

# MAINE STATE LEGISLATURE

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# LEGISLATIVE RECORD

OF THE

*1st Special Session*

OF THE

*One Hundred and Sixth  
Legislature*

OF THE

STATE OF MAINE

1974

Kennebec Journal  
Augusta, Maine

**SENATE**

Tuesday, February 19, 1974

Senate called to order by the President.

Prayer by the Rev. Bruce W. Meyer of Augusta:

Our great God and our good Father, knowing how much there is stretched out for us to do today, and there is always so much to do, nevertheless, we pause, O Lord, because we need to just for a moment to lift up our hearts to you, to thank you for another day of life, to feel your presence, be refreshed by your spirit, and to invite you once again into the proceedings of our daily agenda because what we do we know, O Lord, you care about.

Bless these Senators of ours, O Lord, give them much strength and wisdom and grace and integrity as they think together today, plan together today, and work together today for the good of our state. O Lord, we ask that you would bless all who work and speak under the dome of this state house today, that what is said and done here might reflect an understanding and compassion and a beauty of sensitivity for the needs of all our people and, with real enthusiasm and conviction, help us always to be able to pray and say not my will but yours be done, O Lord. Amen.

Reading of the Journal of yesterday.

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

Bill, "An Act to Repeal Certain Due Process of Law Provisions by Governmental Agencies." (S. P. 717) (L. D. 2129)

In the Senate February 7, 1974, Passed to be Engrossed as Amended by Committee Amendment "A" (S-341).

Comes from the House, Passed to be Engrossed as Amended by House Amendment "A" (H-687), in non-concurrence.

Thereupon, the Senate voted to Recede and Concur.

**Non-concurrent Matter**

Bill, "An Act to Clarify the Power of the Commissioner of Maine Department of Transportation and the Chief of the Maine State Police to Lower Speed

Limits in Order to Provide Energy Conservation." (H. P. 1857) (L. D. 2350)

In the Senate February 12, 1974, Passed to be Engrossed, in concurrence.

Comes from the House, Passed to be Engrossed as Amended by House Amendment "A" (H-690), in non-concurrence.

Mr. Berry of Cumberland moved that the Senate Adhere.

Mr. Cyr of Aroostook then moved that the Senate Recede and Concur.

The PRESIDENT: The Senator has the floor.

Mr. CYR: Mr. President and Members of the Senate: In the House they accepted the amendment, the first amendment that I had presented on Interstate Highways where the speed limit was lowered from 70 miles an hour to 55 miles an hour to conserve energy, and if you are caught within this bracket of 55 to 70 miles an hour you would be subject to a fine, court costs and everything else, but you would not lose points. The same would apply to your major rural roads that have been lowered from 60 to 50 miles an hour.

Now, I am not against the lowering of the speed limits to conserve energy. I am all for that. But what I am after and what I would like to bring to your attention is the fact that by lowering the speed limit from 70 to 50 miles an hour you are going to expose a lot more people to the point system, and the fact that you have lowered the speed limit from 70 to 55 miles an hour to conserve energy is a conservation measure and, therefore, should not be the same type of violation as when you violate the safety regulations. If you would go, for instance, above 70 miles an hour before, you were violating a safety regulation. Now you would only be violating the conservation measure, so it is not the same type of violation whatsoever.

Now, some people will argue, for instance, that the point system is a deterrent against speeding, against cowboying, and I will agree 100 percent with that. But at the same time, a deterrent which is pushed too far can also become a subject of rebellion, and this is what I am after. You are going to catch a lot of people going more than 50 or 55 miles an hour that is set to conserve energy because you are going to have a

lot more people that are going to be exposed to it, good law abiding citizens, and they are going to lose points. And when they get to 11 points, without hearing the Secretary of State will revoke their license. Now, you are putting these people in a very tough situation. If you need a license to get to your job, and your license has been revoked, you can lose your job as well. So this can be a family crisis, and this is all I am after.

The amendment which comes to us from the House has a clause which says these provisions will not apply to unposted roads. Those are the rural roads where the speed limit is 45 miles an hour. So it won't apply to that. If you are going more than 45 miles an hour on an unposted road, you will get the works, also the speed zones. That means entrance to a city, for instance, and to a town, if the speed limit has been lowered to 30 or 25 miles an hour, if you are caught going more than 25 or 30 miles an hour in those speed zones, you will get the works. All that this amendment does is that within the bracket on a 70 mile road, on the Turnpike, which used to be posted at 70 miles an hour, and has been lowered to 55 miles an hour to conserve energy, if you are caught within that bracket, you are subject to courts and fines and everything else, but you don't lose points.

Also, if you are cowboying and you are going, for instance, 70 miles an hour, and you are caught going at 70 miles an hour in a 50 mile zone, you are not only going to lose 2 points this time but you are going to lose 4 points. So the point system is still a deterrent to the cowboys. This is only on your major roads that used to be posted at 60 miles an hour and now it has been lowered to 50 miles for conservation of fuel and on the Turnpike which has been lowered from 70 to 55 miles an hour. It is only in that bracket, and that is enough, as far as I can see. You are subject to court and a fine, and that is enough. It should stop there. Otherwise, you are going to have rebellious people that are just not going to follow that, and they are just going to be arrogant and mad at this thing.

If you have an eager beaver trooper who wants to be trooper of the year, when he is sitting behind that little black

radar box, you haven't got a chance if he sees you in that little black box. So I think probably the points that you are going to save this morning may be your own. So I hope you go along with the motion to recede and concur with the House and accept this amendment. Thank you.

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

Mr. CIANCHETTE: Mr. President, I would like to say that I think that the Senator from Aroostook, Senator Cyr, makes a lot of sense.

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

Mr. BERRY: Mr. President and Members of the Senate: I hadn't intended to rise on this particular debate, but when the Senator from Somerset, Senator Cianchette, says it makes a lot of sense, I would just like to relate that last night when I was driving up the Turnpike, and I religiously stay at 55 miles an hour, I noticed one of his vehicles going by me doing not less than 70, so I can appreciate his concern and interest in it. And I would be glad to give you the license number.

Now that I am on my feet, I would like to just remind this body that we had a long debate on this exact same amendment, with the additions that Senator Cyr of Aroostook mentioned, and it says "These provisions will not apply to unposted roads and to speed zones." I don't know of a road in the State of Maine that doesn't have a speed zone on it, so I think the amendment, Mr. President, is questionable as to its germaneness. The Senate has thoroughly debated the thing, and it seems to me it was put on in the other body under the guise of changing a word of two so it wouldn't be exactly the same thing, but I think it is. I would recall that we had a very intensive debate on it, based on safety, the point system, and I think that we are going to immediately emasculate the rules that we have set up to deal with this energy crisis then we are making a mockery of the whole system, and I would urge that you vote against the motion to recede and concur.

The PRESIDENT: The Chair would inform the Senate, even though the Chair

has not been asked to rule specifically on the germaneness of the House amendment, it is very similar to the amendment that the Senate defeated but it was put on in the other body, and so we are in non-concurrence with that other body. The way it should be handled is that we can recede and concur, insist, or adhere. We can indefinitely postpone a whole piece of legislation in this body, and the House could disagree with us and pass that same piece of legislation, so we would be in non-concurrence, and that is the status at the present time, even though the House amendment is very similar to the one that failed of adoption in the Senate last week.

The Chair recognizes the Senator from Cumberland, Senator Brennan.

Mr. BRENNAN: Mr. President and Members of the Senate: The amendment to me seems somewhat confusing. In reference to the last sentence, it reads, "These provisions will not apply to unposted roads and to speed zones." I wonder if the real intent was to say that these provisions will not apply to posted roads. For example, if there is a 35 mile speed limit in a city, I think it would be exempt under this amendment. I wonder if there is some confusion. Possibly Senator Cyr could help us out.

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

Mr. CYR: Mr. President and Members of the Senate: The unposted roads have a 45 mile speed limit automatically. Anywhere you go in the State of Maine, if you are on an unposted road, you are supposed to go no more than 45 miles an hour. The reason why it is no more than 45 miles an hour on these roads is because of the type of road. They are rural roads and it is unsafe to go more than 45 miles an hour. So this takes that out. If you are going more than 45 miles an hour on that type of road, you get the works, points and all.

Now, the speed zones, what we call speed zones, are where you come into a school zone, for instance, and the speed limit is set at 25 miles an hour. This amendment would not apply to that. If you are going more than 25 miles an hour in a 25 mile speed zone, you get the works. You go to court, are fined, get points and everything else, because that

is for safety. That was engineered for safety. It is the same if you have a 45 or a 35 mile limit somewhere, the speed limit was set at that speed because of safety, and this would not be interfered with whatsoever. This amendment will only apply to the Turnpike, Interstate 95, and to your major roads that used to be posted at 60 miles an hour and now are down to 50.

The PRESIDENT: The Chair recognizes the Senator from Franklin, Senator Shute.

Mr. SHUTE: Mr. President and Members of the Senate: As the Senator from Cape Elizabeth, Senator Berry, has indicated, this was debated thoroughly the other day, and really there is no need to waste much more time on it.

I do question the germaneness of this amendment as it relates to the one offered by Senator Cyr. The Senator from Madawaska was insistent on the fact that people like to obey laws, but is there a difference, I ask you, in this relationship to the attempt to obey laws, when you go 69 miles an hour on the Maine Turnpike under our present regulations of 55, and the Senator is in favor of this amendment which comes from the House and is not entirely dissimilar from the one that he offered — it means that if you go 14 miles an hour over the legal speed limit you would not lose any points. You may go to court and you may pay a fine, but you wouldn't lose any points under the point system. Whereas, if you were riding on one of the roads that I travel frequently between Farmington and Augusta, an unposted road whose speed limit is 45 miles an hour, and you are apprehended for going one mile an hour over the limit, then you do lose points, or five miles an hour. So I think this is operating on a double standard and, as I indicated the other day, I think it just serves as destruction, at least it is the first step towards destruction of the point system, and the whole thing is debilitating toward the idea of safety on our highways, and I would oppose the motion to recede and concur.

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

Mr. SPEERS: Mr. President, the good Senator from Aroostook, Senator Cyr,

presupposes in his argument that the only reason for posting of speed limits on the roads of our state is for safety reasons, that it is to indicate the maximum speed at which it is safe to travel because of the engineering of the road. Quite obviously that is not the only reason to post speed limits because we have before us here an emergency situation whereby the state is saying that there is another reason to post speed limits, and that reason is the public policy that we must adopt to conserve fuel. Now, I would submit that that is precisely what is at issue before us here today, and that is every bit as important a reason to post speed limits as is the engineering for safety.

Really what you get down to in this discussion is whether or not we are going to be allowed to break the law, whether we can break the law a little bit, or whether we can break the law at all. I would submit that one deterrent against breaking the law and against breaking the speed limit is the point system, whereby if you do this a consistent amount of times you end up without a license.

Now, it may just be very well economically sound for some individuals in the state to go along breaking the law, breaking the speed limit, to travel at 70 miles an hour on the Turnpike, and to take the chance. If they get caught, fine, they pay a fine, but they don't lose their license. If they get caught again, fine, they pay another fine, etc., etc., but it is handy for them to take the chance in paying that fine because they know that they will not lose the license. This seems to me to be an attitude that you can buy yourself the right to travel at 70 miles an hour instead of 55 miles an hour. I think it is just as simple as that.

The state has set its policy for a very good reason that the speed limit should be 55 miles an hour on the Interstate. If we are going to attack that policy, let's attack the policy, but let's not go ahead and say that you can break the law a little bit and buy yourself that right rather than attacking the policy itself. I say if we are going to break the law at all that we should pay the same consequences as we would if we broke the law traveling 30 miles an hour in a 25 mile an hour zone.

**The PRESIDENT:** The Chair recognizes the Senator from Aroostook, Senator Cyr.

**Mr. CYR:** Mr. President, I think my opposition has missed the point that I am trying to make. Either I am not clear or else they missed it, but what I am talking about is the degree of violation. You already have that on the books. If you take what is existing now, if you exceed the speed limit by 10 miles an hour, or up to 10 miles an hour, you lose two points. If you exceed it by more than 10 miles an hour, but less than 20, you lose three points. If you exceed 20 miles an hour, you lose four points. So you already have a degree of violation.

Now, because of this new factor which has come in, this factor of conservation, we have lowered the speed limit, and we have lowered the speed limit only for conservation. So what I am saying is that if you are caught in that bracket, between what this road used to be engineered for because of safety before, and what it is lowered for because of consumption, sure, you are going to be penalized. You can still be stopped, you can be brought to court and you can be fined. I say that is enough for that type of violation against a conservation measure. If you exceed the safety speed limit at which this road used to be posted before, then you are coming into the point system.

But I also would like to bring your attention to another factor. If you lower the speed limit to 50 miles an hour, or 55 on the Interstate, and you go more than 10 miles an hour, if you go 65 miles an hour, for instance, or over 65 miles an hour, you are not going to be losing two points under the system we have now; you are going to be losing three points. So you are increasing the point system by lowering the speed where you start from. That is the point that I am trying to debate and bring out to you.

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

**Mr. BRENNAN:** Mr. President and Members of the Senate: Very briefly, I appreciate the objective of the Senator from Madawaska, Senator Cyr, but I do think the way the bill is drafted that no points could be assessed on someone who goes 35 in a 25 or 45 in a 25, the way it is

drafted. So for that reason, I would have to oppose the adoption of this amendment.

The PRESIDENT: The Senator from Aroostook, Senator Cyr, asks leave of the Senate to speak a fourth time. Is there objection? The Senator may proceed.

Mr. CYR: Mr. President, it says the provisions we put in the amendment will not apply in speed zones of 25 miles an hour. If you are caught going 35 miles an hour in a 25 mile an hour zone, you get the works, including the points.

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

Mr. TANOUS: Mr. President and Members of the Senate: First of all, I will apologize, I have got a slight head cold and I hope it won't make it too difficult for you to understand what I am going to say. It is reminiscent of the last session, I guess, when I had the Godfather type of a voice that some of you miss.

But you know, listening to the debate here this morning, you are arguing about the point system primarily, and yet no one has considered debating the concept of this particular bill. And any time I see a particular bill with the philosophy that is contained in this one, I immediately become leery because again here the legislature is going to abrogate some of its authority. Now we are elected here by the people we represent, the people back home, and when a bill comes up in the legislature these people wish to voice their opinion to us as to their particular feeling on a piece of legislation. We represent them. The government is by representation, so that they have an opportunity to voice their opinion whenever a bill comes up. And this I hold dear because this is the only way the people's authority, or at least self-government can extend, here in the legislature is through us.

Now, on this particular bill the philosophy of it is to give someone else authority which heretofore has laid with the legislature. Granted, we have delegated some of this authority to the Commissioner of Transportation in certain restricted areas involving dangerous situations. We have delegated this authority to restrict speed on highways that are under construction.

But if you read L. D. 2350, and taking 2350 into consideration with Title 29, Section 1255 and 1252, members of the Senate, we are abrogating our entire authority relative to setting of speeds on the highways.

Granted, it may not be an important issue because it relates to speed, but we are doing this with speed limits, we are doing this with Fish and Game regulations, we are doing this in almost every aspect. We, the legislature of the State of Maine, are delegating our authority, vested in us by our Constitution and the people, delegating this authority to department heads, and so when they decide to change the rules we no longer have a voice in changing the rules. I know that many of my constituents have been in to see me relative to the boating laws, the new rules and regulations adopted by that department effective January 1, 1974. And what can you tell a constituent when he approaches you and asks you, well, what about this, did you vote on this. Well, no, I didn't, because this was a regulation instituted by the department. But we did give them the authority to do so, so we abrogated our authority as legislators. And I feel that we should guard this very jealously because this authority is ours and its belongs to the people, and only through us may the people back home be heard.

Granted, I agree that this authority perhaps ought to be granted in the case of an emergency like we have recently undergone relative to the energy crisis, but unlimited authority as proposed in this particular bill, believe me, gentlemen and madam, I cannot support this.

Now, we do have a bill in Judiciary which will grant the Governor the necessary emergency powers to regulate in the event of an energy crisis such as we have now. I feel that if we are going to grant anyone the authority in this one respect, and again as I say, it may seem to be a minor area as far as we are concerned, but if you add all of these authorities together that we have been granting the various department heads and, believe me, the legislature will end up with not having any authority whatsoever.

I would suggest perhaps that we table

this bill and let's see what happens to the bill that is in judiciary relative to granting the Governor this authority. Then if the Governor is granted the authority under the emergency clause of that particular bill, we won't need 2350. It will not be needed because whatever has to be done as to regulating speeds in case of an emergency, the Governor will be able to do under the emergency authority granted to him in that bill. Now, on this bill here, I don't believe that an emergency authority, as wide an authority, ought to be granted such as this to any department head, and I would ask perhaps that this bill be tabled and then let's discuss it again after the executive authority bill has come out of Judiciary. Thank you.

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

Mr. BERRY: Mr. President and Members of the Senate: I follow along completely with the reasoning of Senator Tanous of Penobscot, but I suggest we dispose of the amendment and then perhaps consider tabling the bill.

The PRESIDENT: The pending motion before the Senate is the motion of the Senator from Aroostook, Senator Cyr, that the Senate recede and concur with the House on Item 1-2, Legislative Document 2350. The Chair will order a division. As many Senators as are in favor of the motion of the Senator from Aroostook, Senator Cyr, that the Senate recede and concur with the House will please rise and remain standing until counted. Those opposed will please rise and remain standing until counted.

A division was had. 10 Senators having voted in the affirmative, and 18 Senators having voted in the negative, the motion did not prevail.

Thereupon, the Senate voted to Adhere.

#### **Non-concurrent Matter**

Bill, "An Act to Correct Errors and Inconsistencies in the Education Laws." (S. P. 895) (L. D. 2488)

In the Senate February 8, 1974, Passed to be Engrossed.

Comes from the House, Passed to be Engrossed as Amended by House Amendment "A" (H-682) in non-concurrence.

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

Mr. KATZ: Mr. President and Members of the Senate: I understand that there are several members of the Senate who have some interest in this law, some to get it enacted very promptly, and some to amend it.

I suggest that if you have problems within your communities that come up during the special session, it's possible for us to get a second bill out of committee, but without holding this up until the end of the session by constant amendments. But in the meantime, because I am aware of some grave concerns by one or two members of the Senate, perhaps it would be well if someone might table this until the next legislative day.

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

Thereupon, on motion by Mr. Berry of Cumberland, tabled and Tomorrow Assigned, pending Consideration.

#### **Orders**

Mr. Berry of Cumberland was granted unanimous consent to address the Senate:

Mr. BERRY:

#### **STATE OF MAINE**

In the Year of Our Lord One Thousand Nine Hundred and Seventy-Four

In House, February 14, 1974

WHEREAS, today is the day of hearts and flowers, and love runs rampant throughout the land; and

WHEREAS, no where in the world is love for our fellow persons more evident than within these hallowed halls; and

WHEREAS, we always show brotherly love and affection for all the boys and girls in both of our friendly and congenial political parties; and

WHEREAS, everyone loves everyone else equally, we deem it most appropriate that it should be here, that a birthday celebration be held for two of the cuddliest cupids of all, our esteemed President of the other group, Kenneth P. MacLeod and the Honorable Herald J. Beckett, a member of the prestigious Executive Council

BE IT ORDERED: That we extend felicitations, congratulations and our



birthday greetings to these beloved hearts and gentle persons; and

BE IT FURTHER ORDERED: That suitable copies of the order be prepared and transmitted forthwith to our birthday boys, said copies to be appropriately embellished with lace and ribbon and, of course, on red hearts.

#### HOUSE OF REPRESENTATIVES

Read and Passed

February 14, 1974

E. LOUISE LINCOLN,

Clerk

A true copy

ATTEST:

Signed: E. Louise Lincoln

Clerk of the House

Now, to add to thus superb order, we have an ode by an unknown author:

Birthdays come and birthdays go,  
and one thing surely is true  
It's better to have a birthday come  
To anyone other than you.  
Now, eighty years is not too old,  
You have a long way to go.

So, Hal and Ken, be always bold  
And shun the name "Old Crow."

We would like to pause on this happy day

To shout this greeting out loud  
Best wishes to Hal, who loves to play;  
And greetings to Kennie MacLeod.

#### Committee Reports

##### House

##### Leave to Withdraw

The Committee on Marine Resources on, Bill, "An Act to Clarify the Law on Interstate Transportation of Shellfish." (H. P. 1764) (L. D. 2232)

Reported that the same be granted Leave to Withdraw.

The Committee on State Government on, Bill, "An Act to Transfer the Water Resources Planning Unit of the State Planning Office to the Department of Conservation." (H. P. 1855) (L. D. 2348)

Reported that the same be granted Leave to Withdraw.

The Committee on Transportation on, Bill, "An Act to Amend the Motor Vehicle Laws." (H. P. 1866) (L. D. 2360)

Reported that the same be granted Leave to Withdraw.

The Committee on Transportation on, Bill, "An Act Transferring Responsibility for Student Driver

Education to the Motor Vehicle Division." (H. P. 1904) (L. D. 2412)

Reported that the same be granted Leave to Withdraw.

The Committee on Transportation on, Bill, "An Act Transferring School Bus Driver Qualification Duties from Transportation and Safety, Department of Educational and Cultural Services to the Motor Vehicle Division." (H. P. 1905) (L. D. 2413)

Reported that the same be granted Leave to Withdraw.

Come from the House, the reports Read and Accepted.

Which reports were Read and Accepted in concurrence.

#### Ought to Pass

The Committee on Public Utilities on, Bill, "An Act Increasing Indebtedness of Stonington Water Company." (H. P. 1910) (L. D. 2446)

Reported that the same Ought to Pass.

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

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

#### Ought to Pass in New Draft

The Committee on Public Utilities on, Bill, "An Act to Include the Town of Monmouth in the Augusta Sanitary District." (H. P. 1714) (L. D. 2107)

Reported that the same Ought to Pass in New Draft under New Title: "An Act to Amend the Charter of Augusta Sanitary District" (H. P. 1967) (L. D. 2506)

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.

#### Divided Report

The Majority of the Committee on Liquor Control on, Bill, "An Act to Exempt Charter and Tour Buses as a Public Place under the Liquor Laws." (H. P. 1853) (L. D. 2346)

Reported that the same Ought Not to Pass.

Signed:

Senators:

OLFENE of Androscoggin  
SCHULTEN of Sagadahoc  
FORTIER of Oxford

Representatives:

FARNHAM of Hampden  
CHICK of Sanford  
CRESSEY of North Berwick  
KELLEHER of Bangor  
STILLINGS of Berwick  
GENEST of Waterville  
IMMONEN of West Paris  
FAUCHER of Solon

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

Signed:

Representatives:

TANGUAY of Lewiston  
RICKER of Lewiston

Comes from the House, the Majority Ought Not to Pass report Read and Accepted.

Which reports were Read and the Majority Ought Not to Pass Report of the Committee was Accepted in concurrence.

**Divided Report**

Six members of the Committee on Judiciary on, Bill, "An Act Relating to the Expunging of Certain Records of Arrest." (H. P. 1734) (L. D. 2180)

Reported in Report "A" that the same Ought to Pass in New Draft under Same Title (H. P. 1957) (L. D. 2492)

Signed:

Senator:

TANOUS of Penobscot

Representatives:

WHITE of Guilford  
WHEELER of Portland  
BAKER of Orrington  
PERKINS of So. Portland  
McKERNAN of Bangor

Three members of the same Committee on the same subject matter reported in Report "B" that the same Ought to Pass as Amended by Committee Amendment "A" (H-675).

Signed:

Representatives:

DUNLEAVY of Presque Isle  
GAUTHIER of Sanford  
KILROY of Portland

One member of the same Committee on the same subject matter reported in Report "C" that the same Ought Not to Pass.

Signed:

Representative:

CARRIER of Westbrook

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

Which reports were Read.

Mr. Tanous of Penobscot then moved that the Senate accept the Ought to Pass Report "A" of the Committee.

The PRESIDENT: The Senator has the floor.

Mr. TANOUS: Mr. President and Members of the Senate: Last week, if you will recall, we accepted a committee report dealing with the expungement of records on pardons granted by the Governor and Council. Presently our law provides for expungement of records for individuals that are found not guilty or cases are dismissed, and the provisions of this L.D. has amended the present section of the law dealing with those individuals that have been found not guilty or had cases dismissed, and applies somewhat the same language that we utilized in the other one. As I mentioned, the language in the other bill was prepared by Captain Jones and Mr. Cohen from the Attorney General's office, and it was felt by all of those that endorsed this concept, as well as Mr. Cohen and Mr. Jones, that the format or the procedure utilized in 2492 is far better language than was in the existing law. As I mentioned, the language is similar to that which we utilized in the one dealing with expungement of records or pardons that were granted. Thank you.

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

Mr. KATZ: Mr. President and Members of the Senate: Might I ask a question through the Chair? I recall in our previous explanation that the records actually just were stamped "expunged", but they remained there for the use of the law enforcement people. Is that the case also with L.D. 2492? Do the records remain and are just stamped "expunged"?

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

Mr. TANOUS: Mr. President and Members of the Senate: In answer to the question of Senator Katz of Kennebec, that is correct. The records, as in the

prior law that we debated last week, are stamped "expunged" and are not to be released to anyone unless it is perhaps the police department that may check their own records, but they are not to be released to employers or any other individual. They are expunged for the record. This again is to protect the innocence of an individual who has been found not guilty or the case was dismissed. If it was humanly possible to have these records destroyed, probably I would adopt that concept, but it is extremely difficult to destroy these records and yet retain some files for future use in the case of a similar violation of the law.

The workload, as mentioned to us by the state police, for instance, they would receive reams of not guilty findings and they would have to assign one or two girls full-time just to go through these records and seek them out, speeding violations, and it is just unbelievable the amount of work involved. This way here, I feel, would serve better the intent and purposes of the law and reduce the workload, so long, as I said, as there is a penalty attached to it if these records are released to anyone. It does protect an innocent individual sufficiently, in my opinion, under this bill, protect him as far as his innocence is concerned, at least. Thank you.

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

**Mr. MINKOWSKY:** Mr. President and Members of the Senate: I would like to pose a question through the Chair to the good Senator from Penobscot, Senator Tanous, in reference to this particular item and the one we voted on last week. If there is that much similarity between both documents, is it necessary to carry this one through?

**The PRESIDENT:** The Senator from Androscoggin, Senator Minkowsky, has posed a question through the Chair which the Senator from Penobscot may answer if he desires.

The Chair recognizes the Senator from Penobscot, Senator Tanous.

**Mr. TANOUS:** Mr. President and Members of the Senate: Yes, this bill is necessary. The one we had last week dealt with pardons granted by the Governor and Council, and this particular bill deals with individuals

that have been tried in court and have been found not guilty or the case is dismissed for lack of evidence, so there are two subject matters. The other one was pardons, and this one is on individuals found not guilty.

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

**Mr. BRENNAN:** Mr. President and Members of the Senate: There are two different reports. I personally would prefer the second report which would mean if someone was found not guilty everything would be eradicated or expunged, as it should be, at least conceptually. But I am realistic enough to know that it is difficult to pass something like that, although I do feel if someone is found innocent or charged with one crime, there is no reason for the police to have his pictures, his fingerprints or communication records, so a finding of innocent would truly mean that. But I know that this Senate and this legislature is not prepared to accept that. I will support the Report "A", being realistic, to obtain at least something that would make some sense.

**The PRESIDENT:** Is the Senate ready for the question? The pending motion before the Senate is the motion of the Senator from Penobscot, Senator Tanous, that the Senate accept the Ought to Pass in New Draft Report "A" of the Committee in concurrence. As many Senators as are in favor of accepting Report "A" will please say "Yes"; those opposed "No".

A viva voce vote being taken, the motion prevailed.

Thereupon, the Bill in New Draft was Read Once and Tomorrow Assigned for Second Reading.

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### **Senate Leave to Withdraw, Covered by Other Legislation**

**Mr. Speers** for the Committee on State Government on,

Bill, "An Act Relating to Definition of Resident under Personnel Laws." (S. P. 733) (L. D. 2145)

Reported that the same be granted Leave to Withdraw, Covered by Other Legislation.

**Mr. Speers** for the Committee on State Government on,

Bill, "An Act Relating to Eligibility for

Employment in the State's Classified Service." (S. P. 734) (L. D. 2146)

Reported that the same be granted Leave to Withdraw, Covered by Other Legislation.

Which reports were Read and Accepted.

Sent down for concurrence.

#### **Ought to Pass - As Amended**

Mr. Anderson for the Committee on Public Utilities on, Bill, "An Act Prohibiting Swimming or Bathing in Mt. Zircon Reservoir, Blanchard Reservoir and the Distribution or Pettengill Reservoir all in Rumford, Oxford County." (S. P. 844) (L. D. 2385)

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (S-354)

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.

Mr. Clifford for the Committee on State Government on, Bill, "An Act to Establish Better Interlocal Cooperation in Preparedness for Civil Disasters and Emergencies." (S. P. 828) (L. D. 2362)

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (S-355).

Which report was Read and Accepted and the Bill Read Once. Committee Amendment "A" was Read.

On motion by Mr. Speers of Kennebec, tabled and Specially Assigned for February 21, 1974, pending Adoption of Committee Amendment "A".

#### **Ought to Pass in New Draft**

Mr. Speers for the Committee on State Government on, Bill, "An Act Relating to Citizenship and Residency Requirements for Employment in the State's Classified Service." (S. P. 776) (L. D. 2223)

Reported that the same Ought to Pass in New Draft under Same Title (S. P. 909) (L. D. 2516)

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

#### **Divided Report**

The Majority of the Committee on Judiciary on, Bill, "An Act Relating to Duties of the Attorney General." (S. P. 780) (L. D. 2236)

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (S-352)

Signed:

Senators:

TANOUS of Penobscot

SPEERS of Kennebec

Representatives:

PERKINS of So. Portland

CARRIER of Westbrook

BAKER of Orrington

WHEELER of Portland

WHITE of Guilford

KILROY of Portland

GAUTHIER of Sanford

McKERNAN of Bangor

The Minority of the same Committee on the same subject matter reported that the same Ought to Pass as Amended by Committee Amendment "B" (S-353).

Signed:

Representative:

DUNLEAVY of Presque Isle

Which reports were Read, the Majority Ought to Pass as Amended Report of the Committee 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 - As Amended**

Bill, "An Act to Prevent Physically Handicapped Discrimination under Human Rights Act." (H. P. 1665) (L. D. 2058)

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

##### **Senate**

Resolve, Authorizing the Commissioner of Educational and Cultural Services to Convey Certain Easement Rights at Southern Maine Vocational-Technical Institute in South Portland. (S. P. 886) (L. D. 2473)

Bill, "An Act Relating to Hospitalization of the Mentally Ill." (S. P. 908) (L. D. 2512)

Which were Read a Second Time and Passed to be Engrossed.  
Sent down for concurrence.

### **Senate - As Amended**

Bill, "An Act Relating to School Buses." (S. P. 722) (L. D. 2134)

Which was Read a Second Time.

(On motion by Mr. Berry of Cumberland, tabled and Tomorrow Assigned, pending Passage to be Engrossed.)

Bill, "An Act to Require District Attorneys to Prosecute all Criminal Cases before the District Courts." (S. P. 711) (L. D. 2123)

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

Sent down for concurrence.

### **Enactors**

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

An Act Exempting Machinery and Equipment Used for Manufacturing and Research from Sales and Use Tax. (S. P. 746) (L. D. 2158)

(On motion by Mr. Richardson of Cumberland, temporarily set aside.)

An Act Relating to Nullification of Criminal Records. (H. P. 1956) (L. D. 2491)

An Act Relating to Motor Vehicle Accident Reports. (H. P. 1874) (L. D. 2373)

An Act Relating to Deductions from Sentences of Inmates in County Jails. (H. P. 1839) (L. D. 2331)

An Act Relating to Certified Copy of Regulations Promulgated by Commissioner of Inland Fisheries and Game as Evidence. (H. P. 1954) (L. D. 2489)

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

The President laid before the Senate the matter set aside by Mr. Richardson of Cumberland:

An Act Exempting Machinery and Equipment Used for Manufacturing and Research from Sales and Use Tax. (S. P. 746) (L. D. 2158)

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

Mr. RICHARDSON: Mr. President and Members of the Senate: With respect to L. D. 2158, because there is a revenue loss involved, this matter will undoubtedly be placed on the Special Appropriations Table. But before it goes to that uncertain ground, I would like to tell you what this bill is about. During the last session of the legislature, we realized a dream that all of us have had for a long time about trying to modernize and improve the methods by which we tax Maine business. We have some of the most regressive tax laws in the country as far as the operation of business is concerned. During the last session, we adopted legislation to phase out the inventory tax over a period. We also, as you know, eliminated the sales tax on new machinery used in manufacturing.

This bill which is now before you would broaden this exemption. It would remove the restriction, for example, that the machinery be new. It could be used or rebuilt machinery, new to the Maine purchaser. This amendment would include the purchase of parts, that is, parts would be excluded, exempted from the sales tax. It would include the packaging process which is now covered by regulations. It would include the manufacture of machinery intended to be ultimately leased, as opposed to sold. In short, this would broaden the present exemption to encourage Maine industry to re-equip, modernize, and expand to provide more and better employment opportunities for Maine people.

I believe that the capacity of Maine government to affect Maine's economy is substantially less than, of course, the federal government, but this is one very realistic way in which we as the state legislature can encourage Maine's business to re-equip, modernize and to expand.

I hope that in the closing days of the session, when this matter is taken off the Appropriations Table, I hope that the leadership of both parties will see fit to enact what I believe to be a progressive further reform, Maine's tax laws as applied to business. We are not talking about reducing the amount of tax that we impose on business; we are talking

about giving Maine's business an opportunity to be truly competitive and to encourage Maine's business to expand and modernize.

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

Mr. JOLY: Mr. President and Members of the Senate: I rise to agree with the good Senator from Cumberland, Senator Richardson. I had a similar bill that was withdrawn because Senator Richardson's bill was a little more broad. I was especially intrigued by this bill because I feel it helps the smaller business people who may not be able to afford to buy the new machinery and they buy second hand machinery and used machinery. And certainly we want to do everything we can to help these people who in turn employ many of our Maine citizens.

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

Mr. OLFENE: Mr. President and Members of the Senate: I don't know if you recall the last time this came about and we passed the bill for eliminating the sales tax on new machinery, but I was opposed to it, and I am equally as opposed to this philosophy. I think we are doing two or three things here. Number one, we are attacking the sales tax setup we have in the state, and little by little we are whittling away at it.

But beyond that, I believe in the theory of the good Senator from Cumberland, Senator Richardson, but what I don't like about it is that we are just picking out a selected group of manufacturers. I am reading this bill, this is very restrictive as to who it is for. Now there are many, many other types of business in this state that are paying sales tax on equipment where perhaps if they didn't have to pay that sales tax maybe they would be able to make more employment by modernizing and various things. I say that if we are going to do it everyone should be treated alike, and not just picked out by the particular type of industry or manufacturing that they may be involved in. I know the bill probably has got plenty of support, but I just am not in line with the theory behind it. What is good for one is good for all.

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

Mr. KATZ: Mr. President and Members of the Senate: I am sure we all are aware that the bill is going on the Appropriations Table, so there will be opportunity to reflect on the value of it. The thing that concerns me about the bill, and I can be reassured, I think, is the fact that it is placing a premium now, it is giving the manufacturer a choice between new equipment and old equipment, which is a laudable approach. But it also removes, or to some extent it will remove the motivation for them to re-equip with new equipment, and I am not so sure that this is necessarily going to improve the competitive position of the State of Maine in the national market. The ability of an industry to just patch up occasionally with gerrymandered equipment that has been rejected by another firm and now is being revitalized, is this plant modernization? I don't know; I am not a manufacturer. But I have grave doubts that this bill will work out as well as the new equipment bill.

There is a limit to what we can do for manufacturing. There is a limit to what we can do for Maine business. I think that one of the costs of Maine business that weighs very heavily on it is transportation. I feel, for example, that we could do an awful lot of good things for the potato industry by removing all taxation on trucking, but we are not going to consider it, are we? So, in the interim between the time this goes on the table and the time the session ends, maybe we should reflect to what extent this actually will be successful in doing what the sponsors want it to do.

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

Mr. BERRY: Mr. President and Members of the Senate: I would echo the last words of Senator Olfene of Androscoggin, that what's good for one is good for all. I think that to establish good sound basic manufacturing and industrial operations in the State of Maine is to strengthen these industries which are basic to our economy, and I would cite both to Senator Katz of Kennebec and to Senator Olfene of Androscoggin that the financial welfare

and the health of the industries in their communities are certainly paramount to the economic viabilities of these communities. There is nothing that we would like to see other than a good competitive modern mill across the river here, and there is nothing that we would like to see more than good competitive healthy shoe and textile industries in Auburn and Lewiston.

There has been many times brought out, as Senator Richardson pointed out, that Maine is not the most attractive place among the states to locate. We made a tremendous step forward by the elimination of the inventory tax. This was, I think, one of the outstanding, if not the outstanding, in my personal opinion, acts of our regular session. The personal property tax itself, as you know, is a pet peeve of mine. This is a detriment to good progressive livelihood in business operations in the state, and to exempt industries from the payment of the sales tax, when they are trying to buy equipment to employ Maine workers, I think is a step in the right direction. I would allay Senator Katz's feelings about buying old equipment. What may be old to somebody is new to somebody else, and I am sure that all of us in business have bought used equipment and used it to modernize and make our businesses more efficient. I consider this a real piece of hallmark legislation. It has got a pretty good sized price tag on it, but I think it is really designed for the welfare of the people of the state and I hope, as was indicated, when the chips are down we can save this bill.

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

Thereupon, on motion by Mr. Sewall of Penobscot, placed on the Special Appropriations Table.

### **Orders of the Day**

The President laid before the Senate the first tabled and specially assigned matter.

Bill, "An Act to Authorize the City of Lewiston to Issue \$500,000 Bonds for the Construction, Original Equipping and Furnishing of a District Courthouse and to Authorize the City to Lease such Courthouse to the District Court of the State. (S. P. 888) (L. D. 2484)

Tabled — February 14, 1974 by Senator Clifford of Androscoggin.

Pending — Passage to be Engrossed.

(Senate Amendment "A" (S-342))

On motion by Mr. Berry of Cumberland, retabled pending Passage to be Engrossed.

The President laid before the Senate the second tabled and specially assigned matter:

Bill, "An Act Making Current Service Appropriations from the General Fund and Allocating Money from the Federal Revenue Sharing Fund for the Fiscal Year Ending June 30, 1975." (S. P. 905) (L. D. 2508)

Tabled — February 15, 1974 by Senator Hichens of York.

Pending — Passage to be Engrossed.

Thereupon, the Bill was Passed to be Engrossed.

Sent down for concurrence.

The President laid before the Senate the third tabled and specially assigned matter:

Bill, "An Act Providing Emergency Funds for Staffing a Fuel Allocation Office Within the Bureau of Civil Defense for the Fiscal Year Ending June 30, 1974." (S. P. 834) (L. D. 2366)

Tabled — February 15, 1974 by Senator Berry of Cumberland.

Pending — Motion by the same Senator to reconsider action whereby the bill failed of enactment.

On motion by Mr. Berry of Cumberland, retabled and Tomorrow Assigned, pending the motion by the same Senator to Reconsider.

On motion by Mr. Sewall of Penobscot, Adjourned until 10 o'clock tomorrow morning.