

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

***One Hundred and Eighth
Legislature***

OF THE

STATE OF MAINE

Volume I

January 5, 1977 to May 25, 1977

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AUGUSTA, MAINE

SENATE

Wednesday, April 13, 1977

Senate called to order by the President.

Prayer by the Reverend Thomas W. Cahill, Church of the Nazarene in Oakland.

Rev. CAHILL: Our Father in Heaven, we thank You for this day that You have given to us. We thank You for Your grace and Your wisdom and Your guidance. We pray that You will be with us this morning hour and through this day for the business at hand, not only as representatives of the people of the State of Maine, but as we carry out the business, remembering that we are instruments in Your hands for the benefit and for the blessing of Your people and of our people.

We pray that You will give to the day, to each Senator a special grace, a special guidance, a special understanding that each of us may need to make the kind of choices, the proper choices in the midst of a complex society, a changing society and society with many, many pressures. We need You, we thank You for being here and we appreciate Your helping us through this day. In Christ, our Lord, Amen.

Reading of the Journal of yesterday.

(Off Record Remarks)

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

Bill, "An Act to Permit Snowmobiling on the Entrance Road of Baxter State Park." (S. P. 404) (L. D. 1387)

In the Senate April 5, 1977 referred to Committee on Fisheries and Wildlife.

Comes from the House, referred to Committee on Natural Resources, in non-concurrence.

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

Mr. TROTZKY: Mr. President, I move we recede and concur with the House.

The PRESIDENT: The Senator from Penobscot now moves the Senate recede and concur. Is this the pleasure of the Senate?

The Chair recognizes the Senator from Penobscot, Senator Pray.

Mr. PRAY: Mr. President, I would request a Division on that request. We debated this issue the other day in the Senate Chamber, and by a vote of 18 to 11 we sent it to the Committee on Fisheries and Wildlife. I would like to defeat this Motion so we could adhere.

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

Mr. TROTZKY: Mr. President and Members of the Senate: I feel very strongly that this Bill belongs in the Natural Resources Committee, and I did a little work on this and got some background information from the Attorney General's office.

This Bill basically deals with the rules and regulations governing Baxter State Park and the Park was created by a trust with a former Governor of this State, Governor Baxter.

The issue of snowmobiles, I believe, is very secondary, and the issue has to be decided on what those rules and regulations were. The Attorney General's opinion on this Bill refers to a letter which was written in 1975 by Governor Baxter to Helen Taylor, Supervisor of the Park. And in that letter the Governor then stated, 'In regards to the motorskis, I have thought this over and have this suggestion to make. These skis should be prohibited in the park except for one, for you as Supervisor to use in case of emergency.'

Now to me I believe that this Bill must be decided based on either a Court decision or an advisory opinion based on the trust, and I feel that it is the regulations of the park that are important here and not the snowmobile issue, so I hope the Senate would defeat the motion to adhere.

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

Mr. PRAY: Mr. President, I would like to first of all point out to the Senator from Penobscot that he made the Motion, and the Motion was not to adhere.

I did not really want to get into the merits of the Bill, because I think it should go to Committee and have its public hearing first of all. But I would just like to comment on a few of the things the good Senator from Penobscot, Senator Trotzky, stated.

A number of the rules and regulations of the Park deal with certain areas of jurisdiction under the Commissioner of Fisheries and Wildlife, fishing regulations within the Park; certain areas of the Park are open to hunting, those regulations come under the Department of Fisheries and Wildlife also.

If we are going to look at the aspects of the Bill, and deal with certain issues, perhaps it ought to go to Transportation since the Bill asks for permission to use a State-maintained road which is unpaved during the winter and, according to the snowmobile laws, we are allowed to snowmobile on those roads. Perhaps since it deals with a legal opinion written by the Attorney General, it deals with a trust, maybe it should go to Legal Affairs and Judiciary.

I think that since we are dealing with a snowmobile issue on the roads which come under snowmobile laws, that this matter should go before the appropriate Committee that dealt with these matters in the past, and that Committee has been the Committee on Fisheries and Wildlife.

The PRESIDENT: Is the Senate ready for the question? The pending question before the Senate is the Motion by the Senator from Penobscot, Senator Trotzky, that the Senate recede and concur with the House. The Chair will order a Division.

Will all those Senators in favor of the Motion to recede and concur, please rise in their places to be counted?

Will all those Senators opposed to the Motion to recede and concur, please rise in their places to be counted?

15 Senators having voted in the affirmative and 14 in the negative, the motion to recede and concur does prevail.

The Chair recognizes the Senator from Penobscot, Senator Pray.

Mr. PRAY: Mr. President, I move the Senate adhere.

The PRESIDENT: The Chair will advise the Senator your motion is out of order.

The Chair recognizes the Senator from Kennebec, Senator Speers.

Mr. SPEERS: I move the Senate reconsider its action and urge the Senate to vote against the motion.

The PRESIDENT: The Senator from Kennebec, Senator Speers, now moves the Senate reconsider its action whereby it voted to recede and concur.

A viva voce vote being had,

The Motion to Reconsider does not prevail.

Non-concurrent Matter

Bill, "An Act to Amend the Laws Relating to Payments for Care of Children." (H. P. 124) (L. D. 157)

In the Senate April 6, 1977 Passed To Be Engrossed as amended by Committee Amendment "A" (H-96), in concurrence.

Comes from the House Passed To Be Engrossed as amended by Committee Amendment "A" and House Amendment "A" (H-136), in non-concurrence.

The Senate voted to recede and concur.

Non-concurrent Matter

Bill, "An Act Pertaining to License Fees for

the Regulation of Certain Amusements." (H. P. 577) (L. D. 701)

In the House April 6, 1977 Passed To Be Engrossed.

In the Senate April 11, 1977 Passed To Be Engrossed as amended by Senate Amendment "A" (S-50), in non-concurrence.

Comes from the House, that Body Having Insisted.

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

Mr. CARPENTER: Mr. President, I move the Senate insist and ask for a Committee of conference.

The PRESIDENT: The Senator from Aroostook, Senator Carpenter, now moves the Senate insist and ask for a Committee of conference.

The Chair recognizes the Senator from Cumberland, Senator Hewes.

Mr. HEWES: Mr. President and Members of the Senate, I wish to concur with the Motion of the good gentleman. This relates to a Bill relating to license fees in municipalities, such as pool halls, things of that nature. The sponsor, Representative Joyce from Portland, wanted the limit to come off the amount of license fees. Presently it is \$10.00 in certain cases and \$5.00 in other cases. It is a relatively minor Bill, but I think a Committee of Conference in the two Branches would work out this Bill satisfactorily.

The Senate voted to Insist and ask for Committee of Conference.

(Off Record Remarks)

Joint Orders

Expressions of Legislative Sentiment recognizing that: Andrew B. Stinson of Enfield has retired as warden pilot after 21 years of dedicated service to the Department of Inland Fisheries and Wildlife, the warden service and the people of the State of Maine (H. P. 1296)

Michael William Michaud of Van Buren has contributed greatly toward the growth and development of Northern Aroostook County (H. P. 1299)

Come from the House, Read and Passed.

Which were Read and Passed in concurrence.

Joint Order

WHEREAS, there is mounting concern within the Legislature over the manner in which the Department of Inland Fisheries and Wildlife is presently operating; and

WHEREAS, it is essential that all state departments maintain a high level of efficiency in administration, operation and in the use of public funds; and

WHEREAS, it is in the best interests of the citizens of this State that the present level of functioning of that department be examined to determine if any areas of inefficiency exist; now, therefore, be it

ORDERED, the Senate concurring, that a joint select interim committee consisting of 3 members of the Senate, to be appointed by the President of the Senate, and 8 members of the House of representatives, to be appointed by the Speaker of the House of Representatives, shall study the present operation, administration and funding of the Department of Inland Fisheries and Wildlife and the level of efficiency at which that department is presently functioning; and be it further

ORDERED, that the committee shall complete this study no later than December 1, 1977, 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. (H. P. 1300)

Comes from the House, Read and Passed. Which was Read.

On Motion of Mr. Speers of Kennebec, tabled Pending passage.

Joint Resolution

In The Year of Our Lord One Thousand Nine Hundred and Seventy-Seven

Joint Resolution Memorializing The President of The United States, United States Department of Agriculture and Maine Congressional Delegation to Support Increased Allotments of Funds to The State of Maine Through The Farmers Home Administration

WE, your Memorialists, the Senate and House of Representatives of the State of Maine in the First Regular Session of the 108th Legislature now assembled, most respectfully present and petition the President of the United States, the United States Department of Agriculture and the Maine Congressional Delegation as follows:

WHEREAS, many regional and local construction projects in Maine depend for their completion upon funds made available through the Farmers Home Administration; and

WHEREAS, priority construction projects in the following regions will fail to be completed unless funds are made available through the Farmers Home Administration: Caribou Hospital District; Region II Vocational School in Houlton; Hospital Administrative District #4 in Dover; Region III Vocational School in Lincoln and Southern Aroostook Community School District in Island Falls; and

WHEREAS, the pressing need for improved educational and medical services in many areas of Maine renders these construction projects of the utmost importance to Maine; and

WHEREAS, current disputes concerning vast portions of the land in Maine have made it essential for Maine to receive increased funding from outside of the State to help ensure continued growth and development; and

WHEREAS, allotments to these priority projects through the Farmers Home Administration would assist in maintaining this growth and development while providing these needed services to Maine residents; now, therefore, be it

RESOLVED: That we, your Memorialists, respectfully request that the President of the United States, the United States Department of Agriculture and the Maine Congressional Delegation take all possible action to provide an increase of \$11,620,000 in allotment of funds to the State of Maine through the Farmers Home Administration program to assist in funding these priority construction projects within Maine; and be it further

RESOLVED: That a duly authenticated copy of this Memorial be immediately submitted by the Secretary of State to the Honorable Jimmy Carter, President of the United States, to the Secretary of the Department of Agriculture and to each Member of the Maine Congressional Delegation. (H. P. 1332)

Comes from the House, Read and Adopted.

Which was Read and Adopted, in concurrence.

House Papers

Bills and Resolves received from the House requiring reference to Committee were acted upon in concurrence.

Communications President's Office

April 12, 1977

Honorable May M. Ross
Secretary of the Senate
State House
Augusta, Maine 04333
Dear Madam Secretary:

In accordance with my authority pursuant to

HP 1105, I am hereby appointing the following to serve on the joint select committee to assist the Bureau of the Census in preparing a 1980 census program for the purposes of meeting the state's needs for legislative reapportionment and redistricting:

Senator Jackson of Cumberland
Senator Levine of Kennebec.

Sincerely,

(signed) Joseph Sewall

Which was Read and Ordered Placed on File.

Senate Papers

Mr. Pierce of Kennebec (Cosponsors: Mr. Collins of Knox, Mr. Collins of Aroostook, Mr. Pray of Penobscot) present, Bill, "An Act Establishing the Division of Special Investigations within the Department of the Attorney General." (S. P. 439)

Which was referred to the Committee on Appropriations and Financial Affairs and Ordered Printed.

Sent down for concurrence.

Mr. Merrill of Cumberland presented, Bill, "An Act Creating an Educational Choice Act." (S. P. 448)

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

Sent down for concurrence.

Mr. Merrill of Cumberland presented, Bill, "An Act to Require Adequate Polling Facilities in Municipalities." (S. P. 445)

Which was referred to the Committee on Election Laws and Ordered Printed.

Sent down for concurrence.

Mr. Merrill of Cumberland presented, Bill, "An Act Authorizing Emergency Services to Children and Youth." (S. P. 447)

Mrs. Snowe of Androscoggin presented, Bill, "An Act to Authorize Services to Children and Youth." (S. P. 450)

Mr. Greeley of Waldo presented, Bill, "An Act Authorizing an Increase in Payments to Foster Homes and Boarding Homes." (S. P. 444)

Which were referred to the Committee on Health and Institutional Services and Ordered Printed.

Sent down for concurrence.

Mrs. Snowe of Androscoggin presented, Bill, "An Act Relating to Hearings on Juvenile Offenders in Juvenile Court and on Appeal in Superior Court." (S. P. 451)

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

Sent down for concurrence.

Mrs. Snowe of Androscoggin presented, Bill, "An Act to Amend the Conditions for Holding Executive Sessions under the Right to Know Law." (H. P. 452)

Mr. Danton of York presented, Bill, "An Act to Amend the Charter of the Ocean Park Association." (S. P. 443)

Which were referred to the Committee on Legal Affairs and Ordered Printed.

Sent down for concurrence.

Mr. Chapman of Sagadahoc (Cosponsor: Mr. Curtis of Penobscot) present, Bill, "An Act to Provide for Marine Resources Education by the Department of Marine Resources and to Establish a Marine Communication Center." (S. P. 441)

Which was referred to the Committee on Marine Resources and Ordered Printed.

Sent down for concurrence.

Mr. Merrill of Cumberland presented, Bill, "An Act to Implement a "Product of Maine" Designation." (S. P. 446)

Mr. Speers of Kennebec presented, Bill, "An Act to Provide for Legislative Oversight of Executive Programs and to Provide for Legislative Review of Administrative Rules." (S. P. 453)

Which were referred to the Committee on State Government and Ordered Printed.

Sent down for concurrence.

Mr. Conley of Cumberland presented, Bill, "An Act to Relieve the Income Tax Burden of the Elderly Retired." (S. P. 442)

Mr. O'Leary of Oxford presented, Bill, "An Act to Lighten the Burden of Property Taxes on the Elderly Widowed or Disabled." (S. P. 440)

Which were referred to the Committee on Taxation and Ordered Printed.

Sent down for concurrence.

Mr. Merrill of Cumberland presented, Bill, "An Act to Repeal Certain Laws Relating to Highway Taxes Assessed by Towns." (S. P. 449)

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

Sent down for concurrence.

Committee Reports

House

The following Ought Not to Pass report shall be placed in the Legislative files without further action pursuant to Rule 20 of the Joint Rules: Bill, "An Act to Define Ownership of Canines." (H. P. 560) (L. D. 677)

Leave to Withdraw

The Committee on Education on, Bill, "An Act to Provide for School Administrative Unit Studies to Increase the Efficiency of the Operation of the Public Schools." (H. P. 515) (L. D. 633)

Reports that the same be granted Leave to Withdraw.

Comes from the House, the Report Read and Accepted.

The Committee on Education on, Bill, "An Act to Provide for Small Unit Subsidy Adjustments." (Emergency) (H. P. 977) (L. D. 1174)

Reports that the same be granted Leave to Withdraw.

Comes from the House, the Report Read and Accepted.

Which Reports were Read and Accepted, in concurrence.

Ought to Pass

The Committee on Agriculture on, Bill, "An Act Relating to Dogs Running at Large." (H. P. 557) (L. D. 674)

Reports that the same Ought to Pass. Comes from the House, the Bill Passed To Be Engrossed.

The Committee on Legal Affairs on, Resolve, Increasing to \$25,000 the Amount for which Romeo and Genevieve St. Amand or their Legal Representatives may bring a Civil Action against the State of Maine. (H. P. 827) (L. D. 1000)

Reports that the same Ought to Pass.

Comes from the House, the Bill Passed To Be Engrossed.

Which Reports were Read and Accepted in concurrence, and the Bill and Resolve Read Once and Tomorrow Assigned for Second Reading.

Ought to Pass — As Amended

The Committee on Education on, Bill, "An Act Appropriating Funds to Maine Vocational Development Commission." (H. P. 516) (L. D. 634)

Reports that the same Ought to Pass as amended by Committee Amendment "A" (H-119).

Comes from the House, the Bill Passed To Be Engrossed as amended by Committee Amendment "A".

The Committee on Education on, Bill, "An Act to Provide Minimum Subsidy Payments for Small Administrative Units." (Emergency) (H. P. 185) (L. D. 247)

Reports that the same Ought to Pass as amended by Committee Amendment "A" (H-120).

Come from the House, the Bill Passed To Be Engrossed as amended by Committee Amendment "A".

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

Ought to Pass in New Draft

The Committee on Local and County Government on, Bill, "An Act to Provide County Commissioner Districts in Washington County." (H. P. 523) (L. D. 641)

Reports that the same Ought to Pass in New Draft under same title. (H. P. 1225) (L. D. 1359) Comes from the House, the Bill in New Draft, Passed to be Engrossed.

Which Report was Read.

On Motion of Mr. Speers of Kennebec, tabled for one legislative day, Pending acceptance of Committee Report.

Divided Report

The Majority of the Committee on Education on, Bill, "An Act Relating to Corporal Punishment." (H. P. 517) (L. D. 635)

Reports that the same Ought Not to Pass.

Signed:

Senators:

KATZ of Kennebec
USHER of Cumberland

Representatives:

WYMAN of Pittsfield
CONNOLLY of Portland
LEWIS of Auburn
BEAULIEU of Portland
MITCHELL of Vassalboro

The Minority of the same Committee on the same subject matter Reports that the same Ought to Pass as amended by Committee Amendment "A" (H-121).

Signed:

Senator:

PIERCE of Kennebec

Representatives:

BAGLEY of Winthrop
BIRT of East Millinocket
FENLASON of Danforth
LYNCH of Livermore Falls

Comes from the House, the Minority Report Read and Accepted, and the Bill Passed to be Engrossed as amended by Committee Amendment "A" (H-121).

Which Reports were Read.

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

Mr. PIERCE: Mr. President, I move we accept the Minority Ought to Pass Report in concurrence.

The PRESIDENT: The Senator from Kennebec, Senator Pierce, now moves the Senate accept the Minority Ought to Pass, as amended, Report of the Committee.

The Chair recognizes the Senator from Kennebec, Senator Katz.

Mr. KATZ: I request a Division.

The PRESIDENT: A Division has been requested on the Motion of the Senator from Kennebec, Senator Pierce.

Will all those Senators in favor of accepting the Minority Ought to Pass as Amended Report, please rise in their places to be counted.

Will all those Senators opposed to accepting the Minority Ought to Pass as amended Report, please rise in their places to be counted.

The Chair recognizes the Senator from Kennebec, Senator Pierce.

Mr. PIERCE: Mr. President, I would ask for the yeas and nays.

The PRESIDENT: A roll call has been requested. In order for the Chair to order a roll call, it must be the expressed desire of one-fifth of those Senators present and voting. Will all

those Senators in favor of a roll call, please rise in their places to be counted.

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

The Chair recognizes the Senator from Kennebec, Senator Pierce.

Mr. PIERCE: Mr. President and Members of the Senate: I have the real opportunity day-by-day to sit on the Education Committee at the knee of the good Senator from Kennebec, Senator Katz. In that position I can gather endless pearls of wisdom, and I do try to do that and I am very grateful for his guidance.

I think our philosophies in education are much the same, although on this issue we have at last, I guess by the law of averages, parted company. The issue which divides us today is corporal punishment. Now these, I think, are two God-awful words, there is no doubt about it. The subject at hand promotes a great deal of emotion. I would like to try to approach the subject somewhat dispassionately, and not throw a lot of red herrings out to you, not to yell 'spare the rod and spoil the child'. At the same time I would hope that those in opposition are not going to tell me how the passage of this law is going to bring about the beating, the whipping, the flogging and the assaulting of small children.

I am of the firm belief, as a former educator, that you certainly cannot beat knowledge into the heads of children and it certainly is not my intention, nor do I think it is the intention of the people who signed this report to do so. Probably if you are in the same position I am, many and perhaps even most of the Bills, although we hate to admit it, that come through here do so without a real thorough scrutiny by any of us because of the time demands on us.

However, I do feel that this one is of such importance that I did take the time to do a little bit of extra work on it and contact an awful lot of people. And I have talked at length with parents, teachers and students regarding this issue. And I wish that instead of an act relating to corporal punishment it was more aptly entitled, "An Act to Strengthen School Discipline, because, I think, in fact that is really what it is.

We have given to teachers the task to ready our children to live in our society and abide by our social norms, yet we seem ever ready to undermine this authority. I think we have come to a time when the pendulum is perhaps swung too far, when you have many five and six-year-olds telling teachers they had better not touch them or they will sue them for sure. I think that is a bad attitude for both the child and the teacher.

I think we are at a point now where the abuses by the children and parents by not having corporal punishment in the Statutes is worse than any abuses certainly that were ever inflicted by any teacher when we did have it.

I would remind you that we have always had corporal punishment in the Statutes. It is nothing new, it is not a new idea and the votes in the last Session to keep it on were rather overwhelming lonely. Then quite inadvertently, through the passage of the Criminal Code, we repealed it. And this is merely an attempt to put us back to where we were before.

This is 1977, not 1877. Certainly we are all aware of how law suit conscious and liability conscious most people are in every field. I am sure teachers are, perhaps as much as anybody else. I do not look at teachers as mean and vicious and unreasonable people. In fact, quite the contrary, I think teachers are very reasonable people. I would just like to read you the Statement of Fact of what this Bill does:

"The purpose of this Bill is to provide that a person entrusted with the care and supervision of a person for special and limited purposes, such as a teacher, is justified in using a reasonable degree of force when he reasonably believes it necessary to prevent or punish that person's misconduct."

I think teaching is a tough job and it is es-

pecially tough now-a-days. I am sure since I have been in it, it has grown even tougher. I think perhaps by putting this law back in the Statutes, we can take a little bit of the strain off teachers that now many, in fact I find an overwhelming number of them do have without this provision in the law. And ultimately the benefit will not only be to the teachers, but to the parents and I would think to the children, and they are the bottom line and they are the ones we are all concerned about on either side of this issue. So I would ask that you do go along with the other Body and accept the report, to return this law to the Statutes.

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

Mr. KATZ: Mr. President, it is not easy for a proponent to deliver such a visceral and well-reasoned approach on the subject as you just heard. The issue is very simple. We are having problems of discipline with our children, not only in school but throughout every segment of our society. Most of the problem has to be assigned to the home. And if the family structure were more successful in our society, this would be a moot question here today.

The basic question I will throw at you here is whether or not in the disciplining of our children in the public schools of this State, whether or not you want to include the tool, and it is a tool, of the threat for the actual accomplishment of corporal punishment. It really has nothing to do with the solving the problems of our civilization. You have heard me say so frequently that we have a very limited ability here in the Senate by passing Bills or tuing Bills to affect family structure in the nature of our society. So, depending upon your attitude as to whether or not this should be a tool in the school system, you vote yes or no.

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

Mr. LEVINE: I heartily concur with the Senator from Kennebec, Senator Katz, on this issue. I am very much afraid that if we pass this piece of legislation, we are giving to those parents who do not teach their children to respect themselves and respect others another vehicle by which they can further shirk their responsibilities. I feel it is the parents' responsibility.

I will make one statement here. God help my child if my child should do anything in the school to disrupt the classroom and interfere with the education of others. But God help any teacher, any principal, any administrative official that lays a hand on my child.

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

Mr. MANGHAN: Mr. President, I have had the wonderful opportunity of teaching school for about five years. In that space of time there have been many times that I have been very tempted to attempt to straighten out a situation with a very quick blow. There have been times when I have had students who have used foul, vulgar language in a classroom, not as a result of their being in my classroom, but coming in from a fight in the hallway or having had several problems outside of the classroom.

I have had my share of the 40-45 student classrooms, and also my share of the 60-65 and 70 student study halls. It becomes very difficult in some situations to try and keep the study hall or the classroom in order, especially prior to a holiday, prior to a vacation period. Prior to a school rally, prior to almost any vacation period, prior to a school rally, prior to almost any number of things — the slightest thing will set some students up.

There are times when I have asked a student to go to the office and he or she did not want to go very willingly, and as a kind of gesture toward them, the first thing said is, 'I am going to sue.'

Now all well and good, — there are many who say it is the parents' responsibility to take care

of their kids at home. If the kid acts up in school, let me know and I will take care of him at home. For those parents who do take care of their children at home, there are no problems in school. These are the kids who are the A students, these are the kids who are the quiet students, these are the respectful kids. If it is those who are not well taken care of at home, it is those whose parents work two, three or four jobs, it is those whose parents are either in jail or in bars day in and day out, it is those parents who have provided a broken home for their children, who are basically the children, the products of the problems in school. And there are more and more discipline problems developing every single day and you can see this as a result of your divorce courts, you can see this as a result of guardianship proceedings and what not.

It is just a very, very tough thing to have to assign, say for example, a woman teacher into a study hall of 60 or 65 students and say maintain decorum as best you can. If you cannot, just sit there and start saying some prayers, because you cannot touch the kids, you cannot look at them, you cannot gesture toward the kid because he is going to turn around and sue you.

It is my impression that what you are basically going to do here, — you are not going to start any great wars as far as the teachers versus the students; you are not going to start any massacres. This is not going to be the 108th rebellion, this is not going to provide a whole bunch of kids who are going to be the battered children going to the hospitals next year. You are just providing the teachers in the State of Maine with at least a tool, at least some degree of discipline that they can enforce upon their students and at least try and maintain some decorum, because in too many instances the parents do not do it at home. Thank you.

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

Mr. MERRILL: Mr. President and Members of the Senate, I rise not to address the center of this issue, but merely to give some background on exactly what the specific issue is before us because I do not believe this is a simple issue, as the Senator from Kennebec, Senator Katz, said. Let me say first of all exactly what this Bill does.

What this Bill does, it amends the Maine Criminal Code. In the Maine Criminal Code we lay out those laws which result in criminal sanctions, sanctions brought by the State against its people for violations of the law, and the part of the Code that this amends is the part of the Criminal Code entitled, Justification. And what this part of the Code does, it lays out justifications that can free you from criminal responsibility for committing acts that are otherwise described in the Code.

Now in this case probably the act we are most concerned with is the act of assault, and a person is guilty of assault if he intentionally — and I leave out a few words now that do not apply to this situation — causes bodily injury or offensive physical contact to another, that is a Class D crime. So we turn to Section 106 and we see when a person is justified in doing that, and the first one applies to the privileges of a parent or a guardian to use corporal punishment, reasonable degree of force. And if this person, this parent or guardian uses this reasonable degree of force to punish his child, he is not guilty of assault.

The purpose of the Bill that we have before us is to give the same justification, the same exemption from the criminal assault Statute to "a person entrusted with the care or supervision of a person for special and limited purposes."

Now first let me say this about the law as it was written by the Judiciary Committee in the last Session. Within the Justification Section, there is this language at the end and it is printed here, not in bold type, but it is printed in 635, the

Legislative Document before us, which is merely a print of the present law as it is in the Code. It reads: "A person to whom such parent, foster parent, guardian or other responsible person has expressly delegated permission to so prevent or punish misconduct, is similarly justified in using a reasonable degree of force. In other words, the justification provisions that were written by Senator Collins and the other members of the Judiciary Committee include within them the prospect of the parent or guardian giving written permission to the person who he is entrusting his children to, to use so-called corporal punishment. That is presently within the Justification Section of the Code. So I would like to make that point, so that everybody understands that within the present law there is that possibility.

And I would like to make another point. What we are talking about here in this whole conversation today is the criminal law. As I said at the beginning, the law that applies, the State says thou shalt not and provides sanctions, sanctions which can include incarceration and fines. What we are doing here today, I think it is safe to say, and I stand ready to be corrected by any other attorneys or students of the law among us, has no direct effect on the civil laws. The definition of responsibility in the civil law is not directly tied to the definition of responsibility in the criminal law. There are many acts for which civil remedies can be attained, which are not criminal. The two branches of the law have grown separately and civil law is still pretty much a matter of court definition based on previous cases.

I do not think it is safe to say, and I do not think any attorney would think it is safe to say, that if we pass this today, this Amendment, and if it passes the Legislature and is signed into law by the Governor, that it would be then safe to assume that that would change the civil law, vis-a-vis the right of student or parent to sue a teacher who struck a child. We have heard, interestingly enough, the mention of the threat, I will sue, several times in this debate. I think it is important for the Senate to understand that if it is the prospect of suit that is a concern here, that the passage of this Bill before us will do nothing, I think, to remedy that situation.

It changes a very specific section of the criminal Statute which provides for justification, which frees you from criminal responsibilities, specifically assault, and to conclude from that that we have done anything about the civil law, I think would be a mistake. And I think also we ought to understand that what we are doing here is go much further than where we wanted to go in relation to these special schools, christian schools or whatever, because in those situations we were talking about the parental permission, and the parental permission is still provided for here.

There is one other thing that troubles me slightly and that may be able to be answered by the Senator of Kennebec, Senator Pierce, or other proponents of this legislation. I wonder when I read "a person entrusted with the care and supervision of a person for special and limited purposes," how broad that description is. As we sit here and we think about this Bill, I am sure we all have in mind the teacher, who is, of course, trained, certified by the State, a professional person. But I wonder, does this include a Scout Master, or does it include other people who may not be so well trained and so well screened, and who may not be in the situation from a professional point of view and could that cause more problems, if we think about it in that context than when we think about the professional teacher in whom we have some faith in terms of professional competence.

I am a little bit worried about that definition there. It might be a little broad or we might be getting ourselves into more than we are bargaining for. So I think that this is not a sim-

ple question as to just whether or not we are in favor of corporal punishment, but really I think that this is not, in my opinion, a very well designed tool to change the law both civil and criminal vis-a-vis corporal punishment, and, therefore, I think would add more confusion than anything else to the laws that presently exist.

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

Mr. CARPENTER: Mr. President, Ladies and Gentlemen of the Senate: I would like to mention this Bill and its Amendment just briefly. I think if you look at the Amendment, Committee Amendment "A" under filing of H-121, you will see this is further defined as teacher, so we take care of the potential Scout Master, and I had that problem also until I looked a little more closely at the Amendment.

I would like to speak to you just briefly as a very proud product of a corporal punishment system. I am the very proud product of the one-room schoolhouse where I never saw a teacher other than my aunt until I was a freshman in high school. I was, as I mentioned, a product of the corporal punishment system — some people call it a tool of fear. That may be so to some degree.

I would like to point out to you, as the good Senator from Cumberland, Senator Merrill, just did a very eloquent job of pointing out to you, if we are talking about school teachers, we seem to have a great fear of school teachers. We seem to have a great fear that they are going to beat and batter and whip and flog our children. I do not think this is the case at all. I think there are very competent and very fair-minded school teachers in this State, and I would point out to you that the law as presently worded does allow corporal punishment with justification by parents. I would also point out to you that under our present school system, I believe teachers have control over children for as many hours a day as do parents, yet we are taking this tool away from them. I do not think this tool will be misused or abused. I think when we sit here in the Senate every day and we see bus loads of students from Aroostook County, from Kennebec County and Cumberland County all over the State, we entrust these teachers to shepherd or chaperone our children, take them into their trust 300 miles and two days, two nights, provide for them their food, their lodging, their well being and yet, when it comes to this issue, we seem to have some great fear that these teachers are going to somehow batter and abuse our children. I think it is an unjustified fear.

Now I went to college a few years ago and I majored in psychology, and I have a Bachelor's degree in psychology and there is a school of psychology that says that you must raise children based on a feeling of love and respect and I agree with that. But this school goes further in saying that you must never ever, ever touch a child. I do not subscribe to that. I think there is a time and there is a place for corporal punishment in the home. I also think there is a time and a place for corporal punishment in the school, and I would hope this morning when we are voting to accept whichever Committee Report it is the pleasure of the Senate to accept, I hope we stop and think about the professionalism of the teachers, and the number of hours a day a teacher has a student. I am not particularly concerned about the law suit portion and I am not a student of the law, but I do have a gut feeling, and I was a teacher and I do know the problems.

Somebody jokingly said yesterday — and I do not mean to steal anyone's quote — but for years we have given the children the right to hit the teacher, now we are giving the teacher the right to hit back. I think that is exaggerating to a degree, because I do not think it will be used. I do not think it will be used. I think that when I

go out here and get my car tonight to drive home, I am going to stop at the red light. I think I am going to obey the speed law. I think I am not going to turn right on red, unless we say that we can here in the Maine Legislature. Why? Because of a fear, because of a fear it is going to cost me money, it is going to cost me my license. So to say that we are not to use fear, I think, negates any action that we do here in the Maine Legislature. Thank you.

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

Mr. MANGAN: Mr. President, just a couple of interesting asides as we clean this up here a little bit. I have been in situations in a couple of schools where I did not really have the time to go to the State penitentiary to get the parents' written permission to strike the kid. I have been in school situations where I really did not have the time to search 15 or 20 bars to find a parent, to be able to get written permission to hit the kid.

Secondly, is it not interesting that what we are looking for here is an exception to the criminal law, if you are charged with assault. Just picture a teacher who — and we are all human — made a mistake and actually was charged with an assault. Chances are the career is all over. And finally, somebody made note, I believe it was the good Senator from Cumberland, Senator Merrill, about the Boy Scouts. God bless the Boy Scouts. The Boy Scouts are great people. I only wish that every boy in the State of Maine, every boy in the United States of America had the opportunity or the desire to be a member of the Boy Scouts, but even the Scouts themselves as part of their oath swear to obey. And you really do not get that in the schools in the State of Maine.

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

Mr. MERRILL: Mr. President and Members of the Senate: I thank the Senator from Aroostook, Senator Carpenter, for helping me to find the Amendment, it was misnumbered, and I would point out just in passing that it does specifically limit this to teachers, as was said. It would also give teachers the permission as well as the parents and guardians to extend permission to use corporal punishment to someone else. It gives the teacher the ability to delegate the responsibility to somebody else, other than the teacher, to use corporal punishment.

I might also say just one more thing to put this into focus, so that we can understand exactly what the present law is now, because the Judiciary Committee and Senator Collins and the other members on it worked on this last year and tried to come up with what we thought was a good compromise in this area.

Part II in terms of justification presently in the law does apply to teachers. It lays out those circumstances in which teachers will be justified, and it says "a teacher or person entrusted with the care and supervision of a person for special and limited purposes is justified in using a reasonable degree of force against any such person who creates a disturbance when and to the extent that he reasonably believes it necessary to control the disturbing factor or to remove a person from the scene of such disturbance." So there is presently within the law an exemption for teachers that applies to the sort of crisis situation that I think is implied in the debate presented by the Senator from Androscoggin, Senator Mangan.

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

Mr. CARPENTER: Mr. President, just briefly in answer to the good Senator from Cumberland, Senator Merrill, I apologize that I do not have it, I recently had a copy of a ruling

of the Attorney General that this particular section of the Statute was not narrowly defined enough to be interpreted as a permission to use corporal punishment.

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

Mr. HICHENS: Mr. President and Members of the Senate, I could not help but think when the good Senator from Kennebec, Senator Levine, expressed that he would take care of his child but he did not want any teacher laying a hand on him; that back in 1970 it was my privilege to visit Israel. As we traveled around on the bus on the sightseeing bus, someone asked them how it was that the streets of Israel, Jerusalem especially, were so safe where they were not safe back here in America. And our guide, who was a Jew brought up in Israel, said that the reason is that these youngsters learned to respect their parents by discipline in the homes. They learned to respect their teachers by discipline in the school; learned to respect the Rabbi by discipline in the Synagogue; and learned to respect the police by discipline by the police.

I think that if we brought some of those precepts back into our own United States and the State of Maine, that we would be much farther ahead than we are today in our schools and on the streets of our State.

Referring to the inference about Boy Scouts, leaders and like that having control, these youngsters have a different privilege joining the Boy Scouts or going to Sunday School. I have been a Sunday School teacher for many years, and if a youngster did not behave, all I had to do as a Sunday School teacher was to tell him he could not come back again. The school teacher does not have that right to put a boy out. The Boy Scout leader has the same right, if someone misbehaves just to tell them to get out of the troop and when he learns to behave to come back again. We do not have those same privileges in our schools.

I was a school bus driver for 22 years, having driven a secondary school bus for about six years, but a subprimary bus with little youngsters five and six years old and their first year of school. I took them home every day after class, and I do not think there was a time when I began taking those youngsters home at the beginning of the school year that someone did not remind me that I can do anything I want, Mr. Hichens, because you cannot touch me. Well, I did not have to touch them, because with a small school bus I could just drive into the yard of their home if they misbehaved and blow the horn until the parent came out, or whoever was taking care of them came out, and tell them what had happened on the school bus that day.

I thank God that every parent that I have ever brought a youngster into the house yard respected my position, reminded me I did not have to use any discipline, all I had to do was let them know and they would put the paddle where it belonged.

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

Mr. CURTIS: Mr. President, I would like to very briefly add a note to what the previous speaker said. My note has to do with an experience that happened early this year: I am speaking of the smallest school in my district in the smallest town, in Bradley, in which the principal said that initially when the Legislature withdrew the power for corporal punishment from teachers and principals, that he thought we were very wrong. But that now, having experienced the change, he had changed his position 180, and he now felt that the worst thing we could possibly do was to sign this power for corporal punishment back to the teachers and the principals.

I asked him why, and he responded that what has happened is that they have had to develop

other alternatives. He found that the other alternatives, such as the example that Senator Hichens just mentioned, are better than the mere use of force.

The PRESIDENT: Is the Senate ready for the question? The pending question before the Senate is the Motion by the Senator from Kennebec, Senator Pierce that the Senate accept the Minority Ought to Pass as Amended Report of the Committee.

A roll call has been ordered. A vote of yes will be in favor of accepting the Minority Ought to Pass Amended Report of the Committee. A vote of nay will be opposed.

The Secretary will call the roll.

YEA — Carpenter, Collins, D.; Danton, Greeley, Hewes, Hichens, Jackson, Mangan, Martin, Pierce, Speers, Trotzky, Wyman.

NAY — Chapman, Conley, Cummings, Curtis, Farley, Huber, Katz, Levine, McNally, Merrill, Minkowsky, Morrell, O'Leary, Pray, Redmond, Snowe, Usher.

ABSENT — Collins, S.; Lovell.

13 Senators having voted in the affirmative and 17 in the negative, with 2 Senators being absent, the Motion to accept the Minority Ought to Pass Report does not prevail.

Majority Ought Not to Pass Report Accepted in non-concurrence.

The Chair recognizes the Senator from Cumberland, Senator Merrill.

Mr. MERRILL: Mr. President, having voted on the prevailing side, I move reconsideration whereby we accepted the Ought Not to Pass report of the Committee.

The PRESIDENT: Senator from Cumberland, Senator Merrill, now moves the Senate reconsider its action whereby it accepted the Majority Ought Not to Pass Report of the Committee.

A viva voce vote being had,

The Motion to reconsider does not prevail.
Sent down for concurrence.

Divided Report

The Majority of the Committee on Education on, Bill, "An Act Increasing the Pay for Substitute Teachers." (H. P. 186) (L. D. 248)

Reports that the same Ought to Pass as amended by Committee Amendment "A" (H-104).

Signed:

Senator:

USHER of Cumberland

Representatives:

MITCHELL of Vassalboro

FENLASON of Danforth

CONNOLLY of Portland

LEWIS of Auburn

WYMAN of Pittsfield

BAGLEY of Winthrop

The Minority of the same Committee on the same subject matter Reports that the same Ought to Pass as amended by Committee Amendment "B" (H-105).

Signed:

Senators:

KATZ of Kennebec

PIERCE of Kennebec

Representatives:

BIRT of East Millinocket

BEAULIEU of Portland

LYNCH of Livermore Falls

Comes from the House, Bill and accompanying papers, Indefinitely Postponed.

Which reports were read.

On Motion of Mr. Katz of Kennebec, the Bill and all accompanying papers indefinitely postponed in concurrence.

Divided Report

The Majority of the Committee on Election Laws on, Bill, "An Act to Establish a Presidential Primary in the State of Maine." (H. P. 187) (L. D. 249)

Reports that the same Ought to Pass.

Signed:

Senators:

KATZ of Kennebec
DANTON of York
TROTZKY of Penobscot

Representatives:

BUSTIN of Augusta
TRUMAN of Biddeford
MITCHELL of Vassalboro
BOUDREAU of Waterville
BOUDREAU of Portland
TALBOT of Portland

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

Signed:

Representatives:

McMAHON of Kennebunk
BIRT of East Millinocket
DURGIN of Kittery
RAYMOND of Lewiston

Comes from the House, the Majority Report Read and Accepted and the Bill Passed to be Engrossed.

Which reports were read.

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

Mr. KATZ: Mr. President, I move acceptance of the Majority Ought to Pass Report of the Committee and I would like to speak briefly.

The PRESIDENT: The Senator from Kennebec, Senator Katz, now moves the Senate accept the Majority Ought to Pass Report of the Committee. The Senator has the floor.

Mr. KATZ: This Bill, were it to be enacted, would give us a Presidential primary on the very same day as New Hampshire.

The Majority Ought to Pass Report Accepted in concurrence.

The Bill read Once and Tomorrow Assigned for Second Reading.

Senate

The following Ought Not to Pass report shall be placed in the Legislative files without further action pursuant to Rule 20 of the Joint Rules: Bill, "An Act to Increase the Permissible State Discount for the Sale of Liquor to Special Agency Stores to 15%." (S. P. 239) (L. D. 732)

Ought to Pass

Mrs. Cummings for the Committee on Public Utilities on, Bill, "An Act to Clarify the Regulation of Public Utilities Owning Interests in Electric Generating Plants and Related Facilities." (S. P. 242) (L. D. 776)

Reports that the same Ought to Pass.

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

Ought to Pass - As Amended

Mr. Hichens for the Committee on Local and County Government on, Bill, "An Act to Clarify the Town Line Between the Towns of Waterford and Stoneham." (S. P. 297) (L. D. 923)

Reports that the same Ought to Pass As Amended by Committee Amendment "A" (S-60).

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

Divided Report

The Majority of the Committee on Labor on, Bill, "An Act Relating to Representation of State Employees under the State Employees Labor Relations Act." (S. P. 149) (L. D. 391)

Reported that the same Ought to Pass As Amended by Committee Amendment "A" (S-70).

Signed:

Senator:

PRAY of Penobscot

Representatives:

BUSTIN of Augusta
LAFFIN of Westbrook
McHENRY of Madawaska
ELIAS of Madison
DUTREMBLE of Biddeford
FLANAGAN of Portland
BEAULIEU of Portland

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

Signed:

Senators:

McNALLY of Hancock
REDMOND of Somerset

Representatives:

TARR of Bridgton
PELTIER of Houlton
LEWIS of Auburn

Which reports were read.

The PRESIDENT: The Chair recognizes the Senator from Hancock, Senator McNally.

Mr. McNALLY: Mr. President, I move that we accept the Minority Ought Not to Pass Report, and I would like to speak to my motion.

The PRESIDENT: The Senator from Hancock, Senator McNally, now moves the Senate accept the Minority Ought Not to Pass Report of the Committee. The Senator has the floor.

Mr. McNALLY: Mr. President and Members of the Senate, I do not know as you know as long as I have been here that I am one of the ones that does not think it is right to take away everybody's right to do anything. I do not think it should be legislated away from them unless there are very good reasons for it.

Now this Bill says that if you have a bargaining agent, so designated that in order for you to work, even though it is possible for you to work, that the contract is not set up that it is a closed shop, that you must pay dues in order to work. I do not know who the dues are paid to, it does not say, but I assume to this bargaining agent.

Now I said at the work session we had that to me this Bill meant just one thing, this was a little crack in the door, maybe not the foot in it, but a little crack in the door, to eventually make it so that you would have to hire everybody that you have working for you from a Union Hall. That is what it would seem. Maybe I will not live long enough to see it, but that is what it is headed for.

Now to often it up a little, they had a Committee Amendment put on it which says negotiation, under 4, and Union security, down two more lines, it says negotiation of Union security, nothing in this Chapter shall be interpreted to prohibit the negotiation of Union security. What is it saying? It is saying that employees would have to pay dues, even if they did not join, if they negotiate, because when they negotiate they are subject to binding arbitration.

I hope that the Ought Not to Pass Report is accepted. I believe the time has not come yet when that somebody in order to earn food to put in their mouth has got to pay dues to some Union.

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

Mr. PRAY: Mr. President and Members of the Senate, the intent and the purpose of the Bill as amended allows for the negotiation of such, or a requirement that Union dues be paid, or a service fee be paid on collective bargaining for benefits which are received.

Basically under the State employment at present, whatever agreement is reached by the Bargaining Unit, all employees benefit, even if they do not belong to the Agent or the group which is doing the bargaining for them.

What this Legislation will permit is for the Bargaining Unit, through the negotiations, to

request that they be allowed to charge a service fee for those negotiations to those members which do not belong to the Union or to that Agent for the benefits which they will receive.

I think it is a very simple Bill. It is not asking too much, and I would request a Division.

The PRESIDENT: A Division has been requested.

The Chair recognizes the Senator from Somerset, Senator Redmond.

Mr. REDMOND: Mr. President, being a member of the Labor Committee, I was there during the work session, and as I understand it, whether a State employee wants to or not, this Bill would compel him to pay his dues to a Union, and I do not even think it is clear to what Union he would have to pay his dues, because I understand there is more than one Union involved, and I do not believe that this Bill is fair to the State employees.

I support the Motion of Ought Not to Pass.

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

Mr. MERRILL: Mr. President and Members of the Senate, I would just like to speak briefly to this issue. This is not a partisan issue. I do not think it is an issue that divides Democrats and Republicans. I have heard Republicans who sit in this Body indicate that they are going to vote for this, so I do not think that this is a party issue.

I think it is a very simple issue. I think it is an issue of whether or not, if the majority of workers in a bargaining unit decided that they wanted to be represented by a Bargaining Agent, whether it is AFSME or MSEA, or the State Troopers Association or whatever, this simply says that those members who do not want to join will not be forced to join the Union, but they will have to pay an amount equal to their dues to support the cost of the bargaining that goes on in their behalf.

You know, I heard this issue put very eloquently by the Senator from Penobscot, Senator Trotzky, just a little while ago, and he said it was really just an issue to make sure that there were not any free riders, and I agree with him in those remarks, and I think this is one of the few items that comes before us, something that we can do to improve the position of the State employees, and it will not cost us any money and I think it is a good idea.

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

Mr. PRAY: Mr. President, just a couple of points I would like to make - presently under the Maine Statutes this is included under the collective bargaining for University employees. I consider them State employees. And also one of the requirements for employment by the State of Maine is that you contribute to the State Retirement Fund. It seems that we mandate certain things for them to pay into anyway.

The PRESIDENT: Is the Senate ready for the question? The pending question before the Senate is the Motion by the Senator from Hancock, Senator McNally, that the Senate accept the Minority Ought Not to Pass Report of the Committee. A Division has been requested.

Will all those Senators in favor of the Motion to Accept the Ought Not to Pass Report please rise in their places to be counted.

12 Senators having voted in the affirmative, and 14 Senators in the negative, the Motion to Accept the Minority Ought Not to Pass Report does not prevail.

Majority Ought to Pass as amended Report accepted.

Bill Read once. Committee Amendment "A" read and adopted, and the Bill, as amended, Tomorrow Assigned for second Reading.

Second Readers

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

House

Bill, "An Act Relating to the Plans and Specifications Governing School Construction." (H. P. 143) (L. D. 173).

Bill, "An Act Concerning Territories Included in Baxter State Park." (H. P. 203) (L. D. 263)

Bill, "An Act Making Additional Appropriations from the General Fund for the Current Fiscal Year Ending June 30, 1977, and Changing Certain Provisions of the Law Necessary to the Proper Operations of State Government." (Emergency) (H. P. 1255) (L. D. 1413)

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

Bill, "An Act to Establish Maine Writers Week." (H. P. 826) (L. D. 999)

Which was Read a Second Time.

The PRESIDENT: The Chair recognizes the Senator from Kennebec, Senator Katz, in reference to L. D. 999.

Mr. KATZ: Mr. President, L. D. 999, "An Act to Establish Maine Writers Week", amends Title I of our Statutes under the heading of Commemorative Days. Since 1820, when we first became a State, we have established a National Arbor Day, and several years ago a Poetry Day. In recent years we have added Martin Luther King Day, and Statehood Day.

Now you may have noticed the proliferation of Orders that have come across your desk from the other Body this Session. We are honoring in the Legislative process, not only teams that have won first place, but also teams which, although they finished in fourth position, showed good sportsmanship.

I have a concern about this Bill, because Maine Writers Week makes an awful lot of sense to me. We are rich in the heritage of literature in the State. But I predict that this little single assault on Title I to establish a specific day — a week, this is a week, for Maine Writers will be followed in subsequent Sessions by every possible special interest group you can possibly enumerate.

I move Indefinite Postponement.

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

Mr. HEWES: Mr. President and Members of the Senate: I also have the concern of the good Senator from Kennebec; however, I favor the passage of this particular Bill. We discussed in Committee whether it should be a day or a week for writing.

Actually, as you will note, it is to be early in the school year in October, and if our students in school could learn to communicate, they would accomplish a great deal, or the teachers would have accomplished a great deal. Learning to communicate orally and in writing I think is very, very important. To be able to listen is important, too.

But I think that this might help a school program, a particular teacher in establishing a program for the year, writing, and I think the timing is good, early in the school year, the first of October or thereabouts.

We received a letter from John Gould, the author of many works, including the "Fastest Hound Dog in the State of Maine", urging the passage of this piece of legislation.

I think we do have many famous authors, and hopefully we will have more famous authors — perhaps some of the students who visit with us here in the halls of this House.

I think it is a good Bill. I hope that you will pass it, and if in the future there are worthy causes, let those causes stand or fall on their own merit. I respectfully request a Division on the Motion to Indefinitely Postpone.

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

Mr. CURTIS: Mr. President, I would like to pose a question, if I may, to inquire whether or not one of the authors who would be honored would be the author of L. D. 1994.

The PRESIDENT: Is the Senate ready for the question? The pending question before the Senate is the Motion by the Senator from Kennebec, Senator Katz, that this Bill, L. D. 999, and all of its accompanying papers be indefinitely postponed. A Division has been requested.

Will all of those Senators in favor of the Motion to Indefinitely Postpone please rise in their places to be counted.

Will all of those Senators opposing the Motion to Indefinitely Postpone please rise in their places to be counted.

21 Senators having voted in the affirmative, and 7 Senators in the negative, the Motion to Indefinitely Postpone does prevail.

Sent down for concurrence.

Bill, "An Act to Clarify the Marking of Ballots." (H. P. 1235) (L. D. 1388)

Which was Read a Second Time.

On Motion of Mr. Katz of Kennebec, Tabled Two Legislative Days

Pending — Passage to be Engrossed.

Bill, "An Act to Provide that the Position on the Primary Election Ballot and on the General Election Ballot of the Names of Candidates for Major Offices shall be Determined by Lot." (H. P. 479) (L. D. 594)

Which was read a Second Time.

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

Mr. PRAY: Mr. President, I have a Senate Amendment that I would like to present at this time and move its passage, under filing S-71.

The PRESIDENT: The Senator from Penobscot, Senator Pray, now offers Senate Amendment "A" to L. D. 594, and moves its adoption. The Secretary will Read Senate Amendment "A".

Senate Amendment "A" to L. D. 594 (S-71) Read.

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

Mr. PRAY: Mr. President, I would just like to briefly explain that yesterday when we addressed this issue, several problems were brought up by the Senator from Kennebec, Senator Katz.

Basically what this Amendment does is it includes all individuals seeking office for the sequence on the ballot to be drawn by lot, and it allows the Secretary of State to determine the manner in which the drawing shall take place.

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

Mr. HEWES: Mr. President, I would inquire of the sponsor of this Amendment if the drawing has to take place in Augusta in the presence of the Committee on Legislative Ethics, and, if so, it would seem that would be quite an added chore for them, considering the number of officers that are elected at a general election.

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

Mr. PRAY: Mr. President, and Members of the Senate, to answer the question of the Senator from Cumberland, Senator Hewes, the drawing of lots shall be publicly conducted in the presence of the Commission on Governmental Ethics and Election Practices on a date prior to the election, and it allows the Secretary of State sufficient time for ballot preparation as required by Title 21, as stated in the Amendment.

Thus my interpretation would be that that is true. As to the question of time involving these individuals, I think that there are certain duties and responsibilities that we put on every Commission to assure that everything is done above board, and if he has any other questions, I would be happy to answer them.

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

Mr. HEWES: Mr. President, I move the Indefinite Postponement of Senate Amendment "A", and speak to my Motion.

The PRESIDENT: The Senator from Cumberland, Senator Hewes, now moves that Senate Amendment "A" be Indefinitely Postponed. The Senator has the floor.

Mr. HEWES: Mr. President, I was very impressed with the dedication of the Commission on Governmental Ethics and Election Practices in the recount procedure that I went through recently. I know they were involved in other recount procedures. They come from all over the State, and one is a Harding boy from Presque Isle, and Barney Shur from Portland, and I think this is imposing too much on them, and I hope that you vote against the Amendment.

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

Mrs. SNOWE: Mr. President and Members of the Senate, I still have a concern about this piece of legislation, since it states in the Amendment anyways a sufficient time for the Secretary of State to conduct the drawing. This may present a problem to people who like to draw up campaign material, stating where they are located on the ballot or whatever. I think this will impose an unnecessary hindrance if we do not know exactly when the Secretary of State will do the drawing.

The PRESIDENT: Is the Senate ready for the question?

The Chair recognizes the Senator from Penobscot, Senator Pray.

Mr. PRAY: Mr. President, the drawing only consists of 26 letters. I doubt if it would take very long, and it would tie up the Commission in any undue length of time. We discussed this issue yesterday to a small degree, and I think the Senate in its wisdom passed this Bill, took it this far along, and I think we should continue the thing in its process. I do not feel that the Secretary of State's Office would abuse the sufficient time factor to allow candidates an opportunity to get out certain campaign material so that they can place themselves on the ballot so that people can see with a lot of ballot as to where they are going to be. I am sure that the Secretary of State's Department, — I have a lot of faith in the Secretary of State, and in his wisdom that this perhaps could be done along January of the year, and the letters would be established for the primary election, and shortly thereafter after the primary election, to draw off again for the next election, so we would not have the problems which everybody is expressing.

The PRESIDENT: Is the Senate ready for the question? The pending question before the Senate is the Motion by the Senator from Cumberland, Senator Hewes, that Senate Amendment "A" be Indefinitely Postponed. The Chair will order a Division.

Will all those Senators in favor of Indefinite Postponement of this Amendment, please rise in their places to be counted.

Will all those Senators opposing Indefinite Postponement of this Amendment, please rise in their places to be counted.

9 Senators having voted in the affirmative, and 18 Senators in the negative, the Motion to Indefinitely Postpone does not prevail.

Senate Amendment A adopted.

This Bill, as amended, Passed to be Engrossed in non-concurrence.

Sent down for concurrence.

House — As Amended

Bill, "An Act to Ensure that the Uniform Property Tax Rate Conforms to Limits on Educational Funding Established by Statute." (Emergency) (H. P. 66) (L. D. 91)

Bill, "An Act Relating to Town Hospitals." (H. P. 160) (L. D. 198)

Bill, "An Act to Revise the Laws Relative to the State Military and Naval Children's Home." (H. P. 321) (L. D. 412)

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

Enactors

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

"An Act Relating to an Offense for Littering under the Litter Control Law." (S. P. 392) (L. D. 1294)

"An Act to Eliminate Membership Deadlines for the Cobbossee Watershed District." (H. P. 294) (L. D. 351)

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

"An Act to Remove Restrictions on the Salary of County Commissioners who Hire Full-time County Administrators." (S. P. 154) (L. D. 394)

Comes from the House, Failed of Passage to be Enacted.

Which Bill was Passed to be Enacted, in non-concurrence and having been signed by the President.

Sent down for concurrence.

"An Act Concerning the Rules and Regulations of the Board of Construction Safety Rules and Regulations." (H. P. 434) (L. D. 541)

Comes from the House, Bill and Papers Indefinitely Postponed.

Which Bill was Passed to be Enacted, in non-concurrence and having been signed by the President.

Sent down for concurrence.

RESOLVE, Providing Funds for Clients in Special Age Groups Served by Cerebral Palsy Centers." (S. P. 121) (L. D. 279)

On Motion of Mr. Huber of Cumberland, Placed on Special Appropriations Table

Pending final passage.

Emergency

"An Act Concerning the Charter of the Newport Water District." (S. P. 284) (L. D. 897)

This being an emergency measure and having received the affirmative vote of 30 Members of the Senate was Passed to be Enacted, and having been signed by the President was by the Secretary presented to the Governor for his approval.

Emergency

"An Act Relating to Tax on Pari-mutuel Pools and State Stipend Law." (H. P. 506) (L. D. 625)

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

Mr. MERRILL: Mr. President, I rise just to ask a question through the Chair as to exactly what the effect of this Bill is. I note that the fiscal note says that this Bill would increase the revenue to the State of Maine, and I would just like some explanation of exactly how that happens, what change is made in our relationship with Pari-Mutuel betting in the State that will result in our raising \$13,000.00 more a year.

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

Mr. JACKSON: Mr. President and Members of the Senate, exactly what this Bill does, it reduces the take-out on your regular betting and your win, place and show from the present 19 percent to 16 percent. It increases the take-out on exotic betting, such as your exactors, your daily doubles, those things — I am not really a racing fan, I have only bet on the horses once, but they increase that from 19 percent to 25 percent, and this is where the increase comes in or \$39,000.00 to the General Fund.

The racing industry in the State of Maine is a very viable industry, and it is an industry that needs some assistance. Last year the total take was \$856,000.00 to the General Fund, — that was to the General Fund from the \$22 million handled at the tracks. Under this proposal if it is passed and enacted into law, it should generate on the same amount of bets, placed on the same amount of bets as last year, \$895,000.00 to the General Fund, and I would assume that

with the dilemma that we are in, any dollars we can get anywhere, we should welcome.

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

Mr. MERRILL: Mr. President, and Members of the Senate, if I understand the explanation correctly, that the State gets a little bit more, the people that run the tracks get a little bit more, and we take it from the bettor, who gets a little bit less.

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

Mr. JACKSON: Mr. President, everybody is a winner.

The PRESIDENT: Is the Senate ready for the question? The pending question before the Senate is Enactment of L. D. 625.

This being an emergency measure and having received the affirmative vote of 30 Members of the Senate, was Passed to be Enacted, and having been signed by the President was by the Secretary presented to the Governor for his approval.

Orders of The Day

The President laid before the Senate: Bill, "An Act to Ensure that the Powers and Duties of Fire Chiefs are subject to Municipal Collective Bargaining Agreements." (H. P. 230) (L. D. 293)

Tabled — April 12, 1977 by Senator Danton of York

Pending — Passage to be Engrossed

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

Mr. MINKOWSKY: Mr. President and Members of the Senate, hopefully I expressed clearly yesterday the effects that this Bill would have upon my community and many other communities here in the State of Maine. I do not want to rehash all the various viewpoints that have been expressed, but for those that might have been absent during the discussion yesterday, this in my estimation, as well as our controller and fire chief and other people who will be concerned with the particular matter, definitely states that this does weaken the existing law pertaining to fire chiefs, and also collective bargaining here in the State of Maine.

I was very pleased this morning to see that a copy of the existing law was put on each one of the Senators' desks through the courtesy of Senator McNally and, I believe, under the present circumstances, Mr. President and Members of the Senate, without further debate, I will move that this Bill and its accompanying papers be indefinitely postponed.

The PRESIDENT: The Senator from Androscoggin, Senator Minkowsky, now moves that L. D. 293 be indefinitely postponed.

The Chair recognizes the Senator from Penobscot, Senator Pray.

Mr. PRAY: Mr. President and Members of the Senate: Four years ago the Maine Municipal Association drafted a comprehensive plan, now fire fighting laws. It was designed to outline the duties and responsibilities of the fire chief in our volunteer fire departments which exist in many of the small communities. The entire Bill was drafted and amended by the Maine Municipal Association and became law. At no time was it designed to affect our cities, where organized, unionized fire fighting departments exist.

All this Bill does in another amendment, again drafted by the Maine Municipal Association, which would make it perfectly clear that nothing in this particular section of the law is designed to upset the delicate balance which apparently exists in the collective bargaining process.

It is extremely surprising today to say that anyone would try to say that this was anything but a technical amendment. It would seem the

Maine Municipal Association again simply tried to clarify the rights which exist under Titles 20 to 26.

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

Mr. MINKOWSKY: Mr. President, most of the time over the many years that I have spent up here, I am in total disagreement with the actions of the Maine Municipal Association. This further enhances my particular attitude towards that particular organization.

People who are in the know have made it very clear that this in fact says: "any terms encompassing a collective bargaining agreement which supersede the appropriate duties of fire chiefs in Title 30, M.R.S.A., Section 3773, Subsection 2."

The PRESIDENT: Is the Senate ready for the question? The pending Motion before the Senate is the Motion by the Senator from Androscoggin, Senator Minkowsky, that L. D. 293 be indefinitely postponed. The Chair will order a Division.

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

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

22 Senators having voted in the affirmative and 6 in the negative, the Motion to indefinitely postpone does prevail.

The Chair recognizes the Senator from Androscoggin, Senator Minkowsky.

Mr. MINKOWSKY: Mr. President, I now move the Senate reconsider its action, and that you vote against my motion.

The PRESIDENT: The Senator from Androscoggin, Senator Minkowsky, now moves the Senate reconsider its action whereby it indefinitely postponed L. D. 293.

A viva voce vote being had;

The Motion to reconsider does not prevail.

Sent down for concurrence.

The President laid before the Senate:

Bill, "An Act to Define 'North American Indians residing in Maine' for Purposes of the North American Indian Scholarships." (H. P. 324) (L. D. 415)

Tabled — April 12, 1977 by Senator Speers of Kennebec

Pending — Passage to be Engrossed

On Motion of Mr. Hichens of York, re-tabled for two legislative days.

Pending passage to be engrossed.

(Off record remarks.)

Reconsidered Matter

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

Mr. HEWES: Mr. President, with respect to Bill, "An Act to Limit Access to Security Interest Records Filed in a Municipality." (H. P. 1271) (L. D. 1499) in which the Senate moved to send this to the Committee on Judiciary, I would move that we reconsider our action whereby we moved to send this to the Judiciary Committee.

The PRESIDENT: The Senator from Cumberland, Senator Hewes now moves the Senate reconsider its action whereby it voted to refer LD 1499 to the Committee on Judiciary. Is this the pleasure of the Senate? It is a vote.

On Motion of Mr. Hewes of Cumberland, referred to the Committee on Legal Affairs, in non-concurrence.

Sent down for concurrence.

The PRESIDENT: Is it now the pleasure of the Senate that under suspension of the rules, all matters handled this morning in the Senate Chamber be sent forthwith, either to the

Engrossing Department or down to the House, wherever appropriate?

It is a vote.

On Motion of Mr. Huber of Cumberland,
Recessed until 5:00 in the afternoon.

(Recess)

(After recess)

Senate called to order by the President.

Out of Order and Under Suspension of the Rules, the Senate voted to consider additional Papers from the House.

Bills and Resolutions received from the House requiring reference to Committee were acted upon in concurrence.

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

Bill, "An Act to Exempt Certain Woodburning Appliances from the Sales Tax." (H. P. 1240) (L. D. 1465)

In the House April 7, 1977 referred to the Committee on Energy.

In the Senate April 12, 1977, referred to the Committee on Taxation, in non-concurrence.

Comes from the House, that Body Having Adhered.

On Motion of Senator Jackson of Cumberland, the Senate voted to recede and concur.

Bill, "An Act Concerning the Podiatrics Practice Act." (S. P. 425) (L. D. 1483)

In the Senate April 11, 1977 referred to the Committee on Business Legislation.

Comes from the House, referred to the Committee on Health and Institutional Services, in non-concurrence.

On Motion of Senator Pierce of Kennebec, the Senate voted to recede and concur.

Bill, "An Act Relating to School Funding and Inventory Tax Reimbursement." (Emergency) (H. P. 1160) (L. D. 1252)

In the House April 12, 1977 Passed to be Engrossed as amended by House Amendment "B" (H-138) as amended by House Amendment "A" (H-150), thereto.

In the Senate April 12, 1977 Passed to be Engrossed as amended by House Amendment "B" as amended by House Amendment "A" and Senate Amendments "A" (S-63) and "D" (S-64), thereto in non-concurrence.

Comes from the House, that Body having Insisted and Asked for a Committee of Conference.

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

Mr. SPEERS: I move the Senate insist and join in a Committee of Conference.

The PRESIDENT: The Senator from Kennebec, Senator Speers, now moves the Senate insist and join in the Committee of Conference with the House. Is this the pleasure of the Senate?

It is a vote.

The Chair will appoint on the part of the Senate the following conferees: the Senator from Cumberland, Senator Morrell; the Senator from Aroostook, Senator Collins; and the Senator from Cumberland, Senator Merrill.
(Off Record Remarks)

On Motion of Senator Huber of Cumberland,
Recessed, pending the sound of the bell.

(Recess)

(After Recess)

Senate called to order by the President.

Out of Order and Under Suspension of the Rules, the Senate voted to consider the following:

**Papers from the House
Communications
House of Representatives**

April 13, 1977

The Honorable May Ross
Secretary of the Senate
108th Legislature
Augusta, Maine

Dear Madam Secretary:

The Speaker appointed the following conferees to the Committee of Conference on the disagreeing action of the two branches of the Legislature on Bill "An Act Relating to School Funding and Inventory Tax Reimbursement" (H. P. 1160) (L. D. 1252)

Rep. CAREY of Waterville
Rep. TIERNEY of Lisbon Falls

Rep. HIGGINS of Scarborough

Respectfully,

EDWIN H. PERT

Clerk of the House

Which was Read and Placed on file.

Committee Report

Conference Committee Report

The Committee of Conference on the disagreeing action of the two branches of the Legislature, on, An Act Relating to School Funding and Inventory Tax Reimbursement. (Emergency) (H. P. 1160) (L. D. 1252)

Have had the same under consideration, and ask leave to report:

That the House recede from passage to be engrossed as amended by House Amendment "B" (H-138) as amended by House Amendment "A" (H-150) thereto; indefinitely postpone House Amendment "B" as amended by House Amendment "A" thereto; adopt Conference Committee Amendment "A" (H-161) and pass the Bill to be engrossed as amended by Conference Committee Amendment "A" (H-161)

That the Senate recede from passage to be engrossed as amended by House Amendment "B" (H-138) as amended by House Amendment "A" (H-150) and Senate Amendments "A" (S-63) and "D" (S-64) thereto, indefinitely postpone House Amendment "B" as amended by House Amendment "A" and Senate Amendments "A" and "D" thereto; adopt Conference Committee Amendment "A" (H-161); and pass the Bill to be engrossed as amended by Conference Committee Amendment "A" (H-161) in concurrence.

On the part of the House:

CAREY of Waterville
TIERNEY of Lisbon Falls
HIGGINS of Scarborough

On the part of the Senate:

MORRELL of Cumberland
MERRILL of Cumberland
COLLINS of Aroostook

Comes from the House, the Report Read and Accepted, and the Bill Passed to be Engrossed, as amended by Conference Committee Amendment "A" (H-161)

Which Report was Read.

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

Mr. MORRELL: Mr. President and Members of the Senate, I move that we accept the Committee of Conference Report, and would speak to my Motion.

The PRESIDENT: The Senator from Cumberland, Senator Morrell, now moves that the Senate accept the Committee of Conference Report. The Senator has the floor.

Mr. MORRELL: Mr. President, Members of the Senate, I suspect that this will be the only time in my life that I have gone to a courting, a wedding and a funeral in the same day with the same people.

I think the details of the proposal have been discussed fairly conclusively and completely this afternoon in the last few hours. I think just a few words from me, and perhaps from other Members of the Committee. We did attempt to deal, first individually and then collectively in

this Report, with the various elements that seem to be hanging everybody up. We have no pride of authorship. We do honestly feel that it is a sincere effort to try and deal with the various problems that we were presented with.

I would hope that this evening the Senate might give serious consideration to passing this Report, and see where we go from there.

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

Mr. SPEERS: Mr. President, I must reluctantly rise to oppose the Motion of my good friend and colleague, the Senator from Cumberland, Senator Morrell.

I say reluctantly because I know how very hard he and the other two Members of this Body, Senator Collins of Aroostook and Senator Merrill of Cumberland, have worked to present this Body and the other Body with their best efforts at arriving at a School Funding Bill within the constraints of time with which we are faced.

And I know that their efforts were made in the spirit of compromise, but it is very true that even though there is the feeling, or was the feeling of compromise from the Committee of Conference, it is also very true that compromises are not necessarily to be accepted by both Branches of the Legislature, — at least the particular compromise that they have presented us with this evening.

I think there are two basic objections to the bill as it is presented to us at the present time. The first is, of course, the fact that the inventory reimbursement is not phased down and phased out as has been expressed to be the intent of nearly everyone in the Legislature over a period of time, whether it be five years, eight years or ten years, or whatever that might be.

Secondly, and far more seriously, I believe, a problem with this particular proposal is the fact that it raises taxes, and I want to be very clear that it is not the particular taxes at this point at least to which I object. I will reserve judgment on those particular taxes for a later time. But the proposal that is presented to us raises taxes without also explaining the programs for which those funds must be raised, and without also explaining how much additional money is going to be needed to fund the programs that we all know we would like to fund. And it seems to me to be the wrong approach, to simply raise the taxes at this point in time, without also knowing why those taxes are to be raised, and specifically how they are to be spent.

I know the hour is late. The hour is late for an Educational Funding Bill. But I do not believe that simply because an hour may be late that the Legislature should be driven to taxation by crisis, and be forced to accept a Bill which I believe to be not the proper approach; and, therefore, Mr. President, I would oppose the pending Motion, and ask for a Division.

The PRESIDENT: A Division has been requested.

The Chair recognizes the Senator from Cumberland, Senator Morrell.

Mr. MORRELL: Mr. President and Members of the Senate, in response to my colleagues, dealing first with the Reimbursement, we are not saying in this Report that we do not think that the Inventory Tax Reimbursement to the communities ought to be phased out. What we are saying is that we did not feel that it was practical to deal with it in this document, that we did not have time to deal with it thoroughly, that it can be worked on and should be worked on promptly, if and when we can agree on this package.

Second, if you will look at the data sheet that we passed out to you, you will notice that in fact we did not pass new taxes to create, if you will, the figure that shows on the bottom line, with the exception of \$300,000.00. We are suggesting the additional items to the tune of \$4 million,

which would take care of the adjustments we made in the Educational package, and to cover the 90 percent reimbursement for this year, or for the first year. The rest of the funds that we have on the bottom line are made up, \$4.5 million from the estimate of the Title II funds, \$1.7 from the balance of the surplus that we had on previous papers that you have looked at, and nearly \$300,000.00 from the several increases that we have proposed in this document.

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

Mr. MERRILL: Mr. President and Members of the Senate, the hour is late and we are all tired. I am certainly among those, so I will be brief for fear that I will not match the usual eloquence, to which, I am sure, you have become accustomed. With that bit of humility, let me continue.

I want to remain flexible in what I say tonight, but I want to be honest. I hope that the lateness of the hour will not keep the other Senators here assembled from standing up and being more specific about what their objections are to this, and I would include among those the one person who has spoken against it already for I fear that the direction given is not adequate to the next Committee of Conference that might come along. I think we ought to face these things.

I would like to say one word about this whole question of reimbursement, and I can stand tonight and oppose this Conference Report. I can oppose it because it backs off from a commitment that I think is real, a commitment to reimburse at 100 percent, and it goes down to 90 percent. I am not happy about that at all. I guess there is some difference in everybody's mind about what was done in 1973.

Let me read from this Report, Progress Report, Joint Select Committee on Tax Policy: "The State will still be obligated — this is after repeal — under terms of repeal to reimburse Maine towns for their lost inventory", and then it suggests that we go to revenue sharing formula to replace the inventory formula, but it concludes in saying this: "Further the current reimbursement system should be replaced by distributing the money owed, approximately \$14 million in 1977, and every year thereafter, to the current State Revenue Sharing formula, and every year thereafter". I do not have to remind the Senate that included in this Joint Select Committee was the Majority Leader of this Body, Senator Speers.

Now we have got a little time left to solve this problem. We are certainly faced with being hampered by a procedure that needs reform. We made an effort at reforming that procedure a year ago, yet it was defeated in this Body. The Leadership, the Majority Leader, now speaks against the proposition that we have before us.

If the objection to this Report is the procedure by which it was reached, I say Amen. It is not a good procedure. It is not a good procedure to allow a \$14 million tax decrease to go into effect and to expect that the full thrust of that tax decrease is going to have to be borne by somebody else. That is not a good procedure either. I think most fair-minded people will agree with that.

And I congratulate the Senator from Cumberland, Senator Morrell, for at least making an effort to put forth the position of the compromise that we have reached here tonight. I commend him for it.

But I really think it is incumbent on the Senators here, recognizing the limited time we have left, for each one to stand up, and to go through, because we have isolated the problems fairly well here. I think the most of them are listed here, — and to go through and say what is wrong. If it is the problem that we went to 90 percent and then spent that money, well then what should we go to? If we are going to go to 90 percent but not have a tax increase, then how

are we going to fund it? Is the problem that we went to 11.5 mills, should we do something different there? The problem of \$291.4, what should we do there? What should we do on each one of these items?

I do not want to be on the next Committee of Conference. It is a great honor, but I am willing to pass it on to someone else. I would be more than happy to pass it on to the Majority Leader.

But I think it is incumbent upon all of us, if we are going to go into Second Committee of Conference, that each one who sits in this semi-circle stand up and be specific on each one of these items. The hour is late, but the hour is late to put together some sort of a compromise. Maybe after everybody speaks, we will have some idea about where we should go. Specifically, now — it is not enough, I do not think, to say, well, we do not want the tax increase, that is accurate but not exhaustive. I think everybody should stand up and go through each one of these items and say where they want to go, and then we can move on from there, and the next Committee of Conference will have some real guidance.

The PRESIDENT: Is the Senate ready for the question?

The Chair recognizes the Senator from Penobscot, Senator Curtis.

Mr. CURTIS: Mr. President, the needs of the State are substantial and pressing. We find that we are in great need of recognizing the problems of merit compensation for State employees, problems of school construction, Judicial salaries, and I would suggest the University of Maine.

Now each Session for the past several Sessions I have voted for various tax increases, and I have seen the appropriations at the same time for the University of Maine decline, — the same appropriations made by the same Legislature which provides increases in taxes.

I am willing to vote for additional revenues, but I would like very much to see that some strong indication is made by the Legislature that it is willing to support one of the great needs of this State, and that is the crisis that the University of Maine faces. Three years ago the campus that exists in my District, there were 10 members of the faculty and professional staff there who departed, primarily for financial reasons; low pay; two years ago it was 18; and last year it was 32. This year I have every expectation that it will be more than that number. This week I have just learned of two more, very fine associate professors who will be departing from the University of Maine at Orono, — not because they do not like the University or the State, but because the salary increases which they are able to realize in other locations in other States is substantially higher. Now I would agree with the Senator from Kennebec, Senator Speers, when he says that we must be wary of trying to provide taxation by crisis, avoid these crises wherever possible. I would also suggest that piece-meal appropriations is an unsatisfactory method of handling the needs of the State.

The PRESIDENT: Is the Senate ready for the question? The pending question before the Senate is the Motion by the Senator from Cumberland, Senator Morrell, that the Senate accept the Committee of Conference Report. A Division has been requested.

The Chair recognizes the Senator from Cumberland, Senator Merrill.

Mr. MERRILL: I request when the vote is taken that it be taken by the yeas and nays.

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

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

The Chair recognizes the Senator from Penobscot, Senator Trotzky.

Mr. TROTZKY: Mr. President and Members of the Senate, the Senator from Cumberland, Senator Merrill, has asked each one of us to express our viewpoints on what is wrong with the Committee of Conference Report.

I will tell you what is wrong with the Committee of Conference Report. First of all, we are not down here to represent the MTA, the AF of L, the MSEA. They have their representatives on the floor here. We are here to represent the people of the State of Maine.

And the people of the State of Maine have had enough of taxes. We have to learn to live within our revenues. Our revenues are increased by 9 percent, \$43 million, and yet we send in a Committee of Conference Report, two groups come in with a \$290.6 level of funding for education, and they come out of \$291.4. Well, I have never seen any negotiations at that level.

The real issue here is education. As long as we are going to fund education at \$290.6 million, there is not going to be anything left for the University of Maine, for adult education, and for a lot of other needs in this State of Maine.

I suggest if we do have another Committee of Conference, that they come in with no tax increase in this Session.

The PRESIDENT: Is the Senate ready for the question? The pending question before the Senate is the Motion by the Senator from Cumberland, Senator Morrell, that the Senate accept the Committee of Conference Report. A vote of yes will be in favor of accepting the Report. A vote of no will be opposed. The Secretary will call the roll.

YEA — Carpenter, Collins, D.; Conley, Martin, Merrill, Morrell.

NAY — Chapman, Cummings, Curtis, Greeley, Hewes, Huber, Jackson, Levine, Mangan, McNally, Minkowsky, O'Leary, Pierce, Pray, Redmond, Snowe, Speers, Trotzky, Usher, Wyman.

ABSENT — Collins, S.; Danton, Farley, Hichens, Katz, Lovell.

6 Senators having voted in the affirmative, and 20 senators in the negative, with 6 Senators being absent, the Motion to Accept the Committee of Conference Report does not prevail.

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

Mr. SPEERS: Mr. President, I move that the Senate Reject the Committee of Conference Report, and request a second Committee of Conference.

The PRESIDENT: The Senator from Kennebec, Senator Speers, now moves that the Senate reject the Committee of Conference Report, and request a second Committee of Conference with the House. Is this the pleasure of the Senate?

The Chair recognizes the Senator from Cumberland, Senator Merrill.

Mr. MERRILL: Mr. President and Members of the Senate, I just want to make clear that the only directions we have so far for the second Committee of Conference is to include the University of Maine, no taxes now, phase down inventory tax, and less money for education.

I am sure the hour is late, and that is perhaps the explanation for it, but I do not think the Senator from Penobscot, Senator Trotzky, meant to imply that either the Senator from Cumberland, Senator Morrell, or the Senator from Aroostook, Senator Collins, or myself was acting in any way except what we thought was the best interest of the State. If so, he ought to be specific.

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

Mr. O'LEARY: Mr. President, a parliamentary inquiry, please. Is it possible at this time, Mr. President, to move to adhere to our former position?

The PRESIDENT: The Chair would advise the good Senator from Oxford that the only motion available at this point is the rejection of the Committee of Conference Report.

The pending Motion before the Senate is the Motion by the Senator from Kennebec, Senator Speers, that the Senate reject the Committee of Conference Report, and request a second Committee of Conference with the House. Is this the pleasure of the Senate? It is a vote.

The Chair recognizes the Senator from Kennebec, Senator Speers.

Mr. SPEERS: Mr. President, having voted on the prevailing side, I move the Senate reconsider its action whereby it rejected the Report.

The PRESIDENT: The Senator from Kennebec, Senator Speers, now moves the Senate reconsider its action whereby it rejected the Committee of Conference Report.

A viva voce vote being had,

The Motion to Reconsider does not prevail.

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

Mr. O'LEARY: Now, Mr. President, would my Motion to Adhere be in order?

The PRESIDENT: The Chair would advise the Senator that there is no matter before the Body.

On Motion of Mr. Huber of Cumberland,
Adjourned to 1:30 tomorrow afternoon.