

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

***One Hundred and Eighth
Legislature***

OF THE

STATE OF MAINE

1978

Second Regular Session

January 4, 1978 — April 6, 1978

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APPENDIX

SENATE

February 17, 1978

Senate called to Order by the President.

Prayer by the Honorable Richard D. Hewes of Cape Elizabeth.

Mr. HEWES: On our omnipotent and merciful Lord, who last week reminded us of your dread power, by rocking homes from their foundations and bring commerce to a stand still. Guide us in our thoughts, deliberations, and votes. To act for the mutual benefit of men, women, and children everywhere.

Let no misfortune befall our President during his visit to our beloved State today and tomorrow. And bless all here assembled including the Senators and our dedicated Senate Staff. Amen.

Reading of the Journal of yesterday.

Out of Order and Under Suspension of the Rules:

On motion by Mr. Huber of Cumberland, ORDERED, the House concurring, that when the House and Senate adjourn, the House adjourns to ten o'clock in the morning and the Senate adjourns to eleven o'clock in the morning on Wednesday, February 22, 1978. (S. P. 704)

Which was Read and Passed.
Sent down forthwith for concurrence.

(Off Record Remarks)

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

Joint Resolution

On motion by Mr. Curtis of Penobscot, Co-sponsored by Mr. Trotzky of Penobscot, Representative Devoe of Orono, and Representative Tarbell of Bangor.

STATE OF MAINE

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

Joint Resolution

Welcoming the President of the United States

The Honorable Jimmy Carter
on His Visit to Maine

WHEREAS, the President of the United States, the Honorable Jimmy Carter, will be visiting Bangor, Maine, on Friday, February 17, 1978; and

WHEREAS, during his visit he will be meeting and conversing with many of Maine's citizens, exchanging ideas, and enjoying the friendly generosity of Maine's "Queen City;" now, therefore, be it

RESOLVED: That we, the members of the 108th Legislature assembled in second regular session, do hereby extend a cordial welcome to the Honorable Jimmy Carter, President of the United States, and hope that he will thoroughly enjoy Maine's warm hospitality during his winter visit. (S. P. 705)

Which was Read.

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

Mr. CURTIS: Mr. President, Maine citizens are pleased and proud that Jimmy Carter is visiting Bangor and Orono today and tomorrow. Although we understand that this is primarily a political visit, the sponsors of this resolution welcoming him are some of the Republican Legislators from Bangor and Orono. And we are particularly proud that our area is being honored with the President's visit.

We are also pleased that President Carter is interested in the questions and opinions of our constituents and we shall look forward to the exchange of views on the Indian Land Claims Case, the future of Loring Air Force Base, Defense Spending in Maine, and indeed the rest of the foster snow belt. The question of oil drilling in the gulf of Maine, and many other matters which, I am certain, will be taken up. We are

also hopeful Mr. President, that perhaps President Carter will use the occasion of his visit to Bangor to announce that his administration will allot additional mileage for Inter-State Construction, so that sufficient safe access can be provided in Brewer for U.S. Route 1-A to connect to the proposed third bridge across the Penobscot River. Direct access to Route 1-A or the Bar Harbor Road is extremely important to include in safe motor vehicle transportation in Penobscot County and the Downeast Area.

I think that this is a happy occasion for us, and like I said we as Republicans have waited until this moment to see if it was going to be a real partisan occasion, but since it is not, why we are pleased to sponsor this resolution and Mr. President if it passes this morning, as I hope it will, I would like to move that it be sent forthwith to the House.

On Motion of Mr. Curtis of Penobscot, Adopted.

Sent down forthwith for concurrence.

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

Joint Resolution, Relative to Additional 30-Day Grace Period under the Nonreturnable Beverage Container Statute. (S. P. 698)

In the Senate, February 15, 1978, Read and Adopted.

Comes from the House, Read and Indefinitely Postponed, in non-concurrence.

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

Mr. TROTZKY: Mr. President, I received, the House received a communication from the Attorney General which states that there is no provisions in the statute for extending its effective date or to provide grace periods. This concerns the Returnable Beverage Statute Container Statute, so therefore, I move that the Senate Recede and Concur, with the House.

The PRESIDENT: The Senator from Penobscot, Senator Trotzky, now moves that the Senate recede and concur with the House. It is the pleasure of the Senate. It is a vote.

Joint Order

An Expression of Legislative Sentiment recognizing that:

Margaret L. Weber, of Gorham, has retired as Cumberland County Register of Deeds, after 30 years of service to the citizens of that county. (H. P. 2111)

Comes from the House, Read and Passed.

Which was Read and Passed, in concurrence.

Joint Order

ORDERED, the Senate concurring, that the Legislative Finance Officer be authorized and dired to pay each member of the Legislature prior to February 24, 1978, a \$200 allowance for constituent services as authorized by the Revised Statutes, Title 3, section 2. (H. P. 2112)

Comes from the House, Read and Passed.

Which was Read and Passed in Concurrence.

Joint Resolutions

A Joint Resolution In Memoriam: Whereas, the Legislature has learned with deep regret of the death of the Honorable Frank S. Rand, prominent business-man of Yarmouth, (H. P. 2113)

Comes from the House, Read and Adopted.

Which was Read and Adopted, in concurrence.

STATE OF MAINE

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

Joint Resolution, to declare May 3, 1978, as "Sun Day"

WHEREAS, in this age of increasing energy scarcity, humankind is turning towards the sun, recognizing it as an essentially inexhaustible source of power for man's future; and

WHEREAS, a coalition of environmentally concerned citizens has decided to increase

public awareness of the sun's potential for energy by declaring May 3, 1978, as "Sun Day"; and

WHEREAS, a joint resolution is currently pending in The United States Congress to proclaim "Sun Day" on a federal level; and

WHEREAS, this resolution states that May 3, 1978, will be "a day of national recognition of solar energy in all its forms — including wind, small hydroelectric power stations, biomass conversion and direct solar energy — as a positive and available energy production option to meet America's energy needs;" and

WHEREAS, it is fitting that, on May 3, 1978, the Citizens of Maine join with other like-minded citizens in celebrating the great gift of energy which the sun presents to us all, therefore, be it

RESOLVED: That we, the members of the 108th Legislature assembled in the Second Regular Session, declare May 3, 1978, to be "Sun Day" in Maine; and call upon all of our citizens, upon our local governments and upon our State Government, to observe this day with appropriate ceremony, celebration and cooperation; and be it further

RESOLVED: That, upon passage in concurrence, the Secretary of State shall make suitable copies of this Resolution available to the public. (H. P. 2116)

Comes from the House, Read and Adopted.

Which was Read.

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

Mr. PRAY: Mr. President, I would ask for a Division.

The PRESIDENT: A Division has been requested.

Will all those Senators in favor of adopting (H. P. 2116), please rise in their places to be counted.

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

9 Senators having voted in the affirmative and 18 Senators in the negative, this Joint Resolution fails of adoption.

Sent down for concurrence.

Communications

Committee on State Government

The Honorable Joseph Sewall
President of the Senate of Maine
State House

Augusta, Maine 04333

Dear President Sewall,

In accordance with M. R. S. A. Title 10, Section 701 and with Joint Rule 37 of the 108th Maine Legislature, the Joint Standing Committee on State Government has had under consideration the nomination of Robert P. Bahre to the position of a member of the Maine Guarantee Authority.

After a Public Hearing and discussion on this nomination, the Committee proceeded to vote on the motion to recommend to the Senate of the 108th Maine Legislature that this nomination be confirmed. The vote was taken by the yeas and nays. The Committee Assistant called the roll with the following result:

YEAS:

Senators 2 Sen. Collins, Sen. Martin.

Representatives 4 Rep. Valentine, Rep. Stubbs, Rep. Churchill, Rep. Silsby

NAYS:

Senators 0

Representatives 5 Rep. Locke, Rep. Curran, Rep. Kany, Rep. Bachrach, Rep. Diamond

ABSENT: Sen. Snowe, Rep. Masterton

Six members of the Committee having voted in the affirmative and five in the negative, it was the vote of the Committee that the nomination of Robert P. Bahre to the position of a member of the Maine Guarantee Authority be confirmed.

Sincerely,
Senate Chairman
House Chairman

Which was Read.

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

Mr. COLLINS: Mr. President and Members of the Senate: The Maine Guarantee Authority was established to encourage the making of mortgage loans to help finance the development and expansion of industrial, manufacturing, fishing, agricultural, and recreational enterprises within the State of Maine.

The State Government Committee has had before it the nomination of Robert P. Bahre and you will note from the calendar that we have recommended, a majority of that Committee has recommended that he be confirmed. I should like to call your attention to the fact that Senator Snowe had been present, would have voted in the affirmative.

Robert Bahre is the owner of Speed-Way Incorporated in Oxford, Maine. He is also a Member of the Board of Directors of the Oxford Bank and Trust Company, an industrial developer. He brings to the Board a great deal of experience in business and finance he is a successful businessman he is capable of analyzing business situations and making, we think, sound loan judgments.

I hope that you will concur with the Committee in its recommendation that he be confirmed.

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

Mr. MARTIN: Mr. President and Members of the Senate: I stand before you this morning in concurrence with the Senator from Aroostook, Senator Collins. And would hope that the nomination of Robert P. Bahre be confirmed by this Body.

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

Mr. JACKSON: Mr. President and Members of the Senate: I have to also concur with the two Senators from Aroostook, Senator Collins and Senator Martin. And would hope that the Senate would accept the nomination of Robert P. Bahre to the Maine Guarantee Authority.

I have known Mr. Bahre for approximately fifteen years from the time that he came here from Connecticut. He is an astute businessman and he deals in the area of finance also. For your information, for the Oxford County Area this gentleman since he made his residence in that area has brought to the area a substantial amount of new employment and I am talking somewhere in the vicinity of probably between 5 and 8 hundred jobs. Through this fellow alone, individually.

I would hope that the Senate again, I would like to reiterate I would hope that they would accept the nomination of this gentleman because I think that he would be a valuable attribute to the Maine Guarantee Authority. He has served on it previously and the Governor has seen fit to reappoint him to the Authority and again I would hope that the Senate would concur with the majority of the State Government Committee.

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

Mr. PRAY: Mr. President, I would like to pose a question through the Chair to any member of the State Government Committee as if they could explain perhaps, without putting words in the mouths of those individuals who voted against it, as to why their might have been such a numerical objection to the reappointment of this individual.

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

Mr. COLLINS: In response to the question, I think that there was no objection with respect to the quality and caliber of the individual concerned. There were people who voted against confirmation who did this because they felt that there was some conflict of interest. The majority of us do not share that conviction. That results I think in part from the fact that this gentleman is the director of the Oxford Trust Company. The Oxford Trust Company

has participated in the MGA Loans. His involvement with that company is that of a Stockholder and a Director. He is not part of the management. We really think that this is the type of person who ought to serve in this capacity. Because he does have the experience necessary to act on matters of loans, business, acumen and other things that the MGA has to concern itself with.

Which was Ordered placed on file.

Mr. PRESIDENT: The Joint Standing Committee on State Government has recommended that the nomination of Robert P. Bahre be confirmed.

Mr. PRESIDENT: The pending question before the Senate is: Shall the recommendation of the Committee on State Government be overridden? In accordance with 3 M.R.S.A., Chapter 6, section 151, and with Joint Rule 37 of the 108th Legislature, the vote will be taken by the yeas and nays.

A vote of Yes will be in favor of overriding the recommendation of the Committee.

A vote of No will be in favor of sustaining the recommendation of the Committee.

Is the Senate ready for the question?

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

YEA — Pray

NAY — Carpenter, Chapman, Collins, D.; Collins, S.; Conley, Cummings, Curtis, Danton, Farley, Greeley, Hewes, Hichens, Huber, Jackson, Katz, Lovell, Mangan, Martin, McNally, Minkowsky, Morrell, O'Leary, Pierce, Redmond, Snowe, Speers, Trotzky, Usher, Wyman, Sewall.

ABSENT — Levine, Merrill

1 Senator having voted in the affirmative and 30 Senators in the negative, with 2 Senators being absent, being less than two-thirds of the membership present, it is the vote of the Senate that the Committee's recommendation be accepted. The nomination of Robert P. Bahre is confirmed.

Committee on State Government
February 16, 1978

The Honorable Joseph Sewall
President of the Senate of Maine
State House
Augusta, Maine 04333
Dear President Sewall,

In accordance with M.R.S.A. Title 10; Section 701 and with Joint Rule 37 of the 108th Maine Legislature, the Joint Standing Committee on State Government has had under consideration the nomination of Kenneth H. Volk to the position of a member of the Maine Guarantee Authority.

After a Public Hearing and discussion on this nomination, the Committee proceeded to vote on the motion to recommend to the Senate of the 108th Maine Legislature that this nomination be confirmed. The vote was taken by the yeas and nays. The Committee Assistant called the roll with the following results:

YEA — Senators 2 Sen. Collins, Sen. Martin; Representatives 2 Rep. Stubbs, Rep. Silsby

NAY — Senators 0; Representatives 7 Rep. Locke, Rep. Valentine, Rep. Churchill, Rep. Curran, Rep. Kany, Rep. Bachrach, Rep. Diamond

ABSENT — Sen. Snowe, Rep. Masterton
Four members of the Committee having voted in the affirmative and seven in the negative, it was the vote of the Committee that the nomination of Kenneth H. Volk to the position of a member of the Maine Guarantee Authority not be confirmed.

Sincerely,

Signed: D. F. COLLINS
Senate Chairman

Signed: PETER J. CURRAN
House Chairman

Which was Read.
On Motion of Mr. Speers of Kennebec, Tabled

pending placing on File.

Joint Resolution

Mr. Hichens of York (Co-sponsor Mr. Biron of Lewiston) presented, the following Joint Resolution and moved its adoption:

STATE OF MAINE

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

Joint Resolution Concerning

A Proposed Film on the Life of Jesus
WHEREAS, it has been brought to the attention of the Legislature that a British filmmaker is planning to produce a film which portrays Jesus of Nazareth engaged in a number of explicit sexual acts for which there is absolutely no biblical or other historical evidence; and

WHEREAS, we believe the exploitative use of both sexuality and a revered religious figure is essentially an attempt to gain notoriety for what otherwise would be just another pornographic film; and

WHEREAS, we believe such a film would be patently offensive to the deepest feelings of thousands of Maine people; now, therefore, be it

RESOLVED: That we the members of the 108th Maine Legislature go on record as respectfully requesting anyone involved in the production or dissemination of such a film to consider thoughtfully the welfare of their fellow citizens before proceeding with such an enterprise; and be it further

RESOLVED: That upon passage of this Resolution in concurrence, the Secretary of the Senate shall make available suitable copies of this Resolution to the public. (S. P. 702)

Which was Read:

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

Mr. CONLEY: Mr. President I would like to pose a parliamentary inquiry as to S. P. 702. And I would like to know that under Joint Rule 4 as to whether or not this Joint Resolution is before the Body and is correct to be before the Body.

The PRESIDENT: The Chair would advise the Senator from Cumberland, Senator Conley, that in the opinion of the Chair this Joint Resolution is improperly before the Body.

The Chair recognizes the Senator from York, Senator Hichens.

Mr. HICHENS: Mr. President, would you repeat your decision please.

The PRESIDENT: The Chair has advised the Senator from Cumberland, Senator Conley, that since this matter has been thoroughly aired previously, this matter is now not properly before this body, Pursuant to Joint Rule 4.

Orders

On motion by Mr. Chapman of Sagadahoc, ORDERED, the House concurring, that the Joint Standing Committee on Marine Resources shall report out a bill setting a minimum size for the taking of soft shelled clams. (S. P. 700)

Which was Read and Passed.

Sent down for concurrence.

An Expression of Legislative Sentiment recognizing that:

Robert S. Pike, Sr., of Cornish, is retiring at the age of seventy-five from the Cornish Board of Selectmen, after having served sixteen years as a selectman, including fifteen years as the Chairman of the Board, and after having held many other civic positions, (S. P. 701 is presented by Senator Lovell of York (Co-sponsored by Representative Carroll of Limerick.)

Which was Read and Passed.

Sent down for concurrence.

Committee Reports

House

The following Ought Not to Pass reports shall

be placed in the legislative files without further action pursuant to Rule 20 of the Joint Rules:

Bill, "An Act Concerning the Administration and Operation of the Maine Turnpike." (H. P. 2063) (L. D. 2126)

Bill, "An Act to Revise the Powers and Duties of the Maine Turnpike Authority and to Provide Commuter Passes for Turnpike Users." (H. P. 2061) (L. D. 2124)

Leave to Withdraw

The Committee on State Government on, Bill, "An Act to Create a Department of Cultural Resources." (H. P. 2009) (L. D. 2092)

Reported that the same be granted Leave to Withdraw.

Comes from the House, the Report Read and Accepted.

Which Report was Read.

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

Mr. CHAPMAN: Mr. President and Members of the Senate: a lot of hard work and sincere thought went into this study by the members of the specially appointed Committee. In spite of numerous problems inherent in the present Bill, the thrust of the Committee's deliberations in the view of many have merit. The concerns of many over improving the structure of the State Government focus on the Cultural Services in Maine are concerns that should not be dropped with the withdrawal of this Bill.

I would sincerely hope that further steps will be taken to carry forward the work initiated by this Committee, so that the attention to the focus to the qualities and benefits of our cultural activities are in fact effectively structured and emphasized.

Which Report was Accepted, in concurrence.

Ought to Pass

The Committee on Local and County Government on, Bill, "An Act to Support Improvement of Air Passenger Services." (H. P. 2048) (L. D. 2110)

Reported that the same Ought to Pass.

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

Which Report was Read.

On Motion of Mr. Collins of Aroostook, Tabled for One Legislative Day, pending acceptance of the Committee Report.

Ought to Pass — As Amended

The Committee on Education on, Bill, "An Act Authorizing Municipalities to Provide a Textbooks and Other Nonsecular Services to Elementary and Secondary Pupils Attending Private Schools." (H. P. 1889) (L. D. 1946)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-1041)

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

Which Report was Read.

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

Mr. KATZ: Mr. President, I call the Senates attention to this piece of Legislation. It is identical to a Bill that was sponsored by the good Senator from Kennebec, Senator Pierce, which he graciously agreed to withdraw.

This Bill in its amended form as it is in front of you, is a local option question. If a community chooses to offer certain educational type services to students attending private schools it may do so by vote of the appropriate authority. The services that are covered, and this is unique, are textbooks, health services, and testing. Prior to this Legislative Session, such a Bill would have been unconstitutional. But a recent decision by the Supreme Court of the United States makes this particular approach clearly constitutional. The Bill has been nar-

rowly drafted, pertains to only three services, and if the City of Lewiston, for example, wishes to offer the textbook services and others to local children will be on a 50/50 basis. Fifty percent State money and fifty percent local money, and as a matter of fact, this is exactly the ratio that is established for the sharing of Statewide costs for textbooks for public school children.

In conjunction with the L. D. 2022 the School Finance Act which we will be dealing with next week. It establishes a program that says that they are our children and if a community wishes to transport children on buses, buy textbooks for them, or give them health services, or testing it does not make any difference whether they are going to a public school or a private school. The service is for the children, not for the schools, not for any establishment, but for the children.

Ought to Pass, as amended, Report of the Committee Accepted. The Bill Read Once.

Committee Amendment "A" Read and Adopted in concurrence.

The Bill, as amended, Tomorrow Assigned for Second Reading.

The Committee on Energy on, Bill, "An Act to Establish a Solar Water Heater Demonstration Program for Maine." (H. P. 2038) (L. D. 2102)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-1038).

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

The Committee on Health and Institutional Services on, Bill, "An Act to Expand the Elderly Low Cost Drug Program." (Emergency) (H. P. 1912) (L. D. 1973)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-1028).

Comes from the House, the Bill Passed to be Engrossed as amended by Committee Amendment "A" as amended by House Amendment "A" (H-1044) thereto.

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

Senate

Ought to Pass in New Draft

Mr. Morrell for the Committee on Performance Audit on, Bill, "An Act to Encourage Early Resolution of Discrimination Complaints and to Clarify the Subpoena Power of the Maine Human Rights Commission." (S. P. 644) (L. D. 2044)

Reported that the same Ought to Pass in New Draft under same title. (S. P. 703)

Which Report was Read and Accepted, and the Bill, in New Draft, Read Once and Tomorrow Assigned for Second Reading.

Senate

Divided Report

The Majority of the Committee on Education on, Bill, "An Act to Extend School Breakfast Availability to Maine School Children." (S. P. 659) (L. D. 2036)

Reported that the same Ought Not to Pass. Signed:

Senators:

KATZ of Kennebec

PIERCE of Kennebec
USHER of Cumberland

Representatives:

FENLASON of Danforth
BAGLEY of Winthrop
PLOURDE of Fort Kent
LEWIS of Auburn
LYNCH of Livermore Falls
BIRT of E. Millinocket

The Minority of the same Committee on the same subject matter Reported that the same Ought to Pass as amended by Committee Amendment "A" (S-470).

Signed:

Representatives:

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

Which Reports were Read.

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

Mr. CONLEY: Mr. President, I move that we accept the Minority Ought to Pass Report of the Committee, and I would like to speak to my motion.

The PRESIDENT: The Senator has the floor.

Mr. CONLEY: Mr. President and Members of the Senate: I believe that the signers of the report were actually signing the original Bill when they signed it out Ought Not to Pass.

L. D. 2036, the School Breakfast Extension is my Bill. The Committee Amendment supported by four persons on the Education Committee which is filing S-470 is a mere shadow of the original Bill. Even less than a shadow. You could probably say that the bacon and eggs have been taken away, and what is left is really toast and milk.

What the Bill does really is; 1 it will put on the books a financial incentive for any School District wishing to start a breakfast program and having 25 percent or more needy youngsters. Those districts would get a higher per meal reimbursement from the Federal Government than they now receive, and that is all that Section 1 of the amendment does.

If we look at section 2 of the amendment, it provides for a report by the Commissioner of Education to the Legislature and the School Board and its Committees. The report would identify those districts eligible for additional Federal reimbursement if and I underline the word if the district wants to start a breakfast program. That is all the amendment does. There is no mandate. There is no infringement at all on local control. The Department of Education could do both of these things right now, but they do not and I think that they will on their own. The School Breakfast Bill had a lot of support at the hearing in its original form. The Maine Teachers Association, representatives of the AFL-CIO, the Maine State Employees Association, Maine Human Service Council, Diocese of Human Relation Services, Principals, Teachers, Parents, nutritionalist Health Workers, etc.

I ask you today to look at the Committee Amendment. Consider the benefits that they provide. Consider that it will not impose any requirement on local schools that support this very small margin percentage for school breakfasts for the needy and hungry children.

If a vote is taken Mr. President, I request that it be taken by the Yeas and Nays.

The PRESIDENT: A Roll Call has been requested.

The Chair recognizes the Senator from Kennebec, Senator Katz.

Mr. KATZ: Mr. President, I am forced to agree with much of what the Senator says, that the original Bill is quite different. As we read the original Bill which mandated School Breakfasts in every community in the State with but few exceptions by next year, we thought if we had enough courage to do that, we might reenact the Uniform Property Tax. It was a very, very heavy mandate and if there was one mes-

sage that I got, last December, it was please do not send us any more mandates.

The Bill in its present form is not you might classify more as pabulum, there is something there but it is pretty hard to identify what it is. The Bill as it is now before you in the Committee Amendment deals with communication. It does not do anything, it deals with communication and it says that local school units should really be forced to know what they should know anyway as I understand the existing thing. As we sit here and identify a Bill which can be killed without really, really hurting any of the constituents this Bill in its present form could probably fit that category.

The PRESIDENT: A Roll Call has been requested.

In order for the Chair to order a Roll Call, it must be the expressed desire of one-fifth of those Senators present and voting.

Will all those Senators in favor of a Roll Call please rise in their places to be counted.

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

The Chair recognizes the Senator from Kennebec Senator Katz.

Mr. KATZ: Mr. President, sometimes I am very obtuse, I am voting against this.

The PRESIDENT: The Pending question before the Senate is the motion by the Senator from Cumberland, Senator Conley, that the Senate accept the Minority Ought to Pass as amended Report of the Committee.

A yes vote will be in favor of accepting the Minority Ought to Pass Report.

A nay vote will be opposed.

The Doorkeepers will secure the Chamber. The Secretary will call the Roll.

ROLL CALL

YEA — Carpenter, Conley, Danton, Farley, Mangan, O'Leary, Trotzky

NAY — Chapman, Collins, D.; Collins, S.; Cummings, Curtis, Greeley, Hewes, Hichens, Huber, Jackson, Katz, Levine, Lovell, Martin, McNally, Minkowsky, Morrell, Pierce, Pray, Redmond, Snowe, Speers, Usher, Wyman

ABSENT — Merrill

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

Mr. CARPENTER: Mr. President, I wish to change my vote from yea to nay.

The PRESIDENT: The Senator from Aroostook, Senator Carpenter now changes his vote from yea to nay.

6 Senators having voted in the affirmative and 25 Senators in the negative, with 1 Senator being absent, the Motion to accept the Minority Ought to Pass Report does not prevail.

The Majority Ought Not to Pass Report of the Committee was Accepted.

Sent down for concurrence.

Second Readers House — As Amended

The Committee on Bills in the Second Reading reports the following: Bill, "An Act to Simplify the Procedure for Submission of Certain Small Claims Against the State." (H. P. 1931) (L. D. 2002)

RESOLVE, Authorizing Cumberland County to Pay Deficits from Unappropriated Surplus. (Emergency) (H. P. 1947) (L. D. 2026)

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

Bill, "An Act to Revise the Salaries of Certain County Officers." (H. P. 1942) (L. D. 2108)

Which was Read a Second Time.

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

Mr. MINKOWSKY: Mr. President and Members of the Senate: The Androscoggin County delegation inadvertently forgot to include in this particular document the increase in the salary for the County Commissioners and also to recognize that the other office holders, such as; the Register of Probate and the Register of Deeds and Treasurer would be full-time jobs

and I would like to offer Senate Amendment "A" (S-472)

The PRESIDENT: The Senator from Androscoggin, Senator Minkowsky, moves the Senate reconsider the adoption of Committee Amendment "A". Is it the pleasure of the Senate? It is a vote.

Senate Amendment "A" (S-472) was Read, Senate Amendment "A" to Committee Amendment "A" Adopted.

On Motion of Mr. Speers of Kennebec, Tabled until later in today's session pending adoption of Committee Amendment "A" as amended.

Senate

Bill, "An Act to Provide a \$250,000 Grant to the New England College of Osteopathic Medicine." (S. P. 667) (L. D. 2055)

Which was Read a Second Time.

On Motion of Mr. Speers of Kennebec, Tabled until Thursday next, Pending Passage to be Engrossed.

At Ease

Out of order and under suspension of the rules, the Senate voted to consider the following.

Paper from the House Joint Resolution

STATE OF MAINE

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

Joint Resolution Joining the University of Maine at Fort Kent in

the Celebration of Its Centennial

WHEREAS, one of the treasures of our State, as well as our Nation, is its many and diverse cultures, all of which reflect the rich historical experience and deep-felt expressions of our varied citizenry; and

WHEREAS, these cultures perhaps find their most profuse flowering in institutions of higher learning where scholars and teachers develop their traditions and hand down their learning to future generations; and

WHEREAS, the State of Maine is blessed in its northern part with citizens of Acadian descent whose history embodies a unique and precious form of French culture flavored by long experience in North America; and

WHEREAS, by "An Act to Provide for the Training of Teachers in Madawaska Territory," approved on February 21, 1978, the Legislature of this State, recognizing Maine's good fortune in having a strong Acadian tradition within its borders, provided for an institution of higher learning to serve the citizens of the madawaska Territory; and

WHEREAS, the trustees of the school, aware of the unique advantages of the Town of Fort Kent, subsequently funded this institution in the midst of handsomely forested hills on the scenic Fish River; and

WHEREAS, during the hundred years since its founding, and under the names of Madawaska Training School, Fort Kent Normal School, Fort Kent State Teachers College, Fort Kent State College, and finally the University of Maine at Fort Kent, this institution has continued to grow and to flourish; and

WHEREAS, the University of Maine at Fort Kent now is firmly established as one of the brightest stars in the constellation of the University of Maine, offering a blend of the rich Acadian tradition and five superlative degree programs to a multifaceted student body from both Maine and our entire country; now, therefore, be it

RESOLVED: That we, the members of the 108th Legislature assembled in second regular session, hereby publicly declare our recognition of the irreplaceable benefit which the University of Maine at Fort Kent, together with all

of those men and women who have served it, has conferred upon our Acadian tradition and upon our State during the past century, and further hereby express our encouragement and wishes that it may continue far into the future the success which it has had during the past 100 years; and be it further

RESOLVED: That a duly authenticated copy of this Joint Resolution, signed by the Speaker of the House and the President of the Senate, be prepared and presented to the Chancellor and the President as an expression of our feeling on this historic occasion. (H. P. 2118)

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

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

Mr. KATZ: I cannot resist standing on this issue. I think that it was the 107th or perhaps the 106th Legislature, they seemed to blur, with the Education Committee assigned the task of reviewing the University System as it was at that time. And we travelled to the various campuses. You might be interested to know that, because Fort Kent has been under attack as perhaps as an improper location for a 4 year baccalaureate program that there was no campus on which there was more obvious community support. There was no campus where the relationship of the pupil to the faculty, the pupil to the administration, the faculty to administration, was any closer where communications were any better at all. It was an inspiring sight and I am very pleased to see this Resolution before us.

Which was Adopted.

Sent down forthwith to the Engrossing Department.

Enactors

The Committee on Engrossed Bills reported truly and strictly engrossed the following: "An Act Relating to the Inspection of Dams." (H. P. 2007) (L. D. 2084)

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

"An Act Allocating Funds to Construct an Access Road to the Phase 2 Housing Project on the Penobscot Tribal Reservation." (H. P. 1916) (L. D. 1977)

On Motion of Mr. Pray of Penobscot, Tabled until later in Today's Session, pending Enactment.

"An Act to Amend the Crime of Assault on a Law Enforcement Officer." (S. P. 661) (L. D. 2032)

The PRESIDENT: The Chair recognizes the Senator from York, Senator Lovell, in reference to L. D. 2032.

Mr. LOVELL: Mr. President and Members of the Senate: I have been requested by a member of the other Body from my Senatorial District to bring to your attention this Bill, "An Act to Amend the Crime of Assault on a Law Enforcement Officer."

The problem is that the Bill creates a new crime of assault on a Law Enforcement Officer. But does not require that the officer could prove that he was in fact assaulted. Now this officer could charge a citizen with an assault under this Law and the citizen could not prove that he did not do it unless there were witnesses. This put our citizens at a disadvantage. The penalty could be five years in jail. The issue is not whether we favor protecting our police officers from assault; but really one that require medical evidence to sustain the charge of assault. And this very nice young fellow has asked the Governor to Veto the Bill is it passes this Body and I would like to request a Roll Call.

The PRESIDENT: A Roll Call has been requested.

The Chair recognizes the Senator from Aroostook, Senator Carpenter.

Mr. CARPENTER: Mr. President and ladies and gentlemen of the Senate: I would certainly hope that we would go on record with a Roll

Call this morning and Enact L. D. 2032.

Basically what the Senator from York, Senator Lovell, has mentioned is exactly correct, except for a couple of matters of interpretation. We are creating a crime. A specific crime of assault on a police officer would become a Class "C" crime. I think if you look at your Enactor Book at 2032 if is pretty specifically defines and delineates what a person has to go through in order to be found guilty. As the good senator from York, Senator Lovell, mentioned that there would be no defense for this, I still have some faith in the judicial system that a judge, a jury, a court would look pretty hard at this crime when it was brought before them and a person I quote "Intentionally, knowingly, and recklessly cause bodily injury to a law enforcement officer while the officer is in the performance of his official duties." I think that is fairly specific. I do not think that we are going to create a police state with a tremendous volume of cases of police brutality if we pass this. I think that we must make our citizenry aware that a police officer in the performance of his duties, is a special person and I would certainly hope that we would pass this Bill this morning.

This is a result of a study undertaken last summer by the Committee on Legal Affairs. A great deal of work, a great deal of testimony went into this. There was a great deal of discussion as to whether we should put medical documentation in the Bill or leave it out. There have been several fights here and in the other Body as to whether it should be in or out. I would just remind you that there are, I think, over a hundred ways to kill a person without leaving a mark on the body. It might be very difficult to prove medical documentation on some injuries. I am perfectly content to leave it to the wisdom of the court of our judicial system, as to whether a defendant in a particular case did, intentionally, knowingly, or recklessly commit bodily injury, and would hope that on the Roll Call this morning it will be an overwhelming vote of confidence in our police. Thank you.

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

Mr. CONLEY: Mr. President and Members of the Senate: First of all I wish to express my deepest concerns along the same lines as the good Senator from York, Senator Lovell.

It seems to me as though it was several weeks ago when I made a motion on the floor of the Senate to have this Bill recommitted to the Committee on Judiciary. Primarily because of the fact that the Judiciary Committee initially put the criminal code together. I think they addressed this problem as one of the many problems that came before them in constructing the Criminal Code.

I have great deal of fear for a piece of legislation such as this. I do not think that there are many members of the Maine Senate who would get up and say they had been arrested and I do not mind publicly saying that I have been arrested several times, a few years ago. And with all the Supreme Court decisions that have come down from on high, the Marander Warning and all those other court decisions that brought to light the right of individuals. Actually pricked the conscience of this country to let the individual citizens realize that we do not live in a police state.

I am not anti-policeman. I am not anti-law and order; but I have a grave concern for the citizens of this state, and as to how they are dealt with by police. I hate to use the Maine Senate as a Chamber, as a sounding board for what has happened in parts of this State of ours dealing with human beings. Just recently three officers were brought before the Cumberland County Grand Jury and I will admit publicly that no Bill or indictment came back against anyone of the three. More recently and it is in the newspapers today, another officer, a commanding officer of a police department within

one of the surrounding communities of Portland, the Attorney General's Office again is involved in going before the Grand Jury as assault of a youngster by the Chief of Police. Once again, I admit, no Bill came back. I remind this Senate that only a few months ago that we had and again within the City of Portland what became commonly known throughout the State as a death squad. Where a group of officers took it upon themselves to decide who would perish and who would live as a result of what happened in court because of the decisions coming down from the courts, were being too lenient. That group quickly narrowed down to one, originally three. But I ask you and I plead with you to weigh these things. Shouldn't the benefit of the citizen be concerned? I do not know how many of you people and I know that a great many of you live in rural areas of Maine and you probably do not have any real problem. But I have heard of these corridors some of the most horrendous stories that have happened just to some of the employees, to some of their children because police recognize their power as being supreme. Not all police and again I want to make that clear there are some fine policemen in this state. Excellent. I know more policemen that took me home rather than taking me to the can. But I have known of plenty of people that have been taken to the police station that were in horrendous shape when they got there. Now we want it to sound like we are all for the policemen. I am 100 percent for the policeman; but how many times has a policeman been assaulted when he actually committed the assault himself in the first place in the way he conducted his business with the individual. He excited the assault himself. Now you want to make it a mandatory five years imprisonment and a Class "C" Crime.

I hope that this Senate does not enact this bill this morning. But I ask you everyone here present to weigh what you are doing. Mr. President I am not going to vote to kill this Bill. I am not going to vote for indefinite postponement but I plead with you once more to send this Bill to the Judiciary Committee, and allow them to peruse it and allow them to amend it in a way that it at least gives the individual citizen of this state the same rights as the police.

Mr. President I move that this Bill be committed to the Committee on Judiciary.

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

Mr. CARPENTER: Mr. President, Ladies and Gentlemen of the Senate: I certainly am no match for the eloquence of my Floorleader. I certainly am no match for the experiences that my Floorleader has and I appreciate that fact, with the police particularly in his home community.

I would point out a couple of things, however, about this Bill. There is no mandatory jail sentence attached to this Bill. I repeat, there is no mandatory jail sentence attached to this bill and I think we are all in agreement that there are problems in some areas. Some Police Departments within this state. I think these are problems that must be dealt with, and these are problems that are not going to be dealt with from Augusta, from the Legislature in Augusta.

I, a few years ago, had the opportunity to take and pass all of the police requirements, all the exams, for the City of Portland Police Department, and had it not been for a decision that I made one evening, I probably would have been a policeman in the City of Portland rather than a Senator in the State of Maine today. I think that perhaps I thought then and I still think that perhaps, this particular community could do a lot of things within the community to tighten up their testing procedures. And I am sure that there are many other communities throughout the State that are somewhat lax things have improved considerable with the Statewide testing situation. That I believe is in

force now; but there were problems a very few years ago. Psychological testing for example; was not done in many of the communities in this state and there are no doubts in my mind that we have some police officers presently patrolling our streets and roads that perhaps should not be there but I want to emphasize one point; I think there is nobody in this Chamber, including my Floorleader who will not agree with me, that the majority, a heavy majority of police officers in this state are good, are dedicated, are competent, that are psychologically fit to wear the uniform and do the job. And I think that this Bill is an attempt to address the situation that effects this majority of good cops. Not the minority of bad ones and I do not know how you are going to word the laws so that we take care of that particular problem. The Judiciary Committee in the Criminal Code did look very closely at this problem, however, we have seen statistics since the enactment of the Criminal Code that show that it assaults on Police Officers has risen dramatically and this Bill is an attempt to address that situation. And I certainly hope that we will vote to send this Bill on its way this morning and not for recommendation. Thank you.

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

Mr. MANGAN: Mr. President and Members of the Senate: I think I would like to bring up a few points that may help you in your decision.

I think the first important matter is that we must understand is that we must realize that police officers are not gods. They are not as soon as they put on the cloak of a protector of society they do not lose their image and their character as human beings. As a Criminal Lawyer I have worked with both police officers and criminals on both sides and I understand probably as well as anybody else that like a good marriage, there are problems on both sides. No cop or police officer is perfect and obviously no criminal is perfect.

We look, for example, at a minor little problem that we had last night in Lewiston. Where Lewiston High School played E. L.; which is the High School of Auburn a little local rivalry. Of course as you get these local rivalries, there are problems and there were assaults that were committed on police officers, there were six that were done. Four by juveniles and two by adults. These are done basically in a heat of passion. Now when you get into a group setting of this type, tempers do flare. Now one of the problems that bothers me with this Bill is that it describes the area of personal injury, bodily injury. What is bodily injury? Is it a black eye? Is it a bullet wound? I have seen a police officer bring an assault charge because in a shuffle he broke his thumb nail. This is a bodily injury, and we are going to send somebody away for five years for that. Shouldn't there be a bit more distinction there, a little bit more guidance a police officer should have to determine how much bodily injury he should sustain in order to bring a Class "C" Crime. This is a felony.

Now, obviously, the other fact that bothers me an awful lot is once you bring a criminal before a jury, you are already two strikes down. The members of the jury for some reason have the sense to feel that since the man is in the docket, there is the defendant. He wouldn't be there if he had not done something wrong. You have to have an awfully good case to convince people otherwise. When you have a police officer who is the victim and he walks in there in uniform, its even harder than that. So chances are that once a person is charged with an assault on a police officer he is three-quarters of the way to being convicted.

And as far as the statistics, if I understand them correctly, the State of Maine is suffering twice to three times more assaults on police officer than any other station in the union. Is that the reporting systems that is wrong or is there something that is wrong that does not really re-

flect the true system in the State of Maine.

I think that there are questions here that I would like to see resolved. I would like to see them resolved hopefully before the Judiciary Committee and I would ask you to recommit this to Judiciary Committee so that the Judiciary Committee could look at the matter a little bit more carefully and get away from the heat of passion that we have not only in this body that have been expressed in the newspapers and throughout. Thank you.

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

Mr. LEVINE: Mr. President and Members of the Senate: I have typically supported law enforcement officials. I have typically supported what I considered to be pro law and order issues before the State Senate, but I too agree, today, with the Senator from Cumberland, my good Minority Leader, Senator Conley, that this should be recommitted to the Committee on Judiciary.

We have a tremendous problem in my district in Fairfield Maine, and that web is still very snarled. We had instances where the press reported that young people, that is people from the ages of 20 to 35, that they have been committing assaults on police officers in Fairfield Maine, and since that time, one person who had been a member of the police department at that time has been indicted for his assaults on the citizens rather than the other way around, and there are other indictments that may very well come down in the very near future. There is a very touchy situation, a very difficult situation.

I certainly believe in protecting our police officers. I think they deserve any protection we can give them. They have one of the most difficult jobs in our society, but I also certainly believe even more strongly, we have to protect all of our citizens. And as the good Senator from Androscoggin, Senator Mangan said, police officers are only human, they do air, and I would hate to think we would take a chance on sending a single innocent party to jail without absolute proof of guilt. Thank you.

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

Mr. HEWES: Mr. President, I would ask what the pending motion is.

The PRESIDENT: The pending motion before the Senate, is the Motion by the Senator from Cumberland, Senator Conley, that this Bill be committed to the Committee on Judiciary.

The Senator has the Floor.

Mr. HEWES: Mr. President and Members of the Senate: I would oppose that Motion. I hope that we will finally enact this Bill today.

There seems to be some emotional debate as though passage of this law will result in people being thrown in jail without a jury trial. I submit that there will be a jury trial by 12 good citizens of the particular county where the crime has occurred deciding an issue. The good Senator from Somerset mentioned a few minutes ago that this system is working now so that a police officer, a law enforcement officer may be guilty of assaulting an individual. However, the reason that this particular Bill came before the Committee from the testimony that was heard, was that law enforcement officers feel that the pendulum has gone too far, and they need further protection.

We do need law enforcement people. Following last weeks storm in the Northeast, there was looting, and I feel that if you do not have your law enforcement people, I do not know that facts of last nights fracas in the Lewiston-Auburn area, but I suspect that if that policeman had not been there, there might have been some damage done to property and more people might have been hurt.

A policeman is not automatically going to be able to prevail just because the law has changed as we proposed it here. Law enforcement in my opinion, the performance of their

duties, investigating some these troubles, should be protected. Right now there are more assaults on police officers in Maine than in any other state in the country. The pendulum has gone too far and we have got to move it back the other way. I hope that you will enact this Bill today.

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

Mr. CONLEY: Mr. President and Members of the Senate: I think the words of the good Senator from Androscoggin, Senator Mangan should be listened to.

There is a very serious question here as to whether or not it is the reporting system. When we are twice the figures of the national average, there is something wrong. Now it is easy to know when an officer of the law puts someone under arrest, what constitutes assaulting a police officer. But in the morning papers on the day after when the police blotter comes out, it shows that John Q. Public was arrested for probably loitering and assault on a police officer. Now I think that is a pretty serious crime and many people reading the papers say oh, John Q. Public, he is certainly a bad boy. And many times he gets into the Court and that charge is never even brought up. But when the good Senator from Cumberland, Senator Hewes, states that we have a jury system, well I would pose a hypothetical case. How about the poor fellow who has had a tough time through life? Say he straightens out a little and then all of a sudden he is in an area some night where something has happened. He is still an innocent victim, but for the lack of finding the culprit, they grab the wrong guy, and the guy again is charged with assault on a police officer, maybe an aggravated assault on a police officer. Where does justice prevail in our system to take care of the guy who has the record?

But I say, I want to protect the police officer, but I want to protect the individual as well. Now I have great deal of faith in the ability of the good Senator from Knox, Senator Collins. And I say this as the last time. It is not my intention, nor will I vote to indefinitely postpone this Bill, but there is one thing I want to do. I want to make sure that there is some balance in this before we just go right out and pass a blanket law. When the good Senator from Aroostook says there is no mandate here, well we would have to tend to agree that there is not a mandate under any law except those that we have mandated. But when a judge is sitting on high, he can use the Class "C" crime which can be used because the judge may think that he has a culprit in his hands. He may do it anyway, he may send him to Thomaston for five years, that is the problem. I just want to make sure that there is balance in this law. The scales of justice are suppose to weigh evenly, and I do not think that this Bill does that. And that is why I am asking the Senate to agree with me this morning. You can do one of two things. You can recommit the Bill to Judiciary or you can suspend your rules, and at least give the Chairman and the Members of the Judiciary Committee of the Senate to propose some sort of Amendment at another date to bring a little balance into this law.

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

Mr. LEVINE: Mr. President, I would just like to bring out something that the Senator from Cumberland, Senator Hewes, just mentioned.

He mentioned the fact that if the reporting procedures are correct, they may not be good. But I will grant that they very well could be correct and assaults of crime on police officers, but perhaps the panel has swung too far.

But it seems to me for many, many years now, that that is one of the problems that we have within our society, within our state. We are so busy pushing that panel back, we think that it has swung too far in one direction, we

perhaps swing it too far in the other direction. There is nothing mandated here that says that the panel has to be all the way to the left or all the way to the right. There is a great middle ground that may be more equitable and more fair to everyone, and I think that perhaps this Bill should go back to the Committee on Judiciary. I realize those members are very well acquainted with the law. They are very well acquainted with the Law Enforcement Department and perhaps it should go back to that Committee and we may have a law that is just that, it is more equitable to everyone concerned.

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

Mr. O'LEARY: Mr. President, I am going to support the motion to recommit to the Committee on Judiciary and I would like to tell the Senate about my reservations on this document.

It seems that a couple of years ago, perhaps a year ago, Members of this Body perhaps read of the Police Chief of my community being found in contempt. The reason he was found in contempt was his insistence that the Court fine guilty assault on one of his police officers. Now the police officer that was supposedly assaulted has in his vehicle a german shepard and it is a very vicious dog, well-trained, I will grant it. But I will ask you if you were being, in the process of being arrested by this police officer, how soon would you like to get in that vehicle and be taken to the locker? I think that if I were, I might brush against him, and he might hit the door and have a black blue mark on his shoulder, and that would perhaps be bodily injury. Now that bothers me. The bodily injury part, because it could be just a black and blue mark. But I travel back and forth with a former well respected chief of police and he has certain reservations about this Bill because of the fact that it now becomes a Class "C" crime. And because the crime being as such is pressed with the reason for my police chief is being found in contempt and I am just wondering in my own mind, if we go to a Class "C" crime and a five year penalty in the locker, whether this will bring us anymore convictions or whether it is going to result in a plea bargaining in reducing the charges. Is it the going to make a good law enforcement. This is my concern. I will support the motion to recommit.

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

Mr. LOVELL: Mr. President, just one more word. I served for three years on the Sanford Police Commission and I have seen prisoners brought in that had definitely been abused and hit by the police officer and I think to extremes. I do not think anybody has asked for a Roll Call on this. I would like to ask for a Roll Call for this recommitment motion.

The PRESIDENT: The Chair would advise the Senate that the proper motion is to commit since this Bill originally came from the Committee on Legal Affairs. The Motion is to commit to the Committee on Judiciary.

Is the Senate ready for the question?

A roll call has been requested. In order for the Chair to order a Roll Call it must be the expressed desire of one-fifth of those Senators present and voting.

Will all those Senators in favor of a Roll Call please rise in their places to be counted.

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

The pending question before the Senate is the Motion by the Senator from Cumberland, Senator Conley, that L. D. 2032 be committed to the Committee on Judiciary for further study.

A yes vote will be in favor of committing.

A nay vote will be opposed.

The Doorkeepers will secure the Chamber. The Secretary will call the Roll.

ROLL CALL

YEA — Conley, Danton, Farley, Greeley.

Huber, Katz, Levine, Lovell, Mangan, Martin, McNally, Minkowsky, O'Leary, Trotzky, Usher
 NAY — Carpenter, Chapman, Collins, D.;
 Collins, S.; Cummings, Curtis, Hewes, Hichens, Jackson, Morrell, Pierce, Pray, Redmond, Snowe, Speers, Wyman

ABSENT — Merrill

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

Mr. PRAY: Mr. President, I wish to change my vote from nay to yea.

The PRESIDENT: The Senator from Penobscot, Senator Pray, changes his vote from nay to yea.

16 Senators having voted in the affirmative and 15 Senators in the negative, with 1 Senator being absent, the motion to commit does prevail.

The Chair recognizes the Senator from Cumberland, Senator Conley.

Mr. CONLEY: Mr. President, having voted on the prevailing side, I move the Senate reconsider its action.

The PRESIDENT: The Senator from Cumberland, Senator Conley, now moves that the Senate reconsider its action whereby it voted to commit this Bill to the Judiciary Committee.

Will all those Senators in favor of reconsideration please say yes.

Will all those opposed please say no.

A Viva Voce vote being had, the Motion to reconsider does not prevail.

Sent down for concurrence.

"An Act to Establish and Apply a Policy on the Classification of Major Policy-influencing Positions Below the Head of State Department and Agencies." (H. P. 2051) (L. D. 2111)

On Motion of Mr. Collins of Aroostook, Tabled for One Legislative Day, Pending Passage to be Enacted.

Emergency

"An Act to Extend until July 1, 1979, the Date for the Newport Water District to Purchase the Property of the Maine Water Company." (S. P. 686) (L. D. 2114)

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

Orders of the Day

The President laid before the Senate:

Bill, "An Act Relating to the Application of the State Valuation to State and Town Cost-Sharing Activities, Including Highway, Bridges and Winter Maintenance. (Emergency) (S. P. 657) (L. D. 2034)

Tabled — February 14, 1978 by Senator Speers of Kennebec

Pending — Consideration

On Motion of Mr. Greeley of Waldo, the Senate voted to Adhere.

The President laid before the Senate:

Bill, "An Act to Revise the Statute on Operation of a Motor Vehicle While under the Influence of Intoxicating Liquor or Drugs. (S. P. 696) (L. D. 2138)

Tabled — February 16, 1978 by Senator Carpenter of Aroostook

Pending — Motion of Senator Levine of Kennebec to Recede and Concur.

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

Mr. CURTIS: Mr. President, I would like to offer an Amendment, a Senate Amendment to the House Amendment, in order to do that I believe that it is necessary to move that the Senate Recede. If that Motion is in order Mr. President, I would like to make it.

The PRESIDENT: The Senator from Penobscot, Senator Curtis, now moves that the Senate Recede. Is it the pleasure of the Senate? It is a vote.

House Amendment "A" (H-1039) Read.

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

Mr. CURTIS: Mr. President, I would like to offer Senate Amendment "A" to House Amendment "A" and move its adoption.

The PRESIDENT: The Senator from Penobscot, Senator Curtis, now offers Senate Amendment "A" to House Amendment "A" and moves its adoption.

Senate Amendment "A" (S-471) Read.

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

Mr. CURTIS: Mr. President, this is an Amendment which I believe is an acceptable compromise to everybody who has expressed a particular interest in this piece of legislation.

And all that it does is to change the House Amendment by reducing the minimum mandatory fine from the proposal of \$500.00 for a third offense of and OUY conviction to a minimum of \$250.00 which is what the present law is. The maximum remains the same at \$2,500.00.

Senate Amendment "A" to House Amendment "A" Adopted. House Amendment "A", as amended, Adopted. This Bill, as amended, Passed to be Engrossed, in non-concurrence. Sent down for concurrence.

The President laid before the Senate:

Bill, "An Act to Permit Persons Other Than Arborists to take Down Trees by Topping or Sections." (Emergency) (H. P. 1858) (L. D. 1925)

Tabled — February 16, 1978 by Senator Speers of Kennebec

Pending — Consideration

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

Mr. REDMOND: Mr. President, I move that the Senate recede from its action whereby it indefinitely postponed the Bill and papers.

The PRESIDENT: The Senator from Somerset, Senator Redmond, now moves that the Senate Recede from its action whereby it previously indefinitely postponed this Bill and its accompanying papers.

The Chair recognizes the Senator from Cumberland, Senator Conley.

Mr. CONLEY: Mr. President, I hate to monopolize the Floor of the Senate this morning, but I honestly look at this Bill as being extremely meaningless. Even the Amendment proposed by the good Senator from Franklin, Senator Redmond, and I would hope that the Senate would vote against receding. I think that although the law that we presently have on the books may not be the greatest law, I think that the Bill that we have before us and the Amendment to be considered is only going to weaken and confuse the law even more so, so I wish that the Senate would not vote to recede. I request a Division.

The PRESIDENT: A Division has been requested.

The Chair recognizes the Senator from Somerset, Senator Redmond.

Mr. REDMOND: I want to present an amendment and the reason is because existing law allows for individuals to cut and remove trees by topping or section from his own land but does not permit an individual to hire someone to do this unless that person is a licensed arborist. L. D. 1925 would permit the landowner to hire an individual who is not a licensed arborist to take down trees by topping or sections. The purpose of this amendment is to reach a middle ground on this question. It provides Home Rule by allowing municipalities to permit this decision to be made locally. The amendment provided that the municipal officers of a municipality or their designee may issue to any person residing in that municipality a permit allowing the applicant or a person designated by him to remove trees from land owned by the applicant without a license as an arborist as required by Section 2051 of Title 32 of the Statutes.

The PRESIDENT: Is the Senate ready for the question?

The Chair recognizes the Senator from Aroostook, Senator Martin.

Mr. MARTIN: Mr. President, I would urge the Members of this Body this afternoon to go along with the pending motion. Just out of sheer common courtesy to the Senator from Somerset, Senator Redmond, so that he can offer his Amendment.

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

Mr. CONLEY: I hold no grievances against the good Senator from Aroostook, Senator Martin, nor the good Senator from Franklin, Senator Redmond. But I would show some common sense and some compassion. If the motion fails, I will move to adhere.

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

Mr. REDMOND: The only reason that I would insist on having a chance to present my amendment is because the area which I serve has thousands of trees on peoples property that are dead and have been dead for five or six years and each time that we have substantial winds, it becomes a threat to the safety of the people that are living there, and there is no problem here with the City of Portland because in the City of Portland I am sure they have a tree marshal and they have ordinances and this Bill as amended would request the landowner to go to his municipality and then he would be subject to the same rule as everyone else in Portland.

However, the people who live in North Anson, many of them just go out and cut the tree the way they feel like it. However, those who know the existing law do not dare cut those trees and they leave them out there as a threat to the safety of the motorist and people in that area.

This is why I would request that we adopt this amendment. I request a Division to the Motion by the Senator from Cumberland.

The PRESIDENT: Is the Senate ready for the question?

A Division has been requested.

Will all those Senators in favor of the motion by the Senator from Somerset, Senator Redmond, that the Senate Recede please rise in their places to be counted.

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

16 Senators having voted in the affirmative and 10 Senators in the negative, the Motion to Recede does prevail.

The Chair recognizes the Senator from Somerset, Senator Redmond.

Mr. REDMOND: I now move to accept the Committee Report.

The PRESIDENT: The Senator from Somerset, Senator Redmond, now moves that the Senate accept the Ought to Pass as amended Report of the Committee. Is it the pleasure of the Senate. It is a vote.

The Bill read Once.

Committee Amendment "A" (H-981) Read. House Amendment "B" (H-1020) to Committee Amendment "A" Read.

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

Mr. CONLEY: I move that House Amendment "B" be indefinitely postponed.

The PRESIDENT: The Senator from Cumberland, Senator Conley, now moves that the Senate indefinitely postpone House Amendment "B". Is it the pleasure of the Senate.

The Chair recognizes the Senator from Penobscot, Senator Pray.

Mr. PRAY: I would request a Division on the motion.

The PRESIDENT: A Division has been requested.

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

21 Senators having voted in the affirmative

and 5 Senators in the negative, House Amendment "B" is indefinitely postponed.

The Chair recognizes the Senator from Cumberland, Senator Conley.

Mr. CONLEY: It is at times like these that I wish the good Senator from Franklin, Senator Redmond, would go down and stoke the fires.

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

Mr. REDMOND: I now move to indefinitely postpone Committee Amendment "A".

The PRESIDENT: The Senator from Somerset, Senator Redmond, now moves that the Senate indefinitely postpone Committee Amendment "A". Is it the pleasure of the Senate. It is a vote.

The Senator has the floor.

Mr. REDMOND: I now move to suspend the rules to give this Bill its Second Reading at this time.

The PRESIDENT: The Senator from Somerset, Senator Redmond, now moves that the Senate suspend its rules in order to give this Bill its Second Reading by title only at this time. Is it the pleasure of the Senate. It is a vote.

The Bill read a Second Time.

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

Mr. CONLEY: Mr. President, the way things are moving here perhaps the good Senator from Franklin, Senator Redmond would like to suspend the rules and enact the Bill at this time.

The PRESIDENT: The Chair understands that the Senator from Somerset Senator Redmond, is now preparing to offer Senate Amendment "A" and move its adoption.

Senate Amendment "A" (S-460) Read and Adopted.

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

Mr. CONLEY: I would request a Division. The PRESIDENT: A Division has been requested. Will all those in favor of the passage of this bill, as amended to be engrossed, please rise in their places to be counted.

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

15 Senators having voted in the affirmative and 11 Senators in the negative, The Bill, as Amended, is Passed to be Engrossed.

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

Mr. PRAY: Having voted on the prevailing side, I move for reconsideration and urge that you vote against the motion.

The PRESIDENT: The Senator from Penobscot, Senator Pray, now moves that the Senate reconsider its action.

The Chair recognizes the senator from Cumberland, Senator Morrell.

Mr. MORRELL: I move that this be tabled for one legislative day.

The PRESIDENT: The Senator from Cumberland, Senator Morrell now moves that this item be tabled pending the motion to reconsider and be specially assigned for one legislative day.

The Chair recognizes the Senator from Kennebec, Senator Speers.

Mr. SPEERS: Mr. President, I ask for a division.

The PRESIDENT: A Division has been requested.

Will all those Senators in favor of the motion, of Senator from Cumberland, Senator Morrell, please rise in their places to be counted.

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

14 Senators having voted in the affirmative and 15 Senators in the negative, the Motion to table does not prevail.

Is it now the pleasure of the Senate to reconsider its action whereby it voted to pass this Bill, as amended, to be engrossed?

Will all those Senators in favor of reconsideration please say yes.

Those opposed please say no.

The Chair is in doubt and will order a Division.

All those Senators in favor of the motion to reconsider please rise in their places to be counted.

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

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

Sent down for concurrence.

The President laid before the Senate:

Bill, "An Act Clarifying the Statutes Relating to Municipalities." (Emergency) (H. P. 1921) (L. D. 1982)

Tabled — February 16, 1978 by Senator Speers of Kennebec

Pending — Motion of Senator Hichens of York to Indefinitely Postpone House Amendment "A" (H-1026) to Committee Amendment "A" (H-1019)

The PRESIDENT: A Roll Call has been ordered.

The pending question before the Senate is a Motion by the Senator from York, Senator Hichens, that the Senate Indefinitely Postpone House Amendment "A".

A yes vote will be in favor of postponement. Nay vote will be opposed.

The Doorkeepers will secure the Chamber. The Secretary will call the Roll.

ROLL CALL

YEA — Collins, S.; Conley, Cummings, Curtis, Danton, Farley, Greeley, Hewes, Hichens, Huber, Jackson, Lovell, Mangan, Martin, McNally, Minkowsky, Morrell, O'Leary, Pray, Redmond, Snowe, Speers, Trotzky, Usher, Wyman.

NAY — Chapman, Katz, Levine, Pierce.

ABSENT — Carpenter, Collins, D.; Merrill.

25 Senators having voted in the affirmative and 4 Senators in the negative, with 3 Senators being absent, the motion to Indefinitely Postpone House Amendment "A" does prevail.

House Amendment "B" was Read.

The Chair recognizes the Senator from York, Senator Hichens.

Mr. HICHENS: I now move that House Amendment "B" be indefinitely postponed.

The PRESIDENT: The Senator from York, Senator Hichens, now moves that the Senate Indefinitely Postpone House Amendment "B".

The Chair recognizes the Senator from Kennebec, Senator Katz.

Mr. KATZ: Might I ask an explanation of House Amendment "B".

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

The Chair recognizes the Senator from Cumberland, Senator Jackson.

Mr. JACKSON: Mr. President and Members of the Senate: House Amendment "B" in its form now presently provides for the repealing of the provision of the Committee Amendment which specifies Municipal Elections only and it puts it back into a general special Statewide or primary election. Such as it was in, I think it was adopted by the Fair and Inconsistency Bill last year and where as the Local County Government Committee has already passed one dealing with municipalities. Basically this is all that the amendment does. It repeals the previous section on the municipalities and municipal elections, municipal town meeting and puts it into a general primary or statewide special election.

The PRESIDENT: The Senator from York, Senator Hichens, has moved that the Senate indefinitely postpone House Amendment "B". Is it the pleasure of the Senate? It is a vote.

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

Mr. O'LEARY: I present Senate Amendment "A" to House Paper 1921, (L. D. 1982) and

move its adoption.

The PRESIDENT: The Senator from Oxford Senator O'Leary now offers Senate Amendment "A" to Committee Amendment "A" and moves its adoption.

Senate Amendment "A" (S-468) Read and Adopted.

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

Mr. O'LEARY: Mr. President, I present Senate Amendment "B" to (L. D. 1982) and move its adoption.

The PRESIDENT: The Senator from Oxford, Senator O'Leary, now offers Senate Amendment "B" to Committee Amendment "A" and moves its adoption.

Senate Amendment "B" (S-469) Read.

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

Mr. HICHENS: I move that Senate Amendment "B" be indefinitely postponed.

The PRESIDENT: The Senator from York, Senator Hichens, now moves that the Senate indefinitely postpone Senate Amendment "B".

The Chair recognizes the Senator from York, Senator Lovell.

Mr. LOVELL: Mr. President, this Senate Amendment "B" is simply what the Liquor Control Committee voted out and passed this Senate Twenty-one to five last year.

Now this is clarification which we had trouble on the other day, clarification. This gives the people in a given community after getting 15 percent of the gubernatorial people that had voted in the previous election to bring up a liquor question. Now they do not bring up a liquor question unless a petition is taken. And they get the required number of signatures otherwise the town stays wet or dry. This is still a Home Rule Bill. And with this amendment it means you vote on it when you get the most people out to vote which is a fair time. I think in everybody's opinion. At town elections they allow drinking, which is bad, and there are only 10, 15 to 20 percent of the people out at town elections. But every two years when you have a state election you get 50 to 60 percent of the people out. So I request a Roll Call on this motion.

The PRESIDENT: A Roll Call has been requested.

The Chair recognizes the Senator from York, Senator Hichens.

Mr. HICHENS: I thank the good Senator from York for that explanation, but I think that he neglected to tell you that by having this at the General Election the cost of having the ballots prepared goes to the town and yet we are doing it on a statewide election. I think that we should do it at a town election when the people who are most concerned will show up to vote for the municipal officers. The towns who have the ballots printed for that election and that is where it should be handled, not at a general election, when you are electing statewide officers.

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

Mr. O'LEARY: There are other provisions in this Bill clarifying the Statutes relating to municipalities about the printing of ballots. The cost is there. But the democracy is that this will be an inopportune time when you have the largest electorate going to the polls.

Secondly, you will not be bothered each year or odd numbered years or anything else it makes it perfectly clear and this is what the municipalities wanted just when they would ballot and this amendment would make it perfectly clear it will be at the general election which is every two years. Now it makes no difference whether a town votes wet or dry it will not be anymore often than two years and it will be in November at the General Election. I think this has been approved almost unanimously by the Maine Municipal Association and its members. And they endorse it.

The PRESIDENT: The Chair recognizes the

Senator from York, Senator Hichens.

Mr. HICHENS: I am reluctant to belabor this question and I know that a Senator or any Legislator has the right to change his mind, but I would remind the Senate that the good Senator did vote on the unanimous report by the Committee to accept Committee Amendment "A" which brings it back to the municipal elections. The Maine Municipal Associations has not endorsed having it at General Elections.

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

Mr. JACKSON: Mr. President and Members of the Senate: I rise to oppose the motion to indefinitely postpone this Amendment. I have to concur with the good Senator from Oxford, Senator O'Leary, this is the time that the majority of your people are out to vote. It is a proven fact you get 10, 7, 15, 20 percent of the municipal town meeting, or a municipal election and a Statewide election you go anyway from 37 to 65, 67, 71, 72 percent. I think this is a question that should be brought on a general election and in the Committee Amendment it does provide that it cannot be brought before the votes any more than once in two years. So I think that the General Election idea is a satisfactory compromise with the Bill.

As far as the cost of printing the ballots as the good Senator from Oxford pointed out, if you look at Committee Amendment it provides for the voting procedure which requires printed ballots so the cost is there anyway.

In talking with the Executive Director of the Maine Municipal Association, they discussed this last night at their policy meeting and it was, I cannot say that it was unanimous not but the majority of the people that attended that policy meeting last evening endorsed the General Election.

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

Will all those Senators in favor of a Roll Call please rise in their places to be counted.

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

The pending question before the Senate is the motion by the Senator from York, Senator Hichens, that the Senate indefinitely postpone Senate Amendment "B" to Committee Amendment "A".

A yes vote will be in favor of a Indefinite Postponement.

A nay vote will be opposed.

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEA — Collins, S.; Curtis, Greeley, Hewes, Hichens, Mangan, Pierce, Wyman

NAY — Chapman, Conley, Cummings, Danton, Farley, Huber, Jackson, Katz, Levine, Lovell, Martin, McNally, Minkowsky, Morrell, O'Leary, Pray, Redmond, Snowe, Speers, Trozky, Usher

ABSENT — Carpenter, Collins, D.; Merrill
8 Senators having voted in the affirmative, and 21 Senators in the negative, with 3 Senators being absent the motion to indefinitely postpone Senate Amendment "B" does not prevail.

Senator Amendment "B" to Committee Amendment "A" Adopted. Committee Amendment "A", as amended, Adopted.

This Bill, as amended, Tomorrow Assigned for Second Reading.

The Chair would direct your attention to L. D. 2108 which was tabled until later in today's session by the Senator from Kennebec, Senator Speers, pending adoption of Committee Amendment "A".

On motion of Mr. Conley of Cumberland, Re-tabled for One Legislative Day.

The Chair would direct the Senate's attention to L. D. 1977 which was tabled until later in today's session by the Senator from Penobscot,

Senator Pray, pending enactment.

On Motion of Mr. Conley of Cumberland, Re-tabled for One Legislative Day.

(Off Record Remarks)

On Motion of Mr. Huber of Cumberland, Adjourned until 11:00 in the morning, Wednesday, February 22, 1978.