

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

Monday, February 27, 1978

Senate called to Order by the President.

Prayer by Reverend James Babcock, St. Albans Episcopal Church, Cape Elizabeth.

Reverend BABCOCK: O God, the fountain of wisdom, whose will is good and gracious, and whose law is truth; we beseech You so to guide and bless our Senators here assembled, that they may enact such laws as shall please You, to the glory of Your name and the welfare of our people through the same God and Father of us all. Amen.

Reading of the Journal of yesterday.

Out of Order and Under Suspension of the Rules:

On motion by Mr. Speers of Kennebec.

ORDERED, that a message be sent to the House of Representatives proposing a Joint Convention in the Hall of the House at 11 o'clock for the purpose of extending to The Honorable Vincent McKusick, Chief Justice of the Supreme Judicial Court an invitation to attend the Convention and make such communication as pleases him.

Which was Read and Passed.

The President appointed the Senator from Kennebec, Mr. Speers, to convey the message.

(At Ease)

Subsequently, Mr. Speers reported that he had delivered the message with which he was charged.

At this point, a message was received from the House of Representatives, through Representative Quinn of Gorham, informing the Senate that the House concurred in the proposal for a Joint Convention.

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

RESOLVE, for Laying of the County Taxes and Authorizing Expenditures of Oxford County for the year 1978. (H. P. 2105) (L. D. 2142)

In the House February 17, 1978 Passed to be Engrossed.

In the Senate February 23, 1978 Passed to be Engrossed as amended by Senate Amendment "A" (S-479).

Comes from the House, that Body having Adhered.

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

Mr. O'LEARY: Mr. President, I move that the Senate Recede and Concur with the House.

The PRESIDENT: The Senator from Oxford, Senator O'Leary, now moves that the Senate recede and concur with the House.

On Motion of Mr. Speers of Kennebec, Tabled until later in Today's Session, pending the Motion of the Senator from Oxford, Senator O'Leary, that the Senate Recede and Concur.

Non-concurrent Matter

Bill, "An Act to Provide for Specific Liability for Persons or Corporations Contributing to a Public Nuisance." (S. P. 658) (L. D. 2035)

In the Senate February 15, 1978 Passed to be Engrossed as amended by Committee Amendment "A" (S-464) as amended by Senate Amendment "A" (S-467) thereto.

Comes from the House, Passed to be Engrossed as amended by Committee Amendment "A" as amended by House Amendment "A" (H-1084) thereto, in non-concurrence.

On Motion of Mr. Carpenter of Aroostook, the Senate voted to Recede and Concur.

Joint Orders

Expressions of Legislative Sentiment recognizing that:

Jane Michaud has been chosen Miss Caribou and will be competing in July in the Maine Potato Blossom Festival, (H. P. 2135)

Pleasant Mountain Ski Area of Bridgton was established as Maine's first ski area and is now successfully completing its 40th season, (H. P. 2134)

Mahoney Junior High School of South Portland won the Greater Portland Junior High Track Championship on February 18, 1978, (H. P. 2133)

Comes from the House, Read and Passed.

Which were Read and Passed, in concurrence.

House Papers

Bill, "An Act to Provide Compensation and Benefits Agreed to by the State and the Maine State Troopers Association." (Emergency) (H. P. 2138) (L. D. 2165)

Comes from the House, referred to the Committee on Appropriations and Financial Affairs and Ordered Printed.

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

RESOLVE, Authorizing the Exchange of Certain Public Reserved Lands (St. Regis Paper Company). (H. P. 2136) (L. D. 2158)

Comes from the House, referred to the Committee on Natural Resources and Ordered Printed.

Which was referred to the Committee on Natural Resources and Ordered Printed in concurrence.

Bill, "An Act Providing the Governor with the Procedure for Reorganizing a Department or Agency of State Government." (H. P. 2137) (L. D. 2164)

Comes from the House, referred to the Committee on State Government and Ordered Printed.

Which was referred to the Committee on State Government and Ordered Printed in concurrence.

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

Mr. CONLEY: Mr. President, in reference to: Bill, "An Act to Provide Compensation and Benefits Agreed to by the State and the Maine State Troopers Association." (Emergency) (H. P. 2138) (L. D. 2165)

Resolve which has been referred to the Committee on Financial Affairs. It would seem to me that there is not a great deal that the House nor the Senate can do with respect to this Resolve.

I move that the Senate reconsider its action whereby this Bill was assigned to the Committee on Appropriations and Financial Affairs, suspend its rules, and give the Bill its reading at this time.

The PRESIDENT: Is it the pleasure of the Senate to reconsider its action whereby this Bill was referred to the Committee on Appropriations and Financial Affairs?

The Chair recognizes the Senator from Cumberland, Senator Hewes.

Mr. HEWES: Mr. President, it seems to me that this is the first Bill of this nature whereby the Legislature is ratifying negotiations between the state negotiators and the representatives of any particular employee group, and I would think that it would be in order to table this and decide just what is the proper course of action rather than, perhaps it is best to have us give it its first reading today. Perhaps it is best to refer it to the Committee on Appropriations, I do not know, but I would think that we would decide because we are setting a precedence that I feel will be with us for many years to come. I think we should table it.

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

Mr. CONLEY: Mr. President, it is my understanding that this has been a subject of collective bargaining. It is my understanding that this is an agreement that has been ratified by both the employees and by the Chief Executive, and it just seems to me that to have this Bill ordered for a public hearing, to have it printed,

we could expedite manners in a way by at least getting the document in its engrossment form then we could review it in that matter without going through a process of public hearing.

The PRESIDENT: Is it now the pleasure of the Senate to reconsider its action whereby this Bill was referred to the Committee on Appropriations and Financial Affairs? It is a vote.

Is it now the pleasure of the Senate to suspend its rules to give this Bill its first reading at this time without reference to Committee? It is a vote.

The Bill Read Once.

The PRESIDENT: Is it now the pleasure of the Senate to suspend its rules and give this Bill its Second Reading by title only at this time?

The Chair recognizes the Senator from Kennebec, Senator Speers.

Mr. SPEERS: Mr. President, I think that it is apparent that this Bill is going to be with us for a few days at least and that it will demand a cost time in the State Budget. It will be reviewed for that reason by the Appropriations Committee and it will be plugged into the budget by that Committee, and for that reason, I do not feel that it would be necessary to pass this to be engrossed at the present time. I think that there should be sometime for the Members of the Senate to take a look at it before voting on it and pushing it along its way to engrossment. And, I would therefore, oppose the idea of giving it its second reading at this time, and would move that it would be assigned for Second Reading tomorrow.

On Motion of Mr. Speers of Kennebec, tomorrow assigned for Second Reading.

**Communication
State of Maine**

Office of the Governor

To: The Honorable Members of the Senate and House of Representatives, 108th Maine Legislature

I am returning on this date without my signature and approval H. P. 1862, L. D. 1920, "An Act to Increase the Amount Which Qualifies a Financial Institution for Exemption from Insurance on Deposits of Accounts.

I have been advised that this legislation would in effect grant a special exemption to only one uninsured financial institution in the State of Maine. I have been further advised that the costs of obtaining insurance of accounts for this small association are beyond its financial capabilities. It is my understanding that it is not the cost of the insurance per se, but rather the concomitant regulations which would require the institution to maintain an office and other physical plant facilities such as vault, etc., for which costs for this institution would be prohibitive.

Certainly I can appreciate that this institution perhaps is providing a service to a specific group of individuals in specific area. However, aside from the fact that this bill in a sense provides special treatment to one specific building and loan association which in itself is a questionable precedent, I must share with you another concern that I have. In this day of consumer protection, I do not feel that it would be prudent to grant an exemption which could bring with it the risk of insolvency and default. I feel that we must take every precaution to adequately protect any and all depositors of these and other such financial institutions.

It is my understanding that a bill had been proposed in the first regular session of the 108th Maine Legislature to eliminate any exemptions from deposit insurance; however, it was killed in committee. I do not feel that this current legislation, which further increases the potential for default would be in the best interests of the people of the State of Maine, more specifically those individuals who currently have deposits with this particular institution. I feel that we would be remiss in our responsibility of insuring adequate consumer protection if we increase the exemption limit by allowing this bill

to become law.

While I commend this institution and its management and directors for the quality service which it has provided for some 80 plus years, it would seem that it is currently at the crossroad. A decision must be made as to whether or not it is the intention of this institution to become full fledged fiduciary institution and as such provide to its customers quality service and adequate protection.

It is for the reasons and concerns stated above that I respectfully request that this Legislature sustain my veto.

Very truly yours,

Signed:

JAMES B. LONGLEY
(H. P. 2144)

Comes from the House, Read and Ordered Placed on File. Which was Read and Ordered Placed on file, in concurrence.

The accompanying Bill, "An Act to Increase the Amount which Qualifies a Financial Institution for Exemption from Insurance of Deposits on Accounts" (H. P. 1862) (L. D. 1920)

Comes from the House with the following endorsement:

In the House February 24, 1978, this Bill, 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?"

97 voted in favor and 44 against, and accordingly, it was the vote of the House that the Bill become a law, notwithstanding the objection of the Governor, since two-thirds of the members of the House so voted.

Signed:

EDWIN H. PERT
Clerk of the House

On Motion of Mr. Speers of Kennebec, Tabled for Two Legislative Days, pending consideration.

The PRESIDENT: The Chair would ask the Assistant Sergeant-at-Arms to escort the Senator from Kennebec, Senator Speers, to the Rostrum to assume the duties of President Pro Tem.

Thereupon, the Assistant Sergeant-at-Arms escorted Senator Speers of Kennebec to the Rostrum where he assumed the duties of President Pro Tem, and President Sewall retired from the Senate Chamber.

Committee Reports

House

Ought to Pass

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

Reported that the same Ought to Pass.

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

Which Report was Read and Accepted in concurrence and the Resolve Read Once and Tomorrow Assigned for Second Reading.

Ought to Pass — As Amended

The Committee on Education on, Bill, "An Act Relating to Tuition Computation Charged by Private Schools under the Education of Exceptional Children Law." (H. P. 2028) (L. D. 2096)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-1071)

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

The Committee on Health and Institutional Services on, Bill, "An Act to Allow Intermediate Care Facilities to be Reimbursed under the

Medically Needy Program." (Emergency) (H. P. 1915) (L. D. 1976)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-1068).

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

The Committee on Health and Institutional Services on, Bill, "An Act to Amend the Child Welfare Laws." (Emergency) (H. P. 1990) (L. D. 2065)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-1065).

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

The Committee on Health and Institutional Services on, Bill, "An Act to Allow Nursing Homes to Provide Physical and Occupational Therapy to Residents in Need of that Care." (Emergency) (H. P. 1913) (L. D. 1974)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-1066).

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.

Ought to Pass in New Draft

The Committee on Business Legislation on, Bill, "An Act to Assure Continued Insurance Coverage for all Claims Incurred on Certain Group Health Insurance Policies." (Emergency) (H. P. 1863) (L. D. 1921)

Reported that the same Ought to Pass in New Draft under new title: "Resolve, to Establish a Commission to Study the Continuation of Coverage under Certain Group Health Insurance Policies" (H. P. 2131) (L. D. 2156)

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

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

Divided Report

The Majority of the Committee on Health and Institutional Services on, Bill, "An Act to Clarify Procedures for Emergency Admission to Hospitals for Mentally Ill. (H. P. 1997) (L. D. 2078)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-1054).

Signed:

Sensors:

SNOWE of Androscoggin
GREELEY of Waldo

Representatives:

PRESCOTT of Hampden
KANE of Augusta
BRENERMAN of Portland
KERRY of Old Orchard Beach
NELSON of Portland
TRAFTON of Auburn
GOODWIN of S. Berwick
FOWLIE of Rockland

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

Signed:

Senator:

PRAY of Penobscot

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

Which Reports were Read.

On Motion of Mr. Conley of Cumberland, the Majority Report Accepted in concurrence. The

Bill Read Once. Committee Amendment "A" Read and Adopted in concurrence.

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

Senate

Ought to Pass

Mr. Pierce for the Committee on Business Legislation on, Bill, "An Act to Encourage the Formation of Small Business Investment Companies." (S. P. 675) (L. D. 2083)

Reported that the same Ought to Pass.

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

Divided Report

The Majority of the Committee on Fisheries and Wildlife on, Bill, "An Act to Ensure the Safety of Minors Taking Canoe Trips while Attending Summer Camp." (Emergency) (S. P. 630) L. D. 1989)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (S-489)

Signed:

Sensors:

REDMOND of Somerset
USHER of Cumberland

Representatives:

PAUL of Sanford
MASTERMAN of Milo
ROLLINS of Dixfield
PETERSON of Caribou
GILLIS of Calais

The Minority of the same Committee on the same subject matter Reported that the same Ought to Pass as amended by Committee Amendment "B" (S-490).

Signed:

Senator:

PRAY of Penobscot

Representatives:

McKEAN of Limestone
DOW of West Gardiner
MacEACHERN of Lincoln
TOZIER of Unity

Which Reports were Read.

On Motion of Mr. Conley of Cumberland, Tabled until later in Today's Session, pending Acceptance of either Committee Report.

Divided Report

Six members of the Committee on Natural Resources on, Bill, "An Act to Facilitate the Operation of the Spruce Budworm Suppression Act." (Emergency) (S. P. 678) (L. D. 2095)

Reported in Report A that the same Ought to Pass as amended by Committee Amendment "A" (S-487).

Signed:

Representatives:

BLODGETT of Waldoboro
GREEN of Auburn
BENOIT of South Portland
HALL of Sangerville
DEXTER of Kingfield
WILFONG of Stow

Four members of the same Committee on the same subject matter Reported in Report B that the same Ought Not to Pass.

Signed:

Sensors:

REDMOND of Somerset
O'LEARY of Oxford

Representatives

BROWN of Bethel
HUNTER of Benton

One member of the same Committee on the same subject matter Reported in Report C that the same Ought to Pass as amended by Committee Amendment "B" (S-488).

Signed:

Senator:

TROTZKY of Penobscot

Abstained:

Representative:

HUBER of Falmouth.

Which Reports were Read.

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

Mr. HUBER: Mr. President, I would request permission of the Senate to abstain from voting on this matter because of a possible appearance of conflict of interest.

THE PRESIDENT Pro Tem: The Senator from Cumberland, Senator Huber, requests leave of the Senate to abstain from voting on this matter. Is it the pleasure of the Senate to grant this leave? It is a vote.

The Chair recognizes the Senator from Penobscot, Senator Trotzky.

Mr. TROTZKY: Mr. President, I move that the Senate Accept the Report of the Committee and I would like to speak to my Motion.

THE PRESIDENT Pro Tem: The Senator has the Floor.

Mr. TROTZKY: Mr. President and Members of the Senate: The Spruce Budworm Spray Program in Maine is probably the largest spray program of a forest in the United States. There is a great deal of concern right now as to what impact this spray program will have in the future on the entire environment on the area where these chemicals are being sprayed.

The Forestry Department, the Bureau of Forestry, came out with a Bill this L. D. 2095 and what this Bill does is basically it deletes 110 townships from the Spruce Fir Forest Protection District. Now originally the way this district was setup is what they did was they drew a line right through the State of Maine all the land to the West, to the North, and the East was areas of the Spruce Fir Forest. All of this area was subject to being defoliated by the larvae of the Budworm.

Now the department by the Statutes that was passed a few years ago known as the Spruce Budworm Suppression Act, the Department is supposed to go to the State Entomologist. Then the Department is supposed to go over this area and find out what areas are heavily infested by looking at the egg count. Then the Department decides in that area which area shall be sprayed. Now everybody in this district, after they decide what area shall be sprayed, there is a cost to that and everybody in this district pays an excise tax to pay for the spray program. Now the Department is supposed to every year determine, each year make a determination as to what areas shall be sprayed. However, the Commissioner of the Department or the Department has come out and stated that they will not be spraying the areas in Western Maine. There is a map on your desk here it is a letter from the Department of Conservation if you take a look at the second page. It shows the areas of the State that the Department has said that they will not spray in the next three years. This act goes on until 1981 and you will notice that most of the Western Maine Area, they stated will not be sprayed, areas around Van Buren, areas in the Presque Isle Area, down the coast in the Coastal Area of Washington County.

Now the concern here that I have is that I do not feel that the Department has the right, I think that it goes beyond their statutory obligation to turn around and say that we are not spraying that whole area in Western Maine for the next three years. These people have paid the excise tax in the past years and, consequently, in the future they may want to be sprayed because of high infestation by the Budworm.

Consequently, three Members of the Senate on the Committee, Senator O'Leary, Senator Redmond, and myself all are taking the point that we should not delete these areas from the Spruce Budworm District so in that sense we agree. However, there is a great concern environmentally and the Department has just passed out many grants to study the effect that the spray program has on aquatic invertebrates, on fish, and so on I would like to read from a statement made by the Department in

Bangor, I believe at the Rotary Club. This was made by John Walker who is the Director of the Bureau of Forestry, and he states the following, "Finally, I encounter deep concerns over the possible effects of our insecticide spraying on human health and on environmental quality. You are probably aware of the intense controversy over the Race Syndrome now going on in Eastern Canada. The chemical insecticide itself, trichlorofon is not implicated. It is the emulsifier formulated with the insecticide that are expected of producing this syndrome. The facts are not all in but if we in Maine do anything with Netro-Thyram, it will not be formulated with this emulsifiers." Anyway, there are other sprays, other chemicals that they use also and the long term effects are not known. Also there is another issue that is taking place on the Denny's River in Washington County. At the end of the year in par counts in that stream were low this year after the water shed had been sprayed with Dy ox in May. Many of the experts do not believe that the chemical, that this chemical could have caused this effect, but no other explanation is evident at present.

Consequently, because of the concern that I have with the environment and long term effect of this spray program, I have submitted, I have signed Report "C" (S-488) and this Amendment by the way is also attached to the Report "A". But what the Amendment does first of all it keeps the whole area intact. The whole area is kept intact as a taxation area, because everybody in that area can be effected by the Budworm. But it gives the Department certain discretion in terms of when they can stop the spraying in certain areas. Example, in making designations into which areas shall be sprayed, the Amendment says that the Director of the Department shall consider of the following factors. One, risk to the natural environment. If we find through these studies and I will not go over them there are many of them, that it is effecting the environment with a great degree within the next year or two, he can limit this spray because of risks to the natural environment. The second risk is the human health. Third, the feasibility and effectiveness of spray treatment and the availability of cost alternative treatment measures. And what this does is this factor does in answer to the problem in Western Maine it cost approximately a little bit over \$3.00 or \$3.50 for the average to spray an acre of Maine. An acre of Maine in that whole area. In Western Maine it costs over \$6.00 to spray an acre and this is the concern of the Department. They feel that the cost is too high. However, this Amendment which would basically state that if there are alternative methods to getting the wood out, in other words if there are a lot of roads in the area and they could show a sieve cultural process that they can take, the wood out economically rather than have it sprayed then the Forestry Department will not spray. But if they cannot get the wood out and it is heavily infested, the Forestry Department may still spray.

So anyway, my concern, and I think the concern of the people that signed Report "A" also is with the concern with the environment. So Report "A" and Report "C" both have this Amendment on it. The only difference between Report "A" and Report "C" is that Report "A" goes with the deletion of 110 districts from the taxation district where as Report "C" leaves the districts intact. There is also, I believe, a vested interest in here that all these people in the Spruce Fir Protection District have paid this year over the past few years and the Act goes until 1981 and to midway in the process to take them out I believe is not fair. Because to a certain extent this is an insurance policy and they have been paying this Excise Tax even though they may not get sprayed someone somewhere else may get sprayed, if one day they need to spray, then under the concept of the Act they would be sprayed. So I

would hope that the Senate would adopt Report "C".

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

Mr. O'LEARY: Mr. President and Members of the Senate: You will note that in his speech that the good Senator from Penobscot, Senator Trotzky, mentioned that we are all in agreement that the district shall remain as it is.

However, I want to set forth some of my reasons for signing the Ought Not to Pass report on this bill. It should be noted at the outset that it is a Department bill and is changing radically and I should emphasize that changing radically the nature of the law which we passed recently.

In 1976 we passed a comprehensive piece of legislation known as the '1976 Spruce Budworm Suppression Act.' That Act provided for a reasonable program from 1976 to 1981 to control what was then felt to be, and in fact known to be, a severe budworm infestation across millions of acres of our timberlands in this State. Section 1011 was entitled "Legislative Policy" and it stated that it was the policy of the State of Maine to undertake reasonable measures to control and suppress infestations of spruce budworm insects in the spruce budworm insects in the spruce and fir forests of the State, during the years 1976-1981.

That Act created a Budworm Suppression Fund, and landowners were taxed through a special Excise Tax on forest lands to help accomplish the spraying.

Under the Act, Section 1016, the State entomologist designates areas of the State upon which it is, in his judgement, necessary to apply the spray on the basis of data compiled by the Bureau of Forestry, including but not limited to, egg mass counts, evidence of defoliation, tree vigor, timber cruises, photography and similar information. You will note that there is nothing in the law presently about economics.

At a public hearing, the Department stated that it did not wish to spray hundreds of thousands of acres of Maine timberland primarily because of economic reasons. They felt that in some areas it was too expensive, and it was proposed that those hundreds of thousands of acres of Maine timberland be eliminated from the budworm spray area, even though the landowners had for several years paid the budworm spray tax. Some testified at the hearing that they had never been sprayed and they had paid the tax, and now it was proposed that their district be eliminated. However, three of us Senators agree that their districts shall not be eliminated.

Representatives of two paper mills testified and stated that a considerable quantity of their softwood production came from the Western Maine spray area that was intended to be eliminated. In fact, there was testimony from the paper mill at Rumford, which is the largest mill in Oxford County, that 23% of this softwood useage comes from the land area in Western Maine which the Department does not wish to spray for economic reasons.

I believe in fairness to all, and it seems to me that the right thing to do is to let this program run until its normal expiration date, which is 1981.

Now the Department wants to change right in the middle of the program and I cannot for the life of me understand it. In 1981 the program will either be discontinued or will be continued and that is for all of them. I do not think that it is fair to the people within the district to be making radical changes and I do not think that it is fair to those who have been paying this tax to now change the rules of the game and insert economic factors. As the Department would like to do.

I also want to point out to the Senate that at one of the public discussions on this bill, a

lawyer who was formerly an Assistant Attorney General of the State of Maine, and who in that capacity was one of the principal draftsmen of the Act which we passed in 1976, filed a 4-page legal memorandum with the Committee indicating that he had considerable doubt as to the constitutionality of the present proposed changes in this Act. He had reference to Section 1014, Funding, Subsection 5, which provides that at the termination of this law on December 31, 1981, the Treasurer of State should distribute any surplus remaining in the Fund in a given manner, which was to pay debts, pay the Government any moneys owed, repay the General Fund as there indicated, some moneys, and finally to pay back to any person subject to taxation pro rate part of the remaining surplus on the basis of the proportion he has actually paid in.

I want the record to show some of the reasons why I think this is a bad bill, and why I move the Indefinite Postponement of this Bill and all its accompanying papers, Mr. President.

And I would like further to go into this Amendment. I was very concerned about the environmental implications of spraying such as the Senator from Penobscot. I too am an environmentalist although we oppose each other on some of these issues. And the more I study this Amendment, the more I realize that we were going along with what the Department wants to do in the spraying right now. And that is just about what it means. If you look at the wording in here, it says, "feasibility and effectiveness of spraying treatment and the availability of cost effective alternative treatment measures." Now they talk about the high cost in one area versus the cost in another area. Now I would submit to this body that perhaps the most valuable resource that we have in the State of Maine is its people. The economic value of our timberlands, I believe, is the next in order. So, Mr. President, I would ask the Senate to go along with me in indefinite postponement of this bill and all its accompanying papers.

The PRESIDENT Pro Tem: Mr. President and Members of the Senate: I would ask the members of the Senate to take a look at this map that is on your desk and you will see certain areas that for example that they want to eliminate the townships in the district, the department does. Example, the Van Buren area where there are many people in Northern Maine, the Fort Kent, excuse me the Caribou-Presque Isle area is another area designated. The Houlton area is another area designated. Then you come to Western Maine and you have a whole area around Dover-Foxcroft and Sangerville where there are a lot of people, and then you have other areas in western Maine where there are no people or very few people and possibly in many of these townships no people. All three senators believe that the districts should be left intact, but the feeling of this senator and also the members of the committee that signed Report "A" has this amendment then is to give the department flexibility. To give them flexibility as these studies, environmental studies are reported here, and again there are many of them to stay possibly further away from areas where there are human habitation. So it gives the department some flexibility in the spray program where we do not know what the long term environmental effects are, where studies have just been started. A lot of these studies, by the way, are being done by the University of Maine.

Now Senator O'Leary mentioned that one of the factors whereby the department would consider in designating a spray area is the availability of cost effective alternative treatment measures. The intent of the Spruce Budworm Act was not to continuously spray but to find other measures and the other measures were sieve cultural measures and those were to take the spruce out of there. In other words, if there

is a dense spruce stand or fir stand which is subject to budworm defoliation the companies and landowner should start to get those trees out of there. So all that we are saying is that if there is an alternate method, a cost effective method then the department can say that they will not spray.

So, I believe that this gives the department some discretion but it does not allow them to end the spray program because it states directly in this amendment that, "The Director shall provide forest landowners in the spruce budworm section district with an opportunity to submit their recommendations and any information in support thereof with respect to what areas should be designated." In other words, the landowner can come into the department and say I cannot get all this wood out in the next two years and, therefore, I need the spray program to carry these trees over for a few more years so that I can get roads in and so on.

So anyway, because of the total unknowns in the spray program and long term environmental impact I did feel that this amendment does have merit and so do I think six or seven other members of the Committee.

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

Mr. MARTIN: Mr. President and Ladies and Gentlemen of the Senate: I would urge you to accept and vote for the pending motion. And I would also point out for the record, unless the Senator from Penobscot, Senator Trotzky, has a different map, Van Buren is not included in the deletion.

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

Mr. O'LEARY: Mr. President, I think that the good Senator from Penobscot, Senator Trotzky, has just made it very clear that the department has the final word. Now is the excessibility of getting this spruce out and such, that the department will make this judgment. The department has already said right in front of our Committee and made the statement that they will not spray anything that they do not want to spray. Regardless of the economic consideration. Now they could wipe out an entire area, with the Spruce Budworm and it seems to be that the department is not that concerned. We have a law on the books—it was put there and it was funded through taxes and it should stay there and run its course until 1981. At that time that Legislature can take a look at the program and see if it is what they want and if it is not what they want then end it and I, myself, may have serious reservations of ever voting for another Spruce Budworm Control Suppression Act I do not know at this time but I do know that Western Maine is heavily invested and there is no way that they can possibly get out all the Spruce Budworm, but the taxpayers that are paying the tax in that area know that and they understand that they may not be sprayed and they are still willing to pay the taxes and they want this to continue just as it is. They do not want the department having any more absolute control over it then they already have under the existing law.

The PRESIDENT Pro Tem: The pending question before the Senate is the motion by the Senator from Oxford, Senator O'Leary, that this bill and all its accompanying papers be Indefinitely Postponed. Is it the pleasure of the Senate?

The Chair recognizes the Senator from Penobscot, Senator Trotzky.

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

The PRESIDENT Pro Tem: A Division has been requested.

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

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

18 senators having voted in the affirmative and 5 senators in the negative, the motion to indefinitely postpone does prevail.

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

Mr. O'LEARY: Having voted on the prevailing side, I move reconsideration and ask the Senate to vote against me.

The PRESIDENT Pro Tem: The senator from Oxford, Senator O'Leary, now moves that the Senate reconsider its action whereby this bill was indefinitely postponed.

Will all those Senators in favor 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.

The PRESIDENT Pro Tem: The Chair would ask the Sergeant-at-Arms to escort the presiding officer to the rostrum.

At this point, the Sergeant-at-Arms escorted the President to the rostrum where he assumed his duties as President of the Senate, and the Sergeant-at-Arms then escorted Senator Speers to his assigned seat on the floor of the Senate Chamber.

At this point, the Senate retired to the House of Representatives where a Joint Convention was formed.

Senate called to order by the President.

Second Readers

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

House

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

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

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

House — As Amended

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

Bill, "An Act Concerning the Catastrophic Illness and Medically Needy Programs." (H. P. 1911) (L. D. 1972)

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

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

Enactors

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

"An Act to Establish a Solar Water Heater Demonstration Program for Maine." (H. P. 2038) (L. D. 2102)

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

Emergency

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

This being an emergency measure and having received the affirmative votes of 26 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: HOUSE REPORT — From the Committee on Natural Resources — Bill, "An Act to Clarify Certain Definitions under the Subdivision Law and to Set Out the Intent of the Legislature in

Enacting that Law." (H. P. 1935) (L. D. 2006) Ought to Pass as Amended by Committee Amendment "A" (H-1032)

Tabled — February 23, 1978 by Senator Speers of Kennebec

Pending — Acceptance of Report
On motion of Mr. Trotzky of Penobscot,
Retabled for One Legislative Day.

The President laid before the Senate:

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

Tabled — February 24, 1978 by Senator Katz of Kennebec

Pending — Motion of Senator Collins of Knox to Adopt Senate Amendment "A" (S-483) to Committee Amendment "A" (H-1055)

On motion of Mr. Speers of Kennebec, retabled until later in Today's Session.

The President laid before the Senate:

Bill, "An Act to Extend the School Budget Adoption Date." (Emergency) (H. P. 2125) (L. D. 2151)

Tabled — February 24, 1978 by Senator Speers of Kennebec

Pending — Passage to be Engrossed on motion of Mr. Katz of Kennebec,
Retabled for One Legislative Day.

The President laid before the Senate:

Bill, "An Act to Encourage Early Resolution of Discrimination Complaints and to Clarify the Subpoena Power of the Maine Human Rights Commission." (S. P. 703) (L. D. 2150)

Tabled — February 24, 1978 by Senator Speers of Kennebec

Pending — Passage to be Engrossed

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

Mr. MINKOWSKY: Mr. President and Members of the Senate: I present Senate Amendment "A" (S-478) and move its adoption, and I would like to speak to my Motion.

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

Senate Amendment "A" (S-478) Read.

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

Mr. MINKOWSKY: Mr. President and Members of the Senate: The Committee on Performance Audit I think really did a yeoman's job in arriving at this particular piece of legislation which is before us.

And the only intent that I wanted to rectify in the bill itself as stated in the statement of fact, that this amendment permits the Maine Human Rights Commission to attain subpoena powers only with the approval of the Superior Court. There have been many instances brought about by the Members of the Human Rights Commission as they testify before the Performance Audit Committee.

One point that I would like to stress on the report of December 1977, was the following: "The staff has not always been so well-trained or professional. Three years ago the investigation staff was completely new. With no experienced investigators to rely on, the performance of the commission was hindered. CETA employers also used their time as investigators. This practice was unsatisfactory and now has been discontinued. There was a lot of apprehension on the part of people in the private sector of business who received complaints that they were discriminated against employees, and I think that the general assumption was that the way that some people of the part-time officials of the Maine Human Rights Commission were addressing these complaints more or less left the people who were being complained against apprehensive and it was also a presumption of guilt. And many times the complainant felt

they were left out of the investigatory process. The only thing that we want to accomplish today is to be sure that nobody's rights are abridged, that they actually have, if the complaint is justified, that it is heard and the only thing that this amendment will do is simply say to Human Rights Commission, you feel that you have a satisfactory case, you bring your arguments forth to the Justice of the Superior Court and he at that particular segment of time will issue the necessary subpoena.

The City of Lewiston over the past two or three years had a few minor difficulties, and I might bring this as another side light to what the private sector of the business is has been faced with, that complaints were issued for job discrimination and one case of about three years ago where the Human Rights Commission took it upon itself to declare a judgment in excess of \$6,000.00 to the gentlemen who claims that he was discriminated against as far as the job was concerned. Our corporation council attorney felt that he really had no rights to be discussing the case with lay people on the commission, that the only answer he could get in a constructive manner would be before the Superior Court of the State of Maine, and this is where we left it, and the case then was thrown out by the Maine Human Rights Commission and the person who got the judgment never received his compensation because he did not have a case to start out with.

Recently in the City of Lewiston, we have another case of discrimination and my interest in this particular case was predicated upon that the people, or the investigator, field representative so called has never been into a city to look at the records, yet he can make a demand of about 28 different allegations against the City of Lewiston and more or less ask for an informal resolution for the agreed party and in my estimation these are items that should be disclosed and evaluated and analyzed by a Court of Law, not by an arbitrary gentleman who feels that he has this type of power.

The horrendous thing about the two cases I just discussed, generally, is in both cases they are costing the municipality hundreds and hundreds of dollars and man hours to bring forth this information and we feel that it was imperative that if this information is so vital that at least the Maine Human Rights Commission in its wisdom, would send a field representative into locality to discuss the issue at that particular segment of time instead of just coming out with a three page document stating what his demands are on a municipality. Our estimated cost in this particular case now pending will be about \$1,500.00, and I would say that the only way this thing can be resolved is in the Court of Law and not by the Human Rights Commission.

And this is one reason why, Mr. President and Members of the Senate, I was concerned with this particular bill and why I offered the Senate Amendment, that the Human Rights Commission obtain subpoenas only with the approval of the Superior Court of the State of Maine. I would hope Mr. President, that the Senate would adopt this amendment.

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

Mr. KATZ: Mr. President, I move indefinite postponement of Senate Amendment "A".

The remarks of the good Senator from Androscoggin were extremely persuasive, but I have trouble tying the remarks that he made about the over zealotness of the investigation to the substance of the amendment which deals only with the question of subpoena requiring that this one agency singled out in state government, this one agency have to go to Superior Court for a subpoena, and I would be hard pressed to think in terms of any other investigative agency that has to go this route.

The agency has had subpoena power for seven years and during that seven year period, I myself have heard considerable criticism of

the over zealotness and inexperience of what is a small agency trying to seek its own identity, and I am confident that others in this Chamber might have had experience in the blueberry fields and elsewhere.

But that is not at stake. What is at stake is how does a state agency get the subpoena power? Well, the agency has had subpoena power for seven years and if there have been any complaints about that one facet of the operation, I have not heard them. So I think that this is a punitive amendment which seeks to seek a remedy for a problem which as nearly as I can find out, has not existed. It singles them out uniquely among state investigatory bodies for a very, very special treatment requiring them to go to the Courts, and it really does not deal with the basic criticisms that I have heard, which I think are probably being taken care of with the more experienced staff and with a well balanced approach to human rights in the State of Maine. I request a Division.

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

Mr. MORRELL: Mr. President and Members of the Senate: I rise to urge you to support the Senator from Kennebec's motion. This Bill in this concern before us today came out of my concern about the way in which the Human Rights Commission for the past few years is conducting itself in areas not included or not connected to subpoena power. It was disappointing in our hearings after having been concerned about the manner in which they conduct themselves to have as little input from the business community as we had. I had hoped that we would have greater expression and suggestions from them, but we did not get it.

My feeling is that this would tighten up somewhat an area about which we had no great expression of concern. The manner in which the Human Rights Commission conducts itself personally as individuals in dealing with people against whom there has been a complaint still are a concern of mine but would not be alleviated by the passage of this amendment, although I certainly can appreciate Senator Minkowsky's or the senator from Androscoggin's concern and the spirit in which he introduces it.

But I would hope today that you would not support this amendment. The subpoena powers were not expressed as being a matter of concern by the various elements in the state, business, and otherwise, other things were, and I would hope this morning that we could deal with this amendment by disposing of it and going on to the bill itself.

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

Mr. CONLEY: Mr. President and Members of the Senate: I heard some of the concerns that the good senator from Androscoggin, Senator Minkowsky has raised, but I do not believe how the amendment that he has presently offered would do much to help the commission. I would point out that there are dealing with this particular amendment, at one the Administrative Procedures Act, Chapter 9060, sets standards which must be met in the issuance of any subpoena and in addition that the Attorney General's Office represents the Maine Human Rights Commission and must give its consent to the issuance of he subpoena. Third, the Commission itself is comprised of five citizens appointed by the Governor who determines when a subpoena is to be issued. I believe that these checks are enough to insure that the power is not abused and to add another layer of bureaucracy which involves an already over loaded Superior Court is unnecessary as we heard this morning from the Chief Justice.

I would point out that no other agency of State Government whose primary function is investigation has this same requirement. This agency has had subpoena power as the good Senator from Kennebec, Senator Katz, stated for seven years, and there have been no com-

plaints about the use of such subpoenas in an investigation, so I would request the Senate to join to defeat this particular Amendment.

The PRESIDENT: Is the Senate ready for the question?

The Chair recognizes the Senator from Cumberland, Senator Morrell.

Mr. MORRELL: Mr. President, perhaps I have been somewhat remiss and not very briefly describing to you what the bill does.

The bill does two things. One; is it removes from the available tools to the commission, the right to use a subpoena with in the absence of a complaint. We had one instance a year or more ago when the commission did try to paint a rather broad brush picture in the area of education against a number of institutions in the absence of a complaint against whom there has been a complaint. At the request of such a person or institution to clear their stress so that they can legally provide all the information that the commission wants without jeopardizing an individuals or groups right of privacy, and I fear that where the subpoena power has been used in some considerable frequency would be hampered.

Again I would hope that you would not support this amendment.

The PRESIDENT: Is the Senate ready for the question?

The Chair recognizes the Senator from Washington, Senator Wyman.

Mr. WYMAN: Mr. President, I move that this be tabled for one legislative day.

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

Mr. MORRELL: Mr. President, I would ask for a Division on that motion.

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

Will all those senators in favor of tabling this item for one legislative day please rise in their places to be counted.

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

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

The Chair recognizes the Senator from Androscoggin, Senator Minkowsky.

Mr. MINKOWSKY: Mr. President, I would 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 pending question before the Senate is the motion by the senator from Kennebec, Senator Katz, that Senate Amendment "A" be indefinitely postponed.

A yes vote will be in favor of indefinite postponement.

A nay vote will be opposed.

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

ROLL CALL

YEA — Carpenter, Chapman, Collins, D.; Conley, Cummings, Curtis, Greeley, Huber, Katz, Lovell, Merrill, Morrell, Pierce, Redmond, Usher.

NAY — Collins, S.; Danton, Farley, Hewes, Levine, Mangan, Martin, McNally, Minkowsky, O'Leary, Pray, Speers, Trotzky, Wyman, Sewall.

ABSENT — Hichens, Jackson, Snowe.

15 Senators having voted in the affirmative and 15 Senators in the negative, with 3 Senators being absent, the motion to indefinitely postpone does not prevail.

On motion of Mr. Wyman of Washington. Tabled until later in today's session, pending the adoption of Senate Amendment "A".

(Off Record Remarks)

There being no objection, all matters previously acted upon were ordered sent forthwith.

On motion of Mr. Huber of Cumberland, Receded until 4:00 o'clock in the afternoon.

(After Recess)

Senate called to order by the President:

The President laid before the Senate: Bill, "An Act to Reconstruct the Fuel Adjustment Clause." (H. P. 2092) (L. D. 2137)

Tabled — February 24, 1978 by Senator Speers of Kennebec

Pending — Enactment
On motion of Mr. Speers of Kennebec, Re-tabled for one legislative day.

The President laid before the Senate: Bill, "An Act to Expand the Elderly Low Cost Drug Program." (Emergency) (H. P. 1912) (L. D. 1973)

Tabled — February 24, 1978 by Senator Conley of Cumberland

Pending — Passage to be Engrossed
On motion of Mr. Speers of Kennebec, re-tabled for two legislative days.

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

Papers from the House Non-concurrent Matter

Joint Resolution in Honor of the Fiftieth Anniversary of the Future Farmers of America. (H. P. 2129)

In the House, February 23, 1978, Read and Adopted.

In the Senate, February 24, 1978 Read and Adopted as amended by Senate Amendment "A" (S-485) in non-concurrence.

Comes from the House, that Body having Adhered.

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

Mr. HICHENS: Mr. President, being a former member of the Future Farmers of America, I think this is small potatoes, but I would move that we recede and concur with the House.

The PRESIDENT: The Senator from York, Senator Hichens, now moves that the Senate recede and concur with the House. Is it the pleasure of the Senate? It is a vote.

Non-concurrent Matter

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

In the House, February 16, 1978, Passed to be Enacted.

In the Senate, February 23, 1978, Failed of Enactment and subsequently Passed to be Engrossed as amended by Senate Amendment "B" (S-477) and House Amendments "A" (H-995), "B" (H-1002), "D" (H-1006) and "E" (H-1016) in non-concurrence.

Comes from the House, that Body having Insisted.

On motion of Mr. Collins of Aroostook, the Senate voted to Insist and Ask for a Committee of Conference.

Non-concurrent Matter

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

In the House, February 23, 1978, Passed to be Engrossed as amended by House Amendment "B" (H-1067) as amended by House Amendment "A" (H-1077) thereto.

In the Senate, February 24, 1978, Bill and Papers Indefinitely Postponed, in non-concurrence.

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

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

Mr. KATZ: Mr. President, I move that the Senate recede and concur with the House.

The PRESIDENT: The Senator from Kennebec, Senator Katz, now moves that the Senate recede and concur.

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

Mr. O'LEARY: Mr. President, I move that the Senate Adhere.

The PRESIDENT: The Senator from Oxford, Senator O'Leary, now moves that the Senate Adhere.

The Chair recognizes the Senator from Penobscot, Senator Pray.

Mr. PRAY: Mr. President, I ask for a Division on the motion to recede and concur.

The PRESIDENT: A Division has been requested.

The Chair recognizes the Senator from Kennebec, Senator Speers.

Mr. SPEERS: Mr. President, I would urge this body to exceed to the motion of the senator from Kennebec, Senator Katz, and vote to recede and concur with the House.

The PRESIDENT: Will all those senators in favor of the motion to recede and concur please rise in their places to be counted.

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

10 senators having voted in the affirmative and 14 senators in the negative, the motion to recede and concur does not prevail.

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

Mr. SPEERS: Mr. President, I move that this item lie on the table for one legislative day.

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

Mr. O'LEARY: Mr. President, I request a Division.

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

Will all those Senators in favor of the motion to table this item for one legislative day, pending the motion of the senator from Penobscot, Senator Pray, that the Senate adhere, please rise in their places to be counted.

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

16 senators having voted in the affirmative and 9 senators in the negative, the motion to table does prevail.

Joint Order

An Expression of Legislative Sentiment recognizing that: Maine's hardworking citizens working in agriculture contribute mightily to Maine's economy and fully deserve the recognition which February 28th, "Agriculture Day," accords them. (H. P. 2145)

Comes from the House, Read and Passed.

Which was Read and Passed in concurrence.

Communications

Committee on Public Utilities

The Honorable Joseph Sewall

President of the Senate

State House

Augusta, Maine 04333

Dear President Sewall:

It is with pleasure that I report to you that the Committee on Public Utilities has completed all action necessary on the business placed before it by the Second Regular Session of the 108th Legislature.

Total Number of Bills Presented	10
Unanimous Reports	10
Ought to Pass	4
Ought to Pass as Amended	2
Ought to Pass in New Draft	3
Leave to Withdraw	1
Divided Reports	0

Total Number of New Drafts 3
 Sincerely yours,
 Signed: MINNETTE H. CUMMINGS
 Senate Chairman
 Which was Read and Ordered Placed on File.

Committee on Fisheries and Wildlife
 The Honorable Joseph Sewall
 President of the Senate
 State House
 Augusta, Maine 04330
 Dear President Sewall:
 The Committee on Fisheries and Wildlife is pleased to report that it has completed all business placed before it by the Second Regular Session of the 108th Maine Legislature.
 Total Bills Received 2
 Ought to Pass 1
 Divided Report 1
 Respectfully,
 Signed: ANDREW J. REDMOND
 Senate Chairman
 Which was Read and Ordered Placed on File.

Joint Resolution
 A Joint Resolution in Memoriam:
 WHEREAS, the Legislature has learned with deep regret of the death of Allen Nugent of East Millinocket and Chamberlain Lake, who for more than half a century was a legend among Maine sportsmen, (S. P. 712) is presented by Senator Pray of Penobscot, Cosponsored by: Representative MacEachern of Lincoln and Representative Garsoe of Cumberland.

Which was Read.
 The PRESIDENT: The Chair recognizes the Senator from Penobscot, Senator Pray.
 Mr. PRAY: Mr. President and Members of the Senate: In the Allagash Region, the Allagash Water Wilderness, there is one individual who was one of the earlier settlers and who remained there even after the waterway became part of the National Wild and Scenic River was a man named Al Nugent who operated in the area for over 50 years. He has been a Maine Guide for 53 years and a Deputy Sheriff in Piscataquis County and during his term there, until he passed away a few weeks ago, he had served as a Guide for a number of individuals who are past Chief Executives, of this state, past members of the legislature and even some of the members who are still here. He also has served to the capacity of a guide a number of national leaders and national legislators. I think that those of us that knew him as one of the earlier settlers of that area and who excelled well in what he did and his love for that Allagash Wilderness. We have seen the passing of another individual who has gone by an era that we will never see again.
 Which was Adopted.
 Sent down for concurrence.

Committee Reports
House
Ought to Pass — As Amended
 The Committee on Education on, Bill, "An Act to Authorize the Town of Lincolnville to Withdraw from the Appleton-Hope-Lincolnville Community School District." (Emergency) (H. P. 2066) (L. D. 2129)
 Reports that the same Ought to Pass as amended by Committee Amendment "A" (H-1085).

Comes from the House, the Bill Passed to be Engrossed as amended by Committee Amendment "A".
 Read and Accepted. The Bill Read Once. Committee Amendment "A" Read and Adopted in concurrence.
 The PRESIDENT: The Chair recognizes the Senator from Kennebec, Senator Katz.
 Mr. KATZ: Mr. President, I move that under suspension of the rules, this Bill be given its second reading at this time.

The PRESIDENT: The Senator from Kennebec, Senator Katz, now moves that the Senate suspend its rules and 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. This Bill, as amended, Passed to be Engrossed in concurrence.

The Committee on Energy on, Bill, "An Act to Provide Municipalities with the Authority to Establish Standards for the Installation of Wood Stoves." (H. P. 2037) (L. D. 2101)

Reports that the same Ought to Pass as amended by Committed Amendment "A" (H-1079)

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

The Committee on Judiciary on, Bill, "An Act to Make Trafficking in Five Pounds or More of Marijuana a Class C Crime under the Maine Criminal Code." (H. P. 1999) (L. D. 2080)

Reports that the same Ought to Pass as amended by Committee Amendment "A" (H-1048).

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

Which Report was Read.
 On motion of Mr. Pray of Penobscot, Tabled until later in today's session, pending acceptance of the report.

Divided Report
 The Majority of the Committee on Transportation on, Bill, "An Act to Provide Residents of the Islands in Casco Bay with Additional Transportation Service." (H. P. 2042) (L. D. 2107)
 Reports that the same Ought Not to Pass.
 Signed:
 Senators:

- GREELEY of Waldo
 - McNALLY of Hancock
 - MINKOWSKY of Androscoggin
- Representatives:
 LITTLEFIELD of Hermon
 CARROLL of Lewerick
 JACQUES of Lewiston
 BROWN of Mexico
 HUTCHINGS of Lincolnville
 STROUT of Corinth
 LUNT of Presque Isle

The Minority of the same Committee on the same subject matter Reports that the same Ought to Pass as amended by Committee Amendment "A" (H-1072)

- Signed:
 Representatives:
 ELIAS of Madison
 JENSEN of Portland
 McKEAN of Limestone

Comes from the House, Bill and Papers Indefinitely Postponed.
 Which Reports were Read.

The PRESIDENT: The Chair recognizes the Senator from Waldo, Senator Greeley.

Mr. GREELEY: Mr. President, I move that the Senate accept the Majority Ought Not to Pass Report of the Committee.

The PRESIDENT: The Senator from Waldo, Senator Greeley, now moves that the Senate Accept the Majority Ought Not to Pass Report of the Committee.

The Chair recognizes the Senator from Cumberland, Senator Conley.

Mr. CONLEY: Mr. President and Members of the Senate: I would call your attention to the signatures on the Report. It is obvious to me that both Mr. Elias of Madison and Mr. McKean of Limestone must frequent the Casco Bay Islands on occasions. I am not going to belabor this bill, but I do think what I have to say is important enough. It is important I know to my constituents who reside within the Casco Bay Islands, and I think that it might be good if the Senate did just prorogue the bill for a moment, but you do not have the time for that,

let me be a little bit specific as to what it entails.

One, the Bill would allow the small boats to carry six or less people between the islands and the main line for compensation. Such boats will only be permitted to run 30 minutes after the Casco Bay Lines stop operating at night until 30 minutes before they begin operations in the morning, and operators of such boats will have to hold an operator's license as required by the Coast Guard as well as the Radio Operator's License. The Coast Guard is responsible by Federal Law for inspecting the boats to make sure that they have the necessary safety equipment such as radios, May West type of life jackets, etc. The bill does not require radar, but I can assure you that any of the boats that would be used already have radar, and if the legislature wanted to include a requirement for radar, then I think that is what they should do.

We presently have one other operator aside from Casco Bay Lines that does operate within the Casco Bay. A gentleman by the name of Ted Rand, under the authorization of the PUC now operates a Taxi Service, but he charges \$22.00, approximately, for a run to Portland from one of the islands.

This bill would be in effect only until 1980 when an evaluation would be made by the legislators, Public Utilities Committee, to determine if it should be continued. The bill is needed to allow island residents who stay in Portland late in the evening attending school or culture events, sporting events, has the means of transportation back to the islands. The bill is not an attempt to allow competition with Casco Bay Lines. Small boats under this bill would not be allowed to operate at the same time Casco Bay Lines is operating.

Mr. President and Members of the Senate, I again can only state that there are many occasions these people who are taxpayers of the City of Portland come to City Hall the first Monday night of the month to attend local city hall meetings, or City Council meetings, or Planning Board meetings or the various other departments who hold public hearings for the purpose of citizen input, and I can assure you unless they are out of City Hall by 9:00 o'clock, many of them are stranded for the evening on the mainland.

When the vote is taken Mr. President, I request it be taken by a Division.

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

Mr. MINKOWSKY: Mr. President and Members of the Senate: Much effort has been put into resolving the differences regarding this particular piece of legislation. A few points of clarification are as follows:

The existence of one or more additional carriers, regulated or unregulated, in Casco Bay will have an adverse effect upon existing service and thereby jeopardize regular service and timely water transportation service in Casco Bay. In general, additional carriers that provide service at any time (upon demand) and Ted Rand which is the only individual who is licensed in the State of Maine as a PUC regulation as Senator Conley addressed, is correct, he does have to charge a premium price but again he is well-equipped and is regulated by the PUC. This particular item discussed will siphon off users from the regular scheduled service. Furthermore, other carriers that provide service during hours when the scheduled service is not operating or when the scheduled service is in transit will also siphon off users from the regular scheduled service.

Now the analogy I want to draw this afternoon Mr. President and Members of the Senate is as follows:

To effectively regulate small boat operators, including small boats on demand service, and this is what we are talking about, it would be necessary to provide some form of regulation which this particular legislative Document

does not cover. In every city or town in Maine, land taxi service on demand is subject to license and regulation requirements.

Now a land taxi operation in the State of Maine in any municipality require that first:

1. Must have license.
2. Must be inspected.
3. Must have insurance.
4. Must have cab in condition to meet D.O.T. rules and regulations.
5. Must provide passenger information on fares, service and complaints.
6. Driver must have a "taxi drivers" license.
7. Driver must obey rules of operation and conduct.

8. Law provides for penalties (for taxi operators in the state).

9. Island taxi on Casco Bay the same controls, and I am referring to the regulations drawn up by the great City of Portland.

Now what they are asking us this afternoon to do is to have an unregulated, for hire, water taxi service during the off hours when Casco Bay is not in operation, but it does not require any of these particular requirements, I just have stated to you for any license taxi operation in the State of Maine.

The cost to effectively providing an acceptable level of enforcement licensing and inspection would be very expensive. Present bill does not provide for any regulation whatsoever. This act would give unauthorized "gypsy" operators common carrier for hire status without insurance requirements or licensing of boat or operators, inspections and complete lack of controls. If by L. D. 2107 Casco Bay Line fails, the State of Maine taxpayers would assume a very large obligation similar to Maine State Ferry Service in Penobscot Bay.

The operation at the present time of Penobscot Bay cost the taxpayers of the State of Maine 50 percent in annual subsidy or roughly about a half a million dollars a year.

Now Chapter 79 of Private and Special Laws incorporated into Chapter 593 of the Public Laws 1971, now the Section there provides that DOT, not the City of Portland, would be responsible to provide Casco Bay transportation. I am only bringing this out because if we have "Gypsy" type operators with a common carrier status and this has a deleterious effect upon the existing operation of Casco Bay and they are compelled to cease operations and I think that it be mandatory of the State of Maine take this over and I think that the City of Portland is very cognizant of this.

Another point that came out in Committee was no boat operators have asked for this particular bill. It is a small handful of people as I said to you previously on the islands that have requested this particular legislation. Now, if Casco Bay Lines violate the existing law, there is a criminal penalty for them under Section 2107, but there is no control, no criminal penalty for these people to operate.

I was looking, Mr. President and Members of the Senate, there was a ruling from the PUC Act in 1974 where the Island Citizen Association petitioned the PUC for this same type of regulation, and permission was denied on December 6, 1974 and the decision was handed down by Mr. Feehan and Mr. Bradford and Mr. Stanley who at the time was Chairman says, what the same Island Citizen Association Group is trying to do by L. D. 2107 is to enlist the support of the Legislature to circumvent an existing law for their own benefit which will destroy all public transportation in Casco Bay. I think this is what it is all about this afternoon Mr. President. I sincerely hope that the Senate would accept the Majority Ought Not to Pass Report.

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

Mr. CONLEY: Mr. President and Members of the Senate: The only thing that I could add to what the good Senator from Androscoggin said to clean the act up a little bit is, my people do not like being referred to as "Gypsies."

The PRESIDENT: A Division has been requested.

Will all those Senators in favor of the motion of the Senator from Waldo, Senator Greeley, that the Senate accept the Majority Ought Not to Pass Report of the Committee please rise in their places to be counted.

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

19 Senators having voted in the affirmative and 6 Senators in the negative, the motion to accept the Majority Ought Not to Pass Report does prevail.

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

Mr. MINKOWSKY: Mr. President, having voted on the prevailing side, I now move reconsideration and hope that the Senate votes against me.

The PRESIDENT: The Senator from Androscoggin, Senator Minkowsky, now moves that the Senate reconsider its action whereby it adopted the Majority Ought Not to Pass Report of the Committee.

Will all those Senators opposed please say no. A viva voce vote being had,

The motion to reconsider does not prevail.

On Motion of Mr. Speers of Kennebec, the Senate voted to remove from the Table, Bill, "An Act Relating to the Funding of Education." (Emergency) (H. P. 1943) (L. D. 2022)

Tabled — Earlier in the Day by Senator Speers of Kennebec

Pending — Motion of Senator Collins of Knox to Adopt Senate Amendment "A" (S-483) to Committee Amendment "A" (H-1055).

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

Mr. COLLINS: Mr. President, this amendment involves only the sum of \$79,595.00 but I present it because I think that it is important as a matter of principal. The establishment of Vocational Regions has not been easy. These regions in some parts of the State have had a very rocky road to try to get the cooperation of particularly some of the smaller towns in the areas that were grouped together, but finally after various adjustments and debates, these regions have become pretty well stabilized and they are doing some good work and they very much needed particularly in areas in Washington County and along the coast, in general, and there are other parts of the State I am sure can speak for themselves.

This amendment would restore the provision which was in the original Bill, and the idea of keeping this allocation as a categorical grant seems to us who are directly effected to be important. Those who are particularly effected of course are the what we have called sometimes the pay in towns. Not all of the pay in towns but those that are in the regions. And while there is this small additional cost it is certainly going to prevent a great deal of new disharmony because if we do not have it this way with the money going directly to the region we are going to have much poorer financial accountability and we are very likely to have some of those small communities getting up on their hunches and refusing to take their rightful part, and that is the reason that I have felt that I should bring this amendment to the Senate.

The PRESIDENT: Is the Senate ready for the question? The Chair recognizes the Senator from Kennebec, Senator Pierce.

Mr. PIERCE: Mr. President and Members of the Senate: I would agree with the good Senator from Knox, Senator Collins, that the amount of money involved here is slight. However, I think that there is considerably more to be taken into consideration than just the amount of money. I remember the day of the hearing receiving a letter from the Governor stating that his Bill was not a perfect one, and indeed it was not. Certainly the one which the Members of the Education Committee have

presented for your consideration today which twelve signors is not the perfect Bill. But I would like to take this opportunity to remind Members of the Senate that we in Committee spent not only hours but days or weeks, literally months on this Bill.

Dealing specifically with this amendment, I think that it should be brought to your attention that during the first Session of the 108th Legislature School Finance Act was amended to establish Vocational Regions as administrative units for subsidy purposes. This was done to facilitate accounting procedures, but it must be recalled that it was done when we had a Uniform Property Tax. Since the repeal of that Tax, now in the estimation of the Committee necessitates the removal of the above provisions before July 1st, 1978. We believe that paying of operational subsidy directly to regions ignores the evaluation of local units within the region and would result in general funds revenues being used to subsidize high evaluation areas at the expense of all Tax Payers in the State.

As I sat there during many, many hours that we deliberated on this Bill I saw time after time, twenty times, thirty times, fifty times, when this whole Bill could have come apart. It is a Bill that on many occasions the provision that went into it we were not all happy with. But somehow and I think it is undoubtedly the miracle of this Session that we have a Bill which has gone through the other Body unencumbered. Now comes to us and presents us with the unique opportunity and really I think almost unbelievable opportunity to pass a School Funding Bill which is livable for the vast majority of the people.

This was not an easy task and I know that some of the amendments perhaps the amendment here before us may have some merit, I am not saying that they do not but I know I sat there and I saw amendment after amendment considered that had some merit that we could not include. There were some that I wanted included that did not get included. And I know that naturally each of us it is human nature to protect our own turf and do the best we can for the people that we represent. But there is a bigger picture, and there is a bigger picture here before us today. And I would urge this Senate to think very, very carefully before we upset what the Education Committee deliberated so long and so hard over, to benefit a few people as a result of this amendment. It is not the amount of money that is involved, it is whether or not we are going to keep this Bill together, keep it in a form that is livable for everybody and if there is a need for further redress of this amendment, it certainly can be done in January. I would urge strongly this Senate to think about that before we go ahead and put this Bill in a position of non-concurrence with the other Body. And open ourselves up to maybe endless more days that we do not really have of insighting on this Bill when we are so close. So close here today to enacting a School Funding Bill.

The PRESIDENT: Is the Senate ready for the question?

The pending question is adoption of Senate Amendment "A" to Committee Amendment "A".

The Chair will order a Division.

Will all those Senators in favor of the Adoption of Senate Amendment "A" to Committee Amendment "A" 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 17 Senators in the negative, Senate Amendment "A" Fails of Adoption.

The Chair recognizes the Senator from Cumberland, Senator Morrell.

Mr. MORRELL: I present an Amendment and would speak to that Amendment.

The PRESIDENT: The Senator from Cum-

berland, Senator Morrell, now offers Senate Amendment "B" to Committee Amendment "A" and moves its adoption.

Senate Amendment "B" (S-486) Read.

The PRESIDENT: The Senator has the Floor.

Mr. MORRELL: Mr. President, in presenting this Amendment I am not unmindful of the process the Education Committee has gone through in getting an Education Funding Bill to us. We all appreciate the job that they have done. At the same time Mr. President, I am sure that they would not claim that this Bill is perfect. That it deals thoroughly with every issue that is on the Educational Table. We still must find a way to resolve the continuing pay in problems of some SAD communities. The Vocational Educational Districts are a problem, and a number of towns and cities are effected by the threatened loss of Federal Impact Funds, PLH 74, years ago as massive tax exempt Federal Housing Projects where constructed in communities in which Government Military installations were developing the Federal Government recognized the staggering impact this would have on the tax structure of such communities. The intent of Impact Aid was and continues to be an attempt to provide property tax relief to those communities which must provide services to families who live in Federal Housing on which no local property taxes are assessed. Impact Assistance, PLH 74, was structured for School Funding Aid, but there was an attempt to ease the general tax burden of impacted towns and cities, there was never any thought to aid impacted States, because there was not such animal and still is not. Under the Uniform Property Tax the point was stretched and impacted communities accepted their fate when perhaps they should have battled with the Feds on the real intent of how to apply impact aid. Those in the Educational Impact Establishment who will not lend us an ear claim that the value of Federal Housing Projects is not included in the local evaluation calculations resulting in greater state subsidy. This was the case prior to 1994 but no deductions were made at that time. We in the impacted communities would gladly swap impact funds any day for the authority to tax the thousands of Federal Housing Units in the same manner as other housing units in our community. But we do not have the choice. We regard the amendment that you have before you a compromise, a dollar compromise of 50 per cent but frankly, we are sick at heart over each implication at the lower percentage for the many impacted communities and when I say many there are close to a hundred.

Members of the Senate the financial benefits of the presence of large military installations are indeed spread out over wide areas. Some remote from sight of such installations. But the tax exempt status of massive Federal Housing has a tremendous effect on the local communities, in the lessening of the amount of money that they have to deal with the broad range of municipal services.

I appreciate your leasoning. I hope that you will have some considerable sense of fair play for the plight of these communities.

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

Mr. KATZ: Mr. President, when you are dealing with a School funding Bill I guess I would call upon you to have some degree of Statesmanship because in the Senate you are not only representing your own communities but to a very large extent you are representing all of the people of the State of Maine. I represent five communities, the City of Augusta, Hallowell, Vassalboro, Windsor, and Chelsea.

As I look over the list of communities who would benefit from the amendment offered by my good friend from Brunswick, I find that the City of Augusta would benefit to the extent of about \$30,000.00 were I to vote for this Amendment. I find that there would be minor benefits

to Windsor, and to Chelsea. So I find myself opposing an amendment which would benefit from a tax point of view three of the five towns that I represent. But I do so with a clear conscience. The State of Maine is one of four States in the United States which after proving its case to the U.S. Office of Education and the Department of Health, Education, and Welfare is considered a equalized State and, consequently, in this Bill, the State local allocation takes into account the fact that Brunswick is eligible for \$331,000.00 of public law 74 money, for example.

Under the approach that is suggested by the good Senator from Cumberland, Senator Morrell, after the State gets done with the equalized allocation that is in this Bill, and there is an almost unchanged equalized allocation, the same kind of allocation that existed before the repeal of the Uniform Property Tax, after we get done with that, these PLH 74 funds come in and layer on top of that and to a very real extent we are subsidizing the same people twice. Now in the old days, going back four years when the state support for Education was minimal and there was large disparity between the allocation of funds between rich communities and poor communities. The situation was completely different and the 874 funds were really being used for the purpose that they were originally intended, but with the equalized mechanism that the State of Maine had last year and has this year in its allocation, there is a kind of double benefit to the PL 874 communities and, consequently, I said to my City Manager this morning when he raised the question about the \$60,000.00 for the City of Augusta. I said that I would vote for you in a minute, if you were right. But I do not think that the City of Augusta deserves this double dipping in School Funding.

I should point out to you that the cost of this Amendment is in excess of \$1,000,000.00, \$1,000,000.00 of State Tax Dollars. The Governor has recommended we funded \$168,000,000.00. The Education Committee has recommended that we fund at \$173,000,000.00. This will add another \$1,000,000.00 on top of it. And in the event that the Chief Executive, as I suspect he does, is currently having difficulty restraining his enthusiasm or has a very restrained enthusiasm at the level of the Committee Bill, this is another invitation to a veto. And I for one do not know where we would get the votes to override a veto of \$174,000,000.00.

I ask each of you to represent the state of Maine right now rather than the limited interest of your own constituency and look at the bottom line and ask yourself whether or not we have afforded a fair level of funding, and if you have, I ask you to join with me in voting against the offered amendment by the Senator from Cumberland, Senator Morrell and pass this Bill along in concurrence on its way to be enacted.

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

Mr. HITCHENS: Mr. President, I rise to support the amendment by the Senator from Cumberland, Senator Morrell. I too believe in the State of Maine but I have five of my six towns who have received benefits and I do not think that this is a double benefit if we pass this amendment. I think that they deserve this funding, because they serve so many Federally impacted families in these areas and I believe that they deserve it and I hope that you will go along with the Amendment.

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

Mr. MORRELL: Mr. President, I am sure that my good friend from Kennebec, Senator Katz, does not infer that those of us who support this amendment are taking somewhat less than statesmanship like positions. I am taking the position that I do because I think that as I researched the origin of impacted funds and the reason for them, my contention is that they never were and should not be considered state

revenue, and to say that for the communities to receive them it is a bonus or double dipping is like the analogy of Al Capone saying that if you take away the money that I stole from the bank my kids cannot go to college. That was not state money and it should not be considered as such. There is no such things as an impacted state, they are impacted communities. And if in fact the argument presented by the Senator from Kennebec is valid, then we responsible taxpayers of the country should advocate very strongly that the Federal Government kill this program. If in fact the originally concept of this program has been changed and if we are now dealing with impacted states, then I would challenge the Senator from Kennebec to indicate to me how Maine is an impacted state. The State of Maine receives substantial funds in the form of Sales Tax Revenues or Income Tax Revenues from personnel who reside on these bases. The communities involved receive nothing. The economic benefits as I mentioned before of having a base in one community are spread through the entire State.

So I would hope that you would vote in favor of this Amendment. I am convinced that it is there. I am convinced that it is just and in fact if down the road if we pass this Amendment and down the road the State does not allow a funding Bill to in fact be equalized, they would grant all of the impacted funds to the communities. So in an sense we are sharing the risk. We disqualify ourselves from the other side of the 50 percent. Thank you.

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

Mr. KATZ: I would not want the Senate to feel that the position of the Committee on Education would withhold these Federal Funds from the Town of Brunswick. That is not the case. What we are saying is as we distribute state funds to all our communities, we have to look at a variety of things including how much money they are receiving for the education of federal kids. I am not suggesting that we withhold any Federal Funds from the Town of Brunswick, but I am saying that this has a very real impact on how many state dollars should flow to the Town of Brunswick. Now one impact, lets see if I can fine tune this a little bit. Brunswick is one of only two towns I believe, of these 874 communities that spend above state average. Brunswick has an extremely high and laudatory dedication to good education. They spend considerably above the state average. And in the process of making this commitment to education and I applaud it, it is true that in Brunswick that you can identify local dollars that are going to help pay for the cost of the Federal Children. But if this Amendment is passed, you will find in other communities and I suspect that the Gentlemen from York, Senator Hichens, could probably identify this in some of the communities that he represents, where there are no local dollars presently being used to support the education of children and all the rest of these communities that the effect of passing this amendment is to reimburse communities for expenses they are presently not undertaking. And putting state dollars along with Federal dollars when the Federal Dollars are taking care of the local needs. I want all of you to remember that this Bill is going to cost a \$1,000,000.00 of general fund resources and all of our constituents are going to have to pay for that.

I request a Division.

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

Mr. MORRELL: I apologize for speaking a third time. These are not state general funds. These funds are paid by the Federal Government to the communities involved. To say that it is going to cost the general fund more is not correct, the State insofar as it calculates its general funds should not be considering these funds. They go to the communities they were

intended for the communities. That was the purpose, that still is the purpose. Now if you believe that they are intended somehow to benefit what ever degree the State is impacted, and I can not imagine how it is, then you would disagree with me. You would also in good conscience have to urge our Congressional Delegation to vote to kill the program. Again I urge you to support the Amendment.

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

Mr. KATZ: One last comment Mr. President, less there seem to be a difference of opinion between the good Senator and myself, I do not think that there is. What is at question here is not the Public Law PL 874 funds. The question is to what extent should the State supplement these funds out of the general fund source.

And that is the issue before you, if you vote for this amendment, you are supplementing the 874 funds received by these communities, to the extent of something just over an additional \$1,000,000.00 from General Fund Sources. And you are raising the cost of this Bill from a \$168,000,000 to \$173,000,000 to something over \$174,000,000. That is the issue that we are facing.

The PRESIDENT: Is the Senate ready for the question? A Division has been requested.

The Chair recognizes the Senator from Washington, Senator Wyman.

Mr. WYMAN: Mr. President, I would 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 pending question before the Senate is the Adoption of Senate Amendment "B" to Committee Amendment "A"

A yes vote will be in favor of Adopting Senate Amendment "B".

A nay vote will be opposed.

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEA — Chapman, Collins, Curtis, Hichens, Martin, McNally, Merrill, Morrell, Pray, Trotzky, Wyman

NAY — Collins, Conley, Cummings, Danton, Farley, Greeley, Hewes, Huber, Katz, Levine, Lovell, Mangan, Minkowsky, O'Leary, Pierce, Redmond, Speers, Usher.

ABSENT — Carpenter, Jackson, Snowe.

11 Senators having voted in the affirmative and 18 Senators in the negative, with 3 Senators being absent, Senate Amendment "B" Fails of Adoption.

Committee Amendment "A" was Adopted in concurrence.

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

Mr. KATZ: Mr. President, now that this Bill is in the position of being Passed to be Engrossed, I would like to make a couple of brief comments that might be helpful to understand that which we have done. It is my understanding that our debate here today has been broadcast live by public broadcast radio. I would like to go through the level of funding very, very briefly.

The funding level at which we presumably are voting on today is \$173 million of state money. The Bill that was presented by the Governor was at the level of \$168 million. Our experience over the last couple of years has been because are bills are now deficit proof, we always lapse dollars. Dollars that we appropriate but do not spend. It is my understanding that in the fiscal year of '77 we lapsed over \$5 million of education dollars that we appropriated but did not spend. It would appear that in the year 78, we are also going to be lapsing something in the same order of \$5 million. Dollars that we appropriated but will not spend. As

we deal with this Bill here today, there appears to be a \$5 million gap between what the Governor has recommended and what this Legislature appears to be on the way to enacting. I would like to suggest to Members of the Senate, and perhaps make it very, very clear to the people of the State of Maine, that in its form, the Bill you will be enacting here this week will lapse a multi-million dollar sum into the general fund. If past performance means anything, it may very well be that by the end of the fiscal year for which we are legislating, we may lapse as much as \$5 million, in which case the distinction between the posture of the Governor with his \$168 million approach and this Legislature's response which is a \$173 million, maybe very, very small indeed. I want you to know that we have attempted to put into form a Bill which reflects the Governor's positions as closely as we can a Bill which attempts to reflect as closely as we can the positions of those who supported the repeal of the Uniform Property Tax. There is no where in this Bill any punitive implications at all. I think this Legislature can be proud that even though many of us did not agree with those who sought successfully the repeal of the Uniform Property Tax, there has been no striking out, no vindictiveness, no dragging of the heels. We have as honestly and as capably as we can, brought up to the enactment stage a Bill which reflects the majority of Maine peoples point of view as reflected on the repeal of the Uniform Property Tax.

And I particularly again want to thank the two Senate Members of my Committee who really did not understand that Senators appointed to second Committee are not suppose to be there all the time and were all the time. I want to thank the other House Members who put aside all differences and attempted to be as honest and candid and responsive to the will of the people as possible.

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

Mr. SPEERS: Mr. President, I would like the rules be suspended in order for this Bill be given its Second Reading at this time.

The PRESIDENT: The Senator from Kennebec, Senator Speers, now moves that the Senate suspend its rules in order that this Bill may be given 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. This Bill as amended Passed to be Engrossed in concurrence. Sent forthwith to the Engrossing Department.

Senate

Leave to Withdraw

Mr. Pray for the Committee on Health and Institutional Services, on, Bill, An Act to Clarify Statutes Relating to the Confidentiality of the Records of the Department of Mental Health and Corrections. (S. P. 662) (L. D. 2042).

Reports that the same be granted Leave to Withdraw.

Which Report was Read and Accepted.

Sent down for concurrence.

Enactors

The Committee on Engrossed Bills reports as truly and strictly engrossed the following: An Act to Permit Persons Other Than Arborists to Take Down Trees by Topping or Sections. (H. P. 1858) (L. D. 1925)

On Motion of Mr. Chapman of Sagadahoc, Tabled for One Legislative Day, pending enactment.

An Act Authorizing Municipalities to Provide Textbooks and Other Secular Services to Elementary and Secondary Pupils Attending Private Schools. (H. P. 1889) (L. D. 1946)

An Act to Provide for the Sale of Electricity to Public Utilities. (H. P. 2036) (L. D. 2100)

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

Emergency

An Act Concerning Pilot Projects for more Effective and Efficient Delivery of Services to Preschool Handicapped Children. (S.P. 684) (L. D. 2106)

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

Orders of the Day

The President laid before the Senate:

RESOLVE, For Laying of the County Taxes and Authorizing Expenditures of Oxford County for the Year 1978. (Emergency) (H.P. 2105) (L.D. 2142)

Tabled — Earlier in the Day by Senator Speers of Kennebec

Pending — Motion of Senator O'Leary of Oxford to Recede and Concur with the House On Motion of Mr. Huber of Cumberland, Retabled for One Legislative Day.

The President laid before the Senate:

Senate Reports — from the Committee on Fisheries and Wildlife — Bill, "An Act to Ensure the Safety of Minors Taking Canoe Trips While Attending Summer Camp." (S. P. 630) (L. D. 1989) Majority Report — Ought to Pass as Amended by Committee Amendment "A" (S-489); Minority Report — Ought to Pass as Amended by Committee Amendment "B" (S-490)

Tabled - Earlier in the Day by Senator Conley of Cumberland

Pending - Acceptance of Either Report

The Chair recognizes the Senator from Kennebec, Senator Redmond.

Mr. REDMOND: Mr. President, I move that we accept the Majority Report of the Committee.

The PRESIDENT: The Senator from Somerset, Senator Redmond, now moves that the Senate accept the Majority Ought to Pass as amended by Committee Amendment "A" Report of the Committee. Is it the pleasure of the Senate?

The Chair recognizes the Senator from Penobscot, Senator Pray

Mr. PRAY: Mr. President, I would request a Division on the pending Motion and would like to speak to that request.

The PRESIDENT: The Senator has the Floor.

Mr. PRAY: Mr. President and Members of the Senate: This Bill has long been awaiting to come out on the floor for debate. Day after day I have had a number of individuals ask me whatever happened to the Bill.

Before we get into debate on the merits of the two Reports, I would like to give you a brief history on exactly what the delay has been. We had the public hearing and several long tedious work sessions at which time the Maine Camp Directors Association came in with a different proposal each time. The proposal that is now pending is their final version, Report "A". You will notice that all Members of the Committee agreed that something should be passed, Report "A" or Report "B". Now I could give you a brief run down as to the difference.

Report "A" deals basically with setting up a curriculum board using the existing board that we have on the Junior Guide Program setting it up will also include Trip Leaders Permit. Present statutes require or has no requirements for anybody to get Trip Leaders permit. All you have to do is mail in your \$5.00 or \$10.00 depending on if you were from the State of Maine and the Department would send you back a certificate so that you could be a Trip Leader. In the proposed Report, Report "A" under subsection 2054, we set up a ratio of one staff member per six minor. One of those staff members on any groups larger than that or one individual with six minors, has to hold a Trip Leaders Permit it then spells out what the requirements are. In Report "B", if we are able to defeat the pending motion and I would remove Report "B", we set up this same requirement ratio of staff members per minor's taking a camping trip or a canoe trip. The

major differing part in section 2054 is that the Maine Camp Directors Association wants to accept the regulations as put out by the Department of Human Services which call a camping trip a three day affair. My interpretation of that would mean that they cotton to the belief that an individual going on an over night or two day trip has no need of safety, or any concern by individuals who are qualified in case an accident should happen. Report "B" also goes one step further with subsection 2055 which deals with other groups than summer camps. Testimony that we received from the Head of the Maine Camp Directors Association, Jack Early, continuously testifies as Jim Datsis from the Department of Human Services that the problem was not with the licensed summer camps in the State of Maine, but with other groups who do not meet the programs that these individuals met from within their own membership. These groups are Y groups, church groups, school groups, Boy Scouts, other then those that are licenses by the Department of Human Services. Who on many occasions have volunteer that goes with the group. Perhaps one of the fathers of one of the Scout members, or what have you. That would offer his time to go out either to a camping trip or a canoe trip. What is spelled on in the Report "B" is that the individuals would be required to have First Aid Training as it is in Report "A", and that they would also have to have a water safety and lifesaving training as in both reports. Also that under summer camp provision 2054, that they would be required, the summer camps, would be required to provide floatation devices for the individuals taking the trip.

In the second report as relationship to the ratio of individuals as I said we adopted the same ratio, except for the fact that a number of individuals expressed concern about a parent taking several of the neighborhood kids out, children. And the interpretation that we came up with for the final drafting of the bill was an individual, an adult unaccompanied by a relative, relatives would not count in the number that we are talking about and six or more children would be required, if they are going on a camping trip, to be Certified in First Aid. It would cost them nothing to get this Certificate or the Trip Leaders Permit. And in relation to canoe trips they would have to have the First Aid plus a course partition on Canoe Safety.

Basically what are we talking about numbers when we talk about this? We are talking about two adults, going on a camping trip say by canoe on the Penobscot River somewhere up in Northern Piscataquis County and they are going to go for a three or four day trip. Two fathers take two sons, one of each, and they take eleven other children. They would not be required to have a Trip Leaders Permit, we are talking about thirteen children and two adults. I think after we reach a certain size in the groups that we should provide some type of safety. The intent of the Act and Report "B" is spelled out in the purpose on the Amendment Report "B" which is under filing number 4490 states that, "The purpose in order to protect the safety and welfare of children participating in camp trips, leaders of trips are required to be certified by the Junior Guide and Trip Leaders Examining Board. All trips are conducted in a safe and prudent manner." I feel that this type of writing that we have in Report "B" is important because under enforcement which both sides have adopted, in Report "A" and "B", we spell out that the Game Warden or Forestry Ranger, the individual who is most likely to be in the woods where these camping trips are taking place are the individuals who could best enforce it and with that purpose written those individuals could terminate any trip which they felt were not being operated in a safe or prudent manner. That type of language is left out of Report "A".

So I would just state that the basic difference is the over extension from summer camps

whose testimony after testimony said already meet these requirements and in checking around with a number of them I found out that they far exceed them. But the big problem with these other groups and those are the groups that we are trying to talk about, I think that the sponsor of the Legislation when he testified at the hearing, spelled out what his concerns were, and as to why this Bill was before the Legislature. I can remember many, many summers of throwing a grappling hook because the individual that was in charge of this organization, this school group, or church group, or what have you, were not trained or qualified to be out there with those children. That is my concern. Thank you.

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

Mr. MANGAN: Mr. President and Members of the Senate: I would just pose a question through the Chair to anybody who may wish to answer it. Would eight Eagle Scouts who are minors be required to have an adult with a license?

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

The Chair recognizes the Senator from Penobscot, Senator Pray.

Mr. PRAY: Mr. President, if the individual Eagle Scouts were minors and were accompanied by an adult of no relation, yes they would be. I would also point out to the good Senator that if these individuals are at a summer camp now, at Boy Scout summer camp, according to their own rules they would have to have two supervisors with them. One holding a Trip Leaders Permit.

The PRESIDENT: Is the Senate ready for the question?

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

Mr. O'LEARY: Mr. President, I have read with great interest the two amendments, Report "A" and Report "B" plus I imagine that the Senate has been inundated with all kinds of literature here some of it very recently one as recent as yesterday. I look through the Bill and I could not find what Mr. Cummings was talking about, so I will ignore that Report of his. I notice that it has been distributed to all of our desks. But Mr. President there are around 230 summer camps in the State of Maine, 130 of which belong to the Maine Camp Directors Owners Association, and we find that the problem is not so much with the Maine Camp Directors Owners Association, as it is with those groups who are not regulated in anyway under the Department of Human Services.

We must remember that there are anywhere from twenty to twenty-five thousand summer children that attend these camps and they are between the ages of 14 and 17 and the average length of their stay is four weeks. Now the average costs to one of these children attending a summer camp is anywhere from \$150.00 to \$250.00 per week, which is a goodly sum. And as I can gather from everything that I have heard, the Maine Camp Directors Owners Association has not had any problem with "A" or "B", this section which applies them under either one of these versions. However, I suspect that there are forces working that are not telling it just as it is. I cannot understand why the Maine Camp Directors Owners Association is really that insistent upon Report "A" versus Report "B" unless it is so that they may advertise that they are the only ones who are legally and rightfully qualified to take care of these children, it really astounds me. But Mr. President, I would like to give just a little bit of history as to how this Bill appears before this Session of the legislature.

Last year on Mooselookmeguntic Lake, one of the larger lakes here in the State of Maine, there was a group of 19 and they ventured out on the Mooselookmeguntic Lake in waves ac-

ording to this report that were three to four and a half feet high. Their canoes were wood canvas Old Town, and the man that was the Trip Leader had no previous experience leading a group such as this, so he had the risk of taking these 19 boys out with him, no 22 other boys out with him, and they spent 4½ to 5 hours in the water. Now if you experience something that is really devastating to the mind then you should have been there when they brought these boys in. Some of them when they were being rescued were, "God please do not let us die". Now we can not legislate common sense but we can Legislate just a little bit of safety for them, and it was not two weeks later eight girls into the same waters, they had floatation devices and they were wearing them, but they were in the water for upwards of 2 hours, again the camp that was suppose to fall under the Law and be registered here in the Department of Human Services was not even registered — right from of State. And this is what Report "B" is getting at, some of these people who do not register and this one report a girl tells of having a floatation device that would not hold her up so that she could swim 200 yards from the canoe. I am not going to read you the reports that I have here that were made to the Department of Fisheries and Wildlife because I do not think that you would want to be here until 11:00 o'clock this evening. But Trip Leaders reports that were issued here in the State of Maine last year there were 391, 47 of these Trip Leader Permits were from out of state. Now the Department of Human Services says that this is less than half of the actual trips that were taken into the State by out of state camps that are not registered here in the State of Maine. The Department of Human Services likes this Report "B" because there is some enforcement in it, there is some opportunity to prevent these people who are inexperienced from taking these children out and endangering their lives. And I would mention to you that there is not one dollar in any man's pocket that is worth the life of anyone of our youth that attend this state. We have a good state. We have waters that they like to canoe on and we have woods that they like to hike in, but the people that take them on these trips should have some experience and knowledge of what they are doing.

Now one of these flyers mentions that the man goes down the stream himself in white water wearing a floatation device without his canoe just so that he would know how to react. Not I wonder if he goes to that same stream without it when he is in a canoe. Yes we have a lot of people that are experienced in canoe handling but you never see the reports before you as to how many people are killed or injured. But I have a report here a seven year old boy found unconscious on ground, another with a broken hand, broken shoulder, broken bone in a foot, broken hand, broken ankle, wrist, hand, wrist, fingers, shoulder, thumbs, you name it everything that you can think of is involved here but we were fortunate that last year we did not have a catastrophe there on the lakes because that would that really put the finishing touches to what is really a good business here in the State of Maine. And I would submit to you that it is a multi-million dollar business. There is no one that can give any good reason why this Bill should not pass in Report "B".

The PRESIDENT: Is the Senate ready for the question?

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

Mr. REDMOND: Mr. President, this Bill as amended, by Amendment "A" I have concluded that it is more palatable to the people of Maine. We can go and specify all sorts of curriculums and specifications and rules, but Senate Amendment "A" leaves the Department of Human Services and the Commissioner of Fisheries and Wildlife. It outlines guidelines for them to follow and the Commissioner may issue permits to those who are

qualified to be the leaders. Now, there is no, I do not believe there is any sense in debating this Bill indefinitely, we have had it in Committee as Senator Pray has very well outlined and explained what the two different Amendments do and I support the Amendment "A."

In the first place, this Bill I think Senator O'Leary would admit that the enact to insure the safety of minors taking canoe trips while attending summer camp and that is the way that we heard the Bill now, it has expanded into all sorts of trips. The requirements go also for hiking and exploring and other overnight trips by camp operators and I think it is very difficult for the Legislature to testify all these requirements and this is the reason why I urge this Body to except the Committee Amendment "A."

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

Mr. PRAY: Mr. President and Members of the Senate: Just to clarify something Report "A" and Report "B" have the same requirements. And if you read Report "A" to follow up on the good Senator from Somerset, Senator Redmond's statement, Report "A" which he has moved, does not mention canoe trips.

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

Mr. TROTZKY: Mr. President and Members of the Senate: I have looked over both of these Amendments very carefully, and I am very concerned basically because I was a Trip Leader. I took out many trips including those on Mooselookmeguntic Lake and many lakes in the State of Maine.

Whenever we had a difficult trip, our camp always use to hire a Maine Guide and the reason we hired a Maine Guide is because this person, most of us were from out of State, but this person had experience in the State of Maine. He probably grew up with a father who took him out in the woods hunting and took him on canoe trips or hunting trips, but it was a long experience that he went through until he got a sense of what was safe to do and what was unsafe to do in the woods and on the waters of this State.

What this Bill is trying to do, I do not think that it is going to accomplish. Because the State for example, to get a Trip Leaders Certificate, you have to take training and first aid in water safety including life saving techniques in one Bill. Canoe safety in the the other Bill. I do not think that you can take a person in one or two days and teach him how to lead a trip safely with 12 children on the waters of the State of Maine. I think that it comes with experience. I feel that in our camps in the State of Maine that there are some very concerned camp directors and it is really up to the people that they hire to lead these trips that are most important. People who have maturity and people that have common sense. What probably is the most, the biggest cause of accidents on canoe trips is interpretation of the weather. In other words, is a storm going to come up. And so should we require a course in meteorology for these people? I think that to a large extent this is over kill. I am very concerned, I have my children at summer camp and probably the thing that I am most concerned about is the children going off on canoe trips on the waters of the State. But I do not think that either one of these amendments is going to solve the problem and, therefore, I would like to move the indefinite postponement of the Bill and all its accompanying papers.

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

Mr. FARLEY: I move the previous questions.

The PRESIDENT: The Senator from York, Senator Farley, has now moved the previous question.

Will all those in favor of moving the previous question at this time will say yes.

Those opposed will say no. The motion pre-

vailed.

The previous question will be moved. Is it now the pleasure of the Senate that this Bill be indefinitely postponed?

The Chair recognizes the Senator from Penobscot, Senator Pray.

Mr. PRAY: In the absence of some of our membership, 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.

The Chair recognizes the Senator from Penobscot, Senator Trotzky.

Mr. TROTZKY: Mr. President, I would just like to point out a few things. Take an American Red Cross.

The PRESIDENT: The Chair would advise the Senator from Penobscot, Senator Trotzky, that he is out of order since the previous question has been moved.

The Chair recognizes the Senator from Penobscot, Senator Pray.

Mr. PRAY: I request permission to withdraw my request for a Roll Call.

The PRESIDENT: The Senator from Penobscot, Senator Pray, now requests consent of the Senate to withdraw his request for a Roll Call. Is it the pleasure of the Senate? It is a vote.

The Chair will order a Division.

Will all those Senators in favor of the Motion of the Senator from Penobscot, Senator Trotzky, that the Senate Indefinitely Postpone L. D. 1989 and all its accompanying papers please rise in their place to be counted.

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

The Chair recognizes the Senator from Penobscot, Senator Pray.

Mr. PRAY: 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.

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

Mr. O'LEARY: Mr. President, is the question of Indefinite Postponement now debatable.

The PRESIDENT: It is not debatable. The pending question before the Senate is the Motion to Indefinitely Postpone L. D. 1989.

A yes vote will be in favor of Indefinite Postponement.

A nay vote will be opposed.

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEA — Chapman, Collins, Cummings, Curtis, Danton, Farley, Greeley, Hewes, Huber, Katz, Lovell, Mangan, Martin, McNally, Merrill, Minkowsky, Pierce, Redmond, Trotzky and Usher.

NAY — Levine, O'Leary, and Pray.

ABSENT — Carpenter, Collins, Conley, Hichens, Jackson, Morrell, Snowe, Speers and Wyman.

20 Sentors having voted in the affirmative, and 3 Senators in the negative, and 9 Senators being absent, the Motion to Indefinitely Postpone does prevail.

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

Mr. CURTIS: Mr. President, having voted on the prevailing side, I ask that the Senate reconsider and ask that the Senate vote against the Motion.

The PRESIDENT: The Senator from Penobscot, Senator Curtis, now moves that the Senate reconsider its action whereby it indefi-

nately postponed L. D. 1989.

The Chair recognizes the Senator from Cumberland, Senator Merrill.

Mr. MERRILL: Mr. President and Members of the Senate: I intent to vote against the motion to reconsider, but I would like to say that I do not think the Senate engaged in a very judicious use of the power to close debate here today. I think that it was Unsenatorial and I would hope that in the future when there is any question as to a division on the question of gagging debate that there will at least be a division from the floor.

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

Mr. PRAY: Mr. President and Members of the Senate: I would hope that the Senator would go along with reconsideration and table this matter. I think that all individuals concerned on a unanimous Ought to Pass even though there was a difference of who should be included, we should be aware that there is a problem there. Now some of us have different occupations and do different things after we leave here during the summer. I happen to manage a set of sporting camps along a river and I happen to see a number of organizations and groups go by my place every summer. I can remember one incident where a Boy Scout Master came into my store and took the order of the Boy Scouts that he had standing outside for Beer because they were to young to buy it. And they were on a canoe trip — if any of your have seen the Penobscot River, particularly, the lower section below an area called — Ripogenas Dam what the Maine Appalachian Trail in its book on canoeing rates as a seven which is a portage and try to walk these individuals two hours later trying to paddle down it, you know that there is a problem out there. If there is anyway that we can salvage this Legislature and take care of the problem for which the Committee has wrestled with for approximately a month and a half, six and seven different versions of a Bill, and as I have already stated unanimously felt that there was a problem and voted to pass it, then I think that we should take that responsibility.

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

Mr. HEWES: Mr. President and Members of the Senate: In response to the Senator my colleague from Cumberland, comments, although I personally voted against gagging debate I thought the Chair ruled properly and I submit that if in the future there is any question as to the ruling by the Chair that a request for a Division can be made by any member of the Body and I think that in this case that the ruling was absolutely correct even though I was on the losing side which is not unusual.

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

Mr. O'LEARY: I note that the pending motion is reconsideration and I can sense what is going to happen here and it bothers me just a little bit. Especially when the good Senator from Penobscot, Senator Trotzky, concerns himself so much with the environment and our most human resources are the lives of our youngsters here. I do not know whether lying at the bottom of a lake or river is going to pollute it or not, but I guess that everything is going to wash well.

But it disturbs me really tremendously. There is a Boy Scout group that had a drowning last year on Saint Clair Lake you did not see anything in the newspapers about this what you did see was that two of the Boy Scouts that were rescued by another received the highest awards for Scouting. I ask you is that justice? Is that right? What happened to the boys parents and such, what happened to that boy's life? I would commend to you that you take in that movie Beyond and Back. I have had that experience and I related that experience to a number of you three or four years ago, but I will suggest to you here in this Senate that

when you go down in 140 feet of water there is no coming back.

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

Mr. DANTON: Mr. President, I move that this item be Tabled for One legislative Day.

The PRESIDENT: The Senator from York, Senator Danton, now moves that this item be tabled for One Legislative Day pending the Motion of the Senator from Penobscot, Senator Curtis, that the Senate reconsider its action whereby it indefinitely postponed this Bill.

The Chair recognizes the Senator from Penobscot, Senator Trotzky.

Mr. TROTZKY: I would request a Division please.

The PRESIDENT: A Division has been requested.

Will all those Senators in Favor of the Tabling Motion please rise in their places to be counted.

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

13 Senators having voted in the affirmative and 9 Senators in the negative, the Motion to Table does prevail.

The President laid before the Senate: Bill, "An Act to Encourage Early Resolution of Discrimination Complaints and to Clarify the Subpoena Power of the Maine Human Rights Commission." (S. P. 703) (L. D. 2150)

Tabled — Earlier in the Day by Senator Wyman of Washington.

Pending — Adoption of Senate Amendment "A" (S-478)

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

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

Mr. MERRILL: Mr. President, having voted on the prevailing side I would like to move reconsideration of L. D. 1946.

The PRESIDENT: The Senator from Cumberland, Senator Merrill now moves that the Senate reconsider its action L. D. 1946. Is it the pleasure of the Senate?

The Chair recognizes the Senator from Cumberland, Senator Merrill.

Mr. MERRILL: Mr. President and Members of the Senate: I intend to after discussing this to ask permission to withdraw my motion.

I do want to point out to the Senate, however, that this is an item that although I support this legislation which will account for considerable costs to the State of Maine and I think that there is a fairly strong tradition in this Body for tabling items that are going on the appropriations table, items that involve future costs as a matter of fact we have nine such items on the calendar right now. On the appropriations table, and I before this left for our consideration finally, I did want to at least as a Member of the Appropriations Committee call it to the attention of the Senate that this is receiving some extraordinary treatment. I will refrain from withdrawing my Motion.

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

Mr. KATZ: Mr. President, perhaps it is just as well that the gentlemen called attention to this Bill. It is very, very late but I want to take two minutes of your time and take it out of my time assessed to me tomorrow.

This Bill has the potential for future costs but there are no costs for this biennium it is a local decision making thing and the costs in the future and the costs are not very big. I just noticed that there is not any press here and it is just among our family, but I just could not resist expressing a feeling of personal satisfaction my first indoctrination into politics as a member of the Augusta City Council, back in 9 or sometime or other I got mixed up in the parochial bus issue. And it was as hot an issue as any politician ever had enough stupidity to get mixed up in. And I just have a sense of personal satisfaction that in these years that we have moved this far down the road, that this Legis-

lature can enact a Bill which gives sweeping new support to kids attending private and parochial schools without and hassle in an orderly manner which says that at long last we have accepted the fact that a dual system of education is not bad, but good. And irrespective of when the bus drives up to the school the kid gets off at St. Mary's or Buker or whether the textbook he uses is St. Mary's or St. Augustine or Cony High School they are our kids and within the constraints of the Constitution this means subject to local decision making we are going to support them, and I for one feel awfully, awfully good about the growing maturity of the State, and this Country.

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

Mr. MERRILL: I request leave of the Senate to withdraw my Motion to Reconsider.

The PRESIDENT: The Senator from Cumberland, Senator Merrill, now ask leave of the Senate to withdraw his motion that the Senate reconsider its action whereby this Bill was passed to be enacted. It is the pleasure of the Senate to grant this Leave? It is a vote.

The President laid before the Senate.

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

Tabled — Earlier in the day by Senator Pray of Penobscot

Pending — Acceptance of the Report 911.

The Chair recognizes the Senator from Penobscot, Senator Pray.

Mr. PRAY: I offer Senate Amendment "A" to Committee Amendment "A" and move its adoption under filing number (S-491).

The PRESIDENT: The Senator would defer his motion for a moment until we have given the bill its first reading.

The Committee Report is that the same Ought to Pass as Amended by Committee Amendment "A". Which Report was accepted.

The Bill Read Once Committee Amendment "A" Read.

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

Senate Amendment "A" (S-491) Read.

The Chair recognizes the Senator from Penobscot, Senator Curtis.

Mr. CURTIS: Mr. President, I will look at the clock and appreciate that I will keep my remarks very brief.

The Judiciary Committee spent a great deal of time reviewing this piece of Legislation and came up with a proposal which is found in its entirety in the Committee Amendment which is found under (H-1048). The proposal that is before us right now would change the Committee's recommendations rather substantially and I would suggest that what the Committee did was to consider smuggling of a thousand pounds or more of marijuana and that is probably exactly what trafficking in the thousand pounds is going to do it is a substantial crime and ought to be punished by a greater penalty and that is exactly what we have provided, the Amendment that you have before would reduce that amount from a 1,000 lbs. to 50 lbs. and I would suggest that this is strictly an arbitrary decision it was by the Committee and we gave it a great deal of thought and hope that you will agree with us.

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

Mr. PRAY: Mr. President and Members of the Senate: The Bill that we have before us at this time is one of two Bills which was submitted in this Legislature. The other Bill was cosponsored by myself and my seatmate, the Senator from Kennebec, Senator Pierce, dealing basically with the increase smuggling along the coast. My concern at reading the Commit-

tee Amendment as it now comes out and the arbitrary figure of a 1,000 lbs. and doing a little figuring with some information that I got from the experts on the Senate staff that know a little bit about these things asking questions about nickle bags and what the cost is and what not. I was quick to find out that a nickle bag is a quarter of an ounce. This being true and in fact it was also informed that it sells for \$10.00 a bag. That at a 1,000 lbs, we are talking about 64,000 nickle bags which would bring in a gross income of \$640,000.00. Now if the Senator from Penobscot, Senator Curtis, says this is a substantial figure that we should settle at but that is a little bit over a half million dollars and maybe we ought to tax it and we would have more of a surplus to give back. The 50 lbs, which I offer in my amendment equals 3,200 nickle bags which would bring in an income of \$32,000.00. Which is still pretty good and above the average income in this State. But I think that some place along the line that we have got to accept an arbitrary figure and I picked 50 lbs. because of the testimony that was given that day at the hearing, basically by the Maine State Police and Agents of the DSI that basically a bail of marijuana as it comes in weights somewhere between 55 to 100 pounds.

So intent would be to stay underneath the bail at some arbitrary figure, 50 lbs. and those individuals which would be caught with a bail of marijuana or more would pay the consequences. Thank you

The PRESIDENT: Is it the pleasure of the Senate to adopt Senate Amendment "A"? The Chair will order a Division.

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

The Chair recognizes the Senator from Penobscot, Senator Pray.

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 Penobscot, Senator Curtis.

Mr. CURTIS: Mr. President, what we are talking about here is a penalty that is substantial. The question is whether or not a person should be found to have been convicted of this particular crime. The Committee recommends that a 1,000 lbs. is an appropriate limit when we are talking about ten years in jail, and a substantial penalty, \$10,000.

There is some evidence that was presented to the Committee that the question of 50 lbs. for example, would be a situation that possibly some people who grow marijuana for their own use and I do not have any personal knowledge of this, but would be able to grow 50 lbs, and we would not want to put them in a position that they would have a presumption of trafficking with a Class "B" Crime that they would face if they were convicted.

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

Mr. MANGAN: Just shortly. I think that the Committee is strongly in favor of raising the penalties for drug use in the State of Maine. We have become very hard line on the matter, but I think that the 1,000 lbs. limit was basically used because of the ship smuggling that has come into the State. I do not think that anybody is seriously opposed to increasing penalties, the only problem is that there are several farms in isolated areas in Piscataquis County I understand and some of the other areas that they grow quite a bit of it and I can see the Sheriff coming in and cutting it all down and for a small local entrepreneur and come out with 55 lbs. or 60 lbs. and send him away to the big house for ten years. That may be a little bit

stiff.

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

Mr. KATZ: Mr. President, I get an uneasy hearing about people getting sent away for ten years for having an undetermined amount of pot. This is really such a serious thing and I notice the absence of the Chairman of the Judiciary. I would feel much more comfortable if we have the input or more Members on such a serious Bill. Perhaps somebody might table it until tomorrow.

On Motion of Mr. Huber of Cumberland, Tabled for One Legislative Day, pending the Adoption of Senate Amendment "A" to Committee Amendment "A"

On Motion of Mr. Huber of Cumberland, Adjourned until 10:00 in the morning, Tuesday, February 28, 1978.