

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

***One Hundred and Eighth
Legislature***

OF THE

STATE OF MAINE

1978

Second Regular Session

January 4, 1978 — April 6, 1978

INDEX

Senate Confirmation Session

June 14, 1978

INDEX

First Special Session

September 6, 1978 — September 15, 1978

INDEX

Second Special Session

October 18, 1978

INDEX

Third Special Session

December 6, 1978

INDEX

APPENDIX

SENATE

March 22, 1978

Senate called to Order by the President.
Prayer by the Honorable Philip L. Merrill of Portland.

Mr. MERRILL: Give us the strength to work for what we believe in and give us the patience to work with those who have different views. We ask this in Your name. Amen.

Reading of the Journal of yesterday.

**Papers from the House
Joint Order**

ORDERED, the Senate concurring, that the Joint Rules be amended by repealing Joint Rule 33 and inserting in its place the following:

33. Expressions of legislative sentiment. While the Legislature is in session, all requests for expressions of legislative sentiment shall be prepared in a standardized manner by the Director of Legislative Research and shall be approved, if no objection is noted on the Legislative Record, after posting the expressions for two consecutive legislative days in a prominent place. When the Legislature is not in session, these expressions shall be presented for consideration and disposition by the Legislative Council in the name of the Legislature. (H. P. 2275)

Comes from the House, Read and Passed. Which was Read.
On Motion of Mr. Katz of Kennebec, Indefinitely Postponed in non-concurrence.
Sent down forthwith for concurrence.

Joint Order

ORDERED, the Senate concurring, that the Joint Standing Committee on Appropriations and Financial Affairs be directed to report out a bill making additional appropriations for the expenditures of State Government and for other purposes for the fiscal years ending June 30, 1978, and June 30, 1979. (H. P. 2301)

Comes from the House, Read and Passed. Which was Read.
On Motion of Mr. Huber of Cumberland, Tabled until later in Today's Session pending Passage.

**Communication
Committee on Education**

March 17, 1978

The Honorable Joseph Sewall
President of the Senate
Dear President Sewall:

It is with pleasure that I report to you that the Committee on Education has completed all the business placed before it by the Second Regular Session of the 108th Maine Legislature.

Total Number of Bills Received	27
Unanimous Reports	21
Ought to Pass	6
Ought to Pass as Amended	10
Ought to Pass in New Draft	2
Ought Not to Pass	3
Leave to Withdraw	6
Divided Reports	6

Sincerely,
BENNETT D. KATZ
Senate Chairman

Which was Read and Ordered Placed on file.

House of Representatives

March 21, 1978

Honorable May M. Ross
Secretary of the Senate
108th Legislature
Augusta, Maine 04330
Dear Madam Secretary:

The Speaker appointed the following Conferrees to the Committee of Conference on the disagreeing action of the two branches of the Legislature on Bill "An Act to Facilitate Recruitment and Retention of Outstanding Persons for Policy-making Positions in State Service" (Emergency) (S. P. 672) (L. D. 2076)

Mr. Curran of South Portland
Mr. Diamond of Windham
Mr. Churchill of Orland

Respectfully,
EDWIN H. PERT
Clerk of the House

Which was Read and Ordered Placed on file.
The PRESIDENT: The Chair will appoint on the part of the Senate the following conferees: Senator Collins of Aroostook, Senator Katz of Kennebec, and Senator Chapman of Sagadahoc.

Joint Resolution

A Joint Resolution In Memoriam:
WHEREAS, the Legislature has learned with deep regret of the death of Wallace M. Delahanty of Millinocket, an inspirational leader in civic and community affairs, (S. P. 761) is presented by Senator Pray of Penobscot.

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

**Committee Reports
House**

Ought to Pass

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

Reported that the same Ought to Pass.
Comes from the House, the Bill Passed to be Engrossed.

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

Under suspension of the rules, the Bill Read a Second Time. Which was Passed to be Engrossed in concurrence. Sent down forthwith.

The Committee on Marine Resources on, Bill, "An Act Making Certain Substantive Revisions to the Marine Resources Statutes. (H. P. 1939) (L. D. 2019)

Reported that the same Ought to Pass.
Comes from the House, the Bill Passed to be Engrossed as amended by House Amendment "A" (H-1214).

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

On Motion of Mr. O'Leary of Oxford, Tabled until later in Today's Session, pending Adoption of House Amendment "A".

Divided Report

The Majority of the Committee on Local and County Government on, Bill, "An Act to Revise the Municipal Boundary between the Town of Old Orchard Beach and the Town of Saco. (H. P. 1980) (L. D. 2072)

Reported that the same Ought to Pass.
Signed:
Mrs. MARTIN of Brunswick
Messrs. DRINKWATER of Belfast
GRAY of Rockland
LaPLANTE of Sabattus
McPHERSON of Eliot
HICKEY of Augusta
TRUMAN of Biddeford
HENDERSON of Bangor

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

Signed:
Messrs. JACKSON of Cumberland
O'LEARY of Oxford
HICHENS of York

— of the Senate.
Mrs. BERUBE of Lewiston
Mr. STOVER of West Bath

— of the House.
Comes from the House, the Bill Passed to be Engrossed as amended by House Amendment "A" (H-1213).

Which Reports were Read.
The PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Jackson.

Mr. JACKSON: Mr. President and Members of the Senate: I do not know if you are familiar with the circumstances in Saco and Old Orchard. Old Orchard Beach wants to rebuild a peer and as I understand, there is a difficulty in the boundary of about 600 feet and as I understand, through the reports from the good Senator from York, Senator Danton, they have this problem resolved and I guess it is in line with what the original document intended. So I now move the Majority Ought to Pass Report.

On Motion of Mr. Jackson of Cumberland, the Majority Ought to Pass Report Accepted in concurrence.

The Bill Read Once. House Amendment "A" Read and Adopted in concurrence. Under suspension of the rules, the Bill Read a Second Time.

Which was Passed to be Engrossed, as amended, in concurrence.
Sent forthwith to the Engrossing Department.

Divided Report

The Majority of the Committee on Taxation on, Bill, "An Act to Improve Property Tax Statutes. (H. P. 2057) (L. D. 2115)

Reported that the same Ought Not to Pass.
Signed:
Mrs. MARTIN of Aroostook
Messrs. WYMAN of Washington
JACKSON of Cumberland
— of the Senate.

Messrs. TWITCHELL of Norway
MAXWELL of Jay
MACKEL of Wells
CARTER of Bangor
IMMONEN of West Paris
— of the House.

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-1215)

Signed:
Mrs. CHONKO of Topsham
POST of Owls Head
Messrs. CAREY of Waterville
COX of Brewer
TEAGUE of Fairfield
— of the House.

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

Which Reports were Read. The Majority Ought Not to Pass Report Accepted in non-concurrence. Sent down forthwith for concurrence.

Enactors

The Committee on Engrossed Bills reported as truly and strictly engrossed the following: "An Act to Conform State Statutes to the Maine Administrative Procedure Act. (H. P. 2107) (L. D. 2145)

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

Orders of the Day

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

Mr. COLLINS: Mr. President, out of order may I inquire if the Senate is in possession of Bill, "An Act Pertaining to Ordinary Death Benefits Under the Maine State Retirement System. (H. P. 1885) (L. D. 1939)?"

The PRESIDENT: The Chair would answer in the affirmative, the Bill having been held at the request of the Senator.

Mr. COLLINS: Mr. President, the sharp eyes of our Secretary have discovered a conflict in this and I, therefore, would like to back it up. I now move that we reconsider our action whereby the Bill was Passed to be Engrossed.

The PRESIDENT: The Senator from Knox.

Senator Collins, now moves that the Senate reconsider its action whereby L. D. 1939 was Passed to be Engrossed. Is it the pleasure of the Senate? It is a vote.

Mr. COLLINS: Mr. President, I now move that we reconsider the adoption of Committee Amendment "A" as amended.

The PRESIDENT: The Senator from Knox, Senator Collins, now moves that the Senate reconsider its action whereby Committee Amendment "A" as amended was adopted. Is it the pleasure of the Senate? It is a vote.

Mr. COLLINS: Mr. President, under suspension of the rules, I move that we reconsider the adoption of Senate Amendment to Committee Amendment "A".

The PRESIDENT: The Senator from Knox, Senator Collins, now moves that the Senate suspend its rules in order to reconsider its action whereby it adopted Senate Amendment "A" to Committee Amendment "A". Is it the pleasure of the Senate? It is a vote.

Mr. COLLINS: Mr. President, I now move that we indefinitely postpone Senate Amendment "A".

The PRESIDENT: The Senator from Knox, Senator Collins, now moves the indefinite postponement of Senate Amendment "A". Is it the pleasure of the Senate? It is a vote.

Mr. COLLINS: Mr. President, I now move that we adopt Committee Amendment "A" as amended by Senate Amendment "B".

The PRESIDENT: The Senator from Knox, Senator Collins, now moves the adoption of Committee Amendment "A" as amended by Senate Amendment "B". Is it the pleasure of the Senate? It is a vote.

Which was Passed to be Engrossed as amended in non-concurrence. Sent down forthwith for concurrence.

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

Mr. HUBER: Mr. President, is the Senate in possession of Bill, "An Act to Abolish the Mental Health and Mental Retardation Improvement Fund and Make Provision for Future Funding of Existing Programs from the General Fund." (H. P. 2010) (L. D. 2085)?

The PRESIDENT: The Chair would answer the Senator in the affirmative, the Bill having been recalled from one Governor's Office, pursuant to Joint Order, (S. P. 758).

Mr. HUBER: Mr. President, I move that the Senate suspend its rules.

The PRESIDENT: The Senator from Cumberland, Senator Huber, now moves that the Senate suspend its rules. Is it the pleasure of the Senate? It is a vote.

Mr. HUBER: Mr. President, I now move that the Senate reconsider its action whereby this Bill was Passed to be Enacted.

The PRESIDENT: The Senator from Cumberland, Senator Huber, now moves that the Senate reconsider its action whereby L. D. 2085 was Passed to be Enacted. Is it the pleasure of the Senate? It is a vote.

Mr. HUBER: Mr. President, I now move that the Senate reconsider its action whereby this Bill was Passed to be Enacted.

The PRESIDENT: The Senator from Cumberland, Senator Huber, now moves that the Senate reconsider its action whereby L. D. 2085 was Passed to be Enacted. Is it the pleasure of the Senate? It is a vote.

Mr. HUBER: Mr. President, I now move that the Senate reconsider adoption of Committee Amendment "A".

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

Mr. HUBER: Mr. President, I now present Senate Amendment "A" to Committee Amendment "A" and move its adoption.

The PRESIDENT: The Senator from Cumberland, Senator Huber, now offers Senate

Amendment "A" to Committee Amendment "A" and moves its adoption. The Secretary will Read Senate Amendment "A".

Senate Amendment "A" (S-593) Read and Adopted. Committee Amendment "A", as amended, Adopted.

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

The President laid before the Senate: Bill, "An Act to Make Necessary Corrections in the Knox County and Lincoln County Budget, the Errors and Inconsistencies Act and the Administrative Procedure Act." (Emergency) (S. P. 760) (L. D. 2205)

Tabled — March 21, 1978 by Senator Jackson of Cumberland

Pending — Passage to be Engrossed The PRESIDENT: The Chair recognizes the Senator from Kennebec, Senator Pierce.

Mr. PIERCE: Mr. President and Members of the Senate: I now offer Senate Amendment "A" (S-599) and move its adoption.

The PRESIDENT: The Senator from Kennebec, Senator Pierce, now offers Senate Amendment "A" to L. D. 2205 and moves its adoption. The Secretary will Read Senate Amendment "A".

Senate Amendment "A" (S-599) Read and Adopted.

The Bill, as amended, Passed to be Engrossed without reference to Committee Sent down forthwith for concurrence.

The President laid before the Senate: Bill, "An Act Relating to Post-graduate Education in the Field of Medicine, Dentistry, Optometry and Veterinary Medicine." (S. P. 732) (L. D. 2177)

Tabled — March 21, 1978 by Senator Pierce of Kennebec

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

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

Tabled — March 21, 1978 by Senator Wyman of Washington

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

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

Paper from the House House Paper

Bill, "An Act to Authorize Bond Issue in the Amount of \$7,350,000 for the Acquisition, Construction and Renovations of Higher Education Facilities and Equipment at the University of Maine, including the campuses at Augusta, Farmington, Fort Kent, Machias, Orono, Portland/Gorham and Presque Isle." (H. P. 2303) (L. D. 2206)

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

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

Mr. KATZ: Mr. President, I move that this Bill be indefinitely postponed without reference. I would like to speak to my Motion.

The PRESIDENT: The Senator has the floor.

Mr. KATZ: It is not very easy for me on two separate occasions to oppose Bond Issues for higher education in the State. But the greatest protection the people have against intemperate acts is the maintenance of some kind of orderly system. Bond Issue for the University of Maine

was defeated just a few short months ago, and here we are on the next to the last day of the session, without public hearing, without the kind of input and scrutiny I think, that the people's affairs need, this shows up on our desks. My impression is in as much as it is the next to the last day of the session, it is the intention of those who sponsor this Bill, for \$7,350,000, that it be reported out of Committee without public hearing. I find that an intolerable subversion of the process that we have established here to protect the rights of the people, and I request a Division on my Motion to Indefinitely Postpone.

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

Mr. CONLEY: Mr. President and Members of the Senate: I oppose the Motion made by the good Senator from Kennebec, Senator Katz. Although what he has said, part of what he has said, perhaps has a great deal of merit but I think on the other hand that we do have a University System that is in deep need of repairs to some of its facilities throughout the State. I suggest that the Bond Issue that went before the people a short time ago was defeated by the most narrowest of margins certainly at a time when I think education with the Uniform Property Tax and everyone was zeroing in on education as sort of the bad element of society.

On the other hand, I can recall that a few years ago that we had a very notorious bridge down in the Lewiston-Auburn Area, some people tried to name it after an individual which was soundly defeated by the people was put back out to the people the very next opportunity that was given the Legislature and was overwhelmingly passed by the people. I think that if we have support we are going to continue to support, this Legislature is going to show they support the University and I think that we must give the people of this State the opportunity again to vote on this particular issue.

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

Mr. KATZ: I support almost everything the gentleman said, but it is just a question of timing. I knew there was going to be a Bond Issue only within the last day or two. Presumably the Senate Chairman of Education should have some role in protecting the rights of the people for an orderly development.

I am not sure whether these are the best possible things to include in here, and I am not sure as to the priorities within this Bond Issue. I am not sure as to the pressing nature of any specific item in here. I just think that it is absolutely wrong for the Maine Senate to take an action on a \$7,000,000, plus Bond Issue in a climate like this.

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

Mr. CONLEY: Mr. President and Members of the Senate: It is my understanding that the Bond Issue that is before us is exactly the same Bond Issue that was presented to the voters earlier this year with the sole exception that there is \$900,000, in there that has to be raised for the handicapped throughout the University. In other words, the ramps that have to be put on the buildings.

The PRESIDENT: Is the Senate ready for the question? The pending question before the Senate is a Motion by the Senator from Kennebec, Senator Katz, that (L. D. 2206) be Indefinitely Postponed.

A Division has been requested. Will all those Senators in favor of the indefinite postponement of this Bond Issue please rise in their places to be counted.

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

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

Mr. PIERCE: Mr. President, I would ask for the yeas and nays.

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

Call it must be the expressed desire of one-fifth of those Senators present and voting.

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

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

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

Mr. PIERCE: Mr. President and Members of the Senate: During the last session on many occasions on these Bond Issues as well you will remember, I stood alone in the end of some 12 to 1 reports in voting against them because I felt very strongly that we were putting too much some \$65,000,000 out to bonds to the people of Maine at one time. I thought that it was wrong then and still think that it is wrong. Perhaps at least I was proved partially right by the fact that this particular bond issue, which in fact was one of the bond issues I supported, was defeated by the people of Maine just last November. Then a few days before the end of the session, a week or so ago, we had a Bond Issue come in for Northern Maine Vocational Institute. I voted against that bond issue. Certainly not because they do not need that facility that they asked but for many other reasons including the lack of any orderly priorities that we placed on doing things like this. But I did think that it was wrong and I still do to do it in this manner.

This one which comes back before us today I think is absolutely unconscionable that one day before we get out of session a Bill comes in something that was turned down by the people of Maine and then they want us to put it back out again? Maybe if bond issues are do not receive overwhelming disclaim perhaps we ought to revote them all automatically right away.

So from what I thought I heard the good Senator from Cumberland says, if a Bond Issue is not passed but if it is pretty close, we ought to vote on it again until we get it. I think that the People of Maine spoke. They spoke very clearly. They disagreed with my views on this. They did not want it, and for us to come in here now and no public hearing, the Committee on Education is closed. It says so right on today's calendar, with everything else we have to do now they want a Bond Issue without reference to committee. I think that it is absolute fallacy. And I think that it is really wrong for us to to the people of the State of Maine under these circumstances.

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

Mr. PRAY: Mr. President and Members of the Senate: I would like to correct my seatmate as to what he did last session. He did not stand alone, usually I stood with him on these same issues for the same feelings that he just expressed. And I think my fears were re-sounded by the people of the State when many of these issues were voted down but I do put a high priority on them and I think that I have enough faith and trust in the people of this State to make a decision uninfluenced by the those aspects of Education which I think many of them went through last time on the educational issue. The Uniform Property tax and what not. Many individuals that I talked to after the election and after the bond issues expressed a concern about Education, but they also expressed a concern by turning many of the bond issues down because they were just fed up with the education system at that time and I think that it would be proper that we send out to them again an opportunity for them to vote on these issues that are presented in this piece of Legislation. I think that the people of this State will make an intelligent decision upon that and we can trust the fate of those issues with them.

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

Mr. MERRILL: Mr. President, I would like to make an inquiry through the Chair. It is my understanding that under the Joint Rules that this shows up on our calendar today because it

has been voted by leadership to allow it to let it in. Is that correct?

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

The pending question before the Senate is the motion by the Senator from Kennebec, Senator Katz, that L. D. 2206 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 — Collins, D.; Collins, S.; Cummings, Katz, McNally, Morrell, O'Leary, Pierce, Redmond, Snowe, Trotzky

NAY — Carpenter, Conley, Danton, Farley, Greeley, Hichens, Huber, Jackson, Levine, Martin, Merrill, Minkowsky, Pray, Speers, Usher, Wyman

ABSENT — Chapman, Curtis, Hewes, Lovell, Mangano

11 Senators having voted in the affirmative and 16 Senators in the negative, with 5 Senators being absent, the Motion to Indefinitely Postpone does not prevail.

The Bill referred to the Committee on Education and Ordered Printed in concurrence.

Sent forthwith.

Out of Order and Under Suspension of the Rules; On Motion by Mr. Morrell of Cumberland,

WHEREAS, An excise tax is levied annually for the privilege of operating a motor vehicle upon the public ways; and

WHEREAS, the excise tax is paid in the municipality where the owner resides; and

WHEREAS, there are variances in the amount of tax charged among the municipalities which should be made uniform; now, therefore, be it

ORDERED, the House concurring, that the Joint Standing Committee on Performance Audit shall study the methods and procedures for computing and collecting the excise tax on motor vehicles among the various municipalities for the purpose of developing more uniform assessment and collection practices; and be it further

ORDERED, that the committee shall complete this study no later than 90 days prior to the First Regular Session of the 109th Legislature and submit to the Legislative Council within the same time period its findings and recommendations, including copies of any recommended legislation in final draft form; and be it further

ORDERED, upon passage in concurrence, that a suitable copy of this Order shall be forwarded to members of the committee. (S. P. 762)

Which was Read.

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

Out of Order and Under Suspension of the Rules;

On Motion by Mr. Huber of Cumberland,

ORDERED, the House concurring, that the Joint Standing Committee on Appropriations and Financial Affairs be directed to report out a bill making additional appropriations for the expenditures of State Government and for other purposes for the fiscal years ending June 30, 1978, and June 30, 1979. (S. P. 763)

Which was Read and Passed.

Sent down forthwith for concurrence.

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

Mr. HUBER: Mr. President, I now move that the Senate remove from the Table Joint Order, H. P. 2301.

The PRESIDENT: The Senator from Cumberland, Senator Huber, now moves that the Senate remove from the Table, H. P. 2301. Is it

the pleasure of the Senate? It is a vote.

Mr. HUBER: Mr. President. I now move Indefinite Postponement of this Order.

The PRESIDENT: The Senator from Cumberland, Senator Huber, now moves that Joint Order H. P. 2301 be indefinitely postponed. Is it the pleasure of the Senate? It is a vote.

Sent down forthwith for concurrence.

(Off Record Remarks)

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

Mr. MERRILL: Mr. President, I would like to inquire as to whether or not the Senate is in possession of L. D. 2077 under Bills held.

The PRESIDENT: The Chair would advise the Senator in the negative. The Bill having proceeded down the corridor to the House of Representatives.

The Chair recognizes the Senator from Cumberland, Senator Conley.

Mr. CONLEY: Mr. President, I pose a question through the Chair with respect to this particular item. It is my understanding that if a Legislator, a member of this body holds a Bill the only way that that Bill can be expedited down the other end of the corridor is if that individual himself releases the Bill. Is that true?

The PRESIDENT: The Chair would answer in the affirmative.

On Motion of Mr. Huber of Cumberland, recessed until 4:00 in the afternoon.

Recess

After Recess

The Senate called to Order by the President.

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

Paper from the House

Non-concurrent Matter

Bill, "An Act to Provide for Reform of the State Tax Laws." (H. P. 2215) (L. D. 2183)

In the Senate, March 16, 1978; Passed to be Engrossed as amended by Senate Amendment "A" (S-533) as amended by Senate Amendment "A" (S-563) thereto.

Comes from the House, Passed to be Engrossed as amended by House Amendment "C" (H-1217) as amended by House Amendment "A" (H-1212) thereto, in non-concurrence.

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

Mr. SPEERS, Mr. President. I move that the Senate recede from its action whereby this Bill was Passed to be Engrossed.

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

The Secretary will read House Amendment "C".

House Amendment "C" Read.

House Amendment "A" to House Amendment "C" Read.

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

Mr. SPEERS: Mr. President, I now move that House Amendment "A" to House Amendment "C" be indefinitely postponed.

The PRESIDENT: The Senator from Kennebec, Senator Speers, now moves that House Amendment "A" to House Amendment "C" be indefinitely postponed.

Is it the pleasure of the Senate? It is a vote.

Mr. SPEERS: Mr. President, I move that House Amendment "C" be indefinitely postponed.

The PRESIDENT: The Senator from Kennebec, Senator Speers, now moves that the Senate indefinitely postpone House Amendment "C".

Is it the pleasure of the Senate? It is a vote.
Mr. SPEERS: Mr. President, I move that the Senate recede from adoption of Senate Amendment "A" as amended by Senate Amendment "A" thereto.

The PRESIDENT: The Senator from Kennebec, Senator Speers, now moves that the Senate recede from the adoption of Senate Amendment "A" as amended by Senate Amendment "A" thereto. Is it the pleasure of the Senate? It is a vote.

Mr. SPEERS: Mr. President, I move that the Senate recede from adoption of Senate Amendment "A" to Senate Amendment "A".

The PRESIDENT: The Senator from Kennebec, Senator Speers, now moves that the Senate recede from adoption of Senate Amendment "A" to Senate Amendment "A". Is it the pleasure of the Senate? It is a vote.

Mr. SPEERS: Mr. President, I now move the indefinite postponement of Senate Amendment "A" to Senate Amendment "A".

The PRESIDENT: The Senator from Kennebec, Senator Speers, now moves that the Senate indefinitely postpone Senate Amendment "A" to Senate Amendment "A". Is it the pleasure of the Senate? It is a vote.

The Chair would ask the Sergeant-at-Arms to escort the Senator from Kennebec, Senator Speers, to the rostrum to assume the duties of President pro tem.

Thereupon, the Sergeant-at-Arms escorted Senator Speers of Kennebec, to the rostrum where he assumed the duties of President pro tem, and the Senator from Penobscot, Senator Sewall, to the seat assigned to the Senator from Kennebec, Senator Speers.

The PRESIDENT Pro Tem: The Chair recognizes the Senator from Penobscot, Senator Sewall.

Mr. SEWALL: Mr. President, I offer Senate Amendment "B" to Senate Amendment "A" and move its adoption and would speak to the motion.

The PRESIDENT Pro Tem: The Senator from Penobscot, Senator Sewall, offers Senate Amendment "B" to Senate Amendment "A" and moves its adoption. The Secretary will read Senate Amendment "B".

Senate Amendment "B" (S-600) Read.

The PRESIDENT Pro Tem: The Chair recognizes the Senator from Penobscot, Senator Sewall.

Mr. SEWALL: Mr. President and Members of the Senate: The amendment I am presenting today represents a compromise, a compromise to bring a consensus within this legislature in order that we may provide deserving and meaningful tax relief to the people of Maine.

This amendment represents our best collective efforts. If this effort fails, we will all have failed — individually and collectively. Make no mistake about it.

It is the result of months of thought and weeks, days and hours (early and late) of serious and intensive negotiations and discussions between the leadership of both branches, both parties and the executive. This amendment has been honed and polished to an extremely fine tuned degree — and accomplishes genuine tax relief to the taxpayers of this state.

This amendment provides for three changes in the tax relief plan which the Senate adopted last week. The changes are as follows:

1.) The three percent personal income tax reduction will be replaced by a revised income tax schedule which will provide for a total of \$4 million in tax relief primarily to middle income taxpayers.

2.) The one-time \$20 income tax credit on 1979 tax returns will be replaced by a one-time increased exemption level from \$1,000 to \$1200 per exemption; and

3.) We have eliminated the one-time sales tax exemption on residential electricity between 750 kwh and 1,000 kwh.

You will find a summary print-out on your desks of the complete plan. You will note the total level of tax relief is just over 19.8 million dollars.

This amendment truly is a compromise. None of us may have won all we have fought for but none of us have lost all we have fought for either.

My colleagues, it's time to stop the rhetoric. We have walked the gauntlet. It's time to say yes or no on tax relief for the people of Maine.

I ask you, republicans and democrats alike, to join together for the best interests of the people of Maine by voting in the affirmative today.

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

The PRESIDENT Pro Tem: The Chair will ask the Sergeant-at-Arms to escort the President of the Senate to the rostrum where he may resume his duties as President.

Thereupon, the Sergeant-at-Arms escorted the President to the rostrum where he assumed his duties as President, and the Senator from Kennebec, Senator Speers to his seat.

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

The Chair recognizes the Senator from Cumberland, Senator Conley.

Mr. CONLEY: Mr. President and Members of the Senate: It seems to me that we have been working what we hope would be a tax relief for the citizens of this State for the past six weeks. I can honestly say that up until two days ago I did not believe that it was possible for the leadership of both parties to make any concessions on the tax package as proposed by the Majority Party of this House.

Last week I belittled one of the Senators of the Majority party, the Senator from Penobscot, Senator Trotzky, with reference to his so-called four percent personal income tax and that if he were so proud of it he should have it printed in the Bangor "Deadly" News to show his constituents exactly what they were getting back under that package.

And I think that the two areas of great difference was the so-called two percent corporate tax reduction and a four percent across the board personal income tax reduction. I know as one member of leadership that were meeting in dark rooms, were meeting in the President's Office, meeting in the Speaker's Office, having breakfast together, in fact as late as this past Monday coming to Augusta at 9:00 in the morning and not leaving here until 6:30 Monday evening and still with no resolution to the problems before us dealing with tax relief for citizens.

No package is ever going to be 100 percent for all of us. Not everyone is going to be happy perhaps with the reduction in the income tax, perhaps not everyone is going to be happy with the so-called one percent corporate tax, but I think that we have to look at the entire package. I think there have been concessions made on both sides of the aisle and there is no question in my mind that what we have before us is a compromise package. Not a Democratic plan, not a Republican plan, but a plan that truly compromises both positions that we have a meaningful tax relief package that can be enacted if we want to put our pride aside and keep in mind the fact that we do want to pass meaningful tax relief this session. And I, therefore, would urge the members of my party to support this on a Roll Call.

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

Mr. MERRILL: Mr. President and Members of the Senate: We have known from the beginning of our discussions about this question that there were two issues that we had to face. One issue, of course, was how to structure the relief that would be granted. The second issue that we had to face was how much relief that we could afford to grant in this year.

Now I would like to speak just very briefly to the first issue. The plan that is proposed and the amendment offered by you the President of the Senate is not a program as I would structure it if I were doing it alone, but the leader of my party, the Senator from Cumberland, Senator Conley, is absolutely right, of course, when he points out the fact that there as a need for concessions to be made and there is a need for us to understand that there are many interests that are represented in this legislature and properly so. I have no violent objection to any objection that is included here and there are, of course, are many other items that could have been included and I would have given them my blessing as well. The only problem that I have with this plan is the same problem that I stated before when we discussed this issue and that is the total level of funding.

I was not a member of the legislature during the last gubernatorial election period, I have been here since. I am given the credit of way beyond what I deserve as a freshman member at that time in making major changes in the tax structure of the state, but those who are so anxious to give me credit often forget that what we were spending money for was the funding of programs that it had passed in the previous Legislature. There are many other programs of tax relief that were funded in that session of the Legislature, not funding but passed that we have spent the last four years funding and here we find ourselves in another election year with more gubernatorial candidates promising the people of Maine a tax relief and I think funding at a level that runs precariously close that is asked.

Now I do not know who among us is going to be back here next January and what role, but I do know that all of us face the possibility of not being back here next time and I think that we could face ourselves better as the Legislature begins its next session if we knew that at least we had aired, if we had aired it all on the cautious side. Now I would hope that we would be able to provide the level of tax relief that is called for in your amendment Mr. President, and if we are able to do that extra bit when we come back, I would welcome it and be enthusiastic about it whether I were a private citizen or were serving here in some other capacity, but I think that with the problems of the past there should be so much in our memory, those of us who served here in the last two sessions of the Legislature have spent most of our time figuring out how to finance the political operations of the people who served here in the Legislature preceding and we struggled with it, we have been blamed for it, and now that we have finally gotten through that morass unfortunately we face another gubernatorial election year in which it is necessary once again to overspend our needs. So as much as I am enthusiastic about most of the items on the piece of paper, I would urge members of either party who are concerned about doing the prudent thing to vote against the amendment that has been offered by you Mr. President and to try to find an approach that will be slightly less expensive.

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

Mr. HUBER: Mr. President and Members of the Senate: I would like to as briefly as possible try to address some of the concerns of the Senator from Cumberland, Senator Merrill, concerning the availability of funds.

It seems to me that we have wrestled in this session continually with the increased revenue estimates provided by the Executive Department. I think results today which amounts to \$10.3 million revenue in excess of estimates for the first eight months of this year indicate that the Governor's revenues estimates do not seem to be far off. His estimates for over all revenues in excess estimates for this year were \$12.2, we already have \$10.3 million in excess estimate with four months still to go in this

year. Leaving a \$7.5 million balance for contingencies and deducting the \$19.8 million of tax relief provided for in this program would leave \$5.4 million for LD's plus there is an additional \$1.2 million which would be provided from the adjustment of taxation on unorganized territories. This would leave \$6.6 million for the LD's in the Legislature and on the Appropriations Table and having gone through these Bills with the Committee, I think that we can come out with a total which is well within this figure and I feel that this is a safe level of tax relief and will provide adequate funds for the various necessary items in the Legislative process.

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

Mr. MARTIN: Mr. President and Ladies and Gentlemen of the Senate: Many members of my party, the Democratic Party today have come up to me and asked me for my opinion on a so-called compromise as their representative to the taxation committee. And to be quite honest, I have been undecided up until very recently. I want to make it clear that I shall support Senate Amendment "B" today, and I would urge every member of the Minority Party in this Body to do so as a compromise.

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

Mr. CARPENTER: Mr. President and Ladies and Gentlemen of the Senate: Not to hold up the process but I feel that after statements I made on this issue on this floor last week or earlier this week perhaps, even getting confusing at this point, I ought to say a couple of things.

I do not doubt the sincerity or integrity of anybody making revenue estimates or the sincerity or integrity of anybody proposing any particular plan. I somewhat hesitantly will support the amendment before us today even though I do very much share the concerns of the Senator from Cumberland, Senator Merrill, that we may be spending more money than we actually have. I again allude to the consideration of the month of February when our revenue estimates fell off, I know that there are probably members of this Body shaking their head in disbelief that a poor country boy could be so gullible as to be taken in by a little \$2 million short fall in one month, but I think that that does nothing more than point out the fallibility of the system, the fallibility of the people making the predictions and the projections and what we are doing today in essence is locking ourselves in, promising, giving our word to the people of the State of Maine that we are going to have \$19.8 million which we will give back to them. I am very concerned about this. I did not think that I was the most conservative member of this body, but I know that standing here the last couple of times on this issue I must have sounded like it. I am very concerned and I just want to make sure that the record reflects that if I do come back to the Legislature in the next session, that the money will be there to fund state government, all aspects of state government, any aspect that we have left untouched this and previous sessions of the Legislature and future sessions, things that we have committed ourselves to such as state employees contracts. This is basically the same pledge I know that the Chief Executive has made to the State of Maine that the money will be found. I for one stand here and am ready to stand reelection based on that pledge that the money will be there. I think that the only thing, the biggest thing that concerns me is for sometime now we have heard the term spend the cupboard bare. I think that I am scared to death that we may be doing that and possibly selling the cupboards as well.

As I said I will with great hesitation support the amendment today because I am not sufficiently convinced that the revenues will fall short. I do fully expect that the revenues will fall short of \$41 million but I am not sufficiently

convinced that they will fall sufficiently short of the \$41 million to put us into a crisis situation. Thank you.

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

Mr. FARLEY: Mr. President and Members of the Senate: I plan on supporting this amendment. A week or ten days ago our party in caucus asked us to go home and talk to our people at home as to what they wanted for a tax plan. Many made the remarks from people back in Biddeford, in my district, was exactly what is before me. As a supporter of the income tax, two years ago, the reason for this surplus before us, I felt I had to send back some of that money and what people told me was to send it back from whence it came. I think that what we have before us is exactly what they wanted. I plan on supporting this amendment and would hope that every member of my party in this Body would support the same. It happens to be an opportunity for myself, one really taken to be in agreement with the Executive Branch of this Senate and I am very happy to do it today.

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

Mr. DANTON: Mr. President and Members of the Senate: Today driving up to Augusta I did not have the good company of my seatmate, and I drove up here alone, had the radio playing, and every half hour I would get a news release on the radio. And the reason that I am speaking today is just to get it on the record. And the news coverage would state that the Democratic party is against corporations and against business. I want you to know that this is one Democrat that is not against corporations, that is not against business, I am going to take and support this amendment. I think that it is a good amendment, there was a lot of work done on this amendment and I am not speaking as a floor leader, but I think that the people of Maine are looking for tax relief and tax reform. Two years ago I campaigned on tax reform after we had an increase like the good Senator from Cumberland, Senator Merrill mentioned. I know that we are concerned about estimates. We are also concerned about the Chief Executive's estimates some three and a half years ago. Everything worked out alright and I am sure that they will this time and I hope that you would support this amendment.

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

Mrs. CUMMINGS: I do support this but before it is a vote I would like to read into the record from an article that was written by Peter Drucker who is a reasonably well known economist writing in the Wall Street Journal. "There is general belief that the corporation income tax is a tax on the rich and on the fat cats, but with pension funds owning 30 percent of the American large businesses, soon to be approximately 50 percent, the corporation income tax, in effect eases the load on those in top income brackets and penalizes the beneficiaries of pension funds. In many cases it means that an effective tax of almost 50 percent on the retired worker as compared with the 15 percent or less that he is suppose to pay. The corporation income tax has become the most regressive tax in our system, and has become a tax on the wage earner and on his wages. Eliminating it would probably be the single largest step that we could take toward greater equality of incomes in this country."

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

Mr. MERRILL: Mr. President and Members of the Senate: Let me say at the outset that I certainly do not vote against this proposal today because of the inclusion of a small amount of money for corporate income tax relief.

My concerns are very singular and my concerns are with the amount of money that we are going to spend and if I am the only one that

has those concerns in this Senate, then that does not trouble me. I have known that I am more conservative than many of my colleagues for a long time. Maybe I am the most conservative member here, if so, so be it. But you know as I listen to the debate today on the amendment offered by the President of the Senate, who of course was the Chairman of the Appropriations Committee in the 106th and by the leader of my party who, of course, was a member of the Appropriations Committee in the 106th all I can think of is the French saying, "the more things change, the more they stay the same."

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

Mr. PRAY: Mr. President and Members of the Senate: Last week during the debate on this proposal we had a box card going around and I would guess that the box card today is indicating that one side or another is overwhelmingly winning. There has been a lot of talk about the political ramifications of individuals and I guess clearing their consciences and what not as to the position that they will be taking.

I also campaigned on tax reform, as I think many of us have. I pointed out here last week in this Chamber that one nation wide weekly magazine had an extensive article on tax revolt across this country, that tax revolt was the property tax. I still support that position of attempting to reform our tax structure to give that item of necessity a home, a shelter some type of tax relief, particularly on the people across this State of Maine. And continuously. I think that we have put additional pressures on the local property tax, I share the concerns of the Senator from Cumberland, Senator Merrill, in reference to comments he made last week as to what is indicated on the federal level of spending of giving money or sharing money with States, that we are going to see a drastic change. But as we come down, as the President of the Senate stated earlier, that it is time to vote yeas or no but I will probably and most likely will be in the category of yes supporting this.

And I would hope that in the future that we will come back here and give our direct attention to the property tax burden to the people of the State of Maine. Those individuals who average around \$8,000 a year. Those individuals who do not have a camp on some lake or a second home on the coast. And we will address the concerns of those people. Indirectly we have because we have addressed the sales tax and the electricity on water, but not all of my people have water to where they pay a sales tax on it. A lot of my people cannot afford allowing their lights to stay on as I noticed in some areas of the State as I drive down here, and on my way home usually late in the evening at the end of a week. I am also fortunate to represent a district that is diversified in income, in two different areas. One having a great deal of it and one not having a great deal of it.

In trying to express the concerns of that constituency, kind of a two fold constituency. I feel as if we are not properly dealing with the major causes of their concern. The session is late and many of us have a desire or businesses that we have to get back to because the Legislative pay here is not really enough to stay around and that has run out. I would stay here longer if we could find a better solution but I think again as the Senator said it is time that we took a vote one way or another.

But I would only inject one last thought and notice in reading the sheet that was passed out by the President of the Senate, that the top category said permanent tax relief. I think that we are fooling the public if we say permanent. If we address any short falls in the revenue where is it going to come from? If the economy does not keep resurging as it has, which state is going to feel it first? Historically it has been that state in this union that is in that furthest corner of the Northeast. And Maine is going to

feel it. Then where are we going to get the revenues? Lets not call it a permanent, lets vote on it knowing that it is not going to be a permanent tax relief.

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

Mr. SPEERS: Mr. President and Members of the Senate: I have been somewhat amused by some of the characterizations of this particular item as being a massive spending Bill. As if the money were setting in the treasury of the State of Maine already having been collected from the people of the State of Maine, and being presented to us for spending, on all kind of programs, as we have been used to voting on in the time that we have spent here in service to the people. Well nothing could really be further from the truth, this is not a spending package. This is a program of the State of Maine to refrain from collecting from the people of the State of Maine over the next year and a half the amount of money that we say we wish to refrain from collecting namely; the \$19.8 million.

It is not that we should be making up our minds on whether or not we should be spending less, but I find that it is the position of some members of this body, that we should be collecting more, collecting perhaps the full \$19 million, perhaps something less than the \$19 million, but at least collecting more than what I hope that the majority of this body feels ought to be collected from the people of the State of Maine.

I think the definition of conservatism has been given a little bit of a topsy turn here this afternoon because if conservatism means that we collect more from the people in taxes that we tax them to a greater extent, then I certainly have been misinformed as to the concept of limited governments.

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

Mr. JACKSON: Mr. President and Members of the Senate: I have been sitting here listening intently to the debate and to the people who are concerned with the possibility of putting the state into the position of the possibility of having a deficit the Legislative year. I sort of wonder you know the position that the good Senator from Cumberland takes, Senator Merrill, in regards to the possibility we are spending too much money with this compromise which I am sure that many members of the Minority Party of this Body and many members of the Majority Party have had in putting together a workable solution which could be adoptable by both bodies of the Legislature and the Governor.

He has stated that he is concerned that we are spending approximately, I guess, somewhere in the vicinity of \$5,000,000. I gather more than we should be spending. And I have a question that I would like to have a response to when I finish and I would ask him where he would suggest that we cut to save this \$5,000,000. I think that if we are going to champion the cause of conservatism that we should have an answer in this area.

Another thing that I take issue with the good Senator from Penobscot, Senator Pray, he says that we are fooling the public with permanent tax reductions. I do not think that we are fooling the public, I think that these people have made a commitment, I will not say a commitment, but a contribution to the general fund or will be making a contribution which will supposedly give us this surplus, and I for one will be watching when we clear the Appropriations Table to see how that Senator votes on new programs and expanded programs.

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

Mr. MORRELL: Mr. President, I would like to speak for just a moment to the matter of federal dollars the fear of them drying up, and I would like to quote David Broder in his editorial in the Portland Press Herald of several days ago and I quote, "Direct Federal Aid to the na-

tions big cities have risen more than 10 fold over the last 11 years. Aid to the 47 larger cities, including New York, a special case, grew from \$406,000,000. in 1967 to an estimated \$5.5 billion this year. Whereas Federal aid amounted to only 9 cents of every dollar of locally generated revenue in 1967, this year there will be a 50 cents of Federal Aid for every \$1 that those big cities raise in local taxes. What is true of the largest cities in America is equally true of local or state government generally. Uncle Sam has been excelerating his assistance. The flow of Federal Aid to state and cities grew at an annual rate of 8.9 percent in the first half of the 1960's. At an annual 15 percent rate in the last half of the 1960's and at a 16.6 annual rate in the first half of the 1970's. And more, at a rate of 18.7 percent a year between 1975 and 1977.

It is these trends which underline the wisdom of the President's injunction to his urban advisors to concentrate on improving the utility of programs already in evidence rather than designing bold new initiatives."

Mr. President, I would draw from this that it is his opinion that the Federal government will continue to aid cities and states at an increasing rate whether that is good or bad, I think that it does give us some assurance that Federal dollars will not in fact be drying up for the State of Maine.

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

Mr. MERRILL: Mr. President and Members of the Senate: First of all I would like to respond to the question of the good Senator from Cumberland, Senator Jackson. Because I think that he certainly deserves a response. If I were to have my druthers I would postpone the one time tax relief until we return in January and then if the money materializes as most of the members of this Body are so confident that it will, then we could go ahead and grant that program in the following year.

Having said that I might just respond to the specific point raised by the Senator from Cumberland, Senator Morrell. There is no doubt about the trends. As a matter of fact, the trends in the last year are a good part of the reason that we enjoy surplus today. There is also no doubt if his research was a little more extensive than reading one column in the newspaper, that the present discussions in the capital city of our country are to aim more of that aid towards the municipalities and less toward the States because as I have stated earlier it is observed in the capital that many states enjoy a surplus while many of the municipalities continue to have severe financial problems. Whether or not this materializes certainly remains to be seen but I do think that in spite of the column just read by Mr. Broder that it is a legitimate concern and one that prudent men and women would take heed to.

Now finally I have been watching the schismatic of State Government rather closely over the last three and a half years and the schismatic of tax expenditures or nonexpenditures or however we want to characterize them, we can certainly say one thing about this program, this program does not cut expenditures this amendment before us today cannot be put forth as a great program to cut government expenditures. What program is cut out here? Is one Human Service program cut out here? What program is cut? This is not a cut in government expenditures. This is a cut in the amount of money that we are going to collect in anticipation of the expenditures that there seems to be some agreement upon. The only question I think before us is whether or not it is prudent to do all of this now. And I would think that if one had an elevated view of the intelligence of the electorate that one might expect them to ask why are the politicians in Augusta so anxious to do all of this this year? What is unique about this year? What is the great motivating force this year to do all this? Why is it impossible I

wonder for those politicians in Augusta to wait and do it the beginning of next year when they have the money? Well I try you know, I think and I think about what is unique about this year and I keep coming back to one thing and one thing alone, that this year like four years ago is a gubernatorial election year and we would like to convince the people by reducing the taxes in this way that we have cut government spending, but we have not. We have not faced up to one expenditure and cut it. Not one. Now I suppose that some are glib enough to go forth and put this down as to what we did here today as a cut in state expenditures. That is a nice way to make a cut because you do not have to be against anything. You can be just for everything listed here, and who among us in an election year does not want to be for everything listed here? Very few I guess.

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

Will all those Senators in favor of a Roll Call in this matter 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 adoption of Senate Amendment "B" to Senate Amendment "A".

A yes vote will be in favor of adoption.

A nay vote will be opposed.

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEA — Carpenter, Chapman, Collins, Collins, Conley, Cummings, Curtis, Danton, Farley, Greeley, Hewes, Hichens, Huber, Jackson, Katz, Levine, Mangan, Martin, McNally, Minkowsky, Morrell, O'Leary, Pierce, Pray, Redmond, Snowe, Speers, Trotzky, Usher, Wyman, Sewall.

NAY — Merrill.

ABSENT — Lovell

31 Senators having voted in the affirmative and 1 Senator in the negative, with 1 Senator being absent, Senate Amendment "B" is adopted.

Senate Amendment "A", as amended, Adopted. The Bill, as amended, Passed to be Engrossed in non-concurrence. Sent down forthwith for concurrence.

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

Joint Orders

Expressions of Legislative Sentiment recognizing that:

Sally Richardson Rice of Stonington has been named the first Maine Young Mother of the Year, (H. P. 2295)

Mabel W. Whitehouse, who was born in East Boothbay, will celebrate her 100th birthday on March 28, 1978, (H. P. 2294)

Carroll Foren of Easton, who has long been known for his excellent work in Aroostook County in the field of Mental Retardation, is retiring from the Bureau of Mental Retardation, (H. P. 2296)

Janet Oakes, daughter of Mr. and Mrs. Walter Oakes of Milo, presented the winning science paper at the New England Junior Science and Humanities Symposium and now will represent this region at the National Symposium in New Jersey, (H. P. 2293)

The Cumberland County Civic Center is celebrating the first anniversary of its establishment, (H. P. 2299)

The Rockland High School band will be representing the State of Maine at the Cherry Blossom Festival in Washington, D. C. (H. P. 2304)

Clare Mosher, of Wilton, has been chosen by the Wilton Senior Citizens as Man of the Year in honor of his years of service to that community and its Senior Citizens, (H. P. 2297)

The year 1978 marks the 50th anniversary of

Le Parasseux, Inc. of Rumford, and the sharing of good times and bad under the banner, "We Stand Together," (H. P. 2298)

Herbert Huckins, the oldest living resident of Milbridge and a recipient of the Boston Post Cane, will be 100 years of age on April 23, 1978, (H. P. 2302)

Come from the House, Read and Passed.

Which were Read and Passed in concurrence.

Joint Order

WHEREAS, all Maine children are directly affected by school nursing services; and

WHEREAS, all local schools must establish a comprehensive school health program in accordance with state law, rules and regulations; and

WHEREAS, expanded local efforts in health screening and immunization programs will require greater efforts in technical assistance and coordination by the State; and

WHEREAS, personnel in the Departments of Human Services and Educational & Cultural Services, with substantial other responsibilities, presently must act as part-time coordinators of school nursing services; now, therefore, be it

ORDERED, the Senate concurring, that the Select Committee on Health Education shall review the progress of local educational units in establishing comprehensive school health programs and conduct a study as to whether the establishment of the programs and their continuing effectiveness require the services of a school nurse consultant in the Department of Educational & Cultural Services; and be it further

ORDERED, that the committee shall complete this study no later than December 1, 1978, and submit to the Legislative Council within the same time period, its findings and recommendations, including copies of any recommended legislation in final draft form; and be it further

ORDERED, upon passage in concurrence, that a suitable copy of this order shall be forwarded to members of the committee. (H. P. 2277)

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

On Motion of Mr. Speers of Kennebec. Tabled Pending Passage.

Communication

To: The Honorable Members of the House of Representatives and the Senate of the 108th Legislature

I am returning today without my signature and approval (H. P. 2064, L. D. 2122), "An Act to Clarify the Status of Intermittent State Employees."

While I can understand and appreciate the goal of defining the status of a temporary employee, I cannot endorse this broad-brush approach to this problem since unforeseen results may seriously affect the employment situation among Maine State employees. I am specifically distressed about the unknown fiscal effects that this particular legislation may have. The proponents have clearly recognized in their statement of fact attached to this legislation that a result of this bill will be additional costs for benefits in an amount which is impossible to estimate. I have been advised, however, that even more important is the fact that automatic and retroactive expansion of civil service status to individuals who have not been required to take merit examinations and be appointed from competitive registers may endanger substantial federal grant-in-aid funds which are conditioned upon the state's compliance with federal standards for State civil service merit systems.

I feel that jeopardizing federal funds as well as increasing State costs are sufficient bases for questioning this particular legislation. However, I have also been advised that consid-

erable ambiguity as to the intent and interpretation of certain sections of this legislation might result in uneven application of the law, could make it impossible for State agencies to comply with the general and unspecified requirements and could foster unnecessary litigation in an attempt to clarify these ambiguities.

Such ambiguities include the reference in the first section of this bill to longevity steps which were eliminated by the 107th Legislature and the reference to merit increases which may be inconsistent with a negotiated settlement between the state and a public employee union. I feel that it is essential that no inadvertent undermining of the collective bargaining process take place.

Even more important for the Legislature to consider is the fact that I have been advised that the major thrust of this bill is the granting of civil service status and protection to non-civil service unclassified employees. The merit system rights and benefits are extended to temporary, project and all other categories of employees who are not required to qualify by competitive examination. This could be used to destroy the integrity of the merit system. Project, temporary and other employees in similar situations, would, after 1,040 hours of work, acquire the rights and protections granted permanent employees hired through the merit system. This would result in a situation where temporary employees, hired without Legislative oversight, would become entrenched in the system and would work alongside and be a similar budgetary concern as those employees who have been hired with the approval of the Legislature. I do not believe that the Legislative role should be undermined in such a manner.

In addition to undermining the Legislative role as outlined above, I must also express concern for the disregard of programs that are part of our personnel system such as the Affirmative Action Program. Temporary employees who are hired without regard for legislative input and Affirmative Action or other programs and who then achieve permanent status within our employment system are a possible result of this legislation which cannot be justified.

In conclusion, I feel that there are too many unanswered questions concerning the costs of this particular bill, the effects of ambiguous sections of this legislation and the granting of civil service status without legislative approval and Affirmative Action guidelines. Therefore, I am returning this bill without my signature and at the same time directing the State Department of Personnel, which has been acting to eliminate and prevent abuses in the area of temporary employees, to continue those efforts and address the questions raised by the legislators who initially supported this bill.

Therefore, given these efforts by the State Department of Personnel, I do not believe that this legislation is necessary, and I especially want to avoid any result of severe hardship in those departments of State government which have a legitimate need for intermittent and other kinds of non-status temporary employees.

For each of the above reasons I am respectfully returning this legislation without my approval.

Sincerely,

Signed:

JAMES B. LONGLEY
(H. P. 2315)

Comes from the House, Read and Ordered Placed on File.

Which was Read and Ordered Placed on File.

The accompanying Bill, "An Act to Clarify the Status of Intermittent State Employees." (H. P. 2064) (L. D. 2122)

Comes from the House, with the following endorsement:

In the House, March 22, 1978, this Bill, having been returned by the Governor, together with his objections to the same pursuant to the provisions of the Constitution of the State of Maine, after reconsideration, the House proceeded to vote on the question: 'Shall this Bill become a law notwithstanding the objections of the Governor?'

108 voted in favor and 25 against, and accordingly it was the vote of the House that the Bill become a law, notwithstanding the objections of the Governor, since two-thirds of the members of the House so voted.

EDWIN H. PERT

Clerk of the House

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

Mr. COLLINS: Mr. President, the veto that we are faced with today, concerns a bill relating to intermittent employees which was handled by the Committee on State Government and came out of that Committee with a unanimous ought to pass report and was subsequently enacted by both bodies. It results from some concerns on the part of many people with respect to an over utilization of intermittent employees. And incidently, intermittent employees are people in never never land that have no status with respect to their conditions of employment. They are not part-time employees on a permanent basis, they are not seasonal employees on a permanent basis and there has been in the immediate past a tendency on the part of at least two or three departments in State Government to over utilize these people and to not give them any of the benefits that derive from participating in the system. The Bill essentially does a couple of things.

In the first part of the Bill it merely suggests, it states that an employing agency shall provide to the employee information relative to vacations, sick-leave, hospital insurance, and all of the other information that is pertinent to that position.

And in the second part of the Bill suggests that an intermittent employee who has worked 1,040 hours in a year ought to be a classified person and it provides that he be classified either as a permanent part-time employee or a permanent employee whichever is more appropriate. It seems to me that this is an equitable resolution to the problem. Now there are those that have suggested that the problem can be dealt with by the Personnel Department, by a regulation, and it is interesting to note that while this Bill was going through the process that there was such a regulation that in essence does most of the things that the Bill provides by statute. However, a rule or regulation is not quite the same as a statute. It does not have the same force necessarily the Committee felt that it was in the best interests of the concerned people to write this into the Law and that is what we have done. Today I would urge the Senate to override the veto of the Governor.

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

Mr. CONLEY: I would like to concur with the remarks made by the good Senator from Aroostook, Senator Collins. Basically what we are talking about here is equity and fairness to other employees. And I think that the good Senator from Aroostook gave a very fine explanation of the Bill. I think that if you think that people employed in State Government should be treated equally then I support the override of this veto.

The PRESIDENT: The pending question before the Senate is:

Shall this Bill become a law notwithstanding the objections of the Governor?

According to the Constitution, the vote will be taken by the Yeas and Nays.

A vote of yes will be in favor of the Bill.

A vote of no will be in favor of sustaining the veto of the Governor.

The Doorkeeper will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEA — Carpenter, Chapman, Collins, Conley, Curtis, Farley, Hewes, Huber, Jackson, Katz, Levine, Mangan, Martin, Merrill, Minkowsky, Morrell, O'Leary, Pierce, Pray, Snowe, Speers, Usher, Wyman, Sewall

NAY — Collins, Cummings, Greeley, Hichens, McNally, Redmond, Troitzky

ABSENT — Danton, Lovell

24 Senators having voted in the affirmative and 7 Senators in the negative with 2 Senators being absent, and 24 being more than two-thirds of the membership present. It is the vote of the Senate that this Bill become a law notwithstanding the objections of the Governor, and the Secretary will present the Bill to the Secretary of State.

Enactors

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

"An Act to Increase State Reimbursement for the Net Costs of Local General Assistance." (H. P. 1859) (L. D. 1922)

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

Emergency

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

Emergency

"An Act Creating an Interim Education Finance Commission." (S. P. 755) (L. D. 2204)

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

Emergency

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

This being an emergency measure and having received the affirmative votes of 26 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.

Constitutional Amendment

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

This being a Constitutional Amendment and having received the affirmative votes of 26 Members of the Senate, was Finally Passed and having been signed by the President, was by the Secretary presented to the Secretary of State.

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

Joint Order — relative to a Joint Select Committee on Domestic Violence be established to study the problem of domestic violence. (H. P. 2280)

Tabled — March 21, 1978 by Senator Speers of Kennebec

Pending — Passage

On Motion of Mr. Hichens of York, the Senate voted to indefinitely postpone in non-concurrence. Sent down forthwith for concurrence.

Out of Order and Under Suspension of the Rules;

On motion of Mr. Hichens of York,

WHEREAS, there is growing awareness and concern about the serious problem of domestic violence in Maine; and

WHEREAS, domestic violence results in abused and battered family members with little or no legal protection or recourse; and

WHEREAS, there is no coordinated or consistent approach to the problem of domestic violence by law enforcement agencies, courts

or social agencies; and

WHEREAS, it is essential that the State of Maine address these problems through legislative study and action; now, therefore be it

ORDERED, the House concurring, that a Joint Select Committee on Domestic Violence be established to study the problem of domestic violence; and be it further

ORDERED, that this committee be comprised of 3 members of the Joint Standing Committee on Judiciary, 3 members of the Joint Standing Committee on Human Services, a representative of the Maine Human Services Council, a representative of the Maine Coalition for Family Crisis Services, and such representatives of law enforcement agencies, State Government and the judiciary as deemed appropriate; and be it further

ORDERED, that all members of the Joint Select Committee on Domestic Violence be appointed jointly by the Speaker of the House and the President of the Senate; and be it further

ORDERED, that the study of the problem of domestic violence shall include, but shall not be limited to, current and prospective legal protection and recourse for domestic violence victims; current and prospective services for victims and perpetrators of domestic violence; current powers and duties of state and local agencies and institutions on the problem of domestic violence and how those powers and duties are being carried out; and data to adequately identify the scope of the domestic violence problem; and be it further

ORDERED, that the committee, where possible, shall hold public hearings throughout the State on the problem of domestic violence; and be it further

ORDERED, that the committee shall establish recommendations which shall include all legislation, appropriations and other actions which it deems necessary to adequately alleviate the problem of domestic violence, protect the victims of domestic violence and provide necessary services to victims and perpetrators of domestic violence; and be it further

ORDERED, that the committee shall complete this study no later than December 1, 1978 and submit to the Legislative Council within the same time period its findings and recommendations, including copies of any recommended legislation in final draft form; and be it further

ORDERED, upon passage in concurrence, that a suitable copy of this order shall be forwarded to members of the committee. (S. P. 764)

Which was Read.

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

Papers from the House House Papers

Bill requiring reference to committee were acted upon in concurrence.

Communication Committee on Education

March 22, 1978

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

Dear President Sewall:

In accordance with 3 M.R.S.A., Chapter 6, section 151, and with Joint Rule 37 of the 108th Maine Legislature, the Joint Standing Committee on Education has had under consideration the nomination of Joseph G. Hakanson to the position of Board of Trustees of the University of Maine.

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

YEAS:

Senators: 3
Representatives: 10

NAYS:

Senators: 0
Representatives: 0

ABSENT: 0

13 members of the Committee having voted in the affirmative and 0 in the negative, it was the vote of the Committee that the nomination of Joseph G. Hakanson to the position of Board of Trustees of the University of Maine be confirmed.

Sincerely,

Signed:

BENNETT D. KATZ
Senate Chairman
ARTHUR P. LYNCH
House Chairman

Which was Read and Ordered Placed on File.

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

Mr. **KATZ**: Mr. President, fortunately, the Committee on Education was able to conduct a confirmation hearing yesterday before the flood of bills were referred to us, which would have made difficult our assignment and I want to particularly thank all the members of the Senate who have supported giving us these bills in the last days of the session.

Yesterday we had an extremely valuable confirmation hearing. Joe Hakanson is a vice-president of Advest, a regional firm, and he is headquartered in Portland. He has a distinguished record. He made an extraordinarily good impression on the Committee and on behalf of the Committee, I would like to say that we feel that the Governor's appointment is giving the University of Maine a dynamic leadership kind of person who could only make an outstanding contribution to education in the state.

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

Mr. **USHER**: Mr. President and Members of the Senate: I also would like to comment. I would like to comment on Governor Longley's excellent selection in nominating Joe Hakanson of Westbrook to the University of Maine Board of Trustees.

Joe is a well respected man and is liked by everybody in the community. His qualifications leave no doubt that he is capable of doing a good job working with the Board of Trustees.

Mr. **PRESIDENT**: The Joint Standing Committee on Education has recommended that the nomination of Joseph Hakanson be confirmed.

Mr. **PRESIDENT**: The pending question before the Senate is: Shall the recommendation of the Committee on Education be overridden? In accordance with 3 M. R. S. A., Chapter 6, section 151, and with Joint Rule 37 of the 108th Legislature, the vote will be taken by the yeas and nays.

A vote of yes will be in favor of overriding the recommendation of the Committee.

A vote of no will be in favor of sustaining the recommendation of the Committee.

Is the Senate ready for the question?

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

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

ABSENT — Hichens, Lovell

No Senators having voted in the affirmative and 31 Senators in the negative, with 2 Senators being absent, and None being less than two-thirds of the membership present, it is the vote of the Senate that the Committee's recommendation be accepted. The nomination of Joseph Hakanson is confirmed.

Orders of the Day

Bill, "An Act Making Certain Substantive Revisions to the Marine Resources Statutes." (H. P. 1939) (L. D. 2019)

Tabled — Earlier in the Day by Senator O'Leary of Oxford

Pending — Adoption of House Amendment "A" (H-1214)

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

Mr. O'LEARY: Mr. President and Members of the Senate: This will perhaps be the last time I will take the floor to speak on any bill in this session and perhaps you will all say thank God under your breath.

Mr. President, when I looked at House Amendment "A" to this Bill, I was disturbed. When I expressed my concerns to the Senator from Penobscot, Senator Trotzky he reacted like he was hit by a poll axe. I am going to be brief Mr. President but I would like to share with the members of the Senate some of my concerns.

I have on a number of occasions quoted from the Constitution the individuals right to own and possess property. But a statement by Representative Don Hall of Sangerville, in one of our committee meetings, has thrown a whole new perspective into my thinking. He said and I quote from memory as accurately as I can, "We do not own the land because in the space of time, we possess it about as long as it takes to twitch an eye." That has thrown a whole new perspective into my thinking about land, values that we have placed on it, and on our waters of the State. I think that what he says is true, and I think of how long it took to make a soil that produced our timber lands and along comes a man with mechanical monsters that ravage and ruin our mountain sides, and I mean ruin them. I am disturbed when I see this Mr. President. And here today, I learn that man has a mechanical monster that will ravage our ocean bottom that was heretofore undisturbed. And God only knows what kind of form of aqua life will be destroyed.

Mr. President, I am concerned how the space is filled with junk. Our mountain sides being destroyed, our air polluted, and we are in the process of cleaning up our lakes, rivers, and streams, and now we start with our ocean bottom. I would ask you Mr. President and Members of the Senate, where does it stop? What are we going to leave to those who follow us?

Mr. President I discussed with the Senator from Sagadahoc, Senator Chapman, these mechanical monsters and shellfish conservation and I would like the Senator to put into the record just how the Commission on Marine Resources will license these monsters and how they will be regulated.

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

Mr. CHAPMAN: Mr. President and Members of the Senate: House Amendment "A" is the entire Bill and it removes very much of the original Bill, and contains a few instances that the Marine Resources Committee unanimously supports. This amendment really is a Committee Amendment and it respects the section on special license for dredging. There is this now this special license for dredging and under the present Law as we have passed in the earlier revision and in incorporating this particular provision in this amendment. The Commissioner under the special licensing provision will go into great detail on any request to operate hydraulic and mechanical dredging. And only when he is satisfied that proper conservation, proper use of these items of equipment is going to be made and that they will not interfere with the digging of clams by diggers or interfere with other marine animals, Lobsters or crustaceans that he will then grant such a license for the use of these dredgers.

Further you will note by the amendment that

these dredges will only be operated below low water, and it is our understanding on the Committee from the Marine Resources Scientist that the damage to the Marine life is less under the operation of dredging than it is when a clam digger digs a path in the mud. Their reason for that I think largely is that there is a water column and when you stir things all up they will settle back down to the bottom with less damage to the life of these shellfish than would otherwise be through the normal digging operation.

One other control on the issuance of special licenses, I think bares mentioning. Under the changes we have now enacted into the Marine Resources Statutes, the Marine Advisory Council, the Marine Resources Advisory Council, will be approving the issuance of any of these licenses. At present that is not the case. And the members of the Marine Resources Advisory Council are representatives from the industry and should give the input into any decision to use these types of equipment to make sure that the interest of a broad variety of people are being looked out for.

Mr. President I would hope that the Senate would adopt this amendment to L. D. 2019.

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

Mr. KATZ: Mr. President, my concern with this amendment is not with the substance of the amendment but we have spent some years trying to reduce the number of confirmation which involved the Legislature and I would ask anyone who might answer whether or not this committee amendment, this House Amendment introduces a whole new confirmation procedure for this advisory committee?

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

Mr. CHAPMAN: Mr. President and Members of the Senate: I am happy to inform the Senator from Kennebec, Senator Katz, that it does do just that. It does that for a good reason as far as the Marine Resources Committee is concerned. In the recent statute revision, many of the actions of the Commissioner which formerly he was able to do on his own and with some advice from the Council he now is required to have the consent of the Council. They have been given much more authority than some in the licensing provisions and some of the regulatory provisions that he has had sole power in the past and it is felt that it is important that the members of this Marine Resources Advisory Council have proper qualities that they be geographically disbursed and for example right now a large majority of this Council comes from one very small geographic area and it was felt by the Committee that with the conditions in the fisheries being what they are these days, that this sort of check on behalf of the industry and members of the industry is very important and, therefore, that these members since they are more than just advisory now, should be subject to the confirmation process.

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

Mr. CURTIS: Mr. President, I am very concerned about this concept of expanding the number of Advisory Committees in Maine State Government, the members of which are subject to Legislative Confirmation. I appreciate the concern of the Marine Resources Committee, but I think that we, in looking at the entire matter as a whole, would hope that committees would try to keep from having too many members of the Executive Branch subject to their review by that Committee in the final vote by the Senate for Confirmation. If the position is not a major one in State Government, it is not a Judge, it is not a Department Head, it is not a Trustee acting independently of a major institution such as the University of Maine a member of the board of which we just recently confirmed. I would suggest very strongly that we ought to try to let the Exe-

cutive Branch run the Executive Branch of Government and keep the confirmation powers of the Maine Legislature to a minimum.

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

Mr. O'LEARY: Mr. President, I did not want to but I guess I will perhaps be the Devil's Advocate and second guess that the Governor will take care of this measure if it hits his desk. I would move the indefinite postponement of the Amendment.

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

Mr. McNALLY: Mr. President, I wish to read Section 2 here which says, "Special License for Dredging the Commissioner may issue a special license provided under Section 6074 to operate a hydraulic a mechanical soft shell clam dredge provided that the dredge design is approved by the Commissioner. A transportation permit shall not be required to ship, transport, or sell soft shell clams harvested under this special license. The dredge shall only be operated below low water, and the operation of the dredge shall not substantially interfere with the commercial digging and shall not be used for taking any marine worms or lobster or other crusted sea urchins."

This last sentence is what disturbs me, "Shall not be used for taking any marine worms, lobsters or other crusted sea urchins." Now my question I would like to ask through you of anybody who knows, are they going to have an inspector on everyone of these dredges to see that they are not out there digging marine worms, or gathering lobsters or other things, or whether they are operating at low water or high water? I do know that this is one of the concerns Downeast that they are worried over the mechanical diggers. Thinking that it will do away with the clam flats being replenished after they have been completely dug away by clams coming in from the outside.

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

At Ease

On Motion of Mr. Chapman of Sagadahoc. Tabled until later in today's Session, pending the motion to indefinitely postpone House Amendment "A".

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

Recess

After Recess

Senate called to order by the President.

The PRESIDENT: The Chair would direct the Senate's attention to Tabled and Specially Assigned item for later in the day, Bill, "An Act Making Certain Substantive Revisions to the Marine Resources Statutes. (H. P. 1939) 9L. D. 2019) which was tabled earlier in the day by the Senator from Sagadahoc, Senator Chapman.

The Chair recognizes that Senator.

Mr. O'LEARY: Mr. President, I would like to withdraw my motion at this time.

The PRESIDENT: The Senator from Oxford, Senator O'Leary, now requests leave of the Senate to withdraw his motion to indefinitely postpone House Amendment "A". Is it the pleasure of the Senate to grant this leave? It is a vote.

The Chair recognizes the Senator from Sagadahoc, Senator Chapman.

Mr. CHAPMAN: Mr. President and Members of the Senate: I would like to address the issue of the Advisory Council which in the amendment before you is made subject to the confirmation process of the Legislature.

Perhaps the Maine Advisory Council is a misnomer for the responsibility of this Council now

goes far beyond strictly being advisory especially as we have delineated in the Marine Resources revision which was recently passed and signed by the Governor.

And I would like to refer to the sections that indicate that this so-called advisory council is doing considerably more than just that. For example; in regard to any research and agricultural licenses, the Commissioner may grant the lease with the advise and consent of the council. As far as the issuance of special licenses which are issued in a number of instances for agriculture and research the commissioner may with the advise and consent of the Advisory Council issue special licenses. Perhaps most importantly, however, is in the area of regulation and very specifically it states that no regulation shall be adopted or amended without the advise and consent of the advisory council except as provided under the emergency regulation section such as situations of red tide and like where emergency regulation can be implemented for a period up to 90 days without that advise and consent.

The Advisory Council is composed of 90 members. They serve for terms of three years each. Each term is for three years.

I think perhaps the single most thing that prompts the Marine Resources Committee to support this change and urge its adoption it centers around the 200 mile limit law that we have. This is an extremely important factor in the fisheries today. It increases the importance of decisions and the council regulations that we talked about here on the statutes that the council must approve are very critical to the future operation of the fisheries and I would like to give you an example.

A regional council is talked about promulgating plans under the federal act and for a hearing. Now they have even inferred that they might preempt some of the state rights within the three mile limit. If the state has an in place proper regulations that they find acceptable. Now the state certainly in my view should not stand by and let the federal government establish regulations within state jurisdiction, but they are going to do that if the state has not taken proper steps to regulate it adequately in tune with the times that we are in right now. These regulations without this provision, these regulations are going to be subject to the advise and consent of the Council and we think that this provision will upgrade the quality of this council, make sure that it does represent the industry when these important decisions are going to be made. The state of the fisheries is volatile. We are reading about it every day in the paper. This is something that just a year or two ago we did not see anywhere near to the extent that we are reading today. Not only that individual fishermen across the state have to have faith in the advisory council. They are the industry representative in making the rules, and regulations that they are going to abide by. We feel that there qualifications should go across the geographic disbursement of the coast. They should also include the various segments of the industry. The various fishing components that make up the entire fishing industry.

It is hard to put these desired elements in statute. That you have to have somebody from Washington County and he has got to be you have to have a lobster representative and somebody that is familiar with clams. It is hard to structure what you want and it is felt that having these subject to the Marine Resources Council review and the confirmation of the Legislature would make sure that we have the desired element in this Council.

If we are to hold our line of fisheries here in Maine and do our own regulating as we must, we must in order to avoid Federal intervention and usurption, I think that we have got to make so hard regulatory decisions and it is important that the fishermen and the various segments of the fishing industry have confidence that they are properly being represented by the Council

in these decisions. I would strongly urge that the Senate would support the amendment before you.

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

Mr. O'LEARY: Mr. President, I am not going to oppose this amendment any longer. However, I do hope, as much as I dislike this dredging, the mechanical monsters, I do hope that the Department of Marine Resources will monitor very carefully these devices.

House Amendment "A" Adopted. Under suspension of the rules, the Bill Read a Second Time.

Which was Passed to be Engrossed as amended in concurrence. Sent forthwith to the Engrossing Department.

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

**Committee Report
House
Divided Report**

The Majority of the Committee on Taxation on.

RESOLVE, Directing the Bureau of Taxation to Provide Income Tax Rebates. (H. P. 2034) (L. D. 2098)

Reports that the same Ought to Pass.

Signed:

Messrs. WYMAN of Washington
JACKSON of Cumberland
— of the Senate.

Messrs. IMMONEN of West Paris
MACKEL of Wells
CARTER of Bangor
TWITCHELL of Norway
TEAGUE of Fairfield

— of the House.

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

Signed:

Mrs. MARTIN of Aroostook
— of the Senate.

Mrs. CHONKO of Topsham
Messrs. CAREY of Waterville
COX of Brewer
MAXWELL of Jay

— of the House.

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

Which Reports were Read.

On Motion of Mr. Speers of Kennebec, tabled for One Legislative Day, pending Acceptance of either Committee Report.

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

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

Bill, "An Act to Establish the Health Facilities Information Disclosure Act. (S. P. 695) (L. D. 2136)

In the Senate, March 14, 1978, Passed to be Engrossed as amended by Committee Amendment "B" (S-539).

Comes from the House, Passed to be Engrossed as amended by Committee Amendment "A" (S-538) as amended by House Amendment "G" (H-1220) thereto, in non-concurrence.

On Motion of Mrs. Snowe of Andorscoggin, the Senate voted to Recede and Concur.

On Motion of Mr. Huber of Cumberland, Adjourned until 10:00 in the morning, Thursday, March 23, 1978.