

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

KJ PRINTING
AUGUSTA, MAINE

SENATE

Wednesday, May 25, 1977

Senate called to Order by the President.

Prayer by Reverend Timothy D. Fox, Church of Nazarene in Gardiner.

REV. FOX: Shall we pray. Our Almighty and Eternal God, Our Father, we come before You this morning with thankful hearts, for all of the many blessings that You share with our Country and State. We are indeed grateful this morning for the beautiful green valleys and hills, for our fertile soil which is even now being planted, and for our forests, for our mountains, for our scenic ocean shores. Indeed you have blessed us with a little bit of Heaven itself on earth, and we are thankful.

We especially want to thank you this morning, though, for the people who make up our great Nation and State, and as this group of elected officials gather together today to do the business of the people, may they realize just that, that they are servants of the people.

Father, give them direction; give them wisdom in their deliberations today; teach them to express in word and in deed your spirit of justice. May they so discharge their duties that the people will see their true values, and thus honor and respect their decisions.

Father, if there be any here this morning who seek temporal glory only, I pray that you would gently rebuke them in your own gentle way. If any look only to their own vested self interest, may you give them a broader perspective, by giving them ears to hear and eyes to see the needs of others. And, above all, we pray this morning that we would realize and understand that as great as our Nation and State are, that there is a Kingdom yet to come, whose builder and ruler is yourself. And may we so direct our energies and cooperation with yours, that the realization of that Kingdom may come to pass on earth.

We ask it all in the name of Jesus, Our Saviour. Amen.

Reading of the Journal of yesterday.

(Off Record Remarks)

Papers from the House

Non-concurrent Matter

Bill, "An Act to Establish Chester Greenwood Day." (H. P. 1189) (L. D. 1425)

In the House May 20, 1977, Passed to be Enacted.

In the Senate May 23, 1977, Indefinitely Postponed in non-concurrence.

Comes from the House, that Body having Adhered.

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

Mr. CARPENTER: Mr. President, I move we recede and concur.

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

Mr. O'LEARY: Mr. President, I ask for a Division, and move that we adhere.

The PRESIDENT: A Division has been requested.

The Chair recognizes the Senator from Cumberland, Senator Conley.

Mr. CONLEY: Mr. President and Members of the Senate: The Bill before us, obviously, is not one of the most important pieces of Legislation that will come before this Session of the Legislature.

I know the good Senator from Kennebec, Senator Katz, spoke out some time back relative to one of these insignificant poet laureates or something that was coming down the pike. But I look upon the colorful character of the individual we are allegedly honoring, Mr. Chester Greenwood.

The Maine Senate has a tradition, a tradition at the commencement of this Legislative Ses-

sion that the Senator from Franklin does not take his seat while the Legislature is electing the Presiding Officer, or the Senate is electing its Presiding Officer to take over or to run the gavel for the next two years. He is generally allegedly out stoking the fires to keep the Senate Chamber warm. And it does seem sort of strange that it happens to be the Senator from Franklin County, and that Senator being Senator Andrew Redmond.

Chester Greenwood, they tell me, was a resident of Franklin County, and it seems quite ironic that what he would be noted for would be the fact of trying to preserve or keep ones ears warm so that they would not become frosted.

Furthermore, to add to this little dilemma that we have here today, Chester Greenwood Day being December 21st, or the first day of winter, is not the only significant thing about this piece of Legislation, but the good Senator from Franklin, Senator Redmond, also observes his birthday on December 21st.

And to add further to this wonderful piece of Legislation, not only does Chester Greenwood make a great success for himself, for the County of Franklin, but I think history will also show that Senator Redmond has also become an outstanding citizen of the community, Franklin County, has built a plant that manufactures gun stocks, that employs many Maine citizens, and obviously helps the industry of this State.

It would be my hope that we could establish a long line of tradition, receding and concurring with the House, and establish a day that shall always be known as Chester Greenwood Day, the first day of winter.

The PRESIDENT: Is the Senate ready for the question? The pending question before the Senate is the Motion by the Senator from Aroostook, Senator Carpenter, that the Senate recede and concur with the House.

A Division has been requested.

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

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

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

Mr. O'LEARY: 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 having arisen, a Roll Call is ordered.

Is the Senate ready for the question? The pending question before the Senate is the Motion by the Senator from Aroostook, Senator Carpenter, that the Senate recede and concur with the House.

A yes vote will be in favor of receding and concurring. A nay vote will be opposed.

The door keepers will secure the doors.

The Secretary will call the Roll.

ROLL CALL

YEA — Carpenter, Chaplan, Collins, D.; Conley, Farley, Hichens, Huber, Lovine, Lovell, Martin, McNally, Minkowsky, Morrell, Pierce, Redmond, Snowe, Speers.

NAY — Collins, S.; Cummings, Greeley, Katz, Merrill, O'Leary, Pray, Usher.

ABSENT — Curtis, Danton, Hewes, Jackson, Mangan, Trotzky, Wyman.

17 Senators having voted in the affirmative, and 8 Senators in the negative, with 7 Senators being absent, the Motion to recede and concur does prevail.

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

Mr. CONLEY: Mr. President, having voted on the prevailing side, I now move the Senate reconsider its action whereby the Bill was passed to be enacted.

The PRESIDENT: The Senator from Cumberland, Senator Conley, now moves the Senate reconsider its action whereby this Bill was passed to be enacted.

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

(Off Record Remarks)

Non-concurrent Matter

Bill, An Act to Provide that Voter Registration Forms Include a Warning Concerning Knowingly Supplying False Information. (H. P. 747) (L. D. 952)

In the House May 19, 1977 Majority Report Read and Accepted and the Bill Passed to be Engrossed as amended by Committee Amendment "A" (H-352).

In the Senate May 23, 1977 Minority 'Ought Not to Pass' Report Read and Accepted, in non-concurrence.

Comes from the House, that Body having Insisted.

On Motion of Mr. Katz of Kennebec, The Senate voted to adhere.

Non-concurrent Matter

Bill, An Act to Provide Exemption of Farm Supplies from the Sales Tax. (H. P. 538) (L. D. 653)

In the House May 20, 1977, Minority Report Read and Accepted and the Bill Passed to be Engrossed as amended by House Amendment "A" (H-382).

In the Senate May 23, 1977, Majority 'Ought Not Pass' Report Read and Accepted, in non-concurrence.

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

On Motion of Mr. Wyman of Washington, The Senate voted to insist and join in a Committee of Conference.

Joint Orders

Expressions of Legislative Sentiment recognizing that: Charles Lindbergh, on May 20, 1927, became the first person to fly alone across the Atlantic Ocean, thus accomplishing a feat of daring and imagination which continues, 50 years later, to inspire all humans who dream of soaring through the air. (H. P. 1587)

Cheryl Ann Wibberly has been recognized for her outstanding academic record by being chosen Valedictorian of Penquis Valley High School. (H. P. 1589)

Susan Lee Lumbra has been recognized for her excellent academic record by being chosen Salutatorian of Penquis Valley High School. (H. P. 1590)

The Girls' Track Team and the Boys' Track Team of Orono High School are the Penobscot Valley Track Champions for 1977. (H. P. 1593)

Comes from the House, Read and Passed. Which were Read and Passed, in concurrence.

WHEREAS, there are more than 240 correction officers employed by state and county governments in Maine; and

WHEREAS, there is no standard training program or requirement specifically for such officers as there is for police officers; and

WHEREAS, on the basis of testimony presented on several bills before it, a majority of the Joint Standing Committee on State Government having voted in favor of a study to determine whether it may be in the interest of the State to establish a policy and standard training requirement for corrections officers; now, therefore, be it

ORDERED, the Senate concurring, that the Joint Standing Committee on State Government be authorized to study the training of state and county corrections officers and to report back to the second regular session of the 108th Legislature;

(1) The most appropriate training to be required of such officers; and

(2) A plan, including funding, to provide such training as expeditiously as is possible; and be it further

ORDERED, that the Department of Mental Health and Corrections, the Maine Criminal Justice Academy and such other agencies or departments as may be determined by the Joint Standing Committee on State Government be authorized and directed to provide the committee with such assistance as the committee deems necessary to carry out the purposes of this order; and be it further

ORDERED, that the committee shall complete this study no later than December 1, 1977, and submit to the Legislative Council within the same time period its findings and recommendations including copies of any recommended legislation in final draft form; and be it further

ORDERED, that upon passage of this order in concurrence, copies of this order be transmitted forthwith to the Department of Mental Health and Corrections and the Maine Criminal Justice Academy as notice of the pending study. (H. P. 1592)

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

On Motion of Mr. Speers of Kennebec, Tabled pending passage.

Communications

House of Representatives

May 24, 1977

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

Dear Madam Secretary:

House Paper 1123, Legislative Document 1341 having been returned by the Governor together with his objections to the same pursuant to the provisions of the Constitution of the State of Maine, after reconsideration, the House proceeded to vote on the question: "Shall this Bill become a law notwithstanding the objections of the Governor?"

Seventy voted in favor and Sixty-eight against, and accordingly it was the vote of the House that the Bill not become a law and the veto was sustained.

Respectfully,

Signed:

EDWIN H. PERT

Clerk of the House

Which was Read and Ordered Placed on File.

House of Representatives

May 24, 1977

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

Dear Madam Secretary:

The House today voted to Insist and Join in a Committee of Conference on Bill "An Act to Require Towns without Secondary Schools to Provide Transportation to Secondary Schools" (H. P. 1025) (L. D. 1273)

The Speaker appointed the following members of the House to the Committee:

Mr. Carroll of Limerick
Mr. Lynch of Livermore Falls
Mr. Bagley of Winthrop

The House today also voted to Insist and Join in a Committee of Conference on Bill "An Act to Amend the Requirement for Public Notice of Public Proceedings under the Right to Know Law" (S. P. 426) (L. D. 1484)

The Speaker appointed the following

members of the House to the Committee:

Mr. Cote of Lewiston
Mr. Burns of Anson
Mr. Shute of Stockton Springs

Respectfully,

EDWIN H. PERT

Clerk of the House

Which was Read and Ordered Placed on File.

Mr. McNally of Hancock, (Co-sponsor: Mr. Silsby of Ellsworth) presented following Joint Resolution and moved its adoption:

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

Joint Resolution Recognizing the Gift of the Maine Tourmaline Necklace to the People of the State of Maine.

WHEREAS, it is desirable that the State should encourage the promotion of materials which are the products of the State, its history and traditions; and

WHEREAS, the advancement of knowledge and understanding of the State is accomplished in part by objects of artistic, cultural and educational interest; and

WHEREAS, tourmaline, by virtue of its discovery during 1820, the year in which Maine became a State, its association with Vice President Hannibal Hamlin and other illustrious Maine people, and its prominence in the gem and mineral field since the recent discovery of the largest tourmaline find in the world at Newry in 1972, has richly deserved its designation as the official mineral for the State of Maine bestowed upon it by the One Hundred and Fifth Legislature; and

WHEREAS, the rendering of Maine tourmaline and gold into the Maine Tourmaline Necklace by a Maine artisan, Addison W. Saunders of Ellsworth, not only achieves the symbolic concept of a beautiful example of state resources, pride and craftsmanship, but also as an original work of art, it represents a form of expression which will significantly promote a deeper knowledge and understanding of the history and skills of Maine people; and

WHEREAS, the Governor has accepted on behalf of the State of Maine the gift of the Maine Tourmaline Necklace made by the Maine Retail Jewelers' Association and will take such action as may be necessary to carry into effect the purposes of the gift; now, therefore, be it

RESOLVED: That We, the Members of the 108th Legislature on behalf of the people of Maine, hereby record our deep appreciation and our enduring gratitude for this gift which, in terms of those unseen and eternal things that make it priceless, depicts the grace, charm and pride of Maine people; and be it further

RESOLVED: That suitable copies of this Resolution be prepared and be transmitted by the Secretary of State to the Maine State Museum and the Maine Retail Jewelers' Association.

(S. P. 513)

Which was Read.

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

Mr. KATZ: Mr. President, you will notice that this pertains essentially to the jewelers of the State of Maine, and the Maine State Gem, and I will not ask to be excused from voting on this because of the appearance of a conflict. I feel very, very sound in voting for it, and I hope the Senate does.

I would like to extend my personal invitation for you to join with a good many jewelers of the State at 11:00 this morning, at which time we will surely be done with our Senate deliberations, to be present when the presentation is made in the museum to Governor and Mrs. Longley.

Another announcement that I thought might be of interest to the Minority Leader, I am hav-

ing Legislation prepared which will make the month of December Retail Jewelers Month in the State of Maine, and I hope that you all support it as a welcome addition to Title I of the Revised Maine Statutes.

(Off Record Remarks)

Which was adopted.

Sent down forthwith 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 Pertaining to the Right-of-Way of Vehicles at Intersections." (H. P. 1133) (L. D. 1351)

Bill, "An Act Concerning Motor Vehicles Located at Official Motor Vehicle Inspection Stations." (H. P. 1055) (L. D. 1286)

Bill, "An Act to Regulate Left Turns at Traffic Light Controlled Intersections." (H. P. 1294) (L. D. 1527)

Bill, "An Act to Require the Court System to Compensate Washington County for Certain Equipment and Space." (H. P. 1215) (L. D. 1452)

Leave to Withdraw

The Committee on Agriculture on, Bill, "An Act Establishing Farmers Homestead Loans." (H. P. 1340) (L. D. 1652)

Reported that the same be granted Leave to Withdraw.

Comes from the House, the Report Read and Accepted.

The Committee on Energy on, Bill, "An Act to Prohibit the Sale of Gas Stoves with Pilot Lights." (H. P. 1433) (L. D. 1654)

Reported that the same be granted Leave to Withdraw.

Comes from the House, the Report Read and Accepted.

The Committee on Labor on, Bill, "An Act to Establish the Maine Wage Assurance Fund." (H. P. 1371) (L. D. 1578)

Reported that the same be granted Leave to Withdraw.

Comes from the House, the Report Read and Accepted.

The Committee on Labor on, Bill, "An Act to Establish Penalties for Contractors who Violate Laws Governing Public Works Contracts." (H. P. 1174) (L. D. 1400)

Reported that the same be granted Leave to Withdraw.

Comes from the House, the Report Read and Accepted.

The Committee on Labor on, Bill, "An Act to Safeguard Law Enforcement Officers' Individual Rights." (H. P. 1319) (L. D. 1616)

Reported that the same be granted Leave to Withdraw.

Comes from the House, the Report Read and Accepted.

The Committee on Legal Affairs on, Resolve, Authorizing Alfred E. Berg, M. D. to Bring Civil Action Against the State of Maine. (H. P. 1377) (L. D. 1572)

Reported that the same be granted Leave to Withdraw.

Comes from the House, the Report Read and Accepted.

The Committee on Natural Resources on, Bill, "An Act to Encourage Local Inspection Systems to Identify Illegal Domestic Waste Disposal Units." (H. P. 1380) (L. D. 1605)

Reported that the same be granted Leave to Withdraw.

Comes from the House, the Report Read and Accepted.

The Committee on Transportation on, Bill, "An Act to Provide for a Sign on Route 302 at the Maine-New Hampshire Border Indicating the Scenic Route to Old Orchard Beach and the

Lakes Region." (H. P. 1195) (L. D. 1427)
Reported that the same be granted Leave to Withdraw.

Comes from the House, the Report Read and Accepted.

Which Reports were Read and Accepted, in concurrence.

Ought to Pass

The Committee on Legal Affairs on, Bill, "An Act Concerning Record Checks on Applicants for Employment with Fire Departments." (H. P. 1214) (L. D. 1451)

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, Bill, "An Act to Authorize the County Commissioners of Hancock County to Transfer Certain Accounts to Certain Active Unorganized Townships." (H. P. 1176) (L. D. 1404)

Reported that the same Ought to Pass.
Comes from the House, the Bill Passed to be Engrossed.

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

Ought to Pass-As Amended

The Committee on Appropriations and Financial Affairs on, Bill, An Act to Amend the Priority Social Services Program to Serve Elderly Health Needs. (H. P. 224) (L. D. 288)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-378).

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

The Committee on Business Legislation on, Bill, An Act Relating to the Licensing of Auctioneers. (H. P. 905) (L. D. 1118)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-389).

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

The Committee on Fisheries and Wildlife on, Bill, An Act Concerning Fly Fishing in the Kennebec River. (H. P. 550) (L. D. 667)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-386).

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.

Divided Report

The Majority of the Committee on Business Legislation on Bill, An Act Relating to the Qualifications for Licensure as a Real Estate Salesman. (H. P. 183) (L. D. 245)

Reported that the same Ought Not to Pass.
Signed:
Senators:

- PIERCE of Kennebec
- CHAPMAN of Sagadahoc

Representatives:

- JACKSON of Yarmouth
- SPROWL of Hope
- HOWE of So. Portland
- ALOUPIIS of Bangor
- KILCOYNE of Gardiner
- PEAKES of Dexter
- RIDEOUT of Mapleton

The Minority of the same Committee on the same subject matter Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-390).

Signed:
Seantor:

FARLEY of York

Representatives:

- WHITTEMORE of Skowhegan
- BOUDREAU of Portland
- CLARK of Freeport

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

Which Reports were Read.
On Motion of Mr. Pierce of Kennebec,
Majority Ought Not to Pass Report accepted in concurrence.

Divided Report

The Majority of the Committee on Veterans and Retirement on, Bill, An Act Pertaining to Retirement Benefits for County, City and Town Employees. (H. P. 1253) (L. D. 1472)

Reported that the same Ought Not to Pass.
Signed:
Senators:

- COLLINS of Knox
- LOVELL of York
- O'LEARY of Oxford

Representatives:

- THERIAULT of Rumford
- CLARK of Freeport
- NELSON of Roque Bluffs
- LOUGEE of Island Falls
- HICKEY of Augusta
- BUNKER of Gouldsboro
- AUSTIN of Bingham
- MacEACHERN of Lincoln

The Minority of the same Committee on the same subject matter Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-385).

Signed:

Representatives:

LAFFIN of Westbrook

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

Which Reports were Read.
Majority Ought Not to Pass.
Report Accepted in concurrence.

Divided Report

The Majority of the Committee on Veterans and Retirement on, Bill, An Act to Provide for the Retirement of Forest Rangers in Fire Control Work After 20 Years of State Service. (H. P. 1412) (L. D. 1580)

Reported that the same Ought Not to Pass.
Signed:
Senators:

- COLLINS of Knox
- LOVELL of York
- O'LEARY of Oxford

Representatives:

- THERIAULT of Rumford
- CLARK of Freeport
- NELSON of Roque Bluffs
- LOUGEE of Island Falls
- HICKEY of Augusta
- BUNKER of Gouldsboro
- AUSTIN of Bingham
- MacEACHERN of Lincoln

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

Signed:

Representative:

LAFFIN of Westbrook

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

Which Reports were Read.
Majority Ought Not to Pass Report accepted in concurrence.

Senate

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

Bill, "An Act Concerning a Referendum un-

der the Maine Sanitary District Enabling Act." (S. P. 364) (L. D. 1226)

Ought to Pass — As Amended

Mr. Pierce for the Committee on Business Legislation on, Bill, "An Act Relating to the Exemption of Financial Institutions from the Unfair Trade Practices Act." (S. P. 162) (L. D. 438)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (S-164).

Mr. Collins for the Committee on State Government on, Bill, "An Act Relating to Bidding Procedures Involving the Bureau of Public Improvements." (S. P. 429) (L. D. 1514)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (S-165).

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

Divided Report

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

Reported that the same Ought Not to Pass.
Signed:
Senator:

TROTZKY of Penobscot

Representatives:

- HALL of Sangerville
- HUBER of Falmouth
- DEXTER of Kingfield
- WILFONG of Stow
- HUNTER of Benton
- BENOIT of South Portland
- GREEN of Auburn
- BLODGETT of Waldoboro

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

Senators:

- REDMOND of Somerset
- O'LEARY of Oxford

Representative:

BROWN of Bethel

Which Reports were Read.
On Motion of Mr. Trozky of Penobscot,
Tabled until later in Today's Session, Pending acceptance of either Report.
(See Action Later Today.)

The PRESIDENT: The Chair at this time would ask the Sergeant-at-Arms to escort the Minority Floor Leader, Senator Conley, to the Rostrum, to act as President Pro Tem.

Thereupon, the Sergeant-at-Arms escorted Mr. Conley of Cumberland to the Rostrum where he assumed the duties of President Pro Tem, and the President retired from the Senate Chamber.

Second Readers

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

House

Bill, "An Act Concerning Certain Powers of Joint Standing Committees Responsible for Acting on Gubernatorial Nominations." (H. P. 1288) (L. D. 1521)

Bill, "An Act to Assign the Responsibilities of Sewage Disposal to the Department of Environmental Protection." (H. P. 1578) (L. D. 1791)

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

House — As Amended

Bill, "An Act to Amend the Law Providing for Variances from Zoning Laws." (H. P. 1177) (L. D. 1405)

Bill, "An Act Concerning Admission of Certain Children into the First Grade." (H. P. 1306) (L. D. 1543)

Bill, "An Act to Authorize a Bond Issue in the Amount of \$300,000 for the Renovation of Leavitt Hall at the Maine Maritime Academy." (H. P. 1346) (L. D. 1626)

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

Bill, "An Act Relating to Refusal to Accept Work as Disqualification for Benefits under the Employment Security Law." (H. P. 360) (L. D. 452)

Which was Read a Second Time.

On Motion of Mr. Speers of Kennebec, Tabled until Friday next, Pending passage to be engrossed.

Bill, "An Act to Amend and Repeal Certain Laws Relating to Amusements and Sports." (H. P. 1111) (L. D. 1378)

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

Sent down for concurrence.

Senate

Bill, An Act to Repeal Certain Laws Relating to Highway Taxes Assessed by Towns. (S. P. 449) (L. D. 1529)

Bill, An Act Relating to the Definition of Deed under the Real Estate Transfer Laws. (S. P. 510) (L. D. 1797)

RESOLVE, Authorizing Alban E. Cyr, Sr., and Cyr Brothers Meatpacking Inc., and Cyr Good, Inc. of Caribou to Bring Civil Action Against an Agency of the State of Maine. (S. P. 511) (L. D. 1798)

Which were Read a Second Time and Passed To Be Engrossed.

Sent down for concurrence.

Bill, An Act Relating to State Income Tax Deduction for Student Tuition Payments. (S. P. 402) (L. D. 1385)

Which was Read a Second Time.

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

Mr. KATZ: Mr. President, the Senate will recall, although I was not here at the debate yesterday, that this is a Bill which has been amended to give up to \$750,000 deduction off an income tax for tuition paid on behalf of children or relatives.

I would very much appreciate a response from some Member of the Taxation Committee as to my concern that probably anybody with an income such that he files a standardized deduction gets absolutely no benefit from this at all, and probably the maximum benefit of this Bill goes in the direction of those whose income is rather significant.

I wonder if I might have some guidance on this.

The PRESIDENT Pro Tem: The Senator has the floor.

Mr. KATZ: Mr. President, I have a feeling that the principal beneficiaries of this Bill are those whose incomes are in excess perhaps of \$15,000.00 a year, and I have great sensitivity to the needs of this group of people who are squeezed on every side by increasing costs in general, and the cost of education in particular. But in a State that has limited resources and limited ability to deal with the priority concerns that face us here in this Legislature, to offer what amounts to student assistance on any basis other than proven need seems to me to be something that can skew our priorities, and although I like the intent of this Bill, considering the extraordinary financial problems that we have before us, I am afraid that I must move the indefinite postponement of this Bill.

The PRESIDENT Pro Tem: The Senator from Kennebec, Senator Katz, now moves that LD 1385 be indefinitely postponed. Is this the pleasure of the Senate?

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 opposing indefinite postponement, please rise in their places to be counted.

The Chair recognizes the Senator from Kennebec, Senator Speers.

Mr. SPEERS: Mr. President, I would request a Roll Call on this issue.

The Senate will recall that we have had two Roll Calls on this particular issue already, and on each Roll Call the result has been distinctly different. I have no idea what the results might be in this particular period, but I would request a Roll Call at this time as well.

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

Mr. LOVELL: Mr. President, I would like to pose a question through the Chair to the Appropriations Committee, to the extent of what is this going to cost us in the loss of income tax to the State of Maine.

The PRESIDENT pro tem: The Senator from York, Senator Lovell, has posed a question through the Chair to any Senator who may wish to respond.

The Chair recognizes the Senator from Cumberland, Senator Merrill.

Mr. MERRILL: Mr. President and Members of the Senate: The price tag on this Bill is \$750,000.00, and, as I pointed out yesterday in the debate in this Senate, Senator Katz, the Senator from Kennebec, is exactly correct when he states that the benefits of this Bill would not be equal among all, and this tax deduction if it was put into effect, would mean \$7.50 tax savings to a low wage earner. It would mean a \$75.00 tax savings to a higher wage earner.

I think that there are a lot of places that we can spend our money better if our real concern is helping people get through college and help middle income people put their children through college.

I would hope that the Senate would go along with the Motion and indefinitely postpone this Bill.

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

Mr. MORRELL: Thank you, Mr. President. Mr. President, one of the other Senators from Cumberland, Senator Hewes, has had a continuing interest in this subject, and has sponsored this Legislation, and I notice that he is not here today, and I wonder if it might not be fitting to Table this for a Day or two so he could have a chance to be a part of the discussion.

On Motion of Mr. Speers of Kennebec, Tabled for One Legislative Day, Pending passage to be engrossed.

Enactors

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

"An Act Converting Hammond Plantation into the Town of Hammond." (H. P. 1088) (L. D. 1312)

On Motion of Mr. Speers of Kennebec, Tabled pending enactment.

"An Act to Permit Carpools Under the Public Utilities Law." (H. P. 247) (L. D. 319)

On Motion of Mr. Speers of Kennebec, Tabled for One Legislative Day, Pending Enactment.

"An Act to Amend and Repeal Certain Laws Relating to Agriculture." (H. P. 1065) (L. D. 1292)

"An Act Relating to the Operation of Vehicles on Private Property." (H. P. 206) (L. D. 265)

"An Act Exempting Farm Machinery from the Personal Property Tax." (H. P. 393) (L. D. 482)

"An Act Relating to the Motor Vehicle Excise Tax." (H. P. 243) (L. D. 316)

(See Action Later Today)

"An Act Concerning Sound Media Near

Voting Places on Election Day." (H. P. 981) (L. D. 1187)

"An Act to Create the Voluntary Fish Products Inspection Program." (H. P. 995) (L. D. 1184)

"An Act Relating to Expenditures of the Town Road Improvement Fund." (H. P. 1132) (L. D. 1350)

"An Act to Define the Term Intersection." (H. P. 1220) (L. D. 1447)

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 Relating to Recoupment Procedures under the Maine Medical and Hospital Malpractice Joint Underwriting Association Act." (H. P. 514) (L. D. 632)

On Motion of Mr. Huber of Cumberland, Tabled for One Legislative Day, Pending Enactment.

Emergency

"An Act to Increase and Clarify Borrowing Capacity of the Topsham Sewer District." (H. P. 837) (L. D. 1025)

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

Emergency

"An Act to Dissolve Vocational Region 9 and to Establish a Vocational Center to Serve Northern Oxford County." (H. P. 1113) (L. D. 1372)

Comes from the House, Fails of Enactment. On Motion of Mr. Katz of Kennebec, Tabled for One Legislative Day, Pending Enactment.

Reconsidered Matter

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

Mr. MERRILL: Mr. President, with reference to "An Act Relating to the Motor Vehicle Excise Tax" (H. P. 243) (L. D. 316), I would like to move reconsideration whereby this Bill was passed to be enacted.

The PRESIDENT pro tem: The Senator from Cumberland, Senator Merrill, now moves the Senate reconsider its action whereby L. D. 316 was passed to be enacted.

The Chair recognizes the Senator from Penobscot, Senator Curtis.

Mr. CURTIS: Mr. President, this piece of Legislation is one that is very important to some communities which have branch offices of Maine corporations, which branch offices are the places where large trucks are customarily housed and stored, but for which the excise taxes on those trucks are paid at the corporate office municipality rather than the branch offices. We have discussed this in previous years to some considerable debate. I was pleased to see that Legislation has been revised so it seems to be very reasonable, and I hope the Senate votes against reconsideration.

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

Mr. MERRILL: Mr. President and Members of the Senate: This is an item that has been debated many times in this Body before, not in this Session, but in the past, and it is an item that poses two questions, two different sorts of questions to the Senate. The first one is your standard parochial question, whether or not your community does better under the existing system of defining where corporation vehicles will be taxed for the purposes of excise taxation under the present definition which is where the corporation is based, the legal home of the corporation, or under the definition that is

provided in this Bill which is essentially where the vehicle is kept. That is the first question that is before this body.

The previous speaker has a clear interest in this, among others at least Cianbro Corporation, keeping many pieces of expensive equipment in the town of Orono, and under the present law the excise tax on that equipment is paid to the town of Pittsfield. So that is one consideration, and it is an easy sort of thing for Senators to vote on. They just find out in dollars and cents whether they will be better off and vote that way.

But there is another consideration which has always been, to my mind, the primary consideration for opposing this legislation, and that consideration is the possibility for non-compliance with the law that arises when you essentially make the question of where a vehicle will be taxed, a question that is up to the business. The possibility of moving around heavy equipment for the purposes of, in essence, negotiating a good deal with local tax assessors as to how that equipment will be assessed is present when you allow that choice to the people who keep that equipment.

Now I would admit that there has been an attempt made in this piece of legislation to overcome that problem, and it is at least drafted with that problem in mind, unlike the legislation that we have dealt with in the past.

But I think that we are opening Pandora's box when we vote for this piece of legislation and, in essence, allow a business to have it be a matter of choice where their equipment is taxed. We had that situation before in Maine. It was not a record which commends us to going back to that procedure. And the one we have now is free of that sort of taint, and I would hope that the Senate, in spite of the parochial interests, whichever they might be, and I honestly do not know what they are for my city, but whatever the interests are, I would hope that the Senate would vote not to open up this problem again and to leave the law as it is.

I would hope that you would vote to reconsider, and then we could indefinitely postpone this Bill and all accompanying pages.

The PRESIDENT pro tem: The Chair recognizes the Senator from York, Senator Farley.

Mr. FARLEY: Mr. President and Members of the Senate: I would hope this morning that we would not vote to reconsider. The good Senator from Cumberland, Senator Merrill, used the case of Pittsfield and Orono and the Cianbro Corporation. I think he did explain that this is exactly what is covered in the Legislation before you. In construction firms, the vehicles have to be there a certain amount of time, two years under the law here, in order to pay excise tax in the town of Orono or Pittsfield. However, the problem that he did not mention was that the City of Portland now receives the excise tax for literally hundreds of trucks that are stored in Scarborough, using Scarboroughs roads, and they are not paying taxes on these vehicles to the town of Scarborough, and the City of Portland is realizing the benefits, and it is not the only place. It happens throughout the State of Maine, on large trucking companies that have storage areas for trucks just outside the large metropolitan areas.

I think it is a good Bill. It has been cleaned up a little bit to take care of the problem of the construction people in the Town of Pittsfield, and I would urge you to vote against reconsideration.

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

Mr. CURTIS: Mr. President, I would like to expand a little bit upon the remarks that I made earlier regarding this piece of Legislation, and tell you about the story of two corporations; one is a Maine corporation with the home office located in Pittsfield and it has been described

before. It happens to have a branch office in Orono and branch offices in many other municipalities. It keeps trucks on a regular basis in Orono, does not move them back and forth to Pittsfield, and it pays its excise tax in the town of Pittsfield for all of the trucks that it has in Maine.

The other corporation is a corporation which has its home office in Providence Rhode Island. It is not a Maine corporation. It has several branch locations in Maine and it pays its excise taxes in those municipalities where its trucks are primarily housed in the State of Maine.

The moral of this story is; if you are a Town like Orono was a few years ago and you have a company that is about to sell, C. M. Page in this case, to a larger corporation, namely Cianbro, try to be sure that the corporation, under present Maine law, that it is sold to is an out-of-state corporation and not a Maine corporation, because you will lose the excise tax if you follow the example that I just described.

Now the amount of money that is involved here is to a small community substantial. In the case of Orono, we figure it is more than \$5,000.00 a year.

I would also like to respond to a couple of the arguments which were made earlier. The suggestion that there be non-compliance with the law if this Bill is enacted. I think it is a false one. In the first place, of course there will be compliance with the law that requires excising trucks, because if the trucks are not excised then, of course, they would not be able to obtain license plates and would not be able to use legally our roads.

The second one, which is probably more the point of the good Senator from Cumberland, Senator Merrill, when he was speaking, was the suggestion that corporations under the law that is proposed here today, would try to negotiate a good deal with the tax assessors of different municipalities. In other words, go shopping as to where they would excise their trucks. If I were really concerned about the integrity of the tax assessors in the State of Maine, I suppose that might be an argument, but I would suggest that tax assessors are honorable people. They work under Maine statutes as officials of the State of Maine, as we know, in order to assess the taxes properly. The values that are placed upon the vehicles are all fairly clear in the statutes as to how those are to be determined, and the indication to the company as to where they should excise their vehicles is also clear under this Bill. It says that excise tax shall be paid to the Municipality in which the registered or main office of that organization is located, except if the organization has an additional permanent place or places of business where motor vehicles are customarily kept, in which case the taxes would be paid where they are customarily kept. That is only logical. Then you get down to the final section of the Bill and it provides that in a situation in which there is a real question that the State Tax Assessor would have the final determination. I do not think that type of indecision would occur very frequently, but the Bill provides for a solution, and I would like to commend the Taxation Committee for its work on this Legislation. I think it is a fine Bill.

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

Mr. MERRILL: Mr. President, the previous speakers have spoken to the parochial concerns of this Legislation, and I think they have pointed them out very well, but I would just hope that the Senate would take something more into consideration when it votes.

I am not saying that there is not a great level of integrity among the people who do this assessing, but if you take a small town, because small towns have been mentioned let us talk about them for a minute — You take a small town and you take an organization with a great number of trucks or let us take another situa-

tion, a great deal of heavy equipment, and that heavy equipment unlike your automobile is not something you can look in a book and figure what it is worth. And let us assume that no negotiation goes on, even in a subtle sort of way, but the corporation finds out that in that small town the assessor is not very good at figuring out what their equipment is worth and tends to err on the low side, maybe knowing that he is not very good at it and not wanting to have any appeals made. So, the corporation moves its garage, or it may not even be a garage, it may just be a lot, and moves all of its vehicles across the border to take advantage of that different assessing technique. These are not automobiles that we are talking about. Often times they are not trucks, and though I appreciate the Senator from Penobscot, Senator Curtis confidence in the whole system, I do believe that our tax assessors often times and especially in small towns, are not competent to make judgments about what heavy equipment is worth. I think that if you read the record of their job on heavy equipment that is inside of buildings, you will find out that that is true, and you will find out that there is a great deal of pressure on them to get all of this added tax revenue which costs the town essentially nothing. There is a real question, well, why not. Well, why not shave it a little bit if that brings all this extra revenue into our town. I do not think there is anybody in this Senate that does not think that those sorts of considerations have gone on in the past to a perfectly good motivation on the part of the assessor, figuring I will bring in some extra tax revenues to my town.

I think we ought to consider this more on a parochial basis. It all washes out, I suggest, over a period of time. You know this same concrete plant that has been talked about in Orono used to keep a lot of its trucks in Bangor down on the Finson Road. At that time it was an Orono Corporation. They kept them out in a part of Bangor that Senator Curtis does not represent, and it was not a travesty of justice then. Now that outfit does not keep its trucks in Bangor anymore, but it is a Pittsfield Corporation and we have a travesty of justice. I think that there ought to be more than parochial considerations go into this. The reason that we went to this system is because we had problems in the past. Make no mistake. It is a matter of record, and if you want the problems to come back, then only consider the parochial considerations and pass it. If you want to stay with the situation that we have that is free of these problems, then go along with the record of the Legislature in the past and keep the law as it is.

The PRESIDENT pro tem: The Senator from Cumberland, Senator Merrill, moves that the Senate reconsider its action whereby L. D. 316 was passed to be enacted.

The Chair will order a Division.

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

Will all those Senators opposing reconsideration, please rise in their places to be counted.

5 Senators having voted in the affirmative, and 22 Senators in the negative, the Motion to reconsider does not prevail.

The PRESIDENT pro tem: The Chair at this time would ask the Sergeant-at-Arms to escort the President to the Rostrum.

Thereupon, the Sergeant-at-Arms escorted the President to the Rostrum, and the Senator from Cumberland, Senator Conley, to his seat on the floor of the Senate.

The PRESIDENT: The Chair would like to thank the Senator from Cumberland, Senator Conley, for doing his usually fine job up here this morning.

(Applause)

Orders of the Day

The President laid before the Senate:

House Reports — from the Committee on Labor — Bill, "An Act Concerning the Payment of Workmen's Compensation Pending an Appeal to the Supreme Judicial Court." (H. P. 281) (L. D. 375) Majority Report — Ought to Pass as Amended by Committee Amendment "A" (H-269); Minority Report — Ought Not to Pass

Tabled — May 23, 1977 by Senator Speers of Kennebec

Pending — Motion of Senator McNally of Hancock to accept the Minority Report.

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

Mr. SPEERS: Mr. President, there are attempts being made to draft an Amendment to this matter that will take care of the problem that was raised when this Bill was first discussed, when it came in as a Committee Report. Hopefully we will be able to get the Committee Amendment prepared within another Day, and I would request some Member table this matter for one more Day.

On Motion of Mr. Morrell of Cumberland, Retabled for One Legislative Day.

(Off Record Remarks)

The President laid before the Senate:

Bill, "An Act Concerning the Municipal Refund Claims for the Tree Growth Reimbursement." (H. P. 932) (L. D. 1129)

Tabled — May 24, 1977 by Senator Speers of Kennebec

Pending — Enactment

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

Mr. JACKSON: Mr. President, under suspension of the rules, I move reconsideration of L. D. 1129.

The PRESIDENT: The Senator from Cumberland, Senator Jackson, now moves that the rules be suspended, and that the Senate reconsider its action whereby this Bill was passed to be engrossed. Is this the pleasure of the Senate? It is a vote.

The Chair recognizes the same Senator.

Mr. JACKSON: Mr. President, I offer Senate Amendment "A" (S-155) and move its adoption.

The PRESIDENT: The Senator from Cumberland, Senator Jackson, now offers Senate Amendment "A" (S-155) and moves its adoption. The Secretary will read Senate Amendment "A".

Senate Amendment "A" Read and Adopted.

The Bill, as amended, Passed to be engrossed in non-concurrence.

Sent down for concurrence.

The President laid before the Senate:

HOUSE REPORTS — from the Committee on Legal Affairs — Bill, "An Act to Require Fire Detection Systems in All New Residential Construction." (H. P. 1086) (L. D. 1310) Majority Report — Ought to Pass as Amended by Committee Amendment "A" (H-318); Minority Report — Ought Not to Pass

Tabled — May 24, 1977 by Senator Speers of Kennebec.

Pending — Consideration.

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

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

The PRESIDENT: The Senator from York, Senator Danton, now moves the Senate adhere. The Chair recognizes the Senator from Aroostook, Senator Collins.

Mr. COLLINS: Mr. President, I would oppose the Motion to adhere and hope that the Senate might recede and concur.

I think that I am one of those people who are reluctant to mandate certain things that affect our freedom. I do, however, make exceptions from time to time with respect to items that

concern our safety and health. I think that smoke detectors are one of those things. In fact, when we talk about the safety factor, we are not talking just about ourselves, but we are also talking about young children in homes who are not able to fend for themselves.

I would call the Senate's attention to a piece that has been distributed to you from the U.S. News and World Report. It discusses the effectiveness of smoke detectors. It says, in part, are there laws now that require the installation of smoke detectors? And the answer is yes, in 33 states there are such laws. It also goes on to point out how relatively inexpensive these detectors are.

The Bill provides that these can be installed or shall be installed in new homes only, so that it will not affect anything that is currently under construction. It seems to me that this is a very simple, uncostly device that can protect a lot of people.

I would hope that you would defeat the Motion to adhere.

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

Mr. DANTON: Mr. President and Members of the Senate, I think we are all concerned about safety with our families and our homes. As far as I know there is only one Senator in this Body that admitted he had a smoke detector in his house, and I do not know if any other Senator does. I know I do not. And if I want one in my house, that is my business. If I want an air conditioner in my house, that is my business. If I want a heating system in my house, that is my business. I do not think that we should put laws on the books telling us what we should do when we build a new home or when we want to remodel our present homes.

First of all, Section 3 of this Bill is still in there; the enforcement provision. How are you going to enforce this law? If you get someone not having a smoke detector in their house, whether it is a new one or one that has been remodeled, it is \$25.00 a day you are going to charge them. This detailed sheet that was passed around goes on to tell you that by having a smoke detector system in your home it resulted in 50 per cent fewer deaths. Fine. I agree with that. Those of us that know about them and they have been advertised on TV for at least a year that I know of, if we are concerned about the safety of our families, we should go and get all of the smoke detectors we want. But I do not think that we should take and force people to put these in their homes and I would hope that you would vote to adhere on this Bill.

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

Mr. MINKOWSKY: Mr. President and Members of the Senate: I also do not believe in mandatory Legislation of this particular type, but a thought occurred to me that possibly if you mandate this in new homes, in new construction only, where now as a private home owner I can purchase a smoke detector from \$29.00 to \$39.00, we are saying to the people who are purchasing new homes, "You are going to pay the going rate," which might be anywhere from \$60.00 to \$70.00 or \$80.00 depending upon what the person values that house to be, which means that the person is going to pay inflated price. I think this is a great concern that we should analyze before this Bill goes any further.

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

Mr. CURTIS: Mr. President, I would like to speak in support of the Senator from Aroostook, Senator Collins, who has described some of the problems which might possibly be cured by this piece of legislation.

I would like also to respond to the comments that were made earlier regarding what we mandate in the construction of new homes. It seems to me we have had debates earlier this year on

such things as safety glazing and that type of safety material, which has been on the statutes and continues to be on the statutes for the protection of people who are buying new homes. We do everything from the question of how far from the home will the water supply be located, or how far from the septic tank will the water supply be located, to such matters as construction items, and I think this is a logical piece of Legislation, and just might possibly save some lives.

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

Mr. PIERCE: Mr. President and Members of the Senate: If we do not adhere today and pass this Bill, I think we ought to make two changes in it. I think, first of all, we ought to give it a new title, "An Act to Aid the Fire Detection System Industry," and, secondly, I would like to add an Amendment on it that would mandate that all liquor inspectors have blue lights on their cars.

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

Mr. HUBER: Mr. President and Members of the Senate: I would just like to comment on one provision of this law which requires that these smoke detectors be placed within ten feet of any sleeping area. I have a smoke detection system in my house, professionally installed by one of the fire protection companies in the state. They are not within ten feet of any sleeping area, because of the construction of my house it simply does not make sense. I think this provision is unnecessary and I think it would up the cost of these systems.

The PRESIDENT: Is the Senate ready for the question? The pending question before the Senate is the Motion by the Senator from York, Senator Danton, that the Senate adhere.

The Chair will order a Division.

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

Will all those Senators opposing the Motion to adhere, please rise in their places to be counted. 22 Senators have voted in the affirmative, and 7 Senators in the negative, the Motion to adhere does prevail.

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

Mr. FARLEY: Mr. President, having voted on the prevailing side, I now move reconsideration.

The PRESIDENT: The Senator from York, Senator Farley, now moves the Senate reconsider its action whereby it voted to adhere.

A viva voce vote being had,

The Motion to reconsider does not prevail.

The President laid before the Senate:

Bill, "An Act to Amend the Charter of the Augusta Sanitary District." (H. P. 718) (L. D. 840) (Emergency)

Tabled — May 24, 1977 by Senator Speers of Kennebec

Pending — Motion by Senator Speers of Kennebec to Reconsider Adoption of Committee Amendment "A" (H-339)

The PRESIDENT: Is it now the pleasure of the Senate to reconsider its action whereby it adopted Committee Amendment "A"? It is a vote.

On Motion of Mr. Speers of Kennebec, Committee Amendment "A" indefinitely postponed.

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

Mr. SPEERS: Mr. President, I now offer Senate Amendment "A" (S-159) and move its adoption.

The PRESIDENT: The Senator from Kennebec, Senator Speers, now offers Senate Amendment "A" and moves its adoption. The Secretary will read Senate Amendment "A".

Senate Amendment "A" read.

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

Mr. KATZ: Mr. President, I now offer Senate

Amendment "A" to Senate Amendment "A" (S-160) and move its adoption.

The PRESIDENT: The Senator from Kennebec, Senator Katz, now offers Senate Amendment "A" to Senate Amendment "A" (S-160) and moves its adoption. The Secretary will read Senate Amendment "A" to Senate Amendment "A".

Senate Amendment "A" to Senate Amendment "A" (S-160) Read.

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

Mr. CARPENTER: Mr. President and Ladies and Gentlemen of the Senate, just so that everybody is reading off the same sheet of music, the Senate Amendment "A" to Senate Amendment "A" (S-160) as regards to the Charter of the Augusta Sanitary District, and here is the problem we had in Committee. This puts back into it, — We stripped from the Augusta Charter imprisonment and we lessened the fine. We brought the fine down to \$200.00, and if you will read the Amendment which is presently under consideration, any person on conviction of acts of willful injury shall be punished by a fine not exceeding \$300.00 or by imprisonment not exceeding 30 days, or by both such fine and such imprisonment.

This bothers me a little bit. I have spoken to the gentleman that is concerned with this particular issue. It still bothers me a little bit that if you are found guilty of willful damaging, and I suggest that willful would be very hard to define, would be very hard to prove, but if you are found guilty, you can go to jail for 30 days, and you can pay up to \$300.00 fine. I understand the problems they are having with Digital Corporation coming in and all of that, but it just bothers me a little bit that potentially if I flush my toilet I could go to jail for 30 days.

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

Mr. KATZ: Mr. President, I might suggest that if the Senator did not flush his toilet, he would probably be under more trouble under this Amendment.

The implications of this are completely industrial. If you have got an expensive treatment plant, and the people of the community are depending upon you to prevent pollution, to maintain a functioning system, and if you get an industrial neighbor who is not a good neighbor, and he weighs up the fact that he could get fined \$100.00 or \$200.00 but in the process of dumping, and I mean dumping industrial waste into the system which just cannot handle it, he figures that it is cheaper off paying the fine and just dump rather than pay the high cost of whatever it is going to cost him to live up to the law.

This is the problem this deals with, and I think it is essential if the people are going to be protected and if our industrial firms are going to be good neighbors. This gives them a good motivation to be a good neighbor.

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

Mr. CARPENTER: Mr. President, I pose the question through the Chair to any Senator that may care to answer. Under Section 13, or the whole Amendment actually that we are discussing now, it says any person who violates the provisions of this chapter, or who shall place or discharge any offensive or injurious matters, and then the third subparagraph, I guess, would say or shall willfully, shall be liable to pay twice the amount of the damages to said district. Now there are two places where it does not say anything about willfully, and a third place where it does. It says any person who violates or any person who shall place or discharge, whether willfully or not, it does not say willfully in that section, and in the third section we get back to the word willfully.

I could accept this, I think, if willfully was there in each one of those, but twice the damages so that if I unknowingly place something into a conduit type reservoir, flush tank, catch basin, inlet, manhole, outlet, engine pump or other property

unknowingly and ruin the Augusta Sanitary District, I could be liable for twice the entire damages, whether I did it willfully or not, as I read this Amendment.

I would just pose a question as to whether I am correct or not.

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

Mr. KATZ: Mr. President and Members of the Senate: This Bill has been developed by attorneys, and I am an English major. As I read it, the implications are very clear though.

The implications are that this entire Amendment, including the Section just mentioned, is to give the kind of motivation necessary to industrial users of the system to be good neighbors and to not be put in a position that the truckers were for many years, with the truckers going over the roads would weigh the cost of the fine up against the chances of getting caught if they were overloaded. It was a policy decision on the part of many companies to break the law, because it was cheaper to pay the penalty of the law than it was to obey the law, and that is exactly the issue that is being dealt with here, and I do not see truckers being sent to jail though the law is being implemented in the responsible manner. I think that this Amendment, which casts some shadows on the mind of the Senator from Aroostook is a responsible, properly drafted Amendment.

Senate Amendment "A" to Senate Amendment "A" adopted. Senate Amendment "A" as amended adopted, and the Bill as amended, Passed to be Engrossed in non-concurrence.

Sent down for concurrence.

The President laid before the Senate: Bill, "An Act to Increase Flexibility in the Funding and Operation of the Vocational-Technical Institutes. (H. P. 221) (L. D. 285)

Tabled — May 24, 1977 by Senator Speers of Kennebec.

Pending — Enactment

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

Mr. KATZ: Mr. President, under suspension of the rules, I move that the Senate reconsider its action whereby this Bill was passed to be engrossed.

The PRESIDENT: The Senator from Kennebec, Senator Katz, now moves the Senate suspend its rules and reconsider its action whereby this Bill was passed to be engrossed. Is this the pleasure of the Senate? It is a vote.

The Chair recognizes the same Senator.

Mr. KATZ: Mr. President, under suspension of the rules, I move that the Senate reconsider its action whereby it adopted Committee Amendment "A" as amended.

The PRESIDENT: The Senator from Kennebec, Senator Katz, now moves the Senate reconsider its action whereby it adopted Committee Amendment "A" as amended. Is this the pleasure of the Senate? It is a vote.

The Chair recognizes the same Senator.

Mr. KATZ: Mr. President, under suspension of the rules, I move that the Senate reconsider its action whereby House Amendment "A" to Committee Amendment "A" was adopted.

The PRESIDENT: The Senator from Kennebec, Senator Katz, now moves the Senate reconsider its action whereby it adopted House Amendment "A" to Committee Amendment "A". Is this the pleasure of the Senate? It is a vote.

On Motion of Mr. Katz of Kennebec, House Amendment "A" to Committee Amendment "A" indefinitely postponed in non-concurrence.

The PRESIDENT: The Chair recognizes the same Senator.

Mr. KATZ: Mr. President, I thank the Senate for its close attention.

On Motion of Mr. Katz of Kennebec, Committee Amendment "A" indefinitely postponed in non-concurrence.

The PRESIDENT: The Chair recognizes the same Senator.

Mr. KATZ: And now, Mr. President, I offer Senate Amendment "A" (S-158) and move its adoption, and I would like to tell the Senate what we have done.

The PRESIDENT: The Senator from Kennebec, Senator Katz, now offers Senate Amendment "A" (S-158) to LD 285 and moves its adoption. The Secretary will read Senate Amendment "A".

Senate Amendment "A" Read.

The PRESIDENT: The Chair recognizes the same Senator.

Mr. KATZ: Mr. President, in a moment of complete sensitivities to the concerns that have been expressed on this Bill, this Amendment strikes out what I consider to be all of the objectionable portions, and it says in effect that if the VTI's do succeed in attracting more tuition dollars than appear in the Governor's budget, that these additional funds will go into a non-lapsing fund for the purposes of the Vocational Institute System. It does not create a miniature university system. It does not permit for the free and easy transfer of funds between the institutions, but what it does do is address the specific question of what happens when an industry moves into an area and is willing to pay \$100,000.00 in tuition to have the schools do a certain thing. This permits them to accept the grants from the business, and to accomplish the purposes for which the moneys were paid.

I hope that the Senate now feels reassured and accepts this Amendment.

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

Mr. HUBER: Mr. President, if it is in order, I present Senate Amendment "A" to Senate Amendment "A" (S-167).

The PRESIDENT: The Senator from Cumberland, Senator Huber, now offers Senate Amendment "A" to Senate Amendment "A" and moves its adoption. The Secretary will read Senate Amendment "A".

Senate Amendment "A" to Senate Amendment "A" (S-167) Read.

The PRESIDENT: The Chair recognizes the same Senator.

Mr. HUBER: Mr. President, Senate Amendment "A" to Senate Amendment "A" is a minor modification of this Amendment, which reads that Vocational Technical Institute tuition revenue which exceeds the Governor's budget estimates for the year are put in a fund to provide for the type of education described by the Senator from Kennebec, Senator Katz.

This simply modifies the language to provide the Governor's budget estimates should be and would be approved by the Legislature, rather than the Governor's budget estimates which could be understated or over-stated in the Legislature's opinion.

Senate Amendment "A" to Senate Amendment "A" (S-167) adopted. Senate Amendment "A" as amended adopted.

The Bill, as amended, passed to be engrossed in non-concurrence.

Sent down for concurrence.

The President laid before the Senate: Bill, "An Act Relating to the Spending Ceiling for Education Purposes." (Emergency) (H. P. 968) (L. D. 1165)

Tabled — May 24, 1977 by Senator Conley of Cumberland

Pending — Adoption of Committee Amendment "A" (H-282)

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

Mr. HUBER: Mr. President, I now offer Senate Amendment "A" to Committee Amendment "A" (S-161) and move its adoption, and I would speak to my Motion.

The PRESIDENT: The Senator from Cumberland, Senator Huber, now offers Senate Amendment "A" to Committee Amendment "A" (S-161) and moves its adoption. The Secretary will read Senate Amendment "A".

Senate Amendment "A" to Committee Amendment "A" (H-161) Read.

The PRESIDENT: The Senator has the floor.

Mr. HUBER: Mr. President, as I stated yesterday, this Amendment to the Committee Amendment simply removes the requirement for a waiver from the State Board of Education, thereby removing State control of local dollars and local spending decisions.

One argument against this is that it would promote escalation of education costs, but I think in our existing law we have a provision where this local spending in excess of the ceiling has to be clearly stated to the Legislature, and I then think it is up to the Legislature to make the decision whether it is local spending is for basic educational requirements or whether it is for additional requirements which may more closely follow local educational aspirations. I hope that the Senate will adopt this Amendment to the Committee Amendment.

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

Mr. KATZ: Mr. President, I arise to oppose the adoption of the Senate Amendment to the Committee Amendment, and ask for a Division.

Right at the moment we are at a point where we are making the decision that all of us wanted to make for a long time now. If you vote for the Senate Amendment, you are removing the ceiling for one year, and you are saying that whatever local spending is done will not be computed into the computation of State computations in the subsequent year.

I have a couple of problems with this approach. As I recall it, this year, or this last Session when we raised the ceiling for one year, we included in it a provision that the extra spending would be computed, and this Amendment says it will not be computed. I understand and support the philosophy that says it shall not be computed. But philosophy runs into a very, very rough road when it comes into reality.

If this Amendment is adopted, there will be, I think, a significant number of communities who are being reimbursed based upon the inclusion of these local monies this year, and next year we will say these local dollars will be excluded. I think that you will find a very real problem in the State in communities who will find themselves completely unable to even get back to where they were in the previous year.

I guess the Senate realizes that I do not identify any great solution to this question, but I do feel that the reason that I am supporting the defeat of this Amendment and the support of the unanimous Committee Amendment that is on it is that it establishes a procedure to insure that every community in the State can have access to those dollars necessary to fund their programs, either through local leeway or effort or a hardship waiver. I think that it will be the most conservative way of trying to keep a depressing hand on educational spending around the state. I know the arguments about local dollars and local control, and I hope that these arguments are all clear to you today, and when you make your decision you make it based upon the philosophical questions that perplex us deeply, or whether or not you are strongly motivated to attempt to keep a governor, and by governor I mean the mechanical kind of a governor, to whatever extent we can on the expansion of educational spending.

The PRESIDENT: Is it now the pleasure of the Senate to adopt Senate Amendment "A" to Committee Amendment "A"?

A Division has been requested.

Will all those Senators in favor of adopting Senate Amendment "A" to Committee Amendment "A" please rise in their places to be counted.

Will all those Senators opposing adoption of Senate Amendment "A" to Committee Amendment "A", please rise in their places to be counted.

The Chair recognizes the Senator from Cumberland, Senator Merrill.

Mr. MERRILL: Mr. President, I would like to 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 having arisen, a Roll Call is ordered.

The Chair recognizes the Senator from Cumberland, Senator Huber.

Mr. HUBER: Mr. President and Members of the Senate: To further explain the purpose of this Amendment, I will refer to the remarks of the Senator from Kennebec, Senator Katz, in which he refers to a depressing hand on the costs of education. This depressing hand is State control of local dollars, local decisions, and I think it is totally inappropriate in light of the increasing request for local control.

The State Board of Education waiver, I think, is unnecessary. I do think the fact that these are totally local dollars, spent on local decisions, is explained to people in the various units, that they will exert the type of control which they want, and I think this should be a signal to us in the Legislature as to essentially a definition of basic education, and I feel that this local control should not be tampered with by control from Augusta. Thank you.

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

Mrs. CUMMINGS: Mr. President, I would like to direct a question through the Chair to anyone who cares to answer. What kind of a request to the Board of Education would be turned down? In other words, exactly what kind of control would the Board of Education have for these hardship cases? Do you think in more cases than not, all requests would be accepted and it is just then an annoyance to go to the Board of Education, or would this truly be some kind of judiciary thing where they would say "No, you can not have it."

The PRESIDENT: The Senator from Penobscot, Senator Cummings, has posed a question through the Chair.

The Chair recognizes the Senator from Kennebec, Senator Katz.

Mr. KATZ: Mr. President, I have a feeling through discussion with the Commissioner that the recommendation to the State Board would be to approve hardship requests. It would not be a completely pro forma or rubber stamp, but I cannot imagine confrontations between legitimate requests and the State Board. We are hoping that the very procedure of going to the State Board will filter out some requests, and to that extent hold spending down.

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

Mrs. CUMMINGS: Mr. President, Augusta is in great disrepute at the moment for meddling, and certainly this local dollar argument is gathering momentum every day. I just think that if this is a question of an annoyance which will keep the spending down, then I am going to change my vote.

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

Mr. CARPENTER: Mr. President and Ladies and Gentlemen of the Senate, to respond a little bit to the question posed by the Senator from Penobscot, Senator Cummings, and the response of the Senator from Kennebec, Senator Katz, I have a unique situation in that I have a School District that under present law is going to have to lay off about a quarter of their teachers. The School Board, being good rural Maine downeasters, refuse to come to Augusta and beg for a hardship waiver. They would rather take the heat back home and lay off a quarter of the teachers than come to Augusta and they are refusing at this point. Now whether they

will refuse to raise the local money or not is a possibility also I suppose, but if we require schools that are in these situations to come to Augusta and ask for a waiver, some of the Aroostook Community School Districts will not do it. It is as simple as that.

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

Mr. KATZ: Mr. President, I cannot begin to suggest the reason for a need for laying off so many teachers in the southern Aroostook School District, but I do know that on a very irregular pattern enrollments are shrinking in our school systems and left to their own devices I would suspect that local school units, perhaps like governments in general, might overlook the fact that shrinking enrollments bring some kind of a responsibility to address the changing needs of the budget. Some school units are increasing, and some school units are decreasing, and the decreases are taking place unevenly.

If somebody does not take a specific interest in the changing budgetary needs of the schools, with some motivations to curtail operations where the number of kids being served has decreased significantly, the budgets will be maintained. It is a complicated question, and I urge you not to believe in the simplistic manner that you have the right solution, but I am deeply concerned that left to its own resources, its own concern, that local units will significantly increase educational spending.

With due respect to the very proper and factual statement of the Senator from Cumberland, Senator Huber, that in the last analysis the Legislature has ultimate say over the level of our funding, I am equally confident that the pressures upon us will increase in a direct ratio to the amount of local spending that is done were the ceiling to be removed as this Amendment would have us remove it.

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

Mr. MERRILL: Mr. President and Members of the Senate: All of us who have run for office and have talked to the people about the problems of education, or other problems that the State faces, have had people ask us what we probably consider to be somewhat simplistic questions, and that, you know, is whether we believe in local control or whether we believe that the government closest to the people can govern best, and I suppose that everyone of us, every time we are asked a question like that, have the complications of these problems that we have to deal with go through our minds, and those complications sort of whirl through there as we try to come up with a somewhat simple expression of our own feelings. We know really that there is a State interest in many of these problems, and there is a local interest, and there is a continuum at some point at which we decide to vote that local control is more important.

I simply suggest to my colleagues in the Senate that if the cut-off point of the end of the State's interest and the beginning of the local interest is not the ability to spend more of their own local money if they want to, then where is it? If it is not here, why not admit to what we are going toward, end local school boards, bring an end to the myth of any local control over our school systems, and just run it from the building across the way, because if the town does not have the right to decide without bureaucratic approval that they want to spend more of their own money on their own children, then I suggest that any element of local control on education is a myth, and we had ought to bring it to an end. There are a great many efficiencies that could come about from wiping out all local participation in education. It would end a lot of our problems. I just have a philosophical objection to it. But if this is not where this Legislature draws the line, then I would like to suggest it as a way to end lots of our problems, and to bring all sorts of new economies to State Government.

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

Mr. CHAPMAN: Mr. President and Members of the Senate: I want to express my support for the Senate Amendment presented by the Senator from Cumberland, Senator Huber.

I think we are illustrating a problem here in our discussion that has yet to be addressed. We need restraints of some nature, and yet we want to allow as much control to remain in the communities, as much decision making in the communities as possible, to bring about the individualization to each town and the efficiencies that can be brought to bear in each community.

A better way than is set forth in the original Committee Amendment "A", in my view, is necessary. It just is not right when some hundred odd towns, whatever it is going to be, it is a pretty large figure, are going to have to come to the State Board on a hardship waiver. It is very interesting that one of the towns in my area has an estimated \$40,000.00 short fall on a \$187,000.00 budget. That is about 21 percent, and it just seems hard to believe.

The issue is becoming so complex that people in the towns are becoming turned off about the whole issue of educational funding. Some way, some method, some need, yet to be found, that can properly face the needs in the small communities and, at the same time, equitably address the needs in the large communities, those that have coastal affects versus other affects. Some better answer has yet to be provided.

I do think that the Senate Amendment is the one that we need to support at this time.

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

Mr. KATZ: Mr. President, lest there are those who are feeling more cordial towards the Senate Amendment which removes the ceiling, I find it very interesting that in a very recent survey by the Maine Municipal Association in which municipal officers all over the State, in big cities and small towns, and rich communities and poor communities, were asked the simple question "Are you in favor of a ceiling on educational spending," the majority of municipal people in your home towns said "yes, we favor a ceiling on educational spending."

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

Mr. HUBER: Mr. President and Members of the Senate, again responding to the Senator from Kennebec, Senator Katz' comments, I do not put too much credibility in these questionnaires, first of all. Second of all, I think probably municipal officials would like to have a ceiling, and again they can put the blame back in the Legislature, the blame for the total cost of education. In a simplistic way, it is easy to say "Well, we should have state control of this, but I really think we have got to persuade the public, we have got to persuade the officials within these school units within these municipalities that they do have control. They have control of the increase of the cost of education. They, under the Senate Amendment, would have control of the cost of education in excess of the ceiling. I think that this will eventually sink in and the control will be exerted where it should be exerted, which is at the local level.

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

Mr. CONLEY: Mr. President and Members of the Senate, I am going to oppose the Amendment as presented by the good Senator from Cumberland, Senator Huber.

It disturbs me because it seems to me that ever since the Legislature allegedly passed an improvement in an education funding program a few years ago, we have had nothing but total confusion from the results of that act. Let us just go back to January this year when the Chief Executive of this State estimated the cost of funding of education last year as something like \$268 million. The Commissioner of Education set the figure at \$290.1 million, and I think if you listen to the educators

around the State they set the figure of the cost of education at \$310 million, and now with the Amendment that is before us today, what we are saying is that we are now going to remove the ceiling and then whatever is appropriated on the local level to add to the spending on education will not be calculated as a cost to education come next year when we set the total funding of education.

It just seems to me that what we are doing is that we are getting farther and farther away from the concept of 1994 and 1452 as to the funding of equal dollars for equal education for every child across this State, and that is why I find it as a bad deal. I believe in the philosophy. I strongly supported that philosophy when that Bill came before the Legislature, and it just seems to me that we are taking an end-run around the ball park to void the philosophy that I think was so dear to many of us that voted for that Act. When we get down to the point of local funding and local decisions, I have to agree again with the good Senator from Kennebec, Senator Katz, who has an outstanding and an unblemished record when it comes to the support of education. So, therefore, I think he is making the right move, and I intend to follow his procedure.

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

Mr. MERRILL: Mr. President and Members of the Senate: There is no feeling that I could object to more strongly, philosophically, than the feeling that is being expressed by those who do not want this Amendment accepted today.

This really is State trying to homogenize every school system in the State of Maine, and if that is your idea of how to produce quality, if that is your idea of how to excite people with the pursuit of excellence, then you ought to vote to defeat this Amendment today. But I think that what we are talking about is the least common denominator approach to our problems. I think we ought to reject it. The idea of local control, the idea of a Federal System that divests its decision making and tries to keep decision making at the bottom level is to allow people to experiment, and to allow there to be differences, and to allow there to be excellence as well as failure.

Now what we have here is an attempt by Augusta decision makers to say what education will be, how much will be spent, and what it will be. If the people of a small town, for example, get together and say "We want education to be something more. We want education to start at a younger age. We want it to be much more involved with people of an older age, and we want to spend twice as much on it. We want to have all the people in the community into our school system on an 18 hour a day basis, and we want to involve two and three and four and five year olds, because those are the people that are being left out, and if we do not get to them earlier, we are not going to be able to provide them with the chance to grow that they want to." They want to do all of this with their pure local dollars. That is what they want education to be in their town, and they are not asking Augusta to spend one cent on their dream of what an education can be. But that is what they want to do in their town.

And what the people that argue against this Amendment would have us do today is say, "no, you can not do that. That does not fit the definition of Sawin Millett, the Department of Education, and the Maine Senate," and the reason, the reason given is that it puts too much pressure on Augusta decision makers. That is about the sorriest reason I have ever heard for taking away from people the ability to do something more if they want to, and I would hope that the Senate would accept this Amendment today and stick to a commitment to at least allow people, if that is their desire, to pursue a level of excellence which is higher than the lowest common denominator that can be brought about in Augusta.

(Off Record Remarks)

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

Mr. KATZ: Mr. President, I request permission to address the Senate a fourth time.

The PRESIDENT: The Senator from Kennebec, Senator Katz, now requests permission to address the Senate for a fourth time. The Chair hears no objection. The Senator may proceed.

Mr. KATZ: Mr. President, this is a record breaking day for me. In all of my Senate years I have never asked for this permission before, and I express my gratitude to the Senate for granting it.

I guess I have to take strong issue with the Senator from Cumberland, Senator Merrill's remarks. I have served as Chairman of this illustrious committee for five terms, and I see all of the altruism in the world in certain times of the year, but when it comes to fund raising time, the altruism goes out the window. Brother, if you believe the local people having spent local dollars do not want State assistance, you have not been anywhere near the position I have been standing in now for nine years. The altruism disappears, and they want reimbursement, and they want compensation, and they feel that one program is mandated, another one is not mandated, and they want full reimbursement for mandated programs, even though there is no reason why the State should pay one penny more for the education of a handicapped child than a normal kid in the classroom. Do not kid yourself that this is a great big ball game out there with a lot of our happy altruistic people. You are talking about over \$300 million, and the issue here today is who shall pay, and the issue in all school funding is who shall pay, and this Legislature has a responsibility and that is what we are facing up to here today.

The PRESIDENT: Is the Senate ready for the question?

A Roll Call has been ordered.

The pending question before the Senate is the adoption of Senate Amendment "A".

A yes vote will be in favor of adopting Senate Amendment "A". A nay vote will be opposed.

The door keepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEA — Carpenter, Chapman, Collins, S.; Cummings, Curtis, Greeley, Hichens, Huber, Jackson, Martin, McNally, Merrill, Morrell, Redmond, Snowe, Usher, Wyman.

NAY — Collins, D.; Conley, Danton, Farley, Katz, Levine, Lovell, Mangan, Minkowsky, O'Leary, Pierce, Pray, Speers, Trotzky.

ABSENT — Hewes.

17 Senators having voted in the affirmative, and 14 Senator in the negative, with one Senator being absent, Senate Amendment "A" to Committee Amendment "A" is adopted.

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

Mr. HUBER: Mr. President, having voted on the prevailing side, I move reconsideration.

The PRESIDENT: The Senator from Cumberland, Senator Huber, now moves the Senate reconsider its action whereby it adopted Senate Amendment "A" to Committee Amendment "A".

A viva voce vote being had,

The Motion to reconsider does not prevail.

Committee Amendment "A" as amended by Senate Amendment "A" adopted in non-concurrence.

The Bill, as amended, Passed to be engrossed in non-concurrence.

Sent down for concurrence.

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

Mr. LOVELL: Mr. President, I would like to inquire if Bill, "An Act to Repeal Certain Laws Relating to Alcoholic Beverages." (H. P. 1206) (L. D. 1434) is being held.

The PRESIDENT: The Chair would answer in the affirmative, the Bill having been held at his request.

The Chair recognizes the same Senator.

Mr. LOVELL: Thank you, Mr. President. I would like to move suspension of the rules and reconsider where this Bill was passed to be engrossed.

The PRESIDENT: The Senator from York, Senator Lovell, now moves the Senate suspend its rules and reconsider its action whereby this Bill was passed to be engrossed. Is this the pleasure of the Senate? It is a vote.

The Chair recognizes the same Senator.

Mr. LOVELL: Mr. President, I offer Senate Amendment "A" (S-166) and moved its adoption, and I would like to speak briefly to the Bill.

The PRESIDENT: The Senator from York, Senator Lovell, now offers Senate Amendment "A" (S-166) and moves its adoption. The Secretary will read the Senate Amendment "A".

Senate Amendment "A" (S-166) read.

The PRESIDENT: The Chair recognizes the same Senator.

Mr. LOVELL: Mr. President and Members of the Senate: Since this was a unanimous Ought to Pass Report that came out of the Liquor Control Committee, there, I believe, might be some confusion on the cancellation of certain laws in the face part of the Bill. This Bill was entered by a lady from the other Body who had a group of some 20 or 30 young people studying the various laws of this State to isolate those that were out of date; in other words this State no longer needed. And we held a hearing on the various laws, and the various laws as you note in the main part of the Bill — well, I will not go over and read the different laws — there is on law however, that Captain Martin, the Chief Liquor Inspector Officer wanted to keep in the Bill, and that is Committee Amendment "A", Duty of Officer on Seizure Proceedings. He says they used it once last year and he would like to keep it in. So the Committee agreed to keep it in. I did forget, however, yesterday that we wanted another Amendment on.

Now the only thing that this Amendment does; it does not actually change these things that have been cancelled out. The only thing this does is — and it has been okayed by the Secretary of State, is that cities, towns and plantations all over the State, when they vote on liquor questions after the percentage of signatures are in to put it on the ballot, that they vote in a primary special State-wide or general election.

Now it has been felt that if you vote at a municipal election, we do not have any liquor laws on municipal elections, but we do on state-wide elections, so if at a municipal election you have got a very few people out at that election, and even in Portland sometimes they have a very small crowd, and a group of people that wanted the town to go wet happen to get around there and do what I am sure the good Senator from York would not want them to do, you might not get a good representative vote. But you would get a good representative vote in the State elections, and there is no drinking allowed during the State elections.

I hope you will pass this Amendment.

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

Mr. MARTIN: Mr. President and Ladies and Gentlemen of the Senate, I have a problem with this Amendment. If you will note on the Statement of Fact and according to what the Senator from York, Senator Lovell, just said, this Amendment also provides that petitions and ballot preparations be handled on a local level instead of by the Secretary of State. That is all right with me, but when we refer to local level, we are referring to city aldermen, town selectmen and plantation assessors, and nowhere in this Amendment does it mention unorganized territories and, as you well know, we have several unorganized territories that have

voting districts. I was just wondering who would handle this process.

I would like this Tabled for two Legislative days so I can sit down with the sponsor of the Amendment and work this out.

On Motion of Mr. Carpenter of Aroostook, Tabled for One Legislative Day, Pending adoption of Senate Amendment "A".

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

Mr. MANGAN: Mr. President, I would ask whether the Senate is still in possession of Bill, "An Act Concerning County Contingent Funds and the Rate of Interest Which May be Charged for Delinquent County Taxes." (H. P. 877) (L. D. 1102)

The PRESIDENT: The Chair would answer the Senator in the affirmative, the Bill having been held at his request.

The Chair recognizes the same Senator.

Mr. MANGAN: Mr. President, I would move that we reconsider wherein we receded and concurred with the House in a vote on this yesterday.

The PRESIDENT: The Senator from Androscoggin, Senator Mangan, now moves the Senate reconsider its action whereby it receded and concurred with the House on LD 1102. Is this the pleasure of the Senate? It is a vote.

The Chair recognizes the same Senator.

Mr. MANGAN: Mr. President, I would now move that we adhere, and I would like to speak to my Motion.

The PRESIDENT: The Senator from Androscoggin, Senator Mangan, now moves the Senate adhere. The Senator has the floor.

Mr. MANGAN: Mr. President, as we consider this LD 1102, I get back into the basic question that has bothered me, and I know several other Members of this Senate, for quite a period of time, and we discussed that this morning; in particular, the issue of home rule, the issue of local control.

The serious question that devolves around this Bill is whether the people of the County who have elected their County officials not only expect their County budgets to be approved by the Members of the Legislative Delegation, but also the contingency account. Now it behooves me to think that whenever an emergency arises in accounting, that the County Commissioners would be required to call the Members of the Legislative Delegation together to ask them whether or not they should approve the funds for an emergency. I think that in most municipal budgets there is a contingency account set in wherein the Members of the local Legislative Delegation, be it the selectmen, have got the opportunity to consider whether an item is an emergency and whether that emergency exists, and whether it should be taken care of immediately. The Members of the local Legislative Delegation, that is the selectmen, do not have to call an emergency town meeting to get the approval of the voters, as a rule, to repair, say, a roof that was blown off during a hurricane. The selectmen generally do not have to call the local town meeting into an emergency session to approve payment of funds to repair the heating system for the town hall.

It concerns me very greatly that the County Commissioner would now have to call together the Members of the local Legislative Delegation, be it anywhere from 14 to 20 in number in some cases, other cases as few as three, to get the advice as to whether, in fact, they may be permitted to expend part of those contingency funds.

Secondly, the question that arises and again bothers me is whether, in fact, the local Legislative Delegation actually has any authority to act on behalf of the Legislature once the Legislature is out of Session. The

Legislature as a whole approves County budgets. They do not approve of them as Legislative Delegations, and I question as to whether the Legislative Delegations can amend those County budgets.

Thirdly, naturally, is the issue of interest rates, and I feel that this should be looked into very carefully.

Lastly, we talk about government of the people, by the people and for the people, — The people elected their County Commissioners. In some instances, the County Commissioners have today been elected by as many as 100,000 people in some of the larger counties. This is prior to the redistricting of the counties. It behooves me to think that the people would think that they have elected County Commissioners who not only have their budgets babysat by the Members of the Legislature, but now cannot even make a decision without turning to the Legislative Delegation for their approval.

Therefore, this is one of the reasons I move to indefinitely postpone this particular Bill and all of its accompanying papers, and I would request that the Members of the Senate support the Motion to adhere to our previous Motion.

On Motion of Mr. Pierce of Kennebec, Tabled for One Legislative Day, Pending the Motion of the Senator from Androscoggin, Senator Mangan, that the Senate adhere.

(Off Record Remarks)

The President laid before the Senate:

Bill, "An Act to Permit Snowmobiling on the Entrance Road of Baxter State Park." (S. P. 404) (L. D. 1387) which was tabled earlier in today's Session by the Senator from Penobscot, Senator Trotzky, pending acceptance of either Report.

The Chair recognizes the Senator from Penobscot, Senator Trotzky.

Mr. TROTZKY: Mr. President, I move the Senate accept the Majority Ought Not to Pass Report of the Committee, 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: The issue here, I think, is basically a simple one. I will break it down into two parts.

The first is the right of the Legislature to interfere with decisions of the Baxter State Park Authority. The Baxter State Park Authority is made up of the Attorney General, the Commissioner of Conservation, and the Commissioner of Fish and Game. It was approved by the Legislature, created a Commission with the approval of former Governor Baxter.

The second issue, I think, is the confidence in an Attorney General's opinion which has been rendered based on a thorough search of all letters and all the deeds in the Trust, and I have taken the liberty to pass out to the Senate here, and I hope you would look at this, two letters written by former Governor Baxter. In the first one dated May 11, 1965, he states very clearly in regard to the motorskis, and I interpret motorskis to mean snowmobiles and I believe that the Attorney General has also, "I have thought this over and have this suggestion to make. These skis should be prohibited in the Park, except for one for the Supervisor to use in case of emergencies." He is writing this letter to a Mr. Taylor, who is the Park Supervisor. I feel strongly about this, he says, for they will frighten away wild animals. Secondly, another letter dated April 18, 1966 to the Honorable Austin Wilkins, the Forest Commissioner. He states "I understand that there are several motorskooters and motorcycles in Millinocket that may be taken to the Park. These machines are so noisy and numerous, they should be forbidden to go into the park area."

Anyway, going further, at the hearing we had

testifying before us John L. Baxter who is the nephew of Percival Baxter. He submitted this letter to the Committee, and this is a letter written in 1937 to his nephew and Percival Baxter states: "When I next see you I want to sit down with you and explain my plan so that if anything should happen to me, you can represent me and stand up to the honor of the family." At our hearing John L. Baxter appeared, and he stated that Governor Baxter did not permit the privilege of snowmobiling in the Park. And he stated, I am sure that "Uncle Percy would not have allowed snowmobiles in the park."

As I say, the first issue is the right of the Legislature to interfere with the ruling of the Baxter State Park Authority, and most of the committee felt the Legislature does not have that right. If we want to go further, the question is; what is our confidence in the opinion of the Attorney General, and the majority of the Committee has confidence in the opinion of the Attorney General which was based on an exhaustive search.

Then another issue comes up. Well, should not we take this issue to the courts? In my opinion it is wrong for this Legislature to turn around and refer this issue to the courts. If the Maine Snowmobile Association has no confidence in opinion of the Attorney General or the ruling of the Baxter State Park Authority, it is their responsibility to take this issue to the courts; in the same way that when we had a blowdown in Baxter State Park, a group which was opposed to skidders going into the Park, they took the issue to the courts.

I hope that the Senate would go along with accepting the Majority Ought Not to Pass Report of the Committee.

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

Mr. O'LEARY: Mr. President, a parliamentary inquiry please.

The PRESIDENT: The Senator may state his inquiry.

Mr. O'LEARY: Would a Motion to recommit take precedence?

The PRESIDENT: The Chair would answer in the affirmative.

Mr. O'LEARY: Mr. President, I would so move, and speak briefly to my Motion.

The PRESIDENT: The Senator from Oxford, Senator O'Leary now moves that LD 1387, "An Act to Permit Snowmobiling on the Entrance Road of Baxter State Park" be recommitted to the Committee.

The Senator has the floor.

Mr. O'LEARY: Mr. President, the question that bothers most of us is whether this Bill would be a violation of the Trust, and because there is a question of law here, we believe that it should be addressed to the court and the Committee should address it. There are other Members of the Committee that signed the Report Ought Not to Pass who have since expressed a similar view and I am sure that a Report would be turned around.

However, that is not the point that I would like to make. Mr. John Baxter, the nephew of the late Governor Baxter, did appear before our Committee, and the question was asked pointedly of him, "Did your uncle, Governor Baxter, tell you personally that he was opposed to snowmobiles in the park?" The answer was "no." If you read Governor Baxter's letter of April 18th addressed to Austin Wilkins, who was the Commissioner of Forestry at the time, in the second paragraph he mentions motorcycles, motorscooters, and motorcycles, and such, should be banned. In the previous letter was dated in 1965 to Mr. Taylor. He mentions specifically motorskis. He says in his letter to Austin Taylor they should be forbidden to go into the park area as these strange and noisy machines would frighten the wild animals. It is true. But, the second point of it is, "I should

like you to discuss this matter with the other Members of the Authority and Mr. Taylor."

Now my assumption is, and I believe it must be accurate, that the Authority did discuss motorcycles or motorscooters in the Park area on the road, and they did in fact ban motorcycles, and they have continuously banned motorcycles and motorscooters from the Park. However, until this opinion was rendered by the Attorney General, snowmobiles were permitted, and that is the question I have in my own mind, and I think that we won't broach the Trust of the Governor, — we are all thankful for the Park he has given us. I think that he placed this Trust within the Authority, and whether the opinion of an Attorney General is going to overrule what that Authority would do is a question that bothers me.

I hope that you will support the move to recommit this to the Committee.

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

Mr. TROTZKY: Mr. President and Members of the Senate: I oppose the Motion to have this Bill recommitted to the Committee.

The Committee voted this Bill out, and, as I recall, basically, except possibly Senator O'Leary, I believe it was almost unanimous that the Bill should be turned down on the floor and the Committee not send this to the courts. And I feel that just reading the May 11, 1965 letter, it is very, very clear. He specifically states that he does not want to see snowmobiles on the roads in Baxter State Park. And he said he would like to discuss this with the Authority and add this to the list of what is forbidden in the Park.

Now in the Deeds of Trust, it does not say snowmobiles should not be allowed in the Park. But there is a spirit of the Trust, and basically the spirit of the Trust, you have to go to some written evidence, and although John L. Baxter stated at the hearing, as probably Senator O'Leary stated, maybe the Governor did not state this to him, he did testify against the use of snowmobiles in the Park, saying that it was his opinion, very strongly, that the Governor was opposed to this. But what the Attorney General relied on was written evidence. And that is the letter right here which I have passed out to you. And again I feel that it is not our responsibility to send this to the courts. If the Maine Snowmobile Association does not like the decision of the Authority, let them take it to the courts.

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

Mr. PRAY: Mr. President and Members of the Senate: There are a few things that should be cleared up immediately. First of all, this Bill was not introduced by the Maine Snowmobile Association. In the Town of Millinocket, which I represent, there is no Maine Snowmobile Association Club, and my concern is with the constituency of my area and of my home.

The questions that are coming out, the points that the good Senator from Penobscot, Senator Trotzky, makes reminds me of a story I once heard about an individual who was seen walking out of the house with a knife in his hand. The next day they found that there was an individual in there that had been stabbed to death. So, the presumption was that that individual automatically had stabbed the individual.

We are given the letters dated May 11, 1977. We are not given the letters that preceded it or the letters that followed it, or the intention of which Baxter wrote it in, under what context. We are given a legal opinion to make considerations on, a legal opinion in which one of the Assistant Attorney Generals stated that there were certain facts which they considered and certain facts which they did not consider, because it would be their decision as to what would be relevant to the question, and I say to

you that there are other letters that you have not been shown, that definitely show that there should be further consideration. I would just like to address a few points.

First of all, I am sorry to see that the Senate Majority Leader is gone because his father, when he was Commissioner of Inland Fish and Game, had voted to allow snowmobiling in the Park. Three previous Authorities passed rules and regulations to allow snowmobiling in the Park. In the legal opinion which I have, and if any individual would like to see the entire thing, you will find that the Authority itself has left that legal opinion in several cases. The conclusion of the legal opinion states that due to the letter that snowmobiles should be used in the Park by Park personnel only in emergency situations, the Authority has since that time and since the legal opinion, since it has banned snowmobiles, has set regulations up which say they can use them for emergency and administrative use. Nowhere in the legal opinion does it say administrative use. Perhaps the existing Authority is now violating the Deed to Trust. And I point out again that three previous Authorities saw the Deed to Trust and interpreted it differently.

It is my understanding that the makeup of the Authority is going to change each time we have a new Governor, each time each Commissioner comes up for reappointment or a new one is appointed or a new Attorney General is appointed. I think that there are some questions in here as to whether or not this Bill would be in violation of the Deeds of Trust, and I think perhaps it does belong in the courts. I do not represent the Maine Snowmobile Association and I am not asking this Bill to be sent to the courts to please them. I am concerned about my constituency which have enjoyed the Park for the last four years of Baxter's life on snowmobiles, before he died, and from that point on until 1976, when the Authority reversed previous Authority's decisions.

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

Mr. TROTZKY: Mr. President and Members of the Senate: The Senator from Penobscot, Senator Pray, suggests that I have shown you two letters and I have not shown you any other letters, and I have not seen any other letters. Senator Pray, who presented this Bill, gave the Committee no other letters stating very clearly that former Governor Baxter wanted snowmobiles in the Park. And if he has those letters, instead of suggesting that I am hiding them, let him present them to the Senate here on the floor.

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

Mr. PRAY: Mr. President and Members of the Senate: I would point out to the Chairman of the Natural Resource Committee that I left him this book full of letters, and when I talked to him in the rear of the Chamber earlier, he told me he did not even look at it.

The PRESIDENT: Is the Senate ready for the question? The pending question before the Senate is the Motion by the Senator from Oxford, Senator O'Leary, that L. D. 1387 be recommitted to the Committee on Natural Resources.

The Chair will order a Division.

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

Will all those Senators opposed to recommitment, please rise in their places to be counted.

7 Senators having voted in the affirmative, and 19 Senators in the negative, the Motion to Recommit does not prevail.

The PRESIDENT: Is it now the pleasure of the Senate to accept the Majority Ought Not to Pass Report?

The Chair recognizes the Senator from Penobscot, Senator Pray.

Mr. PRAY: Mr. President, I am sure of the

way the vote is going to come out, but I want to put a few facts on the record.

The PRESIDENT: The Senator has the floor.

Mr. PRAY: Thank you, Mr. President. One of the issues at hand in this Bill is that the Road that goes through Baxter Park as it now stands is in violation of the Deeds of Trust. The present Authority changed it from what is spelled out specifically in the Deeds of Trust, and on reference to the road that goes from the Sowadnebunk field down into the Harrington Lake area. The authorities saw fit, since the Allagash Wilderness Way came along, to build a new road in violation of the Trust so they could pick up the additional traffic. \$32,000.00 of State highway revenue funds go to the Park each year to maintain the roads.

Under Title 12, subsection 1977, it spells out that any public road or public subsidized road can be used for snowmobiling if that road is unplowed. The road through the Park is both of those.

When I asked the intent of the authority, I went back to Austin Wilkins, and talked with him, who was the Commissioner of the Bureau of Forestry for almost three decades. He worked with Baxter through the entire process of establishing the Legislative process, the Legislative acceptance of the Deeds of Trust. It was Austin Wilkins' opinion that from conversations that followed, it was not Baxter's intention to ban snowmobiles completely from the Park. The letter which you read was in response from a letter from an individual from the Old Town area who sent Baxter a picture of a snowmobile supposedly on Baxter Peak. In the foreground of that picture were white birches, and if any of you have been in the Katahdin area you know that there is a tree line approximately a few thousand feet below the peak, so there are definitely no white birches growing on the top of Mt. Katahdin. So the picture was an erroneous picture which Baxter reacted to and thus the letter. Mr. Taylor spelled this out in the letter that followed, and assured him that the picture was not taken on Baxter Peak.

It is my contention that the authority met and decided that it was Baxter's intention that he did not want snowmobiles on the mountain, that he did not want them running amuck through the Park, but they came down with a limited restriction of allowing them to use a public roadway.

My Bill is more restrictive than the regulations passed by three authorities to allow snowmobiles to use certain roads in the Park and certain branch roads. I did not allow them to use branch roads, or roads going into the Chimney Pond area. My attempt in my Legislation is to put back the use of those public roads which were allowed, as I stated earlier in the last few years of Baxter's life and for the seven years that followed.

I think that we should understand that this issue may very well come up again when the new Attorney General is appointed, perhaps another legal opinion is asked, or perhaps when a new authority meets because in the Deeds of Trust when Baxter gave the land, he removed himself, except for an advisory position. The authority lies within the Baxter Park Authority members as to what they are going to deem as the wishes of Percival Baxter. So we may address this issue later, and maybe the other side is going to come in to overrule the next Authority, because they all of a sudden say, "Yes, it was Baxter's intention." By throwing this into the court at this time, I feel as if we could end this parade of events that may come along in the future.

The PRESIDENT: Is the Senate ready for the question? The pending question before the Senate is the Motion by the Senator from Penobscot, Senator Trotzky, that the Senate ac-

cept the Majority Ought Not to Pass Report of the Committee.

A viva voce vote being had,

The Chair is in doubt, and will order a Division.

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

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

17 Senators having voted in the affirmative, and 9 Senators in the negative, the Motion to accept the Majority Ought Not to Pass Report does prevail.

Sent down for concurrence.

On Motion of Mr. Huber of Cumberland,
Adjourned to 9:00 tomorrow morning.