for a Republican sitting in this Senate, it may seem like my party is just a small Minority group, and not to be given any great consideration in passing legislation. However, there are quite a few of us out there, which most of us are reminded of when the elections come around, if not in our actions here in the Senate.

I think that it is important to consider what procedures we have adopted and how ridiculous this makes the whole procedure.

Now in the Democratic party we made efforts over the past few years, with the urging and demand of the National Democratic party, that if we hold conventions to decide who will be the delegates to the convention, that we have to go through certain procedures, and those procedures are fairly demanding, and from the beginning of the process to the end of the process in the State, the people have to state who they are for, if they are for anybody, or if they are uncommitted, and then they vote on that basis. As a matter of fact, at the State convention, if you are running as a delegate, only people who are committed the same way as you are may vote for you.

Last time, for example, former Governor Curtis was a Carter delegate. Only people who were for former Governor Carter as the nominee of the party, could vote for Governor Curtis. People had to make their expression of intent as far as Presidential preference was concerned that adamant.

Now how does this dovetail with the process that is going to be required here? People go to the caucuses and declare who they are for, and on the basis of that people are elected to State conventions. On the basis of the preference of the people at the State convention, people are elected as delegates to the National convention on the basis of who they are for. Then there is a non-binding Presidential primary.

Well, let us look at last year's example. Governor Curtis was elected as a Carter delegate. He was elected on the basis of his pledge to support President Carter, then Governor Carter. Then the people vote they were

for Hubert Humphrey. What position does that put former Governor Curtis in? What is he supposed to do to be true to his commitment?

It seems to me that this is not a very well considered Amendment, and I could understand that there is a good argument that could be made to having the primary earlier on in the year, and have it be non-binding. I appreciate those feelings. I am not sure that I am convinced by them, but I appreciate the problems. I think that this Amendment could create the most confused situation, and a confused situation that would probably accomplish nothing, except making the people of Maine feel frustrated and cheated, and I suggest that we get ourselves straight as to how we are going to decide, the people of Maine are going to decide who they want to be nominated by the two major parties for the most important office that people have a chance to vote for. This Amendment certainly does not do that, as far as I am concerned.

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

Mr. COLLINS: Mr. President, in response to the question from the Senator from Cumberland, Senator Merrill, I have looked at the statutes and in 1973 the Legislature amended the convention statute to provide that each party shall hold a State convention between March 1st and August 1st biennially during the general election year.

The other provisions in that convention section do not apply particularly to this matter, except that there is a general statement that the State Committee of the party shall determine the time, place and basis of representation for the convention. The convention in its procedures is obliged to nominate the number of Presidential electors to which the State is elected, and to set up various committees. There is no statutory provision that gives us any rules about the manner of selection of delegates to the national convention, or what direction they must follow with respect to mandates of other elections, or their own convention.

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

Mr. LEVINE: Mr. President, I have to reiterate my position. I think this is a very poor Amendment, and I am not speaking as to the date. I also disagree with the date. I think that is a little late in the game perhaps. I think it will cause some confusion, but I am still speaking to that second section.

I find it hard to imagine in my mind that the people of the State of Maine are going to get very excited at all about a Presidential primary if it is only preferential. Who are the people that are going to be bound to vote at the National convention the way that the people of the State of Maine want them to vote. Now the people of this State want a primary, that is certain in my mind. I do not know if it is certain in all of yours. I have not run a poll throughout the State, but I have spoken to a great many people from all over the State of Maine, and the voters of this State want a Presidential primary. They do not want a preferential primary. They want a binding primary. They want their voice heard. I think that perhaps someone, other than myself, should stand up today and speak for the people of the State of Maine.

What earthly good does it do them to go out and vote in that primary, knowing full well that their vote may not count at all.

Now I am very much upset with this Amendment, and I do not wish to get emotional about it, and I will not get emotional about it, but I just feel the Amendment is wrong. I think we have a question of right and wrong here, and this is wrong, and that is what we should rest on.

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

Mr. FARLEY: Mr. President and Members of the Senate. From a very practical point of view here on this primary here in Maine sometime in June, as you all well know the California primaries are held about the same time, the first or second week in June. I doubt if we are going to attract a whole lot of the major candidates running for office in competition with the California primary. Right after that, usually in the last week of June or the second week in July, our National parties have their convention. It is usually programmed for three or four weeks, a period there, because to get some of the exposure off the other party, cooling off period of time, so there is about a month difference in the two conventions of the two parties.

This Bill here, this Amendment here, I think means nothing at this point in time, in June. Earlier I said we would be competing against California, which really for all practical purposes, I imagine, we would not attract very many. Maybe it was intended that way. I do not know.

I would ask the Senate to indefinitely postpone this Amendment.

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

Mr. CARPENTER: Mr. President, Ladies and Gentlemen of the Senate. I think my problem with this particular Amendment is one similar to the one outlined by the Senator from Kennebec, Senator Levine.

I think we are all concerned about the image of politics and the body of politics in general. To take the example the Senator from Cumberland, Senator Merrill, used a few moments ago, I think when the people see, for example, the Democratic convention has gone fairly overwhelmingly or the caucuses are going overwhelmingly for a candidate, let us say former Governor Carter, they go to the polls and they vote overwhelmingly for Hubert Humphrey, the elected delegates go to the National convention and cast their votes for former Governor Carter. You know, I think you are going to see from the first year of the Presidential primary, the first Presidential primary that we hold in the State to the fourth Presidential primary in the State, you are going to see a continuing decline in the number of persons that turn out, because it does not mean anything, and they know it does not. All you are going to hear is what difference does it make if we go and cast our ballot, because the "politicians", and we are the ones that usually go as delegates and usually are committed to a particular candidate, what difference does it make if I go and vote in the primary or not, because the politicians are going to go to the convention and vote the way they want to anyway. They are not going to understand the different set-up between the two positions.

I would hope that you would vote to indefinitely postpone this Amendment.

(Off Record Remarks)

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

Mr. DANTON: Mr. President and Members of the Senate: I guess we have been skirting all around this issue. Why don't we just talk about the presidential primary.

I am sure that I was, as a Member of that Committee, somewhat jealous of the State of New Hampshire having the first Presidential primary and I wanted to get part of the action here in the State of Maine.

I know back a few years ago when Senator Muskie was running for President, I used to go to Manchester on weekends. I was somewhat curious. I even went down and worked on his campaign. There was a lot of activity there. There were a lot of dollars spent in the State of New Hampshire. I think Senator Katz a week or so ago mentioned about the same thing, the economic benefit to the State would be terrific.

With this Amendment, putting it in June, you know what happened in the last Presidential race. By the time June came around, there were two in the Republican party, Reagan and Ford, and one was left in the Democratic party, Carter.

So when we talk about June, there is just no interest. It is pretty well zeroed in. When you talk about the First Presidential primary, and tie it in with New Hampshire, on that same day having them campaigning in both states, that means a lot of dollars for the State of Maine. That is why I voted ought to pass on this Bill.

With this Amendment here, really and truly there is no sense of having it if we are going to have to go with this Amendment.

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

Mr. MERRILL: Mr. President and Members of the Senate: I thank the Senator from Knox, Senator Collins, for pointing out the law with regard to when conventions must be held.

Let me say that the law with regard to when municipal caucuses must be held is that they must be held prior to April 1st of the election year. So what we are talking about, if we are going to continue to have a caucus process as we do in our party, it gives the people that come to the caucuses a chance for in-put so they will come and elect delegates to the State convention on the basis of Presidential preference. Then sometime in June there will be a primary election, in which the people of Maine will have a chance to state their preference. And then the parties, having accepted the will of the Maine Senate and move their conventions to a date after the nominations of other people on the primaries instead of before as both parties presently do, will get together and somehow try to work an amalgamation of those two expressions of will, or we end up with a hybrid system that serves no one I think.

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

Mr. LOVELL: Mr. President and Members of the Senate, I appreciate the good Senator from York, Senator Danton's version of the earlier election. I had thought the same thing.

But come to reading over the New Hampshire law, that New Hampshire can set their primary any time they want to before or after January 1st. So how are we going to beat them unless we set it in December of the previous year, and that would not draw out the candidates? So we cannot set it in January, because New Hampshire would just set it ahead of us. They have their ruling that they can change theirs at any time.

I almost wonder if we should try to bother with this Presidential primary.

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

Mr. DANTON: Mr. President and Members of the Senate, just to clear that point up that the good Senator from York, Senator Lovell, made.

The Bill states that we can set our primary the same day as New Hampshire. Whatever they set it at, that is when our primary will be held.

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

Mr. LOVELL: Mr. President, I understood from what I read that when they set their day, if we set our day the same, the Governor could change their day earlier than our day.

The PRESIDENT: Is the Senate ready for the question? The pending question before the Senate is the Motion by the Senator from Cumberland, Senator Conley, that Senate Amendment "C" to House Amendment "A" be indefinitely postponed.

The Chair will order a Division.

Will all those Senators in favor of the Motion to indefinitely postpone Senate Amendment "C" to House Amendment "A" please rise in their places to be counted.

Will all those Senators opposing the Motion to indefinitely postpone Senate Amendment "A" to House Amendment "C" please rise in their places to be counted.

The Chair recognizes the Senator from Kennebec, Senator Levine.

Mr. LEVINE: Mr. President, I request the yeas and nays.

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

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

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

A yes vote will be in favor of indefinite postponement. A nay vote will be opposed.

The Secretary will call the Roll.

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

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

ABSENT — Cummings.

13 Senators having voted in the affirmative, and 18 Senators in the negative, with one Senator being absent, the Motion to indefinitely postpone does not prevail.

Senate Amendment "C" to House Amendment "A" adopted. House Amendment "A" as amended by Senate Amendment "C" adopted. House Amendment "B" Read and Adopted. House Amendment "D" Read.

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

Mrs. SNOWE: Mr. President, I move indefinite postponement of House Amendment "D".

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

Mr. SPEERS: Mr. President, by way of a brief explanation, House Amendment "D" adds a fiscal note to the Bill, but by changing the date of the primaries from the first Tuesday in March to the date where primaries are already being held in the State, it will not require additional appropriation.

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

Mr. MERRILL: Mr. President, I would like to congratulate the Majority Party in this Body. They have now created a Bill that not even the sponsor can get excited about, and I am sure that eventually their wish will be taken care of by somebody and this meaningless, confused, ill-conceived piece of legislation will be killed, just as they wanted it to be in the first place. House Amendment "D" indefinitely postponed.

The Bill, as amended by House Amendment "A" as amended by Senate Amendment "C" thereto and House Amendment "B", Passed to be Engrossed in non-concurrence.

Sent down for concurrence.

The President laid before the Senate: Bill, "An Act to Require Telephone Companies to List the Names of a Customer's Spouse in the Telephone Directory if the Spouse so chooses. (S. P. 344) (L. D. 1128)

Tabled — May 5, 1977 by Senator Speers of Kennebec

Pending — Enactment

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

The President laid before the Senate:
Bill, "An Act Relating to Solid Waste Disposal." (Emergency) (S. P. 248) (L. D. 756)
Tabled — May 5, 1977 by Senator Speers of Kennebec

Pending — Motion of Senator Trotzky of Penobscot to Indefinitely Postpone

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

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

The PRESIDENT: The Senator from Kennebec, Senator Speers, now moves that L.D. 756 be tabled for Two Legislative Days pending the Motion of the Senator from Penobscot, Senator Trotzky, to indefinitely postpone.

The Chair recognizes the Senator from Penobscot, Senator Trotzky.

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

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

Will all those Senators in favor of tabling this Bill for Two Legislative Days, please rise in their places to be counted.

Will all those Senators opposed to tabling this Bill for Two Legislative Days, please rise in their places to be counted.

20 Senators having voted in the affirmative, and 5 Senators in the negative, the Motion to table does prevail.

The Chair laid before the Senate:
Bill, "An Act to Reorganize the System of Public Post-secondary Education in Maine." (S. P. 95) (L. D. 219)

Tabled — May 6, 1977 by Senator Speers of Kennebec

Pending — Consideration

On Motion of Mr. Speers of Kennebec,
Retabled and specially assigned for Monday next.

The President laid before the Senate:
House Report — from the Committee on Election Laws — Bill, "An Act to Require Direct Mailing and Verification of Absentee Ballots and Concerning the Marking of Absentee Ballots." (H. P. 452) (L. D. 557) Leave to Withdraw

Tabled — May 6, 1977 by Senator Katz of Kennebec

Pending — Acceptance of Report

On Motion of Mr. Katz of Kennebec,
Recommitted to Committee on Election Laws in concurrence.

The Chair laid before the Senate:
Bill, "An Act Relating to Location of State Liquor Stores." (H. P. 1123) (L. D. 1341)

Tabled — May 6, 1977 by Senator Pierce of Kennebec

Pending — Enactment

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

The President laid before the Senate:

House Reports — from the Committee on Liquor Control — Bill, "An Act to Establish a 12% Discount for State Agency Stores." (H. P. 828) (L. D. 1001) Majority Report — Ought Not to Pass; Minority Report — Ought to Pass as Amended by Committee Amendment "A" (H-276)

Tabled — May 9, 1977 by Senator Conley of Cumberland

Pending — Motion of Senator Lovell of York to accept Majority Report

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

Mr. LEVINE: Mr. President, I think every Member of this Senate should understand this very well. We spend a good deal of time on this in Committee, and I think perhaps you should take a look at the Amendment.

When we are speaking of the 12 percent dis-

count for State agency stores, I am afraid that that 12 percent is misrepresented. That in effect was less than 10 percent.

We have amended it to 14 percent, which in effect, because of the tax situation and the way they compute it, actually gives the State Agency Stores 11 percent, and that sounds like a great deal of profit to most of us in this room. I would like to make 11 percent net profit, but that is not net profit. That is gross profit.

You have to remove from that overhead expenses, you have to remove rent, lights, heat, payment to employees, shelf space, and everything else that goes with it. Now at present in the State of Maine the law stipulates that they will be allowed 10 percent, and because of the way they compute it they actually are getting 8 percent. It seems very low to me. It seems very low to many members of the Committee. And it certainly seems very low to the owners of the stores.

The fact was brought out that at present time we have many good people that run these Agency Stores. They are honest people. They are straight. They only sell during hours. I do not know of a case where any of them have been caught for selling after hours, or selling during hours when they are supposed to be closed. I do not recall of an instance where anyone is selling to minors or anything of this sort.

Unfortunately, these people cannot continue to do business profitably at 8 percent, and if they leave the business, then who will get the State Agency Stores. Those people that get them will very likely be people that also want to realize a profit, and finding that they cannot may soon begin to sell after hours and create a great many problems.

Now there is a fiscal note here, and it says that there will be a loss of revenue to the State. Well, the State Agency Stores are making money for the State. They are not losing money for the State. So saying there is going to be a loss of revenue is like me standing here and saying — well, I should not use myself as an example, I do not make this amount of money, — but at any rate someone standing here and saying, gee, I am going to lose \$50,000.00 this year. I wanted to make \$100,000.00 and I only made \$50,000.00, so, therefore, I lost \$50,000.00. I think the fiscal note is improper in the way that it is written. It is not in fact a loss to the State. It is not as great a gain in revenues, but it is not a loss.

Therefore, I oppose the Motion of the good Senator from York, Senator Lovell, that the Majority Report be accepted, and I request the vote be taken by the yeas and nays.

The PRESIDENT: A Roll Call has been requested.

The Chair recognizes the Senator from York, Senator Lovell.

Mr. LOVELL: Mr. President and Members of the Senate, this is not a terrifically important Bill; however, you find you must sign a Bill one way or another if you are on a Committee, and if you are the Chairman of the Committee you have to defend your position.

Now the State has allowed 30 independent stores to sell liquor besides the 78 stores that we have in the State of Maine. Consequently, the 30 stores that we have allowed to sell liquor, are allowed 8 percent net profit, or 8 percent profit on the actual sales that they make on their product. Now every one of these 30 stores went into this knowing what the profit was. They went into it in many cases because the Liquor Commission had cut the appropriation some \$400,000.00 for the Liquor Commission, and consequently they threw out two liquor stores in Saco and established liquor in Shaw's Super Market there.

But the Commissioner of the Alcoholic Beverages, the Commissioner is only permitted 30 stores, and he has a hundred stores waiting. So if, and there will probably be three or four

stores that will have to drop out that thought they was going to do well on 8 percent. I understand, they started up a liquor store in Southwest Harbor, and all they sell is liquor and potato chips and a few things like that. Naturally they cannot make a living.

However, there is still a hundred waiting to step right in, so we are still going to lose \$112,000.00 over the coming year, and in addition to that we have an agreement with the Liquor Commission, the Liquor Control Committee will meet shortly and go over this, but the Liquor Control Commission cannot open any more stores, grocery stores for selling liquor, other than the 30 they have, without a vote of the Liquor Control Committee, and we will bring this up at a later date, and possibly the Committee will give them 30 or 60 more stores.

To me, this is a loss of \$112,000.00, and these people went into this with their eyes wide open, just as I did when I went into business.

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

Mr. MARTIN: Mr. President, I request to be excused from voting because of a conflict of interest.

The PRESIDENT: The Senator from Aroostook, Senator Martin, requests that when the vote is taken, that he be granted leave to refrain from voting because of the appearance of a possible conflict of interest. Is it the pleasure of the Senate to grant this leave? It is a vote.

The Chair recognizes the Senator from York, Senator Danton.

Mr. DANTON: Mr. President and Members of the Senate, I am very familiar with this Agency Store concept. First, I would like to say I have four Agency stores in the City of Saco and the Town of Scarborough. There is two in each.

When we talk about profit, let me explain to you the problems that these stores are having, and this goes from real small Agency Liquor Stores; to Shaw's Super Market. We allowed them 8 percent two years ago. The reason we allowed them 8 percent is because the Director of Alcoholic Beverages was using that as a figure that he would close State Liquor Stores.

Now we tabled a Bill today, the good Senator from Kennebec, Senator Pierce, tabled a Bill today that before the State Liquor Commission could close a liquor store, it would have to exceed 15 percent. So immediately we are saying that this Bill has come all the way up to enactment stage, saying that our State Liquor Stores should be allowed 15 percent, or more than 15 percent before we close it and say they are not making any profit.

Now here is what has happened in Saco. Shaw's and another store combined can not do the volume of business that our one State Liquor store used to do there. Shaw's does about \$6,000.00 a week in sales, liquor sales. 8 percent of that is \$480.00. They have two and a half employees there. Immediately that tells you that the labor costs eats up that \$480.00. If you take and assess, and they do this in big super markets, you take and assess what they pay for rent per square footage in that particular department, every week they are running in the red. The smaller store does somewhere in the vicinity of about \$2,500.00. So, again, if you take 8 percent of that, you can see that that store is not making it, when you talk about labor costs and what have you. Of course, that is a family unit, and, therefore, along with the other chores that they do in the store, they are glad to have the Agency Store there, as the good Senator says, but they are not making a profit.

Now the 29 stores that we presently have are good, solid, clean businessmen. They are not the type that will go to New Hampshire or to our State Liquor Store in Kittery and buy four or five cases of liquor at the discount price, and put it on their shelves and realize a profit. They

are clean businessmen. If we want clean businessmen in the Agency Store concept, then we should give them a profit. I think they are entitled to that.

Getting to the \$112,000.00 that is listed as a loss. I think that the Senator from Kennebec, Senator Levine, spelled it out very nicely. Just two months ago the Director of Alcoholic Beverage had in the newspaper where the State realized a bonanza from the Agency Stores, — a \$2.5 million profit that they never realized before. So what we are saying is instead of them making \$2.5 million, they are going to make \$2.4 million. That is what we are saying.

Now these operators need some assistance, and they went into it with their eyes wide open, but they thought that they would be able to do the volume. Like I said earlier, they are just not doing the volume. For some unknown reason, they prefer to go to State Liquor Stores.

Now the Liquor Control Committee has limited the Stores that the State can open to 30. We did that a year and a half ago, just so we could see exactly where we were going with this concept. Since then, and this happened about three weeks ago, the State Liquor Commission has ordered these Agency Liquor Stores that they can no longer go to the State Liquor Store and buy their liquor, and that they have to order their liquor every two weeks. Now when we talk about a two week liquor order, it is anywhere in the vicinity of 35 to 40 cases. The average case of liquor, the average when you take from the lowest to the highest, is about \$40.00 a case. So you are talking about \$1,600.00 that they have to come up with to buy their two week liquor supply, and out of that entire liquor order they are allowed 10 percent of that order to be in split cases, to buy half case lots. So we are talking not of all Shaw's Super Markets, we are talking about the small independents, and some have told me that they have to go to the Bank and have a constant loan of \$2,000.00 every month running just to keep their supply going in, because, you know, when they buy liquor from the State Liquor Commission, they have to pay cash on delivery. It is not a credit. They pay cash.

I would hope that you would not accept the Majority Ought Not to pass Report, and, in fact, I would like to speak on that Report. I was almost sure when I left the Liquor Control Committee that the Report out of that Committee was the Majority Ought to Pass Report on this particular Bill, but obviously something went wrong.

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

Mr. PIERCE: Mr. President and Members of the Senate, having served with the good Senator from York, Senator Danton, on that committee last Session, we gave birth to the Agency Stores rather reluctantly. We were not sure whether or not they were going to work out well for the State of Maine. Therefore, we did make an agreement that they would not open more than 30 until we could see how they were working.

I am not surprised that there is a Bill in this Session to raise the percentage up to 12 percent. I think there was also another one in to raise it to 15 percent, and I am sure next Session there will be some to raise it up farther than that.

Right now with 30 some odd Agency Stores in the State of Maine, it may be politically possible for us to turn down this request. As they open up 30 more or 60 more over the next couple of years, I think you are going to see the politics change, and there will be enough pressure put on from local owners so that we will not be able to turn them down.

In the meantime, I think we absolutely should accept the Majority Ought Not to Pass Report. There are literally hundreds of applications now on file with the Liquor Commission requesting these stores at 8 percent. Now to me it

does not make much sense for us, when there are all of these people who want them at 8 percent, that we should with our tight revenues put that percentage to over 11.

Thank you.

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

Mr. MINKOWSKY: Mr. President, I was very much impressed with the very thorough explanation Senator Danton presented to this Body, of throwing about \$2.5 million into the State coffers, while denying the small businessman a reasonable profit.

I would like to pose a question through the Chair to any member of the Liquor Control Committee, as to whether they have any idea what the mark-up is by the Liquor Commission on a bottle in the State of Maine.

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

Mr. LOVELL: Mr. President, the mark-up on liquor in the State of Maine at the present time is 75 percent. That is why we make \$24 million a year on \$48 million worth of sales, and we want to hold that \$24 million a year, and I think, I feel sorry definitely for the people that took this on at 8 percent. I would not even think of taking on 8 percent. In the drug business I had to make 15 percent or 16 percent gross profit or I could not survive, and I still had the lowest prices in the State of Maine. But I do not understand why these fellows took it on, but if they took it on, the Lord Bless them, let them keep it. But if they do not want it, let them drop it and somebody else can take their place. I cannot see the State losing the revenue at this time. We need it badly.

(Off Record Remarks)

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

Mr. DANTON: Mr. President and Members of the Senate, there is no doubt in my mind that there may be hundreds of applications for people to get into these Agency Liquor Stores. But we want to be very careful who we put into an Agency Liquor Store. Right now we have 30 very, very good people operating these businesses. There has not been one violation by any one of these operators, so when we talk about having plenty of applicants, maybe raising the drinking age to 20 is not enough. We might have to raise it up to 30. Let us be very careful who we get into the liquor business.

I think they are entitled to a fair profit.

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

Mr. JACKSON: Mr. President and Members of the Senate, as you are all aware, I am a small businessman, and I would not have anything, except for milk, that I would sell under 8 percent.

Let me enlighten you to the other alcoholic beverages that we sell in the State. We will take beer, for example, — we make anywhere from 19 percent to 22 percent on beer. On wine, we make anywhere from 20 percent to 28 percent. It is expensive to do business. The cost of overhead is very high.

I think the good Senator from York, Senator Danton, explained it very well. You allocate say 12 feet of shelf space to wine or to hard liquor or to beer, or to anything that you sell. You have got to get a return on that, because basically that is what you adjust your net profit on.

You take 8 percent, I do not see how anybody can come out with a profit on an 8 percent margin, not even selling the other things that would go with hard liquor, such as potato chips, pop corn, dips or soda. You would still have a hard job making 1 percent, if you combined all of those sales.

I do not think it is unreasonable to give the Agency Stores 12 percent. 12 percent might give them a chance to break even. I think it is a

reasonable request, and I am going to oppose the Motion to accept the Majority Ought to Pass Report.

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

Mr. DANTON: Mr. President and Members of the Senate, there is one more point I thought I should bring out from that hearing.

The Director of Alcoholic Beverages was there that day, and I asked him a question, — Mr. Ingraham, if you operated these 29 stores, would you have realized a \$2.5 million bonanza, or would the State have gone in the hole, and his answer was that they would have lost money.

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

Mr. KATZ: Mr. President, Agency Stores scare me. Liquor is different in a State where it is State controlled, — a monopoly State, so-called, up until recently. I for one would have wanted to keep us a monopoly state. I for one would not have supported any Agency stores.

I think the spectra in the background of this debate was probably best stated by the Senator from Kennebec, Senator Pierce. I predict that as we make Agency Stores more profitable, build up the supply of hundreds of applicants in the background waiting to get ahold of Agency Stores, that the whole thrust will be a reduction of State control on liquor in the State of Maine.

We moved a long way in the last ten years. I predict that at our present rate ten years from now we will not recognize the structure of a State monopoly that we once knew.

I am extremely concerned. \$48 million is a lot of money. And I do not know that I want to see us take in \$50 million, or \$52 million, or \$60 million, and I am not so sure that I want us to promote or hustle a huckster for the sale of booze. We make it available right now, and I am not so anxious to make it profitable for more and more people to get into this business.

On that basis, I shall vote for the Ought Not to Pass Report.

The PRESIDENT: Is the Senate ready for the question?

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

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

The pending question before the Senate is the Motion by the Senator from York, Senator Lovell, that the Senate accept the Majority Ought Not to Pass Report.

A yes vote will be in favor of accepting the Ought Not to Pass Report. A Nay vote will be opposed.

The Secretary will call the Roll.

YEAS — Chapman, Collins, D.; Collins, S.; Cummings, Greeley, Hewes, Hichens, Huber, Katz, Lovell, Pierce, Redmond, Speers, Trotzky.

NAYS — Carpenter, Conley, Curtis, Danton, Farley, Jackson, Levine, Mangan, McNally, Merrill, Minkowsky, Morrell, O'Leary, Pray, Snowe, Usher, Wyman.

ABSENT — None.

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

Mr. WYMAN: Mr. President, May I change my vote from nay to yea.

The PRESIDENT: The Senator from Washington, Senator Wyman, changes his vote from nay to yea.

15 Senators having voted in the affirmative, and 16 Senators in the negative, with one Senator being excused, the Motion to accept the Majority Ought Not to Pass Report does not prevail.

Minority Ought to Pass as Amended Report Accepted in non-concurrence.

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

The President laid before the Senate:

Bill, "An Act to Exclude Sparklers from Prohibition against the Sale of Fireworks." (S. P. 379) (L. D. 1255)

Tabled — May 9, 1977 by Senator Carpenter of Aroostook

Pending — Motion of Senator Conley of Cumberland to Indefinitely Postpone

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

Mr. CONLEY: Mr. President, I ask leave of the Senate to withdraw my Motion to indefinitely postpone.

The PRESIDENT: The Senator from Cumberland, Senator Conley, now requests leave of the Senate to withdraw his Motion to indefinitely postpone this Bill. Is this the pleasure of the Senate to grant this leave? It is a vote.

The Bill was Passed to be Engrossed.

Sent down for concurrence.

The President laid before the Senate:

Bill, "An Act Relating to the Payment of the Cost of Constructing a Pumping Station, Fire Hydrant and a Water Main for the New Stockton Springs Elementary School." (H. P. 971) (L. D. 1168)

Tabled — May 9, 1977 by Senator Speers of Kennebec

Pending — Motion of Senator Katz of Kennebec to Reconsider failure of Enactment

The PRESIDENT: Is it the pleasure of the Senate to reconsider its action whereby this Bill failed enactment? It is a vote.

This being an emergency measure and having received the affirmative votes of 31 Members of the Senate, was Passed to be Enacted, and having been signed by the President, was by the Secretary presented to the Governor for his approval.

The President laid before the Senate:

Bill, "An Act to Dissolve Vocational Region 9 and to Establish a Vocational Center to Serve Northern Oxford County. (Emergency) (H. P. 1113) (L. D. 1372) which was tabled earlier in today's Session by the Senator from Kennebec, Senator Katz, pending the Motion of the Senator from Oxford, Senator O'Leary, that the Senate indefinitely postpone Committee Amendment "A".

On Motion of Mr. Katz, of Kennebec, Retabled One Legislative Day.

(Off Record Remarks)

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