

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

*One Hundred and Seventh
Legislature*

OF THE

STATE OF MAINE

1975

KENNEBEC JOURNAL
AUGUSTA, MAINE

SENATE

Thursday, April 24, 1975

Senate called to order by the President.

Prayer by Rev. Franklin P. Cole, First Radio Parish Church of America, Portland:

At the beginning of the American Bicentennial, it seems appropriate that we unite in a prayer for the nation written by George Washington and sent to the governors of the thirteen original colonies. It seems to me that the prayer is as timely as it is timeless, and may we unite in Washington's spirit.

Almighty God, we make our earnest prayer that Thou wilt incline the hearts of citizens to cultivate a spirit of subordination and obedience to government and to entertain a brotherly affection and love for one another and for their fellow citizens. Finally, that Thou wilt most graciously be pleased to dispose us all to do justly, to love mercy, and to demean ourselves with that charity, humility, and pacific temper of mind which were the characteristics of the divine author of our blessed religion. Without a humble imitation of His example in these things we can never hope to be a happy nation. Amen.

Reading of the Journal of yesterday.

Reconsidered Matter

The following Bill was held on April 24, 1975 at the request of Senator Berry of Androscoggin, pending Consideration:

Bill, "An Act Extending the Time During which School Budgets may be Adopted." (H. P. 1530) (L. D. 1842)

(In the Senate — Passed to be Engrossed without Reference to Committee, in concurrence)

On motion by Mr. Katz of Kennebec, out of order and under suspension of the rules, the Senate voted to reconsider its action whereby the Bill was Passed to be Engrossed.

The PRESIDENT: The Senator has the floor.

Mr. KATZ: Mr. President, I would like to explain to the Senate that the terminology that was used in this bill was not the most propitious that might have been selected. In other words, there was a mistake. So I offer Senate Amendment "A" and move its adoption.

The PRESIDENT: The Senator from Kennebec, Senator Katz, now offers Senate Amendment "A" to L. D. 1842 and moves its adoption. The Secretary will read Senate Amendment "A".

Senate Amendment "A", Filing No. S-89, was Read and Adopted and the Bill, as Amended, Passed to be Engrossed in non-concurrence.

Thereupon, under further suspension of the rules, sent down forthwith for concurrence.

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

Bill, "An Act Increasing the Number of Associate Justices of the Supreme Judicial Court." (S. P. 147) (L. D. 510)

In the Senate April 4, 1975, Passed to be Engrossed.

Comes from the House, Failed of Passage to be Engrossed, in non-concurrence.

On motion by Mr. Speers of Kennebec, the Senate voted to Insist and Ask for a Committee of Conference.

(See Action Later in Today's Session)

Joint Order

ORDERED, the Senate concurring, that the Joint Standing Committee on State Government of the 107th Legislature report out a bill by May 1, 1975, which provides that the Bureau of Forestry shall undertake random verification of the accuracy of the scaling of truckloads of pulpwood by pulpwood buyers: (H. P. 1529)

Comes from the House, Read and Passed.

Which was Read.

Mr. SPEERS of Kennebec then moved that the Joint Order be Indefinitely Postponed.

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

Mr. REEVES: Mr. President, if it is in order, I would like to ask why this order should be postponed?

The PRESIDENT: The Senator from Kennebec, Senator Reeves, poses a question through the Chair to any Senator who may care to answer.

The Chair recognizes the Senator from Kennebec, Senator Speers.

Mr. SPEERS: Mr. President, the Joint Standing Committee on State Government has a considerable number of bills before it yet to be heard, yet to be handled, and it is the opinion of the leadership in the Senate that should there be a need for this particular bill that it should be handled the same as all other bills, and that there should be discussion regarding the introduction of such a bill before the Committee on Reference of Bills. If there is an emergency or demonstrated need for this type of bill, then the Committee on Reference of Bills could authorize its introduction.

It seems to us that the introduction of a joint order requesting the State Government Committee to report out such a bill is simply an attempt to get around the Committee on Reference of Bills, and I therefore move the indefinite postponement of the order.

The PRESIDENT: The pending motion before the Senate is the motion by the Senator from Kennebec, Senator Speers, that House Paper 1529 be indefinitely postponed.

The Chair recognizes the Senator from Kennebec, Senator Reeves.

Mr. Reeves of Kennebec then moved that the Joint Order be tabled and Tomorrow Assigned, pending the motion by Mr. Speers of Kennebec that the Joint Order be Indefinitely Postponed.

On motion by Mr. Speers of Kennebec, a division was had, 10 having voted in the affirmative, and 16 having voted in the negative, the motion did not prevail.

Thereupon, the Joint Order was Indefinitely Postponed in non-concurrence.

Sent down for concurrence.

**House Papers
State Government**

Bill, "An Act to Provide for More Effective Debt Management and for More Effective Administration of the State's Development Financing Capability." (H. P. 1398) (L. D. 1820)

Comes from the House referred to the Committee on State Government and Ordered Printed.

Which was referred to the Committee on State Government and Ordered Printed in concurrence.

**Communications
STATE OF MAINE**

One Hundred and Seventh Legislature
House of Representatives
Office of the Clerk
Augusta, Maine 04330

April 23, 1975

Hon. Harry N. Starbranch
Secretary of the Senate
107th Legislature
Augusta, Maine

Dear Mr. Secretary:

The House voted today to Adhere to its action whereby it Indefinitely Postponed Bill, An Act to Prohibit Corporal Punishment of Pupils. (H. P. 275) (L. D. 417)

Respectfully,

Signed:

EDWIN H. PERT
Clerk of the House

Which was Read and Ordered Placed on File.

Reconsidered Matter

On motion by Mr. Speers of Kennebec, the Senate voted to reconsider its prior action whereby it voted to Insist and Ask for a Committee of Conference on the following:

Non-concurrent Matter

Bill, "An Act Increasing the Number of Associate Justices of the Supreme Judicial Court." (S. P. 147) (L. D. 510)

In the Senate April 4, 1975, Passed to be Engrossed.

Comes from the House, Failed of Passage to be Engrossed, in non-concurrence.

Thereupon, on further motion by the same Senator, the Senate voted to Insist. Sent down for concurrence.

**Senate Papers
Transportation**

Mr. Sewall of Penobscot presented, Bill, "An Act Relating to Additional Roads on Indian Reservation at Indian Island." (S. P. 499)

(Approved by a Majority of the Committee on Reference of Bills pursuant to Joint Rule No. 10).

Which was referred to the Committee on Transportation and Ordered Printed. Sent down for concurrence.

**Committee Reports
House**

The following Ought Not to Pass reports shall be placed in the legislative files without further action pursuant to Rule 17-A of the Joint Rules:

Bill, "An Act to Require the Use of Voting Machines in Municipalities of More than 5,000 Population." (H. P. 392) (L. D. 484)

Bill, "An Act to Permit Owners of Motor Transport Companies who are Assenting Employers under the Workmen's Compensation Act to Refuse to Insure Themselves or their Families under that Act." (H. P. 783) (L. D. 954)

Leave to Withdraw

The Committee on Labor on, Bill, "An Act Relating to Applicability of Workmen's Compensation to Certain Employees and to Repeal the Penalty Provision." (H. P. 934) (L. D. 1157)

Reported that the same be granted Leave to Withdraw.

The Committee on Legal Affairs on, Bill, "An Act to Dissolve Hospital Administrative District No. 3 in Aroostook

and Penobscot Counties." (H. P. 932) (L. D. 1176)

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 Election Laws on, Bill, "An Act Concerning the Size of Municipal Populations in the Statute Requiring or Authorizing the Appointment of Boards of Registration." (H. P. 752) (L. D. 927)

Reported that the same Ought to Pass.

The Committee on Legal Affairs on, Bill, "An Act Relating to Throwing Objects at Emergency Vehicles under the Malicious Mischief Law." (H. P. 969) (L. D. 1220)

Reported that the same Ought to Pass.

Come from the House, the Bills Passed to be Engrossed.

Which reports were Read and Accepted in concurrence, the Bills Read Once and Tomorrow Assigned for Second Reading.

Ought to Pass — As Amended

The Committee on Judiciary on, Bill, "An Act Relating to the Release of Mentally Disordered Persons." (H. P. 719) (L. D. 895)

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-189).

The Committee on Transportation on, Bill, "An Act Relating to School Buses." (H. P. 481) (L. D. 600)

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-170).

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

Which reports were Read and Accepted in concurrence and the Bills Read Once. Committee Amendments "A" were Read and Adopted in concurrence and the Bills, as Amended, Tomorrow Assigned for Second Reading.

The Committee on Agriculture on, Bill, "An Act Relating to the Shipment of Dogs and Cats and Prohibiting the Use of Dogs or Cats in Commercial Promotions." (H. P. 238) (L. D. 294)

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-176).

Comes from the House, the Bill Passed to be Engrossed as amended by Committee Amendment "A" (H-176), as Amended by House Amendment "A" Thereto (H-187).

Which report was Read and Accepted in concurrence and the Bill Read Once. Committee Amendment "A" was Read. House Amendment "A" to Committee Amendment "A" was Read.

Mr. HICHENS of York then moved that House Amendment "A" to Committee Amendment "A" be Indefinitely Postponed.

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

Mr. CURTIS: Mr. President, I would like to pose a question through the Chair to anybody who might care to answer, perhaps the Senator from York, Senator HICHENS, who just made the motion, as to why this doesn't seem to be a slight improvement with this House Amendment over the bill with the Committee Amendment?

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

The Chair recognizes the Senator from York, Senator HICHENS.

Mr. HICHENS: Mr. President, this was the first bill that was heard by the Committee on Agriculture back at the beginning of our session. There was a lot of work put into it because we had a controversy from the pet owners, the humane agents, and the animal welfare people throughout the state. Finally, the Committee came out with an amendment after this study which they felt took care of the problem to a great extent and so reported the bill out. The sponsor of the bill apparently didn't like it and came out with a House amendment which was almost like the original bill, and the Joint Standing Committee on Agriculture rejects Representative McKernan's amendment to L. D. 294, after careful study, for the following reasons:

The amendment will require an appropriation to enforce the bill.

The amendment establishes a precedent that could involve the State Legislature in legislating rules and regulations for the departments without sufficient knowledge to formulate them.

The amendment does not consider different ages and types of dogs, as well as different vaccines and medications for different dogs that are better than those proposed in the bill.

The Department of Agriculture establishes rules and regulations, some of which are duplicated by the bill.

The amendment, particularly provisions 1 and 2, would require an appropriation to enforce the act of at least \$33,000 a year. The Department of Agriculture will be required to enforce the rule in the regular manner, which will require an additional veterinarian. By allowing the Department to establish rules and regulations, it can formulate the same regulations as provision No. 1 of the amendment, with some flexibility to allow the Department to enforce it without an appropriation. The State of Connecticut has followed this route.

Secondly, the amendment of Representative McKernan will establish the precedent of the legislature formulating rules and regulations for departments. Every time a rule or regulation has to be changed in any way, the legislature will have to hold public hearings and debate it. The legislature could be deluged with a large number of such bills.

In addition, the Committee on Agriculture does not feel qualified to legislate the rules and regulations proposed by Representative McKernan. The Committee heard testimony from a veterinarian that contradicted some of the provisions of this Representative's amendment. The legislature may possibly be in the same position as the Agriculture Committee.

Third, the amendment of Representative McKernan, according to testimony at the public hearing, does not consider different sizes and types of dogs and cats. Medication, sale of animals, and so forth, must be different for different dogs and cats. Testimony at the public hearing indicated that the inoculations established in the amendment are not now advisable for all animals. Other types of inoculations should be given. Furthermore, some animals should not be shipped before they are 12 and 16 weeks

old. The Department of Agriculture could establish such rules and regulations.

Finally, the Department of Agriculture has rules and regulations that will apply to dogs and cats as proposed by the Committee's amendment. Furthermore, by allowing the Department to establish rules and regulations concerning different sizes and types of dogs and cats, animal welfare will be much more enhanced as compared to the Representative's amendment. Furthermore, an appropriation will not be needed. The Department can utilize present lay inspectors and veterinarians to enforce the rules and regulations on a flexible schedule that will not require additional personnel.

I therefore move for the indefinite postponement of House Amendment "A".

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

Mr. CURTIS: Mr. President, I would like to thank the Senator from York, Senator HICHENS, for his detailed answer to my question.

I do note that the House amendment under filing H-187 does not have a fiscal note on it, and I understood the previous speaker to indicate that there would be some substantial costs here. I am not quite sure why there would be some substantial costs here. I am not quite sure why there would be a cost to H-187 when there would not be such a similar cost to the Committee's amendment, and I wonder, in order to have an opportunity to look into that in greater depth, if somebody might be willing to table that for a day.

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

Thereupon, on motion by Mr. Corson of Somerset, tabled and Tomorrow Assigned, pending the motion by Mr. HICHENS of York that House Amendment "A" to Committee Amendment "A" be Indefinitely Postponed.

Ought to Pass in New Draft

The Committee on Natural Resources on, Bill, "An Act to Require Consideration of Economic Factors under the Site Location Law." (H. P. 47) (L. D. 59)

Reported that the same Ought to Pass in New Draft under New Title: "An Act to Authorize the Board of Environmental Protection to Solicit and Receive Testimony on the Economic Effects of Proposed Developments" (H. P. 1500) (L. D. 1823).

Comes from the House, the Bill in New Draft Passed to be Engrossed as Amended by House Amendment "A" (H-186).

Which report was Read and Accepted in concurrence and the Bill in New Draft Read Once. House Amendment "A" was Read.

Mr. Trotzky of Penobscot then moved that House Amendment "A" be Indefinitely Postponed.

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

Mr. WYMAN: Mr. President and Members of the Senate: I would oppose that motion. I think a great many times it is difficult for people to have an input into these various bureaucratic decisions, and I think this word "shall" is important so that they listen to the people on this matter.

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

Mr. TROTZKY: Mr. President and Members of the Senate: I would like to explain what the Committee did here. We had a few bills which put into the hearing process that the Board of Environmental Protection had to consider economic factors in a proposed development.

One of the problems we found is that you couldn't work out a formula to weigh the economic factors against the adverse environmental effects, so the Committee came to the conclusion that what we would like to do is allow economic testimony in the Board of Environmental Protection hearing process. The new draft came out and said the Board may at such hearing also receive testimony on the economic effect of such development. The word "may" was put in there. In the House one member changed it to "shall" receive economic testimony.

Now, there is a problem with the word "shall" in that the word "shall" implies that the Board must weigh the two. There is also a problem in the word "shall" in that small businesses coming in to develop, if the word "shall" is in there, they have to put in economic testimony, and many businesses or developers coming in don't want to put in economic testimony. So the Committee yesterday unanimously voted to support the word "may."

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

Mr. SPEERS: Mr. President, I would like to commend the Committee on Natural Resources for the work that they have done on this particular matter. My investigation of this consists of reading these two this morning before they had come before the body, and I too am very much concerned about substituting the word "shall" for the word "may".

I do feel that there ought to be an opportunity for economic testimony to be heard by the Board and for the Board to take that into consideration if either the Board or the developers applying for the permit wish to present such testimony as to economic development and to consider it. But I am a little concerned about mandating that in every case the Board must hear testimony as to the economic effects, because in many cases neither the developer nor the Board will want to do that. Therefore, we find ourselves in a situation where neither the Board nor the developer wants to hear economic testimony or present economic testimony. But if we write the law in such a way that they must present that testimony, what happens as far as the legality of issuing a permit is concerned if that testimony is actually not presented?

I think we are dealing with a technical approach to this problem. I think there probably is unanimity amongst us as to what we would like to accomplish, but perhaps there is some question over whether or not mandating this type of thing in all cases is actually the way to bring this about. We may be creating more problems here than we are alleviating.

I would hope that perhaps this might be tabled for a day or two so that we can work out some method by which if the Board desires economic testimony it may then request it, or if the developers wish to put in economic testimony, then perhaps the Board must listen to it in that case. But to mandate it in every case, I think, is going to create numerous problems.

The PRESIDENT: The Chair recognizes

the Senator from Cumberland, Senator Conley.

Thereupon, on motion by Mr. Conley of Cumberland, tabled and Specially Assigned for April 28, 1975, pending the motion by Mr. Trotzky of Penobscot that House Amendment "A" be Indefinitely Postponed.

Divided Report

The Majority of the Committee on Veterans and Retirement on, Bill, "An Act to Grant Full Retirement Benefits to All Members of the Maine State Retirement System after 30 Years Creditable Service" (H. P. 863) (L. D. 1072)

Reported that the same Ought Not to Pass.

Signed:

Sensors:

COLLINS of Knox
CLIFFORD of Androscoggin
O'LEARY of Oxford

Representatives:

LEONARD of Woolwich
USHER of Westbrook
NADEAU of Sanford
MacEACHERN of Lincoln
THERIAULT of Rumford
MORTON of Farmington
LAVERTY of Millinocket
KELLY of Machias
CURTIS of Rockland

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

Signed:

Representative:

POWELL of Wallagrass Pt.

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

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

Divided Report

The Majority of the Committee on State Government on, Resolution, Proposing an Amendment to the Constitution to Provide for Annual Sessions of the Legislature. (H. P. 724) (L. D. 904)

Reported that the same Ought to Pass in New Draft under New Title: Resolution, Proposing an Amendment to the Constitution to Provide for Annual Sessions of the Legislature and to Change the Date of Convening of the Legislature. (H. P. 1510) (L. D. 1827).

Signed:

Sensors:

CURTIS of Penobscot
GRAHAM of Cumberland

Representatives:

KANY of Waterville
STUBBS of Hallowell
LEWIN of Augusta
QUINN of Gorham
PELOSI of Portland
SNOWE of Auburn
COONEY of Sabattus
CARPENTER of Houlton
WAGNER of Orono

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

Signed:

Sensor:

WYMAN of Washington

Representative:

FARNHAM of Hampden

Comes from the House, the Majority report Read and Accepted and the Bill, in New Draft, Passed to be Engrossed.

Which reports were Read.

Thereupon, the Majority Ought to Pass in New Draft Report of the Committee was Accepted in concurrence, the Bill in New Draft Read Once and Tomorrow Assigned for Second Reading.

Divided Report

The Majority of the Committee on Transportation on, Resolve, to Reimburse Richard Lufkin of Thorndike for Property Damage caused by Water Runoff from State Highway. (H. P. 804) (L. D. 980)

Reported that the same Ought to Pass.

Signed:

Sensors:

GREELEY of Waldo
McNALLY of Hancock

Representatives:

BERRY of Madison
LUNT of Presque Isle
WEBBER of Belfast
JACQUES of Lewiston
WINSHIP of Milo

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

Signed:

Sensor:

CYR of Aroostook

Representative:

STROUT of Corinth
KAUFFMAN of Kittery
FRASER of Mexico
JENSEN of Portland

Comes from the House, the Majority report Read and Accepted and the Resolve Passed to be Engrossed.

Which reports were Read.

Thereupon, the Majority Ought to Pass Report of the Committee was Accepted in concurrence, the Resolve Read Once and Tomorrow Assigned for Second Reading.

Divided Report

The Majority of the Committee on State Government on, Bill, "An Act to Increase the Bonded Debt Limitation of the Maine State Housing Authority's Mortgage Purchase Program." (H. P. 584) (L. D. 723)

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-182).

Signed:

Sensors:

CURTIS of Penobscot
GRAHAM of Cumberland

Representatives:

WAGNER of Orono
COONEY of Sabattus
KANY of Waterville
QUINN of Gorham
PELOSI of Portland
CARPENTER of Houlton
STUBBS of Hallowell

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

Signed:

Sensor:

WYMAN of Washington

Representatives:

FARNHAM of Hampden
SNOWE of Auburn
LEWIN of Augusta

Comes from the House, the Majority report Read and Accepted and the Bill Passed to be Engrossed as Amended by Committee Amendment "A".

Which reports were Read.

Thereupon, the Majority Ought to Pass as Amended Report of the Committee was Accepted in concurrence, and the Bill Read Once. Committee Amendment "A"

was Read and Adopted in concurrence, and the Bill, as Amended, Tomorrow Assigned for Second Reading.

Divided Report

Six members of the Committee on Labor in Report "A" on, Bill, "An Act to Increase the Minimum Wage to \$2.50 an Hour." (H. P. 148) (L. D. 173)

Reported that the same Ought to Pass in New Draft under Same Title (H. P. 1520) (L. D. 1833)

Signed:

Senator:

PRAY of Penobscot

Representatives:

CHONKO of Topsham

LAFFIN of Westbrook

TIERNEY of Durham

FLANAGAN of Portland

MARTIN of St. Agatha

Six members of the same Committee on the same subject matter reported in Report "B" that the same Ought to Pass in New Draft under New Title: "An Act to Increase the Minimum Wage to \$2.30 an Hour" (H. P. 1521) (L. D. 1834)

Signed:

Senators:

ROBERTS of York

McNALLY of Hancock

Representatives:

TARR of Bridgton

SNOW of Falmouth

SPROWL of Hope

TEAGUE of Fairfield

Comes from the House, Report "A" Read and Accepted and the Bill, in New Draft, (H. P. 1520) (L. D. 1833), Passed to be Engrossed.

Which reports were Read.

Thereupon, on motion by Mr. Speers of Kennebec, tabled and Specially Assigned for April 28, 1975, pending Acceptance of Either Committee Report.

Senate

Ought to Pass

Mr. Danton for the Committee on Legal Affairs on, Resolve, Permitting Norman W. Frost, Jr., of Fryeburg to Practice as a Public Accountant. (S. P. 456) (L. D. 1504)

Reported that the same Ought to Pass.

Which report was Read and Accepted, the Resolve Read Once and Tomorrow Assigned for Second Reading.

Ought to Pass — As Amended

Mr. Jackson for the Committee on Agriculture on, Bill, "An Act Relating to Cruelty to Animals." (S. P. 261) (L. D. 858)

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (S-87).

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.

Ought to Pass in New Draft

Mr. O'Leary for the Committee on Natural Resources on, Bill, "An Act Concerning the Incorporation of New Towns." (S. P. 177) (L. D. 581)

Reported that the same Ought to Pass in New Draft under New Title: "An Act to Facilitate the Incorporation of New Towns" (S. P. 500) (L. D. 1846)

Mr. Jackson for the Committee on Local and County Government on, Bill, "An Act Concerning Listing of Tax Exempt Real Property for Town Reports." (S. P. 223) (L. D. 736)

Reported that the same Ought to Pass in

New Draft under Same Title (S. P. 496) (L. D. 1843)

Mr. Jackson for the Committee on Local and County Government on, Bill, "An Act Prohibiting County Commissioners and Municipal Officers from Appointing Themselves to Certain Offices." (S. P. 228) (L. D. 760)

Reported that the same Ought to Pass in New Draft under New Title: "An Act Prohibiting County Commissioners, Municipal Officers and School Directors from Appointing Themselves to Certain Offices" (S. P. 497) (L. D. 1844)

Mr. Jackson for the Committee on Local and County Government on, Bill, "An Act Concerning the Power of the Lewiston Parking District to Mortgage Certain Properties and Permitting the Taxation of Real Property of the District Which is Not Used for Parking." (S. P. 234) (L. D. 776)

Reported that the same Ought to Pass in New Draft under Same Title (S. P. 498) (L. D. 1845)

Which reports were Read and Accepted the Bills in New Draft Read Once and Tomorrow Assigned for Second Reading.

Divided Report

Eight members of the Committee on Legal Affairs in Report "A" on, Resolve, Authorizing Edward S. Crockett and Dorothy P. Crockett, or their Legal Representatives, to Bring Civil Action Against the State of Maine. (S. P. 324) (L. D. 1101)

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (S-90).

Signed:

Senators:

CORSON of Somerset

CIANCHETTE of Somerset

DANTON of York

Representatives:

DUDLEY of Enfield

FAUCHER of Solon

HUNTER of Benton

JOYCE of Portland

GOULD of Old Town

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 "B" (S-91).

Signed:

Representatives:

COTE of Lewiston

CAREY of Waterville

SHUTE of Stockton Springs

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

Signed:

Representatives:

PERKINS of Blue Hill

BURNS of North Anson

Which reports were Read.

Thereupon, on motion by Mr. Corson of Somerset, the Ought to Pass as Amended Report "A" of the Committee was Accepted and the Resolve Read Once. Committee Amendment "A" was Read and Adopted and the Resolve, as Amended, Tomorrow Assigned for Second Reading.

Divided Report

The Majority of the Committee on Legal Affairs on, Bill, "An Act Providing for the Observance of Memorial Day on May 30th." (S. P. 371) (L. D. 1198)

Reported that the same Ought to Pass.

Signed:

Senator:

CORSON of Somerset

Representatives:

DUDLEY of Enfield

FAUCHER of Solon

SHUTE of Stockton Springs

HUNTER of Benton

JOYCE of Portland

GOULD of Old Town

CAREY of Waterville

BURNS of North Anson

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

Signed:

Senators:

CIANCHETTE of Somerset

DANTON of York

Representatives:

COTE of Lewiston

PERKINS of Blue Hill

Which reports were Read.

Thereupon, on motion by Mr. Corson of Somerset, tabled and Tomorrow Assigned, pending Acceptance of Either Committee Report.

Second Readers

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

House

Bill, "An Act Relating to Registration of Certain Vehicles under the Motor Vehicle Laws." (H. P. 813) (L. D. 984)

Resolve, to Reimburse Eugene W. Downer of Magalloway Plantation for Automobile Damage Due to Highway Construction. (H. P. 1028) (L. D. 1317)

Bill, "An Act to Extend the Back Bay Sanctuary, Portland." (H. P. 1501) (L. D. 1824)

Bill, "An Act to Clarify the Licensing Requirement for Structures of 60,000 square feet under the Site Location Act." (H. P. 1519) (L. D. 1832)

Bill, "An Act to Revise the Maine Medical Laboratory Act." (H. P. 1522) (L. D. 1835)

Bill, "An Act Concerning Construction and Repair of Fishways." (H. P. 1523) (L. D. 1836)

Bill, "An Act to Amend the Alewife Fishing Laws Relating to Municipalities." (H. P. 1524) (L. D. 1837)

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

Bill, "An Act Relating to the Lease or Acquisition of Certain Railroad Lines by the Department of Transportation." (H. P. 1514) (L. D. 1831)

Which was Read a Second Time.

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

Mr. REEVES: Mr. President, this L. D. 1831 has no fiscal note, and yet it appears to be one of these situations where the State gets something for nothing, and later on is asked to pay maybe millions of dollars. Also, I noticed in the Portland Press Herald this morning that in fact the Maine Central Railroad may halt a line from Bath to Rockland and other lines in the state, and they noted in their board of directors meeting that the state would be paying for these lines.

In view of the fact that the state can't afford these lines at this time, I ask for the indefinite postponement of L. D. 1831.

The PRESIDENT: The Senator from Kennebec, Senator Reeves, now asks that L. D. 1831 be indefinitely postponed. Is this the pleasure of the Senate?

The Chair recognizes the Senator from Waldo, Senator Greeley.

Mr. GREELEY: Mr. President and Members of the Senate: I don't think there is any worry about the state putting state money into the railroad business, but this is permissive legislation. If the federal government for mass transit ever has the money available, there might be a chance for the Transportation Department to use some of those funds to help build up some of these railroads.

This bill is sponsored by a representative from the same county Senator Reeves is from, so I would say those two people should get together and talk the thing over. If necessary, I would move the bill be tabled for one legislative day.

The PRESIDENT: The Chair would advise the Senator that he is debating a tabling motion.

The Chair recognizes the Senator from Aroostook, Senator Cyr.

Thereupon, on motion by Mr. Cyr of Aroostook, tabled and Tomorrow Assigned, pending the motion by Mr. Reeves of Kennebec that the Bill be Indefinitely Postponed.

House — As Amended

Bill, "An Act to Clarify Market and Public Opinion Research Services under the Unemployment Compensation Law." (H. P. 383) (L. D. 476)

Bill, "An Act to Amend the Protection and Improvement of Air Statutes" (H. P. 694) (L. D. 881)

Bill, "An Act Creating Kennebec County Commissioner Districts." (H. P. 929) (L. D. 1174)

(On motion by Mr. Katz of Kennebec, tabled and Specially Assigned for April 28, 1975, pending Passage to be Engrossed)

Bill, "An Act to Revise Certain Provisions of the Maine Health Facilities Authority Act." (H. P. 1027) (L. D. 1306)

Which were Read a Second Time and, except for the tabled matter, Passed to be Engrossed, as Amended, in concurrence.

Senate

Bill, "An Act Establishing an Annual Sentencing Institute for the Maine Criminal Courts." (S. P. 320) (L. D. 1097)

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

Sent down for concurrence.

Enactors

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

An Act Relating to Withdrawal of Good Time for County Jail Inmates. (S. P. 210) (L. D. 700)

An Act Relating to a Close Corporation under the Unemployment Compensation Laws. (S. P. 493) (L. D. 1822)

(On motion by Mr. Speers of Kennebec, tabled and Specially Assigned for April 28, 1975, pending Enactment.)

An Act to Clarify the Definition of Employee in the Workmen's Compensation Act. (S. P. 492) (L. D. 1821)

An Act to Provide Vocational Rehabilitation Services to Those Persons who are Deaf or who Have Impaired Hearing. (H. P. 165) (L. D. 199)

(On motion by Mr. Huber of Cumberland, placed on the Special Appropriations Table.)

An Act to Permit Furloughs for Prisoners of County Jails. (H. P. 427) (L. D. 521)

An Act to Provide for Continuity of

Treatment by Ambulance Personnel. (H. P. 495) (L. D. 613)

An Act Relating to Reallocation of Existing Institutional Resources of the Bureau of Corrections. (H. P. 559) (L. D. 688)

An Act Concerning Annual Notification Fees under the Consumer Credit Code, Concerning a Lender Collecting and Enforcing Loans without a License, and Requiring the Payment of Certain Investigation Fees to the Superintendent of the Bureau of Consumer Protection. (H. P. 607) (L. D. 750)

An Act to Require a Notice of Default to be given within Prescribed Intervals, as Applicable, for Open-end Credit Transactions under the Consumer Credit Code. (H. P. 608) (L. D. 751)

An Act Concerning Refinancing of Credit Sales on Consolidation under the Consumer Credit Code. (H. P. 610) (L. D. 753)

An Act to Provide Funds for the Continuation of Children's Mental Health Services within the State of Maine. (H. P. 623) (L. D. 777)

(On motion by Mr. Huber of Cumberland, place on the Special Appropriations Table.)

An Act Relating to Premiums and Rebates by Class A Restaurants under the Liquor Laws. (H. P. 873) (L. D. 1047)

An Act to Create the Maine Fishing Gear Damage Fund. (H. P. 1489) (L. D. 1681)

(On motion by Mr. Huber of Cumberland, placed on the Special Appropriations Table.)

Which, except for the tabled matters, 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 Prohibiting Increase of Finance Charges on Outstanding Balances of Open-end Accounts under the Consumer Credit Code. (H. P. 600) (L. D. 743)

This being an emergency measure and having received the affirmative votes of 28 members of the Senate, was Passed to be Enacted and, having been signed by the President, was by the Secretary presented to the Governor for his approval.

Emergency

An Act to Allocate Moneys for the Administrative Expenses of the Bureau of Alcoholic Beverages, Department of Finance and Administration and the State Liquor Commission for the Fiscal Years Ending June 30, 1976 and June 30, 1977. (H. P. 709) (L. D. 888)

This being an emergency measure and having received the affirmative votes of 27 members of the Senate, was Passed to be Enacted and, having been signed by the President, was by the Secretary presented to the Governor for his approval.

Reconsidered Matter

The following bill was held on April 23, 1975 at the request of Senator Speers of Kennebec, pending Consideration:

Bill, An Act to Simplify the Computation of Tree Growth Reimbursement (H. P. 244) (L. D. 298)

(In the Senate — Passed to be Enacted, in concurrence)

On motion by Mr. Speers of Kennebec, the Senate voted to Reconsider its prior action whereby the Bill was Passed to be Enacted.

Thereupon, on further motion by the same Senator, tabled pending Enactment.

Orders of the Day

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

Bill, "An Act Relating to Compensation and Benefits under the State Classified Service." (H. P. 406) (L. D. 495)

Tabled — April 21, 1975 by Senator Speers of Kennebec.

Pending — Passage to be Engrossed.

In the House — Passed to be Engrossed as amended by Committee Amendment "A" (H-153.)

(In the Senate — Committee Amendment "A" Adopted)

Thereupon, the Bill was Passed to be Engrossed, as Amended, in concurrence.

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

Joint Resolution Memorializing the Congress of the United States to Prevent Selective Taxes from Being Imposed as a Means to Reduce Consumption of Petroleum Based Fuels. (H. P. 1503)

Tabled — April 21, 1975 by Senator Speers of Kennebec.

Pending — Motion of Senator Katz of Kennebec to Indefinitely Postpone.

(In the House — Read and Adopted)

Mr. Katz of Kennebec then withdrew his motion for Indefinite Postponement.

Whereupon, Mr. Wyman of Washington moved that the Joint Resolution be Indefinitely Postponed.

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

Mr. SPEERS: Mr. President, I would oppose the motion of the good Senator from Washington, Senator Wyman, and urge the Senate to oppose that motion and adopt the resolution.

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

Mr. WYMAN: Mr. President and Members of the Senate: I want to speak very briefly on this. In the sixth paragraph of this, it says, "Resolved, that we, your memorialists, do hereby respectfully request and urge the Congress of the United States to do all in its power to not impose selective taxes as proposed in House Bill 5005." Now, I wonder how many of us know what is in this 120 page bill. I am sure I don't. And here we are voting on a bill when we don't know what is in it. Furthermore, we are telling Congress what to do when I don't think we run our own house very well.

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

Mr. KATZ: Mr. President, you will recall the other day I shared the perplexity of the Senator from Washington, Senator Wyman. I just feel that the Senate is not capable of dealing with memorials that float across our desks unless we know what is in them, and we are busy enough taking care of state affairs.

Somebody has given me a copy of some of the implications of House Bill 5005, the bill to which the Senator from Washington referred, and it zeroes in on such things as motorboats, special taxes on motorboats, special taxes on snowmobiles, and it seems to be geared specifically to the disadvantage of our constituency, Mr. President, which is why I withdrew my motion for indefinite postponement.

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

Mr. WYMAN: Mr. President, I would

like to ask a question through the Chair. While the good Senator from Kennebec, Senator Katz, has pointed out certain paragraphs in this 120 page bill, I wonder if he has read and knows all of them?

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

The Chair recognizes the Senator from Kennebec, Senator Katz.

Mr. KATZ: Mr. President, may I respond that the implications of school finance are enough for one man to handle.

The PRESIDENT: The pending motion before the Senate is the motion of the Senator from Washington, Senator Wyman, that House Paper 1503 be indefinitely postponed. Will all those Senators in favor of the indefinite postponement of this House Paper please rise in their places until counted. Will all those opposed to the motion to indefinitely postpone please rise.

A division was had. 13 having voted in the affirmative, and 15 having voted in the negative, the motion did not prevail.

Thereupon, the Joint Resolution was Adopted in concurrence.

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

Bill, "An Act to Provide Excise Tax Refund for Construction and Operation of Breweries within the State." (H. P. 369) (L. D. 463).

Tabled — April 21, 1975 by Senator Johnston of Aroostook.

Pending — Motion of Senator Merrill of Cumberland to Reconsider Action whereby the Bill was Indefinitely Postponed:

(In the House — Passed to be Engrossed.)

On motion by Mr. Katz of Kennebec, retabled and Specially Assigned for April 28, 1975 pending the motion by Mr. Merrill of Cumberland to Reconsider Indefinite Postponement.

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

Bill, "An Act Relating to Maternity Benefits for Unmarried Women Health Insurance Policyholders and Minor Dependents of Health Insurance Policyholders." (S. P. 121) (L. D. 407)

Tabled — April 23, 1975 by Senator Clifford of Androscoggin.

Pending — Passage to be Engrossed.

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

Mr. CLIFFORD: Mr. President, this is a bill on which there is a rather lengthy although technical clarifying amendment in the process, and I would appreciate it if it could be tabled until Monday to make sure that the bill is in proper technical form.

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

Thereupon, on motion by Mr. Conley of Cumberland, retabled and Specially Assigned for April 28, 1975, pending Passage to be Engrossed.

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

Bill, "An Act to Change Weights and Related Provisions for Commercial Vehicles." (H. P. 1223) L. D. 1211)

Tabled — April 23, 1975 by Senator Speers of Kennebec.

Pending — Adoption of Senate Amendment "B" (S-81).

(In the House — Bill and Accompanying Papers Indefinitely Postponed)

(In the Senate — Senate Amendment "D" (S-84) Adopted)

Mr. Jackson of Cumberland then moved that Senate Amendment "B" be Indefinitely Postponed.

The PRESIDENT: The Senator has the floor.

Mr. JACKSON: Mr. President and Members of the Senate: In analyzing this L. D. 1211, and looking at the fine structure which L. D. 1211 and Senate Amendment "B" refers to, in figuring out the percentages, I feel, and in talking with the Department of Transportation and the State Police, that the fine structure in L. D. 1211 is more than adequate to cover any fines or tolerances that are allowed for overweight.

Now, let me cite, for example, at 1 percent of the total fine structure, if a fellow is overweight 1 percent, he is overweight 880 pounds and he pays \$10. If he is overweight 5 percent he is overweight 4400 pounds and he would be fined \$50.

There were some people who were citing the point that if he is overweight 30 percent that he should be taken off the road. Well, at 30 percent he would be overweight 26,400 pounds, and that would amount to about 114,000 pounds total truck weight with his load, and the fine would be \$500. Now, I ask you, as members of the Senate, if we adopted Senate Amendment "B", what would his fine be? In reading Senate Amendment "B", I would assume it could be taken two ways. We could take and add at 30 percent, we could take 30 percent of the fine and tack that on, or we could double it and make it \$1,000 at 30 percent.

This is why I opposed the amendment, and I would hope the members of this body would go along with my opposition and indefinitely postpone Senate Amendment "B".

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

Mr. MERRILL: Mr. President, a point of order: Is the motion to indefinitely postpone in order, whereas the Senate has already defeated such a motion in respect to this amendment?

The PRESIDENT: The Chair would reply in the affirmative, the Senator is correct. This motion has been defeated and there has been no intervening action by the Senate. The motion to indefinitely postpone is not in order at this time.

The Chair would advise that the proper way to defeat the amendment would be to vote against its adoption.

The Senator has the floor.

Mr. MERRILL: Mr. President and Members of the Senate: I think if we keep our eye on exactly what the purpose of this amendment is that the logic will be quite clear, and if we consider the question narrowly, I think it is a hard one to dispute.

The question narrowly that this amendment poses is should a person who repeatedly commits the same violation of the law with the same vehicle in regards to having his vehicle be overweight be punished more than the person who is caught the first time? Now, I don't think there are many people in this Senate who don't accept that idea of jurisprudence, that a person who repeatedly violates the

law should have a greater and greater penalty. That is the reasons why in most of our laws we provide some leeway for the judges in terms of how long a sentence they can give somebody for violating the law. The hope is, and our intent is, here in the legislature that the person who repeatedly violates the same law will get more and more strict penalties. Now, I don't think that anybody is against that concept, and that is the only concept we are talking about here.

If the fine structure as laid out in the law itself is too strict, that is a separate question, a question I am ready to consider and a question I have been engaged in some discussion with among people interested in this bill, but that is a separate question. If the basic fine structure for a person who is caught the first time is too strict, well let's consider that problem, but my amendment doesn't affect that directly. We could pass this amendment and then we could, if we wanted to, if it was the desire of this Senate, reduce the fine structure that one person has when he is caught for the first time. There may be some justification for that and I am ready to consider it.

All this amendment says — and I would like to clarify it again because I think it might be a little hard to focus exactly on it now, a couple of days having passed — all this amendment says is that when you are caught for a violation of this law, when you are driving a vehicle that is overweight, you will get the fine as laid out in the bill itself, and added onto that fine will be a percentage of that fine. You will take that figure and you will multiply it by a percent, and the percent that you will multiply it by is the percent that you have been found guilty of being overweight in the last three years with that vehicle. If with that vehicle you have been caught three times being overweight 20 percent each time, there will be a 60 percent add-on. If you have only been caught one other time at 10 percent in the last three years, then there would be a 10 percent add-on. And the percentage will be applied to the dollar figure for the amount that you are overweight that time. So both factors by this formula are taken into consideration: the amount that you are overweight at the time you are getting caught, and the total percent of overweight that you have been found guilty of in the preceding three years.

I think the principle is a good one and one that should be maintained in the law. And if this fine structure actually represents a compromise between what we should penalize a person the first time and what we should penalize a person, say, when he is caught the third or fourth time, then I think what we should do is adopt this amendment and then move back on our fine structure, because I think the idea that a person who repeatedly violates the law should receive a stricter penalty is a good one, and I think it is an especially good idea when we are talking about an area of regulation that involves economic conduct. Economic conduct takes into consideration economic factors, and I think if we really want to pass this law now with the idea that this law will be obeyed, then I think we want to make sure if a person isn't obeying the law that it becomes more and more disadvantageous for him to pursue that course.

As I said while previously speaking on this motion, I am troubled by the posture

with which this question was originally raised in the legislature; not whether or not this is a good bill, but the idea that some group can come before this legislature saying that the law isn't being obeyed so move the weights up to where it will be obeyed. I think that the state in moving the weights up has a right, and this legislature has an obligation, to assure that the new weight structure that we accept, if we do accept it, will be obeyed.

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

Mr. COLLINS: Mr. President and Members of the Senate: The Senator from Cumberland, Senator Merrill, has said some things about law that have a great deal of merit, but I am bothered by this particular draft of this particular law for certain reasons of fairness.

The problem, as we all know, is with the pulp haulers. This particular amendment speaks to a three-year period of the record. In the course of three years of ownership of a truck it may have from five to twenty different drivers of the same truck. One driver may deliberately flaunt the law, and another driver may conscientiously try to observe it. The weight of loads of pulp is not always easily ascertained. It is true that it can be with some effort, but it is not always the case that the effort fits into the economy of a particular area.

I would be troubled by having an amendment which, in the first place, would cause a great deal of record searching, if it were to be carried out in a fair and efficient manner. Second, if I were the judge trying to apply this, I would be bothered as to its real meaning, because we have two separate matters. We have ownership on the one hand, and we have the driving on the other hand, both being under different licenses granted by the state. For these reasons, I could not support this amendment.

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

Mr. MERRILL: Mr. President and Members of the Senate: I have to respectfully disagree with the Senator from Knox, Senator Collins, on this issue. I think that if we are looking for regulation of the conduct of these vehicles which are owned for the purpose of raising money, then the proper place to look for responsibility is to the owner, as we look for responsibility to the owner for damage which is done by our own vehicles as they might be used on the road. And for that reason we, as owners, insure our vehicles.

These vehicles are owned for the purpose of producing money, and that is why the owners have them. If we want to regulate the conduct, if we want to make sure that these vehicles are going to have the proper weight, then I think we want to have our law aimed at the person who is the most concerned about making the money, and that is the person who owns the vehicle. He is the person who has made the investment, he is the person who has the greatest reason to protect the investment, and he can protect the investment by protecting himself from drivers who won't obey the law, as he has to in other regards if the driver flagrantly breaks the law while he is doing the job, and can cause great liability to the owner of the vehicle in other matters.

I think also in regard to pulp drivers it is important to keep in mind that we allow a 10 percent deviance of the total weight to take care of the problem, the problem of it

being hard to predict the weight of pulp. And I think that when one considers how much that 10 percent represents of the total load of pulp separate from the truck, I don't think I am paying too great a tribute to the people who handle pulp in this state to say that they can probably figure that fairly closely, and if they try to aim at the 80,000 pounds that they will come within the 88,000.

The reason for this leeway, as I understand it and as was explained here in joint caucus, is not to allow per se for a greater weight but to allow for the problems that the Senator from Knox raises. So we allow this deviance in our law to take care of this problem, and I think it is trying to get the best of two worlds to suggest that this problem again should keep this Senate from trying to put some teeth into this fine structure and trying to make sure that if somebody repeatedly violates this law that he will be punished in a more severe manner.

Mr. President, I would ask then the vote is taken that it be taken by the "Yeas" and "Nays".

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

Mr. O'LEARY: Mr. President and Members of the Senate: I am disturbed this morning because I do have some concern about this amendment. I don't think the Senator from Cumberland, Senator Merrill, realizes the implications of this. I believe he doesn't realize that some of these truckers make three and four and sometimes five trips a day. If you multiply this by 300 days out of the year, then in three years you have got a lot of trips, in excess of 1,000 opportunities to break the law, and three chances aren't very much.

I hope the Senate will not adopt this amendment.

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

Mr. SPEERS: Mr. President and Members of the Senate: There really has been a great extent and a flurry of legislative activity regarding this particular amendment on this bill, and I would suggest that the arguments that are being used to oppose this amendment really stretch the logic of the members of this body.

The argument that is made is that the fines and the existing fine structure on this bill are sufficient to insure that the law is not broken. Mr. President and Members of the Senate, if that is true, then really there is nothing to worry about in the adoption of this particular amendment, because this amendment presupposes not only that the individual is breaking the law but that he is repeatedly breaking the law. Now, if the fine in the existing fine structure is sufficient to deter individuals from breaking the law, then they really have nothing to worry about with this particular amendment.

Now, the extent of the legislative activity that has been going on regarding this amendment really raises suspicions that perhaps the fines are not sufficient to insure that the law will not be broken and that the weights will not be exceeded, that perhaps there is indeed an underlying intent, either conscious or unconscious, to continue to do precisely what has been going on in breaking the law and overloading the trucks, and to swallow the extra fine that is going to be imposed, if we enact this bill, and it will just be a little bit more economically disadvantageous but not

quite enough to actually act as a deterrent.

It is very easy to avoid the effects of this amendment. That is to simply make the determination that the trucks will not be overloaded, that the owners will not break the law — not only will not break the law once, but will not consciously accept the intent to continuously and repeatedly take the risk of not being caught and ignore the laws as they are written by this body, by the other body, and by the Governor of this state.

I certainly support the adoption of this amendment, and if there are problems in the actual weights, let those problems be discussed, let them be debated, just as every other aspect of our society in this body and the other body, and let the Governor make the determination. But once those determinations are made, let us not play games with those determinations and wink at them and ignore them.

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

Mr. CIANCHETTE: Mr. President and Members of the Senate: I would take issue with the Senator from Kennebec, Senator Speers. Let's extend his arguments to every law on the books in the State of Maine and let's stamp out crime by raising the fines. Carrying the Senator's argument that far, then we will stamp out crime.

The thing I really object to is the insinuation and the premise that everybody who operates an overloaded truck has the intention of doing so and has the intention of being a criminal, because that simply is not so. There are mistakes made and there are honest mistakes made. I just don't like the implication here that anybody who happens to be an owner of a vehicle is an intended criminal, because the facts are, I know, that he is not in all cases.

I think that we ought to look at the bill, and I think that we have been talking about a spirit of compromise to get better truck weight legislation passed in the State of Maine. It is my opinion that with this amendment on the bill there probably will be no truck weight legislation passed in this session. If that is the intent of the amendment, fine, vote for it. But if your intent is to improve the laws of the State of Maine, then I strongly suggest you don't adopt a law with this amendment on it.

Mr. President, I would like to make a parliamentary inquiry as to just what the motion is on the floor and where we stand regarding this amendment.

The PRESIDENT: The pending motion is the motion by the Senator from Cumberland, Senator Merrill, that the Senate adopt Senate Amendment "B".

Mr. CIANCHETTE: That the Senate adopt. So this amendment has not been adopted yet?

The PRESIDENT: The Chair would reply in the negative, this amendment has not been adopted.

Mr. CIANCHETTE: Thank you, Mr. President. I would strongly suggest that we do not adopt this amendment.

The PRESIDENT: Is the Senate ready for the question? The Chair recognizes the Senator from Cumberland, Senator Merrill.

Mr. MERRILL: Mr. President and Members of the Senate: I would just like to make one quick and brief point in regard to this amendment, because I think that honest mistakes can be made and I tried to take that into consideration in fashioning this amendment.

Let's say an honest mistake was made for the first time when a person was over five percent, his fine would be \$50. Then let's say the next week another honest mistake was made and he was over five percent again, well, his fine under the present law would be \$50; his fine with this amendment would be \$50 plus five percent, which is an additional \$2.50. If he made another honest mistake the next week, then there will be the five percent plus the next five percent, and that would be ten percent, so instead of the \$50 that he would pay under this law, he would pay an extra \$10, he would pay \$60. That \$10 would be the total amount that he would be punished for that innocent mistake. And if he made another totally innocent mistake the next week of five percent, it would go up another \$2.50.

I don't think that this has the effect of penalizing somebody who is making these innocent mistakes and going over slightly. But we have got to remember that we are talking at the extremes about a great deal of weight, and we are talking about vehicles that are designed to handle weight that they are certified for and the weights that we are talking about here. If you have an extra lot of weight on these vehicles, I know for myself when I had a chance to drive heavy vehicles like this, that you can be in a situation where it is very difficult to control the vehicle even with the proper weight on it.

I think this is safety legislation and I think it is legislation to insure that the laws that we pass will be obeyed. I think that is something that this legislature should insist on, particularly when we are talking about the privilege of allowing people to drive on the highways that the people of Maine have built and all the people of Maine have to use. If we are going to give somebody the privilege to come onto that highway and use that highway to make money, I don't think it is too much to insist upon that the laws that we make in regards to weights be obeyed.

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

Mr. BERRY: Mr. President and Members of the Senate: I very much support the thinking of the Senator from Cumberland, Senator Merrill. However, I think that as usual we have had some very quiet and sage advice from the good Senator from Knox, Senator Collins.

The wording of the amendment says that "the violations which are incurred in the operation of the vehicle during the preceding six months under the same ownership." Now, there is nothing in the world to prevent a fellow getting up to two violations and selling his truck to his wife and he can pick up two more violations, and then he buys it back again, and so forth. It would make a mockery of the enforcement procedure. I think there is a better solution to this, and I am certainly going to work hard to support the concept of Senator Merrill's.

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

Mr. GREELEY: Mr. President and Members of the Senate: I have got to oppose this amendment, and probably the other two amendments that are going to be offered. I would like to keep the bill the way it is. I hope you take into consideration that this bill got a real slap in the face in the other branch 95-44. With the bill the way it stands today, cutting the weight from 90,000 to 80,000 with a ten percent tolerance for the pulp operators, I

think we have a good chance to pass it in the other branch. We need a truck weight law.

At the present time these fellows are hauling 120,000 pounds, some of them, and some of them more and some of the less, and they are getting fined in some courts \$100. So they go right back and they get another load and put on another 120,000 pounds. If they put on 120,000 if this bill is enacted, they are going to get fined \$1,000. And when they get fined \$1,000, I think it is going to take some of the joy out of life. I hope you will oppose the amendment.

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

Mr. JOHNSTON: Mr. President and Members of the Senate: I have to agree with Senator Greeley. I would like to just for a second, if I could, point out to this body — I don't know how many members of this body have ever loaded one of these trucks, but I have loaded a few — and I would like to explain to my sometimes roommate and the good Senator from Cumberland that it would be possible in the situation of the industry in which I participate for me to overload a truckload of potatoes by 30 percent and neither the driver nor the owner would ever know it. A bulk load of potatoes which generally weighs around 50,000, I could easily, while that driver is sleeping — and he has to sleep — put in that truckload of potatoes 65,000 pounds, and the driver would never know it, nor would the owner ever know it. I can advise the members of this body that it very often happens.

We need the passage of this truck weight bill in Aroostook County to transport those potatoes, so I would strongly urge that this body in its wisdom, so fabricate this bill that it will pass that other body down the other end of the hall. Thank you.

The PRESIDENT: The Chair would request the Senators to refrain from referring to the other branch if at all possible.

The pending motion before the Senate is the motion of the Senator from Cumberland, Senator Merrill, that the Senate adopt Senate Amendment "B". A roll call has been requested. In order for the Chair to order a roll call, it must be the expressed desire of more than one-fifth of those Senators present and voting. Will all those Senators in favor of ordering a roll call please rise in their places until counted.

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

The Chair recognizes the Senator from Cumberland, Senator Conley.

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

The PRESIDENT: The Senator from Cumberland, Senator Conley, now requests that because of the appearance of a conflict of interest he be excused from voting on this measure. Is this the pleasure of the Senate?

It is a vote.

The PRESIDENT: The pending motion before the Senate is the motion of the Senator from Cumberland, Senator Merrill, that the Senate adopt Senate Amendment "B". A "Yes" vote will be in favor of the adoption of Senate Amendment "B"; a "No" vote will be opposed.

The Secretary will call the roll.

ROLL CALL

YEAS: Senators Clifford, Graham, Merrill, Reeves, Speers.

NAYS: Senators Berry, R.; Carbonneau, Cianchette, Collins, Corson, Cummings, Curtis, Cyr, Danton, Gahagan, Greeley, Hichens, Huber, Jackson, Johnston, Katz, Marcolle, McNally, O'Leary, Pray, Thomas, Trozky, Wyman.

ABSENT: Senators Berry, E.; Graffam, Roberts.

A roll call was had. Five Senators having voted in the affirmative, and 23 Senators having voted in the negative, with one Senator abstaining and three being absent, Senate Amendment "B" was not adopted.

The PRESIDENT: Is it now the pleasure of the Senate that this Bill as Amended by Senate Amendment "A" be passed to be Engrossed?

The Chair recognizes the Senator from Cumberland, Senator Merrill.

Mr. MERRILL: Mr. President, I would ask that when the vote is taken on this Bill that it be taken by the "Yeas" and "Nays".

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

Mr. BERRY: Mr. President and Members of the Senate: I have prepared Senate Amendment S-92, and between the lobbying in the back of the chamber and the debate this morning, I don't know what to do with it. It is not quite as bad as it was two years ago but we, of course, are under pressure here.

I think that the debate on Senator Merrill's amendment points up one of the major problems of the basic bill, 1211, and that is the fine structure in the penalty, and Senator Collins, as I indicated, has put his finger on it.

I think many of us in the legislature are dissatisfied with any incentive to avoid violating the law. I know some of my friends here have indicated that the driver has absolutely no control over what goes on the vehicle, and I find this argument very specious indeed. The driver does not need to drive the vehicle if it is overloaded. So consequently, I have a feeling that a solution to the fine problem is to bring in the driver. It is an easy way to keep control of a situation. The driver's record indicates that he has been convicted or found guilty once. My amendment would propose that when he gets up to 25 percent of an overload that he knew very well before he left the point of origin that he was overloaded, and that if he has done it twice then he really doesn't care and he is flying in the face of the law.

As I indicated in our debate the other day, I find something wrong with a statute that has a feature saying that you can violate the law even though you are going to be fined, you can violate the law up to 45 percent or greater of the limiting load. This doesn't seem right. This is an invitation that if you have \$1,000 then go out and overload 45 percent. I think a straight graduated fine without any mention of the percentage points is a fair, workable provision, and it has the advantage of being a deterrent to the driver because there is no limit dollarwise in the law to what he can be fined as there is in this tabular presentation in L. D. 1211.

As I said again the other day, a machine driving down the road 25 percent overloaded is death riding the highway, and I would refer to Senator Cianchette from Somerset County who is quite an authority on truck transportation. I am sure that he has gravel trucks riding the road that can be overloaded due to water in the gravel as opposed to gravel which is loaded into the truck when it is dry. And

apparently some of our people are authorities on loading potatoes in trucks, so they know that there can be changes here. But anybody who overloads a truck 25 percent has either gone to sleep at the wheel and has had somebody increase his load by a lot or he and his employer don't care.

One of my very good colleagues in the Senate has told me that they back a truck under a dowel mill chute and they load it up with dowels, and the owner tells the driver to drive off or he loses his job. I question that this happens. I question it very seriously. If this happens, then that driver shouldn't be driving that truck.

There are far more trucks being driven owned by individuals than there are owned by these multi-million dollar corporations. Again, as I indicated the other day our problem is a dollar problem; the problem is that the truck owners hauling pulp wood aren't getting paid enough, and we are being asked to a sacrifice with torn up bridges and pavement.

I am not thoroughly satisfied about my amendment. Senator Greeley tells me that the absolute limit under any circumstances, special features for pulp truck haulers the pulpwood haulers, frozen roads, under no circumstances can any truck carry more than 88,000 pounds. This, I think, is progress. That is a good feature in my opinion. There has been too much of this 115,000 pounds under frozen roads and so forth. A frozen road can be an icy road, and with a truck overloaded that much, you can imagine what a death-dealing vehicle we are talking about.

I would hesitate to ask that the thing be tabled because I think we are very close to a solution, but I think the fine structure, frankly, is unworkable. I think it is an incentive to violation. I think it, in the original L. D. 1211 and Senator Merrill's suggested amendment, was somewhat confusing. I think we should do two things, and I am not going to address myself too much to the weight problem. I think we should change the fine structure somewhat along the lines as my proposed amendment, which is a straight \$15 for each percentage point overload. And I think we should put in an incentive here for the driver himself, who is the man who has the brain, who has got the training, has got the wheel between his hands, to not go on the road and spread death around in front of him.

So I think these particular points warrant a little more attention on our part if it takes some time.

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

MR. KATZ: Mr. President, I would like to echo the remarks of the Senator from Cumberland, Senator Berry, that there are some of us sitting in the Senate who are willing to accept the load structure but who are completely unwilling to accept the concept that whether or not our roads are abused should be an economic decision by a pulphauler.

I accept the theory that no one is going to overload his truck by 45 percent without knowing it, and he is knowingly and willfully causing structural damage to our roads and jeopardizing life and property on the highway. And I hope that the Senate does not take action today without addressing itself to the question that you cannot solve this problem by saying to the owner that this is a crap game, that you can analyze how many times you can get away with a violation before you are caught, and if the amount of the fine is

economically acceptable, considering the economic benefits of repeated violation, then you knowingly and willfully make that decision and overload.

I am going to take one minor issue with the Senator from Cumberland, Senator Berry, that perhaps our action should not be against the driver but against the vehicle, and if this is going to be a close vote I would like to say that my vote will not be available for passage of this bill unless we go with our fist tightly clenched against the person or the owner who knowingly and willfully jeopardizes life, property and our highways by overloading excessively. On the very face of it, page five of this legislation which has a schedule of fines, economic decision-making fines that go all the way from one percent to 45 percent or greater, is patently unacceptable to me. I would recommend to the Senator from Cumberland, Senator Berry, that perhaps he might be willing to table this bill for a day and consider action not against the driver but against the owner of the truck and the availability of the registration for continued violations.

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

MR. CIANCHETTE: Mr. President and Members of the Senate: I appreciate some of the remarks made by both the two previous speakers, and I agree that we have an obligation in the Senate to do something about what is going on with the gross overloads here in the State of Maine today. I appreciate the Senator from Cumberland, Senator Berry, recognizing that I may know something about the trucking industry and appreciate his confidence in me. I would like to see a bill passed in this session, and there are many pulphaulers who would like to see a bill passed in this session, and I expect there may be some potato haulers who would like to see a bill passed in this session, that will keep these gross violators from their gross violations.

Now we are increasing the fine schedule from the current law today of a maximum of \$200, plus \$10 costs of court. That is the maximum they pay if they get caught every day with 50,000 pounds in excess of allowable loads, which is happening. The maximum fine is \$210. If you work it out as to how much it costs to go out there and catch those people, and all the problems involved with going through the courts and collecting the \$210, I think you will find that it is not a very economically feasible project for the state police to be in.

However, if you increase that fine to something like \$1,000 for these overloads, now that becomes an economic practice for the state police and the court system to be involved with, and I think they are going to do that.

I think we have a bill here now, as the Senator from Waldo, Senator Greeley, says, that can be accepted by this legislature. I feel so strongly about seeing something done to correct the laws there are today that I would like to see the Senator from Kennebec, Senator Katz, support this bill in its present form, give it a try, and see if we aren't really correcting some of the gross problems that we are having today on our highways. I think that is the intent. I think if we monkey around with this any longer then we probably won't pass any bill and we will just keep grinding away for another couple of years without any real good law to work with.

I strongly support this bill, and I hope the Senator from Kennebec, Senator Katz,

and the Senator from Cumberland, Senator Berry, will support it too for those reasons.

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

Mr. Berry of Cumberland then moved that the Bill be tabled and Tomorrow Assigned, pending Passage to be Engrossed.

On motion by Mr. Greeley of Waldo, a division was had. Nine having voted in the affirmative, and 16 having voted in the negative, the tabling motion did not prevail.

THE PRESIDENT: The pending question is the engrossment of L. D. 1211. A roll call has been requested. In order for the Chair to order a roll call, it must be the expressed desire of more than one-fifth of those Senators present and voting. Will all those Senators in favor of a roll call please rise in their places until counted.

Obviously more than one-fifth having arisen, a roll call is ordered. The pending question before the Senate is the passage to be engrossed of L. D. 1211. A "Yes" vote will be in favor of passage to be engrossed; a "No" vote will be opposed.

The Secretary will call the roll.

ROLL CALL

YEAS: Senators Carboneau, Cianchette, Clifford, Collins, Corson, Cummings, Curtis, Cyr, Danton, Gahagan, Greeley, Hichens, Huber, Jackson, Johnston, Marcotte, McNally, O'Leary, Pray, Speers, Thomas, Trozky, Wyman.

NAYS: Senators Berry, R.; Graham, Katz, Merrill, Reeves.

ABSENT: Senators Berry, E.; Graffam, Roberts.

A roll call was had. 23 Senators having voted in the affirmative, and five Senators having voted in the negative, with one Senator abstaining and three being absent, the Bill was Passed to be Engrossed in non-concurrence.

(See action later in today's session.)

Papers from the House

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

Enactor

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

Emergency

An Act Extending the Time During which School Budgets may be Adopted. (H. P. 1530) (L. D. 1842)

This being an emergency measure and having received the affirmative votes of 28 members of the Senate was Passed to be Enacted and, having been signed by the President, was by the Secretary presented to the Governor for his approval.

On motion by Mr. Speers of Kennebec, the Senate voted to take from the table the following unassigned matter:

House Report — from the Committee on Business Legislation — Bill, "An Act to Transfer Authority for Truth-in-Lending Examinations and Enforcement from the Bureau of Banks and Banking to the Bureau of Consumer Protection." (H. P. 323) (L. D. 454) Ought to Pass.

Tabled — April 2, 1975 by Senator Speers of Kennebec.

Pending — Acceptance of Report.

(In the House — Passed to be Engrossed.)

Thereupon, the Ought to Pass Report of the Committee was Accepted in

concurrence, the Bill Read Once and Tomorrow Assigned for Second Reading.

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

Mr. CORSON: Mr. President, I would move that we reconsider our action whereby L. D. 1211 was passed to be engrossed, and hope the members of the Senate would vote against my motion.

The PRESIDENT: The Senator from Somerset, Senator Corson, now moves that the Senate reconsider its action whereby L. D. 1211, was passed to be engrossed. Will all those Senators in favor of reconsideration say "Yes"; those opposed "No".

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

Sent down for concurrence.

(Off Record Remarks)

On motion by Mrs. Cummings of Penobscot, Adjourned until 1:30 tomorrow afternoon.