

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

***One Hundred and Eighth
Legislature***

OF THE

STATE OF MAINE

1978

Second Regular Session

January 4, 1978 — April 6, 1978

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Senate Confirmation Session

June 14, 1978

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APPENDIX

HOUSE

Thursday, February 23, 1978

The House met according to adjournment and was called to order by the Speaker.

Prayer by the Reverend Reginald L. Couture of the Union Congregational Church of Ellsworth Falls.

Reverend COUTURE: Good Morning. I greet you in the name of our Lord and Savior, Jesus Christ. May this be a happy and productive day.

Let us pray. O God, our Father, we ask for Thy guidance and direction in the deliberations of this day. And as our legislators and leaders deliberate on the matters of education and other legislative matters, may they have the strength, the courage and the ability that is so necessary for this day. We ask Thy guidance, O God, through Thy Son, Jesus Christ, Our Lord and Savior. Amen.

The journal of yesterday was read and approved.

Papers from the Senate

The following Communication:

THE SENATE OF MAINE
AUGUSTA

February 22, 1978

The Honorable Edwin H. Pert

Clerk of the House

108th Legislature

Augusta, Maine 04333

Dear Clerk Pert:

The President today appointed the following members of the Senate to the Committee of Conference on Bill, "An Act to Provide for Alternative Election Procedures for School Budgets on a Local Basis" (H. P. 1909) (L. D. 1970):

Senators:

KATZ of Kennebec

PIERCE of Kennebec

USHER of Cumberland

Respectfully,

MAY M. ROSS

Secretary of the Senate

The Communication was read and ordered placed on file.

Reports of Committees
Ought Not to Pass

Report of the Committee on Judiciary reporting "Ought Not to Pass" on Bill "An Act Relating to the Importation of Drugs" (S. P. 674) (L. D. 2082)

Was placed in the Legislative Files without further action pursuant to Joint Rule 20 in concurrence.

Non-Concurrent Matter

Bill "An Act Clarifying the Statutes Relating to Municipalities" (Emergency) (H. P. 1921) (L. D. 1982) which was Passed to be Engrossed as amended by Committee Amendment "A" (H-1019) as amended by House Amendments "A" (H-1026) and "B" (H-1027) thereto in the House on February 14, 1978.

Came from the Senate, Passed to be Engrossed as amended by Committee Amendment "A" (H-1019) as amended by Senate Amendments "A" (S-468) and "B" (S-469) thereto in non-concurrence.

In the House: The House voted to recede and concur.

Study Report

Pursuant to Resolves, 1977, Chapter 49
Referred to Committee on
Natural Resources

Mr. Blodgett from the Committee on Natural Resources to which was referred the study relative to Airmobiles pursuant to Resolves, 1977, c. 49, have had the same under consideration and ask leave to submit its findings and to report that the accompanying Bill "An Act to

Amend the Statutes Relating to Airmobiles" (H. P. 2126) (L. D. 2153) be referred to this Committee for public hearing and printed pursuant to Joint Rule 17.

Report was read and accepted, the Bill referred to the Committee on Natural Resources and sent up for concurrence.

By unanimous consent, ordered sent forthwith.

Orders

On motion of Mr. Burns of Anson, the following Joint Order: (H. P. 2128) (Cosponsor: Mr. Connolly of Portland)

WHEREAS, there is growing concern with possible abuses by some law enforcement officers of the powers granted to them; and

WHEREAS, law enforcement officials occupy a position of trust and authority where abuse cannot be tolerated; and

WHEREAS, it is essential that a study of these possible abuses by law enforcement officials be conducted to insure that the citizens of this State receive the best possible protection; now, therefore, be it

ORDERED, the Senate concurring, that the Joint Standing Committee on Legal Affairs shall study the present law enforcement situation in Maine to determine if law enforcement officials are abusing their powers and to determine what measures may be taken to curb that abuse; and be it further

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

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

The Order was read.

The SPEAKER: The Chair recognizes the gentleman from Old Town, Mr. Pearson.

Mr. PEARSON: Mr. Speaker, Ladies and Gentlemen of the House: I have never opposed an order before, a study order, but I have come to believe that not in all cases but certainly in many, study orders that are conducted between sessions, as the case would be in this, between the 108th and the 109th, are of less use than those that are conducted within the sessions, between the first regular session and the second. For that reason, I would like to ask for a division.

The SPEAKER: The Chair recognizes the gentleman from Nobleboro, Mr. Palmer.

Mr. PALMER: Mr. Speaker, Ladies and Gentlemen of the House: I too, would like to echo the remarks of the gentleman from Old Town, Mr. Pearson. It seems to me that this particular study was a part of a study made not too many years ago by the Legal Affairs Committee, in which the Legal Affairs Committee, I believe, went all over the State of Maine not only studying this particular area but the whole area of crime.

I think that sometime, sooner or later, as we have done in the past, we have to start looking at these study orders with a jaundiced eye because we are going to start building them up again. I think that so many times they gather too much dust. I know that already on my desk I have this pile here that I use to put my prepared speeches down on when I am going to read them; otherwise, I speak from in here, and that is about the greatest use I have found for most of them. So I, too, would hope that we would not pass this order this morning.

The SPEAKER: The Chair recognizes the gentleman from Bridgton, Mrs. Tarr.

Mrs. TARR: Mr. Speaker, Men and Women of the House: I am going to support this order this morning and I hope you will too. Over the weekend, I talked with my police department, our little four-man police department in Bridgton, again regarding the criminal assault bill

that we have had before us. Our police officers suggested that perhaps a study along these lines would be beneficial. I am really pleased to see the order on the calendar this morning, and I would urge your support for it.

The SPEAKER: The Chair recognizes the gentleman from Anson, Mr. Burns.

Mr. BURNS: Mr. Speaker, Ladies and Gentlemen of the House: This study order came out of the debate on the assault bill. The study order we had in regard to assaults on police officers did not include this facet of it. During our study on that study order, it came out that perhaps this should be looked at. So I hope you do pass this study order.

The SPEAKER: The Chair recognizes the gentleman from Rumford, Mr. Theriault.

Mr. THERIAULT: Mr. Speaker and Members of the House: I am sure that all good police officers will welcome this type of thing. I am against orders in general, so I am against this one for that reason, not because it is investigating law enforcement officers, because I am sure that most law enforcement officers will welcome this kind of an order, but I resent the fact of the order that implies that all police officers are not what they should be. We have bad police officers as well as bad anything, any profession, but the majority of these police officers are doing their jobs and doing it well and honestly. I resent the fact that this kind of an order implies that they are not doing it.

The SPEAKER: The Chair recognizes the gentleman from Brewer, Mr. Norris.

Mr. NORRIS: Mr. Speaker, Ladies and Gentlemen of the House: I agree that some orders are not necessary, but I think this is an order that is very necessary this morning. If you will look at matters that are tabled, we are in a quandry. We have had copious debate on assault on police officers and the other body has moved, after Legal Affairs with a study, to refer this up to the Committee on Judiciary.

As I said the other day with the testimony that was presented, I would go along on that bill the way it was, but there certainly is concern in the Portland paper this morning. There is an officer who was just cleared of assault charges in the station. Although in reading that article in the Portland paper, he did, indeed, strike the fellow and he also kicked him, according to the testimony in the court yesterday. He make that provocation and I don't question that, but I only mention that we are in a time of change or in time of greater protection for individuals. We are trying to keep up with the police officers, but we don't want to go overboard.

I urge you, and I am sure that all police officers, all law enforcement officers would be in favor of this. Let's find out just exactly how far we go, because I am afraid that by the time we get through with this assault on police officers question this session, we won't resolve the problem to everyone's satisfaction. So I hope you will vote for the passage of this order this morning.

The SPEAKER: The Chair recognizes the gentleman from Orono, Mr. Devoe.

Mr. DEVOE: Mr. Speaker and Members of the House: I oppose this resolution and I would like to offer my reasons to the members of the House for doing so. If we have one study order or five or ten on this very problem, it will all come back to the local community having the power and, it seems to me, certainly the right to discipline its own particular police officers who may be misusing their positions. And whatever the results of a study order, or whatever the results of legislation that may be produced by this study order and may ultimately be passed by the 109th Legislature will not alter the fact that the municipality on the local level has the power and the obligation to discipline its own members of police departments and law enforcement officials who may be abusing and misusing their position in order to harass citizens. I don't deny that there are probably every

community where this happens from time to time. All that a study order is going to accomplish is to pinpoint where this may happen; yet the power lies in the hands of the local police chiefs and the local town fathers to do something about it. I believe the legislative time can be better spent on other matters where state laws will make a difference.

The SPEAKER: The Chair recognizes the gentleman from Portland, Mr. Connolly.

Mr. CONNOLLY: Mr. Speaker and Members of the House: I don't know if any of you have read the particular order, but if you have, you will notice that I am a cosponsor of the order.

This all came about last week when we got into the initial debate on the assault on the police officers' bill. After I had spoken, a number of people came up and spoke to me about what had happened and asked for some information, and Representative Burns came to me and said that he was at that moment preparing an order that would deal with the subject of abuse of police power. He felt in his opinion that the order that was passed last session and resulted in the bill that is now tabled today that we will discuss later on, only dealt with the aspect of assault on police officers but did not in any way at all deal with reverse of that, the example that I had described and several other had described where they had been assaulted by police officers.

I would just remark on the article that Representative Norris spoke about earlier. In this morning's Press Herald, if you haven't had the opportunity to read that article, I would suggest that at some point you get a copy of the paper and read it. The case involves a police officer who apparently assaulted a resident of Portland prior to the time that he brought him to the police station and then at the time that he had him in the police station when the fellow was being booked. That case, for those of you who have been following it, was initially brought before the Grand Jury in the City of Portland and the Grand Jury refused to bring an indictment. The, on the recommendation of the city manager in the City of Portland and the chief of police in the City of Portland, one of the three police officers involved, the one who was deemed to be in charge was brought before the Civil Service Commission for abuse of his authority. There wasn't any denial made at all that the police officer did, in fact, assault, hit, the individual involved.

I just want to read to you two paragraphs from this morning's newspaper article. "Fellow patrolman in the lockup area testified that the two or three jabs McNaught" — he is the police officer — "delivered did not knock Webster" — he was the citizen — "back against the wall or to the floor. Deputy Sheriff Christopher Muse, the turnkey at the time, testified that the quick punches seemed to have a calming effect on Webster." This is what was testified to at the Civil Service Commission. It just seems to me that there are certain police officers in the state who believe that in certain instances it is within their power to hit people that they have arrested or are about to arrest.

What this order before you does, it would ask the Legal Affairs Committee to look at the other side of the coin. They studied the first part last year and they will study the second part this year, and then make any recommendations that should be made. If it requires legislative action, then they will bring that before us, and if it simply requires local action, then I am sure that they will make that recommendation, but at least the matter should be looked into and some recommendation should be made. I would hope that you would pass the order.

The SPEAKER: The Chair recognizes the gentleman from Nobleboro, Mr. Palmer.

Mr. PALMER: Mr. Speaker, Ladies and Gentlemen of the House: I concur wholeheartedly with the gentleman who just spoke, that there may be problems, indeed, with police

brutality in the State of Maine, but I also reiterate what I said earlier. It seems to me that we have identified and can identify where these brutalities are taking place and a study order of this kind would accomplish nothing but pinpoint exactly what has happened.

I would also point out to you the fact that on page 5 of your calendar you will note that the Act to Amend the Crime of Assault on a Law Enforcement Officer has been recommitted to the Committee on Judiciary and we don't know what they are going to come out with yet. So it would seem to me premature to have a study order this coming summer on a subject which we really haven't even finally passed on in this session. So I hope we do, indeed, fail to pass this order this morning.

The SPEAKER: The Chair recognizes the gentleman from Lewiston, Mr. Cote.

Mr. COTE: Mr. Speaker, Ladies and Gentlemen of the House: As Chairman of the Legal Affairs Committee, I am neither for nor against this order. An order is only as good as it is funded. We had two studies before the Legal Affairs Committee and the Council, through its wisdom, really did not provide the monies necessary for a thorough study. We had another order where no funds at all were provided. So if we are going to ask a committee to research an order such as this, I know the Council has the power and if they don't fund the study, then the study isn't worth anything. So, in order to do a good job, it would take some very good funding for the committee to operate.

I leave it up to your wisdom whether you want to pass this order or not. As I stated, I am neither for nor against. If the Legal Affairs Committee is asked to study this, we shall endeavor to do it with the funds of means available.

The SPEAKER: The Chair recognizes the gentleman from Enfield, Mr. Dudley.

Mr. DUDLEY: Mr. Speaker and Members of the House: I, too, am a member of Legal Affairs and have done quite a lot on this study, done a lot of inquiring and talked with a lot of police officers in the line of this former study. I am neither for nor against this new study, except I don't think it will accomplish anything. But I do think we are making a study in the wrong direction. I think the study, in my opinion, if we make another one, should be in the area of what qualifies to be a police officer and very stringent conditions under which we would hire one. We shouldn't be hiring these people with these radical views, who would hit people and so forth, and I think there must be some way to screen them so we would be hiring the right people do this job. I think the area we should be studying is the area of what type of person we should hire for this job and making qualifications that they would have to have, like graduated from the police academy and many other things that we might recommend or we might make them a must or mandatory to be a police officer.

I think the study should be in this area, because it has pretty much been studied and we pretty much all know what the condition is, at least those of us on the Legal Affairs Committee. So I am not exactly for this order, but I am not going to exactly speak against it. I am not going to vote for it because I don't think it is necessary, but I do think we ought to have some kind of a study and have some qualifications for a police officer, that they just couldn't go out on the street and hire anybody for a police officer. Some of these small towns do just that, and I suspect some of the cities do too. Somebody knows somebody and they hire Uncle Peter's cousin Frank. If we are going to have good police officers, we have got to have a better screening idea or mandatory laws or something in that area. So in my opinion, the study is in the wrong direction.

The SPEAKER: The Chair recognizes the gentleman from Madawaska, Mr. McHenry.

Mr. McHENRY: Mr. Speaker, Ladies and

Gentlemen of the House: This order would be to protect our citizens from police assault. I think we really need it. I am not saying our police are bad. We will pass a law to protect our police officers; let's pass a law to protect our citizens.

The SPEAKER: The Chair recognizes the gentleman from Portland, Mr. Joyce.

Mr. JOYCE: Mr. Speaker, Ladies and Gentlemen of the House: I have sat here this morning and enjoyed myself as my brother from Portland read newspapers to you. It is always interesting, whether you pick up a newspaper or a book and flip it to the middle and read a few lines.

In Portland, the incident that is covered in this morning's paper where a policeman gently punched a man three times, this was a reaction of that policeman for being kicked in the groin.

I think if we are going to come up with a study order and eventually a bill, I would probably have to insist that we have something in that bill that would put a restriction on the policeman's action of what he could do after getting kicked in the groin.

I have listened and I have enjoyed Representative Devoe explain how police incidents should be handled by police administration. In other words, the police should clean up their own act. Well, I want to commend Representative Devoe, because today I think I found a member of the Bar in this body who has really read the United States Supreme Court decisions.

In 1976, in the Rizzo versus Good case, and this was the Philadelphia Civil Rights Case, the Supreme Court was critical of all the lower courts who thought they had the authority to administer police departments. In the final finding of the Supreme Court in 1976, they commended the police in the way they were digging out the problems and cleaning up their own house, and they noted how many of the professions were failing to follow this example set by the police. Perhaps this is the posture that Chief Justice Berger spoke from last week when he was critical of a profession that he belongs to.

Police brutality, it is a distasteful thing, and I will support this order. I feel 99 percent of the police officers in this state will support this order. The police, of all the professions, are the ones who are ashamed of those few who abuse their authority, and the police themselves are the ones who will get to the problem. If you can help them, I wish you luck.

The SPEAKER: The pending question is on passage of the Joint Order. All those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

Whereupon, Mr. Connolly of Portland requested a roll call vote.

The SPEAKER: For the Chair to order a roll call, it must have the expressed desire of one fifth of the members present and voting. All those desiring a roll call vote will vote yes; those opposed will vote no.

A vote of the House was taken, and more than one fifth of the member present having expressed a desire for a roll call, a roll call was ordered.

The SPEAKER: The pending question is on passage of Joint Order (H. P. 2128). All those in favor of passage will vote yes; those opposed will vote no.

ROLL CALL

YEA — Bachrach, Beaulieu, Berry, Biron, Blodgett, Boudreau, A.; Brennerman, Burns, Bustin, Carey, Carroll, Chonko, Clark, Connolly, Cote, Cox, Curran, Davies, Diamond, Dow, Durgin, Dutremble, Elias, Flanagan, Fowlie, Gill, Goodwin, H.; Goodwin, K.; Green, Hall, Henderson, Hickey, Huber, Jackson, Jacques, Jalbert, Jensen, Joyce, Kane, Kany, Kelleher, Kerry, Kilcoyne, Locke, MacEachern, Masterston, McHenry, Mitchell, Najarian, Nelson, M.; Norris, Plourde, Post, Prescott, Quinn, Spencer, Sprowl, Talbot, Tarr, Tierney, Tozier, Traf-

ton, Valentine, Violette, Wilfong, Wood, Wyman, The Speaker.

NAY — Aloupis, Ault, Austin, Bagley, Bennett, Benoit, Berube, Birt, Boudreau, P.; Brown, K. C.; Bunker, Carrier, Carter, D.; Carter, F.; Churchill, Conners, Cunningham, Devoe, Dexter, Drinkwater, Fenalson, Garsoe, Gillis, Gould, Gray, Greenlaw, Higgins, Hunter, Hutchings, Immonen, Laffin, Lewis, Littlefield, Lougee, Lunt, Mackel, Mahany, Marshall, Martin, A.; Masterman, Maxwell, McBreairty, McPherson, Morton, Nadeau, Nelson, N.; Palmer, Paul, Pearson, Peltier, Perkins, Peterson, Raymond, Rollins, Sewall, Shute, Silsby, Smith, Stover, Stubbs, Tarbell, Teague, Theriault, Torrey, Truman, Twitchell, Whittemore

ABSENT — Brown K. L.; Dudley, Hobbins, Hughes, LaPlante, Lynch, McKean, McMahon, Mills, Moody, Peakes, Rideout, Strout, Tyn-dale

Yes, 69; No, 68; Absent, 14.

The **SPEAKER**: Sixty-nine having voted in the affirmative and sixty-eight in the negative, with fourteen being absent, the motion does prevail.

Sent up for concurrence.

An Expression of Legislative Sentiment (H. P. 2130) recognizing that:

David Driskell, Well-known painter, writer and narrator of the film "Hidden Heritage" and leading authority on Black Art in America is appearing at Westbrook College on February 24, 1978 to help introduce art exhibits in honor of Black History month

Presented by Mr. Talbot of Portland.

The Order was read and passed and sent up for concurrence.

By unanimous consent, ordered sent forthwith to the Senate.

On motion of Mr. Torrey of Poland, the following Joint Resolution: (H. P. 2129) (Cosponsors: Mr. Mahany of Easton, Senator Hichens of York)

Joint Resolution in Honor of the Fiftieth Anniversary of the Future Farmers of America

WHEREAS, agriculture is the lifeblood of this country and the entire world; and

WHEREAS, the Future Farmers of America is a national organization of students studying agriculture in public secondary schools; and

WHEREAS, the Future Farmers of America was organized in Kansas City in November of 1928 for the purpose of training young people in the field of farming and other related areas; and

WHEREAS, for the past fifty years this organization has served as one of the outstanding institutions for building character in our youth and developing their practical knowledge; now, therefore, be it

RESOLVED: That we, the members of the 108th Legislature, now assembled in the Second Regular Session, hereby publicly recognize the outstanding contributions made to the State and the nation by the F. F. A. and its members in the State of Maine, and hereby extend our best wishes and congratulations to the F. F. A. on its fiftieth anniversary; and be it further

RESOLVED: That upon passage in concurrence, the Clerk of the House shall prepare suitable copies of this joint resolution for transmittal to the presiding state officers of the Future Farmers of America.

The Resolution was read and adopted and sent up for concurrence.

On motion of Mr. Nadeau of Sanford, it was **ORDERED**, that J. P. Normand LaPlante of Sabattus be excused February 23rd and 24th, 1978 for personal reasons.

House Reports of Committees Ought Not to Pass

Mr. Carter from the Committee on Taxation

on Bill "An Act to Provide for the Valuation of Industrial Property the Value of Which Exceeds \$10,000,000 by the State Tax Assessor" (H. P. 2013) (L. D. 2088) reporting "Ought Not to Pass"

Was placed in the Legislative Files pursuant to Joint Rule 20 without further action and sent up for concurrence.

Ought to Pass in New Draft New Draft Printed

Ms. Clark from the Committee on Business Legislation on Bill "An Act to Assure Continued Insurance Coverage for all Claims Incurred on Certain Group Health Insurance Policies" (Emergency) (H. P. 1863) (L. D. 1921) reporting "Ought to Pass" in New Draft under New Title **RESOLVE**, to Establish a Commission to Study the Continuation of Coverage under Certain Group Health Insurance Policies (H. P. 2131) (L. D. 2156)

Report was read and accepted, the New Draft read once and assigned for second reading tomorrow.

Consent Calendar First Day

In accordance with House Rule 49, the following items appeared on the Consent Calendar under the listing of the First Day.

(H. P. 2014) (L. D. 2089) **RESOLVE**, Reimbursing Certain Municipalities on Account of Taxes Lost Due to Lands being Classified under the Tree Growth Tax Law (Emergency) — Committee on Taxation reporting "Ought to Pass"

(H. P. 1913) (L. D. 1974) Bill "An Act to Allow Nursing Homes to Provide Physical and Occupational Therapy to Residents in Need of that Care" (Emergency) — Committee on Health and Institutional Services reporting "Ought to Pass" as Amended by Committee Amendment "A" (H-1066)

(H. P. 1915) (L. D. 1976) Bill "An Act to Allow Intermediate Care Facilities to be Reimbursed under the Medically Need Program" (Emergency) — Committee on Health and Institutional Services reporting "Ought to Pass" as Amended by Committee Amendment "A" (H-1068)

No objections being noted, the above items were ordered to appear on the Consent Calendar of February 24, under listing of the Second Day.

(H. P. 1990) (L. D. 2065) Bill "An Act to Amend the Child Welfare Laws" (Emergency) — Committee on Health and Institutional Services reporting "Ought to Pass" as Amended by Committee Amendment "A" (H-1065)

On the objection of Mr. Wood of Sanford, was removed from the Consent Calendar.

Thereupon, the Report was accepted and the Bill read once. Committee Amendment "A" (H-1065) was read by the Clerk and Adopted and the Bill assigned for second reading tomorrow.

(H. P. 1959) (L. D. 2041) Bill "An Act to Clarify the Investigation Powers of the Department of Environmental Protection under the Oil Conveyance Program" — Committee on Natural Resources reporting "Ought to Pass" as Amended by Committee Amendment "A" (H-1070)

On the objection of Mr. Palmer of Nobleboro, was removed from the Consent Calendar.

Thereupon, the Report was accepted and the Bill read once. Committee Amendment "A" (H-1070) was read by the Clerk and adopted and the Bill assigned for second reading tomorrow.

(H. P. 2028) (L. D. 2096) Bill "An Act Relating to Tuition Computation Charged by Private Schools under the Education of Exceptional Children Law" — Committee on Education reporting "Ought to Pass" as Amended by Committee Amendment "A" (H-1071)

No objections being noted, the above item was ordered to appear on the Consent Calendar of February 24, under listing of the Second Day.

Consent Calendar Second Day

In accordance with House Rule 49, the following item appeared on the Consent Calendar for the Second Day:

(H. P. 2039) (L. D. 2104) Bill "An Act to Establish Training Requirements for Corrections Officers" (C. "A" H-1057)

No objections having been noted at the end of the Second Legislative Day, the House Paper was passed to be engrossed and sent up for concurrence.

Passed to be Engrossed

RESOLVE, for Laying of the County Taxes and Authorizing Expenditures of Somerset County for the Year 1978 (Emergency) (H. P. 2122) (L. D. 2152)

RESOLVE, for Laying of County Taxes and Authorizing Expenditures of Sagadahoc County for the Year 1978 (Emergency) (H. P. 2127) (L. D. 2154)

Were reported by the Committee on Bills in the Second Reading, read the second time, passed to be engrossed and sent up for concurrence.

Amended Bill

Later Today Assigned

Bill, "An Act Concerning the Catastrophic Illness and Medically Needy Programs" (H. P. 1911) (L. D. 1972) (H. "A" H-1063 to C. "A" H-1046)

Was reported by the Committee on Bills in the Second Reading and read the second time.

(On motion of Mr. Burns of Anson, tabled pending passage to be engrossed and later today assigned.)

Passed to be Enacted Emergency Measure

"An Act Providing Allocations from the Unappropriated Highway Fund Surplus for Fiscal Year Ending June 30, 1979" (S. P. 694) (L. D. 2135)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure and a two-thirds vote of all the members elected to the House being necessary, a total was taken. 109 voted in favor of same and none against, and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

Later Today Assigned

"An Act to Provide for Specific Liability for Persons or Corporations Contributing to a Public Nuisance" (S. P. 658) (L. D. 2035) (S. "A" S-467 to C. "A" S-464)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed.

(On motion of Mrs. Post of Owl's Head, tabled pending passage to be enacted and later today assigned.)

Orders of the Day

The Chair laid before the House the first tabled and today assigned matter:

"An Act to Amend the Crime of Assault on a Law Enforcement Officer" (S. P. 661) (L. D. 2032) (C. "A" S-444) — In the House, Passed to be Enacted on February 16 (having been Passed to be Engrossed as Amended by Committee Amendment "A" S-444) — In Senate, Committed to the Committee on Judiciary in non-concurrence.

Tabled — February 22, 1978 by Mr. Tierney of Lisbon Falls.

Pending — Further consideration.

The **SPEAKER**: The Chair recognizes the gentleman from Stonington, Mr. Greenlaw.

Mr. **GREENLAW**: Mr. Speaker, I move the House recede and concur.

The SPEAKER: The gentleman from Stonington, Mr. Greenlaw, moves that the House recede and concur.

The Chair recognizes the gentleman from Brewer, Mr. Norris.

Mr. NORRIS: Mr. Speaker and Members of the House: This is the matter that I mentioned earlier, and I guess it is a great idea to send it up to Judiciary. Legal Affairs, with the people who made the study, sent their recommendation down to both branches and we amended it, or this branch amended it in the manner that they wanted it and there seems to be some confusion and disagreement. I see no purpose in the world being served by sending this bill up to Judiciary. If we start this process, we will be here until June, one; and, number two, after you send it up to Judiciary, I don't see that we have any greater expertise in this matter than the Committee on Legal Affairs had. So I don't see what purpose it will serve to send it back upstairs.

We are not clairvoyant, we don't know all of the answers up there, and I would hope — we voted for a further study — and I would hope this morning that you would vote against receding and concurring and that we then insist on our former action and send the bill back down to the other body. Meanwhile, they will have received the order that Mr. Burns put in this morning, and we will see what they do with that, and then perhaps this bill can go on its way and the Legal Affairs Committee can make a further study on the other side of the problem and come back in the next session of the legislature and clear up this matter.

The SPEAKER: The Chair recognizes the gentleman from Lewiston, Mr. Biron.

Mr. BIRON: Mr. Speaker, Ladies and Gentlemen of the House: What you have before you this morning is the same action that was taken by the Senate when they first received the bill. They recommended that the bill be sent to the Committee on Judiciary at that time. When it came back to the House, we decided to work the amendments and send it back to the Senate. They had the opportunity to take that amendment off and send it back to us.

As a member of Legal Affairs, I take the action that is being done here as a personal insult. I worked on this bill for a period of one year with other members of our committee, and believe me, there is no one in Judiciary that I think — the only thing that the people in Judiciary will do with this bill is add language to it that nobody can understand.

Right now, this bill is written in plain English and we can all understand it and we know what it means. Personally, I think it is an insult to the members of the Legal Affairs Committee to send that bill to another committee that is going to do nothing but change the language so the attorneys can have more loopholes, etc., etc. The bill has been debated in this House, the people in this House understand what it says, and I think that we should, this morning, insist on our previous action and send that bill back to the Senate.

The SPEAKER: The Chair recognizes the gentleman from Anson, Mr. Burns.

Mr. BURNS: Mr. Speaker, Ladies and Gentlemen of the House: I, too, am insulted by the action of the other body to refer this bill to a committee that did not study it. We spent \$1,118.25 in studying this bill last summer. We met with the advisor to the Criminal Code Commission, and this was worked out with him. We attempted to make a little better bill out of it by adding an amendment here in the House when it was here before. We sent it down the hall and it came back from down the hall with that removed.

I hope that you vote against recede and concur and against insist and anything else except adhere and send it on back down the hallway and allow that body to either pass it or kill it. It is that simple.

The SPEAKER: The Chair recognizes the

gentleman from Westbrook, Mr. Carrier.

Mr. CARRIER: Mr. Speaker and Members of the House: I didn't speak on the order because I was against it. I really held back but I believe something must be said here. What we are doing, the procedure we are following puts the committee members in an awful embarrassing position.

On this particular bill that is before us, the Legal Affairs Committee, within the bounds of the very small budget that it had, an I think we met about twice on that bill before the regular session, I think we spent a lot of time, and as I said before, I think it is really insulting for anybody on the committee or the committee as a whole, something to be taken out of there which is within their knowledge, take it off and give it to somebody else. I can assure you that I have great respect for the Judiciary Committee, but I think they would feel the same if we took something from Judiciary and sent it to Legal Affairs. I think the system we follow should be limited to one committee. If it goes in and it happens to be the wrong one, that is tough.

I feel very strongly as a member of the Legal Affairs Committee that we have done a good job, we have done the best we could. We can argue as to how much intellect we have or how much better our decision would be than members of the Judiciary Committee. However, I feel very sure that the Judiciary Committee does not want to take this upon themselves. They have plenty of other things to do and they have done a good job, so I hope we don't overburden them with this.

I don't want any move taken, either, to kill this bill, as was mentioned over here. We passed it, and I was in the other chamber listening to some bleeding hearts over there who came around and told you about the death squad that they had in Portland and all this stuff, when in fact, ladies and gentlemen, when the vote came out there it was a tie vote. The President of the Senate happened to cast his vote to send it back to Judiciary. When it is that close, you had better take a second look. I submit to you that it should not go to Judiciary. I think we should act on the bill itself and do the proper things to keep this bill alive so it won't get killed somewhere along the line by some bleeding heart that happens to have their kid in court every other week or so.

I submit to you that I am against sending this to the Judiciary Committee. I don't feel that I have been insulted too much, because you can always question the wisdom of others if they tell you that you don't know anything. On the other hand, I do think that the Legal Affairs Committee spent a lot of time, it was well debated, I think it is a good bill and I don't think we should fool around with it so it gets killed. I hope that you do vote not to recede and concur.

The SPEAKER: The Chair recognizes the gentleman from Lewiston, Mr. Cote.

Mr. COTE: Mr. Speaker, Ladies and Gentlemen of the House: As Chairman of the Legal Affairs Committee, I rise this morning to defend the members of that committee. I think they worked hard, and in all sincerity came out with a good bill. I feel that it is a good bill, although some members of this House seem to differ. But if we are going to put faith in a committee, I think we should put faith all the way.

As I said, I rise to defend my committee. It is a good committee. They worked sincerely and hard. We explored all the things that we could through the Attorney General's Office, through the Police Chief's Association and many others who appeared in front of the committee. Either we have faith in our committees or we don't. I defend the Legal Affairs Committee and I hope we don't send this back to the Judiciary Committee.

The SPEAKER: The Chair will order a vote. The pending question is on the motion of the gentleman from Stonington, Mr. Greenlaw, that the House recede and concur. All those in

favor will vote yes; those opposed will vote no. A vote of the House was taken.

6 having voted in the affirmative and 87 having voted in the negative, the motion did not prevail.

The SPEAKER: The Chair recognizes the gentleman from Anson, Mr. Burns.

Mr. BURNS: Mr. Speaker, I now move we adhere.

The SPEAKER: The Chair recognizes the gentleman from Bangor, Mr. Henderson.

Mr. HENDERSON: Mr. Speaker, I move that we insist and ask for a committee of conference and would speak to my motion.

The SPEAKER: The gentleman from Bangor, Mr. Henderson, moves that the House insist and ask for a committee of conference. The gentleman may proceed.

Mr. HENDERSON: Mr. Speaker and Members of the House: All the arguments that we have heard on the last vote I think did involve a question of the jurisdiction of one committee over another, but I think by asking for a committee of conference, we will be able to, in the words of Mr. Joyce, make a good bill better.

We did make an attempt to improve things, and somewhere in the process, it didn't come out that way. I think there is an opportunity here, if we sincerely do want to make this good bill and even better one, that we sit down with the members of the other body to try to work out a solution. What I am afraid of is that we may end up with nothing at all in our attempt to be self-righteous about our position on this particular bill, which I do think is important and which I do think has a lot of merit to it, but we have made a substantial change in the penalty in a law without making any change in the burden of proof in that law as well. I think there is a tremendous necessity to balance the equities and also provide protection to our police officers.

I would hope that you would vote for a committee of conference.

The SPEAKER: The Chair recognizes the gentleman from Anson, Mr. Burns.

Mr. BURNS: Mr. Speaker, Ladies and Gentlemen of the House: In regard to the remarks just made about going to a committee of conference, we in Legal Affairs feel that we have the best law possible now. As far as the burden of proof, true, there has been very little change made and we have moved it from a Class D to a Class C crime. Now, what difference does that make? It makes a whole lot of difference, because as a Class D crime, it would be in a misdemeanor category, meaning it would be taken care of at the district court level and handled in that manner whereby it would be heard by the judge. In moving it from a D to a C crime, we are moving it to a felony, thereby meaning the district court judge would not have final disposition of the case. He may hear it in a probable cause hearing, or it may go directly to the Grand Jury, so there are safeguards placed into this bill because of the change, the upgrading of it. The citizens are being protected because it is going from a one-person judgment to the judgment of 12 people, a jury of your peers, and thereby it will safeguard the citizen as well as assist the police officer in the function of his job.

I hope you do not ask for a committee of conference so we can get to our motion of adhere and send it back down that way.

The SPEAKER: The Chair recognizes the gentleman from Westbrook, Mr. Carrier.

Mr. CARRIER: Mr. Speaker and Members of the House: I want you to take notice here this morning of the maneuvers going on in this House. There has been much time spent on this bill, it is an important bill and everybody agrees that it has some importance. It is just a matter of degree and where we are going.

I want to suggest to you that a motion to adhere in this House, if you pass that, then it goes back to the other body and they also adhere, it is my understanding that this bill is

dead, and I think this is not what this House has wanted all along. I think they do want something, so I suggest to you that you support the motion to insist and ask for a committee of conference and see if we can save any of this bill.

The SPEAKER: The Chair recognizes the gentleman from Auburn, Mr. Green.

Mr. GREEN: Mr. Speaker, Ladies and Gentlemen of the House: I would briefly like to rise and support the gentleman's motion from Bangor to insist and ask for a committee of conference. I think it is fairly obvious that the other body has taken a firm stand on this. They have told us where they are going. I think the House, here in this body, has made its notions known, and the only way out, it would appear to me at this time, to salvage anything with regards to this bill would be to insist and ask for a committee of conference. I would hope that the House would do that.

The SPEAKER: The Chair recognizes the gentleman from Portland, Mr. Joyce.

Mr. JOYCE: Mr. Speaker, Ladies and Gentlemen of the House: I agree with the good gentleman from Westbrook, Mr. Carrier. There is an effort under way to bomb this bill out, to kill this bill.

I have been quiet the last few weeks, but I have wandered through the halls, especially down to the other end of this long hallway we have here, and I found down there a very active leprechaun, the same leprechaun I saw in the first session down there riding a moose, and he has brought the organization together to defeat this bill.

I think today we have come to the moment of truth. I was the cosponsor of the original order, and I eventually got transferred from Legal Affairs to the Judiciary, and I would agree with the things that have been said here today that Legal Affairs certainly are capable of handling this bill.

This order was put in, as you recall, when I got up and explained that I thought we should call a halt to the open season on policemen in this state. Too many of them were getting beat up. When we got the book on statistics, it showed a hundred increase in the state last year. I think now to put this back and study it, I think it is oh so wrong.

If you went over the case history of this bill, you would see how the Legal Affairs Committee went to the Attorney General's Office for assistance and how he answered them on January 6, 1977. They went to the Criminal Code Commission for assistance in drafting this legislation, and, yes, it is true, last week I got up on the floor of the House and said I felt the committee bill was a good bill. Representative McMahon put an amendment on it. My feeling was, and I expressed it at that time, that his amendment would make a good bill better. That amendment got knocked off.

I have reread the bill several times and I still feel it is a good bill. It is a bill that, when you go home this weekend, you can face up to and defend. It is the type of legislation that the people of Maine want, and I urge you not to send this for additional study.

The SPEAKER: The Chair recognizes the gentleman from Anson, Mr. Burns.

Mr. BURNS: Mr. Speaker, Ladies and Gentlemen of the House: Several people have indicated that it would possibly kill this bill if we sent it back in the adhere posture. Let me run by the scenario if we send it back on an insist and ask for a committee of conference. Exactly the same thing is going to occur. It is going to get tied up between the two bodies and that is where it is going to die. I want to send this back so the people can stand up and say yes or no, and this is exactly what they do not want to happen, they do not want to be on record as killing this bill. Let's defeat the insist and ask for a committee of conference and then adhere and send it back.

The SPEAKER: The Chair recognizes the gentleman from Portland, Mr. Connolly.

Mr. CONNOLLY: Mr. Speaker and Members of the House: Last week, when this bill was in the position of being passed, we were about to vote on it, passed to be enacted, we got into a discussion about the fact that the medically documented requirement had been taken out of the bill and Mr. Peakes, as I recall it, got up and made a motion to suspend the rules, the idea being that if that motion passed, we could then back the bill up and put the amendment back on the bill to require that there be medical documentation. That motion won by a majority. I believe it was 72 to 55, the majority of people in this body wanted to back the bill up and put that back to legislation. But because suspension of the rules required a two-thirds vote, the motion did not pass.

It seems to me that since we have come this far with the bill and since so many people feel like Representative Joyce that the bill is a good bill but that it can be made better by at least including that medically documented aspect of it, the only way that we have left to us now to get that into the bill is to put it into a committee of conference. For that reason, and I don't think that it is, Representative Burns, an attempt to kill the bill because I don't think the legislature, by its previous votes in both bodies, would allow that to happen, I think that by putting it back into a committee of conference, it is an attempt, as Representative Joyce has said, to make a good bill better.

The SPEAKER: The Chair recognizes the gentleman from Lewiston, Mr. Biron.

Mr. BIRON: Mr. Speaker, Ladies and Gentlemen of the House: I also rise in opposition to the present motion that you have before you. Let's look at what happens in a committee of conference. What will happen, what are the things that are going to be debated? They are going to talk about sending it back to Judiciary, which we have already voted not to do. They are going to talk about adding the language "medically documented," which has already been rejected by the Senate. What are they going to talk about? What else is there in this bill at this point in debate? There is nothing.

I think Mr. Burns is quite correct in saying, let's just send it back and have them vote on the bill and its merits at this point.

The medically documented language was taken off by the to other body, not by this House. The choice that we have here today is simply to send the legislation as amended by the other body back to that body for their final vote.

The SPEAKER: The Chair recognizes the gentleman from Portland, Mr. Joyce.

Mr. JOYCE: Mr. Speaker, Ladies and Gentlemen of the House: I rise to clarify a point here. I think that many of the members are getting confused about it. I know that last week I got confused about it, and this was when we had the lawyer debate. Over the weekend I thought I would do a little research on this assault. Some of the people here seemed to have a hangup on "medically documented" testimony. The lawyers will know that this is true when I tell you that under the Maine rules of evidence — now, we have rules that we operate our courts by, our trials by, and the most recent set of rules were set down by the Supreme Court of this State and became effective February 2, 1976. They didn't really change much when it came to medical testimony. Their Rule 702 makes it possible for either the prosecution or the defense to get admissible into a trial testimony by experts. These are the doctors who will come and testify as to the injury, and then you bring in another doctor to testify that the injury wasn't that bad. These rules will still apply to this assault on police officers.

Rule 703 of the Criminal Rules of Evidence tells you how they have to base their opinion, the experts, and it goes right down the line; 705 is the disclosure of facts or data that the experts use that made them decide on the testimony that they want presented.

This bill, the way it goes, and it seems to be from the debate in here that I thought some people, and I was confused myself, that if we pass it without the McMahon amendment on there, that you can't have a doctor come in a testify. Well, that is not true. We still go by the rules, and the rules are good.

I just hate to see this thing battered around so much, and I think this is important that we stand up and be counted on this one.

The SPEAKER: The Chair recognizes the gentleman from Brewer, Mr. Norris.

Mr. NORRIS: Mr. Speaker, Ladies and Gentlemen of the House: I would hope you would heed what the good gentleman from Westbrook, Mr. Carrier, had to say. He has been here for a while, and although I agree many times with my good friend from Anson, Mr. Burns, and my good friend from Lewiston down here in the corner, we are here to pass legislation. I believe this is needed legislation and I think we should always leave all of the avenues open that are possible to pass it. You send it out of here with a negative and it gets a negative in there, it is done, you get no legislation at all. Once you get a double negative, you are done, you have got nothing.

So, all we are concerned about is the matter of the Judiciary, and I would hope you would all be temperate this morning and go along with the motion to insist and ask for a committee on conference and keep this bill alive. I would hate to see it die after all the work that has been done by Legal Affairs and all of the debate that we have gone through here in the House. Let's not be too hard-nosed about it; let's give it a chance to live this morning and go with the motion to insist and ask for a committee of conference.

The SPEAKER: The pending question is on the motion of the gentleman from Bangor, Mr. Henderson, that he House insist and ask for a committee of Conference. All those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

Whereupon, Mr. Burns of Anson requested a roll call vote.

The SPEAKER: For the Chair to order a roll call, it must have the expressed desire of one fifth of the members present and voting. All those desiring a roll call vote will vote yes; those opposed will vote no.

A vote of the House was taken, and more than one fifth of the members present having expressed a desire for a roll call, a roll call was ordered.

The SPEAKER: The pending question is on the motion of the gentleman from Bangor, Mr. Henderson, that the House insist and ask for a Committee of Conference. All those in favor will vote yes; those opposed will vote no.

ROLL CALL

YEA — Ault, Austin, Bachrach, Bennett, Benoit, Berry, Berube, Blodgett, Boudreau, A.; Boudreau, P.; Brennerman, Brown, K. C.; Bunker, Bustin, Carey, Carrier, Carroll, Carter, D.; Chonko, Connolly, Cox, Curran, Davies, Dexter, Diamond, Dow, Dutremble, Elias, Fowlie, Garsoe, Gill, Goodwin, H.; Gray, Green, Hall, Henderson, Hickey, Higgins, Hobbins, Howe, Hunter, Jackson, Jensen, Kane, Kany, Kelleher, Kerry, Laffin, Locke, Mahany, Masterton, Maxwell, McHenry, Mitchell, Morton, Nadeau, Najarian, Norris, Paul, Pearson, Post, Prescott, Rideout, Rollins, Shute, Silsby, Sprowl, Stubbs, Talbot, Tarr, Theriault, Tierney, Torrey, Trafton, Twitchell, Valentine, Whittemore, Wilfong, Wood, Wyman

NAY — Bagley, Beaulieu, Biron, Burns, Carter, F.; Churchill, Clark, Connors, Cote, Cunningham, Devove, Drinkwater, Dudley, Durgin, Fenlason, Flanagan, Gillis, Goodwin, K.; Gould, Huber, Hutchings, Immonen, Jacques, Jalbert, Joyce, Kilcoyne, Lewis, Littlefield, Lizotte, Lunt, MacEachern, Mackel, Marshall, Martin, A.; Masterman, McPherson, Nelson, M.; Nelson, N.; Palmer, Perkins, Pe-

terson, Plourde, Quinn, Raymond, Sewall, Smith, Stover, Truman, Violette
 ABSENT — Aloupis, Birt, Brown, K. L.; Greenlaw, Hughes, LaPlante, Lougee, Lynch, McBreairty, McKean, McMahon, Mills, Moody, Peakes, Peltier, Spencer, Strout, Teague, Tozier, Tyndale

Yes, 81; No, 49; Absent, 20.

The SPEAKER: Eighty-one having voted in the affirmative and forty-nine in the negative, with twenty being absent, the motion does prevail.

The Chair laid before the House the second tabled and today assigned matter:

Bill, "An Act to Clarify Procedures for Emergency Admission to hospitals for Mental-ly III" (H. P. 1997) (L. D. 2078)

Tabled — February 22, 1978 by Mr. Goodwin of South Berwick.

Pending — Adoption of Committee Amendment "A" (H-1054).

Thereupon, Committee Amendment "A" was adopted and the Bill assigned for second reading tomorrow.

The Chair laid before the House the third tabled and today assigned matter:

Bill, "An Act Relating to the Funding of Education" (Emergency) (H. P. 1943) (L. D. 2022)

Tabled — February 22, 1978 by Mr. Tierney of Lisbon Falls.

Pending — Adoption of Committee Amendment "A" (H-1055)

Mr. Kelleher of Bangor offered House Amendment "D" to Committee Amendment "A" and moved its adoption.

House Amendment "D" to Committee Amendment "A" (H-1602) was read by the Clerk.

The SPEAKER: The Chair recognizes the gentleman from Bangor, Mr. Kelleher.

Mr. KELLEHER: Mr. Speaker, Ladies and Gentlemen of the House: This amendment to the education bill deals with transportation for private schools. Under the existing law now, transportation provided to private schools is at a 90 percent reimbursement level, and the present level for public schools is a 50 percent level. This has been part of the education law now for three or four years.

The Education Committee, in wrestling with the repeal of the education law by the voters in December, has passed out a document that is before you here today, and in that and in their wisdom, they kept the funding for private schools at a 90 percent level for the oncoming year. Then the law is changed and it reverts back to the 50 percent level. What my amendment does, it would eliminate that section of the law that says after 1979, or the funding year for 1979, the private school funding would be at the 50 percent level. It calls for no money because the money is adjusted as, in fact, the education cost expenditures are for each year.

I would urge your adoption and I urge it on this note - there is somewhere in the area of ten or twelve thousand youngsters in private schools in this state, and that is a ball park figure, it could be higher or lower by 20 percent, and I think that each of us that have private schools in our communities can understand what the additional costs would be if those schools were non-operating — capital construction costs for classrooms, teacher costs, per pupil costs dealing with those individual youngsters.

The legislature, in its wisdom, when they passed 1994 a few years ago, that legislature and subsequent legislatures accepted the fact of a 90 percent reimbursement to private schools as an in-kind contribution on the part of the State of Maine. I think that is an important fact for you to consider here today. It continues the program after the adoption of the present bill from just one year to indefinitely, an indefinite period of time. The reason I put it back in is because I think each legislature should look

at that contribution. This legislature, right today, is not about to remove the 90 percent level for next year, and I submit that we let each individual legislature wrestle with that point as it comes before them.

I urge the adoption. I request the yeas and nays on its adoption.

The SPEAKER: The Chair recognizes the gentleman from Livermore Falls, Mr. Lynch.

Mr. LYNCH: Mr. Speaker, Ladies and Gentlemen of the House: It is unfortunate that we have this division before us today. It is going to hurt members of the Catholic faith. Those of us who are in the legislature are being placed in a very, very uncomfortable position.

There is no way that this legislature or any other legislature should, in today's understanding of church and state relationships, that we ought to subsidize private schools, including parochial schools, at a greater rate of subsidy than we support our own public schools. If you continue the 90 percent reimbursement to those communities that do provide private school transportation, you are, in effect, penalizing your own community because you are subsidizing the communities that provide private transportation to private schools. It is coming out of the state revenue, but we all contribute to the state revenue.

We have discussed this in the committee for a considerable period of time, and we have had a dialogue going with the Catholic Diocese of Maine. Early in the discussion, there was confusion at the diocesan level as to just what school funding was, but they not fully understand the relationship between public school funding and private school subsidy, and because they do understand it, a letter has been sent to all the clergy in the State of Maine and to Senator Katz and myself and I would like to read it.

"On the 13th of January, I sent a memorandum to you regarding two important legislative hearings. One hearing concerned a bill authorizing municipalities to supply textbooks, testing and health services to pupils attending non-public elementary and secondary schools. The other hearing was devoted to testimony on the Governor's bill for education funding, which included a proposal to reduce the state's subsidy to the municipalities of transportation costs for non-public students from 90 percent to 50 percent.

"The purpose of this memorandum is to bring you up to date on recent developments in the legislature and the position the diocese is taking in their regard. I am happy to report, as you are probably already aware through the media, that a textbook, testing and health services bill, after a unanimous "ought to pass" recommendation by the Joint Standing Committee on Education, Chaired by Senator Bennett Katz of Augusta and Representative Arthur Lynch of Livermore Falls, is well on its way to being enacted into law. In addition, the Governor's bill for general education funding has been amended by the Education Committee to include a 50 percent reimbursement to the state of expenses accruing to municipalities which opt to provide these services to Maine's non-public school pupils.

"The general education funding bill, L. D. 2022 as amended, does reduce the level of state reimbursement to the municipalities for transportation from the current 90 percent to 50 percent beginning in fiscal year 1979, which, from the state's view, makes the transportation subsidy for private school pupils the same as public school pupils. Since, however, the state simultaneously will be subsidizing the municipalities for the first time new categories of benefits to non-public schools at 50 percent reimbursement, we regard this total educational package as a significant step forward for our pupils."

I think that ought to be sufficient explanation that the development in the amendment for the private schools in the state of Maine meets

with the diocesan approval, and I think it places the youngster in the bus on the same level whether he gets off at the public school or whether he gets off at the private school. I think we have to recognize that all children have to be treated the same, regardless of what school they go to.

Mr. Speaker, I move indefinite postponement of the amendment and I request a roll call.

The SPEAKER: The gentleman from Livermore Falls, Mr. Lynch, moves the indefinite postponement of House Amendment "D" to Committee Amendment "A."

The Chair recognizes the gentlewoman from Lewiston, Mrs. Berube.

Mrs. BERUBE: Mr. Speaker, Ladies and Gentlemen of the House: I would like to respond very briefly to the pastoral letter that has been read. I would like to tell you what it will do to my city, reducing to 50 percent the bus transportation. We will be losing \$29,609 and we will be taking on services or textbooks, so called, and that will cost us, I guess, \$8,500. So I think we are getting the short end of the deal, if I may use those words.

I really feel that it is imperative that we retain the 90 percent reimbursement for parochial busing or all non-public schools.

The SPEAKER: The Chair recognizes the gentleman from Lewiston, Mr. Biron.

Mr. BIRON: Mr. Speaker, Ladies and Gentlemen of the House: I rise this morning to support Mr. Kelleher's amendment to the present legislation that we have before use for several reasons. Obviously, Lewiston being an area of the state which has a considerable amount of parochial schools, I wonder if this morning the members of this body who would reject the 90 percent funding of bus transportation for parochial school students would at the same time take a vote to say that the parents of those children would no longer have to pay a property tax to support the school systems which the other children attend because they are already supporting a school system, a parochial system? Obviously this is by choice, ladies and gentlemen, there is no question about that. They can send their children to the public school system, but their private choice has been not to. For that reason, it is saving the taxpayers of this state a considerable amount of money. I don't think anyone on the Education Committee can deny that point. If every child in the parochial school system tomorrow decided to go to public schools, we would be talking an additional millions of dollars in this funding bill that we have before us. But they have made the decision not to. However, they are requesting 90 percent funding for the bus transportation of their children to the school, which is a far less amount of money that we, the legislative body, would have to be allocating if those children were going to the public schools system.

I am not an expert in bus transportation, but let me say that when you are talking about 50 percent for the public school students as opposed to 90 percent for the parochial school students, I don't know of any public school system student who attends that school who pays anything. Where does the other 50 percent come from? If I go to a public school and I take the bus, I don't pay anything, you can talk 50 percent or you can talk 60 percent, I don't care what you are talking about, I don't pay anything. The money has got to come from someplace. Maybe it comes from local dollars, I don't know, but I do know that if you put it at 50 percent for the parochial school system, it has got to come from the parents. There is going to be an additional burden on those people, where in the public school system, it simply comes from tax dollars which those people are supporting now. That is the decision that you have to make here today. The more pressure you put on the parochial school system, the higher the cost is going to become to the taxpayers of this state for our educational system.

You have got some people who have made a

decision to send their children to a parochial school system, which no one can argue reduces the cost of education in the state. All they ask in return is that you fund bus transportation at 90 percent. Ladies and gentlemen, that is not asking for much.

I urge you to vote against the motion to indefinitely postpone.

The SPEAKER: The Chair recognizes the gentlewoman from Augusta, Mrs. Kane.

Mrs. KANE: Mr. Speaker, Ladies and Gentlemen of the House: I found the letter that Mr. Lynch read very interesting. I am heartened that the diocese of Portland has chosen to support the 50 percent funding. I think it would have been wise for them, however, to consult with parochial school parents before they made this decision. I have received numerous letters from my constituents regarding this issue and I, myself, am a parent of a child that goes to parochial school.

The transportation is a vital issue. If the children cannot get there, all the subsidized textbook services, all the subsidized counseling services and all the subsidized every other kind of services in the world are not going to do them much good. I, for one, can say that if my child were not transported to the parochial school, he would have to go to the public schools. He would have to be transported by bus one way or the other, and many other parents feel the same way. There are some children that are just miles and miles from the parochial schools. Cutting off transportation to the school effectively means that the children will not go there. The only option for them is to go to the public school and that is where they will go.

So, I think it has been a very poor deal to give up insured transportation in return for the possibility, not even the assurance, of textbook and counseling services and other things. When a child is not there, it is not going to do him very much good.

The SPEAKER: The Chair recognizes the gentlewoman from Vassalboro, Mrs. Mitchell.

Mrs. MITCHELL: Mr. Speaker and Members of the House: First, let me assure this body that the Education Committee is very supportive of parochial and private schools. We believe the best educational system is one which offers a choice to the parents of the state. I think in the emotionalism and in the furor of this debate, there is something that members of the House do not fully understand when we are talking about 90 percent funding of Catholic or private school bus transportation.

You have been distributed for other reasons a copy of the education budget on the front of your blue printout or whatever. You will notice at the top, it lists educational operating costs, vocational costs, etc., etc. This is Part A of the school budget. In Part A of the school budget, you divide that magic number by half and you come up either with the uniform property tax rate in the past or this 10 mill subsidy index rate in the current law before you, which means that public school kids are not funded at 90 percent by the state; 45 percent from the General Fund is the appropriate figure; 45 percent from this 10 mill subsidy index. If you look in Part B, you will find private school transportation, that is the entire amount from the General Fund. So what we are saying is, we would like to treat parochial and private schools at the same level of funding as we treat our public school children, that is the issue, not whether we are reducing the funding to less than what the public school children receive.

The SPEAKER: The Chair recognizes the gentleman from Cumberland, Mr. Garsoe.

Mr. GARSOE: Mr. Speaker, Ladies and Gentlemen of the House: My level of confusion was at a pretty high peak when I came in here this morning and we started on this bill. The gentleman from Lewiston and my seatmate, I think, have raised my confusion to its usual pitch. I am beginning to get the feeling from

their remarks that the parochial parents are going to be tagged for this expense, and I would like to direct a question to the Chairman of Education, the gentleman from Livermore Falls, Mr. Lynch. I would like to inquire if this is the case or if this could be a municipal expense coming from a municipality that, after all, is the chief beneficiary of the fact that these children are not, in fact, in public schools?

The SPEAKER: The gentleman from Cumberland, Mr. Garsoe, has posed a question through the Chair to the gentleman from Livermore Falls, Mr. Lynch, who may answer if he so desires.

The Chair recognizes that gentleman.

Mr. LYNCH: Mr. Speaker, Ladies and Gentlemen of the House: I think the confusion arises because we are bringing the parents into focus, we are bringing the students into focus. What we have to focus on is the state and the municipality.

Public schools in the State of Maine are going to be reimbursed 50 percent of the transportation costs. The other 50 percent has to come from the local taxes. Those communities that opt to give services to the private schools, the cost of providing transportation for the students that attend private schools will be raised on local tax dollars; the other 50 percent will come from the state. We are treating all youngsters in the State of Maine the same on transportation, textbooks, health services and testing. If you concentrate on the absolute funding level, we are treating them all the same.

The SPEAKER: The Chair recognizes the gentlewoman from Falmouth, Mrs. Huber.

Mrs. HUBER: Mr. Speaker, Ladies and Gentlemen of the House: I am speaking now as the president of a board of an independent school, and I think the remarks made by the Chairman of the Education Committee are extremely important and appropriate.

I, too, am very concerned about the availability of choice in the whole area of education. I am a strong supporter of independent and parochial schools. However, I think the fact that we now are treating those who go to independent and public schools the same is terribly important to keep in mind.

I have a question that perhaps is stupid, but should there not be a fiscal note on this amendment, Mr. Speaker?

The SPEAKER: The Chair would advise the gentlewoman from Falmouth, Mrs. Huber, and the Chairman of the Education Committee, and they may correct me if I am wrong, but the present bill calls for a one year continuation of the program based on the 90 percent reimbursement to the municipalities. This amendment would apply only after that and, therefore, a fiscal note would not be needed for this calendar year.

The SPEAKER: The Chair recognizes the gentlewoman from Brunswick, Mrs. Martin.

Mrs. MARTIN: Mr. Speaker, Ladies and Gentlemen of the House: This 90 percent is funded by the state, I understand. Now it is going to be funded 50 percent and it is going to put another 40 percent burden on the towns. All I have to say is, I can see why he has a surplus. The towns are getting more and more of the tax burden and he is getting away with it on the state level, and it is our money that he is playing around with.

The SPEAKER: The Chair recognizes the gentleman from Bangor, Mr. Tarbell.

Mr. TARBELL: Mr. Speaker and Members of the House: I initially opposed this amendment in the rationale and philosophy behind it because I thought it was not in keeping with the repeal of the uniform property tax, which was to basically assure that there was a 50 — 50 state local allocation of responsibility for funding education and transportation. However, when we look at the cost of private school transportation that this would involve, this particular amendment at 90 percent, it is my un-

derstanding that it is somewhere in the neighborhood of \$230,000. I think it is a mere pittance in comparison of the overall budget.

The private schools involved throughout the State of Maine are not simply Catholic schools, there are many Protestant schools as well. I think many public schools throughout this state, in various regions of the state, have quite lavish transportation budgets.

In my particular area, Penobscot County, many schools take trips and outings and their athletic events include students, members of the public schools, and I think what the private schools are asking is just for the basic, bare necessities of transportation to and from school. I think in light of these equities and in light of the fact that we are just talking about a mere pittance, I think it would be most fair for us to give consideration to this amendment.

The SPEAKER: The Chair recognizes the gentlewoman from Augusta, Mrs. Kane.

Mrs. KANE: Mr. Speaker, Ladies and Gentlemen of the House: I admire the Education Committee's zeal to treat private school students and public school students exactly the same, but I would have one question to ask of the committee.

In all educational services, have they chosen to provide the same level of funding for parochial schools as they have for private schools on some state funds? Is this only to be true of transportation or is every service that is provided to a public school student to be subsidized equally to a private school student? What is sauce for the goose is sauce for the gander.

The SPEAKER: The Chair recognizes the gentleman from Westbrook, Mr. Carrier.

Mr. CARRIER: Mr. Speaker, members of the House: I am against the motion to indefinitely postpone this amendment and I would like to tell you a few reasons why.

First, I would like to direct a question to the Chairman of the Education Committee, Mr. Lynch. I understand the letter he received was dated January 13th. There was no mention as to who sent it and I am very interested. Who sent the letter?

The SPEAKER: The gentleman from Westbrook, Mr. Carrier, has posed a question through the Chair to the gentleman from Livermore Falls, Mr. Lynch, who may answer if he so desires.

The Chair recognizes that gentleman.

Mr. LYNCH: Mr. Speaker, Ladies and Gentlemen of the House: This is a letter that has just been written. It is being mailed to all the clergy in the State of Maine and to Senator Katz and myself.

I would like to address the question presented by Representative Kane. The Supreme Court decision regarding private and parochial schools is very precise in what can be subsidized by the state, and in the amendments that the committee has put in the subsidy bill, we have been very careful to follow word by word the decision of the Supreme Court.

If you are going to expand services to private schools, particularly those that are religious oriented, you are going to run into constitutional problems. You cannot give counseling services unless you give it outside the private school. There are other restrictions, and if you are going to enlarge on services to private schools, you have to be extremely careful in how you proceed. I think the committee has done exactly this. We have moved in the direction of three additional services and I think the State of Maine ought to wait and see what problems may develop in the nation that might result in other court suits.

I would like to say also that when you are considering your vote on this bill, that you consider that there may be other amendments, and if you are going to give Lewiston to their taxpayers, how can you refuse to give Brunswick and all the 874 federally impacted communities less assistance to their local taxpayers? How can you refuse to vote against

\$1,029,000 to assist those communities of high valuation that are considered pay-in to SAD's? You are going to be faced with some very hard decisions to make. Are you going to favor some and not others? Are you going to favor the large, high valuation communities and penalize the rural communities, like my own? We want fairness to pupils, we also want fairness to communities, and we have it under the school funding law. I hope you do not start distorting it.

The SPEAKER: The Chair recognizes the gentleman from Westbrook, Mr. Carrier.

Mr. CARRIER: Mr. Speaker, Ladies and Gentlemen of the House: I still would like to know who signed that letter. The letter he mentioned was dated January 13th. Mr. Lynch got up and said this letter was handed out this morning. I didn't hear of any letter this morning, although I know it is out, but is it the letter of January the 13th that we are talking about? Did they approve the 50 percent funding? Who signed that letter?

The SPEAKER: The Chair recognizes the gentleman from Livermore Falls, Mr. Lynch.

Mr. LYNCH: Mr. Speaker, Ladies and Gentlemen of the House: I feel a little bit disturbed that the gentleman is questioning my word. This is a letter from Bishop Edward C. O'Leary. It is in the mail today, and I have been provided an advance copy of it. It is dated yesterday, not January.

The SPEAKER: The Chair recognizes the gentleman from Westbrook, Mr. Carrier.

Mr. CARRIER: Mr. Speaker, Ladies and Gentlemen of the House: Unless I heard wrong and if I did, I apologize to Mr. Lynch. I think the first speech that Mr. Lynch made, he was referring to a letter dated January 13th.

I am against the indefinite postponement of this amendment. It has been said that we may be getting a little emotional and maybe we will be in a furor. I do not think that Mrs. Kane is getting emotional about this subject; I think I will. As far as getting furious, I think I will do that too, because something is going on here and most of us who have been involved in this funding, especially the transportation funding, we don't know anything about it. We have been informed before to work on this 90 percent funding, which is extremely essential to our private schools. I happen to be talking about Catholic schools. I realize that the Protestant schools and the Jewish schools and everybody else needs help, but it is a matter of survival. It is a matter of survival for the schools, the Catholic schools, to get this funding along with anything else that is available in order to survive. If you do not want them to survive, you will be dumping 10,000 children into the public school system and the cost will be way up. It is a recognized fact that this will happen.

In Westbrook, in the last 5 or 6 years, we had two Catholic schools and both of them have closed. Where did the children go? They go to the public schools.

If you and I had the time to compare the costs, you would see that the small amount that they are asking for transportation is nothing compared to the cost of taking 200 or 300 children and putting them into the public schools.

I submit to you that these private schools do need this help and one way or the other, we all pay. All of us who have children that go to private schools all pay. It is a matter of concern, not a matter of being furious.

As far as that letter goes, we know nothing about it. We should know something about it. If they were satisfied with the 50 percent funding this morning, why didn't we know about it? Do you think we would get up this morning and Mr. Kelleher would put this amendment for 90 percent? I don't think we are playing games here. Why should members of the Education Committee, a few members of the Education Committee, get a letter and those of us who support the parochial schools, do not get any news whatsoever and we come out here and argue

about something that maybe they have already agreed on?

I guarantee you that even if you do not fund the private schools, these kids will still have the education and they will get it either from private donations or from the public itself. We pay and we pay a lot of taxes, and if you want to make it a point that one pays taxes and the other does not, that he should not get this or that, let us get down to taxes. I have felt in all the years that I have been in here that this is the basic thing, the ones that pay taxes, let them speak up, and the ones who do not pay taxes, let them hold their silence forever. This is what it amounts to, it amounts to dollars. Who puts it in there?

You are playing with a small amount of money and you are playing with kids. If you want them to go to public schools — my kids are all out of school now, but I am concerned about the people from Westbrook and I am still concerned about all the other people in Portland and everywhere else, about sending them to private schools, if they so desire. I submit to you that it is much cheaper to fund this thing than it is to take them out. I can tell you that somebody is going to hear about this letter. I don't like to come here and be made a fool of. I don't appreciate that at all. I think this letter should have been made public.

The SPEAKER: The Chair recognizes the gentleman from East Millinocket, Mr. Birt.

Mr. BIRT: Mr. Speaker, Ladies and Gentlemen of the House: This is a kind of a difficult debate for me personally to get into and I don't know as I want to get into the major issues of it, but I do think there has been some reflection on the Chairman of Education Committee, and in that respect, I am bothered somewhat. I think that he has been completely honest and above board.

This is a compromise that was worked out. In fact, this entire bill was a compromise. It was put together with a tremendous amount of work, a tremendous amount of give and take. I don't think that anyone in that entire committee felt at the time we sat down that we would come out with a unanimous report, and we did come out with a unanimous agreement within the committee. It was due to some bargaining that was made in other areas because of the desire to accomplish some other things due to court decisions, as has been pointed out, to give additional services to the private schools, a concept that I completely agreed with and was rather intrigued by the language and the efforts that were put together to develop a court decision.

I think the compromise that has been worked out here is a reasonable one, but I am bothered more and the reason that I rose on this is some reflection that might be made on the thinking and almost the integrity of the Chairman of the Committee. I think he has done the very best he could, and as he said at the very start, it is a very difficult problem.

The SPEAKER: The Chair recognizes the gentleman from Bangor, Mr. Kelleher.

Mr. KELLEHER: Mr. Speaker, Ladies and Gentlemen of the House: First of all, to rest Mr. Birt's mind and put it at ease, I have the highest respect for the Chairman of the Education Committee and for the members that serve on it. I think all the time you have had this bill down before your committee, and I can appreciate and understand all the difficult times and frustrating hours you had with it, I have talked with Mr. Lynch and other members of the committee in terms of dealing with the transportation bill.

I do not feel uncomfortable at all standing here before you today urging this House to support the amendment. I did not feel uncomfortable four to six years ago when a Mr. Floyd Haskell from Houlton, Maine, stood before this body and was requesting funds for Ricker College when they were in desperate financial need. And I might remind this body that I stood

along with a number, I think united, of the men and women from Aroostook County who served in this body to assist Ricker College at that time.

I can remember another bill that we had in here dealing with a private school in Bangor called Husson College. At that time, there was a tremendous amount of opposition from the University community in trying to assist that school. It was because of funding and the competition for dollars and the narrowness sometimes of thinking on behalf of people in education that if we take certain dollars out of this pocket and give it to a private school that we are, in fact, jeopardizing the public school system.

As Mr. Tarbell stated, it is a small amount of money when you consider the total cost of education in the State of Maine. It is a small amount of money when you total the cost that could be added if, in fact, and I don't believe it is going to happen, one or two of these schools would ever fail. It is the idea of assistance and the contribution to the fact that there are private schools in this state and for a mere amount of small dollars we could be assisting them. In the overall big picture — and I used to like to paraphrase the statements that my seatmate used to make, Mr. Haskell — you have to look at the whole, complete picture of what the cost is.

The letter that Mr. Lynch referred to, I am aware of it. When I asked people in this House this morning of the fact that I wanted them to support my amendment, I tried if I had the time and if they were willing and if they had the time, to show that there was a difference on behalf of the diocese, which I happen to be a member of, in thinking and dealing with this bill.

I don't believe that Mr. Lynch or the committee, in my humble opinion, has attempted to disguise the issue and I don't think I have in my dealings with the issue. We are talking about a small amount of money, we are talking about a situation that I think is important, but it isn't small, and if you can find in your hearts to think the arguments are fair, you think the arguments were fair dealing with Ricker a few years ago or Husson College or any other private school that is before this body or may come before this body or have been before this body, I ask for your assistance. If not, I can understand it and appreciate it.

The SPEAKER: The Chair recognizes the gentleman from Lewiston, Mr. Biron.

Mr. BIRON: Mr. Speaker, Ladies and Gentlemen of the House: I, too, rise this morning in support of Mr. Lynch and his committee and the hard work that they have done. However, I have some problems when Mr. Lynch says we are interested in fairness to all, and I hear political rhetoric such as "we are treating the private school students the same way we are treating the public school students." That type of political rhetoric is designated to impress idiots. We never have and we never will treat those two students equally, and no one can convince me differently. If we are interested in fairness, let's talk about fairness to the taxpayer. All the private school student is asking is that 90 percent funding for transportation for the school, a very, very small amount of money.

Mr. Bert, I believe, stood up and talked about bargaining that went on in the Education Committee. I have heard about some of that bargaining and I understand it is relative to a bill that was sponsored by the good gentleman from Lewiston, Mr. Jalbert. Well, Mr. Jalbert doesn't speak for all the parochial school students and parents in the state.

The SPEAKER: The Chair recognizes the gentleman from Lewiston, Mr. Jalbert.

Mr. JALBERT: Mr. Speaker, I rise on a point of order. I have not risen once since I have landed here on January 3. I have not opened my mouth on this thing, I am just sit-

ting here listening and I resent being brought into something that I had nothing to do with.

The SPEAKER: The Chair thanks the gentlemen from Lewiston, Mr. Jalbert. The Chair would advise the gentleman from Lewiston, Mr. Biron, that he is to be careful in the remarks that he makes about the motives or about the intent of why people sponsor legislation, and he is to confine his remarks to the pending motion before this body.

The gentleman may proceed.

Mr. BIRON: Mr. Speaker, Ladies and Gentlemen of the House: The remarks that I am making are in reference to the pending legislation that is before us.

The SPEAKER: Then the gentleman may continue on that issue.

Mr. BIRON: Mr. Speaker, that is the issue that I am on.

The SPEAKER: The Chair would appreciate it if the gentleman would stay on that issue and not discuss personalities.

Mr. BIRON: Mr. Speaker, Ladies and Gentleman of the House: Again, let me say that the legislation that you have before you is of utmost importance for the people that I represent.

The gentleman from Lewiston stood up and talked about a figure of some \$28,000, the impact it would have on the municipality which I represent if this amendment should not pass.

I realize that during the course of debate sometimes things are said and, again, let me emphasize that I have all the respect in the world for the members of the Education Committee. The problem that I have is that this amendment that we have before us, I personally think if we are to be fair in educational funding, I think that language that was used not by me but by a member of the Education Committee, that we have to consider and seriously consider the 90 percent funding for transportation for public school students, if we are to be fair. If we are not to be fair, then we can listen to the political rhetoric that says that we are treating them all equally, and we are not we never will.

The SPEAKER: The Chair recognizes the gentleman from Portland, Mrs. Beaulieu.

Mrs. BEAULIEU: Mr. Speaker, Ladies and Gentlemen of the House: Allowing these parochial schools to survive, so to speak, and so that they would not be hurt is exactly the reason why the Education Committee is recommending that we not go to the 50 percent level of funding in transportation this year.

I am a Catholic member of that committee and I come from a community where we have a large number of parochial schools, Portland, and I know that they would be economically hurt if we had stuck to the Governor's original intent in his bill, which was to go immediately to 50 percent of funding. I was incensed when I read the Governor's proposal. However, let me say to you that when I went to the committee prepared to do battle, I found no opposition to at least allow the 90 percent level of funding to go and to take a look at the other funding package that we were asked to consider, which was to give more support to our private and parochial schools.

I feel that the package that the Education Committee has come out with in support of our private and parochial schools throughout the state is a good package when you consider what the alternatives could have been, and that would have been to go right along with the Governor at this time.

I don't feel uncomfortable at all in supporting the motion for indefinite postponement of Mr. Kelleher's amendment this morning, and I am sure that I will not be decried for it at home with my constituents, because they know that I am working very hard to see that they get all the help that they can get.

I also feel that as an educational committee, we did spend over three weeks behind closed doors knocking our heads up against the wall

trying to meet the needs of everyone's concerns in this bill. At one point, we had a list of 17 issues facing us that we had to decide upon either as matters of policy or plain, simple matters of dollars. Let me tell you, we could barely change a comma in the Governor's bill without talking dollars, and we boiled those concerns down one by one by one, and our committee spent hours listening to groups come in saying, do you realize what is going to happen to us if you let this go or if you do that? I say to you, I think we have done one heck of a job. And as for nobody knowing about the pastoral letter or that an agreement and communication were going on with the Diocese of Maine, I decry the fact that anybody would stand up and make that charge.

We were charged with putting together an educational funding bill for the State of Maine. We worked with the diocese, with the ones that presented arguments and listened to their counter arguments, and we negotiated and we point out many things. It was an educational experience for us as well as them.

We have told many members of this legislature privately, on a one-to-one basis, that we had found agreement on the concerns of the private and parochial schools, but they didn't choose to listen. They went their own way. I ask you to go our way because, ladies and gentlemen, I don't think anybody can say that we have faulted or fallen down on the job in this particular area. We have made what I think is a reasonable, conscientious, realistic decision on the matter of the transportation issue for public and private schools. It is one that is acceptable and will be acceptable to the parishioners and those others involved when they hear the full story. It was told very well to you here today by our House Chairman of that committee.

The SPEAKER: The Chair recognizes the gentleman from Standish, Mr. Spencer.

Mr. SPENCER: Mr. Speaker, I would like to pose an inquiry through the Chair to anyone on the Education Committee who might answer. If the state does reduce its share of parochial school transportation to less than 90 percent, will that serve to discourage the municipalities from picking up the cost of parochial school transportation? If so, how serious an impact do you expect that to be?

The SPEAKER: The gentleman from Standish, Mr. Spencer, has posed a question through the Chair to anyone who may care to answer.

The Chair recognizes the gentleman from Livermore Falls, Mr. Lynch.

Mr. LYNCH: Mr. Speaker, Ladies and Gentlemen of the House: If you are aware of what was in the newspapers this week, parochial school education is expanding. In many areas, they don't have room for the students who would like to go to parochial schools. I can't see that the parochial school system is going to be disbanded.

The gentleman from Lewiston made some remarks that we are not treating and never have treated the parochial students fairly and equitably. I think you have to recognize that there are constitutional limits on what the state can do to the municipalities. Are you inferring that we should tell the City of Lewiston, you must transport private school students? It is optional under the law today. The community makes its own decision, and I can't see any city or municipality refusing to provide transportation, textbooks, testing assistance and health services knowing that they are going to have to expand the cost for public school education if they don't support private school education.

We are losing sight of the crucial issue in this whole debate. We are bringing in the parents and students. We should be talking about the relationship between the communities and the state and whether it is public school or private school, it is 50-50. Don't confuse the issue with student and parents. Talk about the relation-

ship between the communities, all communities in the State of Maine and all students, whether they go to private or public schools.

The SPEAKER: The Chair recognizes the gentleman from Sanford, Mr. Nadeau.

Mr. NADEAU: Mr. Speaker, Ladies and Gentlemen of the House: I wish to remove the emotionalism in this debate right now and show you my feelings. I come from Sanford. We do have one parochial school left. My standpoint on this issue is one of erosion. In 1969, I was a junior in high school. At the end of that year, the only parochial high school in Sanford, St. Ignatius, closed its doors. In September of that year, over 100 students from St. Ignatius High School came over to Sanford High School. Can you imagine what a burden that placed on us? We now have three parishes in the Sanford-Springvale area. All three of them contribute to St. Thomas School. They have closed St. Ignatius School and have put them all in the Holy Family Parish, St. Thomas School.

If we were to kill Mr. Kelleher's amendment, this would reduce the funding and increase the local share on the transportation to St. Thomas School. Hopefully, the town is going to pick it up anyway, but it is going to remove from the tax base to pay St. Thomas to keep that going. I don't want the same thing as in 1969 to happen again.

The cost of education is continually going up and if we close St. Thomas School, which goes from one through six, it is going to be an even bigger burden on the Town of Sanford. Our Junior High is now busting out at the seams. We have three or four different middle schools which these children go to. If we have to build another school or expand our junior high even more, which we have been having a hard time doing already, it is just going to be an even greater burden. I say, you don't want the state to pick up that other 40 percent, there is going to be a lot more in the future.

I urge you to vote against indefinite postponement and help this amendment go along to decrease this erosion which has been continually happening. We need the money to avoid a burden in the future years.

The SPEAKER: The Chair recognizes the gentleman from Portland, Mrs. Beaulieu.

Mrs. BEAULIEU: Mr. Speaker and Members of the House: I wish to respond to Representative Spencer's question. I can speak for the City of Portland, and that is, they will pick up the cost. There was no debate the last time, no qualms whatsoever when it came for my city to decide whether or not they should help in the matter of transporting our parochial school students, and I say that they will not have any qualms about doing this. We value the fact in our community that we have the public and the private school systems, and I don't think it will serve as a deterrent to any community if they stop and think as to what they do have.

The SPEAKER: The Chair recognizes the gentlemen from Limerick, Mr. Carroll.

Mr. CARROLL: Mr. Speaker, Ladies and Gentlemen of the House: I will mention again that I came here in 1965 and we started to increase the state aid to local school systems at that time. We made an extreme effort, spent many millions of dollars in surplus, and started funding our local shares at a higher level from the state. And now I hear in this debate that next year, next time around, you are going to fund the local schools, the public school system, at 50 percent instead of 90-10. I haven't bought 50 percent and I am not buying 50 percent, and I want that perfectly clear. If the man downstairs wants to send back that money in surplus to the fatcats so you can tell my seven towns we have got to come up with 40 percent more money to transport our school children, I say I am not buying it and I am going down fighting. I am not going to buy it. If the Education Committee made a deal with the front office, that is up to them. I am sorry, we

are going to part friends and company right here and now.

We are just building a new middle school. We have one of the fastest growing school districts in the state, and you are going to tell those seven towns that I represent that they have got to pick up additional money for transportation of scholars, which is one of the biggest expenses we have? Am I wrong? Am I hearing correct? You are funding at 90-10 and next year you are going to go 50-50? Who picks up that other percentage? That is what I want to know.

The SPEAKER: The Chair recognizes the gentleman from Livermore Falls, Mr. Lynch.

Mr. LYNCH: When the uniform property tax was in place, 50 percent of the basic allocation, the allocation for basic education, which included transportation, was raised on the local property tax and 50 percent came from the General Fund. So when the community was funding 90 percent, 45 percent of that came out of the local tax dollars — 45 percent came from your local tax dollars. Don't try to tell me that you are losing 40 percent. You are gaining 5 percent. You are getting 50-50, where it was 45.

The SPEAKER: A roll call has been requested. For the Chair to order a roll call, it must have the expressed desire of one fifth of the members present and voting. All those desiring a roll call vote will vote yes; those opposed will vote no.

A vote of the House was taken, and more than one fifth of the members present having expressed a desire for a roll call, a roll call was ordered.

The SPEAKER: The Chair recognizes the gentleman from Winthrop, Mr. Bagley.

Mr. BAGLEY: Mr. Speaker, I wish to pair my vote with the gentleman from Caribou, Mr. Bennett. If Mr. Bennett were present and voting, he would be voting nay, and I would be voting yea.

The SPEAKER: The pending question is on the motion of the gentleman from Livermore Falls, Mr. Lynch, that House Amendment "D" to Committee Amendment "A" be indefinitely postponed. All those in favor will vote yes; those opposed will vote no.

ROLL CALL

YEA — Ault, Austin, Beaulieu, Benoit, Berry, Birt, Blodgett, Boudreau, A.; Brown, K. L.; Brown, K. C.; Burns, Churchill, Clark, Connolly, Cox, Cunningham, Dexter, Diamond, Dow, Drinkwater, Dudley, Durgin, Fenlason, Flanagan, Fowlie, Garsoe, Gould, Green, Higgins, Howe, Huber, Hunter, Hutchings, Immonen, Jackson, Kilcoyne, Lewis, Littlefield, Locke, Lougee, Lunt, Lynch, Mackel, Marshall, Masterman, Masterton, McBreairty, McPherson, Mitchell, Morton, Najarian, Nelson, M.; Nelson, N.; Palmer, Pearson, Plourde, Post, Prescott, Quinn, Rollins, Sewall, Smith, Sprowl, Stover, Stubbs, Talbot, Tarr, Teague, Theriault, Tierney, Torrey, Tozier, Twitchell, Valentine, Whittemore and Wyman.

NAY — Aloupis, Bachrach, Berube, Biron, Boudreau, P.; Brenerman, Bunker, Bustin, Carey, Carrier, Carroll, Carter, D.; Carter, F.; Chonko, Conners, Cote, Curran, Davies, Devoe, Dutremble, Elias, Gill, Gillis, Goodwin, H.; Goodwin, K.; Gray, Greenlaw, Hall, Henderson, Hickey, Hobbins, Jacques, Jalbert, Jensen, Joyce, Kane, Kany, Kelleher, Kerry, Laffin, Lizotte, MacEachern, Mahany, Martin, A.; Maxwell, McHenry, Nadeau, Paul, Peltier, Perkins, Peterson, Raymond, Rideout, Shute, Silsby, Spencer, Tarbell, Trafton, Truman, Violette, Wilfong and Wood.

ABSENT — Hughes, LaPlante, McKean, McMahon, Mills, Moody, Norris, Peakes, Strout and Tyndale.

PAIRED — Bagley and Bennett.

Yes, 76; no, 62; absent, 10; paired, 2.

The SPEAKER: Seventy-six having voted in the affirmative and sixty-two in the negative, with 10 being absent and two paired, the motion does prevail.

Mr. Perkins of Blue Hill offered House Amendment "C" to Committee Amendment "A" and moved its adoption.

House Amendment "C" to Committee Amendment "A" (H-1061) was read by the Clerk.

Mr. PERKINS: Mr. Speaker, Ladies and Gentlemen of the House: House Amendment "C," as the statement of fact says, keeps in the law the fact of distribution of subsidies to the separate regions of vocational education as opposed to what this amendment would do, which would put it back to the local school systems. This law was put into effect last year and has been found very efficient by all the supervisors of the regions. I, therefore, would ask your support.

The SPEAKER: The Chair recognizes the gentleman from Vassalboro, Mrs. Mitchell.

Mrs. MITCHELL: Mr. Speaker and Members of the House: I rise to oppose House Amendment "C" and I would briefly give my reasons and would ask for a division on the motion.

The change in the law was made because the committee interpreted the vote in December and, of course, we all have our interpretations, of saying that the towns wanted to be left alone from state interference, that they were capable of raising enough money for their vocational centers or whatever, they would raise their own money but do not take any of their money for running the rest of the schools in the state. That was part of the reason. Under this amendment that Mr. Perkins is trying to put in, his towns, which are pay-in towns within a vocational region, would be forgiven some of the burden for paying their costs to this vocational region. The other towns in the district would not have to pick up the loss but the rest of the state would have to pick up the loss, and it is for this reason that I oppose the passage of Mr. Perkin's amendment.

The SPEAKER: The Chair recognizes the gentleman from Blue Hill, Mr. Perkins.

Mr. PERKINS: Mr. Speaker, Ladies and Gentlemen of the House: The gentledady, is, indeed, partially correct. I would only say that the federal government has mandated vocational programs and the state has in turn passed along the mandate to the local communities. The local communities were led to believe by the state and by the Department of Education that they would be given certain subsidies in return for support for their vocational education programs. This has been, in fact, true for the past few years but has never been mentioned in the repeal of any tax, uniform or other, that this would be withdrawn. It was never mentioned by those either for or against the repeal of the uniform property tax.

In my area, which the gentledady referred to, we were urged to go into a vocational region on the grounds that the state would provide monies to a certain extent for this. We have bought this concept because we felt that if the state was going to provide this amount, then we should in turn supply our amount. Now, the rules are being changed and we are being told that the state will not fulfill their obligation. So, I ask you in fairness and in treating all areas equal, that if the state did mandate this program and ask us to get into it on certain ground rules, should the ground rules be changed at this point?

The SPEAKER: The Chair recognizes the gentleman from Stonington, Mr. Greenlaw.

Mr. GREENLAW: Mr. Speaker, Men and Women of the House: I would like to stand in support of the amendment offered by the gentleman from Blue Hill, Mr. Perkins. I would like to disagree with my seatmate, the gentleman from Vassalboro, Mrs. Mitchell.

I guess we all began to have our interpretations of what the vote on December 5th repeal of the Uniform Property Tax was. Mrs. Mitchell suggests that maybe there was a question of

wanting local control and this provided more local control to the communities. It may, in fact, provide local control, but it does not really seem to me that this deals with the thrust of that particular issue that was voted on.

In all conscience, I really don't think that even the amendment which Mr. Perkin's has offered today deals with what I conceive to be the issue. I think we all have been under a misunderstanding that the state, in fact, is funding 90 percent of the vocational ed. This may be in the sense that 90 percent of the cost of vocational ed is reimbursable to the local unit under the present allocation system, but the hard core fact of the matter is the state is not paying 90 percent of the cost of education.

It seems to me when the legislature passed the vocational ed bill in the 106th Legislature, that in mandating vocational ed in different regions of the state, we had a responsibility to pay that particular cost. I don't think we have lived up to that responsibility with vocational ed, with special ed, and I do not think with private school transportation. So, it seems to me that perhaps this amendment is an effort to keep faith to some extent with the mandate that 106th required of the various vocational units.

I hope somewhere down the road that the legislature will see fit to fund these programs: namely, 100 percent from the state level, as I feel they should be, and I would ask you in all seriousness to support this amendment today.

The SPEAKER: The Chair recognizes the gentleman from Auburn, Mrs. Lewis.

Mrs. LEWIS: Mr. Speaker, Members of the House: Those of us who have been on the Education Committee for awhile and have worked with the education funding bills over the past several sessions realize that when we had the uniform property tax in effect, it was a very delicate balanced bill. A lot of work had gone into it, and when the repeal movement took place, I am not sure that everyone realized exactly what the implications were when they repealed to some people, but it should have been very clear to the people who were urging repeal that this was exactly the kind of a thing that could happen and it has happened. I would urge you to indefinitely postpone this, because if you do not, you are going to run into the same thing we did on the last amendment, that there will be other amendments that will come in that will equally distort the funding law. It has increase the cost of education for everybody.

The SPEAKER: The Chair recognizes the gentleman from Waterville, Mrs. Kany.

Mrs. KANY: Mr. Speaker, may I pose a question to the Chair? Should there be a fiscal note on this amendment?

The SPEAKER: The Chair would advise the gentleman that this particular amendment is the same as the one prior, and if the Chair understands it, and the members of the Education Committee can correct me if I am wrong, this amendment becomes effective next year and therefore, would not have a fiscal impact on the budget this year.

The SPEAKER: The Chair recognizes the gentleman from Livermore Falls, Mr. Lynch.

Mr. LYNCH: Mr. Speaker, Ladies and Gentlemen of the House: I would like to pose a question through the Chair to the gentleman from Blue Hill, Mr. Perkins? Would he take his district and explain the impact of the change on all the municipalities in the district?

The SPEAKER: The gentleman from Livermore Falls, Mr. Lynch, has posed a question through the Chair to the gentleman from Blue Hill, Mr. Perkins, who may respond if he so desires.

The Chair recognizes that gentleman.

Mr. PERKINS: Mr. Speaker, Members of the House: To the good House Chairman of the Committee on Education, I would be most happy to explain to them the lack of action in this area.

The SPEAKER: The Chair recognizes the gentleman from Orland, Mr. Churchill.

Mr. CHURCHILL: Mr. Speaker, Ladies and Gentlemen of the House: I think this vocational funding amendment is rather unique in the fact that the vocational school is under construction in Hancock County, it is located in Ellsworth, and the fact is that this school is not even in operation yet. I think the whole substance of this is that they are going to be refunded two years hence, if I am not mistaken. This school would be starting operation this year and there will be certain amount of time that there would not be any return money.

The vocational bill was voted down once in Hancock County. It was voted down by a very narrow margin and they brought it up again and they voted on it and the majority of the people, especially in my area, they did not want the vocational school. So you have a new building under construction which will run into hundreds of thousands of dollars and most of the towns do not care whether this falls flat on its face or not. They did not want vocational ed there to start with, the majority in Hancock County. I think that it is a shame that we should construct a new school of this magnitude and the amount of money they are spending and have the towns — they had a meeting recently, last week, of the vocational directors and 30 some towns voted to not fund this if they take this away, because it was sold with the assumption that the state would assume this cost. Now, they are backing down and the voters really thought that this was all right at the time and now the state has changed its mind.

The SPEAKER: The Chair recognizes the gentlewoman from Waterville, Mrs. Kany.

Mrs. KANY: Mr. Speaker, Ladies and Gentlemen of the House: As I read the bill and the committee amendment and the House amendment, which is being offered, the passage of this house amendment will not affect your situation at all.

The SPEAKER: The Chair recognizes the gentleman from Sanford, Mr. Wood.

Mr. WOOD: Mr. Speaker, Ladies and Gentlemen of the House: Although I am not affected by this amendment, I would urge you to adopt this amendment, because I think if you do not, this type of amendment will come back to haunt us year after year. There is a question of equity here, there is a question of the state providing a carrot on a stick and then taking the carrot away later on. I have run into this problem with another part within a school administrative district and community districts, and I think by saying you are not going to pass any amendments, we are just going to sweep it away, it will not go away. At some point, we are going to have to bite the bullet. I think this amendment might not be the total answer but I think it is a stopgap measure and I would urge your support of it.

The SPEAKER: The Chair recognizes the gentlewoman from Vassalboro, Mrs. Mitchell.

Mrs. MITCHELL: Mr. Speaker, Members of the House: Mr. Wood is absolutely right; we must at some point bite the bullet. We have lost \$5.1 million in revenue from the repeal of the uniform property tax. This is asking for an increase appropriation, if not at this session, in the future, from the General Fund, to make up that part of the obligation of those towns who have the property wealth in which to meet their obligations. I would like to ask Mr. Perkins if he has any idea, if this law went into effect immediately, how much money the state would have to come up with make up of what your unit will not be paying?

The SPEAKER: The gentlewoman from Vassalboro, Mrs. Mitchell, has posed a question through the Chair to the gentleman from Blue Hill, Mr. Perkins, who may answer if he so desires.

The Chair recognizes that gentleman.

Mr. PERKINS: Mr. Speaker, Members of the House: It is estimated by the Director of

our Regional Vocational Area that our region alone will lose \$50,000 or so.

The SPEAKER: The Chair recognizes the gentleman from Livermore Falls, Mr. Lynch.

Mr. LYNCH: Mr. Speaker, Ladies and Gentlemen of the House: I think you have to keep in mind that we have had and equalized funding law that has been qualified by the federal government. The amendments that have been flying around are an attempt to distort the equalized funding in the State of Maine. Every amendment that is being presented seeks to get an advantage for a community or a few communities at the expense of all the other communities in the State of Maine.

The repeal of the uniform property tax helped to move in this direction, to distort equalize funding. I hope that even though we keep the mill rate, the subsidy index, or whatsoever you want to call it, in the school funding, that you live up with the concept of equalizing funding of education across the State.

Mr. Perkins of Blue Hill was granted permission to speak a third time.

Mr. PERKINS: Mr. Speaker, Ladies and Gentlemen of the House: You have heard the two members of the Education Committee speak and they speak on things of equity and on things of equalizing education and on several factors and I just sit here thinking that they have added the portions on the education amendment, which they feel are their part and they have an interest in; yet, they are sitting here and saying that equity is not for me but for them, that the money spent for the rest of the state is perfectly all right but not for me.

I stand here before you saying, that two years ago, we had a referendum in Hancock County and the state offered us a set of figures that said the state will, if you build a vocational education institution and a program, that state will give you these amount of monies. Hancock County reluctantly, and I say reluctantly, after three votes, accepted this by a minority, or by a small plurality. If there had been persons involved, there would have been a recount. It was, nevertheless, accepted and went along in good faith on the part of Hancock County and construction has begun. We stand here before you today with the rules having been changed and we will have no subsidy on behalf of that vocational education program. I, therefore, say to you, if there is equity and you are thinking of pupils instead of monies, then I think Hancock County stands in line as well as anybody.

The SPEAKER: The Chair recognizes the gentlemen from Ellsworth, Mr. Silsby.

Mr. SILSBY: Mr. Speaker and Members of the House: I feel that I have to speak on this measure because the school is in Ellsworth, for one thing. Under the Perkin's amendment, my community probably would suffer more than it would without it. However, the City of Ellsworth and the Ellsworth area is equally committed to the building program, and as prior speakers have said, we have a million dollar building that is about 50 to 75 percent complete at this point, with completion expected in September of this year.

As I understand the law, the communities do not have to budget funds for vocational education, and I heard many whispers around Hancock County that if they lose the subsidy that they are going to refuse to support this type of program.

I am deeply concerned, both personally and as a representative, because I was in city government when the vocational program was in its infancy in the Ellsworth area and I have tried the best I could to promote the program and get the building in a posture where it could be constructed. I am also concerned because I feel that vocational education is very important for the State of Maine and for these communities, I really do not think the people of Hancock County are trying to make any veil threats about this whole thing but I believe that

they have the option, and if they are not going to get the subsidy, the pay-in towns are not going to budget funds for vocational education. I think it is as simple as that. I think they have to have some relief.

The SPEAKER: The Chair recognizes the gentleman from Livermore Falls, Mr. Lynch.

Mr. LYNCH: Mr. Speaker, Ladies and Gentlemen of the House: I would simply like to comment that had not many of these areas that are now involved vote for the repeal of the uniform property tax, we would have an additional \$5.1 million to deal with it.

The SPEAKER: The Chair recognizes the gentleman from Stonington, Mr. Greenlaw.

Mr. GREENLAW: Mr. Speaker, Ladies and Gentlemen of the House: I think the comments made by my good friend from Livermore Falls are very unfair. I do not think we are talking about the uniform property tax anymore, I think we are talking about vocational ed funding. I don't think this only affects Hancock, I think this affects the entire state. I think this affects a commitment this legislature made to funding a program some time ago, and now what we are doing is going back on that commitment. I think it is unfair and I think it is time this legislature has got to stand up for the previous amendment and that is why I think this amendment is important. I hope you will take that into consideration and I hope you will support this amendment.

The SPEAKER: The Chair recognizes the gentleman from Wells, Mr. Mackel.

Mr. MACKEL: Mr. Speaker, Ladies and Gentlemen of the House: I had no intention of getting involved in this, but judging from some of the comments that are being made and considering where these comments are coming from, it seems to me that we have a case of punitive action being taken against those communities that voted for repeal of the uniform property tax.

The SPEAKER: The Chair will order a vote. The pending question before the House is on adoption of House Amendment "C" to Committee Amendment "A." Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

Mr. Churchill or Orland requested a roll call.

The SPEAKER: For the Chair to order a roll call, it must have the expressed desire of one fifth of the members present and voting. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken, and more than one fifth of the members present having expressed a desire for a roll call, a roll call was ordered.

The SPEAKER: The pending question before the House is on the adoption of House Amendment "C" to Committee Amendment "A." Those in favor will vote yes; those opposed will vote no.

ROLL CALL

YEA — Aloupis, Bachrach, Berube, Blodgett, Boudreau, A.; Boudreau, P.; Bunker, Carrier, Carter, F.; Churchill, Clark, Connors, Cunningham, Davies, Drinkwater, Durgin, Durtremble, Fowlie, Garsoe, Gill, Gillis, Goodwin, H.; Gould, Gray, Greenlaw, Henderson, Hutchings, Jackson, Kane, Kelleher, Kerry, Littlefield, Lizotte, Lougee, MacEachern, Mackel, Mahany, Martin, A.; Masterman, Masterton, Maxwell, McBreairty, McPherson, Nadeau, Nelson, N.; Palmer, Paul, Peltier, Perkins, Post, Raymond, Sewall, Shute, Silsby, Smith, Sprowl, Stover, Tarbell, Tarr, Truman, Valentine, Whittemore, Wilfong and Wood.

NAY — Ault, Austin, Bagley, Beaulieu, Bennett, Benoit, Berry, Biron, Birt, Brenerman, Brown, K. L.; Brown, K. C.; Burns, Bustin, Carey, Carter, D.; Chonko; Connolly, Cote, Cox, Curran, Dexter, Diamond, Dow, Elias, Fenlason, Flanagan, Goodwin, K.; Green, Hall, Hickey, Higgins, Hobbins, Howe, Huber, Hughes, Hunter, Immonen, Jacques, Jalbert, Jensen, Joyce, Kany, Kilcoyne, Laffin,

Lewis, Locke, Lunt, Lynch, Marshall, McHenry, Mitchell, Morton, Najarian, Nelson, M.; Norris, Pearson, Peterson, Prescott, Quinn, Rideout, Rollins, Spencer, Stubbs, Talbot, Teague, Theriault, Tierney, Torrey, Tozier, Trafton, Twitchell, Violette, Wyman.

ABSENT — Devoe, Dudley, LaPlante, McKean, McMahon, Mills, Moody, Peakes, Plourde, Strout and Tyndale.

Yes, 64; no, 75; absent, 11.

The SPEAKER: Sixty-four having voted in the affirmative and seventy-five in the negative, with eleven being absent, the motion does not prevail.

Ms. Bachrach of Brunswick offered House Amendment "B" to Committee Amendment "A" and moved its adoption.

House Amendment "B" to Committee Amendment "A" (H-1059) was read by the Clerk.

Ms. BACHRACH: Mr. Speaker, Men and Women of the House: I am now addressing the question of Public Law 874 relative to federal impact aid. Military installations originally had their own schools. Policies changed to send the children of military personnel to local schools subsequently. This produced overcrowding and the need for more classrooms and teachers in the areas affected. Impact aid was arrived at to offer assistance to local communities for educating children of military personnel and non-military people who work at such installations. The intention of this aid was to relieve the burden on local taxpayers of additional children to educate, especially if the families live on tax exempt federal property.

With the passage of the uniform property tax on school funding, it was assumed that all educational burdens would be equalized, so the federal government approved our funding law and said that all but 10 percent of federal funds for impact aid would be sent to the communities involved and then deducted from the state's share of school funding; thus, the state and not the taxpayers of Brunswick and the other affected areas profited from the federal impact aid.

Now, the concept of pooling the resources of the wealthier communities for the benefit of the less wealthy has been altered by the repeal of the uniform property tax. I feel that the communities affected by the burden of additional students from families who live on federally tax exempt property or work at military installations should have the relief offered and intended in these funds.

Since the intent is that the state should pay 50 percent of the cost of education, it seems proper that half of the money under PL 874 should be deducted from state aid to education but that the remaining half should be used to relieve the burden of the local taxpayers as was intended in the original legislation.

I think we all realize that families with several children do not customarily really pay their way in a community. However, the parents remain after the children are education and help pay for the education for other people's children. In the case of a military owned installation, however, the families are transferred and seldom remain in the community. If, in addition, they live while they are there, on tax exempt property, it is a burden on the community in respect to other services as well as education. We really need the aid to education at least, to relieve the burden to some extent.

At this moment, I would like also to speak for Mr. McKean who is ill and not able to be here and express the fact that he is very much interested in this bill also.

The information which was passed out today by Senator Morrill omitted one page of communities affected by this legislation and I hope you will recall that I passed a complete list out earlier and remember who it is that really needs the help that this money offers.

It seems unfortunate to me that the estimate

of revenues have included all but 10 percent of PL 874 money as income to the state. The word that I have from Washington is that this money may not be approved by Congress at all and that our present equalization formula may not be in compliance with requirements to allow the state to receive the money. With these uncertainties in mind, I would ask you to approve the principle that the federal impact aid funds were intended to relieve the local taxpayer and vote to adopt House Amendment "B" to Committee Amendment "A" and let us all have 50 percent of the money allocated to Maine, all of the communities affected by this legislation.

The SPEAKER: The Chair recognizes the gentleman from Pittsfield, Mr. Wyman.

Mr. WYMAN: Mr. Speaker, I would like to pose a question through the Chair to the gentlewoman from Brunswick, Mrs. Bachrach.

I would like to know if passage of this amendment would incur any additional cost to the taxpayers of this state, who do not have tax exempt installations?

The SPEAKER: The gentleman from Pittsfield, Mr. Wyman, has posed a question through the Chair to the gentlewoman from Brunswick, Ms. Bachrach, who may answer if she so desires.

The Chair recognizes that gentlewoman.

Ms. BACHRACH: Mr. Speaker, members of the House: Insofar as this money has been included in the funds available for education, I suppose that this would cost money to the state. However, as I mentioned before, we are not even certain if the money will be available to the state, and I feel that it was an error to include it in the funds available at this time. It may be several months before we know whether that money will be available. This is federal funding and should not automatically have been thrown in with the state resources in this way.

The SPEAKER: The Chair recognizes the gentleman from East Millinocket, Mr. Birt.

Mr. BIRT: Mr. Speaker, Members of the House: I would move indefinite postponement of this amendment.

Relative to the funding, the general understanding within the committee was, as far as the information could be determined from Washington, that this money would be available in the sense that it did not affect the equitable distribution of funds that were set up in the law. So the Education Committee was quite convinced at the time they put this together that the funding would be available.

The SPEAKER: The Chair recognizes the gentleman from Livermore Falls, Mr. Lynch.

Mr. LYNCH: Mr. Speaker, Ladies and Gentlemen of the House: This is another example of an attempt to get more funds for a limited number of local communities. How can you differentiate between Brunswick with federal sites within its municipality and Orono that has a large part of its municipality exempted by the University of Maine? How do you distinguish between the impact of Brunswick and the impact in Portland with federal installation? How do you differentiate between Brunswick and all the other federal and state sites in this State of Maine that have reduced valuation in their communities?

If you give any PL 874 funds to a community, you are taking on the burden of whatever you are giving to them. You are putting it on your community to give to Brunswick and the other 874 federally impacted communities. Just as long as you understand what you are doing, that is fine.

The SPEAKER: The Chair recognizes the gentlewoman from Brunswick, Ms. Bachrach.

Ms. BACHRACH: Mr. Speaker and Members of the House: I would just like to clarify that a little because I do not feel that you have been given quite the correct picture.

This money would not be available to the State of Maine if the federal government had not determined that these communities in fact should be compensated for either the burden of

students or the tax exemptions allowed on various types of housing and so forth. And to say that this is state money that you are sending around to communities that do not deserve it is, in my view, very inaccurate. The money was intended for this use and should be used in this way.

The SPEAKER: The Chair recognizes the gentleman from Livermore Falls, Mr. Lynch.

Mr. LYNCH: Mr. Speaker, Ladies and Gentlemen of the House: Whether the money comes from the federal government or not or if you give it to Brunswick, if you don't get it from the federal government, you are going to have an impact on Part A of the school funding budget. If that \$2.389 million is not there, then you are going to have to increase the state and local allocations by that sum of money, and half of that increase has to be picked up on the local tax effort and half out of the General Fund.

The SPEAKER: The Chair recognizes the gentleman from York, Mr. Valentine.

Mr. VALENTINE: Mr. Speaker, Men and Women of the House: I rise to support the amendment presented by Mrs. Bachrach and to oppose the motion to indefinitely postpone. I attended the work session the Education Committee when this issue was discussed and I understand the position of the committee on it, but to further clarify what Ms. Bachrach was explaining, prior to the passage of L. D. 1994, these monies went to communities in which children of residents of tax exempt properties were attending local school systems. With the passage of 1994, Maine, as I understand it from that committee work session, was one of four states that were allowed to receive directly to the state those funds because we had a program for presumably equalized education. 1994 has been repealed. We are no longer in those set of circumstances, and I would submit to you that by virtue of the repeal we are back to where we were before 1994 and those funds should be going to the communities and not to the state.

The SPEAKER: The Chair recognizes the gentleman from Livermore Falls, Mr. Lynch.

Mr. LYNCH: Mr. Speaker and Members of the House: I would like to clarify that. Yes, it did go to the communities and because it did, Limestone built a new school building and paid cash. That is the inequity of funneling federal impact funds directly to a community. All of these communities that are federally impacted are provided state subsidy just as your community is. There is no discrimination on state subsidy. They are provided that subsidy just the same as every other unit in the State of Maine, but they are not satisfied. Brunswick would settle now not for 100 percent of \$364,000, they would only like \$120,000 or \$180,000, they have modified their demands, but they still would like direct help from the state and they would like to have you pay the burden of giving it to them.

The SPEAKER: The Chair recognizes the gentlewoman from Brunswick, Ms. Bachrach.

Ms. BACHRACH: Mr. Speaker and Members of the House: I do not consider this money direct help from the state, it is direct help from the federal government. It was supposed to be paid to us on that basis. I take great issue with the fact that the money has been subtracted from the budget here and used as if there were no question of its appearing in the State of Maine or where it should go. So, we are now trapped into the position where we are told that we are grabbing some money that should go to other communities, and that is very unfair.

The SPEAKER: The Chair recognizes the gentleman from York, Mr. Valentine.

Mr. VALENTINE: Mr. Speaker and Members of the House: In answer to the comments from my previous speech by Mr. Lynch, granted, the communities involved receive the same subsidies from the state that every other community gets, but the other half of the education-

al funding has to be raised through the local property taxes being applied to property which is tax exempt, that is the difference.

The SPEAKER: The Chair recognizes the gentleman from Augusta, Mr. Hickey.

Mr. HICKEY: Mr. Speaker, Ladies and Gentlemen of the House: To us, it is hard to accept it in view of the fact that we are receiving 10 percent and responsible for all the administration. We speak about land use. In Augusta, between the federal, state and county, 41 percent of our community has land that is not taxable. I support Ms. Bachrach's amendment and feel that it is only equitable to the towns that are affected.

The SPEAKER: The Chair will order a vote. The pending question before the House is on the indefinite postponement of House Amendment "B" to Committee Amendment "A". Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

Mrs. Bachrach of Brunswick requested a roll call.

The SPEAKER: For the Chair to order a roll call, it must have the expressed desire of one fifth of the members present and voting. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken, and more than one fifth of the members present having expressed a desire for a roll call, a roll call was ordered.

The SPEAKER: The pending question before the House is on the motion of the gentleman from East Millinocket, Mr. Birt, that House Amendment "B" to Committee Amendment "A" be indefinitely postponed. Those in favor will vote yes; those opposed will vote no.

ROLL CALL

YEA — Alopis, Ault, Bagley, Beaulieu, Bennett, Benoit, Berry, Birt, Boudreau, A.; Boudreau, P.; Brenerman, Brown, K. C.; Bunker, Burns, Carey, Carter, D.; Churchill, Connolly, Cote, Cox, Cunningham, Davies, Dexter, Diamond, Drinkwater, Fenlason, Flanagan, Fowlie, Garsoe, Gould, Green, Greenlaw, Hall, Higgins, Huber, Hughes, Hunter, Immonen, Jacques, Jalbert, Joyce, Laffin, Lewis, Littlefield, Lizotte, Lougee, Lunt, Lynch, MacEachern, Mahany, Marshall, Masterman, McBreairty, McHenry, Mitchell, Morton, Najarian, Nelson, M.; Nelson, N.; Norris, Pearson, Peltier, Peterson, Plourde, Post, Prescott, Quinn, Raymond, Rideout, Rollins, Sewall, Shute, Silsby, Smith, Sprowl, Talbot, Tarbell, Teague, Theriault, Tierney, Torrey, Tozier, Trafton, Truman, Twitchell, Violette, Wyman

NAY — Austin, Bachrach, Berube, Bustin, Carter, F.; Chonko, Clark, Connors, Curran, Dow, Durgin, Dutremble, Elias, Gill, Gillis, Goodwin, H.; Goodwin, K.; Henderson, Hickey, Hobbins, Howe, Jackson, Kany, Kelleher, Kerry, Kilcoyne, Locke, Mackel, Martin, A.; Masterton, McPherson, Nadeau, Paul, Spencer, Stover, Stubbs, Tarr, Valentine, Wilfong, Wood

ABSENT — Biron, Blodgett, Carrier, Carroll, Devoe, Dudley, Gray, Hutchings, Kane, LaPlante, Maxwell, McKean, McMahon, Mills, Moody, Palmer, Peakes, Perkins, Strout, Tynedale, Whittemore

Yes, 87; No, 41; Absent 22.

The SPEAKER: Eighty-seven having voted in the affirmative and forty-one in the negative, with twenty-two being absent, the motion does prevail.

Mrs. Berube of Lewiston offered House Amendment "G" to Committee Amendment "A" and moved its adoption.

House Amendment "G" to Committee Amendment "A" (H-1074) was read by the Clerk.

The SPEAKER: The Chair recognizes the gentleman from Livermore Falls, Mr. Lynch.

Mr. LYNCH: The Speaker, isn't this essentially what we have already defeated, the 90 — 10? I don't think it can be presented at this time

and I would ask the Chair to rule on it.

The SPEAKER: The Chair thanks the gentleman from Livermore Falls, Mr. Lynch.

The Chair recognizes the same gentleman.

Mr. LYNCH: The Speaker, may I move to indefinitely postpone the amendment and speak on both.

The SPEAKER: The gentleman from Livermore Falls, Mr. Lynch, moves the indefinite postponement of House Amendment "G".

The gentleman may proceed.

Mr. LYNCH: Mr. Speaker, Ladies and Gentlemen of the House: The 90 — 10 we have already acted on and I hope you stand firm. The other section of the bill puzzles me, and I would ask for a ruling, Mr. Speaker. It alters Title 30, Section 5104, which is now in the engrossing stage. It is germane to have an amendment on the school funding bill to a bill that is in the engrossing stage?

The SPEAKER: The Chair would advise the gentleman that it is not possible to amend a bill that has not been chaptered, if that is what the gentleman wishes to know.

Mr. LYNCH: That is right.

The SPEAKER: The Chair recognizes the gentlewoman from Lewiston, Mrs. Berube.

Mrs. BERUBE: The Speaker, with your permission, House Amendment "G" relates to L. D. 2022 and under Section 6, Page 10, it has clear reference to Section 5104, Title 30, Subsections 5 through 9, which is what my amendment addresses itself to.

The SPEAKER: The Chair recognizes the gentleman from Livermore Falls, Mr. Lynch.

Mr. LYNCH: Mr. Speaker and Members of the House: On Page 10 it refers to Subsections 5 through 8, there is no 9.

The SPEAKER: The Chair recognizes the gentlewoman from Lewiston, Mrs. Berube.

Mrs. BERUBE: Mr. Speaker and Members of the House: I think I have the wrong page. I thought it inserted in the place of 9 number 8.

The SPEAKER: The Chair would answer in the affirmative. The Chair would suggest that we deal with the purposes of the amendment itself. If the amendment should be adopted, then it could be corrected later in terms of drafting process in the Errors and Inconsistencies.

The Chair recognizes the gentleman from Old Town, Mr. Pearson.

Mr. PEARSON: Mr. Speaker, Ladies and Gentlemen of the House: I cannot help but rise to say that Mr. Lynch is a pretty sharp man to pick up fine points like that. It bothers me a great deal to think that he is not going to be back here next session.

The SPEAKER: The Chair recognizes the gentleman from Livermore Falls, Mr. Lynch.

Mr. LYNCH: Mr. Speaker and Members of the House: Does the lady from Lewiston want to speak on the amendment?

The SPEAKER: The Chair recognizes the gentlewoman from Lewiston, Mrs. Berube.

Mrs. BERUBE: Mr. Speaker and Members of the House: To save time, Mr. Speaker, we could have a Division and it might save my getting up again.

The SPEAKER: The Chair recognizes the gentleman from Livermore Falls, Mr. Lynch.

Mr. LYNCH: Mr. Speaker, Ladies and Gentlemen of the House: Before you have a division, I would like to say a few words. First of all, I have moved indefinite postponement of the amendment. I think we have already treated the 90 — 10 proposition and I would expect that you would hold firm on that. The amendment also provides diagnostic, psychological services. This is an expansion beyond the textbooks, testing material, testing assistance and health services and it says, "provided to non-public school students that require professional personnel be provided by persons who are qualified." It changes the word from "public employees" to "qualified." We are dealing in an area that is very critical, one which the Supreme Court has spent a great

deal of time on, and I think to substitute the word "qualified," we may be asking for trouble, because a private school may say this person is qualified but if challenged in the court, the challenge might be successful if it could be demonstrated that it was religiously oriented or a person was a member of a religious sect. I would be very hesitant to move in any direction like this.

The SPEAKER: The Chair will order a vote. The pending question before the House is on the the motion of the gentleman from Livermore Falls, Mr. Lynch, that House Amendment "G" be indefinitely postponed to Committee Amendment "A". Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

Mrs. Berube of Lewiston requested a roll call.

The SPEAKER: For the Chair to order a roll call, it must have the expressed desire of one fifth of the members present and voting. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken, and more than one fifth of the members present having expressed a desire for a roll call, a roll call was ordered.

The Chair recognizes the gentlewoman from Lewiston, Mrs. Berube.

Mrs. BERUBE: Mr. Speaker, Ladies and Gentlemen of the House: This amendment has nothing to do with the previous amendment that we heard earlier today. It does two things, however. It restores the psychological services which were deleted from the original 1907, which became 1946 and subsequently became a committee bill. Psychological services were included then. They are no longer in the bill as brought out by the committee, the so-called textbook bill, so it restores the psychological services which, in my opinion, are far more important than perhaps textbooks at this point, because you must be aware that non-public schools have access to loans of books under Title 4, books of their own choosing by the way.

It also does another thing.

It brings back to 90 percent the reimbursement of services, including textbooks and nursing services, nurses services which are in L. D. 1946, services, by the way, which parochial schools have, so what it does essentially is to restore something that was taken out by the committee. Why, I do not know, and brings back to 90 percent the reimbursement of services. Maybe it has a little bit to do with 1947, but Section 5104 is part of the education funding bill; 1946 was merely enabling legislation, the education bill funds it. It just leaves it at 50 percent so that effectively it has watered it down somewhat. In fact, it has gutted the bill considerably. This amendment, with your permission, and I hope you vote favorably on it and it, would restore it to 90 percent.

The SPEAKER: The Chair recognizes the gentleman from Livermore Falls, Mr. Lynch.

Mr. LYNCH: Mr. Speaker and Members of the House: I would like to read something from House Amendment 1041 to L. D. 1946. The statement of fact say, and this is a bill that is in the engrossing stage, that this committee amendment deletes from the original bill the amendments to the school finance act. It also eliminates from the original bill services for special education services, guidance and counseling services and remedial services. Consequently, the bill just authorizes cities and towns to provide textbooks, certain health services and testing and scoring services to pupils attending non-public schools.

The SPEAKER: A roll call has been order. The pending question before the House is on the motion of the gentleman from Livermore Falls, Mr. Lynch, that House Amendment "G" to Committee Amendment "A" be indefinitely postponed. Those in favor will vote yes; those opposed will vote no.

ROLL CALL

YEA — Alopis, Bachrach, Bagley, Beau-
lieu, Benoit, Berry, Birt, Blodgett, Boudreau,
A.; Boudreau, P.; Brenerman, Brown, K. L.;
Brown, K. C.; Bunker, Burns, Bustin, Carey,
Carroll, Churchill, Clark, Connolly, Cote, Cox,
Cunningham, Davies, Dexter, Diamond, Dow,
Drinkwater, Durgin, Dutremble, Elias, Fenla-
son, Flanagan, Fowlie, Garsoe, Gillis, Gould,
Green, Hall, Higgins, Hobbins, Howe, Hughes,
Hunter, Hutchings, Immonen, Jackson, Jal-
bert, Jensen, Joyce, Kerry, Kilcoyne, Lewis,
Littlefield, Locke, Lougee, Lunt, Lynch, Mac-
Eachern, Mackel, Mahany, Marshall, Master-
man, Masterton, McBrearty, McHenry,
McPherson, Mitchell, Morton, Najarian,
Nelson, M.; Nelson, N.; Norris, Pearson, Pe-
tersen, Plourde, Post, Rideout, Rollins, Sewall,
Shute, Smith, Spencer, Sprowl, Stover, Stubbs,
Talbot, Tarbell, Tarr, Teague, Theriault, Tier-
ney, Torrey, Tozier, Trafton, Truman, Twit-
chell, Valentine, Violette, Wilfong, Wyman

NAY — Austin, Berube, Biron, Carrier,
Carter, D.; Carter, F.; Chonko, Conners,
Curran, Devoe, Gill, Goodwin, H.; Goodwin,
K.; Gray, Henderson, Hickey, Jacques, Kane,
Kany, Kelleher, Laffin, Lizotte, Martin, A.;
Nadeau, Paul, Perkins, Quinn, Raymond,
Silsby, Wood

ABSENT — Ault, Bennett, Dudley, Green-
law, LaPlante, Maxwell, McKean, McMahon,
Mills, Moody, Palmer, Peakes, Peltier, Pre-
scott, Strout, Tyndale, Whittemore

Yes, 103; No, 30; Absent, 17.

The SPEAKER: One hundred and three
having voted in the affirmative and thirty in
the negative, with seventeen being absent, the
motion does prevail.

Thereupon, Committee Amendment "A"
was adopted.

Under suspension of the rules, the Bill was
read the second time.

The SPEAKER: The Chair recognizes the
gentleman from Stonington, Mr. Greenlaw.

Mr. GREENLAW: Mr. Speaker, Ladies and
Gentlemen of the House: I have a question I
would like to pose to a member of the Educa-
tion Committee or a member of the House that
I think is significant that I have not been able
to resolve in my mind from reading the bill or the
committee amendment and I would try to ex-
plain it as follows.

When we had the uniform property tax, each
town was required to raise a certain number of
mills against their state valuation. Depending
on how much a community raised, they may
have received some state subsidy. It is my un-
derstanding that the effect of the original 1994
was that it basically negated all of the agree-
ments that were initially agreed upon be-
tween towns that were either in school admin-
istrative districts or a community school
district.

The uniform property tax, as we all know
now, has been repealed. There is a question in
my mind as to what the effect of those agree-
ments that were reached by the commu-
nities are at this point in time?

Let me see if I can explain the question a
little bit further. My understanding is that this
bill does not require the towns to raise the so-
called subsidy index. My question now be-
comes, given the information that I think is
right, how will the SAD's and the CSD's raise
funds for the support of education? One, it will
either be based on the subsidy index or the
second alternative will be that it will be based
on the former agreements under which the
SAD's and the CSD's were formed. I don't
know that this bill speaks to that situation. I
think before we engross it today, I would like to
have some explanation, hopefully by a member
of the Education Committee, as how they see
the resolution to the problem and whether or
not it has been addressed in this bill and wheth-
er or not it needs to be addressed by this bill?

The SPEAKER: The gentleman from Ston-
ington, Mr. Greenlaw, has posed a question
through the Chair to anyone who may care to

answer.

The Chair recognizes the gentleman from
Livermore Falls, Mr. Lynch.

Mr. LYNCH: Mr. Speaker, Ladies and Gen-
tlemen of the House: I hesitate to volunteer
any information because I think the credibility
of what I presented earlier was questioned. If
the gentleman is willing to accept a layman's
opinion, I think agreements between commu-
nities that have been voluntarily entered into
are still in effect. I think the state, in setting up
a school district, has given the district taxing
powers the same as it has given to the munic-
ipalities in the state. If a community does not
raise its share of a district funding program, I
think the municipality is in trouble.

I would also recall to your mind a bill that
passed the House last year which gave to the
Commissioner of Education powers that he did
not have before. I think you will also recall a
bill that we enacted in this House that gave the
citizens the right to appeal to the commission-
er if their educational system was not satisfac-
tory.

I think we have all the safeguards that we
need to continue equalized funding in this state.
There are inequities. The committee admits it,
and the legislatures, since 1973-1974, have been
constantly trying to refine this thing. I think we
have one of the best funding mechanisms in the
United States. Many people say that it is com-
plicated, they don't understand it, but if they
look at some of the other funding mechanisms
in the states, they would want an accountant
and a lawyer to tell them what is in it.

One other remark I would like to make, I
don't think that the people in the State of Maine
recognize that some of the laws passed in the
legislature in effect mandating certain things
have helped to keep Maine's school units out of
the courts. I do not think that the people in the
State of Maine recognize what the federal gov-
ernment has mandated and what the courts
have interpreted. In many school units across
the nation, they have found themselves in diffi-
culty. So far, we have been able to avoid that.

The SPEAKER: The Chair recognizes the
gentleman from South Berwick, Mr. Goodwin.

Mr. GOODWIN: Mr. Speaker, Men and
Women of the House: I have the same concern
as Representative Greenlaw does. I do not
think that his questions were really answered. I
think what it boils down to is that some of the
community school districts and the SAD's that
were formed before the 1994 were set up on a
basis that their local amounts were based on a
thing like a per pupil and a valuation mixture.
As I understand it, some of the districts are
going to have a real problem if we don't ad-
dress this question in this legislature, because
you are going to have, in some instances, if we
just tell the towns that your 50 percent or so is
going to be 10 mills or however this works,
some towns are going to end up raising more
within their school district than the other
towns. It is not going to be equalized among the
districts. I, for one, who represents a district
that is in this situation, am not going to vote for
this bill until that question is answered, and I
think I would like to see the Education Com-
mittee try to answer it. They evidently did not
on this amendment and I would like to know
why.

I have heard this Attorney General's opinion
floating around but that is only an opinion and
it is going to force towns to go to the courts if
they have to. I think we have to address this
rather than just throwing it on the courts or the
commissioner as to how we want to do this. I
am not an expert in education funding and I
have not tried to throw in any bills or amend-
ments to do this but I was hoping that some of
the people that work on this everyday on the
Education Committee or the department could
have done this. I will tell you one thing, I am
not going to vote for this bill until that issue is
solved.

The SPEAKER: The Chair recognizes the

gentleman from Limerick, Mr. Carroll.

Mr. CARROLL: Mr. Speaker, Ladies and
Gentlemen of the House: Being from a school
district that was formed on 50 percent valua-
tion — 50 percent enrollment, Ropes and Gray,
a bonding house that handles the bonds for this
district, ruled at the time we sold our bonds
that until the bonds were paid off, we should
still stay on a 50 percent enrollment, 50 percent
valuation formula. So, I proceeded to ask the
Department of Education what happens now
when we repeal 1994 and they told us if we re-
verted back to our original agreement, that the
bonds were sold under, that this law is still
ingood standing, that we revert to 50 percent
enrollment, 50 percent valuation in our school
districts.

The SPEAKER: The Chair recognizes the
gentleman from Livermore Falls, Mr. Lynch.

Mr. LYNCH: Mr. Speaker and Members of
the House: In answer to the question by Rep-
resentative Goodwin, a school district is given
the same taxing powers as a municipality and
if you are going to impose a tax on one munic-
ipality in the school district, you impose it on all
the school districts, all the municipalities in
the school district uniformly, no exceptions. If
you try to alter that, you are getting into diffi-
culty constitutionally.

These agreements were voluntarily entered
into. They can be changed voluntarily if you
can get the communities to do it, but you have
to keep in mind if you have debt outstanding,
you are going to have to satisfy the bond hold-
ers.

The SPEAKER: The Chair recognizes the
gentleman from Stonington, Mr. Greenlaw.

Mr. GREENLAW: Mr. Speaker, Ladies and
Gentlemen of the House: I was not attempting
to debate L. D. 2139, which Representative
Wood has introduced. Let me see if I can refine
my question a little bit further. Let me see if I
can give a specific example that perhaps I can
get a specific example to.

A CSD was formed in two communities I rep-
resent, Stonington and Deer Isle. It was formed
in October of 1973, before L. D. 1994 went into
effect. That agreement that resulted in the for-
mation of the community school district was
such that the two communities shared costs on
the basis of the number of pupils in each com-
munity. It had nothing to do with state valua-
tion. My question is now, and I raise it
particularly after the previous comments of
the gentleman from Livermore Falls, Mr.
Lynch, do I understand now that that commu-
nity can revert to that type of cost sharing
agreement rather than having to go the route of
raising the subsidy index?

The SPEAKER: The Chair recognizes the
gentlewoman from Vassalboro, Mrs. Mitchell.

Mrs. MITCHELL: Mr. Speaker and Mem-
bers of the House: Although Representative
Goodwin has indicated that this is only an At-
torney General's opinion and is worth just that,
I would like to share it with you because I think
it specifically answers Representative Green-
law's question. It is dated February 2 and it did
relate to Representative Wood's bill, but in an-
swering the question, he also gave additional
information. "The result of the December 5
referendum vote was to repeal the assessment of
a statewide uniform property tax. The re-
sults of the referendum do not affect any cost-
sharing formula within an SAD."

The SPEAKER: The Chair recognizes the
gentleman from East Millinocket, Mr. Birt.

Mr. BIRT: Mr. Speaker, Ladies and Gen-
tlemen of the House: First off, I would like to
ask for a roll call on passage to be engrossed.

I thought I might save some of these remarks
for a little later and I may use them again, or
part of them, but I did happen to be the only
member of the Education Committee who
voted to repeal the uniform property tax, and I
think I thoroughly understood what I was
doing. I think I knew what was the intent of that
particular piece of legislation, or the proposal

but to the people. I think it was exactly as Mrs. Mitchell, the Representative from Vassalboro, has just pointed out, that this was to repeal the uniform property tax and how it applied statewide, and I don't think in any way that it was intended to deal with the individual issues that are problems in the individual towns.

Going back some years ago, we did pass legislation to allow a district to be formed partly on pupil ratio and partly on valuation ratio. Later on, there was a law passed to modify that whereby the districts that were already formed could reconstitute themselves. But I don't think that the legislature at this time wants to address that, and I don't think that probably they equitably can address it and come out with a solution that will satisfy everybody.

The SPEAKER: The Chair recognizes the gentleman from Wells, Mr. Mackel.

Mr. MACKEL: Mr. Speaker, Ladies and Gentlemen of the House: I would just like to add a comment or two. Mr. Lynch did refer to the equal provision of taxation, and I think there is a problem there because we do not have equal taxation, and the case cited by Mr. Goodwin is a case in point, that is SAD 60 where you will have one community, that is Berwick, raising 13 mills and the other two communities, Lebanon and North Berwick, raising 8 mills under the provision of their formula. I think also that in the opinion that Mrs. Mitchell referred to, there was a question raised in that opinion as to the constitutionality of these formulas.

The SPEAKER: The Chair recognizes the gentleman from Stow, Mr. Wilfong.

Mr. WILFONG: Mr. Speaker and Members of the House: In response to Mr. Mackel raising that constitutionality question of the so-called methods A and B funding, I have an opinion into the Attorney General's Office to find out if that is constitutional. I have had it in for two or three weeks now and I will try to hurry them up and see what I can find out.

The SPEAKER: A roll call has been requested. For the Chair to order a roll call, it must have the expressed desire of one fifth of the members present and voting. All those desiring a roll call vote will vote yes; those opposed will vote no.

A vote of the House was taken, and more than one fifth of the members present having expressed a desire for a roll call, a roll call was ordered.

The SPEAKER: The Chair recognizes the gentleman from Owls Head, Mrs. Post.

Mrs. POST: The Speaker, I think the question that Representative Greenlaw raised was and important one and we have gotten two different answers from members of the Education Committee. I would pose that question again. Is it the intent of this legislation that school districts would go back to the original cost-sharing agreement and in some of those instances the district does not levy taxes with the same mill rate on all the property within the district? Is the intent of this legislation that we go back to the original cost-sharing agreement, or is it the intent of the legislation that the subsidy index of 10 mills be raised on each community within a school district, regardless of the contracts that they had when they went into their SAD?

The SPEAKER: The Chair recognizes the gentleman from Winthrop, Mr. Bagley.

Mr. BAGLEY: Mr. Speaker and Members of the House: I was in on this original Sinclair Law longer ago than some of you people remember. The intent at that time was that areas should combine to furnish better school opportunities with part of the object that the wealthy towns and poorer towns could combine their resources so that all the children in the vicinity would benefit. That has been changed two or three times so that there are different methods of funding. We have either straight valuation or we have a combination of valuation and per pupil. Now, this law says nothing about that be-

cause it is already covered. The old agreements are still in effect, the old agreements may be modified by the group in any one SAD or community school district if they wish to get together. That is the only way that it can be done practically, by agreement.

Originally, way back when we started, towns were raising higher valuation than others. As that was modified to be based on the number of pupils and the valuation by any percentage from, I believe, 15 percent to 85 percent either way, that further compounded this difference so that there was a difference of valuation, and that was questioned. It may be questioned now. If it is, there will be court cases about it, but as far as this bill is concerned and as far as the Education Committee is concerned, we are assuming that the old school districts operate exactly the way they did before the change in the school funding method.

The SPEAKER: A roll call has been ordered. The pending question is on passage to be engrossed as amended by Committee Amendment "A". All those in favor will vote yes; those opposed will vote no.

ROLL CALL

YEA — Ault, Austin, Bagley, Beaulieu, Bennett, Benoit, Birt, Boudreau, A.; Brennerman, Brown, K. L.; Brown, K. C.; Burns, Bustin, Carey, Carrier, Carroll, Carter, D.; Chonko, Clark, Connolly, Cote, Cox, Curran, Dexter, Diamond, Dow, Drinkwater, Dutremble, Elias, Fenlason, Flanagan, Fowlie, Garsoe, Gill, Gillis, Goodwin, K.; Gould, Green, Greenlaw, Hall, Henderson, Hickey, Hobbins, Howe, Huber, Hughes, Hunter, Immonen, Jackson, Jalbert, Joyce, Kany, Kerry, Kilcoyne, Laffin, Lewis, Littlefield, Lizotte, Locke, Lougee, Lunt, Lynch, MacEachern, Mahany, Marshall, Masterton, McBreaarty, McHenry, Mitchell, Morton, Nadeau, Nelson, M.; Nelson, N.; Palmer, Paul, Pearson, Peltier, Peterson, Plourde, Prescott, Quinn, Rideout, Rollins, Shute, Smith, Spencer, Sprowl, Stover, Strout, Stubbs, Talbot, Tarr, Teague, Theriault, Tierney, Torrey, Tozier, Trafton, Truman, Twitchell, Violette, Wyman, The Speaker

NAY — Aloupis, Bachrach, Berry, Berube, Biron, Blodgett, Bunker, Carter, F.; Connors, Cunningham, Davies, Devoe, Durgin, Goodwin, H.; Gray, Higgins, Hutchings, Jacques, Jensen, Kane, Mackel, Martin, A.; Masterman, McMahon, McPherson, Najarian, Norris, Perkins, Post, Raymond, Sewall, Silsby, Tarbell, Valentine, Wilfong, Wood

ABSENT — Boudreau, P.; Churchill, Dudley, Kelleher, LaPlante, Maxwell, McKean, Mills, Moody, Peakes, Tyndale, Whittemore

Yes, 103; No, 36; Absent, 11.

The SPEAKER: One hundred three having voted in the affirmative and thirty-six in the negative, with eleven being absent, the Bill is passed to be engrossed as amended by Committee Amendment "A".

By unanimous consent, ordered sent forthwith to the Senate.

The Chair laid before the House the fourth tabled and today assigned matter:

RESOLVE, Authorizing Certain Employees of the State of Maine to Request an Extension of Employment After Their Mandatory Retirement Age, Years of Service Requirement or Age and Years of Service Requirement (Emergency) (H. P. 2101) (L. D. 2140)

Tabled — February 23, 1978 by Mr. Norton of Farmington.

Pending — Adoption of House Amendment "B" (H-1067).

Mr. Davies of Orono offered House Amendment "A" to House Amendment "B" and moved its adoption.

House Amendment "A" to House Amendment "B" (H-1077) was read by the Clerk.

The SPEAKER: The Chair recognizes the gentleman from Cumberland, Mr. Garsoe.

Mr. GARSOE: Mr. Speaker and Members of the House: I would like to thank the gentleman from Orono, Mr. Davies, for this revised amendment. It erases the problem that I had brought to your attention yesterday.

Thereupon, House Amendment "A" to House Amendment "B" was adopted.

The Bill was passed to be engrossed as amended by House Amendment "B" as amended by House Amendment "A" thereto and sent up for concurrence.

The Chair laid before the House the fifth tabled and today assigned matter:

Bill, "An Act to Prohibit Child Pornography" (H. P. 2106) (L. D. 2141) (H. "D" H-1064)

Tabled — February 22, 1978 by Mr. Tierney of Lisbon Falls.

Pending — Passage to be Engrossed.

Mrs. Trafton of Auburn offered House Amendment "E" and moved its adoption.

House Amendment "E" (H-1076) was read by the Clerk.

The SPEAKER: The Chair recognizes the gentleman from Auburn, Mrs. Trafton.

Mrs. TRAFTON: Mr. Speaker and Members of the House: Just briefly to explain this amendment. This is an amendment to An Act to Prohibit Child Pornography, and what it does is outline or provide guidance, if you will, as to the release of the names of minors under this bill. It is the intent of the cosponsors that they should be given some protection from any additional harassment than they have already suffered as the victims of child abuse.

Thereupon, House Amendment "E" was adopted.

The bill was passed to be engrossed as amended by House Amendment "D" and House Amendment "E" and sent up for concurrence.

The Chair laid before the House the sixth tabled and today assigned matter:

House Report — "Ought to Pass" as Amended by Committee Amendment "A" (H-1048) — Committee on Judiciary on Bill, "An Act to Make Trafficking in Five Pounds or More of Marijuana a Class C Crime Under the Maine Criminal Code" (H. P. 1999) (L. D. 2080)

Tabled — February 22, 1978 by Mr. Tierney of Lisbon Falls.

Pending — Acceptance of the Committee Report.

The SPEAKER: The Chair recognizes the gentleman from Lisbon Falls, Mr. Tierney.

Mr. TIERNEY: Mr. Speaker, Men and Women of the House: I understand an amendment is about to be offered to this bill and there is a working session scheduled for the Judiciary Committee this afternoon which hopefully will resolve the problem. Therefore, I would request that someone table this bill for one legislative day.

Thereupon, on motion of Mr. Connolly of Portland, tabled pending acceptance of the Committee Report and tomorrow assigned.

The Chair laid before the House the seventh tabled and today assigned matter:

"An Act to Amend the Maine Potato Branding Law" (H. P. 1896) (L. D. 1953) (C. "A" H-998)

Tabled — February 22, 1978 by Mr. Mahany of Easton.

Pending — Reconsideration (returned by the Governor without his approval)

The SPEAKER: The Chair recognizes the gentleman from Easton, Mr. Mahany.

Mr. MAHANY: Mr. Speaker, Ladies and Gentlemen of the House: I move to sustain the Governor's veto and I would speak briefly to my motion.

I want to state my reasons why I would sustain the veto. First, I have contacted members of the Potato Tax Commission as to the effect of the efforts of the Governor as he helps to promote the potato sales and advertising this

season. I have had very favorable reports from the Chairman of the Tax Commission, and one of the larger potato growers on the Tax Commission, they speak very favorably about the Governor's efforts.

I have gone a little further and I have checked with the advertising and promotion agency that the Tax Commission employs, known as the Dunn, Theobald and Johnson agency of Bangor-Brewer. I talked with Mr. Dunn last night and again this morning, and he speaks very favorably of the efforts that the Governor has put forth. He tells me that definitely the January campaign that they had in New York with the big buyers for supermarkets went over very well. He also tells me that the campaign is going to be again in March. The buyers in the cities of New York and Philadelphia, Pennsylvania, Baltimore and Washington, D. C. is being looked forward to by buyer that will be interviewed in this campaign.

Finally, the statute that we are working under was just enacted in 1975 and it is working very well. Since the growers feel that the Governor's efforts are very worthwhile and the Governor feels that any bill which takes away or looks as if we are taking away some of our statutes that we had enacted in 1975, then I think it is wise that we stay and sustain this veto.

I have discussed this matter with most of the members of the agriculture committee and they are in agreement with me. Therefore, I urge you to sustain the Governor's veto.

The SPEAKER: The pending question is, shall this bill become law notwithstanding the objections of the Governor? According to the Constitution, the vote will be taken by the yeas and nays. This requires a two-thirds vote of all the members present and voting. All those in favor will vote yes; those opposed will vote no.

ROLL CALL

YEA — Kane

NAY — Aloupis, Ault, Austin, Bachrach, Bagley, Beaulieu, Bennett, Benoit, Berry, Berube, Biron, Birt, Blodgett, Boudreau, A.; Brenerman, Brown, K. L.; Brown, K. C.; Bunker, Burns, Bustin, Carey, Carrier, Carroll, Carter, D.; Carter, F.; Chonko, Clark, Conners, Connolly, Cox, Cunningham, Curran, Davies, Devoe, Dexter, Diamond, Dow, Drinkwater, Durgin, Dutremble, Elias, Fenlason, Flanagan, Fowlie, Garsoe, Gill, Gillis, Goodwin, H.; Goodwin, K.; Gould, Gray, Green, Greenlaw, Hall, Henderson, Hickey, Higgins, Hobbins, Howe, Huber, Hughes, Hunter, Hutchings, Immonen, Jackson, Jacques, Jensen, Joyce, Kany, Kerry, Kilcoyne, Laffin, Lewis, Littlefield, Lizotte, Locke, Lougee, Lunt, Lynch, MacEachern, Mackel, Mahany, Marshall, Martin, A.; Masterman, Masterton, McBreairty, McHenry, McMahan, McPherson, Mitchell, Morton, Nadeau, Najarian, Nelson, M.; Nelson, N.; Norris, Palmer, Paul, Peakes, Pearson, Peltier, Perkins, Peterson, Ploude, Post, Prescott, Quinn, Raymond, Rideout, Rollins, Sewall, Shute, Silsby, Smith, Spencer, Sprowl, Stover, Strout, Stubbs, Talbot, Tarbell, Tarr, Teague, Theriault, Tierney, Torrey, Tozier, Trafton, Truman, Twitchell, Valentine, Wilfong, Wood, Wyman, the Speaker

ABSENT: Boudreau, P.; Churchill, Cote, Dudley, Jalbert, Kelleher, LaPlante, Martin, J.; Maxwell, McKean, Mills, Moody, Tyndale, Violette, Whittemore.

Yea, 1; no, 136; absent, 14.

The SPEAKER: One having voted in the affirmative and one hundred thirty-six in the negative, with fourteen being absent, the Governor's veto is sustained.

The Chair laid before the House the following tabled and later today assigned matter:

Bill "An Act Concerning the Catastrophic Illness and Medically Needy Programs" (H. P. 1911) (L. D. 1972) (H. "A" 1063 to C. "A" 1046) which was tabled earlier in the day and later today assigned pending passage to be en-

grossed.

Thereupon, the Bill was passed to be engrossed as amended by Committee Amendment "A" as amended by House Amendment "A" thereto and sent up for concurrence.

The Chair laid before the House the following tabled and later today assigned matter:

"An Act to Provide for Specific Liability for Persons or Corporations Contribution to a Public Nuisance" (S. P. 658) (L. D. 2035) (S. "A" 467 to C. "A" 464) which was tabled earlier in the day and later today assigned pending passage to be enacted.

On motion of Mrs. Post of Owls Head, retabled pending passage to be enacted and tomorrow assigned.

The following paper appearing on Supplement No. 1 was taken up out of order by unanimous consent:

Bill "An Act to Insure Local Control over Education Policy" (S. P. 708) (L. D. 2155)

Came from the Senate referred to the Committee on Education and ordered printed.

The SPEAKER: The Chair recognizes the gentleman from Old Town, Mr. Pearson.

Mr. PEARSON: Mr. Speaker, Ladies and Gentlemen of the House: With 19 days remaining on the calendar for the session, the Governor has introduced this bill today that he could have introduced, if he wanted to, at the very beginning of the session. I just don't understand it. I don't think that there is anything wrong with introducing a bill late in the session of an emergency nature on circumstances that you didn't foresee, but this certainly does not fit in that category. I would just like to say that if anybody criticizes the legislature for being slow or not getting their homework done fast, they ought to take notice of the fact that the Governor is introducing this kind of legislation this late in the session.

The SPEAKER: The Chair recognizes the gentleman from Waterville, Mr. Carey.

Mr. CAREY: Mr. Speaker and Members of the House: As I look at 2155, I see purely and simply that it is a collective bargaining issue and I would move that it be sent to the committee on labor.

I would hold that in abeyance until the majority leader can tell me why it should not go to labor since it is a labor matter.

The SPEAKER: The Chair recognizes the gentleman from Lisbon Falls, Mr. Tierney.

Mr. TIERNEY: Mr. Speaker and Members of the House: I think the primary reason for this position is that one of the sections in the bill deals with the whole question of the right of hiring teachers and the tenure issue, which has traditionally been dealt with by the Joint Standing Committee on Education and not the Joint Standing Committee on Labor. I think we should go along with our previous motion, keep it in Education so we can all make the name Howard Trotzky a household word.

The SPEAKER: The Chair recognizes the gentleman from Waterville, Mr. Carey.

Mr. CAREY: The Speaker, having served on the municipal side of government and not on the school board side of government, I would then withdraw my motion.

The SPEAKER: The Chair recognizes the gentleman from Cumberland, Mr. Garsoe.

Mr. GARSOE: Mr. Speaker, I think if we are going to keep alive this fairness that we paint ourselves with, we should send it to Education. Committing this bill to the Committee on Labor, I think, would be an act of extreme cruelty.

The SPEAKER: The Chair recognizes the gentleman from Augusta, Mr. Bustin.

Mr. BUSTIN: Mr. Speaker, airing a preliminary review of the bill and seeing the amount of fertilizer that I perceive in it, I am surprised it didn't go to agriculture.

The SPEAKER: The Chair recognizes the gentlewoman from Portland, Mrs. Beaulieu.

Mrs. BEAULIEU: Mr. Speaker, as a member of both committees, Education and Labor, I don't want it at all.

Thereupon, the bill was referred to the Committee on Education in concurrence.

By unanimous consent, ordered sent forthwith to the Committee on Education.

Reference was made to (H. P. 1909) (L. D. 1970) Bill "An Act to Provide for Alternative Election Procedures for School Budgets on a Local Basis." In reference to the action of the House on February 17, whereby it Insisted and Joined in a Committee of Conference, the Chair appoints the following members on the part of the House as conferees:

Mr. WOOD of Sanford
Mrs. POST of Owls Head
Mr. MACKEL of Wells

(Off Record Remarks)

The SPEAKER: I think I would be remiss in my duties if I did not thank the members of the Education Committee for their outstanding work and perhaps for the tolerance that they showed this morning listening to all of us who didn't know as much about the issue as they did, for the time that they spent not only during legislative days but also on days when we were not in session working on the education bill. To them, I thank them on behalf of the legislature and the citizens. (Applause)

On motion of Mr. Gillis of Calais, Adjourned until twelve o'clock noon tomorrow.