

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

***One Hundred and Eighth
Legislature***

OF THE

STATE OF MAINE

Volume II

May 26, 1977 to July 25, 1977

Index

**Senate Confirmation Session
September 16, 1977**

Index

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AUGUSTA, MAINE

SENATE

Friday, June 17, 1977

Senate called to Order by the President.
Prayer by the Honorable Andrew Redmond of North Anson.

Mr. REDMOND: Heavenly Father, may we acquire strength through unity. May Your divine guidance keep us strong, give us purpose, and make this day one of achievement.

Amen.
Reading of the Journal of yesterday.

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

Bill, "An Act Creating the Maine Capital Corporation." (H. P. 1011) (L. D. 1250)

In the Senate June 13, 1977 Passed to be Engrossed in concurrence.

Comes from the House, Passed to be Engrossed as amended by House Amendment "A" (H-633) in non-concurrence.

On Motion of Mr. Collins of Aroostook, The Senate voted to recede and concur.

Non-concurrent Matter

Bill, "An Act Concerning Euthanasia of Cats and Dogs." (S. P. 333) (L. D. 1092)

In the Senate June 10, 1977 Passed to be Engrossed as amended by Committee Amendment "A" (S-213).

Comes from the House, Passed to be Engrossed as amended by Committee Amendment "A" as amended by House Amendment "A" (H-667) thereto, in non-concurrence.

On Motion of Mr. Hichens of York, The Senate voted to recede and concur.

Non-concurrent Matter

Bill, "An Act Relating to Discharges, Emissions and Leakages from Nuclear Generating Facilities." (H. P. 1382) (L. D. 1662)

In the House June 13, 1977, Passed to be Engrossed as amended by Committee Amendment "A" (H-550).

In the Senate June 14, 1977 Minority 'Ought Not to Pass' Report Read and Accepted, in non-concurrence.

Comes from the House, that Body having Insisted.

On Motion of Mr. Trotzky of Penobscot, The Senate voted to adhere.

Non-concurrent Matter

Bill, "An Act to Expedite Court Handling of Fish and Wildlife Violations of a Misdemeanor Nature by a System of Convenient Payment." (H. P. 865) (L. D. 1053)

In the House June 14, 1977 Passed to be Engrossed as amended by House Amendment "A" (H-609).

In the Senate June 16, 1977 Passed to be Engrossed, in non-concurrence.

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

On Motion of Mr. Pray of Penobscot, The Senate voted to adhere.

Communication

Committee on Veterans and Retirement
June 15, 1977

The Honorable Joseph Sewall
President of the Senate
State House
Augusta, Maine 04330
Dear President Sewall:

The Committee on Veterans and Retirement is pleased to report that it has completed all business placed before it by the first regular session of the 108th Maine Legislature.

Total Bills Received	31
Unanimous Reports	17
Leave to Withdraw	6
Ought Not to Pass	3
Ought to Pass	1

Ought to Pass in New Draft	2
Ought to Pass as Amended	5
Divided Reports	14
Total Number of Amendments	8
Total Number of New Drafts	2

Respectfully,

Signed:
SAMUEL W. COLLINS JR.
Senate Chairman
Which was Read and Ordered Placed on File.

The PRESIDENT: The Chair at this time would ask the Sergeant-at-Arms to escort the Senator from Penobscot Senator Pray, to the rostrum to act as President Pro Tem.

Whereupon, the Sergeant-at-Arms escorted Mr. Pray of Penobscot to the Rostrum where he assumed the duties of President Pro Tem, and the President retired from the Senate Chamber.

**Committee Reports
House**

Divided Report

The Majority of the Committee on Education on, Bill, "An Act Relating to Approving and Financing School Construction." (Emergency) (H. P. 477) (L. D. 583)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-559).

Signed:

Senators:

KATZ of Kennebec
PIERCE of Kennebec
USHER of Cumberland

Representatives:

LEWIS of Auburn
BEAULIEU of Portland
PLOURDE of Fort Kent
BAGLEY of Winthrop
WYMAN of Washington
MITCHELL of Vassalboro
CONNOLLY of Portland
LYNCH of Livermore Falls

The Minority of the same Committee on the same subject matter Reported that the same Ought to Pass as amended by Committee Amendment "B" (H-560).

Signed:

Representatives:

BIRT of East Millinocket
FENLASON of Danforth

Comes from the House, the Bill Passed to be Engrossed as amended by Committee Amendment "A" as amended by House Amendment "A" (H-677) thereto.

Which Reports were Read.

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

Mr. KATZ: Mr. President, I would like to call the Senate's attention to this Bill for two reasons. In the first place, it is a major piece of Legislation which has implications for most communities in the State, and, secondly, because there will be a significant cost attached to it. School construction has been under a moratorium since the last Legislative Session, and this Bill would seek to raise the moratorium.

The two Committee Reports are not really that different. One of them involves essentially a five percent local contribution, and the other a ten percent local contribution. As I recall, Committee Amendment "A" with the names of all three Senators is the one with the five percent local contribution.

The Bill, as amended, also addresses itself to the need for energy efficient buildings, and you will notice the House Amendment actually builds in an Energy Conservation and Building Act. I must confess that this is the first time I have seen House Amendment "A" as it appears on the calendar this morning, and because I would like the Senate to have a chance to look at the Bill and to raise any questions they might, I

would hope that the Majority Leader might table this for one legislative day prior to accepting either Committee Report.

On motion of Mr. Conley of Cumberland, Tabled for one legislative day, pending the acceptance of either report.

Divided Report

The Majority of the Committee on Judiciary on, Bill, "An Act to Specify the Grounds and Procedures Whereby a Residential Tenancy at Will may be Terminated." (H. P. 328) (L. D. 419)

Reported that the same Ought Not to Pass.

Signed:

Senators:

COLLINS of Knox
CURTIS of Penobscot
MANGAN of Androscoggin

Representatives:

SPENCER of Standish
GAUTHIER of Sanford
DEVOE of Orono
SEWALL of Newcastle
TARBELL of Bangor
BENNETT of Caribou

The Minority of the same Committee on the same subject matter Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-632).

Signed:

Representatives:

HUGHES of Auburn
HOBBINS of Saco
NORRIS of Brewer
HENDERSON of Bangor

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

Which Reports were Read.

Majority Ought Not to Pass Report accepted in concurrence.

Divided Report

The Majority of the Committee on Performance Audit on, Bill, "An Act Relating to Municipal General Assistance Programs." (H. P. 1359) (L. D. 1696)

Reported that the same Ought to Pass in New Draft under same title. (H. P. 1673) (L. D. 1868)

Signed:

Senators:

MORRELL of Cumberland
MINKOWSKY of Androscoggin
WYMAN of Washington

Representatives:

LIZOTTE of Biddeford
AUSTIN of Bingham
AULT of Wayne
BERUBE of Lewiston
DOW of West Gardiner
SHUTE of Stockton Springs

The Minority of the same Committee on the same subject matter reported that the same Ought to Pass in New Draft under same title. (H. P. 1674) (L. D. 1869)

Signed:

Representatives:

BENOIT of South Portland
BRENERMAN of Portland
WILFONG of Stow

Comes from the House, the Bill, in New Draft, (H. P. 1673) (L. D. 1868) Passed to be Engrossed as amended by House Amendment "B" (H-666).

Which Reports were Read.

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

Mr. MORRELL: Mr. President, I move that the Senate accept the Majority Ought to Pass in New Draft Report.

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

Mr. MERRILL: Mr. President, if I understand the Motion, it would put us out of con-

currence with the other Body. I wonder if the mover could just speak to the Motion and tell briefly what it would do.

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

Mr. MORRELL: Mr. President, my understanding was that my motion covered concurrence with the House.

The PRESIDENT Pro Tem: The Chair would advise the Senator he is correct.

Majority Ought to Pass in New Draft Report accepted in concurrence.

The Bill (H. P. 1673) (L. D. 1868) Read Once. House Amendment "B" Read and Adopted, and the Bill, as amended, Tomorrow Assigned for Second Reading.

Senate

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

Bill, "An Act Providing Binding Arbitration for Certain Public Employees." (S. P. 223) (L. D. 703)

Leave to Withdraw

Mr. Pray for the Committee on Fisheries and Wildlife on, Bill, "An Act to Require Annual Renewal of Watercraft Certificates of Number and to Distribute Two-fifths of the Fee for Application or Renewal of a Certificate of Number to Municipalities." (S. P. 356) (L. D. 1181)

Reported that the same be granted Leave to Withdraw.

Which Report was Read and Accepted.
Sent down for concurrence.

Ought to Pass — As Amended

Mr. O'Leary for the Committee on Veterans and Retirement on, Bill, "An Act to Protect the State Retirement System from the Cost of Abnormal Disability Claims." (S. P. 428) (L. D. 1486)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (S-269).

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

Mr. Collins for the Committee on Judiciary on, Bill, "An Act to Provide a Mandatory Rehabilitation Program for Minors who Violate the Motor Vehicle Laws while under the Influence of Intoxicating Liquor." (S. P. 3) (L. D. 6)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (S-271).

Which was Read.

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

Mr. COLLINS: Mr. President, I have had some questions about changes in this Bill, and you may recall earlier in the Session the Driver Rehabilitation Course for those convicted of operating under the influence was transferred in its jurisdiction over to the Department of Human Services. It is the same program.

The use of the program has proved to be beneficial in alerting people to the dangers of alcohol and driving. It has been used partly on a mandatory basis for the offenders and partly on a voluntary basis, with the carrot being that you could apply to get your license back sooner if you completed the course. The original bill called for this to be applied on a mandatory basis to juveniles, the idea being to get at the youngsters while they were in the very first experience of using alcohol and driving.

We decided that it would be best if this was made a mandatory program for all first of-

fenders, and this is the import of the Committee Amendment. The program would continue as it has in the past, but with broader application to all first offenders.

Which Report was accepted.

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

Mr. Curtis for the Committee on Judiciary on, Bill, "An Act to Implement the Recommendations of the Pomeroy Commission on Medical and Hospital Malpractice Insurance." (S. P. 205) (L. D. 727)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (S-270).

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

Second Readers

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

House

Bill, "An Act Relating to Judicial Review of Public Utilities Commission Decisions." (H. P. 226) (L. D. 290)

Which was Read a Second Time.

On Motion of Mr. Speers of Kennebec, Tabled for One Legislative Day, Pending Passage to be Engrossed.

Bill, "An Act Concerning the Fees for Filing Municipal Tax Liens." (Emergency) (H. P. 1724) (L. D. 1884)

Which was Read a Second Time.

On Motion of Mr. Speers of Kennebec, Tabled for One Legislative Day, Pending Passage to be Engrossed.

Bill, "An Act to Improve the Juvenile Judicial System by Authorizing Juvenile Court Intake Workers in the Department of Mental Health and Corrections." (H. P. 1035) (L. D. 1266)

Bill, "An Act Concerning Recovery of Damages by the Consumer." (H. P. 1303) (L. D. 1541)

Bill, "An Act to Require Speedy Disposition of State Employee Classification Requests." (H. P. 1392) (L. D. 1610)

Bill, "An Act Relating to Regulation of Traveling Shows." (H. P. 1722) (L. D. 1883)

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

Bill, "An Act to Provide for the Licensing of Denturists." (H. P. 1689) (L. D. 1877)

Which was Read a Second Time.

On Motion of Mr. Speers of Kennebec, Tabled for One Legislative Day, Pending Passage to be Engrossed.

Bill, "An Act to Establish Procedures to Record Judgment in Registry of Deeds to Create a Lien on Debtor's Real Estate." (H. P. 1656) (L. D. 1854)

Bill, "An Act Relating to Habitual Truants and School Dropouts." (H. P. 1650) (L. D. 1851)

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

Sent down for concurrence.

House — As Amended

Bill, "An Act Concerning Weekly Benefits Paid to Persons who are Partially Unemployed." (H. P. 125) (L. D. 158)

Bill, "An Act to Establish Limits for Elderly Householders' Tax and Rent Refunds." (H. P. 952) (L. D. 1146)

Bill, "An Act Authorizing the Board of Osteopathic Examination and Registration to Establish Rules and Regulations for Physicians' Assistants, Supervising Physicians and other Delegated Physicians." (H. P. 269) (L. D. 346)

Bill, "An Act to Provide for the Restrictive Licensing of Certain Financial Institutions." (H. P. 474) (L. D. 580)

Bill, "An Act Appropriating Funds to the Department of Human Services for Emergency Medical Training of Ambulance and Rescue Personnel." (H. P. 587) (L. D. 714)

Bill, "An Act Concerning Displaced Homemakers." (H. P. 700) (L. D. 842)

Bill, "An Act Relating to Music, Dancing or Entertainment." (H. P. 875) (L. D. 1068)

Bill, "An Act to Require Housing Authorities and Other Agencies to Submit Annual Reports about Housing Programs." (H. P. 1325) (L. D. 1642)

Bill, "An Act Creating a Maine State Board for Registration of Architects and Landscape Architects." (H. P. 1390) (L. D. 1733)

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

Bill, "An Act to Amend the Insurance Laws Regarding Licensing Procedures for Agents of Fraternal Benefit Societies." (H. P. 807) (L. D. 983)

Which was Read a Second Time.

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

Mr. FARLEY: Mr. President, I move the Senate reconsider its action whereby it adopted Committee Amendment "A".

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

The Chair recognizes the same Senator.

Mr. FARLEY: Mr. President, I now offer Senate Amendment "A" (S-265) and move its adoption.

The PRESIDENT Pro Tem: The Senator from York, Senator Farley, now offers Senate Amendment "A" and moves its adoption. The Secretary will read Senate Amendment "A".

Senate Amendment "A" read.

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

Mr. FARLEY: Mr. President and Members of the Senate: this Amendment here merely brings the figure for part-time insurance agents from \$50,000.00 to \$200,000.00. That is all it does.

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

Sent down for concurrence.

Bill, "An Act Relating to the Commitment of Mentally Ill Individuals." (H. P. 1707) (L. D. 1880)

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

Sent down for concurrence.

Senate

RESOLUTION, Proposing an Amendment to the Constitution to Require the State to Reimburse Municipalities for at least 50% of Property Tax Exemption Losses. (S. P. 366) (L. D. 1227)

Which was Read a Second Time.

On Motion of Mr. Merrill of Cumberland, Tabled until later in Today's Session, Pending Passage to be Engrossed.

(See Action Later Today)

Bill, "An Act to Establish the Maine Nonprofit Corporation Act." (S. P. 547) (L. D. 1885)

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

Sent down for concurrence.

Senate — As Amended

Bill, "An Act Concerning the Blue Sky Law."

(S. P. 200) (L. D. 598)

Which was Read a Second Time.

On Motion of Mr. Speers of Kennebec,

Tabled Passage to be Engrossed.

Bill, "An Act to Require Adequate Polling Facilities in Municipalities." (S. P. 445) (L. D. 1535)

Which was Read a Second Time.

On Motion of Mr. Speers of Kennebec,

Tabled for One Legislative Day, Pending Passage to be Engrossed.

Bill, "An Act Relating to the Licensure of Plumbers." (S. P. 256) (L. D. 813)

Which was Read a Second Time.

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

Mr. PIERCE: Mr. President, I now offer Senate Amendment "A" (S-273) and move its adoption. The purpose of this Amendment is to strike out a section of the bill which all members of the Committee and everyone concerned with the Bill wanted struck out from it originally, and inadvertently in the New Draft it was not omitted, and this cleans up that section.

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

Senate Amendment "A" Read and Adopted.

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

Sent down for concurrence.

The PRESIDENT Pro Tem: The Chair at this time would ask the Sergeant-at-Arms to escort the President to the Rostrum.

Thereupon, the Sergeant-at-Arms escorted the President to the Rostrum, and the Senator from Penobscot, Senator Pray, to his seat on the floor of the Senate.

The PRESIDENT: The Chair thanks the Senator from Penobscot, Senator Pray for doing a nice job his first time on the Rostrum.

Enactors

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

"An Act to Provide for the Immediate Issuance of Food Stamps for Needy Families." (S. P. 531) (L. D. 1853)

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

Orders of the Day

The President laid before the Senate: Bill, "An Act to Extend Collective Bargaining Rights to County Employees." (H. P. 1278) (L. D. 1509)

Tabled — June 16, 1977 by Senator Jackson of Cumberland

Pending — Passage to be Engrossed

Passed to be engrossed in concurrence as amended.

The President laid before the Senate:

Bill, "An Act Recognizing County Charters and Establishing County Charter Commissions." (S. P. 437) (L. D. 1648)

Tabled — June 16, 1977 by Senator Mangan of Androscoggin

Pending — Passage to be Engrossed

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

Mr. MANGAN: Mr. President, I present Senate Amendment "A" (S-266) and move its adoption.

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

Senate Amendment "A" read and Adopted.

The Bill, as amended, passed to be Engrossed.

Sent down for concurrence.

(See Action Later Today)

The President laid before the Senate:

House Reports — from the Committee on Election Laws — Bill, "An Act Concerning Registration on Election Day." (H. P. 159) (L. D. 197) Majority Report — Ought to Pass in New Draft under same Title. (H. P. 1664) (L. D. 1864) Minority Report — Ought to Pass, in New Draft under same Title. (H. P. 1665) (L. D. 1865)

Tabled — June 16, 1977 by Senator Speers of Kennebec

Pending — Motion of Senator Danton of York to accept Majority Report.

On Motion of Mr. Speers of Kennebec,

Retabled until later in Today's Session.

(See Action Later Today)

The President laid before the Senate:

House Report — From the Committee on Human Resources — Bill "An Act to Establish a Bill of Rights for Mentally Retarded Persons." (H. P. 1473) (L. D. 1735) Ought to Pass as Amended by Committee Amendment "A" (H-631)

Tabled — June 16, 1977 by Senator Hichens of York

Pending — Acceptance of Report

On Motion of Mr. Lovell of York,

Retabled until later in Today's Session.

(See Action Later Today)

The President laid before the Senate:

Bill, "An Act to Allow Escape of Sublegal Lobsters from Lobster or Crab Traps." (H. P. 944) (L. D. 1139)

Tabled — June 16, 1977 by Senator Huber of Cumberland

Pending — Enactment

On Motion of Mr. Chapman of Sagadahoc.

Retabled for One Legislative Day.

The President laid before the Senate:

House Reports — from the Committee on Marine Resources — Bill, "An Act to Prohibit Otter Trawling for Scallops in the Penobscot River." (H. P. 1147) (L. D. 1381) Majority Report Ought Not to Pass; Minority Report — Ought to Pass.

Tabled — June 16, 1977 by Senator Speers of Kennebec

Pending — Acceptance of Either Report

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

Mr. CHAPMAN: Mr. President, I move we accept the Majority Ought Not to Pass Report.

Mr. President and Members of the Senate: Some of the issues that we treat in the Marine Resources Committee are very interesting and you end up feeling like you are between the rock and the hearth place, and with some very difficult decisions to make.

There were several bills introduced which addressed the fisheries on scallops, as to how they should be taken. They ranged from allowing unlimited drags to eight-foot drags, to four-foot drags, to limiting where different size drags could be used, where other sizes could be used, and wherever you draw a dividing line between one limit and another, you have great contention between the fishermen on either side of this line who like to cross over and so on.

The basic thrust of these bills is for conservation, to conserve the resource. The specific bill, as we have here, prohibits the use of otter trawling for scallops in the Penobscot River in a section there where the bottom ground is very conducive to dragging, and a couple of years ago when the price of scallops was high and so on, some very large numbers of draggers went into this part of the river, some of them using very large drags and really cleaned out the

scallops. This bill is attempting to prevent this from happening in the future.

But there are a lot of ways to handle the conservation of scallops. They vary from limiting the length of the drag as a conservation measure. They can also limit the size of the rings that are in the drag; the larger the rings, then they will allow the smaller scallops to slip through and remain on the ocean floor. Consideration of closed seasons to allow only for the taking of scallops at certain times of the year, or closing out certain areas from fishing certain times of the year, to establishing quota. The problem is a very large one in scope.

The position of the Committee and of the Department of Marine Resources basically has been that we should take a broad over-all view of this whole issue, rather than go at it piecemeal, to get an intelligent resource conservation picture for the fisheries. Consequently, because of the very divided feeling of the fishermen on the issues presented to address this conservation subject, all but one were withdrawn. This one Bill was not withdrawn, and so it is before us. The majority of the Committee felt that we should Ought Not to Pass this Bill so we could treat the entire picture as a whole.

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

Mr. HEWES: Mr. President, I would respectfully urge you to vote against the pending motion to accept the Ought Not to Pass Report. This is the first bill from Marine Resources that I have debated against the Chairman of this Committee, whom I respect very much, and the differences, I think, he would prefer a broad over-all study of the entire Maine coast from Kittery to Lubec or Passamaquoddy Head, whereas to these particular people who fish in this area, and I understand it could be 50 to 60 to 70 fishermen that fish in Penobscot Bay, this is urgent to them right now and requires action right now.

As I understand the floor of Penobscot Bay is smooth, whereas much of the coast of Maine, as you can imagine, is rocky under the water, so that in this particular area these gigantic otter trawls can be utilized. Now an otter trawler, I guess, is a great dragging instrument that goes on the floor of the Bay, and it can be as wide as 50 or 60 or 70 feet wide, and these great otter trawls drag along the bottom of the Bay and the floor of the river, and, of course, turn over every living thing that is there, plant and animal life, and the local fishermen, as I say, of whom there are, I understand, 50 or 60 or perhaps 70, once these gigantic otter trawls have gone through, there is nothing there for them to fish.

This particular bill would prohibit these gigantic 50 or 60 foot wide trawls from dragging along the floor of the Penobscot Bay, so I would hope that you would vote against the Ought Not to Pass Report, so that you could then vote for the Minority Ought to Pass Report. I submit that the local fishermen in Penobscot Bay, Waldo County and Hancock County, know what is best for them, and that we people, say, down in Cumberland County should not be telling the fishermen in Hancock County what they should be having. They know what they want. They want this Bill, and I hope that you will vote accordingly.

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

Mr. McNALLY: Mr. President and Members of the Senate: I am very glad that the good Senator from Sagadahoc admitted that the Marine Resources did nothing to preserve the scallops in Penobscot Bay, and since I am the Senator that represents the town of Castine and Stockton, which is bordered by Verona Island, and has fishermen that has depended on the scallop fishing to make part of their living, I hope that you do not vote for the Ought Not to

Pass, but that this Bill can be passed to perhaps let the scallops grow back again, if possible, if they ever will, and surely do away with these enormous trawls that this Bill would let still be used.

I ask for a Division.

The PRESIDENT: A Division has been requested.

The Chair recognizes the Senator from Waldo County, Senator Greeley.

Mr. GREELEY: Mr. President, we need some kind of legislation down there to protect the scallop beds, and I think this legislation might serve the purpose. Of course, it is a little late, after these big trawlers come in and clean out the bottom, but we have got to ease up down there a little bit to get the scallops back into production. You heard a lot about Penobscot Bay scallops, and they are quite delicious.

Now, I would like to bring out that these otter trawls from 30 to 70 feet in width, and they really do quite a job. I also would like to bring out down Blue Hill Bay you cannot use an otter trawl over eight feet wide. Down in Gouldsboro, you cannot use over four feet wide, so the whole situation was, scallops bringing a good price, and these shrimp draggers were outside and they thought they had a good chance to make a dollar, so they come in and cleaned out the scallops in Penobscot Bay, and we really had a lot of comment in the local paper down there and it was quite an issue.

Now I hope we can see a chance to vote against the Ought Not to Pass Report.

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

Mr. CHAPMAN: Mr. President and Members of the Senate: There is a serious situation there. There is no question about it. The Committee realizes that, and the testimony at the hearing pointed this out.

I think it is true and proper to point out though that as far as this particular area in the Penobscot River, the damage has been done. These large trawls did enter this ground, and they did take the scallops. I want to point out, however, that this Bill says that it shall be unlawful to fish or take scallops by the use of an otter trawl, whether it is four feet, eight feet or what ever. So while it will eliminate the large trawls, it will also eliminate any trawling with small trawls.

I think the thrust of the Department and what the Committee realizes that needs to be done, we have to recognize that we have a 200 mile limit law now, and extended jurisdiction of fishery, that we are desirous of encouraging the development of our fisheries to be more healthy, more self-sustaining and more profitable. How do you do it? Certainly one of the ways is to encourage our fishermen to get bigger and better vessels, to fish more economically and efficiently, and in order to do that you are basically trying to encourage them to improve their equipment and their fishing capabilities. Are you going to say that no one can trawl for scallops or fish with any big trawls, but you have got to use little ones? Are we trying to protect the small fellow? I think it is important that we consider his plight. It is a very difficult issue to resolve simply.

I think that is why the majority of the Committee basically felt that this issue was a large one and needed to be addressed in the over-all. We certainly did not want to hurt the small fishermen. We do not want to prohibit anyone from improving and becoming larger and more efficient, but we do not want just to arbitrarily say that the large fellows cannot fish at home, they have got to go to the Massachusetts waters and so on to fish. There is a problem in this area. The people sincerely were injured by what happened a couple of years ago, and the Committee understands that, and at the testimony there were opinions on both sides as to what we should do from here. Our Committee

stand basically, the majority, was to look at the situation as a whole.

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

Mr. McNALLY: Mr. President, I would like to inquire through the Chair, are all trawls called otter trawls?

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

Mr. HEWES: Mr. President and Members of the Senate: In response to the Senator's question, all trawls are not otter trawls. Otter trawls are these gigantic ones that are 20, 30, 50 feet wide. As I understand it, this bill in no way affects those small trawls that are perhaps eight feet wide, and if a fisherman wanted to use two of these eight foot wide trawls he could but, what they do not want is to have these gigantic 50 foot wide otter trawls being used.

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

Mr. COLLINS: Mr. President, may I ask if the Department of Marine Resources took a position on this bill?

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

The Chair recognizes the Senator from Sagadahoc, Senator Chapman.

Mr. CHAPMAN: Mr. President, yes, the Department of Marine Resources did take a position. It was neither for nor against. Thus you see some of the problems we have to address this morning.

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

Mr. GREELEY: Mr. President, I guess we all admit the otter trawler is the one that caused the problem in the first place, so if we get this law on the books they may not be back.

The PRESIDENT: Is the Senate ready for the question? The pending question before the Senate is the motion by the Senator from Sagadahoc, Senator Chapman, that the Senate accept the Majority Ought Not to Pass Report of the Committee.

A Division has been requested.

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

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

3 Senators having voted in the affirmative, and 21 Senators in the negative, the motion to accept the Majority Ought Not to Pass Report does not prevail.

Minority Ought to Pass Report accepted in concurrence.

The Bill Read Once, and Tomorrow Assigned for Second Reading.

The President laid before the Senate:

Senate Reports — from the Committee on Election Laws — Bill, "An Act to Permit Voter Registration and Enrollment at the Polls on Election Day." (S. P. 355) (L. D. 1180) Majority Report — Ought Not to Pass; Minority Report — Ought to Pass as Amended by Committee Amendment "A" (S-254)

Tabled — June 16, 1977 by Senator Speers of Kennebec

Pending — Acceptance of Either Report

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

Mr. KATZ: Mr. President, I request the Committee Report be read.

The PRESIDENT: The Secretary will read the Committee Report.

Committee Report Read.

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

Mr. KATZ: Mr. President, I had forgotten that all three Senators had signed the Majority Report, and I wanted to refresh my memory and hopefully yours, too.

The Bill is a very simple one. In the City of Augusta it would mean that voter registration of new voters could take place right at the polls in all eight polling places, and the majority of Committee felt that on election day we had enough confusion without permitting that to happen.

Consequently, I move acceptance of the Majority Ought Not to Pass Report.

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

Mr. MERRILL: Mr. President and Members of the Senate: Now that the Senator from Kennebec has had a chance to refresh his memory and to remind himself again of the Senator from York's case of temporary insanity when he signed out this Report, I would like to explain in a little bit more detail why I think that this bill should pass.

We have two items on our calendar today. One which we have been dodging for a little longer than this one that deals with the question of registration on election day, and this question really probably, if we would do this in an orderly way, would be decided after we decide the other question, because this question, I think, poses a very narrow question to the Legislators here. If we are going to have registration on election days as we presently do, and I am certain that whatever this body does that is where we will end up at the end of this legislative session, the question is, should we have it to be more difficult in the cities to register on election day than it is in the non-city municipalities. Presently, if you live in a small town and you go to register on election day, you vote at the town hall and so you can register and proceed to vote. If you happen to live in the City of Portland, which has 24 voting places, you have to go to City Hall, stand in a line for two or three hours, and that is two or three hours with the help of many, many people who are there working as JP's on a voluntary basis, register and then go to your polling place and possibly stand in line for another hour or two.

What this bill would do, I submit, is lessen the confusion considerably, and that is to allow the people to register where they vote as they do in the cities and towns. If confusion is the only objection of the Senator from Kennebec, Senator Katz, then I submit that allowing the people to register as they do everywhere else, where they vote, and spreading out the numbers of people who are registering on election day, it will lessen the confusion considerably.

I also would like to suggest that when you weigh this against the one argument that has been presented, the confusion factor, and you weigh the possibility of more people voting as a result of the ability to register on election day at the polling place, I think that you see that the trade off is a very good one for those of us who are concerned with making it as possible as possible for everyone to vote, and who are concerned that often times people who are the most likely to be moving in our society and, therefore, need to register again, our younger people and people of the lower economic status, and those are two separate groups, and they obviously overlap, and so with particular regard to protecting the rights of those people I think that it becomes important to make it as easy as possible to register and to make it the same everywhere. I honestly do not know of any valid distinction why it should be easier to register in Cumberland than it should be to register in the City of Portland.

I would hope the Senate would look favorably on this Bill today, and I would urge that when the vote is taken, it be taken by the yeas and nays.

The PRESIDENT: A Roll Call has been requested.

The Chair recognizes the Senator from Penobscot, Senator Trotzky.

Mr. TROTZKY: Mr. President, I hope the

Senate would accept the Ought Not to Pass Report that was signed by the three Senators.

As the Senator from Cumberland, Senator Merrill, mentioned there is total confusion on election day in the big cities, such as Portland and Bangor, and it is my opinion that the only way to eliminate this total confusion is to stop the registration on election day and open those nine or ten days before election day to registration, so that people can come in those days before election day.

One of the problems that we do have in our election laws is that the ten days or so before election day people cannot register, and then all of a sudden election day comes up and people pile into City Hall, at least in Bangor, and I assume in Portland also, and there is total confusion, so I think that another Bill coming up, L. D. 1865, will solve that problem of confusion.

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

Mr. PRAY: Mr. President and Members of the Senate: I think I have just become totally confused in the thinking of the Senator from Penobscot. It was just less than two weeks ago that we stood in here and we discussed about campaigning on election day at registration places, and now he is telling us we should not allow them to register.

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

Mr. KATZ: Mr. President, for a moment I was confused by the fluency of the Senator from Cumberland, Senator Merrill, on this issue, until I refreshed my memory again and found he was the sponsor of this legislation, so I felt that I was a little handicapped.

I want you to picture a ward in your city on election day and there are people who have been good citizens and they are standing in line. They have been registered and perhaps even enrolled, and there they are waiting to vote, and along comes this large group of unregistered people, and they have had ample opportunity to register in the weeks ahead, but they choose to register on election day, and according to law that is their right. But they also have some responsibilities, and by flocking to the polling place, the implication is very, very clear that they delay, to some extent, those who are in line waiting to vote, who have previously registered.

The Committee discussed this again and again, and at great length. We had the benefit of thinking from many election officials around the state, small towns and large towns, and there was from outside of the committee, other than the sponsor, no real support for this, and within the committee and from election officials there was, except as the report indicated, very, very little support.

I urge the Senate to vote for the Majority Ought Not to Pass.

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

Mr. MERRILL: Mr. President, the previous speaker has either revealed his prejudice or shown an unbecoming lapse of memory when he said from outside the committee there was no support. A point of fact, the Democratic Party of the State of Maine through an appointed spokesman testified in favor of the bill, and as much as the previous speaker would like that to be no support, it is a considerable number of individuals.

Let me say also that I was very interested earlier in the session to have handed around to each one of our desks by the previous speaker, the Senator from Kennebec, Senator Katz, an editorial which was entitled No on Instant Voting. You may remember it being handed around, and in this editorial it made mention of the fact that President Carter, being impressed with the record that Maine and a few other states have had in terms of more people being able to vote because of election day registra-

tion, has urged this at a national level, made little mention of that, and then the rest of the editorial, practically the whole two columns that was distributed by Senator Katz, went on to talk about the problems of fraud with election day registration, not through the words of the editorial writer himself, but to a very lengthy quote from Senator James Allen of Alabama, and in this editorial distributed by Senator Katz, Senator Allen made the point that now that the administration is recommending a law whereby people need not register but just present some form of identification, a drivers' license or social security at the election booth and be allowed to vote, the chances of fraud was going to be greatly increased.

Well I found it very interesting that the Senator from Kennebec would choose as his source on this question to be distributed about the Senate, Senator Allen, because Senator Allen, of course, is the most notorious enemy of the right of people to vote in the United States Senate. He was George Wallace's hand picked candidate and he went into the United States Senate, and his first Act was to oppose the Voting Rights Act of 1965 and since then that has been his cause celeb, so I think that the opposition of this has picked a very good spokesman, someone who is trying to make it impossible for everyone to vote in the United States, for everyone except the good citizens if I may use the phrase by the previous speaker.

Let me say that I do not think it is beyond the genius of man, or the genius of woman, whoever is running the polling place, to have two lines, one for the good citizens who registered previously, and one for the, I do not know what we would call the other citizens, maybe the previous speaker can enlighten us, but the other citizens who have not registered previously, who can stand in that line and take care of the problems of registering.

Now let me talk about one more problem that comes up, and it comes up in the City of Portland a great deal, and it bothers me. In the City of Portland we do our best to keep the rolls clean and current, and we put that information, after we get it from the Postal Department, onto a computer. Now I do not know whether I should be angry at the computer or angry at the Post Office, or whether it is a clerical error, but it is a fact that as a result of these efforts many good citizens who have been registered for many, many years come to the polling place and find that their name is not on the list. If this change were to go through, then that good citizen could merely get into the other line and be allowed to vote as he has been allowed to do for many years. In fact, what he has to do now in all too many cases, if he wants to vote, is go to City Hall, stand in line for three hours and then come back to the polling place, and I think you can imagine that with the anger that he feels as a result of not having his name on the roll, it takes a good citizen indeed, or one who is really excited about the people that he has a choice to vote for on the ballot, to go through all that effort, and so I think that this is something that will help with the problems of those people as well, which are more likely to develop in the cities. I suppose, than they are in the smaller areas where it is better known who lives where, because it is a smaller area. I would hope that the Senate would see its way clear to putting this change in order, and if it is later the decision of the Legislature to do away with all voter day registration, well, we can do that, and it will be the same throughout, but if we are going to keep voter day registration, I see no honest and good reason why the City of Bangor and the City of Augusta and the City of Portland should not give to its citizens the same rights as the smaller towns now have, which is to go and register at the place where you vote.

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

Mr. KATZ: Mr. President, I would like to sincerely apologize to the members of the Democratic Party. I really did forget that a spokesman for your party had been at the hearing, although apparently looking at the signatures he was not necessarily speaking for all Democrats, and I am on the horns of a dilemma with respect to that handout I passed around, which quoted Senator Allen from Alabama. My presumption was that being a Democrat he was one of the good guys. I am appalled today to find out the nature of his past record.

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

Mr. MERRILL: Mr. President and Members of the Senate: It has always been my feeling that one should take a close look at the members of his own party before he gives way to the presumption that they are good guys. I followed that procedure with regards to Senator Allen and others. I just wish, even at this late date, that Senator Katz could start to follow that procedure with regards to members of his own party.

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 present 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 Kennebec, Senator Katz, that the Senate accept the Majority Ought Not to Pass Report of the Committee.

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

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

ROLL CALL

YEA — Chapman, Collins, D.; Collins, S.; Cummings, Curtis, Danton, Greeley, Hewes, Hichens, Huber, Katz, Lovell, Mangan, McNally, Minkowsky, Morrell, Pierce, Redmond, Snowe, Speers, Trotzky, Wyman.

NAY — Conley, Levine, Merrill, O'Leary, Pray, Usher.

ABSENT — Carpenter, Farley, Jackson, Martin.

22 Senators having voted in the affirmative, and 6 Senators in the negative, with 4 Senators being absent, the Motion to accept the Majority Ought Not to Pass Report does prevail.

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

Mr. KATZ: Mr. President, I move reconsideration.

The PRESIDENT: The Senator from Kennebec, Senator Katz, having voted on the prevailing side, now moves the Senate reconsider its action whereby it accepted the Majority Ought Not to Pass Report.

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

(Off Record Remarks)

The President laid before the Senate: Bill, "An Act to Prevent the Display of Adult Magazines to Minors." (H. P. 1661) (L. D. 1857) Tabled — June 16, 1977 by Senator Collins of Knox

Pending — Adoption of Senate Amendment "A" (S-256)

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

Mr. COLLINS: Mr. President, I have prepared a substitute Amendment which replaces Senate Amendment "A", and I would like to explain the differences between the two

Amendments so that the Senate may judge its preference.

The Senate Amendment "A" which is before the Body at the moment sponsored by the Senator from Cumberland, Senator Hewes, defines nudity. The Amendment that I would offer is based on the prevention of obscene material on covers that would otherwise be displayed to minors.

Nudity is not necessarily obscene. The attempt to change the wording by speaking about the adult breasts really does not meet the problem. The 16 year old and the 17 year old breast would then become the market place item for those that wanted to use obscene material on covers.

The other morning I was watching the Today television program as I had breakfast, and a physician was demonstrating the procedures for the detection of breast cancer, and the adult female breasts were there. The whole thing was very tastefully done. My feeling was that no one would be offended and no one would call that depiction obscene.

So it depends on the circumstances. The small female child on a magazine devoted to children, parents and children, this sort of thing, an art work in an art magazine, there are many things that may depict nudity which certainly are not obscene, so that is the choice you would be making.

The Amendment that I would offer, if the Amendment sponsored by Senator Hewes is defeated, carefully defines obscene material on the covers of books, magazines, or newspapers, and it goes as far as we can go under the present Supreme Court definition. In order to meet Constitutional criteria, we have to be rather specific and exact, so all the words in here are not the most pleasant words for everyone to read, but if we do not say it this way, we are in danger of not doing what we attempt to do. The substitute Amendment that I am offering (S-272) has been distributed to your desk.

I would move the indefinite postponement of Senate Amendment "A" (S-256) at this time.

The PRESIDENT: The Senator from Knox, Senator Collins, now moves that the Senate indefinitely postpone Senate Amendment "A".

The Chair recognizes the Senator from Cumberland, Senator Hewes.

Mr. HEWES: Mr. President and Members of the Senate: I wish to thank the good Senator from Knox, Senator Collins, for his constructive attempt to provide an alternative to the pending Amendment (S-256). I oppose his Motion to indefinitely postpone that Amendment, however. A little background might be helpful.

As we all know, the first Amendment does provide freedom of speech to everybody. It is a fundamental right, but it is not an absolute right. For example, our Supreme Court, speaking through Justice Oliver Wendell Holmes many years ago, said that a person may not cry fire in a crowded theatre. I think we all agree that there can be a limitation on free speech such as the example used by Justice Holmes. It has been decided by our Courts that obscene speech and photographs, obscene photographs, I should say, are included within the First Amendment provision relating to freedom of speech.

However, our Supreme Court, in 1957, in the case of Roth versus the United States, said that obscenity is beyond the bounds of the First Amendment, freedom of speech provision. Then the question is where does obscenity begin and where does it end? The Supreme Court has gone further and indicated that nudity is not obscenity.

The Amendment that the good Senator from Knox has mentioned that he plans to offer, should this Amendment be defeated, does prohibit obscenity on the covers of magazines, whereas the Amendment before us now does prohibit nudity on the covers. I think that is the basic difference.

Now I submit there are several thousands of people in this State that are upset with the trend that is taking place in the State at the present time in which there are more and more nude pictures, and it is going further and further each year, although now that this bill has come to the floor, in the last few months there has been a retraction and a restriction of displaying nudity by the magazine distributors. I submit that the people of Maine want an Amendment that prohibits nudity, and I hope that you will vote for S-256 and against the pending motion to indefinitely postpone that Amendment, and we can pass a bill that prohibits nudity as defined in S-256, and I do not think it is improper. I think we have that authority. We have the authority to prevent 18 year olds and under, I guess under 20 years of age from drinking. I do not see why we cannot prohibit those under the age of 18 from being faced with the display of nudity, so I think that S-256 is Constitutional, and hope you will vote against the pending motion.

I request a Roll Call on the motion to indefinitely postpone.

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 present in favor of a Roll Call, please rise in their places to be counted.

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

The Chair recognizes the Senator from Cumberland, Senator Merrill.

Mr. MERRILL: Mr. President, as I understand the issue before the Body, it is to indefinitely postpone the Amendment offered by the Senator from Cumberland, Senator Hewes. Is that correct, Mr. President?

The PRESIDENT: The Chair answers in the affirmative.

The Chair recognizes the same Senator.

Mr. MERRILL: Mr. President, I would just like to say that I have reviewed the Amendment drafted by the good Senator from Knox, Senator Collins. I think he has done an excellent job. It is an Amendment that I am anxious to have the chance to support and with that Amendment I could enthusiastically support the Bill, and I would hope the Senate would indefinitely postpone the pending Amendment so that we might get to that.

The PRESIDENT: Is the Senate ready for the question? The pending question before the Senate is the Motion by the Senator from Knox, Senator Collins, that Senate Amendment "A" (S-256) be indefinitely postponed.

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

The doorkeepers will secure the Chamber.

The Secretary will call the Roll

ROLL CALL

YEA — Chapman, Collins, D.; Collins, S.; Conley, Cummings, Curtis, Danton, Farley, Greeley, Huber, Katz, Levine, Lovell, Mangan, McNally, Merrill, Minkowsky, Morrell, O'Leary, Pierce, Pray, Redmond, Snowe, Speers, Trotzky, Usher, Wyman.

NAY — Hewes, Hichens.

ABSENT — Carpenter, Jackson, Martin.

27 Senators having voted in the affirmative, and 2 Senators in the negative, with 3 Senators being absent, the Motion to indefinitely postpone Senate Amendment "A" does prevail.

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

Mr. COLLINS: Mr. President, I offer Senate Amendment "B" (S-272) and move its adoption.

The PRESIDENT: The Senator from Knox, Senator Collins, now offers Senate Amendment "B" and moves its adoption. The Secretary will read Senate Amendment "B".

Senate Amendment "B" Read and Adopted.

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

Sent down for concurrence.

The President laid before the Senate:

Bill, "An Act to Require Drivers License Renewal Examinations." (H. P. 397) (L. D. 509)

Tabled — June 16, 1977 by Senator Speers of Kennebec

Pending — Motion of the same Senator that the rules be suspended to reconsider Enactment

The PRESIDENT: Is it now the pleasure of the Senate that the rules be suspended? It is a vote.

Is it now the pleasure of the Senate to reconsider its action whereby this Bill was passed to be enacted? It is a vote.

On Motion of Mr. Greeley of Waldo, Placed on Special Highway Appropriations Table, Pending Enactment.

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

Mr. MERRILL: Mr. President, I would ask that Resolution, Proposing an Amendment to the Constitution to Require the State to Reimburse Municipalities for at least 50% of Property Tax Exemption Losses. (S. P. 366) (L. D. 1227) which was tabled until later today be removed from the table.

The PRESIDENT: The Senator from Cumberland, Senator Merrill, now moves that the Senate take from the table later table L. D. 1227. Is this the pleasure of the Senate? It is a vote.

The Chair recognizes the same Senator.

Mr. MERRILL: Mr. President and Members of the Senate: I now offer Senate Amendment "A" (S-274) and move its adoption.

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

Senate Amendment "A" Read.

The PRESIDENT: The Chair recognizes the same Senator.

Mr. MERRILL: Mr. President, this is the Amendment that I spoke of yesterday, which would remove any price tag from this bill, and have it apply only to programs that are enacted or increased after the passage of this Constitutional Amendment.

I might also say that this does one other thing, and that is it adds a slight element of flexibility for the Legislature in allowing in cases where the Legislature finds another way for the municipalities to make up this 50 percent of their revenue, for them to waive this requirement, so it adds a little extra flexibility, but essentially it does what I said I would do yesterday with this Amendment, and that is make it prospective and not retroactive.

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

Mr. COLLINS: Mr. President, the good Senator, Senator Merrill, has indeed changed the substance of this Constitutional Amendment so that there is no further price tag on it, and he has indeed provided for additional flexibility through providing for legislative action in the event of increases in other revenue sources, and I am very happy to support the new proposal, the new Amendment.

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

Mr. CURTIS: Mr. President, I would like to pose a question, and that is whether or not the reference to the State Municipal Revenue Sharing program, which is in this Amendment, would, if adopted finally by the people, become the only reference to the State Municipal Revenue Sharing Program in the Constitution; and, secondly, what the effect would be upon a future change in that State Municipal Revenue Sharing Program if the Legislature would decide to eliminate it, or do anything else with it.

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

Mr. MERRILL: Mr. President, the reference, I imagine, would be the only reference in the Constitution, although I have not reviewed it for that fact. It does not place a requirement, of course, that there be a State Municipal Revenue Sharing Program, but if there is one, it allows it to be considered as a factor in the question, and really it was put in there to add an increased flexibility to the Legislature and the approach it can take to handling the problems. My goal really was to allow as much scope of flexibility for the Legislature as possible, but to put a requirement on them, nonetheless, that there be some fiscal note to go with these added property tax exemptions, and so really this is just one other element of flexibility that would be added, it would not restrict the Legislature, in my opinion from amending the State Municipal Revenue Sharing Program, or doing anything else it wanted to do with it.

Senate Amendment "A" Adopted.

The Bill, as amended, passed to be engrossed. Sent down for concurrence.

(Off Record Remarks)

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

(Recess)

After Recess

Senate called to order by the President.

Out of Order and Under Suspension of the Rules, the Senate voted to consider the following additional papers from the House:

Committee Report

Committee of Conference

The Committee of Conference on the disagreeing action of the two branches of the Legislature, on, Bill, "An Act to Require Towns without Secondary Schools to Provide Transportation to Secondary Schools." (H. P. 1025) (L. D. 1273) have had the same under consideration; and ask leave to report; that they are unable to agree.

Committee on part of the Senate:

Ronald E. Usher of Cumberland

John D. Chapman of Sagadahoc

Committee on part of the House:

George A. Carroll of Limerick

Laurence P. Bagley of Winthrop

Which Report was Read and Accepted.

Sent down for concurrence.

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

Mr. MANGAN: Mr. President, out of order and under suspension of the rules, I would move to reconsider our action whereby Bill "An Act Recognizing County Charters and Establishing County Charter Commissions" (S. P. 437) (L. D. 1648), was passed to be engrossed.

The PRESIDENT: The Senator from Androscoggin, Senator Mangan, now moves that the Senate suspend its rules and reconsider its action whereby L. D. 1648 was passed to be engrossed. Is this the pleasure of the Senate? It is a vote.

On Motion of Mr. Speers of Kennebec.

Tabled until Monday next. Pending passage to be engrossed.

The President laid before the Senate:

House Reports — from the Committee on Election Laws — Bill, "An Act Concerning Registration on Election Day." (H. P. 159) (L. D. 197) Majority Report — Ought to Pass in New Draft under same Title. (H. P. 1664) (L. D. 1864) Minority Report Ought to Pass, in New Draft under same Title. (H. P. 1665) (L. D. 1865)

Tabled — Earlier in the Day by Senator Speers of Kennebec

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

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

Mr. KATZ: Mr. President, I oppose the Motion to accept the Majority Report and ask for a Division.

If you vote for the Majority Report, you are voting for what I consider to be some very worthwhile changes in the law, and yet I ask you to support the Minority. Let me briefly explain what they do. The Majority Report accepts the notion that we have and will continue to have voter registration on election day, but because election day registration has caused some pile-ups at the poll, the Majority Report says lets open up the closed period prior to the election so that we can also register new voters during the so-called closed period. It is a worthwhile point of view, and one that I applaud, and I think it will help to reduce the chaos on election day.

On the other hand, if you feel as I do, that it is wrong to have voter registration on election day, you will vote against the Motion to accept the Majority Report and subsequently vote to accept the Minority Ought to Pass Report which repeals the provision for registration on election day.

I realize that there is a very, very wide spread popular movement that says let us register all the voters we can by postcards, let's register them at the polls, let's register them on election day, let's do everything we can to get more and more people voting, even at the risk of subverting the process. I guess I realize that there is no real chance the Legislature will take this course of action this session. I think that voter registration on election day is probably here to stay, at least during this biennium, but I want to express my concern just because I feel I want to get it out.

We have a stable government. We have a reasonably law abiding government when it comes to election, but I have been in enough countries where the government has not been that stable so that I am extremely reluctant to create conditions under which widespread fraud, widespread subversion of our system can occur. I am not talking about taking a load of college kids down to the polls on the last day to support a candidate. I am looking down the road toward occasions when there may be civil unrest in the United States or in the State of Maine, and to put a significant number of people into the polls on election day in a fraudulent manner might be more of a reality than just a fear.

I guess it is for this basis, because of my real, real concern as to what could happen in the United States and the State of Maine under different circumstances, that I feel that the mad rush to make it easier and easier for people to vote is not necessarily the best way. Now, I think that I am enough of a politician to state that I really do not want to take anybody's rights away. I really do not want to take anyone's rights away, but I am willing to rest more heavily on the fact that as American citizens we also have responsibilities. and I am equally concerned that Americans today do not necessarily live up to their responsibilities as much as they should.

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

Mr. DANTON: Mr. President and Members of the Senate: This Bill came into the Election Laws Committee very early in the session, and we kept it there for many months. I would not like to see this issue become a Democratic or Republican issue.

As the good Senator said earlier, no matter what happens we are going to have registration on election day. I think the compromise here is to help the city and town clerks out and the peo-

ple that work on the Boards of Registration. As you all know, in November people just swarmed to the polls, went down on election day, signed up went to vote and those people did not really really and truly know how to handle it.

What we are attempting to do with this Bill now, like the good Senator did mention, is during the closed period to allow someone to go in and register to vote. This will free up the people on the Boards of Registration, to get the master list together for election day. On election day they will be handed a supplemental list, which they will take along with them to the polls. This compromise here is acceptable to the clerks, to the Boards of Registration, because they know, and I have told them so, I have had a meeting with them two or three months ago in Brunswick at the Storehouse. There was about 30 of them there. I told them right out if they thought that there was not going to be any registration on election day, they were just kidding themselves, and the best thing they could hope for was a compromise that would make it somewhat easier.

When we talk about fraud and that has been brought out time and time again, we have to remember in the First District that there was one screwball that decided he wanted to vote two times. Most usually, we cannot get people to the polls one time. This guy just wanted to prove a point. He went. He voted two times and then he went and bragged about it, and I guess he got convicted for breaking the law. That is the only known fraud. Maybe there are many others. I do not know it, and I am sure none of you in here can prove that there were, but the people that I want you to be concerned about when you vote today are the people that work in the city and town clerk's offices and the Boards of Registration. They are the ones that really have the big job on election day, because if this does not pass, you will just go back to the chaos that you had in November and this is a compromise. If it is not this compromise, I guarantee you that there will be nothing, because when it goes to the other Body that will be the end of it, and then it will stay just the way it is.

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

Mr. KATZ: Mr. President, I want to make it very clear that if my point of view does not ultimately prevail, and I suspect it cannot prevail, I will very eagerly support the position of the Senator from York in accepting the Majority Report.

The PRESIDENT: Is the Senate ready for the question? The pending question before the Senate is the motion by the Senator from York, Senator Danton, that the Senate accept the Majority Ought to Pass in New Draft Report of the Committee.

A Division has been requested.

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

Will all those Senators opposing the pending motion, please rise in their places to be counted.

16 Senators having voted in the affirmative and 9 Senators in the negative, the Motion to accept the Majority Ought to Pass in New Draft Report does prevail.

The Bill (H. P. 1664) (L. D. 1864) Read Once. House Amendment "C" Read and Adopted.

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

On Motion of Mr. Speers of Kennebec,

Tabled for One Legislative Day, pending passage to be engrossed.

The President laid before the Senate:

House Report — from the Committee on Human Resources — Bill, "An Act to Establish

a Bill of Rights for Mentally Retarded Persons." (H. P. 1473) (L. D. 1735) Ought to Pass as Amended by Committee Amendment "A" (H-631).

Tabled — June 17, 1977 by Senator Lovell of York

Pending — Acceptance of Report

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

Mr. MANGAN: Mr. President, I would ask that this be tabled until later in Today's Session to allow Senator Hichens to return.

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

Mr. LOVELL: Mr. President, Senator Hichens would like to have the Bill have its First Reading and he will put an Amendment on Tuesday, but he cannot put an Amendment on the First Reading.

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

Mr. MANGAN: Mr. President, I was one of the signers of the Unanimous Ought to Pass Report out of Committee. The only hang-up I have with the Bill, and I would like to bring it to the Senate's attention, and at least have it in their consideration, is the issue as to whether we should allow the mentally retarded people to vote. That is on Page 3, Item 2143. I am not sure if the members of the Senate wish to get involved in this, and I am not sure that I want to amend this out. I realize the Honorable Senator from the County of York, Senator Hichens, and I have got a basic, not disagreement, but at least a basic question on this matter, and I would at least hope that the members of this Body would consider that as they vote on this bill.

Ought to Pass as amended Report accepted in concurrence.

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

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

Enactors

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

"An Act Relating to an Equitable Billing Procedure for Open-end Credit under the Consumer Credit Code." (H. P. 1140) (L. D. 1375)

"An Act to Approve the Expenditure of Funds from the Mental Health and Mental Retardation Program Improvement Fund for the Fiscal Year Ending June 30, 1978." (H. P. 1142) (L. D. 1366)

"An Act Concerning Equine Infectious Anemia." (H. P. 1138) (L. D. 1380)

"An Act Concerning the Board of Registration in Medicine." (H. P. 1211) (L. D. 1478)

"An Act Authorizing Municipalities to Create Development Districts." (H. P. 1216) (L. D. 1482)

"An Act Concerning the Certificate of Apparent Election and the Fee for Recounts in Election Contests." (H. P. 1691) (L. D. 1871)

"An Act Exempting Blind Property Owners from Real Property Tax." (S. P. 172) (L. D. 489)

"An Act to Revise the Laws Relating to Barbers and Cosmetologists." (H. P. 1639) (L. D. 1838)

Which were 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 Remove Weight Restriction on Black Bass During a Sanctioned Bass Tournament." (H. P. 624) (L. D. 765)

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

Mr. PRAY: Mr. President and Members of the Senate: I apologize for rising on this issue at

this time. It is getting late in the afternoon and I would well like to be on my way home.

The other day, twice before, I have attempted to end this parade of progress on this particular piece of legislation to be aimed at a particular process. I would just like to raise several points as to my opposition before any further action is taken.

As I pointed out the other day, I consider the fact that this Bill was a Bill which was unneeded. It gave the Commissioner of Fisheries and Wildlife powers that I thought that we should not give to them. I also consider this piece of legislation to be aimed at a particular special interest group, those individuals who belong to the Maine Bass Clubs of this state, and this Bill — I will just read the first line to you — notwithstanding the provisions of Sub-Section 2553, there shall be no weight restrictions on the taking or catching of any black bass by contestants. These contestants have to belong to this club, and at this time we are going to take the regulations that we have established for the safeguards of a particular species of fish and say that for these particular people they should be exempt from these restrictions and regulations on this day that they hold a tournament.

I think that we should be very careful in any particular species that we do this with. The fact that the number of tournaments have been on an increase recently would only give fears for me in areas outside of my Senatorial District, because I do not have any black bass in my District, but I would be concerned about those areas that do, and the more frequent the contest, the greater number of fish that will be taken. I just have a number of fears that for those individuals that live in this area may find that a number of their constituents that do not belong to this special group or select group are going to end up on the short end of the pole.

For those reasons, Mr. President, I would move the indefinite postponement of this bill and all its accompanying papers.

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

Mr. REDMOND: Mr. President, I oppose that motion by the Senator from Penobscot, Senator Pray, and I would like to say something about it.

There is an Amendment to this Bill, and it establishes \$25.00 fee for a license for such a tournament. It corrects the language which would have made it mandatory for the Commissioner to license such a tournament, and requires that the Commissioner fix a maximum value for all prizes awarded at such tournaments. We have debated this at length.

The Honorable Senator from Penobscot, Senator Pray, each time he opposes one of these Fisheries and Wildlife Bills always refers to the Commissioner who wants more powers. Well, I hope that the good Senator should accept the fact that the people of Maine have mandated to the Commissioner of Fisheries and Wildlife the management of our Fisheries and Wildlife, and this is a special favor made to a very special group of sportsmen. They are practicing this. It is nothing new. All we are doing is that the Commissioner is going to be involved in that, or someone of Fish and Game, and to supervise it, and after the tournament is all over, the limits fall back to the way they are by law, the same as for anybody else in the State. It is only for the duration of the tournament.

I request a Division. I hope that the Senate will uphold my request.

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

Mr. PRAY: Mr. President and Members of the Senate: Again I apologize for rising on this issue, but I would make one last point, that we had other legislation in during this Session to establish ice fishing in a number of back ponds

and lakes around the State. The proponents of this Bill, the Bass Tournament Bill, are the same people who opposed the Bass Ice Fishing Bill, stating that that law would place so much pressure on the Bass fishery that the entire fishery would be wiped out in a total of five years. Here they are supporting this Bill. They came into Committee asking that we should allow them to remove the weight and limit restrictions, completely no consistency among their opinions as to what is going to happen to this species of fish.

It would be my position that if these individuals came in and feared that ice fishing would wipe out the population, that a number of tournaments in which there were no restrictions or limitations would also do the same.

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

Mr. MERRILL: Mr. President and Members of the Senate: I am going to support the motion to indefinitely postpone, but maybe for a slightly different reason than everybody else and I would just like to speak to it.

It really seems to me, although we have joked about it in this Session before, that there has got to be a better way to solve these problems than to have the Maine Senate and the Maine House, and ultimately the Maine Governor, try to make these judgments about what size of fish can be caught when, and there is a Bill on our books that I ran across the other day reading through my Enactors, L. D. 1839, which I think might be the Bill previously referred to, which is a 33 page Bill which goes through every body of water in the State, I suppose, saying what can be caught there and when and what the classification is, and here we have a Bill to set up a special requirement for Bass caught during a Bass tournament. I would hope that we could find a way, if we have not already, and I suspect maybe we have, where the Department will hold hearings for the people interested, and make these things by rules and regulations, instead of having the Maine Senate and the Maine House go through a process day after day, year after year, of arguing about what fish can be caught where. I honestly do not think that it is a necessary Constitutional safeguard to have the elected representatives decide on these items fish by fish.

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

Mr. PRAY: Mr. President, I would like to respond to the previous speaker. I think on one occasion I stood here and spoke on a Bill stating that the Department had the authority and the power, and that instead of taking the blunt of the powers and responsibilities that he had he was looking for a scapegoat, the Legislature, and the second point that I would raise is that the Senator from Cumberland, Senator Merrill, previously about a month or so ago pointed out that we should hold perhaps two Sessions, one dealing with this matter and one dealing with other matters.

The PRESIDENT: Is the Senate ready for the question? The pending question before the Senate is the motion by the Senator from Penobscot, Senator Pray, that L. D. 765 be indefinitely postponed.

A Division has been requested.

Will all those Senators in favor of indefinite postponement, please rise in their places to be counted.

Will all those Senators opposing indefinite postponement, please rise in their places to be counted.

4 Senators having voted in the affirmative, and 23 Senators in the negative, the Motion to indefinitely postpone does not prevail.

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

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

Mr. SPEERS: Mr. President, I hope the Senate will not have to go through consideration on this Bill again, so I would move reconsideration.

The PRESIDENT: The Senator from Kennebec, Senator Speers, now moves the Senate reconsider its action whereby this Bill was passed to be enacted.

The Chair recognizes the Senator from Penobscot, Senator Pray.

Mr. PRAY: Mr. President, just to repeat what I said yesterday to the good Senator from Hancock, Senator McNally, I also point that same statement to the Senator from Kennebec, Senator Speers, that I am a realist and I understand that a vote of three would hardly overturn this action.

A viva voce vote being had.

The Motion to reconsider does not prevail.

"An Act Pertaining to the Granting of Preference in the Letting of State Contracts to State of Maine Resident Bidders." (H. P. 1648) (L. D. 1849)

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

Mr. MORRELL: Mr. President and Members of the Senate: I would like to take a minute to draw the attention of the Senate to L. D. 1849 which is a proposal to give in-State bidders if they are within two percent over low bidder in non-Federal contracts an opportunity to meet the low-bidder, and it defines what an in-State contractor is.

Now, frankly this is a redraft of a Bill presented to Performance Audit. We wrestled with it, physically and mentally, for some time and I guess I am still wrestling with it mentally. It is proposed as an experiment. There is a sunset clause on the Bill, as you will note, of June 30, 1980. More and more states in the Union are passing Legislation, not identical to this but in somewhat the same vein.

I think there are some things to be aware of. There are mixed blessings about a Bill of this sort. It is in effect, somewhat of a tariff. You could ultimately discourage out-of-State bidders to the point where the State might not have the same variety of choices. On the other hand there have been several instances recently when substantial State jobs have been lost to out-of-State and out-of-Country bidders that would have resulted in considerable employment in Maine, one having to do with a major printing job that you are all familiar with on the State Maps, and another I guess was a substantial paving job in Aroostook County.

I think the intent here is good. On the basis of it being an experiment for several years, I have supported it. I would be less than candid with you if I indicated that I am enthusiastic about it, but I do think that here this morning it might be appropriate for any of you who are not familiar with the Bill to take a look at it. It is a short one. Let the rest of the Senate have the benefit of whatever questions or comments you might have, and I would be willing to answer any questions that you might have.

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

Mr. CURTIS: Mr. President, I am one of the Senators who does have some questions and problems with this piece of legislation. I was waiting until it was available to us in the final form so I could review the specific language.

One section, the proposed 5 MRSA, Section 1816, Subsection 10A (2) provides a description of what an in-State bidder is. Well, Sub 1 says first of all it is a bidder whose principal place of business or a branch thereof has been located in Maine for a period of two years. I am not quite sure what would constitute a branch, but I think that that would be fairly understandable.

It is the second part that concerns me most of all. It says and who will employ at least 90 per-

cent Maine residents to carry out the contract, and I find it difficult to conceive how a bidder is going to be able to show, at least in some instances, who he is going to employ to carry out the contract if he receives the award. As a consequence, I am really not sure how this would be interpreted or what great difficulties this might result in for an analysis of the State Purchasing Agent.

The other concerns that I have have to do with the concept of low bidder. This is a proposal, as I understand it, which provides that after the contracts have been opened, then anybody who thinks he is a State of Maine in-State bidder and is within two percent of the low bidder, the responsible low bidder if he is an out-of-State bidder, has an opportunity to change his bid. I do not think we ever allow this type of situation in any other circumstances for a bidder to change his bid once the bids have been opened.

And, finally, I guess that I would suggest to the Senate that the purpose of closed bids and awarding as much as possible to low-bidders who are responsible bidders is to provide protection for the citizens of the State, to provide for the lowest cost possible for the awarding of State contracts, which, after all, involves the expenditure of tax money, and, finally, to keep government operations in a very sensitive area as much as possible, clear and clean and above board, and tampering with this existing provision in State law with the proposal that is before us, it seems to me, would be an unwise change, and, consequently, Mr. President, I would appreciate it if we could have a Division on this Enactment Motion, and I plan to vote against it.

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

Mr. MORRELL: Mr. President and Members of the Senate: The Senator from Penobscot, Senator Curtis, has brought up some points.

I might amplify just a bit on his comment that this radically changes the concept of the sealed competitive bid. It does not reverse it. It does change it by expanding it. The basic principle of the sealed bid is to assure the State that it is getting the lowest possible price without collusion. This expands it to say that they are certainly going to be assured of that through the new process, if it is adopted, but beyond that the State is further assured that a maximum number of Maine residents are involved in the project, be it a construction project or the purchase of materials. To that degree it is a significant change.

The purist who feels that the original purpose is the only one would not be for this. If you feel, and a number of states as I mentioned are moving in this direction, if you feel that there is a real need to gain the maximum amount of employment for Maine citizens in the procurement of Maine goods or the carrying out of projects in Maine, then you might feel it has some merit. These things have been proposed in the past before other States began to think that there was some merit in them, and the threat of reciprocity is still there now, less than it was, although there are currently no other states in New England who have this kind of legislation. I dare say that down the road in a fairly short time, whether we do it or not, other states are going to have this kind of proposal in different forms.

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

Mr. LOVELL: Mr. President, I certainly agree with the good Senator from Cumberland, Senator Morrell. This means more jobs for the State of Maine. We have got 40,000 people out of work, and if a two percent difference can bring that contract into the State of Maine and give more Maine people jobs, I am all for it. I am going to vote for the Bill.

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

Mr. CURTIS: Mr. President, I would like to address the question of reciprocity, because as I understand the statement that has been made previously, if we adopt this direction, we would be the first State in New England to start building a barrier, no matter how small, two percent or otherwise, on our borders. And, although it is true we are concerned about the expenditure of Maine tax dollars as much as possible to benefit Maine people in all ways, including employment, we also ought to take into consideration the results of other States adopting this same approach, because whereas Maine is a spender as a State Government, we also are suppliers, and our companies within this State do contract to do business elsewhere, and it seems to me that we are going in the direction of building barriers towards trade, and I think that in itself may be unwise.

Mention was made a little bit earlier of the paving contract in Aroostook County. I happen to be familiar with that, as I am sure the other Senators are who are from Penobscot County, because there was an effort made by the Chamber of Commerce to draw this to our attention, the Bangor area Chamber of Commerce, to draw this to our attention. The low bidder in that particular instance on some \$400,000.00 worth of contracts was a St. John Company, and after careful consideration the State Purchasing Agent, I think, took a very interesting approach. What he did was decide that there were severable parts of this contract, namely paving in different areas of the State, and the St. John outfit which had bid low on all of them, and particularly low on one part would be awarded that one part, and it happens to be a paving contract in the northern part of the State for something in the vicinity of \$100,000.00. The amount by which he was low was some \$6,000.00 which is a substantial amount. However, the State purchasing agent looked at this situation and addressed the question of whether or not the contractor was a responsible contractor in terms of the size of the contract involved, and after reviewing the situation decided that the size of the contract for one year in Maine which was bid upon by the St. John contractor was more than his average per year for the last three years of total work that he had done. As a result he determined within existing State statutes that it would not be wise, either from the contractors point of view or from the State of Maine, to rely so heavily upon one contract.

This is an example, and the reason I explain it, of the flexibility that already exists in current law, and I would be reluctant to write in any more flexibility than already exists there.

The PRESIDENT: Is it now the pleasure of the Senate that this Bill be passed to be enacted.

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

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

21 Senators having voted in the affirmative, and 7 Senators in the negative, this Bill is passed to be enacted, and having been enacted will be signed by the President and presented by the Secretary to the Governor for his approval.

RESOLVE, Authorizing John Carlo, Inc. to Bring Civil Action Against the State of Maine or to Resolve the Dispute by Arbitration. (H. P. 1016) (L. D. 1231)

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

Mr. DANTON: Mr. President and Members of the Senate: This John Carlo, Inc. is the contractor that built this new I-95 that just recently opened, and now what he wants us to give him is the authority to sue the State of Maine for \$2 million. Maybe if we had a Bill like we debated just prior to this one where the bidding would be given to a Maine contractor, we would not have this Resolve before us today.

I would like to have a Member of the Judiciary Committee. I believe it was heard in

front of that Committee, explain as to what this Resolve actually does. I know that it is to allow him to go to the Courts. I have full confidence that he will be given a fair hearing in the Civil Courts, but I would like some explanation as to this. I have not been able to get one to this point.

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

The Chair recognizes the Senator from Knox, Senator Collins.

Mr. COLLINS: Mr. President, this apparently has been a running dispute between the Department of Transportation and this contractor on the particular section of the Interstate, and like other cases that come before the Judiciary Committee, we do not try to pass on the merits of the case, but we do look at the case as a sort of screening committee to see if there is enough merit there to permit the case to go into a Court or to arbitration. That is the situation here.

John Carlo is seeking a million and one-half for various disputed matters in that construction project, which was a major project. The State has retained in a hold-back under its contract, a substantial amount of money, and the contractor has already filed suit in the Superior Court, Kennebec County. The State informed us that they intended to plead sovereign immunity, unless the legislature should say otherwise by permitting the suit to go forward without the State exercising a sovereign immunity position. So the matter is in the Court, but the Department of Transportation will have the option in conjunction with their attorneys, the Attorney General's office, of shifting the matter over to arbitration if they feel that is a wiser way to go. It is up to the Department which way of working out the dispute is established.

I think that neither the Committee nor this Legislature is, by passing this Act, taking any position about the merits of the case. We really are not the competent body to decide that. The Courts or an arbitration panel should decide it. It was simply the judgment of the Committee that there were enough disputed facts there to warrant that kind of an examination.

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

Mr. HEWES: Mr. President and Members of the Senate: I would pose a question through the Chair to one of the Members of the Judiciary Committee. Are there not provisions in the contract that DOT awards to a bidder, such as John Carlo, Inc., that will permit an action in case there is some dispute as to the amount of money that has been held back? Further, you say there has been a suit brought. I take it there has been no affirmative response by the State filed yet or they have not filed their answer. If it is already in Court, why do we need this, and then has the State sued John Carlo, Inc., and if they have, as I get the impression they may have, could not a counter claim be filed in that suit by John Carlo, Inc. against the State of Maine.

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

The Chair recognizes the Senator from Knox, Senator Collins.

Mr. COLLINS: Mr. President, I have not read the complete contract in question so I cannot answer your first inquiry. It is my understanding that the State very likely will have counter claims against this contractor. It has not put those in formal status as of yet, and at the time of our hearing the State had not filed its pleading, but the Deputy Attorney General working on the case came before our Committee and informed us they would feel obliged to present a defense of sovereign immunity unless the Legislature did take some action.

The PRESIDENT: The pending question is passage of L. D. 1231. Is it now the pleasure of the Senate that this Resolve be finally passed.

The Chair will order a Division.

Will all those Senators in favor of the final passage of this Resolve, please rise in their places to be counted.

Will all those Senators opposed to final passage of this Resolve, please rise in their places to be counted.

17 Senators having voted in the affirmative, and 8 Senators in the negative, this Resolve is finally passed.

This Resolve, having been finally passed, will be signed by the President and presented by the Secretary to the Governor for his approval.

Emergency

"An Act to Provide Home Winterization for Low Income Elderly, Disabled and Other Low Income Families." (H. P. 1243) (L. D. 1468)

On Motion of Mr. Huber of Cumberland,
Placed on the Special Appropriations Table,
Pending Enactment.

Emergency

"An Act to Allocate Moneys for the Administrative Expenses of the State Lottery Commission for the Fiscal Years Ending June 30, 1978 and June 30, 1979." (S. P. 107) (L. D. 236)

This being an emergency measure, and having received the affirmative votes of 22 Members of the Senate, and the negative votes of 2 Members of the Senate, and 22 being more than two-thirds of the entire elected Membership of the Senate, was Passed to be Enacted, and having been signed by the President, was by the Secretary presented to the Governor for his approval.

Emergency

"An Act Repealing the York Beach Village Corporation." (H. P. 1601) (L. D. 1809)

This being an emergency measure, and having received the affirmative vote of 24 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.

(Off Record Remarks)

Out of order and under suspension of the rules, and on Motion of Mr. Collins of Knox,

Joint Orders

ORDERED, the House concurring, that the following be recalled from the Governor's Office to the Senate: Bill, "An Act to Repeal Certain Laws Relating to Domestic Relations." (H. P. 1627, L. D. 1830) (S. P. 558)

Which was Read and Passed.

Sent down forthwith for concurrence.

Out of Order and Under Suspension of the rules, and on Motion of Mr. Speers of Kennebec,

ORDERED, the House concurring, that notwithstanding Joint Rule 19, the following bills may be retained by the committee to which they have been referred during the course of the interim between the first and second regular sessions of this Legislature and may be considered by the respective committees during that time under the supervision of the Legislative Council and shall be reported to the appropriate House on the first day of the second regular session:

State Government H. P. 671, L. D. 729

"An Act to Establish and Apply a Policy on the Classification of Major Policy-influencing Positions Below the Head of State Departments and Agencies;

Marine Resources H. P. 1321, L. D. 1640

"An Act to Revise the Laws Concerning Marine Resources;"

Health and Institutional Services H. P. 724, L. D. 1202

"An Act Establishing a Maine Certificate of Need Program;" S. P. 384, L. D. 1358

"An Act Relating to Certificate of Need;" H. P. 1471, L. D. 1721

"An Act to Require the Department of Human Services to License and Make Direct Reimbursements to Free-standing Health Clinics." (S. P. 559)

Which was Read.

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

Mr. SPEERS: Mr. President, I would like to draw the attention of the Senate to the fact that this is Senate Paper 559 and not Senate Paper 557 which was distributed to the Senate earlier, and the differences between the two Orders are simply two, and that is in the first paragraph after the words "Legislative Council" there has been inserted the words "and shall be recorded" rather than leaving it open to an interpretation that perhaps they may be recorded. This mandates that these Bills will be recorded on the first day of the second regular session.

The second difference is that one of the Bills that had been included in the previous Order has been eliminated. That Bill being L. D. 851, the Bill in Marine Resources which the Members of the Committee have indicated they will be able to get out today.

But I did want to draw the attention of the Senate to the fact that this is a different Order than the one that was distributed previously.

(Off Record Remarks)

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

Mr. MERRILL: Mr. President, I would just like to inquire through the Chair as to whether or not this Order is going to be tabled, or whether or not it has already received the approval of the Legislative Council. I think this can be a good thing, and I would hope that the Legislative Council would adopt a fairly stringent procedure whereby this would be allowed, say a two-thirds vote or something of that kind, and I just would inquire through the Chair whether or not the Majority Leader would consider that to be appropriate or necessary or whatever, but I do think that this is something that could be abused, and I would hope that we would establish some precedent here if this is the way we are going to deal these things now that we have two regular Sessions that would make it fairly stringent.

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

The Chair recognizes the Senator from Kennebec, Senator Speers.

Mr. SPEERS: Mr. President, I thank the Senator from Cumberland, Senator Merrill, for raising this question, because I certainly agree with him that it is a procedure which could be abused, and I would hope that this would not be established as a precedent which would grant an excuse for future Legislatures to simply hold on to Bills which may be difficult Bills in the hopes of being able to act on those in the second regular Session.

In answer to his specific questions, I do not contemplate that this would be tabled today because the Joint Rules require that Bills not accepted in this manner be reported out to the Legislature by the end of this evening, so that the Order does have to be passed by both Branches today. It is an Order which has been discussed by the Legislative Council and the Joint Leadership of both Branches, and it is in the form as agreed upon by the Joint Leadership in both branches.

As I indicated, there had been some very serious discussion as to whether this would be allowed at all because it is establishing at least some precedent with regard to carrying Bills over, and there is considerable sentiment, which I share, against the idea that Bills would be carried over from one Session to another, but it was generally agreed that these particular

Bills were of such import and such difficulty that they would be allowed to be carried over to the next Session.

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

Mr. CONLEY: Mr. President and Members of the Senate: The questions raised by my colleague from Portland, Senator Merrill, are certainly valid ones, and they are concerns that I have had and expressed very strongly before leadership and, well, which is also Legislative Council.

My personal feeling is that we are establishing a very bad precedent. I think that if we are to get these Bills out of Committees by a certain time on a certain given day, then every effort should be used to get those Bills before the Legislative Session. And why I do not like this particular arrangement, if this does become, in fact, an Order such as this being introduced on the last day to allow Bills to be carried over to the next Session gives, what I consider to be, an extraordinary amount of power to Committee Chairmen, to the Committees themselves and, in particular, to Members of the third house, notably referred to as the Lobby. Now I know that most of us here, perhaps all of us, would very diligently, both as Members of Committees or as leadership trying to exert expediency of getting these Bills out, but there is always the possibility, having served on Committees in the past, knowing Committee procedure, analyzing and reviewing Bills, that as you take them out of the can you continue to get to the back of the can, and the back of the can, and the back of the can, and all of a sudden we arrive at the day of judgment and this is the result of it, if this is going to be a procedure that is going to be adopted in the future.

So I would question and it would always be a question in my mind as to whether or not this was an honest problem that originated and initiated in the Committee, or as to whether or not there might have been some undue influence being brought in from outside. These particular matters that are before us today, I think, obviously are of value. In fact, earlier today when we discussed these in leadership meeting, it was anticipated there would be about ten Bills, so the fact is that we only have nine makes me feel lots better and certainly more comfortable.

I concur with the Floor Leadership on the Order that is before us, and I would urge the Senate, because of the fact that at 5:00 tonight if all Bills are not reported out, they are automatically dead. One may take the position that if they are not reported out by 5:00 tonight instead of being dead maybe they all ought to be Enacted. The fact of the matter is, that is not the case, so I would hope that the Senate would join the leadership in moving for the adoption and the passage of this particular Order.

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

Mr. O'LEARY: Mr. President, I object to the Order and I want the record to show that. I believe we have had ample time to discuss all pieces of legislation put before the Committees, so I would ask for a Division on that.

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

Mr. MERRILL: Mr. President and Members of the Senate: I would like to make my feelings clear. I think this is an important enough decision to warrant some discussion of it.

My own feelings is, of course, in the past when we have not really had two, well we really have had two regular Sessions, but where we have called one a Special Session, therefore, it was not a part of the process in an official sense at this point in time, we have used the Study Order approach as everyone has known, and we have put these sorts of issues out to Study Order and then hearings have been held over the sum-

mer and the study work has been done, and then they have to get reintroduced into the process, and they have another hearing, and it seems to me the advantage of carry-over really can be, if we use it in a disciplined way, is that those things that we would have used the Leave to Withdraw Study Order approach for before, we could have right at the beginning of the Session.

And, frankly, it is an exciting prospect to me to be able to come to the Legislature and have some important complex ideas brought up at the beginning when everybody is fresh, instead of always having all these sorts of things coming at the end and be in a position where you are in such a rush to do anything that when problems arise and you recognize that it is an important area, you find yourself in the position of having to vote against things just because it cannot be dealt with because of its complexity at that point.

So, I am not against the precedent. I would just hope that in doing it we would, either as we go on, and as I understand, what we are going to do is set Joint Rules to deal with this in the future, or I guess it is too late in dealing with this specific item itself, but we would establish some fairly stringent procedures, and I would hope that it would require unanimous vote of Committee in order for this to happen, and it would require an extraordinary vote of the Legislative Council in order for this to happen, so we could protect against the problems brought up by the Senator from Cumberland, Senator Conley, and then it would be my hope that we would use the study approach not to deal with this sort of problem where we have a Bill in and we want to deal with it in the next Session, and we would then study and Study Orders would be hopefully a more limited number and for a different sort of purpose, not a purpose where we have a specific item like certificate of need before us and really is a matter of weighing out all of the concerns of dealing with it, but an area where we are much less certain about what direction we are going in, and we have not had Legislation to deal with it.

So I have no problems with voting for this Order today, but I would hope that the Legislative Council, as it works on preparing Joint Rules for us, would establish stringent procedure, and then would see to it that the Leave to Withdraw procedure would not make this another avenue to do the same thing, and I think that if we can get here next year and have some of these important questions before us the first day we got here, that would be very useful to the Legislative process.

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

Mr. PRAY: Mr. President and Members of the Senate: I am sure that all the many members of this Body have discussed this, either through the caucus formalities or around the floors in debate or through the Committee process. We have talked about it in the Democratic caucuses, and we have talked about it within Committee.

A number of these Bills, three of the Bills that are coming out are coming from Health and Institutional Services Committee, which I happen to be on. It has kind of been an undercurrent feeling on the Committee that the carry-over would prevail, so we did not have to spend the additional time. I do not want anybody to misunderstand that I would think that either the House Chairman or the Senate Chairman were not pushing the issues that were before us. I think they did a tremendous job. I think we all could have worked a few longer hours and had a number of these Bills out, but once that undercurrent was established that there would be a possibility of a carry-over, I think the work on these items became very lax.

I am opposed to the carry-over to establish any type of carry-over system, and I see there are some safeguards in this system which re-

quire that the Bills would be reported out when we come back in, and that the legislative leadership, the Legislative Council would have supervision over these Committees throughout the summer, and I think that is appropriate. At least if something is going to pass, it should be written in the best forms, the best ways available.

As I sit over and I look at these Bills, I go down through them and look at the date they were introduced, and I just start off with the top one of L. D. 729, and it was introduced March 9th, and it is now June 17th. The latest Bill that was introduced was introduced April 25th. I do not know where May and half the month of June went with this Bill on these Committees, and why we are coming down here to the final days of the Session and that we are starting to establish this new precedent.

I would urge the individuals here that we would vote against this Joint Order, that the Bill would come out, and the individuals could take care of it in the legislative process, if they need changes, or we could put Senate Amendments or House Amendments on it, according to each individual's concern with their particular legislation or those of individuals that have interest in it. So I would hope that we would support the Motion of the Senator from Oxford, Senator O'Leary, and dispose of this matter now.

The PRESIDENT: Is the Senate ready for the question? The pending question is passage of this Joint Order.

A Division has been requested.

Will all those Senators in favor of passage of this Joint Order, please rise in their places to be counted.

Will all those Senators opposed to passage of this Joint Order, please rise in their places to be counted.

23 Senators having voted in the affirmative, and 3 Senators in the negative, this Joint Order is passed.

Sent down forthwith for concurrence.

(Off Record Remarks)

On Motion of Mr. Huber of Cumberland, Adjourned to June 20, 1977 at 10:00 in the morning.