

MAINE STATE LEGISLATURE

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Legislative Record

OF THE

One Hundred and Seventh Legislature

(First Special Session)

OF THE

STATE OF MAINE

1976

KENNEBEC JOURNAL

AUGUSTA, MAINE

SENATE

Friday, March 12, 1976

Senate called to order by the President.

Prayer by the Honorable John L. Thomas, Jr., of Waterville:

Let us pray. As we leave this chamber today at the end of this eighth week of the special session, may we return next Monday with the vigor and determination to conclude our business as soon as possible for the good of all of the people of this great state. Amen.

Reading of the Journal of yesterday.

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

Bill, "An Act Relating to Residency for the Purposes of Municipal Relief of the Poor." (S. P. 738) (L. D. 2288)

In the Senate March 8, 1976, Passed to be Engrossed.

Comes from the House. Bill and accompanying papers Recommended to the Committee on Judiciary, in non-concurrence.

Thereupon, the Senate voted to Recede and Concur.

**Joint Resolution
State of Maine**

In The Year Of Our Lord One Thousand Nine Hundred and Seventy-six

In Memoriam

Having Learned Of The Death Of The Honorable Richard O. Elliot Beloved Thomaston Centenarian and Former Legislator

The Senate and House of Representatives of the State of Maine do hereby extend their sincere heartfelt condolences and sympathy to the bereaved family and friends of the deceased; and further

While duly assembled in session at the State Capitol in Augusta under the Constitution and Laws of the State of Maine, do herein direct that this official expression of sorrow be forthwith sent to the family of the deceased on behalf of the Legislature and the people of the State of Maine. (H. P. 2185)

Comes from the House. Read and Adopted.

Which was Read and Adopted in concurrence.

**Joint Orders
State of Maine**

In The Year Of Our Lord One Thousand Nine Hundred and Seventy-six.

WHEREAS, The Legislature has learned of the Outstanding Achievement and Exceptional Accomplishment of Douglas Roberts Of Rumford Awarded The Vinal Trophy For Best Player Of The Western Maine Class A Basketball Tournament And For Sportsmanship

WE the Members of the House of Representatives and Senate do hereby Order that our congratulations and acknowledgement be extended; and further

ORDER and direct, while duly assembled in session at the Capitol in Augusta, under the Constitution and Laws of the State of Maine, that this official expression of pride be sent forthwith on behalf of the Legislature and the people of the State of Maine. (H. P. 2182)

Comes from the House. Read and Passed.

Which was Read and Passed in concurrence.

State of Maine

In The Year Of Our Lord One Thousand Nine Hundred And Seventy-six.

WHEREAS, The Legislature has learned of the Outstanding Achievement and Exceptional Accomplishment of Rumford High School Boys' Basketball Freshman Team Central Maine Freshman League Champions

WE the Members of the House of Representatives and Senate do hereby Order that our congratulations and acknowledgement be extended; and further

ORDER and direct, while duly assembled in session at the Capitol in Augusta, under the Constitution and Laws of the State of Maine, that this official expression of pride be sent forthwith on behalf of the Legislature and the people of the State of Maine. (H. P. 2183)

Comes from the House. Read and Passed.

Which was Read and Passed in concurrence.

State of Maine

In The Year Of Our Lord One Thousand Nine Hundred and Seventy-six.

WHEREAS, The Legislature has learned of the Outstanding Achievement and Exceptional Accomplishment of The Pantherettes Of Rumford High School Winners of 14 of Their Last 17 Games And Competitors In The Quarterfinal Tournament

WE the Members of the House of Representatives and Senate do hereby Order that our congratulations and acknowledgement be extended; and further

ORDER and direct, while duly assembled in session at the Capitol in Augusta, under the Constitution and Laws of the State of Maine, that this official expression of pride be sent forthwith on behalf of the Legislature and the people of the State of Maine. (H. P. 2184)

Comes from the House. Read and Passed.

Which was Read and Passed in concurrence.

Senate Papers

Mr. Speers of Kennebec presented, Bill, "An Act to Temporarily Suspend Statutory Provisions for Constituent Service Allowance." (S. P. 750)

(Approved by a Majority of the Committee on Reference of Bills pursuant to Joint Order S. P. 635, as Amended.)

Mr. Conley of Cumberland moved that the Bill be tabled and Tomorrow Assigned, pending Reference.

On motion by Mr. Speers of Kennebec, a division was had. Eight having voted in the affirmative, and 15 having voted in the negative, the motion did not prevail.

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

Mr. CIANCHETTE: Mr. President, I move that Item 3-1 be indefinitely postponed.

The PRESIDENT: The Senator from Somerset, Senator Cianchette, now moves that Senate Paper 750 be indefinitely postponed.

The Chair recognizes the Senator from Kennebec, Senator Speers.

Mr. SPEERS: Mr. President, I am really thoroughly surprised at the motion of the good Senator from Somerset, Senator Cianchette, on this particular item. This is a bill which has been discussed in leadership earlier in the session and it was generally agreed that it would be a good idea if we were able to voluntarily forego the acceptance of the constituent service allocation for this particular year of this special session. It was discovered that because of the way the law is written at the present time it was not possible to voluntarily forego the \$200 to each and every member of the legislature plus, I am told, \$200 for constituent services to the members of the executive council without some sort of action on the part of the legislature to be taken through statutory changes, and that is the reason for this particular bill.

Under the law at the present time, of course, each one of us is allowed \$200 for this year for constituent services, and I was quite surprised to learn that the executive council is also allowed \$200 per executive councilor for constituent services. Of course, the executive council really has a rather unique constituency, namely, each one of us in the legislature. I don't know why they would need \$200 to contact each one of us. But very basically this bill boils down to a savings in state government, a savings to the legislative account, of \$38,200. And I feel that the legislature can forego acceptance of \$200 to each of us in this particular year when we are faced with budgetary problems if it is going to save the legislative account \$38,200 for this fiscal year.

I would certainly oppose very strenuously the motion of the good Senator from Somerset, Senator Cianchette. I am quite surprised at that motion. And I would ask for a roll call.

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

Mr. CONLEY: Mr. President and Members of the Senate: I requested that this item be laid on the table until Monday so that we could get a vote from the Reference of Bills Committee on this particular item. I think the rules clearly state that there must be six members of the Reference of Bills Committee to support this order.

I would like to say, first, if and when this item was discussed — and I believe it was discussed last week — it was discussed in the absence of myself, the absence of the assistant minority floor leader here in the Senate, the absence of the minority floor leader in the House, the absence of the assistant majority floor leader in the House, and I think if we are going to abide by the rules, the joint rules in particular, then I think that the Reference of Bills Committee ought to have an opportunity to discuss it.

Now, I agree with the majority floor leader that there has been certain verbiage from one time to another during this legislative session relating to this particular item, and I know it has been discussed both in the negative and the positive. I am also quite aware of the fact that the good majority floor leader strongly supported the recommendations of the commission that was made up when this law was originally put into effect. If he didn't like the constituency service remuneration, then I think he should have objected to it at that time.

My personal feelings are that there are a number of people who live in certainly different types of districts than I do. I certainly am not in a situation where constituency service money is needed by me. I could send it down to some poor AFDC mother who might be able to use it. But there are people who live in districts throughout the state, both in the other body and in this body, that have a much larger territory to have to run around in than I do. Now, I recognize too that there are some of us in this Senate that don't have to worry about where tomorrow's meal is coming from.

However, I think that this is a legitimate request and it is statutory, and I think that if we try to start to change the rules in the middle of the ballgame, both on the Reference of Bills Committee and also relative to this particular item, it is not really acceptable to me at this time.

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

Mr. MERRILL: Mr. President, I certainly have no great interest personally in whether or not this \$200 is paid out. I do have some feelings though, and they are fairly strong, about the importance of all of us who serve in the legislature in either branch carrying on these activities of constituent services. I know a lot of us take it seriously, and those of us who are not in leadership positions, of course, don't have any staff to help us with that, as I know that often does happen with those who are in leadership, using their staff in that way.

But I have a special feeling about this in regards to this savings, in regards to the whole area of serving the people of the state and seeing to it that they have representatives up here to help them with the complexities of state government and the problems they face with it. We have had in this legislature in the past, and in the last session, legislation which was created in the executive branch on ombudsmen. I have opposed that legislation in the past because I thought it was the duty of the elected representatives and the governor to see to it that the people's will be represented in the state government and that people received help with the problems they have with state government. And yet the governor, Mr. Cost Savings himself, last summer by executive order, evidently, created such an office, and now we have somebody in the executive branch being paid to carry on a function that the legislature has rejected time and time again. I think partly because the legislature felt that duty belonged with them.

Well, I think that duty does belong with those of us who were elected, and if this is going to be changed in the future, I might well support a change, certainly in regards to the executive council which isn't going to be in existence any more, but I don't think that this should be changed at this time. And if we are going to look for places to save in regards to this constituent service area of state government, I think we might start by trying to eliminate a job that seems to have been created last summer, when it was the clear legislative will over many years that we not pay somebody especially for that job, and I would like to see our cost saving efforts, of the majority leader and others, directed at that.

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

Mr. SPEERS: Mr. President and Members of the Senate: First, to correct

the good Senator from Cumberland, Senator Conley, the minority leader of this body, with regard to the manner in which this bill was introduced, the Senator was not present at the meeting of the Legislative Council after which the matter of this particular item was brought up. There were other members of the leadership present at that time and this matter was thoroughly discussed and agreed upon to let into the body at this time.

Mr. President, I do not wish to let stand the implication that I have not been in favor in the past and would not remain in favor in the future of allocations for constituency services to be made to each member of the legislature. I did support that bill and I do feel that it is an important part of legislative reform. But I do feel very strongly that it is sheer facade at this point in time, and particularly in an election year, to argue that constituency services are not going to be performed by members of the legislature for their constituents if they don't have this \$200.

I think what we are seeing right at this moment is a very clear indication and a beginning as to just how serious this legislature is going to be in trying to find cost savings items for state government. And if we can not agree here and now at this time to cut out \$200 from each member of the legislature for savings of \$38,200, then I do not think that we can be very serious here and stand and argue in favor of finding cost savings and cost effectiveness and trying to eliminate particular items from the state budget.

I think this is an important vote, Mr. President, and one further point that I would make is that this vote is not on the question of passage of this bill even; the vote at the present time is whether or not you are even going to allow this bill to be presented to a committee. We have seen many bills come into the legislature that ultimately we would say we are not going to support, but that it should at least be referred to a committee. And my position on this at the present time is very strong that the Appropriations Committee should indeed be granted the vehicle by which it can identify specifically \$38,200 for use in other problems in other areas of state government.

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

Mr. CIANCHETTE: Mr. President, I am amazed at the remarks we have just heard from our floor leader. His last statement said that we at least ought to let this important measure of \$38,200 go to a committee. My God, it didn't even go to a committee in the first place. It was a Senate paper, a joint order, that put it in effect.

The floor leader says that he supports this idea and this concept, and to make an issue out of this particular order here today I think is a sham to the people of the State of Maine, because, in my opinion, we are going to be spending the ratio of a dollar to save seventy-five cents, and I think it is a farce to the people of this state to try to pull that kind of a trick, to fool them into thinking we are really doing something about saving money in this state. Our priorities are all messed up.

I certainly would like to see us save \$38,200, and I am sure we all would. I say there is a much better way to do it than to renege on a previous deal that some legislators are depending on, to renege on a deal that was passed in the first place without public hearing, to renege on a deal

that people have been depending on, and saying that we have got to send that to committee now.

Let me tell you where we are going to spend the dollar to save the seventy-five cents. This kind of philosophy coming out of leadership to extend this session, that costs us thousands of dollars every day, needs to be reversed. And I think it is not a proper thing to be coming out of leadership to be submitted more bills to this legislature that is going to add more days. What is the cost of a day? I don't know. I have heard figures from \$15,000 to \$25,000 a day we spend for every day we are in session. Now, if we want to talk about saving some money, let's get off the stick and shorten this session by working a little harder and paying more attention to the business of the session instead of fooling around with crap like this. I say that this bill ought to be indefinitely postponed, and indefinitely postponed now.

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

Mr. KATZ: Mr. President, I am looking at my colleagues this morning, every one of whom, every one of whom without exception, is committed to the identification of low priority programs which can be repealed, reduced, delayed, in order to free up some dollars for state employees, for the University of Maine, or any other higher priority programs which the Senate might identify. Well, this is our first go-around at it and it just is not going to be easy.

What is going to happen next week when somebody comes up with an identification of a low priority program, in the view of some of us here, to get the state out of the business of analyzing the water content of some streams on an annual basis and doing it on a biennial basis, for example. I don't even know if we do it. But lady and gentlemen, no matter what program comes before you for re-evaluation, it is going to be awfully, awfully difficult, and I say let's calm our passions down and realize that there are no partisan implications, there is no dirty work afoot; this is the first step of what is going to be, if you will excuse the expression, a real stinky job.

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

Mr. CURTIS: Mr. President, I think I would like to correct just one item which was mentioned by the Senator from Somerset, Senator Cianchette, regarding how this particular provision in the statutes came to be. It is in the statutes that there shall be a \$200 a year constituent services allowance for each legislator. That was the result of legislation in previous years that had a public hearing, and the only way to change it would be by a change in the statute, which the proposal before us recommends.

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

Mr. MERRILL: Mr. President, I would like to make a statement and then ask a question through the Chair. The statement is that one of the problems with voting on anything which affects us as legislators is that it is often misinterpreted as trying to do something to feather our own nests, so it always makes us very vulnerable to cut back things, and it always makes for a great deal of rhetoric and demagoguery. So I want to make clear that in voting for this, in voting to indefinitely postpone this, I am not looking for any windfall of \$200.

and if it should come about that \$200 will be passed out, that I will sign that check over immediately to the state. So the vote that I cast here today is not one to hand on \$200 to myself.

The question I would like to pose through the Chair is, if I understand correctly, we passed a joint order which will allow us to look at all the low priority programs and then to come in with the necessary legislation to deal with that. Wouldn't it be possible once that look is taken, if it is decided in the overview that this is one of those low priority programs, that this could be included in those recommendations and dealt with in that way, in a systematic way which is looking at everything, and not in this way which seems to me to be just finding a place where we can find something that is very emotional, that can be misread by the public as the legislature being self-serving, and passed as sort of a window dressing to what should be a real effort.

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

Mr. BERRY: Mr. President and Members of the Senate: I always enjoy listening to people who get up and say that they are going to vote one way but they sure don't want the public to be misinformed on exactly what they mean by voting that way. I am sure the public isn't going to be misinformed on anything we are doing up here, particularly on some action of recent days.

I thought yesterday, in the zeal of establishing efficiency, economy, low cost priority, cost effectiveness programs that went through here, I think everybody climbed on the bandwagon, and all of a sudden we are up against a little minor item, and how quickly some of us are hopping off the bandwagon. Let's hope that this action does escape the electorate.

Now, the governor has been brought up frequently in this chamber as a bad boy for chastising the legislature, particularly by some of the people who are opposed to the particular motion we are debating here, so I thought it would be just as well for some of us who have not yet made up our minds how we are going to vote on this issue to recall what the governor is saying, and I am going to quote from a memorandum which I think went to the president of the body. The governor is saying this:

"I am also pleased that a number of legislators have expressed the need and desire for the legislature to conduct cost effective studies and reductions in spending in the legislative branch." That is us. "The endorsement of this suggestion and the implementation of this effort by the legislative leadership, simultaneous with our continued attempts in the executive branch, in our joint efforts I suggest would only serve to strengthen the confidence in elected officials."

Now, that is not a bad thought. Perhaps by our action today we could strengthen the confidence in elected officials.

The PRESIDENT: Is the Senate ready for the question? The pending motion before the Senate if the motion by the Senator from Somerset, Senator Cianchette, that Senate Paper 750 be indefinitely postponed. 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 on this item please rise in their places until counted.

Obviously more than one-fifth having

arisen, a roll call is ordered. The pending question is the motion by the Senator from Somerset, Senator Cianchette, that Senate Paper 750 be indefinitely postponed. A "Yes" vote will be in favor of indefinite postponement; a "No" vote will be opposed.

The Secretary will call the roll.

ROLL CALL

YEAS: Senators E. Berry; Cianchette, Conley, Graham, Merrill, O'Leary, Reeves.

NAYS: Senators R. Berry; Carbonneau, Clifford, Collins, Corson, Cummings, Curtis, Cyr, Gahagan, Graffam, Greeley, Huber, Jackson, Johnston, Katz, McNally, Pray, Speers, Thomas, Trotzky, Wyman.

ABSENT: Senators Danton, Hichens, Marcotte, Roberts.

A roll call was had. Seven Senators having voted in the affirmative, and 21 Senators having voted in the negative, with four Senators being absent, the motion did not prevail.

Thereupon, the Bill was referred to the Committee on Appropriations and Financial Affairs and Ordered Printed.

Sent down for concurrence.

Committee Reports House Leave to Withdraw

The Committee on Taxation on, Bill, "An Act to Provide Relief from the Burden of the State Uniform School Tax." (H. P. 2055) (L. D. 2231)

Reported that the same be granted Leave to Withdraw.

Comes from the House, the report Read and Accepted.

Which report was Read and Accepted in concurrence.

Ought to Pass — As Amended

The Committee on Legal Affairs on, Bill, "An Act to Clarify the Authority of the National Guard in Providing Emergency Medical Services." (H. P. 2051) (L. D. 2226)

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-962).

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

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

Ought to Pass in New Draft

The Committee on Business Legislation on, Bill, "An Act to Repeal 'An Act to Increase Protection under the Uninsured Motorist Law'." (H. P. 1943) (L. D. 2130)

Reported that the same Ought to Pass in New Draft under New Title: "An Act to Amend the Uninsured Motorist Law" (H. P. 2178) (L. D. 2298).

Comes from the House, the Bill in New Draft Passed to be Engrossed.

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

Senate

Ought to Pass — As Amended

Mr. Corson for the Committee on Legal Affairs on, Bill, "An Act to Prohibit Embalming when an Autopsy has been Authorized." (S. P. 659) (L. D. 2084)

Reported that the same Ought to Pass as

Amended by Committee Amendment "A" (S-429).

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

Divided Report

The Majority of the Committee on Public Utilities on, Bill, "An Act to Regulate Drinking Water." (S. P. 687) (L. D. 2198)

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (S-431).

Signed:

Senators:

CUMMINGS of Penobscot
GREELEY of Waldo
CYR of Aroostook

Representatives:

KELLEHER of Bangor
NADEAU of Sanford
LITTLEFIELD of Hermon
SAUNDERS of Bethel
LUNT of Presque Isle
BERRY of Buxton
GRAY of Rockland
TARR of Bridgton

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

Signed:

Representative:

LEONARD of Woolwich

Which reports were Read.

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

Second Readers

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

House

RESOLUTION, Proposing an Amendment to the Constitution to Increase the Bonding Limit on Maine Veterans' Mortgage Loans from \$2,000,000 to \$4,000,000 and to Decrease the Bonding Limit of the Maine School Building Authority from \$25,000,000 to \$10,000,000. (H. P. 2171) (L. D. 2295)

Which was Read a Second Time.

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

Mr. KATZ: Mr. President, I want to applaud the sponsor of this piece of legislation, who has recognized that the Maine School Building Authority is probably not going to be issuing any more bonds, and by reducing the amount of authority from 25 to 10 million, which probably is about what is outstanding now. At least we are giving a signal to bond counsel that we are tightening up our belts in the State of Maine and removing the jeopardy of the state's credit. But I would like to request from some member of the Appropriations Committee, considering the climate that the state is in at the moment, the climate at present in the state, and considering the fact that apparently a law suit against the state because of the school funding bill has further decreased the pressure on our municipal bonds, whether there is a real deep feeling that it is wise to increase the bonded authorization on the Maine veterans' programs at this time?

The PRESIDENT: The Senator from Kennebec, Senator Katz, has posed a question through the Chair.

The Chair recognizes the Senator from Cumberland, Senator Huber.

Mr. HUBER: Mr. President and Members of the Senate: This program concerning veterans' mortgage loans is about at its current limit of 2 million dollars. They have had very good experience. I am not certain that their experience can continue as successfully as it has, however, this is a program encouraging small business ventures, their lending experience has been extraordinarily successful so far, and the Appropriations Committee felt that this was a program worthy of expansion at this time.

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

Thereupon, on motion by Mr. Katz of Kennebec, tabled and Specially Assigned for March 16, 1976, pending Passage to be Engrossed.

House — As Amended

Bill, "An Act Relating to Employment of Drug Inspectors by the State Board of Pharmacy." (H. P. 1879) (L. D. 2054)

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

Enactors

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

AN ACT Concerning the Identification by Fingerprints of Past Offenders. (H. P. 1883) (L. D. 2061)

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

Orders of the Day

The President laid before the Senate the first tabled and Specially Assigned matter:

House Report -- from the Committee on State Government -- Resolution, Proposing an Amendment to the Constitution to Permit the Governor to Veto Items Contained in Bills Appropriating Monday. (H. P. 1981) (L. D. 2170) Majority Report -- Ought to Pass as Amended by Committee Amendment "A" (H-941); Minority Report -- Ought to Pass as Amended by Committee Amendment "B" (H-942).

Tabled -- March 9, 1976 by Senator Speers of Kennebec.

Pending -- Acceptance of Either Report. (In the House -- Minority Report Read and Accepted and the Resolution Passed to be Engrossed as amended by Committee Amendment "B" as amended by House Amendment "A" Thereto (H-943).

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

Mr. CURTIS: Mr. President, I hope that the Senate does not accept the majority ought to pass report, and instead I hope that at a later time it will accept the minority ought to pass report. The two reports differ primarily in one provision, and you find copies of the two reports under Filing No. H-941 for the majority report, which had seven signers, and H-942 for the minority report, which had two signers. And in order to clarify the issue at the moment, Mr. President, I will move acceptance of the minority report, which is H-942.

The minority report requires that any

override of an item veto in an appropriations bill by the governor -- and that is the question before us -- could only be achieved by a two-thirds vote of the Senate and a two-thirds vote of the House. The other report, the majority report, under Filing H-941, provides that the override of the governor's veto could be attained by a simple majority vote in the House and a simple majority vote in the Senate. Those are the two questions that are before us.

It is the responsibility of the governor to prepare and submit a budget. Without an item veto, a governor is forced to accept as "necessary or expedient" particular items which are excessive or unnecessary in his opinion to the budget which he is responsible for preparing and for which a great deal of time and expertise has been expended.

The item veto has been adopted in many states, and I have distributed to the Senate this morning some copies of pages from the book of the states which indicate which states have indeed already achieved, provided for an item veto in appropriations bills. In that list in table 10, you will find in the third column from the right, item veto on appropriations bills, including an amount, those states are starred which have adopted an item veto. Those states which have the little letter "C" after the star are those which provide that the governor has a choice when he item vetoes an item in the appropriations bill. His choice is either to completely eliminate the item which is included in the appropriations bill or to reduce the item in the appropriations bill, and the minority report of the committee for which I am arguing this morning provides that the governor has his choice either to reduce or completely eliminate an item in the appropriations bill.

I would also like to point out that the majority report is the same in this provision but that there is an additional amendment, and chronologically, fortunately, it is the next filing, No. H-943, which has been accepted in the House. That amendment accepted in the House gives the governor only the choice to accept the item in the appropriations bill or to eliminate. It does not give the governor the choice to reduce.

Now, these states which have adopted the item veto have recognized that an appropriations bill is unique in that it is not susceptible to a simple yes or no decision by a governor. It contains numerous separate and distinct measures which should stand or fall on their own individual merits.

A governor is particularly well situated to know when an item from one program affects the effectiveness of another program. A governor can more effectively eliminate duplication and waste by having the tools to exercise control over programs which overlap. It may be a legislative tendency sometimes to include in an appropriations bill those items which benefit a special interest group and would not stand the close scrutiny of an examination under a spotlight.

Now, the procedure is a simple one. The governor signs the appropriations measure presented and returns those items with which he finds disagreement. The return must be accompanied by his reasons for exercising the veto. And in my research in preparation for an explanation of this bill, I obtained a copy of an item veto message from the governor of New

Jersey last year. Because of the length of the message, which is about 15 pages long, I did not reproduce it for all of the members of the Senate. I have it here available for anybody who would care to look at it later, but I think that you would agree with me upon examining it that at least this gives the governor the opportunity to specifically examine individual provisions in the appropriations bill and to indicate why he thinks they ought to be reduced or eliminated.

The effect of an item veto on a legislature would be to force it to avoid frivolous spending measures and more closely scrutinize the budget it is funding. The executive and legislative branches would be compelled to work together to avoid unnecessary delay in a session. A disfavored item would be reviewed early and objections removed. At least that would be the hope.

In the past, Mr. President, I have taken an opposite position and opposed the item veto. And the reason for my own personal change is because I think that with a variety of other reforms in the legislative process the Maine Legislature has increased its stature and has provided other techniques and procedures by which we have become more effective. Specifically, I would mention to you the requirement now in the constitution that we have annual sessions; the provision we have now by which the legislature has staff to assist to a much greater extent than we have had in the past; the provision by which joint standing committees may meet in the interim between legislative sessions, both to work with departments and also to review and develop legislation; and the new Performance Audit Committee, which gives the legislature an opportunity to review on a continuing basis how money is being spent.

So, Mr. President, I hope that the legislature will give this a full and careful consideration, and I hope that the Senate will join me in voting for the minority report.

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

Mr. MERRILL: Mr. President, I rise to request a division and to speak against the motion. I wasn't in the 106th Legislature but I know this idea was put forward then, and I was against it then, even though the governor at that time was a Democrat and a personal friend, and I am against it now.

As I look at the events of the last twenty years in state government and the effect that they have had on the balance of power between the legislature and the executive, particularly in regards to the area of spending, I think that we are addressing the grievous misbalance in the wrong direction. I think what we ought to be concentrating our efforts on is strengthening legislative input into the budget process and taking the necessary steps to reform our own processes so that we can do a better job of making the budget, and so that we are less dependent on the executive branch and the executive bureaucracy in writing these budgets. I am against anything at this time particularly, with us being as weak as we are in the budget process, that gives more power to the chief executive of the state.

Now, I know at this particular time some members of this Senate have a great deal of sympathy with the particular turn of mind that the present chief executive has in regards to spending, but when we write

a constitution I think we ought to be aware of the thing in some broader context than that. And frankly, I think that any student of government would be concerned that the legislature regain its importance in the budgetary process before we give any more power — and this is an extraordinary power, much beyond what any member of this legislature has — in the area of writing the budget.

I would hope that when we have the division we would defeat this motion.

The PRESIDENT: Is the Senate ready for the question? The pending question before the Senate is the motion by the Senator from Penobscot, Senator Curtis, that the Senate accept the minority ought to pass as amended by Committee Amendment "B" report of the committee. A division has been requested. Will all those Senators in favor of accepting the minority report please rise in their places until counted. Those opposed will rise in their places until counted.

A division was had. 20 having voted in the affirmative, and six having voted in the negative, the Minority Ought to Pass as Amended Report of the Committee was Accepted in concurrence and the Resolution Read Once. Committee Amendment "B" was Read. House Amendment "A" to Committee Amendment "B" was Read.

On motion by Mr. Curtis of Penobscot, House Amendment "A" to Committee Amendment "B" was Indefinitely Postponed in non-concurrence. Committee Amendment "B" was Adopted in non-concurrence and the Resolution, as Amended, Tomorrow Assigned for Second Reading.

The President laid before the Senate the second tabled and Specially Assigned matter:

Bill, "An Act to Permit a Manufacturer of Alcoholic Beverages to be a Stockholder in a Corporation which is a Licensee." (H. P. 1892) (L. D. 2072)

Tabled — March 9, 1976 by Senator Speers of Kennebec.

Pending — Enactment.

(In the Senate — Enactment reconsidered)

On motion by Mr. Graffam of Cumberland, and under suspension of the rules, the Senate voted to reconsider its former action whereby the Bill was Passed to be Engrossed.

On further motion by the same Senator, and under suspension of the rules, the Senate voted to reconsider its former action whereby Committee Amendment "A" was Adopted.

The same Senator then presented Senate Amendment "A" to Committee Amendment "A" and moved its Adoption.

Senate Amendment "A", Filing No. S-430, to Committee Amendment "A" was Read and Adopted and Committee Amendment "A", as Amended by Senate Amendment "A" Thereto, was Adopted.

Thereupon, on motion by Mr. Graffam of Cumberland, tabled until later in today's session, pending Passage to be Engrossed.

The President laid before the Senate the third tabled and Specially Assigned matter:

HOUSE REPORT — from the Committee on Taxation — Bill, "An Act to Remove the Minimum Mandatory Tax from the Railroad Excise Tax Formula." (H. P. 2003) (L. D. 2179) — Majority Report — Ought to Pass as Amended with

Committee Amendment "A" (H-952); Minority Report — Ought Not to Pass.

Tabled — March 10, 1976 by Senator Speers of Kennebec.

Pending — Acceptance of Either Report. (In the House — Majority report Read and Accepted and the Bill and accompanying papers, Indefinitely Postponed)

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

Mr. COLLINS: Mr. President, I move the acceptance of the ought to pass as amended report of the committee, and I would like to speak to my motion.

During the interval between the regular session and the special session, I served on a committee along with Senator Wyman and Senator Merrill that was specially appointed to study the problems of railroad excise taxation. You will recall that during the regular session we passed an act which would have provided certain tax relief for the railroads, but that particular act served to benefit only one railroad. On this grounds it was vetoed by the governor and the legislature sustained the veto.

The committee had several sessions of study on this problem. It seemed to be the unanimous opinion of the committee that it should be the policy of the State of Maine to encourage the good health of our railroads. We were particularly concerned about the abandonment of branch lines. We all know that there have been applications for abandonment, some lines have been abandoned, and others are still before the Interstate Commerce Commission under consideration. It seems to us important that we preserve railroad tracks in place, because we know that in the future it may be terribly important to this state to have a supply of coal moving over the railroad tracks to supply energy to our industry. We know that the supply of oil in the world will run out some day and that there is a vast store of coal in this country that can be used. There may be other forms of energy available by then, but we aren't sure of it, and if we permit the course to be that tracks are abandoned and torn up, we may live to regret it.

The particular proposal before us obviously has a problem with it. The problem is that because it removes the floor from a fluctuating scale of taxation that in this particular year, a time when virtually all our railroads are losing money, that the state will lose about \$152,000 of tax revenue. Now, because of that, it is my intention, if the ought to pass report is accepted by this body, to introduce an amendment which will restore taxation at that same level, that minimum level, this year and in the future. And my amendment will have the effect of introducing to our railroad taxation system a stable annual excise program, rather than utilizing a fluctuating program which goes up and down according to gross revenues.

I think that this amendment which I will propose is worthy of your consideration. I would not ask you to make the final decision on it today. I would hope that if this report is accepted and my amendment be placed before you that the matter could then perhaps lie over until you have a chance next week to look at it and consider it. Therefore, I would urge you to accept the ought to pass as amended report of the committee.

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

Mr. CONLEY: Mr. President, because of the appearance of a conflict of interest, I wish to be excused from voting on this subject.

The PRESIDENT: The Senator from Cumberland, Senator Conley, requests leave of the Senate to refrain from voting on this issue because of the possibility of an apparent conflict of interest. Is it the pleasure of the Senate to grant this leave?

It is a vote.

Is it now the pleasure of the Senate to accept the majority ought to pass as amended report of the committee?

The Chair recognizes the Senator from Kennebec, Senator Reeves.

Mr. REEVES: Mr. President, in the same vein as the majority leader, looking for ways to save money and not give these special concessions during this very tough time that the state is in now, I move that we indefinitely postpone this bill and ask for a roll call.

The PRESIDENT: The Senator from Kennebec, Senator Reeves, now moves that this bill and all its accompanying papers be indefinitely postponed and requests a roll call.

The Chair recognizes the Senator from Cumberland, Senator Berry.

Mr. BERRY: Mr. President and Members of the Senate: I would just like to address a question to the Senator from Kennebec, Senator Reeves, and ask him how he would like to have the branch railroad from Brunswick east that serves Bath and Wiscasset and way towns and the cement mill at Rockland discontinued if it doesn't get a little help?

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

The Chair recognizes the Senator from Kennebec, Senator Katz.

Mr. KATZ: Mr. President, might I request through the Chair to Senator Reeves a question, that apparently this Senate committee has done some significant work, such as the Jobs Committee did in the interim session, and I don't know yet what kind of recommendations we are going to get as this is a brand new issue before me, but might not the motion to indefinitely postpone this bill be more appropriate when we get a chance to, in effect, see what the committee is going to come up with?

The PRESIDENT: The Senator from Kennebec, Senator Katz, has posed a question through the Chair to the Senator from Kennebec, Senator Reeves, who may answer if he so desires.

The Chair recognizes the Senator from Kennebec, Senator Reeves.

Mr. REEVES: Mr. President, I ask the Senate's leave to withdraw my motion to indefinitely postpone at this time.

The PRESIDENT: The Senator from Kennebec, Senator Reeves, now requests leave of the Senate to withdraw his motion to indefinitely postpone this bill. Is it the pleasure of the Senate to grant this leave?

It is a vote.

Is it now the pleasure of the Senate to accept the Majority Ought to Pass as amended report of the committee?

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

The President laid before the Senate the

fourth tabled and Specially Assigned matter:

Resolution, Proposing an Amendment to the Constitution to Assure Revenues for Bond Service and Prohibit State Bonding of Current Expenditures. (S. P. 689) (L. D. 2206)

Tabled — March 10, 1976.

Pending — Final Passage.

(In the House — Finally Passed)

On motion by Mr. Speers of Kennebec, retabled and Specially Assigned for March 17, 1976, pending Final Passage.

The President laid before the Senate the fifth tabled and Specially Assigned matter:

House Report — from the Committee on Taxation — Bill, "An Act to Permit Municipalities to Levy and Collect Service Charges for Certain Municipal Services from Tax Exempt Institutions and Organizations." (H. P. 1886) (L. D. 2064) — Majority Report — Ought Not to Pass; Minority Report — Ought to Pass in New Draft and New Title: "An Act to Permit Municipalities to Levy and Collect Service Charges for Certain Municipal Services from Certain Tax Exempt Institutions and Organizations." (H. P. 2179) (L. D. 2299)

Tabled — March 11, 1976 by Senator Conley of Cumberland.

Pending — Motion of Senator Wyman of Washington to accept the Majority Ought Not to Pass Report.

(In the House — Bill and accompanying papers, Indefinitely Postponed)

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

Mr. CONLEY: Mr. President and Members of the Senate: For those of us who believe in the right of local governments to make local decisions, this is a bill which deserves your close attention.

Throughout the years, our legislature has granted tax-exempt status to many organizations and institutions. All of these decisions were certainly sound in a political sense. We conferred special status upon a certain group, while the remainder of our citizens were generally unaware of the impact which our actions would have upon their own municipal property taxes.

Many of these groups and institutions were deserving of this status. Most of them were probably deserving. Perhaps, all of them were deserving. But it should not have been the legislature granting, in every instance, this special status.

As the Governor's Tax Policy Committee has pointed out, "only municipalities have the capacity to determine whether these properties should pay service assessments." And that is all the bill before you provides, in a very limited way. It is not a bill to levy taxes on any group or institution. It simply provides local governments the option of assessing a service charge upon the real property owned and occupied by certain organizations.

Please do not confuse this legislation with the original bill, which provided municipalities with broad authority to impose service charges upon a wide number of organizations and institutions, including hospitals, parsonages, and charitable organizations.

What we have here today is a very, very modest proposal. Municipal legislative

bodies would simply have the opportunity to take a close look at the question of a possible charge for certain services rendered to veterans organizations, chambers of commerce, and fraternal organizations.

It has been claimed that this is an "unpatriotic" bill. I believe this is clearly unfair.

In my own city of Portland, over \$3 million in real property is owned by veterans organizations and is tax-exempt. According to a lengthy study done last year at the University of Maine and entitled "institutional property tax exemptions in Maine."

As a member of the Portland City Council, I might feel that these organizations deserve to pay my city a certain amount for the services they receive. On the other hand, I might well feel that these organizations serve the public good to such a considerable extent that they are entitled to special tax exempt status.

The point is, however, that this decision should be made in Portland, by our legislative body elected by the citizens of Portland, and not by well-meaning legislators from plantation 5. And I shouldn't be making decisions here in Augusta about who pays the property tax in plantation 3.

It will be said, as it is always said, that this bill is the camel's nose under the tent, and that we will be opening the door of taxation of our churches. If one were to follow this exaggerated line of reason, I would point out that the camel's nose is already there.

According to the University of Maine study which I quoted, at least 19 Maine municipalities already receive service payments, other than sewer and water charges, from tax-exempt institutions. Our own state, in 103 municipalities, has a special payment program for footage of state park land. The Susan Curtis Foundation, which I believe every single member of this legislature believes is an organization of obvious public good, will next year make payments to the Town of Stoneham for services provided to the summer camp.

Municipal officials should not, however, have to depend upon an organization's sense of public relations. If the organization is within one of the three categories in the bill before you, our municipalities should have the option of making a service assessment. To deny this option is to say to officials of our local communities that we believe in "tax exemption without representation." In this bicentennial year, I suggest that this is not a very good slogan.

I would urge the Senate to vote against the motion to accept the majority ought not to pass report.

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

Mr. COLLINS: Mr. President and Members of the Senate: I join the Senator from Cumberland, Senator Conley, in urging the Senate to vote against the pending motion. When I saw this bill originally, I had grave doubts about its value, but as it comes before us now, amended to apply to only those three categories, I think it deserves a very serious consideration.

This body will recall in the regular session the concern of several of us over the eroding tax base in our municipalities.

This is an attempt to turn the tide on that eroding tax base.

At the present time the amount of taxable property in our municipalities that would be affected by this act, as amended, is a little over 22 million dollars in assessed value. If this value were taxed at an average municipal tax rate of 24.7 mills, the taxes would be 552,000 dollars. This is not a big thing in taxation in the State of Maine, but it is an indicator of a trend that I think might well be followed to our advantage.

I think that what bothered me most about the original bill was not the fact that in that version churches and hospitals were included, they are not included in this amended version, but the practical difficulties of applying service charges by our towns and cities to these institutions. In this regard I have had conversations with municipal officials and with Mr. Salisbury of Maine Municipal association, who worked with the Governor's Tax Policy Committee, and a few illustrations were offered to me that I would like to mention to you because they would give you an idea of how an equitable program could be worked out.

With refuse collection, for example, which is used in some municipalities, the total operating cost of refuse collection would be divided by the total volume of solid waste and a per cubic yard cost developed which could then be applied to the institution in question for a service charge. In fire protection the value of the building that would otherwise be exempt could be related to the total evaluation of buildings in that municipality, and on that basis a rate could be developed to apply against the total cost of fire service in that municipality. Similarly with police protection, snow removal, or services concerning highways could be based on a front foot cost. So there are equitable ways of arranging service charges. This will have to be worked out on a municipal basis. There may not be any one way to do it, but it can be done.

It seems to me, Mr. President, that we need to keep in view the philosophy that everyone and all property must contribute to the cost of government. That is the first rule. The second rule is that yes, there may be some exemptions in order, but the first test of the exemptions should be does this institution provide a service which would otherwise have to be provided by government as we now accept government.

For example, when I was a boy, elderly people of very little means who could not survive in their own home were sent to the poor farm. The municipality maintained a poor farm for those people. Government has changed a lot since those days and nearly all of those same people today have social security, but many of those people cannot quite get by in their own residence or in a rented residence with only social security. So housing for the elderly has come into play as sometimes a municipal function, and so on. Now, I just mentioned this to illustrate that techniques have changed, but if the institution in question is providing a function that today we would say but for that institution the government must do it, then we have some grounds for exemption.

Now, the local feature of this gives us a chance for assessment of the institution claiming exemptions on a very practical basis. For example, I know of veterans

organizations in some communities that provide a great deal of municipal service, public recreation, clean-up efforts, and various other activities, and in other municipalities I see the same type of organization existing only to enjoy social activity and to recite patriotic tradition. Now, that is not to downgrade patriotic tradition, it is important and I am for it, but whether we ought to subsidize the carrying on of patriotic tradition by exempting from taxation a building of some size, which may really be the chief effort of that organization, is a question we have to ask.

I have no illusions about ultimate successes of this type of legislation, but I do urge upon you to consider the direction that this effort leads to because there are times to re-examine old standards and to say is the Chamber of Commerce, is the organization called the Tent of the Recabites, is the organization known as the Odd Fellows, or whatever it may be, is this organization in my community providing a service to my community which warrants tax exemption. Some of them do, I am sure. Some of them do not. And I think that that decision ought to be faced, hard as it is — it is not easy to get up and say, for example, to a veterans group, we wonder if you are entitled to exemption — but I think the time is coming when we ought to do that if we do not wish to have further erosion of our base of taxation.

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

Mr. CURTIS: Mr. President and Members of the Senate, I have been listening with some interest to the debate because until the previous two speakers presented their points of view I really hadn't made up my mind how I was going to vote on this particular bill.

As I understand the previous speaker, the Senator from Knox, Senator Collins, his argument is that we should exempt only those organizations which provide a service which would otherwise have to be provided by government. I think as he put it, but for such institutions the government must do it. And what I don't quite understand is why then in the list of organizations which would lose their tax exemption under this bill churches are not included, because certainly we are in a situation where but for having the churches government would not have to do it. As a matter of fact, the constitution prohibits that government should provide a state church.

I think that the thoughts that have been expressed before are admirable, but I think they do not address the full and total picture. And it is my understanding that the next session of the legislature may be presented with some more detailed ideas about taxes and tax exemptions, so I think this type of piecemeal approach at this time is indeed discriminatory.

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

Mr. MERRILL: Mr. President, could I ask the Secretary of the Senate to read the report from the Committee on Taxation on this bill?

The PRESIDENT: The Secretary will read the report.

The SECRETARY: The Committee on Taxation, to which was referred the Bill, "An Act to Permit Municipalities to Levy and Collect Service Charges for Certain Municipal Services from Tax Exempt Institutions and Organizations," House

Paper 1886, Legislative Document 2064, have had the same under consideration and ask leave to report that the same ought not to pass. Signed: Senator Wyman, Representatives Maxwell, Finemore, Immonen, Dam, Senator Jackson and Representative Twitchell. The minority ought to pass in new draft and new title report was signed by Representatives Drigotas, Mulkern, Susi, Cox and Morton.

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

Mr. MERRILL: Mr. President and Members of the Senate: I would just like to make clear for the record that the reason my name is not on the report is because I did not have a chance to see the new draft before it was put out as recognizable and, with good reason for haste in getting these bills out, inadvertently my name isn't there. For the record, I would like to state that I am in favor of this bill as amended and would have signed ought to pass.

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

Mr. WYMAN: Mr. President and Members of the Senate: I have listened with interest to the previous speakers, and the first two, at least, I think indicated that this is a foot in the door. I hope I didn't misunderstand that, but something ought to be done in this area and this is a start. It was also indicated that money collected by the towns would be minimal, and I think the good Senator from Knox explained there would be very little money. You are dealing with a very little money, you are dealing with a bill which seems to be causing quite a lot of confusion and seems to be cloudy, the other branch indefinitely postponed it, and I certainly hope that this legislature will go along and concur in indefinitely postponing the bill.

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

Mr. CONLEY: Mr. President and Members of the Senate: The good Senator from Washington, Senator Wyman, has stated that this would be a very minimal amount that would be collected in his community. Well, I think it might be interesting to look at the total picture, as they say, the big picture, and see just what kind of figures we do have relative to these organizations that hold exemptions.

The current tax-exempt values of property owned by veterans, boards of trade, and fraternal organizations have reported to the State Bureau of Taxation for 1975, and they follow as such: Veterans Organizations, \$5,416,308; Boards of Trade, \$1,538,077; Fraternal Organizations, \$15,405,24; not too minimal. If we had taxed an average municipal tax rate of 24.7 mills, the taxes would be \$552,000.

The PRESIDENT: Is the Senate ready for the question?

The Chair recognizes the Senator from Cumberland, Senator Berry.

Mr. BERRY: Mr. President and Members of the Senate: I think, in view of the permissiveness of this legislation, that it should receive the enthusiastic support of the legislature. The decision should be made back in the communities. We see around the country communities groping for income taxes and any form of income that they can get in order just to survive. I think we owe this to our Maine communities, be they small or large, to have them make the decision themselves. I think it is a very important question, Mr.

President, and I request we take the vote by a roll call.

The PRESIDENT: A roll call has been requested.

The Chair recognizes the Senator from Washington, Senator Wyman.

Mr. WYMAN: Mr. President, not to belabor this, but it certainly is a cloudy issue because the two previous speakers, if I understood them correctly, don't agree on how much money is involved. I just think there are too many unsolved parts of this, and I think we should certainly concur in the ought not to pass report of the committee, and I hope the Senate would so vote.

The PRESIDENT: A roll call has been requested. In order for the Chair to order a roll call, it requires the affirmative vote of one-fifth of those Senators present and voting. Will all those Senators in favor of a roll call please rise in their places until counted.

Obviously more than one-fifth having arisen, a roll call is ordered.

The Chair recognizes the Senator from Washington, Senator Wyman.

Mr. WYMAN: Mr. President, as I understand it, the motion is to accept the ought not to pass report?

The PRESIDENT: The pending motion before the Senate is the motion by the Senator from Washington, Senator Wyman, that the Senate accept the majority ought not to pass report of the committee. A "Yes" vote will be in favor of accepting the majority ought not to pass report; a "No" vote will be opposed.

The Secretary will call the roll.

ROLL CALL

YEAS: Senators Cianchette, Corson, Curtis, Cyr, Gahagan, Graffam, Greeley, Jackson, Johnston, McNally, O'Leary, Pray, Speers, Thomas, Wyman.

NAYS: Senators Berry, E.; Berry, R.; Carbonneau, Collins, Conley, Cummings, Graham, Huber, Katz, Merrill, Reeves, Trotzky.

ABSENT: Senators Clifford, Danton, Hichens, Marcotte, Roberts.

A roll call was had, 15 Senators having voted in the affirmative, and 12 Senators having voted in the negative, with five Senators being absent, the Majority Ought Not to Pass Report of the Committee was Accepted.

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

Mr. WYMAN: Mr. President, having voted on the prevailing side, I move reconsideration.

The PRESIDENT: The Senator from Washington, Senator Wyman, now moves that the Senate reconsider its action whereby the Senate accepted the majority ought not to pass report of the committee. All those Senators in favor of reconsideration will please say "Yes"; Those opposed will say "No".

A viva voce vote being taken, the motion did not prevail.

The President laid before the Senate the sixth tabled and Specially Assigned matter:

Bill, "An Act Relating to the Initiative and Referendum Processes." (H. P. 2027) (L. D. 2203)

Tabled — March 11, 1976 by Senator Speers of Kennebec.

Pending — Adoption of Senate Amendment "A" (S-426).

(In the House — Passed to be Engrossed as Amended by Committee Amendment "A" (H-954))

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

Mr. SPEERS: Mr. President and Members of the Senate: Speaking as the Senator from Kennebec on this issue, I move that Senate Amendment "A" be indefinitely postponed.

Mr. President, what this amendment does, as the good Senator from Cumberland, Senator Merrill, expressed yesterday, is to remove the provisions explaining the law from petitions which are being circulated. If you look at L.D. 2203 on page 2, at the bottom of the page and the first paragraph at the top of the next page, you will see what those provisions are which are to be eliminated from the petitions. They explain very succinctly that it is illegal for an individual to sign a petition twice and, secondly, to sign anyone else's name other than his own to a petition. I am sure that there is no one here that would disagree with the idea that both of those actions should indeed be illegal, and in fact this law on petitions resulted from a rather lengthy study by the Committee on Judiciary having to do with circulating petitions which grew out of a very serious problem with circulation of petitions in regard to a very hotly contested political issue at that time.

It seems to me that there is nothing wrong with warning an individual or placing on the petition a warning that will apprise that individual of the state of the law; that law being, of course, that he may not sign someone else's name. I think we all are aware of the possibility certainly of a husband being presented with a petition and going ahead and signing his name and then looking it over and say, "Oh well, my wife is in favor of that also and I will sign her name as well." Certainly in this era of ERA we should not take these opinions quite so lightly, and we should be aware that it is illegal for any individual to sign someone else's name to a petition. We should also be aware that it is illegal for us to sign more than once on a particular issue. I just see nothing wrong, and I see a good deal of advantage really given to the idea that that law should be called to the attention of an individual before he is presented with a petition to sign. I do not feel that it is particularly inhibitive for an individual, because if he reads the warning and understands the law, then he certainly knows that he can sign if he is not breaking the law. So, I would move the indefinite postponement of that amendment.

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

Mr. MERRILL: Mr. President, I rise to oppose the motion to indefinitely postpone and I would like to speak briefly to it.

Mr. President and Members of the Senate: I know that the hour is late and this isn't a monumental issue, the ship of state isn't going to sink either way we go on this or if the bill was never heard of, but it is an important issue to me, and I would just like to share why, and I think I have about three basic points to make about this.

First of all, part of the problem of the warning was made inadvertently but none-the-less clear in the remarks of the majority leader. He said what this warning would do is say to people that you are violating the law if you sign twice and if you sign the wrong name. Now, the majority leader is a lawyer and, I understand from people who practice with

him, a good one, but of course that is not what it says. What it says is that it is against the law if you do that knowingly. There is probably not any member in this Senate that hasn't signed some petitions twice, or signed more than one petition in the case of nominating petitions, unknowingly at one time or another. The requirement is knowingly, but the inadvertent mistake that the majority leader made, who is a good lawyer, is the same type of concern that may come up in the minds of someone who isn't schooled in the law, who will read that and who will be intimidated by the fact that on the bottom of the petition there is going to be a big warning. Certainly he isn't going to be as sophisticated in the law as Senator Speers and it very well may cause some concern on his part and he may not sign.

This may seem to be a hypothetical problem, but I would like to share just very quickly an experience I had when I was passing petitions for the public power referendum a few years ago, that same referendum that was referred to and the same referendum that had problems, and out of those problems grew this legislation. I was in a housing project for the elderly passing a petition, and I went to an elderly person's door and knocked on the door. An elderly person came out and I explained to him what the petition would do. He talked with me about it for a little while and then he signed the petition. So I went down and started to knock on the next door, and then the elderly gentleman came back out of the door and he said, "You know, I am in favor of that, but I am an old person and I have this public housing here, and I am afraid somebody might get me if I signed it, and I want to scratch my name off." Well, I allowed him to scratch his name off, and I have to admit that as I was leaving that project for the elderly I sort of chuckled at the old gentleman and his trepidation, thinking how meaningless it was, and actually I was a little bit amused by the fact that he was worried somebody would get him. Well, with the subsequent events that came about after those petitions were put in, I reflected many times on the old gentleman's concern and had to conclude that he was a little wiser in the ways of the world than I was.

I would just like to say, as far as this warning is concerned, in saying, well, it is against the law so we ought to put up a warning, you know, with all the laws that fill our books -- and there are so many now and it is growing so fast that we have to have supplements for the supplements -- we could very easily justify putting a sign up in front of everybody's house saying, "As you leave your house this morning, we want to warn you that you will probably violate the law sometime during the day", and I am sure we would be right, or if not on that day then probably the next one, with all the laws that we pass.

When we put that warning there, I think that it does have a chilling effect, I don't think that it is necessary, and certainly if this step was going to be taken, the same thing should be put at the bottom of our nominating petitions and all the petitions. Why single out this initiative and referendum process, which is a process so important to the framers of the constitution that when they wrote the constitution they laid out the powers of the legislature and then specifically excepted and kept for the people the power to make the laws themselves through the process of initiative and referendum.

You know, I think the real abuses that

have come in the past have come from people who have sat down and just filled out petitions, and we all know that that has happened. It has happened in relation to nominating petitions also. Those people aren't going to be intimidated by the fact that there is a warning on the bottom. Those people know clearly and well that they are violating the law when they do it. The effect of this warning is going to be to intimidate people who aren't versed in the law, people who have read of the events of the last few years of government investigations, government secrecy, and government organizations that are investigating government organizations, and they are going to be intimidated. I don't think that it is necessary to have this chilling effect on this most important constitutional right, so I would urge the Senate to defeat this motion, and ask for a division.

The PRESIDENT: A division has been requested. The pending motion before the Senate is the motion by the Senator from Kennebec, Senator Speers, that Senate Amendment "A" be indefinitely postponed. Will all those in favor of the indefinite postponement of Senate Amendment "A" please rise in their places until counted. Will all those opposed to the motion please rise in their places until counted.

A division was had, 11 having voted in the affirmative, and 12 having voted in the negative, the motion did not prevail.

Thereupon, Senate Amendment "A" was Adopted and the Bill, as Amended, Passed to be Engrossed.

Sent down for concurrence.

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

Mr. MERRILL: Mr. President, having voted on the prevailing side, I would ask to reconsider our action whereby this bill was passed to be engrossed, and ask the Senate to vote against me.

The PRESIDENT: The Senator from Cumberland, Senator Merrill, now moves that the Senate reconsider its action whereby the Senate passed this bill to be engrossed. All those in favor of reconsideration will please say "Yes"; all those opposed "No".

A viva voce vote being taken, the motion did not prevail.

The President laid before the Senate the matter tabled earlier in today's session by Mr. Graffam of Cumberland:

Bill, "An Act to Permit a Manufacturer of Alcoholic Beverages to be a Stockholder in a Corporation which is a Licensee". (H. P. 1892) (L. D. 2072)

Pending — Passage to be Engrossed.

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

Mr. SPEERS: Mr. President, if the Senate will bear with the ensuing parliamentary motions, I would like to explain, first of all, what has occurred.

There exists at the present time a House Amendment "B" to Committee Amendment "A", and as well a Senate Amendment "A" to Committee Amendment "A", which we just adopted. Unfortunately, the Senate Amendment and the House Amendment to the Committee Amendment are inconsistent and, therefore, we would like to kill the House Amendment to the Committee Amendment.

With that in mind, Mr. President, I move that the Senate reconsider its action

whereby it adopted Committee Amendment "A" as amended by the two amendments.

The PRESIDENT: The Senator from Kennebec, Senator Speers, now moves that the Senate reconsider its action whereby it adopted Committee Amendment "A" as amended by House Amendment "B" and Senate Amendment "A". Is this the pleasure of the Senate?

The motion prevailed.

On further motion by the same Senator, and under suspension of the rules, the Senate voted to reconsider its action whereby it adopted House Amendment "B" to Committee Amendment "A", and on further motion by the same Senator, House Amendment "B" to Committee Amendment "A", as Amended by Senate Amendment "A" thereto, was Adopted and the Bill, as Amended, Passed to be Engrossed in non-concurrence.

Sent down for concurrence.

Senate Papers

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

Judiciary

Mr. Collins of Knox presents, Bill, "An Act to Correct Errors and Inconsistencies in the Laws of Maine." (S. P. 751)

The Committee on Reference of Bills suggests that this Bill be referred to the Committee on Judiciary and Ordered Printed.

Which was referred to the Committee on Judiciary and Ordered Printed.

Sent down for concurrence.

Papers from the House

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

Joint Order

ORDERED, the Senate concurring, that the following be recalled from the Governor's Office to the House: Bill, "An Act Concerning Certain Financial Guarantees to be Made to Triple A Sugar Corporation by the Maine Guarantee Authority." (H. P. 1861, L. D. 2032) (H. P. 2194)

Comes from the House, Read and Passed.

Which was Read and Passed in concurrence.

Joint Resolution

Out of order and under suspension of the rules,

Mr. Gahagan of Aroostook presents the following Joint Resolution and moves its adoption:

State of Maine

In The Year Of Our Lord One Thousand Nine Hundred and Seventy-six

Joint Resolution Requesting Information Concerning The Proposed Reductions at Loring Air Force Base

WHEREAS, the arts of economics and of politics are often inextricably entwined; and

WHEREAS, often terms such as "cost effectiveness" and "cost-to-benefit ratio" do not fully reflect the underlying reality of a situation; and

WHEREAS, the decision to institute extensive reductions at Loring Air Force Base of necessity originated in some part of the Executive Branch of the Federal Government; and

WHEREAS, the decision to institute this

and other Air Force base reductions could have a significant effect on presidential primary elections to be held this year; and

WHEREAS, it is of vital concern to the Legislature of this State to know that the decision to make reductions at Loring Air Force Base, with the grave economic consequences to Aroostook County and to Maine which accompany that decision, was not made because of political considerations on the part of anyone in the Executive Branch of the Federal Government; now, therefore, be it

RESOLVED: That We, the Members of the 107th Legislature, now assembled in special session, do hereby urge and request the Members of the Maine Congressional Delegation to ask the Department of Defense to provide them with detailed information as to where and how the decision to make reductions at Loring Air Force Base originated, and as to the complete reasons why this decision was made; and be it further

RESOLVED: That duly attested copies of this Resolution be immediately transmitted to the Members of the Maine Congressional Delegation with our thanks for their prompt attention to this important matter.

(S. P. 752)

Which was Read and Adopted.

Sent down for concurrence.

On motion by Mrs. Cummings of Penobscot,

Adjourned until Monday, March 15, 1976, at 11:30 in the morning.