

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

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June 14, 1978

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APPENDIX

this will put us in non-concurrence and make a Conference Committee possible. Indefinite postponement. In that event, a motion to indefinitely postpone would certainly put us in non-concurrence. So I urge you to vote for the motion.

The PRESIDENT: The pending question before the Senate is the Motion by the Senator from Cumberland, Senator Jackson, that this Bill and all its accompanying papers be indefinitely postponed.

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

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

ROLL CALL

YEA — Chapman, Cummings, Danton, Greeley, Hewes, Jackson, Katz, McNally, Minkowsky, Morrell, Redmond, Snowe, Speers, Wyman.

NAY — Carpenter, Collins, S.; Conley, Curtis, Farley, Hichens, Levine, Lovell, Mangan, Martin, Merrill, O'Leary, Pray, Trozky, Usher.

ABSENT — Collins, D.; Huber, Pierce.

14 Senators having voted in the affirmative and 15 Senators in the negative, with 3 Senators being absent, the Motion to indefinitely postpone does not prevail.

The Ought to Pass, as amended, Report Accepted in concurrence.

The Bill Read Once.

Committee Amendment "A" Read.

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

Mr. MERRILL: Mr. President and Members of the Senate: I would like to pose a question because I think that it is relevant to those who have spoken of the wish to amend an amendment that I would not accept, but because I think much of this Bill is embodied in the amendment, if there was going to be an amendment that might have to be made to the Senate Amendment or it would have to be reconsideration motion. Someone has sincere desire to do that, they may consider an appropriate time to do so. I would question whether or not an amendment which went to the question of Legislative salaries would be relevant to a Bill which is entitled a method of computing Legislators expenses. I would point out that the constitutional provisions in regards to salaries is different then that with regards to expense and, therefore, I think that they are separate categories, and an amendment which would effect salaries would not be appropriate in this Bill. That is merely my suggestion, but I think that if anybody wishes to amend this might be the appropriate time to stop the process and get an amendment prepared.

Committee Amendment "A" Adopted. This Bill, as amended, Tomorrow Assigned for Second Reading.

Senate

Ought to Pass in New Draft

Mr. Curtis for the Committee on Judiciary on. Bill, "An Act to Make Additional Corrections of Errors and Inconsistencies in the Laws of Maine." (Emergency) (S. P. 692) (L. D. 2132)

Reported that the same Ought to Pass in New Draft under same title. (S. P. 748) (L. D. 2199)

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

Under suspension of the rules,

The Bill Read a Second Time.

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

Mr. CURTIS: Mr. President, there are a number of amendments to this piece of Legislation. If I could address just briefly the Bill itself, which was distributed today and which is a lengthy document. I would say that the Judiciary Committee reviewed this piece of Legislation with great care and very carefully refrained from including anything in the printed document which we thought was in any way substantive, that is everything that is in

this document is indeed correcting an error of solving the problem caused by the inconsistency between two existing laws or sometimes three or four existing laws on the Maine books.

There is a description which is mimeographed and takes up a number of pages is provided to you, on your desks this morning that describes what the reasons are for the changes in the printed document and I would suggest that if you have not had an opportunity to review those titles which you might be especially interested in, that you might like to do that this morning.

There are also a number of amendments there are is at least "A" through "L" and I am not sure but maybe there is one or two more that are still being distributed right now. Those amendments are going to be offered this morning, at least most of them will be offered this morning, and in some instances are items which the Judiciary Committee reviewed, thought were good and valid solutions to problems, but considered the matter under consideration to be somewhat substantive, and, therefore, thought that it would be better to have the full light of Legislative attention shine upon an amendment as it was offered from the floor. Others of the amendments are entirely new matters to me and I believe other members of the Judiciary Committee, and I would suggest that you listen to the sponsors as they describe the validity of the amendments which they have to offer.

Mr. President, with that explanation, I would like to commence by offering Senate Amendment "A" to the Errors Bill (S-565) and move its adoption.

The PRESIDENT: The Senator from Penobscot, Senator Curtis, now offers Senate Amendment "A" to L. D. 2199 and moves its adoption. The Secretary will Read Senate Amendment "A".

Senate Amendment "A" (S-565) Read.

The PRESIDENT: The Chair recognizes the same Senator.

Mr. CURTIS: Senate Amendment "A" addresses a question of an unusual situation that exists in the expiration of terms of office of members of the Board of Trustees at the University of Maine.

The situation is one in which the 15 members of the Board of Trustees of the University, 14 of them have their terms expire in May of whatever the seventh year after they are appointed, and there is no provision for a continuance of their term of office until their successors be appointed as we had in almost all other boards and commissions in state government and, therefore, I offer an Amendment to provide a situation in which Trustees whose term of office would otherwise expire in May, for example of 1978, to continue in office as a trustee of the University of Maine until the following January 15th or until their successors be qualified whichever might occur earlier and the primary reason that I offer this amendment is so that it will not be necessary for the Senate to be called into special session to confirm one or two reappointments to the Board of Trustees.

Senator Conley of Cumberland was granted unanimous consent to address the Senate on the Record.

Mr. CONLEY: Mr. President and Members of the Senate: I find the errors in this inconsistency Bill handling it in this manner is going to be a matter of extreme confusion. I personally do not know what all these amendments are. It seems to me that we are liable to go through the alphabet a couple of times perhaps half of the alphabet here and then through the alphabet one and half times down at the other Branch.

But I recall the days when we use to have some sort of way of acting in a manner through the Joint Standing Committee on Judiciary in handling these so-called errors and inconsistencies, and that the Judiciary Committee itself,

with the director of the Legislative Research analyzed and studied each of the amendments as they were proposed to the Errors and Inconsistencies Bill. And I think that this is at least the most sloppiest way of trying to correct what may or may not be errors and inconsistencies within our statutes. My personal feeling would be that all the amendments that have been prepared up to date would be submitted to the Joint Standing Committee on Judiciary and have them review them, all 13 members of the Committee, and let them make that determination as to whether or not they are errors and inconsistencies to the Laws rather than having us, march through the alphabet two or three times because it is only common sense that people are going to get tired of either supporting amendments or fighting amendments and really not having a clear understanding as to whether or not they are in fact a correction within the Statutes. And I think that some real sleepers can be put into our Statutes through the procedure that we are now participating in and I just say that not as the Minority Floor Leader, I say it as a member of this Body, that I do not think that this is the best way of handling corrections of what are allegedly are errors and inconsistencies.

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

Mr. CURTIS: Mr. President, it was certainly the intent of the Judiciary Committee to be as conservative as possible as we reviewed the proposals which were made before us. The particular Amendment "A" which is before us now is one that was reviewed by the Judiciary Committee in considerable depth and finally determined by the Committee following the standard which we had adopted that there might be some consideration on the part of members of the Legislature that there would be a substantive matter involved here, perhaps one that the 13 members of the Judiciary Committee might not be aware of. I think that a number of amendments which are to be offered are not that many, probably about ten and I do not see, I hope that the Senator from Cumberland, Senator Conley, might agree. I do not see that there would be any great harm in addressing each of these issues separately.

On Motion of Mr. Speers of Kennebec.

Recessed until the Sound of the Bell.

Recess

After Recess

Senate called to order by the President.

Senator Mangan of Androscoggin was granted unanimous consent to address the Senate on the Record.

Mr. MANGAN: Mr. President and Members of the Senate: As we go into the errors Bill this morning, I realize that there are some controversies about seeing 35 amendments in the House and several amendments here in the Senate.

I would like to advise members of my own party and also the other members of the Senate here this morning that the Judiciary Committee went over each portion of this Errors and Inconsistencies Bill. There are no substantial changes in that Bill at all. The actual complete Bill is a pure Bill, blessed by Heaven, so to speak, in the sense that anything that was any substandard in any way, shape, form, or manner the Committee automatically rejected and told the sponsors to go by way of amendment if they wanted to have it included.

I would urge you to at least consider the complete Errors and Inconsistencies Bill as presented without amendment to be one that has been combed carefully by the Members of the Judiciary Committee and it contains only errors and inconsistencies and nothing else. A lot of word changes. A lot of capitalizations. A

lot of commas, but I would ask that you take our word on that and at least keep the faith and we will go on to the amendments themselves. Thank you.

Senate Amendment "A" Adopted.

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

Mr. LOVELL: Mr. President, I am really backing in, but seeing I am up, I will present Senate Amendment "N" to (L. D. 2199), and speak briefly to the amendment.

The PRESIDENT: The Senator from York, Senator Lovell, now offers Senate Amendment "N" to L. D. 2199 and moves its adoption.

Senate Amendment "N" (S-578) Read.

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

Mr. LOVELL: Mr. President and Members of the Senate: The administrative assistant John Seltzer, I believe it is, he came to me yesterday and said that this had been left out of the Law which we had passed previously and this was to allow, I mean to have the referendum on all liquor questions at the November biennial election, because there would be more people out and was accidentally left out of the Law. I am sure that everybody will remember when we passed it.

Senate Amendment "N" Adopted.

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

Mr. DANTON: Mr. President, I offer Senate Amendment "I" to L. D. 2199 and I will explain the Amendment.

The PRESIDENT: The Senator from York, Senator Danton, now offers Senate Amendment "I" to L. D. 2199 and moves its adoption. The Secretary will Read Senate Amendment "I".

Senate Amendment "I" (S-573) Read.

The PRESIDENT: The Senator has the floor.

Mr. DANTON: Mr. President and Members of the Senate: What this amendment does, is allows the Maine Publicity Bureau to change its corporate name.

Senate Amendment "I" Adopted.

(Off Record Remarks)

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

Mr. CARPENTER: In an attempt to get things back in a sequence, I offer Senate Amendment "C" and I understand that "B" is not being offered to L. D. 2199 and speak briefly to it.

The PRESIDENT: The Senator from Aroostook, Senator Carpenter, now offers Senate Amendment "C" to L. D. 2199 and moves its adoption. The Secretary will Read Senate Amendment "C".

Senate Amendment "C" (S-567) Read.

The PRESIDENT: The Senator has the floor.

Mr. CARPENTER: Mr. President and Ladies and Gentlemen of the Senate: As you can see Senate Amendment "C" is a very straight forward. Somehow in the statutes in the State of Maine, we have allowed Presidents and Treasurers and Secretaries of corporations to sign affidavits against debtors as I understand the procedure and we neglected to include the word vice-president and this simply does allow a vice-president to sign this type of affidavit. Figuring that many vice-presidents are on the payroll to do this sort of thing, I assume and I do not think that there are any objections from Members of the Committee at least.

Senate Amendment "C" Adopted.

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

Mr. O'LEARY: Mr. President, I present Senate Amendment "E" and move its adoption.

The PRESIDENT: The Senator from Oxford, Senator O'Leary, now offers Senate Amendment "E".

Senate Amendment "E" (S-569) Read.

The Secretary will Read Senate Amendment "E" (S-569) Read.

The PRESIDENT: The Senator has the floor.

Mr. O'LEARY: Mr. President, I talked to Mr. Cole in the Department of Education and George Storer Department of Motor Vehicles, and Roger Mallar, in the Department of Transportation, and the Chairman of the Judiciary Committee, the Chairman of the Committee on Transportation about the need for this piece of Legislation and I will explain it very briefly.

There are presently two schools in the State of Maine that provide Motor Cycle Drivers Education plus one private operator in Bangor and what this amendment does it states that a person in order to get an operators permit shall complete a private education course and then demonstration of ability to safely operate a motorcycle before he be given an operators permit.

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

Mr. MINKOWSKY: Mr. President, I would like to pose a question through the Chair. If we do not have a Bill in the first regular session addressing this particular thing and the Bill was killed. If it was, I think that this is a Bill within itself and should not be addressed in this particular errors and inconsistencies Bill. And beside that, making people seventeen years of age or older eligible for a motorcycles license is not right. I don't think. I would move the Indefinite Postponement of this Amendment.

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

Mr. O'LEARY: Mr. President, I did not know whether there was a Bill or not on this but Monday of this week a constituent of mine called me to tell me of his son's problem. Sixteen years of age could not qualify to get a learners permit because there was no where that he could find a place that did give drivers education for motorcycles. Checking through the various Departments, such as I have, I find that there are two schools, Cony High School in Augusta and SAD 9 in Farmington, they do have this course. And there is one private operator as I said in Bangor. So what the law is doing in its present form is precluding anyone from the age of seventeen and under of getting a learners permit unless he resides in the immediate area of either Cony High or SAD 9 in Farmington or in the neighborhood of Bangor.

It is not my intent, sir, to presume that there will not be a major safety because in the manual for an operators permit there is such a thing as a course laid out which shows you what you must have to do and whereas this school, the teachers now that are presently giving drivers education are not really qualified in motorcycle operation, but they could observe a student going through the prescribed course, and thereby qualifying that student to get an operators permit. So I wish that you would bear this in mind and give this some real consideration. Otherwise then that, unless one of these seventeen year old or younger resides in the immediate area where these courses are given then you preclude them from having an opportunity to operate. And I am sure that after they have completed a drivers education course they are more aware of the necessary precautions that must be taken in the operation of a motor vehicle, and they are more aware that once they start through the course on a motorcycle and observed by the Teacher that is teaching this course, that he would be able to judge where that child or young student should have a permit, learners permit issued to him.

I do not see where there are going to be many schools in the near future, where some of these driver education teachers are really going to qualify to be teachers for the motorcycle permit as it is in the present law. But I am making sure in this amendment that they do successfully complete a drivers education course and then be able to demonstrate that

they can operate safely.

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

Mr. HICHENS: Mr. President, while I fully sympathize with the problems explained by the good Senator from Oxford, Senator O'Leary, I fully believe that this is a substantive change in the Law and not a correction or error in inconsistencies.

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

Mr. MINKOWSKY: Mr. President and Members of the Senate: I would concur with Senator Hichens insofar at least in my layman's interpretations of this. It is very, very clear that the right on the opening sentence, that after December 1, 1977, no motorcycle or motorcycle driven learners permit or permission or restriction to operate a motor cycle or motor driven cycle shall be issued to any person under seventeen years of age. Unless such person shall present a certificate of successful completion of a Motorcycle Drivers Education Course, etc. A lot of these kids are not even in school after age sixteen and, I also might look at this from the viewpoint that this could be an additional curriculum added on to the educational budget in various municipalities to add on Motorcycle Driving Education. It is basic from my point of view that it may be discriminatory, because other kids who are out of school at age 16 would have to go to a private driving school to learn how to drive a motorcycle or to qualify to get a permit in the State of Maine. I think that this is a substantive change and I still stand by my motion to indefinitely postpone this Amendment.

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

Mr. O'LEARY: I do not think that the Senator from Androscoggin, Senator Minkowsky, understands the intent of this piece of Legislation.

The intent is not to discriminate against those who are under 17 years of age. One community versus another. I know that there is an added expense if the schools were to try to qualify the teachers in motorcycle operations, so apparently this must be part of it. Now this Law as it is on the books now it says, after September 1, 1977, now this Law was enacted in 1973 and in the last session of the Legislature because there is no one available to teach a drivers education course for motorcycles. It was advanced to September 1, 1977 and there is still only three places in the State, one in Farmington, one in Cony High School, and one in Bangor, a private operator. So there seems to be the law saying that we preclude you from having an operators license you are being discriminated against. Now I am sure that you perhaps have not heard anything about it yet but when these, those who are under 17 years of age do go to the Department of Motor Vehicles to try to get a operators permit, a learners permit, that you will start hearing there is no way that they can get a learners permit because they are under 17 years of age and there is no one to teach them drivers education.

My amendment requires that they have had, drivers education. Now they can get drivers education from a private person in almost any community they can get it in school. But the person that gives a Drivers Education Course after observing this student on a motorcycle going through a prescribed course, which is in the operators permit manual, then he can know whether that person can actually ride that motorcycle, operate it safely and that is what this amendment is all about and it is all that it does.

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

Mr. SPEERS: I move the previous question.

The PRESIDENT: The Senator from Kennebec, Senator Speers, has moved the previous question. Is it the pleasure of the Senate that the previous question be put now? It is a vote.

The pending question before the Senate is the Motion by the Senator from Androscoggin that Senate Amendment "E" be indefinitely postponed. The Chair will order a Division.

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

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

12 Senators having voted in the affirmative and 11 Senators in the negative the Motion to indefinitely postpone does prevail.

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

Mr. CONLEY: Mr. President and Members of the Senate: Again I would like to address myself to this Bill, as it is before us. The Majority Floor Leader and I took a little trip to the other end of the corridor to see if there might be a way of expediting the procedure here.

There are 35 amendments prepared at the other end of the hall to be offered to this document. Now I know that it is St. Patti's Day, but I am afraid that by the time we get through celebrating it, it is going to be St. Patti's Day next year. And it would seem to me that if we are going to scrutinize the amendments as to whether or not they are a matter of change in the Law or an error in the Law they should be scrutinized by the Judiciary Committee and I think for us to pursue along these lines is a mockery of the Legislature.

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

Mr. CURTIS: Mr. President, I offer Senate Amendment "F" (S-570) and would speak to it briefly.

The PRESIDENT: The Senator from Penobscot, Senator Curtis, now offers Senate Amendment "F" to L. D. 2132 and moves its adoption. The Secretary will Read Senate Amendment "F".

Senate Amendment "F" (S-570) Read.

The PRESIDENT: The Senator has the floor.

Mr. CURTIS: Mr. President, this is an amendment which was reviewed by the Judiciary Committee but which I guaranteed I would offer on the floor so that I could explain it very briefly.

It provides that four or five officers are also polygraph operators, would be able to continue in their profession beyond the effective date of a new law, which provides that they must also be licensed private investigators, that private investigation law which replaced the old detective law came from the Legal Affairs Committee and we were fortunate in having some assistance from members of the Legal Affairs Committee to review this Bill and it is my understanding that it does not have any objection.

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

Mr. CONLEY: I pose a question through the Chair to the Chairman of the Joint Standing Committee of Judiciary as to whether or not this is an error or an omission of the Law.

The PRESIDENT: The Senator from Cumberland, Senator Conley, has posed a question through the Chair to the Chairman of the Judiciary who may answer if he so desires.

The Chair recognizes the Senator from Knox, Senator Collins.

Mr. COLLINS: I would have to say that it is not an error, that is one reason that it is being presented from the floor under the word inconsistency, which is a rather broad word. I guess it depends on how you look at the State Police Officers now who are in possession of licenses. This Bill, as I understand, grandfathered the present holders. I am not sure that I would call it an inconsistency. I think probably there is a policy decision.

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

Mr. CONLEY: Mr. President, I would request a Division.

The PRESIDENT: A Division has been requested.

Will all those Senators in favor of the adoption of Senate Amendment "F" to L. D. 2199 please rise in their place to be counted.

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

18 Senators having voted in the affirmative and 5 Senators in the negative, Senate Amendment "F" is Adopted.

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

Mr. COLLINS: I present Senate Amendment "G" (S-571) and move its adoption, and would speak to my motion.

The PRESIDENT: The Senator from Knox, Senator Collins, now offers Senate Amendment "G" to L. D. 2199 and moves its adoption. The Secretary will Read Senate Amendment "G". Senate Amendment "G" (S-571) Read.

The PRESIDENT: The Senator has the floor.

Mr. COLLINS: Mr. President, this is a true correction in errors and it is to pick up mistakes in Bills passed during the current session, and strike out sections that were duplicated or misnumbered. And that is the only thing that is in this particular amendment.

Senate Amendment "G" Adopted.

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

Mr. COLLINS: I present Senate Amendment "H" (S-572) and move its adoption.

The PRESIDENT: The Senator from Knox, Senator Collins now offers Senate Amendment "H" to L. D. 2199 and moves its adoption. The Secretary will Read Senate Amendment "H". Senate Amendment "H" (S-572) Read.

The PRESIDENT: The Senator has the floor.

Mr. COLLINS: Mr. President, this amendment was discussed in the Judiciary Committee but it was not possible to prepare it is time for the printing of the Bill, and the other purpose is to pick up the name change that was made in the Industrial Accident Commission which is now the Workers Compensation Commission and correct the various cross references in Statutes to bring that name change up to date.

Senate Amendment "H" Adopted.

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

Mr. COLLINS: I offer Senate Amendment "K" to L. D. 2199 and move its adoption.

The PRESIDENT: The Senator from Aroostook, Senator Collins, now offers Senate Amendment "H" to L. D. 2199 and moves its adoption. The Secretary will Read Senate Amendment "H".

Senate Amendment "H" (S-575) Read.

The PRESIDENT: The Senator has the floor.

Mr. COLLINS: Mr. President and Members of the Senate: The Amendment is necessary to make L. D. 2199 which was the Manpower Affairs Reorganization Bill comply in Title 26 and it also adopts the language of — L. D. 2111 which was the reclassification Bill into Title 22.

Senate Amendment "K" Adopted.

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

Mr. CHAPMAN: Mr. President, I offer Senate Amendment "L" (S-576) and move its adoption.

The PRESIDENT: The Senator from Sagadahoc, Senator Chapman, now offers Senate Amendment "L" to L. D. 2199 and moves its adoption. The Secretary will Read Senate Amendment "L".

Senate Amendment "L" (S-576) Read.

The PRESIDENT: The Senator has the floor.

Mr. CHAPMAN: Mr. President and Members of the Senate: The Charitable Solicitations Act has reference to an independent public accountant which was not defined and caused some confusion. So this amendment clarified the definition of an independent public accountant. The present Law further stipulates that a financial report shall be audited by an independent public accountant the intent apparently was that it should be prepared by an outside public accountant. And amongst the accounting

profession the word Audit connotes a lot more deeply prepared work than a simple preparation. In addition, present Law stipulates that a copy of a financial statement as well as an audit and an opinion must be submitted in another paragraph that refers almost to the same thing apparently it was the understanding that if an audit or opinion statement had been prepared as it is for some large organizations that it should be submitted. Small organizations do not generally have opinion audits prepared. They are very costly, and this amendment clarifies that an audit opinion statement shall be submitted if it is available.

Further it clarifies the intent that a group of persons who were organized for the limited time for the sole purpose of providing relief to a named beneficiary such as someone who may have been burned out in a fire and people want to get together to get some money and services to assist these people do not come within the definition of the act.

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

Mr. PRAY: Mr. President, I would like to pose a question through the Chair to the sponsor of this amendment, as to perhaps his last remarks would clarify by reading section 373. It just states that that section is repealed and without continuously running over and grabbing different books and Maine Statutes and checking this out, could you advise us as to what that one paragraph is?

The PRESIDENT: The Senator from Penobscot, Senator Pray, has posed a question through the Chair to the Senator from Sagadahoc, Senator Chapman.

The Chair recognizes the Senator.

Mr. CHAPMAN: Mr. President and Members of the Senate: I referred under the financial statement section that there were two references to the need to file financial statements both of them seeming to allude to an audit opinion being prepared. The intent was, as I understand it from the sponsor and others, that if an opinion audit is available, they would like to have that if it is not it is not necessary. This clarified that intent by striking out one section and clarifying it in another. These matters were brought to the Business Legislation Committee, which handled this matter they feel that these adjustments do clarify and express the intent of the Bill and also reviewed this with the Consumer Fraud Division and they also concur with these changes.

Senate Amendment "L" Adopted.

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

Mr. HICHENS: I now present Senate Amendment "J" and moves its passage and would speak on it.

The PRESIDENT: The Senator from York, Senator Hichens, now offers Senate Amendment "J" to L. D. 2199 and moves its adoption. The Secretary will Read Senate Amendment "J".

Senate Amendment "J" (S-574) Read.

The PRESIDENT: The Senator has the floor.

Mr. HICHENS: Mr. President and Members of the Senate: Back in 1975 there was a Potato Bonding Bill passed because of the problems up in Aroostook on the different processes paying the growers and now three years later we find that the word dealer does not cover the processes and so I have been advised by the Attorney General's Department that the word license has to replace the word dealer. I fully go along with the good Senator from Cumberland's remarks this morning regarding the rather ridiculous attitude in which we are in where we are presently all of these amendments to a Bill which the Judiciary Committee has had all this session and in this case it has had three years to correct I do not understand why the Attorney General's Department is so slow in finding these things because I know that this was brought to bare within a year after the

Bill was passed and so it is with great reluctance but as Chairman of the Agriculture Committee, I am sort of forced to present this Amendment but I do hope that it is passed because it is probably needed, but I think that it is showing a lack of judgment from the Attorney General's Department and because of it was not presented to the Judiciary Committee long — before this.

Senate Amendment "J" Adopted.

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

Mr. USHER: I offer Senate Amendment "M" to L. D. 2199 and move its adoption.

The PRESIDENT: The Senator from Cumberland, Senator Usher, now offers Senate Amendment "M" to L. D. 2199 and moves its adoption. The Secretary will Read Senate Amendment "M".

Senate Amendment "M" (S-577) Read.

The PRESIDENT: The Senator has the floor.

Mr. USHER: Mr. President and Members of the Senate: I believe that this is a valid amendment. It puts the Warden Service vehicles in the same category as State Police vehicles. It excludes them from the 75,000 replacement policy. We have a number of four wheel drive vehicles in the Warden Service which are breaking down between 60,000 and 65,000 miles, and it is costing a lot of money to repair them. The wardens have very unusual driving conditions and this causes the added abuse to the vehicles.

Senate Amendment "M" Adopted.

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

Mr. KATZ: Mr. President, I offer Senate Amendment "O" (S-579) and move its adoption.

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

Senate Amendment "O" (S-579) Read.

The Senator has the floor.

Mr. KATZ: Mr. President, this removes a section from the Bill and it is inclusion in the Bill was an error and leaving it in there would create an inconsistency. It pertains to the contract basis of youngsters attending our professional schools and it repeats a section of an existing Law which we have already replaced at this Session.

Senate Amendment "O" Adopted.

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

Mr. MANGAN: I present Senate Amendment "P" and I move its adoption.

The PRESIDENT: The Senator from Androscoggin, Senator Mangan, now offers Senate Amendment "P" to L. D. 2199 and moves its adoption. The Secretary will Read Senate Amendment "P".

Senate Amendment "P" (S-580) Read.

The PRESIDENT: The Senator has the floor.

Mr. MANGAN: Mr. President, this is a fairly simple amendment. Under title 36, section 6, there were or there are at this point, two complete section 6 A's and they are inconsistent with each other, and this basically revises, one and revises the other, to meet the understandings of both sections together. It is an inconsistency in the Law.

Senate Amendment "P" Adopted.

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

Mr. CURTIS: Mr. President, I offer Senate Amendment "Q" and move its adoption.

The PRESIDENT: The Senator from Penobscot, Senator Curtis, now offers Senate Amendment "Q" to L. D. 2199 and moves its adoption.

The Secretary will Read Senate Amendment "Q".

Senate Amendment "Q" (S-582) Read.

The PRESIDENT: The Senator has the floor.

Mr. CURTIS: Mr. President, this amendment addresses a situation which has occurred this year in which the State Government Com-

mittee of a few years ago in its revision of the laws regarding the replacement of the Executive Council had not anticipated happening. That was the situation in which a nomination posted by a governor would be considered by committee and not get any kind of vote either recommended for approval or recommended for rejection, that is the matter would be tabled. The committee has 20 days in which to act, having not taken any action one way or another the Senate is left hanging in limbo. And the purpose of this amendment is to provide that, if the committee shall fail to recommend either confirmation or denial within the 20 days that that failure shall be considered for the purposes of the confirmation law to be a recommendation of confirmation and then could be considered by the Senate. The rest of the amendment really qualifies what has already been provided in the Attorney General's opinion regarding the right of a Governor to past the nomination to the expiration of the term of office of the person presently holding it.

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

Mr. MERRILL: Mr. President, this amendment is clearly a matter of substance. I move its indefinite postponement.

The PRESIDENT: The Senator from Cumberland, Senator Merrill, now moves that Senate Amendment "Q" be indefinitely postponed.

The Chair will order a Division.

All those Senators in favor of Indefinite Postponement of Senate Amendment "Q" please rise in their place to be counted.

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

Mr. HEWES: Mr. President, I had not meant to speak on this. The Senator from Cumberland, my colleague, Senator Merrill, says that this is substantive. It seems to me that it is a clarification, because we previously have not had the, when the Governor's Council, Executive Council, was abolished. I do not think that it was contemplated that a committee might fail to act one way or another, and this as I see it just says that their failure to act will be taken as confirmation. And in the second part Section 372, it seems to be a clarification of what is the law based on the Attorney General's opinion. So I would hope that we would not Indefinitely Postpone Senate Amendment "Q".

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

Mr. SPEERS: Mr. President, I must agree with my colleague, the Senator from Cumberland, Senator Merrill, with regard to this amendment.

I think that it is a bit odd to say that if a Committee fails to act that that shall be deemed an affirmative action and that is what we are doing with this particular amendment and I think that it is in their error to take this action with regard to that matter here this afternoon without some, at least, some very careful thoughts being given to it.

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

Mr. PRAY: Mr. President and Members of the Senate: Serving on the Labor Committee, we have had several nominations pending, and those nominations have been tabled, the example that has been raised by the Senator from Penobscot, Senator Curtis. I think that we have a situation in each one of these instances which the Committee acted rather wisely for not only benefit of the appointment, but the appointee. Individuals that we had considered and the few weeks ago that both the nominations were tabled, it was a general consensus of the Committee Members that both individuals are fine people qualified to serve on the appropriate board which the Governor had nominated them but pending certain circumstances and situations that dealing with their appointment, we found that at times it would not be appropriate to recommend their conformation because of

the judicial process involved in the Judicial Board on which they sat on.

It was a belief of the Committee that instead of nominating these two individuals to confirm them to their qualifications have them go through their confirmation process of the Senate Chamber, receive the support of this Body and then sit and wait for the Governor swear them in on his 30 day period and due to the pending cases we had the Governor representative had spoken and informed us that the Governor would not swear them in and talking to both individuals they said that they would rather have the motion at that time tabled and to be reposted by the Governor to be renominated by the Governor if the governor felt that they were so qualified as the committee had and I just think that a number of individuals and a number of boards that we have that are confirmed by the Senate through the process which has been taking place since we abolished the Executive Council would only be made mockery if we passed something such as this saying that, or taking away the Committees action and interpreting it to be considered a recommendation and confirmation. I wholeheartedly support the motion made by the Senator from Cumberland, Senator Merrill and I would hope that we would deal with this matter perhaps in another session where we could tell the Executive Department, the Chief Executive that in order to remain in a little bit of consistency with these boards that we have that he makes the appointment at the appropriate times we would not have these problems to start with.

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

Mr. MERRILL: Mr. President and members of the Senate: I would like to raise another problem with this amendment be offered as it is as an amendment to one errors and inconsistency filled.

As you know a special provision has been made in the constitution to any changes that be made in the laws as regards to the confirmation powers of the Legislature and that standard is a slightly different standard than the standard that is necessary for this bill to pass as an emergency. Indeed it is possible that this Bill before us is technically possible at least in the errors, Bill could have the emergency clause removed and then be able to move ahead with simple majority and yet this amendment in order to be passed because it deals with that area of confirmation required by the constitution a two-third's vote, therefore, I not only think that is inappropriate that this be offered as a matter of substance in a Bill that is supposed to deal with errors and inconsistencies but I also think that is inappropriate that the matter dealing with the confirmation powers ever be dealt with another piece of legislation considering the fact that there is a constitutional requirement that a special vote be required.

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

Mr. CURTIS: Mr. President, I am going to ask that the Senator give me a leave to withdraw this amendment, not because I do not feel that it is a wise course of action, but because I do not want to cause unnecessary debate at this time. I would point out to the Senate, however, that we are put in a very difficult constitutional position because we have an obligation under the constitution to take action upon the Governor's nomination and yet a committee has not done its statutory duty and sent us either a recommendation for confirmation or denial.

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

Mr. MERRILL: Mr. President, is it necessary for me to withdraw my motion to indefinitely postpone before the motion to withdraw the amendment is made?

The PRESIDENT: The Chair advises the Senator that it will not be necessary if the Senate goes with the suggestion to grant leave

of the amendment. Is it the pleasure of the Senate to grant the Senator from Penobscot, Senator Curtis, leave to withdraw from consideration of Senate Amendment "Q"?

The PRESIDENT: It is a vote.

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

Mr. O'LEARY: Is this the end of all the amendments to be offered?

The PRESIDENT: The Chair would certainly hope so.

The Chair recognizes the Senator from Androscoggin, Senator Minkowsky.

Mr. MINKOWSKY: Mr. President, relevant to (S-569) Senate Amendment "E" I now move for reconsideration.

The PRESIDENT: The Senator from Androscoggin, Senator Minkowsky, now moves the Senate reconsider its action whereby it indefinitely postponed Senate Amendment "E" to L. D. 1299.

Will all those in favor of reconsideration please say yes.

Will all those opposed please say no.

The Chair is in doubt and will order a Division.

Will all those Senators in favor of reconsideration of the Senate's action whereby it indefinitely postponed Senate Amendment "E" to L. D. 2199 please rise in their places to be counted.

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

24 Senators having voted in the affirmative, and 1 Senator, in the negative, the Motion to reconsider does prevail.

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

Mr. MARTIN: Mr. President and Ladies and Gentlemen of the Senate: Since our actions, previous action to indefinitely postpone this Bill, I have had the opportunity to discuss this with the Senator from Androscoggin, Senator Minkowsky and I believe he has no further objections to the amendment I would urge its passage.

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

Mr. PRAY: Mr. President and Members of the Senate: I think what we have just seen perhaps is an example when you take an Irishman such as my seatmate the good Senator from Oxford, and the Senator from Aroostook, representing another ethnic group its surprising what can happen in this Chamber.

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

Mr. MINKOWSKY: Mr. President and Members of the Senate: In addition to that particular statement made by the Honorable Senator Pray, I would like to inform him that when you speak about ethnic groups my mother was 100 percent Irish.

The PRESIDENT: The pending question before the Senate is the adoption of Senate Amendment "E" to (L. D. 2199).

Senate Amendment "E" Adopted.

The Bill, as amended, be Passed to be Engrossed.

Sent Down forthwith for concurrence.

Second Readers

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

House — As Amended

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

Which was Read a Second Time.

On Motion of Mr. Pierce of Kennebec.

Tabled until later in Today's Session. Pending Passage to be Engrossed.

RESOLVE, Authorizing Beverly Mortimer and Dennis Perkins to bring Civil Action Against the State of Maine. (Emergency) (H. P. 2173) (L. D. 2174)

Bill, "An Act to Establish Standard Interest and Penalty Provisions for the Tax Laws." (H. P. 2070) (L. D. 2130)

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

Sent down for concurrence.

Senate

RESOLUTION, Proposing an Amendment to the Constitution to 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)

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

Sent down forthwith for concurrence.

Enactors

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

"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. 2101) (L. D. 2085)

"An Act to Revise the Venue Provisions of the Maine Employment Security Commission Appeals Procedure." (H. P. 1871) (L. D. 1928)

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

Emergency

"An Act Extending the Time for Apportionment of County Taxes from March to April in the Year 1978." (H. P. 2243) (L. D. 2196)

Emergency

"An Act to Establish the Maine Takeover Bid Disclosure Law." (S. P. 665) (L. D. 2056)

These being emergency measures and having received the affirmative votes of 25 members of the Senate, were Passed to be Enacted, and having been signed by the President, were by the Secretary presented to the Governor for his approval.

Emergency

RESOLVE, for Laying of the County Taxes and Authorizing Expenditures of Aroostook County for the Year 1978. (H. P. 2217) (L. D. 2185)

Emergency

RESOLVE, for Laying of the County Taxes and Authorizing Expenditures of Androscoggin County for the Year 1978. (H. P. 2228) (L. D. 2188)

These being emergency measures and having received the affirmative votes of 24 members of the Senate, were Finally Passed and having been signed by the President, were by the Secretary presented to the Governor for his approval.

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

Order

On Motion of Mr. Katz of Kennebec, ORDERED, the House concurring, that the Joint Standing Committee on Education is directed to report out a bill creating an Interim Education Finance Commission. (S. P. 753)

Which was Read and Passed.

Sent down forthwith for concurrence.

Orders of the Day

The President laid before the Senate: House Report — From the Committee on Taxation — Bill, "An Act Relating to the Taxation of the Unorganized Territory." (H. P. 2059) (L. D. 2117); Ought to Pass in New Draft (H. P. 2139) (L. D. 2159)

Tabled — March 16, 1978 by Senator Speers of Kennebec

Pending — Acceptance of Report

On Motion of Mr. Wyman of Washington Retabled until later in Today's Session.

The President laid before the Senate: Joint Order — Relative to Amending Joint Rule 22. (H. P. 2256)

Tabled — March 16, 1978 by Senator Katz of Kennebec

Pending — Passage

On Motion of Mr. Speers of Kennebec Ratabled until later in Today's Session.

The President laid before the Senate: Joint Order — Relative to Amending Joint Rule 39. (H. P. 2252)

Tabled — March 16, 1978 by Senator Katz of Kennebec

Pending — Passage

On Motion of Mr. Speers of Kennebec, Retabled until later in Today's Session.

The President laid before the Senate: House Reports — From the Committee on Appropriations and Financial Affairs — Bill, "An Act Relating to Appropriating Funds for Certain Municipal Governments." (H. P. 2096) (L. D. 2139) Majority Report — Ought Not to Pass; Minority Report — Ought to Pass

Tabled — March 16, 1978 by Senator Merrill of Cumberland

Pending — Acceptance of Either Report

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

Mr. MERRILL: Mr. President, I move that the Senate accept the Minority Ought to Pass Report and would like to speak briefly to my Motion.

The PRESIDENT: The Senator from Cumberland, Senator Merrill, now moves that the Senate accept the Minority Ought to Pass Report of the Committee.

The Senator has the floor.

Mr. MERRILL: Mr. President and Members of the Senate: First of all I would like to point out to the Senate that an amendment has been prepared for this Bill, if it gets to its Second Reading stage which just makes a correction in terms of numbers in the Bill, but one which may be of importance to the Senate in considering what they would do today. After a recomputation by the Department of Education and Cultural Affairs, the price tag on this Bill is about a 1/3 of what it shows up as in the original document. Accurate figures as they are now computed by that Department would be \$329,279 as opposed to a sum in excess of \$1,000,000. That shows up in the L. D. I know that that may be of importance to some of the members here as they consider their vote on this item.

Now this is a matter which has an obvious no direct effect on the city of Portland, but it is a matter of whether or not we are going to redress the problem of some of the towns that are in, that are in school administrative districts, that will continue to be a pay in towns unless some redress of that situation is made. And my concern here is not only with the fiscal problems of those towns and in acting what I believe to be consistently with the intent of the voters as expressed last December. But also with the fact that I agree with many of the people who testified before the Appropriations Committee, including the Maine Municipal Association, that unless we redress this problem, in this fashion at least until it can be dealt with by the Educational Commission, that we have just authorized or set on the path to being authorized that unless it can be dealt with in the short term in this bases, that many of these SAD's will be broken up, because if these towns were dissolve themselves of the SAD's, then they would not find themselves in this paying situation and I believe that that would not necessarily be something that would lead to better education in these towns and I think that, therefore, the Senate would be wise to accept the Ought to Pass Report, and when this gets to its Second Reader, let me offer the amendment