

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

Thursday, May 5, 1977

Senate called to Order by the President.

Prayer by Reverend David G. Glendenning, St. Mark's Episcopal Church in Waterville.

Rev. GLENDENNING: Oh, Lord, pour Your spirit out upon this Session of our Legislature, and most especially upon this Body. Help our Senators to deliberate the issues before them unaroused by clamorous voices, unswayed by private interests, and unmoved by political pressures. At the close of the day, bless each and everyone with a sense of a job well done in the service of all the people of the State of Maine. Amen.

Reading of the Journal of Yesterday.

(Off Record Remarks)

Papers from the House

Orders

Expressions of Legislative Sentiment recognizing that: Cory Robertson of Blue Hill Falls has won the Hancock County Spelling Championship for 1977 (H. P. 1519)

Edith Young of Minot celebrated the 93rd anniversary of her birth and received a Boston Post Cane, being the oldest resident of the community. (H. P. 1520)

The Windham High School team of Becky Ent, Bill Wellman, Bill Ricker and Kay Boutillier defeated 32 high school teams to win the finals in Classroom Quiz on April 26, 1977. (H. P. 1522)

James E. Trott of Freeport was named Service Manager's Man of the Year by the Pine Tree Chapter of the Service Managers of Maine (H. P. 1525)

Come from the House, Read and Passed.

Which were Read and Passed, in concurrence.

House Papers

Bills requiring reference to Committee were acted upon in concurrence.

Senate

Orders

Expressions of Legislative Sentiment recognizing that: Rebecca Knight Has Been Recognized for Her Excellent Academic Record by Being Chosen Salutatorian of Westbrook High School. (S. P. 485) (Presented by Senator Usher of Cumberland)

Jane Getchell has been Recognized for Her Outstanding Academic Record by Being Chosen Valedictorian of Westbrook High School. (S. P. 486) (Presented by Senator Usher of Cumberland)

Mrs. Ralph Herrick will be celebrating the 100th anniversary of her birth on May 15th. (S. P. 487) (Presented by Senator Katz of Kennebec)

Sandra Strom of Oakland has been recognized at a testimonial dinner for her many years of dedicated service to the American Legion Auxiliary, including service as President of the Department of Maine, 4th District, during 1976-77 (S. P. 488) (Presented by Senator Pierce of Kennebec)

Which were Read and Passed.

Sent down for concurrence.

Committee Reports

House

The following Ought Not to Pass reports shall be placed in the Legislative files without further action pursuant to Rule 20 of the Joint Rules.

Bill, "An Act to Establish Voting Lists Based on those Persons who Voted in the Previous Election." (H. P. 689) (L. D. 871)

Bill, "An Act Relating to Nomination Petitions." (H. P. 688) (L. D. 870)

Ought to Pass

The Committee on Judiciary on, Bill, "An Act Relating to Guardianship of Incapacitated Adults in Need of Protective Services." (H. P. 327) (L. D. 418)

Reported that the same Ought to Pass.

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

The Committee on State Government on, Bill, "An Act Concerning the Seeking of Competitive Bids by the Treasurer of State." (H. P. 299) (L. D. 355)

Reported that the same Ought to Pass.

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

The Committee on Local and County Government on,

RESOLVE, for Laying of the County Taxes and Authorizing Expenditures of Aroostook County for the Year 1977. (Emergency) (H. P. 1516) (L. D. 1744)

Reported (pursuant to Joint Order, H.P. 138) that the same Ought to Pass.

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

The Committee on Local and County Government on,

RESOLVE, for Laying of the County Taxes and Authorizing Expenditures of Androscoggin County for the Year 1977. (Emergency) (H. P. 1518) (L. D. 1745)

Reported (Pursuant to Joint Order, H. P. 138) that the same Ought to Pass.

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

Which Reports were Read and Accepted, and the Bills and Resolves Read Once and Tomorrow Assigned for Second Reading.

Ought to Pass — As Amended

The Committee on Agriculture on, Bill, "An Act to Raise the Christmas Tree Transportation Registration Fee." (H. P. 179) (L. D. 241)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H. 253).

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

The Committee on Public Utilities on, Bill, "An Act Concerning the Operating Expenses of Public Utilities." (H. P. 836) (L. D. 1009)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H. 255).

Comes 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.

The Committee on Fisheries and Wildlife on, Bill, "An Act to Authorize the Issuance of Free Fishing Permits to Patients in Regular Nursing Homes." (H. P. 694) (L. D. 876)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H. 242).

Comes from the House, the Bill Passed to be Engrossed as amended by Committee Amendment "A" as amended by House Amendment "B" thereto (H. 260).

Which Report was Read and Accepted, in concurrence, and the Bill Read Once. Committee Amendment "A" was Read. House Amendment "B" to Committee Amendment "A" was Read and Adopted in concurrence. Committee Amendment "A" as amended by House Amendment "B" thereto was Adopted in concurrence, and the Bill, as amended, Tomorrow Assigned for Second Reading.

Divided Report

The Majority of the Committee on Business Legislation on, Bill, "An Act to Eliminate an Exception to the Statutory Requirement that Financial Institutions have Deposit Insurance." (H. P. 858) (L. D. 1047)

Reported that the same Ought Not to Pass.

Signed:

Senators:

FARLEY of York

CHAPMAN of Sagadahoc

Representatives:

SPROWL of Hope

JACKSON of Yarmouth

WHITTEMORE of Skowhegan

KILCOYNE of Gardiner

ALOUPIS of Bangor

PEAKES of Dexter

RIDEOUT of Mapleton

HOWE of South Portland

CLARK of Freeport

BOUDREAU of Portland

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

Signed:

Senator:

PIERCE of Kennebec

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

Which Reports were read.

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

Mr. CHAPMAN: Mr. President, I move the Senate accept the Majority Ought Not to Pass Report.

The PRESIDENT: The Senator from Sagadahoc, Senator Chapman now moves the Senate accept the Majority Ought Not to Pass Report of the Committee.

The Chair recognizes the Senator from Androscoggin, Senator Snowe.

Mrs. SNOWE: Mr. President and Members of the Senate: In the last Session of the Legislature we passed a Bill which gave the Superintendent of Banking the right to waive the requirement of insurance for a financial institution with assets of less than \$250,000.00, if such institution demonstrates to the Superintendent that it is satisfying a particular community need which cannot be sufficiently met by other financial institutions, and that it has adequate security for its deposits or accounts.

What this Bill attempts to do is eliminate that exemption of \$250,000.00. Thus, this Bill, if passed, will affect only one bank in Maine, and that is the Mechanic Falls Loan and Building Association. This bank is a small family bank with total assets of \$177,000.00, and no more than \$20,000.00 of this total is cash.

This Bill would force this association either to liquidate or to be merged with another financial institution. Most importantly, then, would be that the people in the Mechanic Falls area would lose their one source for small loans and low cost home mortgages that probably would not even be considered by a larger financial institution. This bank provides a very important service to the community, and they have provided this service for over 90 years without any problems.

At the public hearing the Superintendent opposed this Bill, and stated that the excellent reserves of this association are considered to more than offset the lack of insurance of account for its shareholders, and this association has by far, the highest reserve ratio of any financial institution in Maine.

Therefore, I urge you to support the Ought Not to Pass Report of the Committee in concurrence.

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

Mr. PIERCE: Mr. President, in view of the overwhelming and strong arguments made by

the good Senator from Androscoggin, Senator Snowe, on behalf of her constituents, I would now concur that we should go along with the Majority Ought Not to Pass Report.

Majority Ought Not to Pass Report accepted in concurrence.

Divided Report

The Majority of the Committee on Education on, Bill, "An Act to Amend the State Tuition Equalization Fund." (H. P. 258) (L. D. 327)

Reported that the same Ought to Pass.

Signed:

Senators:

KATZ of Kennebec
USHER of Cumberland
PIERCE of Kennebec

Representatives:

BAGLEY of Winthrop
BEAULIEU of Portland
LYNCH of Livermore Falls
LEWIS of Auburn
FENLASON of Danforth
BIRT of East Millinocket
PLOURDE of Fort Kent

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

Signed:

Representatives:

WYMAN of Pittsfield
MITCHELL of Vassalboro
CONNOLLY of Portland

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

Which Reports were read.

Majority Ought to Pass Report accepted, in concurrence.

The Bill Read Once and Tomorrow Assigned for Second Reading.

Divided Report

The Majority of the Committee on Election Laws on, Bill, "An Act to Require the Full Name of a Party Designation to be Spelled out on a Ballot." (H. P. 746) (L. D. 951)

Reported that the same Ought to Pass.

Signed:

Senator:

DANTON of York

Representatives:

MITCHELL of Vassalboro
BUSTIN of Augusta
TRUMAN of Biddeford
RAYMOND of Lewiston
BOUDREAU of Portland
TALBOT of Portland

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

Signed:

Senators:

KATZ of Kennebec
TROTZKY of Penobscot

Representatives:

BOUDREAU of Waterville
McMAHON of Kennebunk
BIRT of East Millinocket

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 Ought Not to Pass Report. Of all the Bills that are floating by us this session, this probably, in the ranking of 0 to 10, has to be marked as .001 in importance.

It has to do with spelling out parties on the ballot, and a more monumental concern has not come before the Legislature, at least so far today. I just have a feeling that this is a bad Bill, and is typical of the nickel and dime pieces of legislation that come before us, taking up our

time cluttering up our law books and I hope we dispense with this one very promptly right now.

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

Mr. DANTON: Mr. President and Members of the Senate: I am sorry the good Senator from Kennebec feels that way about this Bill. I do not see anything wrong with the Republican party being spelled out on the ballot, the Democratic party or the Independent party. As you all know, presently on the ballot all you have is Rep. In fact, some people from Augusta told me that they thought Senator Katz was running for Representative, and I assured them that it was not Representative, it was Senator he was running for.

It would be nice if they could read out on the ballot whether the candidate is a Republican, Democrat or an Independent. I thought it was a Bill that made some good sense, and we changed the ballot quite a bit. I think this is one area we overlooked when we went to the office-type ballot, and I would hope you would oppose his Motion. Thank you.

I request a Division.

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

Mr. KATZ: Mr. President, I would like to point out a couple of things to my colleague on the Election Laws Committee. Existing law says, in effect, that it can already be spelled out. You can spell out R-e-p-u-b-l-i-c-a-n. And I will correct the Senator, in my constituency the people are well aware of the fact that I belong to two minority groups, including the Republican party.

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 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 of the Senator from Kennebec, Senator Katz, please rise in their places to be counted.

All all those Senators opposed to the Motion of the Senator from Kennebec, Senator Katz, please rise in their places to be counted.

The Chair recognizes the Senator from Cumberland, Senator Conley.

Mr. CONLEY: Mr. President, I would request a Roll Call. I would like to inform the good Majority Floor Leader that Ringling, Barnum and Bailey is coming to town, and he ought to get his act together and see if he cannot get involved in it.

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 pending question before the Senate is the Motion by the Senator from Kennebec, Senator Katz, that the Senate accept the Minority Ought Not to Pass Report of the Committee.

A Yes vote will be in favor of the Ought Not to Pass Report; a Nay vote will be opposed.

The Secretary will call the roll.

YEA — Chapman, Collins, D.; Collins, S.; Cummings, Curtis, Hewes, Hichens, Huber, Jackson, Katz, Lovell, McNally, Morrell, Pierce, Redmond, Snowe, Speers, Trotzky.

NAY — Carpenter, Conley, Danton, Farley, Greeley, Levine, Martin, Merrill, Minkowsky, O'Leary, Pray, Usher, Wyman.

ABSENT — Mangan.

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

Mr. WYMAN: Mr. President, I would like to change my vote from no to yes.

The PRESIDENT: Senator Wyman changes his vote from nay to yea.

19 Senators having voted in the affirmative, 12 Senators having voted in the negative, and one Senator being absent, the Motion to accept the Minority Ought Not to Pass Report does prevail.

Sent down for concurrence.

Divided Report

The Majority of the Committee on Liquor Control on, Bill, "An Act Relating to Music, Dancing or Entertainment." (H. P. 875) (L. D. 1068)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-217).

Signed:

Senators:

LOVELL of York
LEVINE of Kennebec
DANTON of York

Representatives:

TWITCHELL of Norway
IMMONEN of West Paris
MAXWELL of Jay
RAYMOND of Lewiston
CONNERS of Franklin
JACQUES of Lewiston
LIZOTTE of Biddeford
NADEAU of Sanford

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

Signed:

Representatives:

MARSHALL of Millinocket
GRAY of Rockland

Comes from the House, the Bill Recommended to the Committee on Liquor Control.

Which Reports were read.

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

Mr. CONLEY: Mr. President, I move the Bill be recommended to the Committee on Liquor Control, in concurrence.

On Motion by Mr. Speers of Kennebec, Tabled until later in today's Session.

Pending the Motion of Senator Conley to Recommit to the Committee on Liquor Control.

Divided Report

The Majority of the Committee on Natural Resources on, Bill, "An Act to Establish Warrant Standards for Subsurface Sewage Disposal Systems." (H. P. 388) (L. D. 478)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-261).

Signed:

Senator:

O'LEARY of Oxford

Representatives:

DEXTER of Kingfield
GREEN of Auburn
BENOIT of So. Portland
HALL of Sangerville
WILFONG of Stow
BROWN of Bethel
BLODGETT of Waldoboro

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

Signed:

Senators:

TROTZKY of Penobscot
REDMOND of Somerset

Representatives:

HUBER of Falmouth
HUNTER of Benton

Comes from the House, the Minority Report Read and Accepted.

Which Reports were read.

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

Mr. O'LEARY: Mr. President, as a signer of the Majority Ought to Pass Report, I would now

POST of Owls Head

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

Which Reports were read.

Majority Ought to Pass as amended Report accepted in concurrence.

The Bill Read Once. Committee Amendment "A" Read and Adopted, in concurrence, 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 to Grant Variances to Single Family Home Owners under the Water Pollution Abatement Program." (H. P. 528) (L. D. 645)

Bill, "An Act Concerning Fees of Board of Examiners of Psychologists." (H. P. 609) (L. D. 746)

Bill, "An Act to Change the License Status of Maine Resident Military Optometrists." (H. P. 967) (L. D. 1164)

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

Bill, "An Act to Exempt Store Owners from Criminal Liability where a Minor Purchases Alcoholic Beverages using a False Identification Card." (H. P. 1042) (L. D. 1283)

Which was read a second time.

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

Mr. PIERCE: Mr. President and Members of the Senate: This Bill, L. D. 1283, really came to my attention only yesterday and my ears did not perk up when I saw the overwhelming Ought Not to Pass Report on it, including that of three Senators.

As we got into the debate, and I realized that two out of the three Senators who opposed it, were not here and things did go the other way. After this I took some time to call Liquor Enforcement, call the Liquor Commission, call members of the Court and to a person they were all overwhelmed and then incredulous that we had passed this piece of legislation.

Their general feeling is that they are extremely opposed to it. They feel it is going to open a real can of worms and that Court cases when they are presently brought in, if we pass this law, that are brought in against bar owners or anybody else, probably are just going to be thrown out in favor of the owners. As I mentioned yesterday, I think, this is the time when we have to do things to tighten control, not loosen it up. Certainly, psychologically when owners see a Bill like this passed, they are going to say, I am sure, almost to a person, ah ha, I do not have to bother to check too closely any more.

I think it is an extremely bad piece of legislation and headed in just the wrong direction that we should be doing at this time. I would move the indefinite postponement of the Bill and all its accompanying papers.

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

Mr. CONLEY: Mr. President, I oppose the Motion to indefinitely postpone. Perhaps this is one of the reasons why this Bill is here, that there is too much bureaucracy being administered from up above. I think the burden should be on the State and not on the poor licensee. In the case where the youngsters are able to get forged ID cards today with absolutely no problem whatsoever, and to have the licensee try to use discretionary common sense before selling and being convinced in his own mind that he is doing the right thing, then to be entrapped because of the fact that someone does have a forged ID, I do not think you can hold that licensee responsible. I think, again, that the burden of proof should be placed on the

State and not necessarily the fellow that has the license.

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

Mr. LOVELL: Mr. President, this Bill came out of Committee 10 to 3 Ought Not to Pass, and hearing the Bill the Liquor Control Committee 10 to 3 felt it was a very dangerous Bill and it should not be allowed to pass. Because I concur with the good Senator from Kennebec, Senator Pierce, that it would be just about impossible to enforce, the small grocery stores are going to be wide open in selling liquor to every youngster that comes in as long as he has a note from his father or mother or as long as he has something, his mother's driver's license, and I agree we should indefinitely postpone this Bill and ask for a Division.

The PRESIDENT: A Division has been requested. The Chair recognizes the Senator from Cumberland, Senator Merrill.

Mr. MERRILL: Mr. President and Members of the Senate, we debated this item at length yesterday, and I just wanted to make a few comments. There are really three arguments that have been put up against this Bill, by the Senator from Kennebec, Senator Pierce; first, bureaucrats are against it; second, it will open a can of worms; and third, the Courts already do it.

I think that this is a good Bill. I think if the Senate is concerned with limiting the effect of this Bill, and if the Senate is concerned with encouraging the use of State ID's, then what we should do is defeat the Motion to indefinitely postpone and then, hopefully, the Senator from York, Senator Lovell, will offer the Amendment which is presently in our books under Filing S-118, which would limit the defense, the affirmative defense that we are creating to situations in which a State Liquor identification card is presented as identification.

Now if we think of the Bill with that Amendment on it, it seems to me that we have accomplished several things. First of all, let us make clear again in the debate that all we are talking about is creating an affirmative defense, that once the State has proved its prima facie case against the store owner, that the store owner can put forward, and he has to show that he reasonably relied on that identification. Now if we add to that the restriction that the identification card has to be the State ID, I ask you, how is that opening a can of worms? If a store owner sees a State ID that he can reasonably rely on, should that store owner be prosecuted and lose his license that he has paid \$800.00 or \$900.00 or whatever to get?

I suggest to the Senate that is not the result that we want to happen. Now if we defeat this Motion to indefinitely postpone and then accept this restricting, narrowing Amendment, I think what we will be doing is we will be encouraging the store owners to look for that State identification card. That is something that he can rely on, something that the State has safeguards built into, it is one of the more difficult cards to reproduce and I think the full thrust of the legislation then would be very good, and we would be closing a can of worms the store owner presently finds himself exposed to.

He is held to strict liability, liability affecting his ability to earn money and put food on the table for his family. At the same time we have produced a State identification card. It seems to me we ought to be able to say to that person that you can rely on that, if a reasonable man could, — if it looked to a reasonable man like it was a legitimate identification, you can rely on that and you will not have to risk your livelihood.

I think that is a very moderate approach, and it would be a very good one to take, and with the added responsibility that this Senate has put on the storekeepers with the passing of the law

raising it to 20 and all the problems that is going to pose. I think we owe it to them to give them something that they can rely on so that they have some way in making the best judgments that they can make, and they are not policemen, so that they can feel that they can sell alcoholic beverages to somebody who looks young without being at their peril.

I would hate to be 20, which would be a legal age after this new law that we passed goes into effect, and look young, unless we provide some sort of vehicle like this for the store owner to act without acting at his peril. Because I am afraid every store owner would say, I am sorry, you know, you show me your identification, but you could forge that and, you know, I have a business to run. And I do not think it is our intention to put the people that are 20 or 21 in that position.

So I would ask the Senate to defeat the Motion to indefinitely postpone in the hopes that the Senate from York, Senator Lovell, will then offer his Amendment. I think the overall effect would be very good.

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

Mr. MANGAN: Mr. President, I spoke on this yesterday and I think my views are fairly well known. It would be my impression that if we were to vote this down today or indefinitely postpone it, that we are going to have a problem, because what we are really doing is implying that someone who has a reasonable belief to believe that something is accurate or something is true, should be prosecuted because they made a mistake in judgment.

Examples in my criminal practice abound. I have clients who have in the past put false — well, actually stolen stickers, inspection stickers in their windows, and they have been stopped by police officers. What we should do then is prosecute the police officer for not picking up those stickers that are false.

Conversely, I have had clients who have been very good at forging licenses and, therefore, if they should be stopped by a police officer and give a false license, and the police officer does not pick it up, because he does not have X-ray vision or Clark Kent abilities at picking out false licenses, we should prosecute him to the fullest and probably disbar him or throw him out of the State Police.

Conversely, the other side of the coin, and when I was in Massachusetts working with Legal Aid a few years back, I had a few clients who used to have a big thrill out of forging false prescriptions so they could purchase drugs. Therefore, if pharmacist should accept a false prescription for drugs, we should prosecute him to the fullest and throw him out of the pharmaceutical field, because this is terrible, we should eliminate his license completely.

If we follow this rationale all the way through, then we are in deep trouble. This is the beginning of it.

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 this Bill be indefinitely postponed.

A Division has been requested.

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.

The Chair recognizes the Senator from Kennebec, Senator Katz.

Mr. KATZ: Mr. President, I request a Roll Call.

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 of the Senators having arisen, a Roll Call is ordered.

The Chair recognizes the Senator from Kennebec, Senator Katz.

Mr. KATZ: Mr. President, I noticed that the Senator from Cumberland, Senator Conley, who yesterday had a bad case of laryngitis, has partially recovered today, and if you share my concern that this is a bad Bill, I would suggest the time to kill it is today before the Senator has his total ability to debate restored to him.

My basis for supporting the Motion of Ought Not to Pass is that there is no demonstrable need now to pass this legislation. I think the system is working well. The Court Administrator has got some tools that he finds effective, and when he says that this Bill will diminish his ability to deal with the problem of illegal sales, I believe him, and I think that we should not take away tools from him at this time.

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

Mr. MERRILL: Mr. President and Members of the Senate: We talk about taking away tools and the present system working very well. Those are very nice generalizations, or platitudes, but let us put this question into the specific question that is before the Senate. The question is: Are we going to kill this Bill that will allow us, if we amend it, to say to the storekeepers, if you do reasonably rely on the State identification card in selling liquor to somebody, and then you make an affirmative defense, you come forward, say the way it was presented to me. I reasonably relied on it, and you can show that, demonstrate that, that you will not be prosecuted and lose your license.

Now that is the reasonable tool that we want to take away. I do not know why anybody would want that tool. I do not know why anybody would want to be able to prosecute a person who had reasonably relied on a State identification card and can demonstrate that in the Court. That is some tool.

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

Mr. PIERCE: Mr. President and Members of the Senate, I think, not only is there not a demonstrable need for this Bill, and certainly from the hearing that was shown. There were no store owners, bar owners or anybody else clamoring for legislation such as this. But also I think certainly store owners are now — many of them, not all of them naturally, and probably not even a majority, but certainly a lot of them are going to say as they look at an ID and knowing it is false, well, it is a pretty good false ID, I think I could reasonably say that that was okay. I will get away with that.

It is just the opposite direction we should be taking, especially after passing that 20 year old Bill.

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 this Bill, L. D. 1283, and all its accompanying papers be indefinitely postponed.

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

The Secretary will call the Roll.

ROLL CALL

YEA — Chapman, Collins, D.; Collins, S.; Cummings, Greeley, Hewes, Hichens, Huber, Katz, Levine, Lovell, McNally, Morrell, Pierce, Redmond, Snowe, Trotzky, Wyman.

NAY — Carpenter, Conley, Curtis, Danton, Farley, Jackson, Mangan, Martin, Merrill, Minkowsky, O'Leary, Pray, Speers, Usher.

18 Senators having voted in the affirmative and 14 Senators in the negative, the Motion to indefinitely postpone does prevail.

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

Mr. PIERCE: Mr. President, having voted on the prevailing side, I would ask that we reconsider our actions and hope you would vote against me.

A viva voce vote being had,
The Motion to reconsider does nor prevail.
Sent down for concurrence.

House — As Amended

Bill, "An Act Pertaining to Birth Records." (H. P. 52) (L. D. 73)

Bill, "An Act Relating to the Payment of Registration Fees for Motor Trucks and Truck Tractors." (H. P. 369) (L. D. 460)

Bill, "An Act Pertaining to Employment Security Tax Liens." (H. P. 378) (L. D. 467)

Bill, "An Act Relating to Meals Provided for Employees of the Department of Mental Health and Corrections." (H. P. 428) (L. D. 536)

Bill, "An Act to Establish More Convenient Hours to Permit Easier Access to Small Claims Court." (H. P. 431) (L. D. 538)

Bill, "An Act to Permit the Use of Salmon Eggs for Fishing Bait." (H. P. 462) (L. D. 567)

Bill, "An Act Repealing the Bay Point Village Corporation." (Emergency) (H. P. 494) (L. D. 613)

Bill, "An Act Concerning Damages in Wrongful Death Actions." (H. P. 572) (L. D. 696)

Bill, "An Act to Require Red Reflectors on Certain Long Logs Hauled at Night." (H. P. 601) (L. D. 726)

Bill, "An Act to Limit the Duration of Sentence of County Jails." (H. P. 1078) (L. D. 1302)

Bill, "An Act Concerning Hunting and Fishing License Fees for Foreign Exchange Students." (H. P. 627) (L. D. 768)

Bill, "An Act Relating to Motor Vehicle Registrations of Handicapped Persons." (H. P. 735) (L. D. 834)

Bill, "An Act Relating to Meeting to Reconsider Vote of a Prior Education District Meeting." (H. P. 906) (L. D. 1105)

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

Bill, "An Act to Amend the Vocational Education Laws." (H. P. 1209) (L. D. 1329)

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

Sent down for concurrence.

Senate

Bill, "An Act, Appropriating Funds to Provide Services to Older Blind Persons to Assist them in Remaining in their own Homes and in Caring for Themselves." (S. P. 338) (L. D. 1123)

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

Sent down for concurrence.

Senate — As Amended

Bill, "An Act Relating to the Examiner and Director, Economics and Finance of the Public Utilities Commission." (S. P. 139) (L. D. 380)

Bill, "An Act to Provide Certified Interpreter Service for the Hearing Impaired." (S. P. 311) (L. D. 1031)

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

Sent down for concurrence.

Enactors

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

"An Act to Require Telephone Companies to List the Names of a Customer's Spouse in the Telephone Directory if the Spouse so Chooses." (S. P. 344) (L. D. 1128)

On Motion of Mr. Speers of Kennebec,
Tabled until Tuesday next. Pending enactment.

"An Act to Require Committees and Subcommittees of the Board of Trustees of the University of Maine and of the Maine Maritime Academy to Hold Open Meetings." (S. P. 469) (L. D. 1681)

"An Act Concerning Municipal Transit Districts." (H. P. 721) (L. D. 973)

"An Act to Clarify Procedures Concerning the Issuance of General Obligation Bonds for Indian Housing Mortgage Insurance." (H. P. 594) (L. D. 849)

"An Act Concerning the Bee Industry Law." (H. P. 604) (L. D. 741)

"An Act Providing for the Service of Warrants by Agents of the State Tax Assessor." (H. P. 391) (L. D. 480)

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 Provide for Specially Designed Registration Plates for the Maine National Guard. (H. P. 504) (L. D. 623)

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

Mr. SPEERS: Mr. President, I move this be tabled until Monday next.

A viva voce vote being had.

The Motion to table does prevail.

On Motion of Mr. Speers of Kennebec, tabled until Monday next.

Pending — Enactment.

An Act to Equalize the Registration Fee on Dogs. (H. P. 509) (L. D. 628)

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

Mr. HICHENS: Mr. President and Members of the Senate, I move for indefinite postponement of L. D. 628. In the original statements that I made regarding acceptance of the Minority Ought Not to Pass Report, I stated that raising the fees to \$5.50 would bring a lot of problems to people who have pet dogs.

Since that time, I have talked with a humane agent down in my own area, who reminded me that a person who has two dogs or more will not bother to buy separate licenses, he will just get a kennel license, because he can get a kennel license for \$10.00, so he can have as many dogs as he wants for \$10.00 and does not have to pay the individual license fees. He also went on to explain, as I had brought to your attention, that there are no provisions as to how the towns or the State is going to use these monies to enforce the laws regarding dogs.

So with the study order that is being prepared and which I hope to present in a few days, I hope that you will go along with me and indefinitely postpone this Bill, and then after the Committee has an opportunity to work on it, hopefully, we will come out with a Bill that would more equalize the fees than they are at the present time.

The PRESIDENT: Is it now the pleasure of the Senate that this Bill, L. D. 628, be indefinitely postponed?

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

Mr. O'LEARY: Mr. President, I would oppose this Motion and ask for a Division.

I had a number of dogs up until a year ago. The value of each was perhaps \$250.00 to \$300.00 and I had to register each and every one of these dogs, males or females, but I could not have a kennel license because I could not meet certain requirements for space, running and such. So, I think this Bill should go on its way.

The PRESIDENT: The pending question before the Senate is the Motion by the Senator from York, Senator Hichens, that L. D. 628 be indefinitely postponed.

A Division has been requested.

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.

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

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

Mr. KATZ: Mr. President, I move reconsideration. A viva voce vote being had, The Motion to reconsider does not prevail.

Sent down for concurrence.

(Off Record Remarks)

Resolve, Directing the Bureau of Taxation to Provide Credits for the Commuter's Income Tax Imposed by New Hampshire for the Period January 1, 1975 to March 19, 1975. (H. P. 1482) (L. D. 1698)

Which was Finally Passed and having been signed by the President, was by the Secretary presented to the Governor for his approval.

Emergency

An Act to Provide Fees for Consumer Education Materials. (H. P. 1457) (L. D. 1685)

This being an emergency measure and having received the affirmative votes of 29 members of the Senate, was Passed To Be Enacted, and having been signed by the President, was by the Secretary presented to the Governor for his approval.

Emergency

An Act to Provide Funds for the Administration of the Uniform Crime Reporting Program within the Bureau of State Police. (H. P. 951) (L. D. 1145)

On Motion by Mr. Huber of Cumberland, Placed on the Special Appropriations Table, Pending — Enactment.

Emergency

Resolve, for Laying of the County Taxes and Authorizing Expenditures of Oxford County for the Year 1977. (H. P. 1481) (L. D. 1690)

This being an emergency measure and having received the affirmative votes of 28 members of the Senate, was Finally Passed 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 Repeal the Ban on Otter or Beam Trawls in Washington County Territorial Waters." (H. P. 626) (L. D. 767)

Tabled — May 3, 1977 by Senator Chapman of Sagadahoc

Pending — Passage to be Engrossed

On Motion by Mr. Chapman of Sagadahoc, The Bill was Passed to be Engrossed, as amended, in non-concurrence.

Sent down for concurrence.

The President laid before the Senate:

Bill, "An Act Relating to Solid Waste Disposal. (Emergency) (S. P. 248) (L. D. 756)

Tabled — May 3, 1977 by Senator Speers of Kennebec

Pending — Passage to be Engrossed.

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

Mr. TROTZKY: Mr. President, I move that L. D. 756 be indefinitely postponed and I would like to speak to my Motion.

The PRESIDENT: The Senator has the floor.

Mr. TROTZKY: Mr. President, and Members of the Senate, this Bill, I think it is embarrassing to me, and I think it is an embarrassment to the Maine Senate. What this Bill does is repeal all Maine Solid Waste Laws. It has been to a hearing and I cannot recall the Committee

Report, but I believe it was highly in opposition to this Bill.

We have had enough publicity in the newspapers concerning this Bill, and I hope the Senate at this time would finish this Bill off.

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

Mr. SPEERS: Mr. President, I move this item lie on the table until Tuesday next.

The PRESIDENT: The Senator from Kennebec, Senator Speers, now moves L. D. 756 be tabled until Tuesday next.

The Chair recognizes the Senator from Penobscot, Senator Trotzky.

Mr. TROTZKY: Mr. President, I request a Division:

The PRESIDENT: A Division has been requested. on the tabling Motion.

Will all those Senators in favor of the Motion to table this item until Tuesday next, please rise in their places to be counted.

Will all those Senators opposed to the Motion to table this item until Tuesday next, please rise in their places to be counted.

20 Senators having voted in the affirmative and 6 Senators in the negative, the Motion to table does prevail.

The President laid before the Senate:

House Reports — from the Committee on Taxation — Bill, "An Act to Change the Sales Tax Basis on Fuel Oil from Price to Volume" (H. P. 784) (L. D. 936) Majority Report — Ought to Pass; Minority Report — Ought Not to Pass

Tabled — May 3, 1977 by Senator Wyman of Washington

Pending — Acceptance of Either Report On Motion of Mr. Wyman of Washington, retabled for two legislative days.

The President laid before the Senate:

House Reports — from the Committee on Natural Resources — Bill, "An Act Relating to Conservation Restrictions." (H. P. 775) (L. D. 964) Majority Report — Ought to Pass as Amended by Committee Amendment "A" (H-210); Minority Report — Ought Not to Pass

Tabled — May 4, 1977 by Senator Speers of Kennebec

Pending — Acceptance of Either Report

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

Mr. TROTZKY: Mr. President, will the Secretary please read the Committee Report?

The PRESIDENT: The Secretary will read the Report.

Committee Report Read.

On Motion of Mr. O'Leary of Oxford,

Minority Ought Not to Pass Report accepted in non-concurrence.

Sent down for concurrence.

(Off Record Remarks)

The President laid before the Senate:

Bill, "An Act Authorizing Intermittent Service of Sentences of Confinement." (H. P. 1080) (L. D. 1304)

Tabled — May 4, 1977 by Senator Collins of Knox

Pending — Motion of Senator Pray of Penobscot to Indefinitely Postpone Bill and Papers.

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

Mr. PRAY: Mr. President, I request permission of the Senate to withdraw my Motion to indefinitely postpone.

The PRESIDENT: The Senator from Penobscot, Senator Pray, now requests leave of the Senate to withdraw his Motion to indefinitely postpone this Bill. Is it the pleasure of the Senate to grant this leave? It is a vote.

The Bill passed to be Engrossed, in concurrence.

The President laid before the Senate:

Bill, "An Act to Authorize Rental Housing to be Financed by the Issuance of Revenue Obligation Facilities under the Municipal Securities Approval Act." (H. P. 772) (L. D. 978)

Tabled — May 4, 1977 by Senator Curtis of Penobscot

Pending — Enactment

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

The President laid before the Senate:

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

Tabled — May 4, 1977 by Senator McNally of Hancock

Pending — Enactment

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

Mr. McNALLY: Mr. President and Members of the Senate: I wanted to be able to explain this Bill as I saw it very clearly, so even wrote it down on a piece of paper.

But first I want to call your attention to Article I under the Declaration of Rights, Section 1 in your book right opposite the Governor's picture. And it says:

"All men are born equally free and independent, and have certain rights, among which are those of enjoying and defending life and liberty, acquiring, possessing and protecting property, and of pursuing and obtaining safety and happiness."

Now, quoting from the Definition of State Employee Act, which is an Agency Bill, MRSA 26-979B "No one shall directly or indirectly interfere with, intimidate, restrain, coerce or discriminate against State Employees or a group of State Employees in the free exercise of their rights", and from legal opinion unless a law is legislated abridging this.

This is what L. D. 391 will do. Committee Amendment "A" states Amend the Bill, striking out everything after the enacting clause, and inserting in its place the following: 26 MRSA §979-C, sub P4 is enacted to read: "Negotiation of union security. Nothing in this chapter shall be interpreted to prohibit the negotiation of Union Security, excepting closed shop."

Senate Amendment "A" to Committee Amendment "A" adds the words "UNION SHOP." The key words in this Amendments are "Union Security".

This Bill will make all State Employees pay union dues and assessments even if they do not join. And if they negotiate, what is negotiated is subject to Binding Arbitration.

Chapter 603 Public Laws of 1975 — (1) Negotiation of Union Security says "Nothing in this Chapter shall be interpreted to prohibit the negotiation of Union Security excepting closed shop."

Under an Agency shop all workers represented by a Union must pay a fee to it, but are not required to join.

Labor laws require unions to represent all workers within a bargaining unit, regardless of whether they belong to the Union.

Agency Shop would allow members to negotiate it into their contracts. And an Agency Shop could require teachers to belong to the Union as a condition of employment.

One serious problem facing teachers and school boards (Labor Management) is the high and rising cost of protracted contract negotiations. That is why there is such a push for change in the collective bargaining laws.

Robert J. Stolt, the Commissioner of the Department of Personnel sent a letter to House Chairman Bustin and to me stating "L. D. 391 is essentially designed to make State Government

a closed Union Shop. Those employees who prefer not to join a Union, but who receive the benefit of a ratified collective bargaining contract, must pay as a condition of continued employment an "amount equal to the dues, fees and other assessments that a member of the bargaining agent organization pays."

This proposal is objectionable for several reasons: It requires employees not wishing to join an organized labor union to subsidize the total operational activities of the Union.

It authorizes dismissal of civil service employees for failure to pay the dues assessment — an act totally unrelated to merit and fitness of just cause.

It ignores the precept that the State of Maine is a creature of the people of Maine and as such each citizen has an entitlement to compete for and retain employment in the civil service of the State without regard to political belief. Each citizen has the right to work in government service without a concomitant obligation to support or associate with a Labor Union.

From a letter addressed to both Labor Chairmen the Governor states, "The Maine Labor Relations Board has determined that negotiation of a mandatory Service fee provision violates that provision in the Municipal Public Employees Labor Relations Act, and also contained in the State Employees Labor Relations Act, which prohibits coercion of Public employees in the free exercise of their rights. This legislation would override that statutory prohibition."

"This legislation would require the dismissal of civil service employees for failure to pay whatever service fee assessment might be established by the bargaining agent, and is contrary to one of the most basic principles of a merit system that no employees shall be discharged except for just cause."

"Finally, such a provision would require unwilling civil servants to make contributions which are, in part, utilized for such political activities as lobbying."

This bill, I have just explained, is an Agency Shop Bill. If passed, it will unquestionably remove from the School Committees and superintendents things they no longer use in the bargaining and negotiating they must do in the future.

Now, I want you to know I am not anti-labor. However, I promised the people who elected me that I would not vote for new taxes. I would vote to repeal the Uniform Property tax and I would do my best to help overcome this 60-40 merit bit, that we read about.

I am positive that Hancock County people did not get where they are now on unemployment checks or food stamps. Not one single person, young, middle aged or old, even hinted that I should do my best to make it easy for a mere handful of people to take members into a Union. On the contrary, with the escalating cost of living all those on a fixed income begged me to not forget their plight if elected.

What we need are more industries and more employment. Legislating agency shop Bills will not remedy this situation.

It is clear to me that endorsement of this Bill will inevitably set a vicious cycle in motion, which the entire industrial world of labor will demand and secure the same privileges generally. Why open the door just a bit to admit a few killer bees, when there is no doubt that the entire swarm is near at hand?

Again, I say the great need today is jobs. This is special class legislation advanced to smooth the way to unionize completely the Maine State Employees with greater ease and to obtain a much larger fund of money for their cause. I move the indefinite postponement of this bill and all its accompanying papers. And when the vote is taken I request a Roll Call.

The PRESIDENT: The Chair recognizes the

Senator from Cumberland, Senator Merrill.

Mr. MERRILL: Mr. President and Members of the Senate, a great deal has been said about the area of labor law and unemployment and other things by the previous speaker, and I agree with much of it.

However, in spite of that agreement, I think it is very possible for the Senate to pass the piece of legislation which we have in front of us, and to vote against the Motion to indefinitely postpone.

I rise simply to point out to the Senate that in order to see what we are passing, we should look at the law as it is in the Enactor Book, and not the law as it came before us, because this Senate has worked its will on this law as it has moved through the process, and a law that originally set out that people who work for the State that did not belong to the Union and would have to pay to the Union the money to represent the cost that it costs the Union to represent those people. That was the original Statement that the Bill made.

Now, because this Bill has been amended in the Senate, all it provides for is that that can be negotiated by the Union, and in their negotiations with the employer who, of course, is the Governor and his representatives.

This is merely permissive legislation. It allows that area to be negotiated. It is up to the Chief Executive to negotiate against it, if he thinks it is not in the best interest of the State.

My own way of thinking, and the way of thinking of the Members of both parties of this Senate that I have talked to, if it is ultimately negotiated, it is not an unreasonable request to say that people who receive the benefit of the negotiation process under the collective bargaining agreement will help to pay for the costs of those agreements.

The Bill specifically provides, again due to the actions of the Members of this Senate, that they cannot negotiate any agreement that would ever require anybody to belong to a Union, and so this Bill specifically protects against many of the fears that were raised by the Senator from Hancock, Senator McNally, because nobody who works for the State is going to be forced to join a Union, and they cannot even negotiate that.

I think this is a Bill very limited in its purpose, and it got that way because of the actions of this Senate, and I would urge you to vote against the amended version of this Bill, and then to enact it.

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

Mr. KATZ: Mr. President, as the Senate votes on this measure, and I shall vote with the Senator from Hancock, Senator McNally, on his Motion of indefinitely postponement, I would like the Senate to realize that this is not a Bill for State Employees. It is a Bill for Union.

It should come as no surprise, but I hear considerable input from members of the Maine employees family. This Bill lays a very heavy hand on the rights of the minority of State employees, who, because of dictates of conscience or anything else, choose not to join a Union, and the question is whether the Bill is going to force them to join a Union or not is not the issue.

This Bill, although it is permissive, the minority is not going to have much voice in the negotiation with the State, and will force them to pay the costs as if they were joining the Union, at least paying for the services provided by the Union.

If you believe in rights of the individual and the protection of the rights of the minority, your action on this Bill should be very clear.

Earlier I voted for political activities of employees of the State, because I believe in the freedom of the individual and I consistently here believe in the rights of the individual State

employee to join a Union and pay the dues, or pay the tariff, or pay his share as he chooses. And this Bill takes away that right. The only justification is that it will help the Unions who represent most State employees get additional funding to do the Union's work.

Now there is a trade-off here. If you believe that the convenience of the Union is more important than the rights of the individuals who I represent, who choose not to join the Union, you will vote for passage of this Bill. If you weigh the scale the other way, and feel that the rights of the minority of those employees who choose not to join the Union are more important than the benefits to the Union, you will vote with the Senator from Hancock, Senator McNally, and vote for the indefinite postponement of this legislation.

I consider this an extremely important issue.

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

Mr. PRAY: Mr. President and Members of the Senate: I would like to point a few things out about this Bill, exactly as to what it does do.

First of all, they do not have to join a Union. The alternatives, as I see it, of the trade-off that the good Senator from Kennebec, Senator Katz, talked about is the day-to-day costs for bargaining agents to State employees.

They will be in a position some day where the alternative will be either no organized representation, or organized representation, and in the interest of all State employees, not only those that belong to a Union, but those that choose not to for their own reasons, I think it would be in their best interests to have an organized group that goes before the management of government and make their case before them for pay increases, fringe benefits and working conditions. I think it would be a very sorry situation the day that employees on a one-to-one basis would have to go before the Administrative Branch of this government and make requests.

I think that it should be pointed out that I have corresponded with the Governor since the letter which was sent to the Committee Chairmen, and I would just like to read a part of that letter which he sent to me: "When the Bill arrives in its final form and the final provisions are spelled out, consideration will be given to those changes you feel have improved the Bill". In corresponding with the Governor, I pointed out the Committee Amendment and the Senate Amendment, which was offered by the good Senator from Penobscot, Senator Trotzky, and as to how I felt that they addressed the concerns which he expressed in his letter to me and to the Committee Chairmen. Basically those issues were addressed in those two Amendments.

I think it would be a great inequity if we supported the Motion by the Senator from Hancock, Senator McNally, to all State employees. I am glad that the Senator asked for a Roll Call, so that the position of everybody here will be perfectly clear.

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

Mr. TROTZKY: Mr. President, I would like to pose a question through the Chair. Under our collective bargaining laws, if the Union has been chosen as the bargaining agent, does it have to negotiate salaries, pensions, holidays and other conditions of employment for all of the State employees in that unit?

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

The Chair recognizes the Senator from Cumberland, Senator Merrill.

Mr. MERRILL: Mr. President and Members of the Senate: As the Senator from Hancock, Senator McNally, pointed out in his prepared statement correctly, the answer to that ques-

tion is in the affirmative — they do, whether or not the people are contributing any money toward that effort or not.

I might point out to the Senate that the eloquent appeal by the Senator from Kennebec, Senator Katz, is very broad indeed, — it is very broad. As a matter of fact, I did not hear any distinctions in that that convinced me that his argument does not apply equally to all employees that work in the State.

Now make clear here today that we are talking about giving the State employees a right to negotiate less in terms of Union security than members of other Unions have that operate in the private sector.

It would seem to me, without added qualifications on the part of the Senator from Kennebec, Senator Katz, that his arguments would apply equally to the private sector. And, of course, what we are talking about here is the right to work.

Now we have granted to the people who work in the public sector, because we have not taken up the option of 14B, the right to negotiate Union security, which goes beyond the rights that we are granting here.

Now if the Members of the Senate are convinced by the arguments of the Senator from Hancock, Senator McNally, and the Senator from Kennebec, Senator Katz, it seems to me the direction they are pointing in is very clear, — and that is that the State should enact right to work legislation.

I am opposed to it, and I think we ought to understand what we are saying, unless there is a reason that we should discriminate even further, and we are already discriminating in this act, because we are saying to our State employees, you cannot negotiate the same Union security that the members of the private sector can. That is what the passage of this Act is.

The defeat of this act on the rationale of the Senator from Kennebec, Senator Katz, seems to me to say much more about the position of this Senate in terms of the right of employees to organize and to have Unions which are secure.

I think before the Senate votes, they ought to consider the full implications in the arguments of the Senator from Kennebec, Senator Katz. It is, indeed, an important matter.

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

Mr. KATZ: Mr. President, I must protest the giant step from consideration of the specific piece of legislation and the dragging in of a very, very emotional issue such as right to work, and I have no such thoughts as the Senator would ascribe to me.

I think this is a question of the rights of some of the constituents whom I represent. I should explain to the Senate that I have personal biases. I at one time belonged to a Union. I have voted to go out on a strike. I have been out on strike. I have walked on a picket line, and I certainly am not by any yardstick anti-Union, but I think that you have got to maintain a balance. The Union I belonged to, incidentally, did not have an agency union or closed shop. It was the Airline Pilots Association, and I will guarantee you that our Union found that it was capable of negotiating some pretty decent benefits without forcing that last person or that last two persons to pay for the privilege of the benefits that came from the Union.

I say that I would ask the Senate to be particularly sensitive this morning to the rights of those State employees who choose not to join, and that is the only issue, as I see it, here today.

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

Mr. MERRILL: Mr. President, Fellow Members of the Senate, I do not think that I have taken any giant leap at all, and, as a matter of fact, in his second bite of the apple, the Senator from Kennebec, Senator Katz, did not

provide this Senate with one distinction as to why State employees should have less rights to negotiate, why his arguments about individual freedom are more applicable to State employees than to other employees. When I point out to the Senate that we will be giving less right to negotiate Union security here than we have given to the other employees of the State, and when you recognize that at the outset, because they cannot negotiate a Union shop, and the most they can negotiate for is an agency shop, and then you listen to the arguments that are being made, I would like to know what the distinction is. I do not think that there is one.

I think that the arguments that the Senator from Kennebec, Senator Katz, is making so eloquently apply just as well to the State taking advantage of its rights under 14B and becoming a right to work State. That is the implications of this Act, unless we can see some clear distinctions as to why State employees should be treated so differently.

I would urge the Senate not to take that step, to defeat the Motion to indefinitely postpone, and continue with the philosophy that we have always had, that these items should be left to negotiations. That is the philosophy that we have had with regard to employees in the private sector, and that is the philosophy we should have in regards to State employees. They are not second class citizens. Their rights as members of the Union are as important as rights of members of other Unions, and they should be able to negotiate these things.

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

Mr. PRAY: Mr. President and Members of the Senate: I would just like to make two points. First of all, last year, last Session, in the 107th, under a Bill which I co-sponsored with the Senator from Penobscot, Senator Curtis, we gave the University employees this exact same right to allow them to negotiate for this privilege.

I think that we should understand that when we talk about the rights of employees, that we are not taking a giant step down the path of a closed shop or a union shop. That is not part of the issue. That has been clearly spelled out in the law through the Committee Amendments and through the Amendment in the Chamber here.

I would like to point out that if Members of this body would take time to read the rest of Title 26, MRSA, Sub-section 979 A, B, C and D, you will find that both the union and non-union members are well protected by Statute, that we prohibit such things as strike, slow-down, and work stoppages. We protect the rights of those Union members and those people that choose not to.

As I pointed out earlier, all individuals benefit through the collective bargaining, whether they pay their share or not. We do mandate to State employees and we want to talk about the right that they have to pay into the retirement fund as a matter of employment. They do not have a choice. If we are so concerned about their rights, then why do we mandate that upon them.

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

Mr. MANGAN: Mr. President, very much like the good Senator from Kennebec, Senator Katz, I have been a Union member of at least a couple of Unions. I have been a Union president and I have been a shop steward. I have voted for strikes. I have walked the picket lines. It was a cold January morning, the temperature was 15 below zero, and we are walking a line, and I am standing there wondering why I am walking the line trying to fight for decent benefits for everybody, and those who are not members of the Union are all at home sitting nice and warm, and yet they benefit.

We do mandate certain things to certain employees in the State of Maine. We do man-

date that they join the State retirement system. We do mandate that they take a cut of their salary to support the State and the Federal government. We do mandate many things of our society, including such things as income taxation, and formerly the draft.

I feel that in this matter, if we are going to, as the Governor had mentioned in his speech earlier, allow the State employees to get their raises through collective bargaining agreements, and if everyone is going to benefit, then everyone should pay, and I feel that this Bill is a good document and should pass.

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 this Bill be indefinitely postponed.

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 the 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 Cumberland, Senator Conley.

Mr. CONLEY: Mr. President and Members of the Senate: I just wish to urge the Senate to vote against the pending Motion. I think the Bill has certainly been very well debated in this Chamber.

I take note of the fact and I recall a couple of years ago when we debated in this Chamber to continue a just cause within the contract of the teachers, and at that time the language, as I recall that was in that Bill, truly stated that it should not be taken for granted, or certainly left in the minds of the people that such an item could be negotiated.

I think that is exactly what we are talking here, about negotiation of Union security. It clearly states that nothing is to be interpreted in the Chapter today that this subject here cannot be negotiated. It is something that would have to be agreed to.

I would urge the Senate to vote against the Motion to indefinitely postpone.

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

Mr. SPEERS: Mr. President and Members of the Senate, I certainly would concur with the good Minority Leader of this Body when he urges the Senate to vote against the pending Motion.

The Bill provides for the negotiability of the requirement that an agency fee be paid to the organization which is negotiating for the benefits of the particular individuals. It does not provide that those individuals must become members of the particular Union. It seems to me to be a very fair position, and would urge the Senate to vote against the pending Motion.

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 L. D. 391 and all its accompanying papers be indefinitely postponed.

A Roll Call has been ordered.

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

The Secretary will call the Roll.

YEA — Collins, D.; Collins, S.; Cummings, Greeley, Hewes, Hichens, Huber, Katz, Lovell, McNally, Morrell, Redmond, Snowe, Wyman.

NAY — Carpenter, Chapman, Conley, Curtis, Danton, Jackson, Levine, Mangan, Martin, Merrill, Minkowsky, O'Leary, Pierce, Pray, Speers, Trotzky, Usher.

ABSENT — Farley.

14 Senators having voted in the affirmative, and 17 Senators in the negative, with one Senator being absent, the Motion to indefinitely postpone does not prevail.

The Bill was Passed to be Enacted, and having been signed by the President, was by the Secretary presented to the Governor for his approval.

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

Mr. PIERCE: Mr. President, having voted on the prevailing side, I would now move reconsideration and urge the Senate to vote against me.

A viva voce vote being had,
The Motion to reconsider does not prevail.

The President laid before the Senate:

Bill "An Act to Establish a Presidential Primary in the State of Maine." (H. P. 187) (L. D. 249)

Tabled — May 4, 1977 by Senator Speers of Kennebec

Pending — Consideration.

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

Mr. CONLEY: Mr. President, I move this item lie on the table until Monday.

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

Mr. SPEERS: Mr. President, I request a Division.

The PRESIDENT: A division has been requested on the tabling motion.

Will all those Senators in favor of tabling this item until Monday next, please rise in their places to be counted.

Will all those Senators opposed to tabling this item until Monday next, please rise in their places to be counted.

11 Senators having voted in the affirmative, and 20 Senators in the negative, the Motion to table does not prevail.

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

Mr. CONLEY: Mr. President, I move this item lie on the table until tomorrow.

The PRESIDENT: The Senator from Cumberland, Senator Conley, now moves this item be tabled until the next Legislative Day.

The Chair recognizes the Senator from Kennebec, Senator Speers.

Mr. SPEERS: Mr. President, I request a Division.

The PRESIDENT: A Division has been requested on the tabling motion.

Will all those Senators in favor of tabling this item for one Legislative Day, please rise in their places to be counted.

Will all those Senators opposed to tabling this item for one Legislative Day, please rise in their places to be counted.

12 Senators having voted in the affirmative, and 16 Senators in the negative, the Motion to table does not prevail.

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

Mrs. SNOWE: Mr. President, I now move that we recede from passage to be engrossed.

The PRESIDENT: The Senator from Androscoggin, Senator Snowe now moves the Senate recede from its action whereby this Bill was passed to be engrossed. Is this the pleasure of the Senate? It is a vote.

House Amendment "A" read.

Mrs. SNOWE: Mr. President, I now offer Senate Amendment "C" to House Amendment "A" and move its adoption.

The PRESIDENT: The Senator from Androscoggin, Senator Snowe, now offers Senate Amendment "C" to House Amendment "A" and moves its adoption.

Senate Amendment "C" (S-121) read.

The PRESIDENT: The Senator has the floor.

Mrs. SNOWE: Mr. President and Members of the Senate, just to briefly explain the Amendment I have just offered, first of all, it would establish the Presidential Primary as a non-binding preference primary; and secondly, it would establish the date of the Presidential

Primary to coincide with our June primary. I think this would substantially reduce the cost of holding a primary on a separate day.

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

Mr. CONLEY: Mr. President, I had the opportunity of reviewing the Amendments as offered by the good Senator from Androscoggin, Senator Snowe, Senate Amendment "A", Senate Amendment "B" and Senate Amendment "C", and I am not exactly sure as to what the difference between the three of them is at the moment.

I am not opposed to changing the primary date to June but I do find a great deal of difficulty in trying to accept the non-binding part on the delegates: Once they have been elected, it would seem to me that in fairness to the Presidential nominee or Presidential candidate, that one would want binding delegates, or at least allow the delegates to run uncommitted. But it would appear to me that we would want to have it binding on the part of those who supported a particular nominee.

Again, I would like the opportunity to review the Amendment that the good Senator from Androscoggin has proposed and an opportunity to sit down and discuss it with Members of my Party. I would hope that someone would table this until the next legislative day.

On Motion of Mr. Pray of Penobscot, Tabled for one Legislative Day.

Pending adoption of Senate Amendment "C" to House Amendment "A".

The President laid before the Senate:

House Reports — from the Committee on Fisheries and Wildlife — Bill, "An Act to Clarify the Powers of the Department of Inland Fisheries and Wildlife." (H. P. 354) (L. D. 447) Majority Report — Ought to Pass as Amended by Committee Amendment "A" (H-243); Minority Report — Ought Not to Pass

Tabled — May 4, 1977 by Senator Redmond of Somerset

Pending — Motion of Senator Conley of Cumberland to Accept the Minority Report.

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

Mr. REDMOND: Mr. President, Ladies and Gentlemen of the Senate, I rise to oppose the motion to accept the Minority Report, and I would like to tell you why.

The majority of the Committee reported Ought to Pass, and the Statement of Fact indicates the reason why this Bill proposing amendments to the Inland Fisheries and Wildlife Laws is intended to make it clear that the powers of the Department of Inland Fisheries and Wildlife with regard to the management of fish and wildlife are exclusive to those of other agencies of State government and those of municipalities of the State.

Thus, under Section I, no other State agency may engage in fish and wildlife management activities. And under Sections II and III, no municipality may enact an ordinance regulating hunting, trapping or fishing, which it may presently do under its home rule powers unless expressly prohibited. There is an opinion of the Attorney General, March 19, 1976, with regard to ordinances regulating trapping and hunting for bear with dogs.

There has been an Amendment, and those who oppose this claim that is infringing upon home rules, and the Commissioner needs the power to regulate hunting and trapping laws. If the municipality desires to regulate shooting in certain areas of the town, there is no law that prohibits them to do that. Thank you.

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

Mr. USHER: Mr. President, I ask for a Division on the Motion.

I oppose the Motion because this would take away home rule. Presently the system is work-

ing very fine. For example, the Town of Falmouth has a home rule. When you go across the town line, it says that hunting with rifles is prohibited, shotguns only. There is another town, Scarborough also has this ordinance and I believe the local municipalities can handle their own problems. In Westbrook we control the no hunting by no discharging of firearms, and I think the present law is very fine the way it is.

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

Mr. MARTIN: Mr. President, I would like to pose a question to any Member of the Fisheries and Wildlife Committee: Have they been able to come up with the AG's opinion?

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

Mr. PRAY: Mr. Pray and Members of the Senate, The other day when this Bill first came on the calendar, I did ask the Majority Leader to table this Bill until I had a chance to see the Attorney General's Opinion, because it was not presented at the hearing that we had on this Bill and the note that I got back yesterday from the AG's office was that they knew nothing about a legal opinion.

(Off Record Remarks)

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

Mr. SPEERS: Mr. President, I am sorry to hear from the good Senator from Penobscot, Senator Pray, that there is no Attorney General's opinion forthcoming with regard to this particular Bill.

But I think if you read the Bill carefully, you will see that the issue that is before the Senate at the present time is whether or not the State is going to invest its State Department of Inland Fisheries and Wildlife with the authority and the responsibility of regulating its conservation efforts and its hunting and fishing efforts, or whether or not you are going to allow each of the various towns and municipalities in the State to get into this area.

Now I would like to point out very carefully that this Bill would not prohibit the towns from making such regulations as they would desire with regard to the discharge of firearms within the town limits. That is specifically eliminated from the Bill by the Amendment. So I do not think that is an issue that is being faced with this particular piece of legislation.

The issue that is being faced, and I think it is a very important issue, is whether or not the Department of Inland Fisheries and Wildlife will indeed have the authority that I think we all feel it does have and should have of regulating the conservation efforts of the State of Maine.

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

Mr. REDMOND: Mr. President, I have here in front of me a copy of the letter from the Department of the Attorney General, Augusta, Maine, dated March 17, 1977, to the Honorable Donald V. Carter, House of Representatives, Augusta.

Dear Representative Carter:

This responds to your request for an opinion regarding the constitutionality of L. D. 447. Specifically you asked whether the provisions of L. D. 447 which prohibit enactment of certain municipal ordinances relating to fish and game would violate the Home Rule provisions of the Constitution. We believe that the provisions of L. D. 447 would not violate the provisions of the Maine Constitution.

The Maine Constitution, Article VIII, Part Second, Section 1, provides as follows:

"The inhabitants of any municipality shall have the power to alter and amend their charters on all matters, not prohibited by Constitution or general law, which are local and municipal in character. The Legislature shall prescribe the procedure by which the municipality may so act."

Under this provision municipalities may

enact ordinances on matters not prohibited by general law. The provisions of L. D. 447, if adopted, would become prohibitions of general law and thus could take effect and prohibit municipal action consistent with the provisions of the Constitution.

Sincerely,
DONALD G. ALEXANDER
Deputy Attorney General

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

Mr. PRAY: Mr. President and Members of the Senate, earlier my microphone did not work, and I got a note from the Majority Leader telling me that perhaps there was a message there.

Now the good Senator from Somerset, Senator Redmond, has come up with an opinion that I could not get. Maybe there is a message there also.

I would just like to point out that in talking about the authority and responsibility of the Department, I would like to also point out the authority and responsibility of the municipalities. This Bill, for there is present law written at this time, a municipality does not have a right to establish its own hunting season, fishing season, trapping season or anything else within its municipal boundaries. All the present law will allow them to do is to prohibit within their jurisdiction these actions. And I think it is a very appropriate place to have it to allow the municipalities the right to have their say.

I move the indefinite postponement of this Bill and all its accompanying papers.

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

Mr. CONLEY: Mr. President, I would just like to get up and agree with the good Senator from Penobscot, Senator Pray. It reminds me of an honored gentleman friend of mine from Portland. Some of you may be old enough to have served around the Legislature back in those days and I look primarily at the good Senator from Kennebec, Senator Katz. You may remember good old Judge McLaughlin. The Judge used to say to all freshmen members of the Legislature, "Now, son, any time you do not understand a Bill, vote against it, 50 percent of them should be killed anyway." And I think this Bill is a good example, and I hope the Senate gives it its proper demise.

(Off record remarks)

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

Mr. REDMOND: Mr. President and Members of the Senate, I urge the Senate to oppose the Motion to indefinitely postpone L. D. 447.

The PRESIDENT: Is the Senate ready for the question? The pending question before the Senate is the Motion by the Senator from Penobscot, Senator Pray, that the Bill and all its accompanying papers 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.

The Chair recognizes the Senator from Cumberland, Senator Usher.

Mr. USHER: Mr. President, I request a Roll Call.

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 and stand in their places to be counted.

Obviously, more than one-fifth having arisen, a Roll Call is ordered.

The Chair recognizes the Senator from Cumberland, Senator Merrill.

Mr. MERRILL: Mr. President and Members of the Senate, I find it rather incredible that this Senate that has spoken so much about local control is ready to enact a Bill that takes away this power from these towns. I just cannot believe it.

Is everything that the people are saying about the fact they want some responsibility left back to the municipalities forgotten today?

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

Mr. SPEERS: Mr. President and Members of the Senate, I am very sorry indeed that the good Senator from Cumberland, Senator Conley, has mentioned that perhaps he does not understand this particular Bill. I would point out that the LD number is No. 447 and the Amendment is No. 243. And very simply it states, with the amendment; "that the Commissioner shall have the general supervision of the administration and enforcement of the Inland Fisheries and Wildlife Laws, and shall have the responsibility for the management of all fish and wildlife in the State." Further it states that "no municipality of the State shall enact any ordinances regulating the hunting or trapping of any species of wildlife except that this section shall not be interpreted to prohibit the enactment of any ordinance generally regulating the discharge of firearms in the municipality or any part thereof."

This is the issue, very simply stated, that is before this Senate. Whether we are going to invest the authority and responsibility for regulating the hunting and fishing in the State of Maine in the Department of Inland Fisheries and Wildlife, or whether we are going to allow municipalities to make those regulations themselves.

I submit that, although there has obviously not been utter chaos in the State prior to this time without this particular Bill, it can be very easily envisioned that municipalities would make different hunting and fishing regulations, and it would completely destroy the authority of the Department of Inland Fisheries and Game for the management of wildlife and fisheries in the State of Maine.

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

Mr. PRAY: Mr. President and Members of the Senate, I realize the hour is getting late. But as I sit here and listen to the debate, I kind of think the Bills, that we had a few weeks ago about Sunday hunting and how individuals like to take off and walk through the woods on a Sunday. I just happened to think about the people who live within the municipalities in the State and they would like to get out in the woods and without driving out in the country, outside of the municipal boundaries, like to walk along the various surrounding the urban areas or towns, and just imagine what it would be like to step into a leg iron trap.

(Off record remarks.)

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

Mr. MERRILL: Mr. President, I think this is a simple Bill. As I understand it what it says is this; If the members of a town get together at a town meeting and they decide that in their town they want to prohibit the hunting of bear with dogs, because it is causing a problem because it is an agricultural town, and this legislature by this act is saying, no, you cannot do it. When all the bureaucrats in Augusta get done saying no to the towns, they might as well not hold the town meetings.

The PRESIDENT: Is the Senate ready for the question? The pending question before the Senate is the Motion by the Senator from Penobscot, Senator Pray, that this Bill, LD 447 and all its accompanying papers be indefinitely postponed.

A Yes vote will be in favor of indefinite postponement. A Nay vote will be opposed.

The Secretary will call the roll.

YEA — Carpenter, Conley, Cummings, Danton, Levine, Mangan, Martin, Merrill, Minkowsky, Pray, Usher.

NAY — Chapman, Collins, D.; Collins, S.; Curtis, Greeley, Hewes, Hichens, Huber, Jackson, Katz, Lovell, McNally, Morrell, O'Leary, Pierce, Redmond, Snowe, Speers, Trotzky, Wyman.

ABSENT — Farley.

11 Senators having voted in the affirmative and 20 Senators having voted in the negative, with one Senator being absent the Motion to indefinitely postpone does not prevail.

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

Mr. SPEERS: Mr. President, I move the Senate accept the Ought to Pass, as amended Report.

The PRESIDENT: The Chair will advise the Senator that there is a pending Motion before this Body, and that is the Motion of the Senator from Cumberland, Senator Conley, to accept the Minority Ought Not to Pass Report of the Committee.

Mr. SPEERS: Mr. President, I urge the Senate to vote against that Motion.

The PRESIDENT: The Chair will order a division.

The pending question before the Senate is the Motion by the Senator from Cumberland, Senator Conley, to accept the Minority Ought Not to Pass Report of the Committee.

A Yes vote will be in favor of accepting the Ought Not to Pass Report. A No vote will be opposed.

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.

Will all those Senators opposed to the Motion to accept the Ought Not to Pass Report, please rise in their places to be counted.

11 Senators having voted in the affirmative, and 20 Senators in the negative, the Motion to accept the Minority Ought to Pass Report does not prevail.

Majority Ought to Pass, as amended, Report accepted in non-concurrence and the Bill read Once. Committee Amendment "A" read and adopted. The Bill, as amended, Tomorrow Assigned for Second Reading.

The President laid before the Senate:

Bill, "An Act Relating to the Payment of Fees for Certification of Educational Personnel." (Emergency) (H. P. 110) (L. D. 141)

Tabled — May 4, 1977 by Senator Conley of Cumberland

Pending — Passage to be Engrossed

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

Mr. CONLEY: Mr. President I move this Bill be indefinitely postponed.

The PRESIDENT: The Chair would advise the Senator that the Motion is out of order.

Mr. CONLEY: Mr. President, I would ask for a Roll Call on engrossment of this Bill, and urge the Senate to vote against engrossment.

The PRESIDENT: The pending question before the Senate is passage to be engrossed of L. D. 141.

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 on engrossment, please rise in their places to be counted.

Obviously, more than one-fifth of the Senators having arisen, a Roll Call is ordered.

The Pending question before the Senate is passage to be engrossed of L. D. 141, "An Act

Relating to the Payment of Fees for Certification of Educational Personnel."

A yes vote will be in favor of passing this Bill to be engrossed. A Nay vote will be opposed.

The Secretary will call the Roll.

YEA — Chapman, Collins, D.; Collins, S.; Cummings, Curtis, Hewes, Hichens, Huber, Jackson Katz, Lovell, McNally, Morrell, Pierce, Redmond, Trotzky, Wyman.

NAY — Carpenter, Conley, Danton, Greeley, Levine, Mangan, Martin, Merrill Minkowsky, O'Leary, Pray, Snowe, Speers, Usher.

ABSENT — Farley.

17 Senators having voted in the affirmative, 14 Senators having voted in the negative, with one Senator being absent, this Bill is passed to be engrossed in non-concurrence.

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

Mr. KATZ: Mr. President, I move reconsideration.

A viva voce vote being had,

The Motion to reconsider does not prevail.

Sent down for concurrence.

Senator Merrill of Cumberland was granted unanimous consent to address the Senate on the record.

Mr. MERRILL: Mr. President and Members of the Senate, we have dealt with at least two Bills in this Legislative Session dealing with the area of corporal punishment, and I would just like to make a statement on the record as regards my understanding of the law, and read briefly, if I can, from a letter from the Attorney General's Office. It is dated May 3rd. And they state in that letter regarding the ability of the parents to delegate to teachers or others the permission to use corporal punishment, that "In our view that this Section does permit a parent to expressly delegate permission to use corporal punishment to punish a person for misconduct to individual teachers or to a school. Such delegation must be clear and specific terms."

Mr. President, as a member of the Judiciary Committee that helped draft the Criminal Code, I would like to say that that letter from the Attorney General is my understanding of the law and that, in fact, Section 106, subsection (1) of the Criminal Code does clearly give to the parents the right to delegate this power to teachers or others, that that is the status of the present law and that the people of the State should feel free to act accordingly.

The President laid before the Senate:

Bill, "An Act Relating to Music, Dancing or Entertainment." (H. P. 875) (L. D. 1068) which was tabled earlier in today's session by the Senator from Kennebec, Senator Speers, pending the Motion of the Senator from Cumberland, Senator Conley that this Bill be recommitted to the Committee.

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

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

Mr. CONLEY: Mr. President, I request leave to withdraw my Motion.

The PRESIDENT: The Senator from Cumberland, Senator Conley, now asks leave of the Senate to withdraw his Motion to recommit this Bill to the Committee. Is it the pleasure of the Senate to grant this leave? It is a vote.

Majority Ought to Pass Report accepted in non-concurrence.

The Bill Read Once. Committee Amendment "A" Read and Adopted, and the Bill, as amended, Tomorrow Assigned for Second Reading.

(Off Record Remarks)

On Motion of Mr. Huber of Cumberland,
Adjourned to 2:00 in the afternoon.