

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

***One Hundred and Eighth
Legislature***

OF THE

STATE OF MAINE

Volume I

January 5, 1977 to May 25, 1977

KJ PRINTING
AUGUSTA, MAINE

SENATE

Wednesday, April 27, 1977

Senate called to Order by the President.

Prayer by Father Jules Guy, Augusta Mental Health Institute in Augusta.

Father GUY: Let us bow our heads and pray. Heavenly Father, all position of authority is a position of trust. It imposes the duty of greater kindness and sensitivity, of greater care, of greater giving of oneself. Good authority respects the feelings and needs and talents of those under authority. It recognizes the dignity of each citizen and strives to enact those laws which will foster the common good of all.

Lord, as the leaders of our great State of Maine ponder the various decisions to be made, may You be their inspiration and their light; Thus the bills passed and the laws enacted will truly be the result of conscientious deliberation with the needs of all the citizens of Maine in mind.

In the serious decisions that still remain to be made, may God be your source of inspiration and your guide. Amen.

Reading of the Journal of yesterday.

(Off Record Remarks)

The PRESIDENT: The Chair at this time would ask the Sergeant-at-Arms to escort the Senator from Sagadahoc, Senator Chapman, to the rostrum to act as President pro tem.

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

(Off Record Remarks)**House Papers**

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

Study Report — Agriculture

The Committee on Agriculture to which was referred the study relative to A Uniform Wood Measurement Standard for Maine, pursuant to H. P. 1710 of the 107th Legislature, have had the same under consideration and ask leave to submit its findings and to report that the accompanying Bill, An Act to Amend the Law Establishing Uniform Standards for the Measurement of Wood, (H. P. 1480) (L. D. 1689) be referred to this Committee for public hearing and printed pursuant to Joint Rule 17.

Comes from the House, the Report Read and Accepted and the Bill referred to the Committee on Agriculture.

Which Report was Read and Accepted, in concurrence, and the Bill referred to the Committee on Agriculture, in concurrence.

Communications**OFFICE OF THE GOVERNOR**

April 26, 1977

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

I am this date returning without my signature and approval S. P. 154, L. D. 394, An Act to Remove Restrictions on the Salary of County Commissioners Who Hire Full-time County Administrators.

Currently, as long as County Commissioners carry out their administrative responsibilities, they receive their full compensation. However, even if they hire an administrator to do their work, county commissioners still receive \$25 for each meeting, as well as total reimbursement for travel expenses, even though they have been relieved of their most time consuming responsibility.

I feel that the current state of the law strikes

an appropriate balance between the need to compensate individuals who are serving in time consuming roles as public officials and the need to avoid any over-payment by Maine taxpayers for the services being provided to them. The services provided by an appointed full-time county administrator are basically the same as those formerly furnished by county commissioners, in that he or she becomes responsible for the administration of all departments and offices over which the commissioners have control. I do not feel there is justification in such a situation for the use of taxpayer funds for the compensation of both the commissioners and the administrator.

I am advised that the removal of the prohibition against county commissioners receiving their salary when they hire a full-time administrator will result in those commissioners' salaries being available to them in every county where an administrator has been hired. This is one more example of the insulation of county government from taxpayer scrutiny. Amendments were offered to this legislation which would have allowed the legislative delegation of a particular county to oversee the hiring of a full-time administrator and then adjust the commissioners' salaries up from the \$25 per meeting level in situations where some salary for these commissioners is still warranted. However, such legislative oversight is not present in this particular bill as the amendments were not accepted, and we are faced with the situation whereby the only safeguard for taxpayers is the ability of a county's legislative delegation to revise the county budget and lower commissioners' salaries if the appointed administrator assumes most of their duties. This is politically an extremely difficult decision for these delegations to make, and I feel that past practice has shown that the legislative delegations are extremely reluctant to remove or revise downward the compensation which county officials have been accustomed to receiving.

The frustration of taxpayers faced with a form of government that is so insulated that it does not have to practice fiscal responsibility cannot be ignored. Having been presented with no compelling arguments that would justify my signing this bill into law, I cannot in good conscience do so. I must be aware of the interests of Maine taxpayers and I must be responsive to their views.

Very truly yours,

James B. Longley
Governor

Which was Read and Ordered Placed on File.

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

On Motion of Mr. Conley of Cumberland, tabled until later in today's Session, Pending consideration.

Orders

On Motion of Mrs. Cummings of Penobscot, Ordered, the House concurring, that Bill, "An Act Changing the Name of Webster Water District to Sabattus Water District and Providing Compensation for the Trustees," H. P. 883, L. D. 1054, be recalled from the Engrossing Department to the Senate.

Which was read and Passed.

Sent down for concurrence.

Committee Reports**House****Change of Reference**

The Committee on Judiciary on, Bill, "An Act Reinstating Public Intoxication as a Crime." (H. P. 1201) (L. D. 1430)

Reported that the same be referred to the

Committee on Health and Institutional Services.

Comes from the House, the Report Read and Accepted, and the Bill Recommended to the Committee on Judiciary.

Which Report was read.

On Motion of Mr. Collins of Knox, Recommitted to the Committee on Judiciary, in concurrence.

The Committee on Judiciary on, Bill, "An Act to Reduce Traffic Accidents and Fatalities by Providing for the Establishment of Education and Treatment Programs for Persons Convicted of Operating under the Influence of Alcohol." (H. P. 1122) (L. D. 1340)

Reported that the same be referred to the Committee on Health and Institutional Services.

Comes from the House, the Report Read and Accepted, and the Bill Referred to the Committee on Health and Institutional Services.

Which Report was Read.

On Motion of Mrs. Snowe of Androscoggin, Referred to the Committee on Human Resources, in non-concurrence.

Sent down for concurrence.

Leave to Withdraw

The Committee on Appropriations and Financial Affairs on,

Bill, "An Act to Allocate \$50,000 for the Support of Northeast COMBAT, Inc. in Order that it May Continue its Comprehensive Program of Service to Maine Consumers, including Individual Assistance, Education and Public Information." (H. P. 513) (L. D. 848)

Reported that the same be granted Leave to Withdraw.

Comes from the House the Report Read and Accepted.

The Committee on State Government on, RESOLVE, to Authorize the Conveyance of Land from the State of Maine to Wilfred A. Cyr. (H. P. 727) (L. D. 845)

Reported that the same be granted Leave to Withdraw.

Comes from the House the Report Read and Accepted.

Which Reports were Read and Accepted in concurrence.

Ought to Pass

The Committee on Business Legislation on, Bill, "An Act Relating to a Consumer's Notice of Right to Cure under the Credit Code." (H. P. 312) (L. D. 403)

Reported that the same Ought to Pass.

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

The Committee on Business Legislation on, Bill, "An Act to Change the Name of the Maine Boxing Commission to the Maine Athletic Commission." (H. P. 682) (L. D. 864)

Reported that the same Ought to Pass.

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

The Committee on Business Legislation on, Bill, "An Act Charging the Boiler Owner or Contractors for the Fees for Additional Inspections Required by the Code." (H. P. 402) (L. D. 512)

Reported that the same Ought to Pass.

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

The Committee on Fisheries and Wildlife on, Bill, "An Act to Prohibit Hunting and Fishing on Property Belonging to the Unity Utilities District." (H. P. 817) (L. D. 990)

Reported that the same Ought to Pass.

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

The Committee on Judiciary on, Bill, "An Act to Revise the Law Pertaining to Guardian Release of a Ward's Interest in Real Estate." (H. P. 820) (L. D. 993)

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

The Committee on Local and County Government on,

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

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

The Committee on Local and County Government on,

Bill, "An Act to Redescribed the Boundary Line between the City of Brewer and the Towns of Orrington and Holden." (H. P. 770) (L. D. 977)

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

The Committee on Taxation on,
Bill, "An Act to Expedite the Collection of Sales Tax on the Rental of Automobiles." (H. P. 600) (L. D. 725)

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

The Committee on Local and County Government on,

RESOLVE, for Laying of the County Taxes and Authorizing Expenditures of Hancock County for the Year 1977. (Emergency) (H. P. 1463) (L. D. 1688)

Reported (Pursuant to House Paper 138) that the same Ought to Pass.

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

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

(Off Record Remarks)

Ought to Pass — As Amended

The Committee on Business Legislation on,
Bill, "An Act to Clarify the Banking Code." (H. P. 97) (L. D. 121)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-186).

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

The Committee on Business Legislation on,
Bill, "An Act Relating to Motor Vehicle Sales Financing under the Maine Consumer Credit Code." (H. P. 405) (L. D. 515)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-188).

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

The Committee on Judiciary on,
Bill, "An Act Concerning the Criminal Penalty for the Crime of Deceptive Business Practices." (H. P. 1038) (L. D. 1268)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-193).

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

The Committee on Transportation on,
Bill, "An Act to Provide for Specially Designed Registration Plates for the Maine National Guard." (H. P. 504) (L. D. 623)

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-151).

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

The Committee on Judiciary on,

Bill, "An Act Authorizing Use of Subpoena Powers to Enforce Support Obligations." (H. P. 702) (L. D. 883)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-192).

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 Amend the Savings and Loan Association Law." (H. P. 255) (L. D. 324)

Reported that the same Ought to Pass in New Draft under same title. (H. P. 1458) (L. D. 1686)

Comes from the House, the Bill, in New Draft, Passed to be Engrossed.

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

The Committee on Business Legislation on,
Bill, "An Act Relating to Consumer Education by the Bureau of Consumer Protection." (H. P. 425) (L. D. 520)

Reported that the same Ought to Pass in New Draft under new title: Bill, "An Act to Provide Fees for Consumer Education Materials." (H. P. 1457) (L. D. 1685)

Comes from the House, the Bill, in New Draft, Passed to be Engrossed.

Which Report was read.
The PRESIDENT Pro Tem: The Chair recognizes the Senator from Kennebec, Senator Speers.

Mr. SPEERS: Mr. President, I would ask a question through the Chair of anyone of the Business Legislation Committee as to the allocation of any future fees which may be obtained through the sale of any education material to non-resident groups in the State of Maine?

I understand from the Bill and the statement of fact with the Bill that any fees already collected will be allocated to the Bureau of Consumer Protection. I am curious as to the allocation of any future fees which would be collected, and the question is whether or not these fees would be dedicated revenue, dedicated to the Bureau of Consumer Protection, or whether they would come into the general fund of the State.

The PRESIDENT Pro Tem: The Senator from Kennebec, Senator Speers, has posed a question through the Chair to anyone who would care to answer.

On Motion of Mr. Farley of York, tabled for one legislative day.

Pending acceptance of the Report.

(Off Record Remarks)

Divided Report

The Majority of the Committee on Election Laws on,

Bill, "An Act Relating to Political Fundraising by State Employees." (H. P. 453) (L. D. 558)

Reported that the same Ought to Pass.

Signed:

Senators:

KATZ of Kennebec
DANTON of York

Representatives:

TRUMAN of Biddeford
BOUDREAU of Waterville
BOUDREAU of Portland
McMAHON of Kennebec
MITCHELL of Vassalboro
TALBOT of Portland

RAYMOND of Lewiston
BIRT of E. Millinocket
DURGIN of Kittery
BUSTIN of Augusta

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

Signed:

Senator:

TROTZKY of Penobscot

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

Which Reports were read.

The PRESIDENT Pro Tem; The Chair recognizes the Senator from Penobscot, Senator Trotzky.

Mr. TROTZKY: Mr. President, I move the Senate accept the Minority Ought Not to Pass Report of the Committee, and I would like to speak to my motion.

The PRESIDENT Pro Tem: The Senator from Penobscot, Senator Trotzky moves that the Senate accept the Minority Ought Not to Pass Report of the Committee. The Chair will recognize the same Senator.

Mr. TROTZKY: Thank you, Mr. President. Mr. President and Members of the Senate, this Bill will allow public employees, State employees, to solicit contributions for political parties and organize political fund raising.

I believe firmly that public employment is a privilege; it is voluntary employment, and it is employment for a business, basically the State, which is a very stable business, and there are no risks in that employment.

I feel right now that under the present law, that public employees are able to vote, they are able to make contributions to candidates if they want. However, this Bill will allow them to organize, and organize major efforts against those candidates who have not given the public employee union all that they want.

I hope the Senate will adopt the Ought Not to Pass Report of the Committee.

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

Mr. DANTON: Mr. President and Members of the Senate, I think all of us very quickly realize that groups organize whether we like it or not. What this Bill really does, it just allows them to raise funds. They cannot do this during their working hours, and they cannot do this on State property. If you read the Bill, it will spell it out very clearly.

Therefore, I request a Division.

The PRESIDENT Pro Tem: A Division has been requested.

The Chair recognizes the Senator from Knox, Senator Collins.

Mr. COLLINS: Mr. President, in my judgment this is one of the most dangerous Bills for the future of State government.

A year ago the Legislature repealed the Baby Hatch Act. We have had the Baby Hatch Act in place for more than 20 years. I think you will remember that the Hatch Act started out as a national policy prohibiting classified employees from engaging in political activity. The Congress, in 1974-75, passed some measures which relaxed and re-interpreted the view of the Federal Government with regard to political activity on the part of the State employee. This enactment by the Congress came about because there was so much Federal money involved with State money that many questions were rising as to whether State employees could even participate in such local activity as school boards and non-partisan city councils and that sort of thing.

The Hatch Act was never intended to extend to that degree, and in the State of Maine I think it has always been clear that State employees in the classified service could take part in non-partisan activity, — run for office and that sort

of thing. When we repealed the Baby Hatch Act, we did so without debate. In fact, I did not know it happened until later on. When I woke up to what had happened, I discovered that there was another Bill before us that would change the language concerning political fund raising, and I addressed the Senate, and the Senate unanimously accepted my position that this matter should be re-examined. It was re-examined, and as a result the section on political fund raising was rewritten so that, although State classified employees could participate in political activity as much as they wish, they were still prohibited from getting involved in political fund raising.

I think this was the right decision. It received the unanimous support of the Senate. It went over to the other Body, which at first disagreed, and then after strenuous Committee of Conference agreed substantially with the Senate.

I recognize that as the Senator from York, Senator Danton, has said, that this activity takes place, if allowed, on the employee's own time and off State premises. The fact is, that we have something in most every organization known as 'peer pressure'. In the classified service of the State of Maine, it is no different than in any other organization. There is such a thing as 'peer pressure'. And that 'peer pressure' can operate in a very insidious way, even though the actual performance of the acts in question occurs after hours and off the premises. It may be something as simple as buying a raffle ticket to support the candidacy of Mr. So-and-so, who is head of the Department of So-and-so.

We will remember in our recent political history in the State of Maine where department heads, some of them elected, some of them appointed, have run for major office at the same time that they have been holding positions in State Government. I am sure I do not have to tell you the names and the offices, because they are recent in our memory.

While those people are running for higher office, or different office, and needing money for their candidacy, the peer pressure goes down through the echelons of government. And if that particular candidate is espousing higher pay for all State employees, broader benefits, whatever, what do you think is the extent of the pressure of those classified employees? It is true that it is after hours. It is true that it is outside this building, but the pressure is there, and if we want to keep a classified employee situation in this State, free from that kind of pressure, we should defeat this measure. If we support this measure today, we will be doing a complete turn-around from the position that we unanimously accepted only one year ago.

I realize that this Bill has been carefully lobbied. I was lobbied on it this morning by, of course, the State Employees Association. The State Employees Association, as soon as the Baby Hatch Act was listed, formed its political action committee, set out to endorse candidates, spent money for candidates. What happened? The money did not seem to flow very quickly because they were looking for that money from separate contributions.

Regardless of party, it would be just as bad if the union was controlled by the Republican Party as by the Democratic Party. I hope that, regardless of party, you will think very carefully about the insidious effect of this Bill on the classified service and peer pressure on State employees to contribute to that candidate who will do things for State employees that may not necessarily be for the best interest of the State of Maine.

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

Mr. KATZ: Mr. President, the Senate will know that I signed the Majority Ought to Pass Report and I think the Senator from Knox,

Senator Collins, has done a very adequate job in describing what I will call one of the hazards of the democratic process.

I guess adherence to democratic principles involve great risk. Because of my work in education, I know of the enormous resentment in the local school board meetings. The teachers go and by their overwhelming presence at the meeting they subvert the school budget in ways the average citizen might not care to go. It is a risk of the democratic process.

I wish that State employees would not indulge in partisan political activity, and I have to admit that one of the most angry moments of my political life came last year when Dave Carnevale, then head of MSEA, terribly frustrated by the burdens of his office and his responsibilities in the Hay debate, said that he would urge all State employees to leave the Republican Party and enroll in the Democratic Party, and I felt that was outrageous, and I felt that it indicated one of the dangers of public employees becoming involved in partisan politics. And it is a danger.

But the decision facing the Senate today is one of those democratic trade-offs that we become used to making. In our zealotness to protect people against themselves, sometimes we interfere with the democratic process. My question to you today is to what extent should we take away basic rights from public employees because they are public employees. There is a trade-off.

I think this Bill can be decided, based on that single factor, whether your concerns are so deep that you knowingly and willfully would like to restrict a group of Maine citizens from exercising the full rights of citizenship enjoyed by others, because they are indeed State employees.

I came down on the side of the democratic process, even though I share many of the concerns of the Senator from Knox.

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

Mr. CONLEY: Mr. President and Members of the Senate, I listened with great intensity to the good Senator from Knox, Senator Collins, as he made reference to 'peer group'. Well, I ask you if it is any more different than having a peer group as bankers, insurance men, or any other group in management that makes contributions to those who are elected and serve. So long as we have to run for public office, so long as we have to raise funds to finance campaigns, we are always going to be subject to peer groups, irrespective of what location they come from.

I think that public employees are stifled in many ways from participating in the electoral process. When my good friend from Kennebec, the good Senator Katz, makes reference to the MSEA and its enrollment, there is no question in my mind as to what party they belong to, and they are welcome to the Democratic Party. But I suggest that what we say here on the floor of the Senate is neither going to encourage them to stay in the Republican Party or jump into the Democratic Party. Because Mr. Carnevale, as Senator Katz stated, was very upset at some of the action that was being taken a year ago.

I think we should remove the restrictions. I think we should allow people to take normal process in government, whether it is making contributions to political candidates or whatever, because I see no distinction whatsoever, whether it is the Bank of America that is financing campaigns or whether it is State employees who are receiving a very paltry sum for their work.

The PRESIDENT Pro Tem: Is the Senate ready for the question? The pending Motion before the Senate is to accept the Minority Ought Not to Pass Report.

The Chair recognizes the Senator from Cumberland, Senator Conley.

Mr. CONLEY: When the vote is taken, I request it be taken by the yeas and nays.

The PRESIDENT Pro Tem: 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 the Members of the Senate. Will all those Senator's desirous of a Roll Call, please rise in their places to be counted. One-fifth having shown their desire to have a Roll Call, a Roll Call will be held.

The pending question before the Senate is the Motion by the Senator from Penobscot, Senator Trotzky, that the Senate accept the Minority Ought Not to Pass Report of the Committee. A Yes vote will be to accept the report. A No vote will be to decline.

The Secretary will call the roll.

YEAS — Collins, D.; Collins, S.; Cummings, Greeley, Hewes, Hichens, Huber, Jackson, Lovell, McNally, Morrell, Redmond, Snowe, Trotzky, Wyman.

NAYS — Carpenter, Chapman, Conley, Curtis, Danton, Farley, Katz, Levine, Mangan, Martin, Minkowsky, O'Leary, Pray, Speers, Usher.

ABSENT — Merrill, Pierce.

15 Senators having voted in the affirmative and 15 Senators voting in the negative, with 2 Senators being absent, the Motion to accept the Minority Report of the Committee does not prevail.

On Motion by Mr. Collins of Knox, tabled for two legislative days,

Pending acceptance of the Majority Report.

(Off Record Remarks)

Divided Report

The Majority of the Committee on Liquor Control on,

Bill, "An Act Relating to State Liquor Identification Cards." (H. P. 769) (L. D. 960)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-184).

Signed:

Senators:

LOVELL of York
LEVINE of Kennebec
DANTON of York

Representatives:

RAYMOND of Lewiston
MAXWELL of Jay
NADEAU of Sanford
CONNERS of Franklin
MARSHALL of Millinocket
IMMONEN of West Paris
TWITCHELL of Norway
GRAY of Rockland

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

Signed:

Representatives:

LIZOTTE of Biddeford
JACQUES of Lewiston

Comes from the House, the Majority Report Read and Accepted, and the Bill Passed to be Engrossed as amended by Committee Amendment "A" as amended by House Amendment "A" thereto, (H-197).

Which Reports were read.

On Motion by Mr. Lovell of York, the Senate voted to accept the Majority Ought to Pass as amended Report of the Committee.

The Bill read Once. Committee Amendment "A" Read. House Amendment "A" to Committee Amendment "A" Read and Adopted in concurrence. Committee Amendment "A" as amended by House Amendment "A" thereto adopted in concurrence. The Bill, as amended, Tomorrow Assigned for Second Reading.

Divided Report

The Majority of the Committee on Natural Resources on,

Bill, "An Act to Promote Consistency Between Certain Regulatory and Proprietary Decisions of the State." (H. P. 338) (L. D. 429)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-162).

Signed:

Senators:

REDMOND of Somerset
O'LEARY of Oxford

Representatives:

HALL of Sangerville
HUNTER of Benton
HUBER of Falmouth
BLODGETT of Waldoboro
BENOIT of South Portland

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

Signed:

Senator:

TROTZKY of Penobscot

Representatives:

WILFONG of Stow
BROWN of Bethel
DEXTER of Kingfield
GREEN of Auburn

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

Which Reports were read.

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

Mr. REDMOND: Mr. President, I move we accept the Majority Report and I wish to speak to my motion.

The PRESIDENT Pro Tem: The Senator from Somerset, Senator Redmond, moves that the Senate accept the Majority Ought to Pass, as amended, Report. The Chair recognizes the same Senator.

Mr. REDMOND: Mr. President and Members of the Senate, last Session the Legislature authorized the Director of Public Lands to grant leases of subtitle to applicants. A recent opinion has been issued that would require the director to make a determination that the proposed use is the highest and best use for that coastal area. There is currently no adopted coastal land use plan, and the Director feels it would be impossible for him to make such a determination.

This Bill will allow the Director to make leases on the basis of environmental or regulatory permits at other State agencies until July 1, 1979, when it is anticipated that a Maine Coastal Plan will be contemplated.

The PRESIDENT Pro Tem: The Chair recognizes the Senator from Penobscot, Senator Trozky.

Mr. TROTZKY: Mr. President and Members of the Senate, I oppose the Motion to accept the Majority Ought to Pass Report, and I would like to describe why.

First of all, this Bill, when it came into Committee, looked like a very non-controversial Bill, just stated that the Director of the Bureau of Public Lands could lease the submerged lands anywhere in the State, based solely on environmental or regulatory permits given by the DEP.

Now last Session when we passed the submerged lands law, the law stated that in leasing the submerged lands, the submerged lands belonged to the people of the State of Maine. The Bureau of Public Lands must make an independent determination as to the best use of those lands, of those lands the best use to the people of the State. Now this Bill specifically is geared to the Pittston Oil Company proposal at Eastport. Pittston must now apply for, I believe

it is 40 acres of submerged lands to put their marine terminal on.

Now the arguments given for the passage of this Bill was that without the Bill, under present law, the Bureau of Public Lands has to hold long and lengthy hearings. Now we have an opinion from the Attorney General of the State of Maine and I would like to read this quickly: I quote now — "In sum, the Bureau of Public Lands is directed to manage those lands entrusted to it in accordance with the principles of sound planning, prudent business judgment and multiple land use. It appeared then before the BPL agrees in principle to lease to Pittston and these standards must be applied with due diligence to the circumstances of the Pittston proposal."

This is the important part, "it is not our view that such a required effort entails an inquiry more extensive than is reasonable and feasible, given the limited resources available to the BPL and the Department of Conservation. However, at a minimum, there should be a good-faith effort to ascertain from available sources the present and potential alternate uses of the State's lands involved."

Now according to what I read here, if there are no other alternative uses, and I cannot see right now any alternative uses for the land off Shackford's Head, so if there are no alternative uses, then maybe it will require one day of hearing to determine if there are any other uses, then the Bureau of Public Land's Director may rule that it is in the best and highest use to the State to lease those lands to Pittston Corporation.

Now another point I think is very important, the Pittston proposal has great implications for the State of Maine. It is not a clear cut proposal. If there is a massive oil spill in the Head Harbor Passage, it could endanger the fisheries of probably all of Washington County. Now the Pittston proposal involves super-tankers going back and forth through Head Harbor Passage. The DEP is to determine whether this is safe or not. Two weeks ago I decided to go through Head Harbor Passage on a sardine boat to try to determine what this passage looks like, because we have to rule on things that we have no idea about. And in going through Head Harbor Passage, I found the Passage was straight, it was deep, it was protected, it was sheltered from the open ocean. However, there were certain problems that I could see there. There were very strong currents and a lot of turbulence and outside, right off of Shackford's Head, where the Bureau of Public Lands will be asked to lease lands to Pittston, you have very strong currents. We stopped that sardine boat, and the sardine boat just drifted right along with the current.

By the way they were approved, the Site Location Act, they approved the site for Pittston, but there were 62 conditions put on that approval. One of the conditions is that that marine terminal, which is to be built at Shackford's Head, has to be built so that the current is not more than one knot so they can contain any oil spills.

Now because this Pittston proposal has vast implications for the State of Maine, I feel just to eliminate this one simple hearing to allow the BPL to make an independent decision whether it is the best use for the State, is not going to be the deciding factor on the Pittston Corporation. There are other factors which are more important, example, the Head Harbor Passage is in Canadian waters. I spoke with Prime Minister Hatfield a few weeks ago and he said the Canadians are opposed to it. They have to overcome that obstacle, which is a large one.

Secondly, they have 62 conditions on their site location approval. And those 62 conditions involve sizes of tankers and so on. So I feel this really should be known as the Pittston Relief Act of 1977. It is not going to break the company's back. The company is serious and it is

possible to put a safe oil port at Eastport, one more day of hearings is not going to hurt a corporation the size of Pittston.

I hope you would not vote to accept the Ought to Pass Report of the Committee.

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

Mr. O'LEARY: Mr. President, to keep mentioning the word Pittston is to drag a red herring across the whole Bill and that is not what this Bill does. I think that the opponents look at it as the good Senator from Penobscot, Senator Trozky, mentioned as a relief measure for the Pittston Corporation, whichever it may be called.

However, I think some background would be helpful to understand this Bill. In order for people of this State to apply to DEP or LURC or even a local planning board for any development permit, the applicant must have a right to use the land involved in the development. This is almost always private property. However, in the case of the wetlands permits, some developments extend below low water marks. The State owns this submerged land and the land below the watermark. Therefore, in order to grant some right to private citizens, and this is just what this is all about, you are talking about private citizens and their right to put out wharves and such, too, in this Bill.

Therefore, in order to grant some right to private citizens to use this public domain, the Legislature passed the Submerged Land Laws in 1975. The law granted this responsibility to the proprietary arm of the State, the Bureau of Public Lands.

In addition, the State Legislature directed that in the case of large scale commercial use of this public domain, the user should pay a reasonable rent to the State. Again, the Bureau of Public Lands as a proprietary arm of the State was the logical agency to set the rental fees. The Submerged Land Laws was and is a good State program. It preserves the submerged lands for future generations by leasing it, rather than selling it. It can raise revenue for the State in a reasonable way.

It was never intended to be another layer of environmental review of projects. Again I would emphasize that — it was never intended to be another layer of environmental review of projects. The Bureau of Public Lands operated under the law as it was intended to be administered. It has issued almost 500 leases, that is at the present time, and easements. The amount of money involved so far is very small, but it should grow over the years, because the amount of rental is cumulative as ore land areas are leased.

Last year the State of Washington received over a million dollars rent for commercial use of their submerged lands. Although the submerged lands are public domain, they differ greatly from a public lot or a State park. First, the State has a monopoly on submerged lands. It owns all lands below low tide. If a project requires access to the ocean, and the Bureau of Public Lands indicates that submerged lands cannot be used for this activity, then the activity cannot be carried on in the State of Maine.

Second, the management of our submerged lands directly impacts a potential use of private property. Most commercial and industrial waterfront property in Maine derives its value from the opportunity to build piers and otherwise using the adjoining submerged land.

At the present time by virtue of an opinion of the Attorney General, this law has been ballooned into a major land use control law. That opinion was not solicited by the Bureau of Public Lands. I point out again, it was not solicited. It was delivered to them when the Pittston Company asked for a lease for their project in Eastport. So Pittston is involved in this

to an extent, but only to an extent. Every development on the coast is involved if it goes below the low water mark, and I am talking about fishing piers or any other kind of piers that anyone wants to put out there.

According to this Attorney General's opinion, by virtue of some fluke in statutory wording, the law now says that the Bureau of Public Lands is to decide whether and what kind of coastal development is a good idea. Not only that, it is to decide such matters with extremely limited staff, and with practically no guide lines set forth for administration.

If anyone ever proposed to create such a power by a new Bill, I believe it would be laughed at. Unfortunately, because of the Attorney General's opinion, that is what the law now says. It was the Bureau of Public Lands which brought this situation to our attention.

Frankly this State already has quite a bit of environmental review of commercial activity. We have the Site Location Law, the Wetlands Control Act, the Shoreland Zoning Law, the Air and Water Pollution Laws and more. Add to that all the local ordinances and Federal laws and regulations, including Environmental Protection Agency, the Army Corps of Engineers, — I have even heard the United States Coast Guard has extended its governmental review powers by including most all of the streams and rivers in Maine as part of the navigable waters of the United States, requiring their own environmental permits. I do not believe we want to add yet another layer of governmental review with all the delays, duplications and expenses involved. Not only are we confronted with another layer of governmental review, but this one is virtually unprecedented in scope and almost entirely devoid of guidelines.

Some people who oppose this Bill want a coastal master plan. Well, let us have the State Planning Board Office to submit a coastal master plan for our consideration. Meanwhile, let us not burden the people of Maine by compounding the bureaucratic and regulatory load that we already have to bear.

Now when it comes to the best practical use, I do not believe there is a person anywhere on the face of this earth who has the divine guidance to say what best practical use is, and I do not care whether it be land, trees, air, water or whatever it is. Best practical use — how can it be defined and who has the divine knowledge to know what that best practical use may be? And that is what the Assistant Attorney General's opinion requires in this.

But without passage of this Bill, you will bring to a complete halt any and all future leases of submerged land and that is just what this is all about. That is what this Bill is trying to alleviate. There has got to be some development on our coast of some kind, some relief for those who want to make a living by putting out fishing piers and such. There is review right now by the Board of Environmental Protection on all of these applications. They get the application first, and once all the provisions are met, then the Director, who is alone with no staff assistance whatsoever, uses these guidelines to make a determination on leasing of this land.

I submit to you that I wish you would vote with us on the Majority Ought to Pass Report.

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

Mr. TROTZKY: Mr. President and Members of the Senate, I would just like to make a few comments on the statements by the good Senator from Oxford, Senator O'Leary.

First of all, under the present law the people are not burdened by this law. As he stated, and I quote him, there are 500 leases and easements given by the Bureau of Public Lands, so that the little guy is not hurt by this.

But, I do want to say that I agree with him that it is not the BPL's function to rule on environmental safety. That is the DEP, Department of Environmental Protection. But somebody has to rule on the best use of the State's land. Example, what if you have two competing uses for the same land? Your two projects come in, both projects want to lease that piece of land, submerged land, whether it be for agriculture or somebody else wants to lease it for a pier, who is going to make that decision as to the best use of that land for the State of Maine? The DEP is not supposed to make that decision. That decision was delegated by this Legislature last session to the Bureau of Public Lands.

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

Mr. CONLEY: Mr. President and Members of the Senate; in reviewing the piece of legislation we are discussing, I notice that the sponsor of this bill is another member of the Minority, the Minority Floorleader of the other Branch. On occasion I think we Minorities have to stick together.

As I read the Bill, I think it makes good common sense. I do not have all of the piers the good Senator from Penobscot, Senator Trotsky, seems to point out, and I would hope that the Senate would vote against the pending Motion to accept the Minority Report.

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

Mr. O'LEARY: Mr. President, I think I should make one other statement in regards to this piece of legislation. The commissioner of the Department of Conservation supports this Bill. The Department of Environmental Protection supports this Bill. And I believe the Board also would support this Bill. But if you read the Bill, it says the Director may determine to make proprietary conveyances under this section solely on the basis of the issuance of environmental or regulatory permits by other appropriate State agencies.

To make it so that if there is any planning or anyone can find the best practical use, in the meantime, there is another safeguard. This law will expire July 1, 1979, which would give ample time and opportunity to anyone to find best practical use or to define it so it would be ready for our consideration.

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

Mr. SPEERS: Mr. President, and Members of the Senate, we in the Majority do have occasion to listen to the words of Minorities, both in this Branch and the other Branch, and I simply wish to state that I certainly concur with the good words of the Senator from Cumberland, Senator Conley, and I would urge the Senate to go along with the Motion of the Senator from Somerset, Senator Redmond, to accept the Ought to Pass Report.

The PRESIDENT Pro Tem: Is the Senate ready for the question? The pending Motion before the Senate is the Motion of the Senator from Somerset, Senator Redmond, to accept the Majority Ought to Pass, as amended, Report of the Committee.

The Chair will order a Division.

Will all the Senators in favor of accepting the Majority Ought to Pass, as amended, Report of the Committee, please rise in their places to be counted.

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

26 Senators having voted in the affirmative and 1 Senator having voted in the negative, the Motion to accept the Majority Ought to Pass Report of the Committee does prevail.

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

Divided Report

The Majority of the Committee on State Government on, Bill, "An Act Providing for the Observance of Memorial Day on May 30th." (H. P. 442) (L. D. 549)

Reported that the same Ought Not to Pass.

Signed:

Sensors:

COLLINS of Aroostook
SNOWE of Androscoggin
MARTIN of Aroostook

Representatives:

BACHRACH of Brunswick
CURRAN of South Portland
MASTERTON of Cape Elizabeth
VALENTINE of York
LOCKE of Sebec
SILSBY of Ellsworth
DIAMOND of Windham

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

Signed:

Representatives:

CHURCHILL of Orland
STUBBS of Hallowell

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

Which Reports were Read.

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

Mr. COLLINS: Mr. President, I move the Senate accept the Majority Ought Not to Pass Report, and would speak to my Motion.

The PRESIDENT Pro Tem: The Senator from Aroostook, Senator Collins, now moves the Majority Ought Not to Pass Report of the Committee. The Chair recognizes the same Senator.

Mr. COLLINS: Mr. President and Members of the Senate, this is a very simple, straightforward Bill that is very easy for everybody to understand. The Bill would provide for observance of Memorial Day on May 30th. At the present time it is one of the remaining Monday Holidays, celebrated the last Monday in May. 11 of the 13 members of the Committee felt that it ought to remain so; there is no special significance attached to May 30th, other than it was the day arbitrarily selected as a day of remembrance after the Civil War. The present long weekend seems to work well for most Maine people.

I hope you will support the Motion to Accept the Majority Ought Not to Pass Report.

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

Sent down for concurrence.

Divided Report

The Majority of the Committee on Taxation on, Bill, "An Act to Extend the Sales Tax Exemption for Child Day Care Facilities." (H. P. 599) (L. D. 724)

Reported that the same Ought Not to Pass.

Signed:

Sensors:

WYMAN of Washington
JACKSON of Cumberland
MARTIN of Aroostook

Representatives:

MACKEL of Wells
COX of Brewer
CARTER of Bangor
TEAGUE of Fairfield
CAREY of Waterville
IMMONEN of West Paris

The Minority of the same Committee on the

same subject matter Reported that the same Ought to Pass.

Signed:

Representatives:

POST of Owl's Head
CHONKO of Topsham
MAXWELL of Jay

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

Which Reports were Read.

On Motion of Mr. Wyman of Washington, the Senate voted to accept the Majority Ought Not to Pass Report of the Committee, in concurrence.

Divided Report

The Majority of the Committee on Taxation on, Bill, "An Act to Exempt Nonprofit Boarding Care Facilities for the Aged from the Sales Tax" (H. P. 444) (L. D. 551)

Reported that the same Ought Not to Pass.

Signed:

Senators:

WYMAN of Washington
MARTIN of Aroostook
JACKSON of Cumberland

Representatives:

IMMONEN of West Paris
CAREY of Waterville
COX of Brewer
MACKEL of Wells
TEAGUE of Fairfield
CHONKO of Topsham
CARTER of Bangor
TWITCHELL of Norway

The Minority of the same Committee on the same subject matter Reported that the same Ought to Pass as amended by Committee Amendment "A". (H-200)

Signed:

Representatives:

MAXWELL of Jay
POST of Owl's Head

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

Which Reports were Read.

On Motion of Mr. Wyman of Washington, the Senate voted to accept the Majority Ought Not to Pass Report of the Committee in concurrence.

Divided Report

The Majority of the Committee on Taxation on, Bill, "An Act to Change the Sales Tax Basis on Fuel Oil from Price to Volume." (H. P. 784) (L. D. 936)

Reported that the same Ought to Pass.

Signed:

Senators:

WYMAN of Washington
JACKSON of Cumberland
MARTIN of Aroostook

Representatives:

MAXWELL of Jay
IMMONEN of West Paris
CARTER of Bangor
TEAGUE of Fairfield
CAREY of Waterville
COX of Brewer
MACKEL of Wells
TWITCHELL of Norway

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

Signed:

Representatives:

POST of Owl's Head
CHONKO of Topsham

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

Which Reports were Read.

On Motion of Mr. Jackson of Cumberland, tabled for two legislative days, pending acceptance of either Report.

Divided Report

Six members of the Committee on Natural Resources on, Bill, "An Act to Authorize a Citizen to Initiate Law Suits as a Private Attorney General to Protect Environmental Quality." (H. P. 530) (L. D. 646)

Reported in Report "A" that the same Ought to Pass.

Signed:

Representatives:

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

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

Signed:

Senators:

TROTZKY of Penobscot
O'LEARY of Oxford
REDMOND of Somerset

Representatives:

HUNTER of Benton
BROWN of Bethel
HUBER of Falmouth

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

Which Reports were Read.

On Motion of Mr. Redmond of Somerset, the Senate voted to accept the Ought Not to Pass Report of the Committee.

Senate

Ought to Pass

Mr. Levine for the Committee on Liquor Control on, Bill, "An Act Establishing the Offense of Illegal Transportation of Alcoholic Beverages Onto or Off of the Premises of a Licensee Licensed for On-premise Consumption." (S. P. 380) (L. D. 1256)

Reported that the same Ought to Pass.

Mr. Collins for the Committee on State Government on, RESOLVE, Directing the Commissioner of Transportation and the Secretary of State to Evaluate and Determine the Feasibility of Transferring the Functions of the Motor Vehicle Division to the Department of Transportation. (S. P. 174) (L. D. 491)

Reported that the same Ought to Pass.

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

Divided Report

The Majority of the Committee on Fisheries and Wildlife on, Bill, "An Act to Allow Sunday Hunting of Wild Birds by Residents." (S. P. 373) (L. D. 1219)

Reported that the same Ought Not to Pass.

Signed:

Senators:

REDMOND of Somerset
USHER of Cumberland

Representatives:

MILLS of Eastport
TOZIER of Unity
PEARSON of Old Town
McKEAN of Limestone
MASTERMAN of Milo
GILLIS of Calais
PETERSON of Caribou
ROLLINS of Dixfield
DOW of West Gardiner

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

Signed:

Senator:

PRAY of Penobscot

Representative:

MacEACHERN of Lincoln

Which Reports were Read.

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

Mr. PRAY: Mr. President, I move that the Senate accept the Minority Ought to Pass Report of the Committee.

The PRESIDENT Pro Tem: The Senator from Penobscot, Senator Pray, moves that the Senate accept the Minority Ought to Pass Report.

The Chair recognizes the Senator from Cumberland, Senator Usher.

Mr. USHER: I request a Division on this.

The PRESIDENT Pro Tem: A Division has been requested.

The Chair recognizes the Senator from York, Senator Danton.

Mr. DANTON: Mr. President and Members of the Senate, I may need a ride home Friday after getting up to oppose the Motion to accept the Minority Ought to Pass Report. This Bill was sponsored by my seatmate and colleague of York County, Senator Farley. It is obvious to me that all the years he has lived in York County, he has not realized that the population has been growing every year.

Now Sunday in the Fall of the year is usually a very nice day to take a stroll in the woods with your family and enjoy the foliage. How anyone could think of allowing Sunday hunting, whether it is birds, rabbits or anything else, is beyond me, especially in York County the way the population is growing.

I would hope you would oppose the Motion to accept the Minority Ought to Pass Report.

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

Mr. FARLEY: Mr. President, Ladies and Gentlemen of the Senate, I really intended not to speak on this Bill. I can read the Committee Report. But I would like to give a little bit of background.

First of all, there were only two opponents who testified before that Committee that day. Some I think did so in writing of some letters. The two opponents of the Bill were one, Senator Conley and one Senator Danton. And I would like to briefly bring the Senate up to date on their testimony.

First of all, three years ago the good Senator from York, Senator Danton, had a piece of legislation before the Fisheries and Wildlife Committee which gave the right to people to hunt birds of prey. Well, I had a few telephone calls from constituents who had chicken farms and were very, very concerned that once these birds got in the air was there any way to protect their chickens. I said so before the Committee. Senator Danton was not very happy with my testimony. He has been waiting three years to get my Bill and finally he has an opportunity to do it.

There was one question asked of the Senator from Cumberland, Senator Conley, if he fished on Sunday. His brave testimony was, yes, but only in salt water. I would ask that you support this piece of legislation, at least temporarily, because it is not going very far today, but just in view of the testimony of my two colleagues, Senator Danton and Senator Conley.

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

Mr. SPEERS: Mr. President, it is with some trepidation that I rise to express my agreement with the Assistant Minority Leader of this Body, as well as the Minority Leader of this Body, because I do not want them to get too used to it.

But I do agree with the expressions made by the good Senator from York, Senator Danton, and I would urge the Senate to oppose the pending Motion to accept the Minority Ought to Pass Report.

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

Mr. MERRILL: Mr. President and Members of the Senate, I have long advocated that those who are really concerned about speeding up the legislative session should adopt the plan of having one Session one year that deals with everything but Fish and Game matters, and the next Session the next year that deals with only Fish and Game matters, and every Senator and every Representative will have to take his choice. The only thing that has ever concerned me about that proposal is that I was afraid of how few would take the choice of everything but Fish and Game matters.

Now, in this Session we have dealt with suckers, dogs and bears, moose, and today we move on or up or down to wild birds and rabbits. I congratulate the leaders of my party for trying to shoot this one down while they can.

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

Mr. McNALLY: Mr. President, I would like to ask through the Chair of anybody who cares to tell — I was not permitted at the time to go and listen to the hearing of Fisheries and Wildlife in this case. What birds are we talking about to be hunted on Sunday, and if they are eating birds. I would like to know where there is enough of them so that you can hunt them on Sunday.

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

Mr. CONLEY: Mr. President, I would be very happy to respond to the Senator's question the looney bird.

Mr. President and Members of the Senate, I think it should be made known, though, that we are really wasting a great deal of time, and the poor stenographer down here I can see is not enjoying this Session one bit.

But in all honesty, in reference to this item anyway, there was only one proponent of the Bill and that was the sponsor, and both Senator Danton and I appeared on the scene to give Sena Farley protection, more so than anything else, when he was leaving the hearing room.

I hope we can move on with this item and also the one following in very rapid order.

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

Mr. HICHENS: Mr. President and Members of the Senate, I was going to stay in my seat until the good Senator from Cumberland, Senator Conley, got up and wanted to move this along, and I felt that I had to get up and add a few words to it.

I would remind the good Senator from York, there is a lot of difference between fishing on Sunday and hunting on Sunday. It has been referred to that a lot of families go out walking on Sunday, and some of the women have hats with feathers on, and they are liable to be targets for some of these nearsighted hunters who may be out hunting birds. The only danger with fishing is to get too close to someone who is casting, and they throw their lines backwards instead of forwards into the ocean or into the lake, whatever it may be.

But I have always been against Sunday hunting and I, again, would go along with this Motion to accept the Majority Ought Not to Pass on this one, and also the following Bill.

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

Mr. PRAY: Mr. President and Members of the Senate, I must admit that when I went into the hearing I had a completely open mind on this

matter, and I only made my decision after the Senate Minority Leader and Assistant Senate Minority Leader testified, then I became a proponent of the legislation. I am continually amazed by the Senator from Cumberland, Senator Conley, and also the other Senator from Cumberland, Senator Merrill, in their wealth of knowledge about the Maine wildlife, I guess including things from moose and now we are on wild birds and next rabbits and prostitutes yesterday.

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

The pending motion before the Senate is the Motion of the Senator from Penobscot, Senator Pray, to accept the Minority Ought to Pass Report of the Committee.

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

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

3 Senators having voted in the affirmative, and 22 Senators having voted in the negative, the Motion to Accept the Minority Ought to Pass Report of the Committee does not prevail.

Majority Ought Not to Pass Report accepted.
Sent down for concurrence.

(Off record remarks.)

Divided Report

The Majority of the Committee on Fisheries and Wildlife on, Bill, "An Act to Permit Rabbit Hunting on Sundays During Rabbit Season." (S. P. 77) (L. D. 185)

Reported that the same Ought Not to Pass.

Signed:

Senators:

REDMOND of Somerset
USHER of Cumberland

Representatives:

GILLIS of Calais
PETERSON of Caribou
ROLLINS of Dixfield
DOW of West Gardiner
McKEAN of Limestone
PEARSON of Old Town
TOZIER of Unity
MILLS of Eastport

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

Signed:

Senator:

PRAY of Penobscot

Representatives:

MASTERMAN of Milo
MacEACHERN of Lincoln

Which Reports were Read.

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

Mr. KATZ: Mr. President, I move indefinite postponement of this item.

The PRESIDENT Pro Tem: The Senator from Kennebec, Senator Katz, now moves that this item be indefinitely postponed.

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

Mr. O'LEARY: Mr. President, I sponsored this piece of legislation for a number of business people in my area, as well as a lot of those people who work seven days a week, sometimes every six weeks they have what is called a long weekend, so they have Saturday, Sunday and Monday off. However, there was only one person who appeared before the Committee in opposition to this Bill after I presented it, along with my thoughts on how this bill should be amended.

Now we know that there are a lot of people who like to walk through the woods in the Fall

when the leaves are turning and such, and I proposed to the Committee that they limit the rabbit hunting to the months of January, February and March. I also proposed to the Committee that a certain type shot should be used, and that would be 16 gauge or smaller, and I would also like the opportunity to move this Bill along so that I may amend it so that all those people who are business people — and I figure there are 20,000 who would purchase licenses — and amend this Bill to put an additional Sunday hunting stamp upon it, to bring more money and revenues into the Department, along with confining it to the areas of Management Areas 1, 2 and 3. Then, if it is not acceptable, I will gladly see it gone.

The PRESIDENT Pro Tem: The Motion before the Senate is the Motion of the Senator from Kennebec, Senator Katz, that L. D. 185 be indefinitely postponed. Is this the pleasure of the Senate?

The Chair will recognize the Senator from Penobscot, Senator Pray.

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

The PRESIDENT Pro Tem: A Division has been requested.

Will all those Senators in favor of indefinitely postponing L. D. 185, please rise in their places to be counted.

Will all those Senators opposed to indefinitely postponing, L. D. 185 please rise in their places to be counted.

23 Senators having voted in the affirmative and 6 in the negative, the Motion for indefinite postponement does prevail.

The Bill and accompanying papers indefinitely postponed.

Sent down for concurrence.

Divided Report

The Majority of the Committee on Natural Resources on, Bill, "An Act Establishing an Experimental Blackfly Control Program." (S. P. 264) (L. D. 823)

Reported that the same Ought Not to Pass.

Signed:

Senator:

TROTZKY of Penobscot
REDMOND of Somerset

Representatives:

BROWN of Bethel
BLODGETT of Waldoboro
HUBER of Falmouth
BENOIT of So. Portland
HUNTER of Benton
DEXTER of Kingfield
GREEN of Auburn
WILFONG of Stowe

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

Signed:

Senator:

O'LEARY of Oxford

Representative:

HALL of Sangerville

Which Reports were Read.

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

Mr. O'LEARY: Mr. President, I move the acceptance of the Minority Ought to Pass Report of the Committee.

The PRESIDENT Pro Tem: The Senator from Oxford, Senator O'Leary, moves that the Senate accept the Minority Ought to Pass Report of the Committee.

The Chair recognizes the Senator from Penobscot, Senator Trotzky.

Mr. TROTZKY: Mr. President, I rise to oppose the Motion to accept the Minority Ought to Pass Report of the Committee, and I would like to speak to my Motion.

This Bill, L. D. 823, allows the use of a non-registered pesticide, which is non-host specific

in streams in the State with no control from the Department of Environmental Protection and it can cause a great deal of havoc in our streams. We have spent millions of dollars to clean up the waters of our State and in this area specifically, which is the Penobscot watershed, over \$10 million has been invested in the salmon restoration project.

There is another Bill coming along which will appropriate monies, but will have some reasonable controls on it. I hope the Senate would vote against the Motion and wait until the next Bill comes along.

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

Mr. PRAY: Mr. President and Members of the Senate, I would just like to respond to a few of the comments, since this is my Bill, that appeared before the Committee.

First of all, in reference to the other legislation that is coming along, the other legislation asks for an appropriation of \$29,000.00 for the University of Maine to do a study which will perhaps make it through the first and second reading and make it to the Appropriations Table, and when we come down to the end of the Session to make the deciding factor as to what money we have and the priorities and where that money is going to go.

I would definitely feel at that time that the blackfly priority would be rather low.

I would point out that the Bill was drafted in working with Don Mairs, who is head of the Pesticide Control Board, Division of Pesticide Control. The proposed pesticide or bait is recommended by Mr. Mairs. The applicators of the pesticide must be licensed by the Board of Pesticide Control. The experimental program will be established and administered by the Board of Pesticide Control, and the Department of Inland Fisheries and Wildlife is directed to monitor the effect which it has. And this program is limited to two years.

It also spells out under the legislation that the cost of the pesticide and application will be met by the municipalities involved.

The blackfly program has afflicted many citizens in my area and in one town, the Town of Millinocket, when checking with local doctors there, I was advised that in his estimate the costs are running to the citizens of that town around \$6,000.00 a year by treatment in the hospitals. The doctor said that in the emergency care or the emergency facility there, they have about five cases a day for about a 75-day period. At that time the cost of the emergency room was \$17.00 for each visit, and basically an individual got away with a \$3.00 prescription.

Also I have several letters — I think some of you that were here in the 107th remember during the great debate of the reforming the Maine Income Tax Schedule, I made a comment at that time and that comment is very true, that people were quite upset over the issue. There were a number of letters coming in to address that issue. At that time not only were we facing the tax issue, but the blackfly issue was of hot interest in my area, and I was receiving letters of about 14 to one on the issue of blackflies, not on the tax issue.

So where the priorities are with these people that are afflicted with, it is definitely very high. As a matter of fact, I have several letters from towns outside of my District which also consider it a very high priority to them.

I think when we consider the economic cost which is borne on the communities and affecting farmers and campground owners, the tourist industry in this State, we are looking at a very large economic dollar.

I have a letter before me here that comes from a Charles Casey who happens to be the Superintendent of Schools, and he starts his letter of saying: "Now that you have solved the

school funding issue," — and I guess we really have not solved it yet today, "but with the issues they turn to next is that the curriculum activity of that school entails many out-door activities in the spring, late summer and early fall. The Maine blackfly is a serious threat to curtailment or effectiveness of such outdoor activities and throughout our entire District affecting 1600 youngsters that we have in our school system."

"The School Board unanimously voted their concern on this issue and they urge the 108th to take a hard look at the problem."

As a matter of fact, the Town of Lincoln did an opinion survey, and out of that they had 79 percent favoring some action being taken to help curtail the problem that they are faced with.

I would point out that the 105th had instituted a study on the blackflies and the University of Maine has already done one study. So the other Bill coming along to give \$29,000.00 to the University of Maine to study this problem is only going to be a continuing of an existing program which they have. I will support that legislation. They do need the additional money to continue on because they were running on a private grant before. But I think there have been a number of statements by Dr. MacDaniels of the University of Maine that it is now time for them to get out into the field and they have to establish certain field experiments. My Bill is very restrictive, naming a certain number of sites asking to be monitored by the appropriate officials to monitor it and I have gone through the programs which the Fish and Game Department studied during the summer-time, everything from web feet on ducks and what not, and I think they can rearrange their priorities in their biological department, which they range somewhere between high 20s in biologists to 50-some biologists.

I also have a newsletter from the Canadian Agricultural Chemical Association which spells out the number of problems that Canada has suffered on the blackflies, and I will also point out to this Legislature that Don Mairs, whom I mentioned earlier from the Pesticide Control Division, State of Maine, attended at State expense to a Regional Northeast Conference on the blackfly problem. The State considered it serious enough a problem that they would take this individual and send him out to New York to meet with the Canadian Provinces and Northeastern United States.

To those unfamiliar with the blackfly problem in this area of Canada, these may not seem important facts, but ranchers in the areas have since contacted Federal Provincial Agricultural Department officials asking that research projects, which resulted in almost blackfly-free summers be continued on an annual basis, which Canada has done.

It goes on to explain that in excess of 1,000 animals have been killed by the blackflies.

Myself and a number of representatives through this summer held a number of hearings throughout my Senatorial District, and the Orono-Bangor area, and gathered information from people in that area. We had one woman from Bangor who is on a prescription, which she is afflicted by a blackfly bite, she needs to take a shot almost immediately, or it could mean death to her. Her husband is a doctor, and when this first happened she almost died, and if her husband had not been a doctor more than likely she would have died. I have a woman back home that she has to go through a \$90.00 prescription a month for herself and two kids. They were originally from the south, and they are now moving back to the south. He was a young practicing lawyer, originally from Millinocket. His wife he had met in the South, and he was a partner with an individual who is a great friend of mine, and who used to be in this Chamber.

I would like the Legislature at this time, the Senate at this time to at least allow this Bill on its way so that we can have some type of results and do something.

I have gotten a letter from Lincoln also saying that the Rotary Club in that area favors it, that they are sending people throughout the State with petitions to gather signatures to help to have some type of in-put into the Legislative process, saying that they want something done and want it done now. The problem is continuously coming up with these people every summer, and it is getting more so the fact that they are even holding meetings about it all winter long, and blackflies pretty soon will probably have snow shoes and they will be bothering us year-round if we do not do something.

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

Mr. HICHENS: Mr. President and Members of the Senate, I am very sympathetic with the problems expressed by the good Senator, but this Bill was heard last year by the Committee on Agriculture, and we had opponents there from the Fish and Wildlife Division, from the Department of Environmental Protection, and a great many Indians, who convinced the Committee that even though the blackfly was a great problem, that the problems that would be confronted by trying to have a control program, polluting our rivers, polluting the fiddlehead areas which the Indians make great harvest from, and on the environmental protection problems, convinced the Committee that we should not pass this bill.

I think the Bill has been changed a little bit this year, and I do not know why it was referred to another Committee, because I still feel this is an agricultural problem, but I would have to ask you to support the Ought Not to Pass Report, rather than the Motion that has been made.

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

Mr. TROTZKY: Mr. President, I would just like to set the record straight here.

The Opponents to this Bill, first Donald Mairs, the Director of the Pesticides Control Board, was an opponent to the Bill, and, secondly, the Department of Inland Fisheries and Wildlife in their statement said that they were opposed to an annual chemical blackfly control program, which a non-species specific insecticide, and with a non-registered pesticide.

Section B of the Bill states very clearly, "The use of the pesticide authorized by this section shall not require any approval by the Board of Pesticides Control, nor shall it require a solid waste disposal permit from the Department of Environmental Protection." So under this Bill, there are absolutely no environmental controls.

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

Mr. O'LEARY: Mr. President, I am not in favor of just dumping any pollutant or pesticide into the waters of our State that is going to destroy any of our aquatic life. By the same token, I am concerned for the health and welfare of the people of this section of Maine who are concerned with the passage of this piece of legislation.

I think it behooves us today to listen to some of their pleas. There is a Bill in the other Chamber which should be over here in the next couple of days that deals with this same problem, and it would seem appropriate to me that if the Senate tabled this matter for at least a couple of days until such time as we can get this other Bill over into this Body, so that they could both be discussed in the proper context, it would be more fitting to do so.

The PRESIDENT Pro Tem: The Chair

recognizes the Senator from Penobscot, Senator Pray.

Mr. PRAY: Mr. President and Members of the Senate, I am not sure what my seatmate just said, because I was going through the Bill and some information that I have before me.

In case he did not point out, I think Mr. Mairs appeared at the Committee not as an opponent, neither as a proponent, but spoke at the end of the hearing, and stating a neutral position that he was neither for or against the Bill, but he spelled out some of the certain areas which he had concern about.

I would point out one of the reasons the statement of the Bill not requiring the DEP or the Pesticide Control Board to have a say, although I outline to them the authority in which they can institute this program. It is because in the past the Pesticide Control Board has met on this issue before, and the Board on a majority vote has approved programs, and afterwards one of the requirements is that the municipality or the people seeking this program has to go to the DEP for a dumping permit, and at that time the DEP, who has usually voted against the proposal as a member of the Pesticide Control Board, has blocked it by refusing to grant a dumping permit, after a Board has already by a majority vote approved it.

I would point out in the Canadian report that I have, and I would make available to anybody that would be interested, and I would just quote from a Dr. Friede, "that we came to the conclusion that chemical control of the larva is inevitable to control the infestation. A complete biological sketch of the test river was drawn before and after every injection of the chemical", and it goes on to spell out that from their tests, in their waters, that insects, other insects other than blackflies were restored in full 7 to 14 days after the injections. Fish were apparently unharmed. Residues were negligible and short-lived. Larger creatures native to the test rivers were also unharmed, and the mixture of the mix was .18 to .31 parts per million.

At the hearing last year before the Agriculture Committee, Don Mairs also appeared before the Committee, neither for nor against the Bill, and after the Penobscot Tribe had raised the question about their concerns of, how it would affect their fiddleheads, Don stated that he would take a teaspoon of it, sprinkle it over the fiddleheads and eat it and it would not harm him.

I think we also have to bring up the fact that the chemicals testified by this individual, who is hired by the State, and supposedly knowledgeable in the effects of that chemical, said that that chemical would not be harmful. It would be psychological effect on some people as to, you know, whether or not they would like to know if there is a bait chemical on their fiddleheads.

The streams outlined, — it is only outlined in a County area as to the main problem area of Piscataquis and Penobscot Counties, but it would be an experimental control program, which will terminate and would require that they come back before the Natural Resources Committee with a report, and that the Pesticide Control Board could name the communities, could name the streams in which the chemicals would be put in. So if we are concerned about the salmon, the money that has been spent on the restoration of the land-locked salmon, the Pesticide Control Board under this Bill would have the authority to limit the areas in which this chemical would be put in.

Now as far as the Fish and Game Department opposing this Legislation, it was great interest that I found out last year, after the Bill that I had was killed, that the Fish and Game Department was going to run an experiment on four streams south of Bangor which directly run into the Penobscot River, which is where the land-locked salmon are, but they come before this

hearing and say that they are concerned about the restoration of the land-locked salmon. I think there is a lack of consistency with the Department in that aspect.

I would hope that the Members of this Chamber could allow this Bill to go on, and perhaps if you would like, talk to myself and Senator Trotzky to get a more detailed report on both sides of it, and then make an intelligent decision.

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

Mr. CURTIS: Mr. President, I represent one of the areas that is affected by the blackflies, and it is a serious problem, an extremely serious problem, as has been described before.

I am not in favor of legislation which ignores all environmental laws. On the other hand, I have looked at this Bill, and it seems to me that there are environmental protections in it. They may not be sufficient to satisfy the Natural Resources Committee, but if they are not, I would like to find out what the Natural Resources Committee recommends to solve the problems of the blackflies. If there is no solution forthcoming, I think we ought to move this bill along.

The PRESIDENT Pro Tem: Is the Senate ready for the question?

The Chair recognizes the Senator from Penobscot, Senator Trotzky.

Mr. TROTZKY: Mr. President, the Bill which will be coming along in, I believe, a day or two, recommends an appropriation to be given to the University of Maine, to be given to the Entomology Department, to do some basic research on the blackfly, and if possible find a pesticide which is host-specific, that acts on the blackfly. All of the pesticides that are known right now, they act on every insect in the stream. In other words, they are not host-specific. They will destroy the may fly population, the caddis fly population, and the many, many other insects which are in the stream environment.

It is unfortunate that at this time there is really no basic answer to this, because to solve this problem it would require a major appropriation of probably in the millions of dollars to find the right pesticide. So all the Natural Resources Committee can do, looking at State priorities, and looking at the financial competing interests here of the State, is appropriate really a small amount of money, which I do not believe will solve the blackfly problems.

The Bill before us, the feeling is among the Committee, including Senator Redmond, who comes from an area, and his area in northern Somerset County is heavily infested with blackflies. The Bill before us will cause other problems and there are no environmental controls on this Bill.

I wish I had an answer, but if we had the money, the State had the money, we could take some action here.

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

Mr. O'LEARY: Mr. President, according to regulations set forth on insecticides, there are only certain insecticides that can be used in various States.

In New York State they have a chemical which they have experimented with, and they have had amazing results; however, this chemical cannot be transported across State lines, because it is not presently licensed.

I think if we are in sympathy with the people in this area, and want to do something, we will go along with this Bill, or perhaps the other Bill as it comes along. However, the other one that is coming along does two things. Well, there is going to be three reports, and unfortunately I signed the wrong report. I will speak to that

when it gets here. I think there is only one way that we are going to know what exactly can be done, and that is to do work in the streams. And there is some relief that has got to be done for these people in this area. They have been begging this Legislature for the last 10 or 12 years to do something, and nothing has been done yet.

The PRESIDENT Pro Tem: Is the Senate ready for the question? The pending Motion before the Senate is the Motion of the Senator from Oxford, Senator O'Leary, to accept the Minority Ought to Pass Report.

The Chair will Order a Division.

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

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

The Chair recognizes the Senator from Kennebec, Senator Speers.

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

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

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

The Chair recognizes the Senator from Cumberland, Senator Conley.

Mr. CONLEY: Mr. President and Members of the Senate, I believe that both the good Senator from Oxford, Senator O'Leary, and the good Senator from Penobscot, Senator Pray, have more than stated their case before this Body today, and I would only urge the Senate to vote to accept the Minority Report to move the Bill along, and if Senator Trotzky and his Committee are going to be sending another Bill, then we can re-examine our position at that time.

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

Mr. CURTIS: Mr. President, I am glad to see that there will be a Roll Call on this particular piece of legislation, because it is extremely important to the areas that are directly affected by this problem.

I would like to point out that although this piece of legislation may not be perfect, it is in its initial stage at this point, and ought to be kept alive. If more environmental controls are necessary, then surely somebody who can provide a little more thought to it than apparently the Natural Resources Committee was able to provide, will be able to come up with some additional safe-guards.

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

Mr. MERRILL: Mr. President and Members of the Senate, over a year ago I spoke to the people who were opposed to this sort of legislation, and I told them that they had better help, be constructive and help develop some sort of a solution to something that is a major health hazard on the part of our State. It remains to be a major health hazard. I see no attempt on the other side's part to come together for a solution.

Frankly, when you recognize that most of our environmental laws, whether they are air or water, are designed for the primary purpose of protecting human health, and when you recognize the health hazard that this presents, I think we should keep this alive, and present a new challenge to the Natural Resources Committee to find a solution to a problem for a change.

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

Mr. TROTZKY: Mr. President and Members of the Senate, I would like to get rid of the blackfly as well as anybody here, but to have a responsible research program it needs millions of dollars. When we talked about the spruce bud worm problem, how many millions of dollars went into research on that. The blackfly program has no simple answer.

The blackflies breed in every fast moving stream in the northern part of our state in clean water, and if Senator Merrill feels it is a priority, the blackfly over many of the other human services, then I suggest that when the other Bill comes through, that an Amendment be put onto it to put a million dollar appropriation on it, because that is what it is going to cost, a minimum of that to try to clear up a problem like this.

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

Mr. PRAY: Mr. President and Members of the Senate, I would like to point out to the Senator from Penobscot, Senator Trotzky, that if any solution is going to be found, it must be started somewhere, and this legislation is an attempt to start the process to finding some type of solution to a problem which afflicts many of my constituents to a great concern, and at the hearing that we had in the Bangor vicinity and Orono, and in the Bangor area, and the number of letters that I have received from that area, I think that he should be a little bit more concerned about starting something along this way, instead of saying lets wait until something better comes along. This is a small fiscal cost of rearranging priorities within the Fish and Game Department as to testing the water, which they do anyway, and all we have to do is put their present research in conjunction with this program, and they can do their regular work, plus take the environmental tests, the biological tests of that waterway at a very small cost, a cost that is being passed on to the municipalities who have a problem at stake, and of which several of them wrote to the Governor in the last Session asking for a meeting because of a unanimous vote by the town selectmen and town councils to meet with him on that problem.

I would also point out that we are asking the municipalities to bear the cost of a problem which affects a large area of this State. When I have towns in my District of less than 3,000 population raising \$1 and \$2,000.00 for this problem out of their property tax, it has got to be a severe problem to those people, and that money to them is almost as large as a million dollars is to the entire State of Maine.

The PRESIDENT Pro Tem: The Chair Recognizes the Senator from Somerset, Senator Redmond.

Mr. REDMOND: Mr. President, with due respect to all of the arguments with regard to this blackfly Bill, I would also like to remind the Members here that it is not only necessary up to the State to do that research, because it is pretty well accepted also that the business enterprise, our multi-national chemical firms that sell pesticides, are doing something all of the time, because they are craving to come up with a product that would be suitable and that people of Maine would be buying to take care of that blackfly problem.

The PRESIDENT Pro Tem: A Roll Call has been requested. The pending Motion before the Senate is the Motion of the Senator from Oxford, Senator O'Leary, to accept the Minority Ought to Pass Report.

The Secretary will call the Roll.

YEA — Carpenter, Conley, Curtis, Danton, Farley, Levine, Martin, Merrill, O'Leary, Pray, Usher.

NAY — Chapman, Collins D.; Collins, S.; Cummings, Greeley, Hewes, Hichens, Huber,

Jackson, Katz, Lovell, Mangan, McNally, Minkowsky, Morrell, Redmond, Snowe, Speers, Trotzky, Wyman.

ABSENT — Pierce.

11 Senators having voted in the affirmative, and 20 Senators in the negative, with one Senator being absent, the Motion to Accept the Minority Ought to Pass Report of the Committee does not prevail.

Majority Ought Not to Pass Report of the Committee accepted.

Sent down for concurrence.

(Off Record remarks.)

Divided Report

The Majority of the Committee on Natural Resources on, Bill, An Act Relating to Solid Waste Disposal. (Emergency) (S. P. 248) (L. D. 756)

Reported that the same Ought Not to Pass.

Signed:

Senators:

TROTZKY of Penobscot
REDMOND of Somerset

Representatives:

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

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

Signed:

Senator: O'LEARY of Oxford

Which reports were read.

On Motion of Mr. Redmond of Somerset,

Tabled for two Legislative Days pending acceptance of either Committee Report.

Divided Report

The Majority of the Committee on Taxation on, Bill, "An Act to Exempt Historical Societies and Museums from Sales Tax. (S. P. 211) (L. D. 660)

Reported that the same Ought to Pass.

Signed:

Senators:

WYMAN of Washington
JACKSON of Cumberland

Representatives:

MAXWELL of Jay
IMMONEN of West Paris
MACKEL of Wells
TWITCHELL of Norway
POST of Owl's Head

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

Signed:

Senator:

MARTIN of Aroostook

Representatives:

TEAGUE of Fairfield
CHONKO of Topsham
CARTER of Bangor
CAREY of Waterville
COX of Brewer

Which Reports were Read.

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

Mr. JACKSON: Mr. President and Members of the Senate, I move we accept the Majority Ought to Pass Report.

The PRESIDENT Pro Tem: The Senator from Cumberland, Senator Jackson, moves that the Senate accept the Majority Ought to Pass Report.

The Chair recognizes the Senator from Aroostook, Senator Martin.

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

I certainly am not opposed to historical societies or museums, child day care facilities and other such other worthy programs. However, I note on this LD 660 the price tag of \$13,500.00 for the first year, and \$18,000.00 for the second year.

It is for that reason that I would oppose the pending Motion.

These tax exemptions, Mr. President, if enacted into law have to obviously be picked up by the working people of the State, businessmen, school teachers, and for that reason I would urge you to vote against the pending Motion.

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

Mr. JACKSON: Mr. President and Members of the Senate, the good Senator from Aroostook is correct on the fiscal note on this Bill, but one thing I think we ought to take into consideration on these historical societies and museums is that they provide a significant value to the community, not only the community but the entire population of the State of Maine, educationally and historically.

The large amount of this sum, the testimony received during the hearing, was the result of the increased cost in fuel for these places. Most of these places, keep in mind, operate from private contributions, some do operate from grants from the State and Federal government. Again I had the same reservations as Senator Martin had on this fiscal note, and although I am the sponsor of this Bill, I am sure that if it does receive a favorable report today, that there is going to be some question whether it will come off the Appropriations Table or not.

I would urge the Members to look at it favorably, because it does provide some value to the State of Maine.

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

Mr. WYMAN: Mr. President and Members of the Senate, I can only concur with what the Senator from Cumberland, Senator Jackson, has said, and I think in the final analysis it will depend on how much money we have. It may be stopped at the Appropriations Table anyway.

I think it does offer value and inducement to people to come to the State of Maine, and it is worthwhile to keep these organizations going, and help them, and so I hope we accept the Majority Report.

The PRESIDENT Pro Tem: The pending Motion before the Senate is the Motion of the Senator from Cumberland, Senator Jackson, that the Senate accept the Majority Ought to Pass Report of the Committee.

A Division has been requested.

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

Will all those Senators opposed to accepting the Majority Ought to Pass Report of the Committee, please rise in their places to be counted.

15 Senators having voted in the affirmative, and 13 Senators in the negative, the Motion to Accept the Majority Ought to Pass Report of the Committee does Prevail.

The Bill Read once, and Tomorrow Assigned for Second Reading.

Divided Report

The Majority of the Committee on Transportation on,

Bill, An Act to Provide Reimbursement for Snow Removal on Accepted Ways. (S. P. 170) (L. D. 487)

Reported that the same Ought to Pass.

Signed:

Senators:

GREELEY of Waldo
McNALLY of Hancock

Representatives:

CARROLL of Limerick
BROWN of Mexico
McKEAN of Limestone
ELIAS of Madison
HUTCHINGS of Lincolnville
STROUT of Corinth
LITTLEFIELD of Hermon
JACQUES of Lewiston
LUNT of Presque Isle

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

Signed;

Senator:

MINKOWSKY of Androscoggin

Representative:

JENSEN of Portland

Which Reports were read.

Majority Ought to Pass Report accepted.

The Bill read once, and Tomorrow Assigned for Second Reading.

Second Readers

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

House

Bill, An Act to Prohibit the State Lottery Commission from Controlling the Game of Beano. (H. P. 437) (L. D. 544)

Bill, An Act Concerning the Crime of Prostitution. (H. P. 629) (L. D. 770)

Bill, An Act to Establish Arbor Week. (H. P. 766) (L. D. 959)

Bill, An Act to Authorize the Transfer of All Assets and Liabilities Except Bonds and Notes, of the Lincoln Sanitary District to the Town of Lincoln and the Dissolution of the Lincoln Sanitary District. (H. P. 1450) (L. D. 1679)

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

House — As Amended

Bill, An Act to Provide Interest on Judgments in Civil Actions. (H. P. 575) (L. D. 699)

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

Senate

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

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

Sent down for concurrence.

Enactors

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

An Act to Revise the Maine Regional Library System. (S. P. 74) (L. D. 183)

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

The PRESIDENT Pro Tem: The Chair at this time would ask the Sergeant-at-Arms to escort The President to the rostrum.

Thereupon, the Sergeant-at-Arms escorted The President to the rostrum, and the Senator from Sagadahoc, Senator Chapman, to his seat on the floor of the Senate.

The PRESIDENT: The Chair would like to commend the Senator from Sagadahoc for an exceptionally fine job on his first time as Presiding Officer of this Body.

(Applause)

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

Papers from the House Communication Office of the Governor

April 26, 1977

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

I believe we are at a crossroads in Maine. We have reached a critical point in our state government where we must decide what directions we are going to take in regard to fiscal responsibility, the assessment of spending priorities, the creation of a climate that will provide more and better jobs for our people and in relieving the heavy tax burden the people of Maine are already bearing.

It was with this realization and after the most careful and deliberate consideration, that I reached the conclusion that I had to return L.D. 1252, An Act Relating to School Funding and Inventory Tax Reimbursement, to this body without my signature and approval.

I was extremely reluctant to veto this legislation because of the time and effort spent by the 108th Legislature in debating this difficult issue. However, in the final analysis, I could not sign legislation which I feel places a higher priority on two large areas of government than it does on the real human and direct needs of the people of Maine.

This Legislature already knows many of my objections to provisions contained within L.D. 1252 and I will be brief in outlining them to you:

(1) I believe L.D. 1252 denies the people of the state to vote on two major spending and taxation questions which directly affect their lives. The people have been denied the right to vote on:

(a) Whether they want to keep education spending the same,

(b) Whether they want to increase education spending, or in fact,

(c) Whether they want to decrease education spending.

They also have been denied the right to vote for themselves whether they want to impose an inventory tax at the local level and thereby reduce the burden on other local tax sources, including the personal property tax.

(2) L.D. 1252 continues to give a blank check to education and to the municipalities and does not require of either the fiscal responsibility we have had to practice in state government.

(3) For the past two years in this administration, we have overcome deficits and carried out cost savings programs so we could be in a position to provide direct benefit(s) to the elderly and low income. L.D. 1252 ignores the needs of these people or places them in a much lower category than the demands of the municipal and education lobbies. L.D. 1252 says loudly and clearly that such programs as tax and rent relief and free drugs for the elderly, sales tax exemptions on electricity for homeowners and other part two programs such as desperately needed money for mentally retarded youngsters must compete for the few pitiful crumbs left by education and the municipalities or that taxes have to be increased to fund them.

I did not sign L.D. 1252 because I do not believe either is necessary. I am convinced that the needs of the municipalities and education can be met and the priority programs of this administration and individual legislators can be funded without a tax increase.

We offered compromises to this Legislature in a genuine effort to fund all necessary and needed programs without a tax increase. We compromised on our position that the people should be allowed to vote on additional education spending and the question of the inventory tax. We compromised on our original recom-

mendation for education and we compromised further and offered this Legislature what we felt was a fair plan for reimbursement of the inventory tax. In my address to this body last Friday, I offered still another compromise and said I would accept the decision of the Legislature in regard to the inventory tax reimbursement question.

We are not asking that education spending be reduced. Quite the contrary, we are asking that education spending be increased by \$24 million instead of \$28 million. We are only asking that we spend \$4 million less than the Legislature has proposed in its compromise legislation so we can free up that small portion of the spending pie for some desperately needed human service programs. More and more people, including this Governor, feel that education is receiving a disproportionate share of the available tax dollars. However, we are not asking this Legislature to debate education overspending. We are merely asking that spending be increased by only \$24 million instead of \$28 million.

We utilized the full statutory time limit to veto this measure because of the importance of the issue and because of reports in the media and from individuals that some lawmakers were discussing the possibility of a recall. We also wanted to give the Legislature every opportunity to explore that avenue.

The previous compromises we have made have been intended not only to avoid a tax increase, but to help relieve pressure from the Legislature in a very difficult matter. That is still my goal.

In that spirit, I want the Legislature to know that if it chooses to sustain my veto of L.D. 1252, I will commit to:

(1) Signing a bill for a reduced level of education funding, not to exceed \$286 million with a mill rate of 11.5; or

(2) Signing a bill for inventory tax reimbursements alone exactly as embodied in L.D. 1252; or

(3) Signing a combined bill for education funding not to exceed \$286 million with a mill rate of 11.5 and the inventory tax reimbursement plan as presently contained in L.D. 1252.

Candidly, while I feel we are at a crossroads for Maine, I would like to ask the Legislature to place the will of the people first as this is not a question of the will of the Legislature versus the will of the Governor. The question is the will and needs of the people and whether or not this Legislature is willing to appropriate \$4 million additional to the elderly, the retarded and the needy of this state without a tax increase.

I do not ask you to sustain a veto as much as I ask you to sustain the needs of the people of Maine and consider the alternative(s) we have presented. (H.P. 1496)

Very truly yours,

James B. Longley

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 Relating to School Funding and Inventory Tax Reimbursement. (Emergency) (H. P. 1160) (L. D. 1252) Comes from the House with the following endorsement:

In the House, April 27, 1977, 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 preceded to vote on the question: 'Shall this Bill become a law notwithstanding the objections of the Governor?'

118 voted in favor and 33 against, and accordingly it was the vote of the House that the Bill become a law, notwithstanding the objections

of the Governor, since two-thirds of the members of the House so voted.

/s/ Edwin H. Pert,
Clerk of the House

The PRESIDENT: The pending question before the Senate is shall this Bill become a law notwithstanding the objections of the Governor.

The Chair recognizes the Senator from Kennebec, Senator Katz.

Mr. KATZ: Mr. President and Members of the Senate, I find the Governor's veto message is a temperate document, which reflects the very dilemma with which the Legislature has been dealing.

Like the Governor, we are all concerned about fiscal responsibilities. We are all concerned with priorities. We are all concerned with the heavy tax burden on Maine people. No one person has a corner on compassion, concern for sensibility to the needs and concerns of Maine people.

I live in Augusta. Fortunately, I am with my constituents seven days a week. I listen to what they say. This year I went to two town meetings, the small towns of Chelsea and Windsor, and I listened. Along with Vassalboro, which I also represent, all three small towns are prudent and careful with town funds. All three had enormous problems with escalating property taxes when it was first selected. This problem no longer faces them. Things are under control. The hottest issue in Chelsea was the use of the town car.

The Governor's \$268 million recommendation made last winter would have created some very, very bad problems for my small towns. They are rural. They have a small property tax base, and they share one other no so unique distinction with many small towns in Maine, they operate no high school.

Under the Governor's recommendation of returning the decision making to the small towns of Windsor, Vassalboro and Chelsea, there really would not be any decision making possible. A good hunk of their school costs consist of accepting a bill from the high schools of the communities to which they send their secondary students, and paying them. There is no local option. There is no local decision making. They pay their bills, and unlike business they do not get two percent off for cash.

But Windsor, Vassalboro and Chelsea are in much better shape than 57 other small communities in this State which really do not have a very big voice in the Maine Senate. They are the 57 units which operate no schools at all, and I am not quite certain what kind of local decision making or what kind of freedom to present their own point of view in school funding these communities have. They tuition their kids out, and they pay their tuition bills.

When I take a look at the Current Services Budget, which this year is proposed at something like \$418 million, I cannot help but conclude that this is where the State sets its priorities for spending, not in the Part II budget, not in squeezing a few million dollars extra out of the package for new programs or expanded programs. We set our priorities within the Current Services Budget.

There is \$261 million in the Current Services Budget, more or less, according to my rough computations, not accounted for by school funding. That is where you find the tax relief for the elderly; that is where you find the FDC; that is where you find meals on wheels; home-maker support; that is where you find the dollars to try to rehabilitate those whose lives have been shattered by the abuse of alcohol; and it is the Current Services Budget which is an expression of the priorities of the people's representatives in the State of Maine.

Now our democratic system does not cause us to turn around to Maine people and ask them to participate in a referendum as to what they want to do about inventory taxes. We do not

turn around and ask Maine people to participate in a referendum as to whether or not we should put some additional funds into tax relief for the elderly.

As I understand the democratic system in Maine, this is why we are elected, and I have a feeling that there are a great many Members of this Senate who went door to door in order to secure that election, and I have a feeling that there are a good many Members of this Senate who went to town meetings this spring and are going to town meetings this spring, and listen carefully to what people are saying.

Last night I was to one of my rare social functions in the City of Augusta — the Legislature wears me out so during the day that there is not much left at night — but there were something over 100 Augusta area people. Many of them talked politics with me. Those who talked politics wanted to talk about the school funding situation. Not one person, — not one person present suggested that I support a reduction in the amount of school funding. And many people present talked to me about local property tax.

Now I think this is what political sensibility is all about, — doing the best as God gives you the right to reflect what you hear of the concerns of your local people.

The democratic process is a fascinating one. No two of us agree. No two of us have the same voting record. There are 184 human beings in these two Chambers, and the process somehow seems to be to get us together and arrive at a consensus. Now the consensus on school funding was a very, very difficult one. It did not involve just the majority of the people in both houses. It did not say that the Republicans and the Democrats got together in a majority posture, or the big cities and the small towns, or the liberals and the conservatives got together and arrived at a majority point of view. No, — the task was much more difficult. The task was to get two-thirds of both houses.

I know of no one who feels that human needs are going to be met in the State of Maine this year. I know of no one who has been in State Government long enough to know what is going on will take any feeling of satisfaction that the needs of the blind, the elderly, the retarded, the sick, are being adequately met. But there is not enough money in the State to do it all, so what we have done is come to a consensus, representing two-thirds of both Houses.

Those of us who will run for re-election will get a report back during the next election, even as those of us who are incumbents have received reports back in the past. It is a darned good system. Maine is one of a few places where the Senators get two year terms and not four year terms.

I guess the fact that we are here indicates that there was some sensitivity on our part towards what the people were saying. I wish I could say that what we have passed is a perfect document, but there is no document that goes through this Legislature but what it reflects the imperfection of the process that we call democracy.

I would solicit from all Members of this Senate, and from the Governor, a sincere attempt to read into the current services budget when it arrives before us, more than a cursory, more than a passing attempt to understand the priorities in that document, but I suggest to the Senate that the priorities being established today are pretty clear, and we all understood them. May we do our work just as well on the Current Services Budget when that comes along.

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

Mr. CARPENTER: Mr. President and Ladies and Gentlemen of the Senate, I will be brief. I rise this morning to urge you to over-ride the Governor's veto.

Although I was on the Second Committee of

Conference and my name was affixed to the Report, I have no pride of authorship. I would be more than willing to stay here as long as possible to try to come up with a better alternative. I do not feel that the Governor's latest proposal is a better alternative, and I sincerely hope that no Senator will rise this afternoon and ask us to sustain the Governor's veto without offering forth a better alternative, not simply to pass back the Bill to the local municipalities.

As I see the bottom line of this whole thing, we have two Bills to be paid, not two Bills that may or may not be paid, but two Bills that will be paid. I think the question comes down to this, — who shall pay it. Shall the local property taxpayer in Houlton, Maine or Bangor, Maine, or Richmond, Maine pick up the tab for State mandated programs, or shall the general fund, non-property tax sources pick up a part of the tab.

I do not mind opening this Bill back up. We worked here very late two weeks ago, very late in the evening on three different occasions, to try to come up with the best alternative possible, and I think we have the best alternative possible. I talked to a Senator yesterday who was going to vote to sustain the Governor's veto, who admitted to me that, yes, this would place the burden back onto the local municipalities.

I think maybe what I object to as much as anything this morning, in my decision to vote for this Bill, and my subsequent decision to vote to over-ride the Governor's veto, is being played off against "people" programs. My people pay property taxes. It is as simple as that, and I cannot stand here or sit here and in all good conscience pass back a further property tax increase onto the taxpayers of my District, Southern Aroostook County.

I would also point out to you, if you go through the Governor's veto message, we have basically three things in L.D. 1252: (1) Uniform Property Tax mill rate of 11.5, (2) an education budget of \$290.6 million, and (3) inventory tax reimbursement of 85 percent. I would submit to you that within the last month all three of these particular proposals have been agreed upon by the Governor.

He did say he was agreeing to \$290.6. He did agree to 11.5 mills, and he does in this veto message agree to 85 percent reimbursement of the inventory tax. I would just ask you where is the objection.

Thank you.

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

Mr. SPEERS: Mr. President and Members of the Senate, I simply want to commend the good Senator from Kennebec, Senator Katz, and the Senator from Aroostook, Senator Carpenter, and state that I agree with their remarks.

In reading down through the Governor's veto message, the Governor states that we are at a cross-roads in Maine, and indeed he is quite correct, we are at a cross-roads. But I would submit to the Members of this Body that it is a cross-roads that is not entirely unfamiliar to us, because we have been here before. Indeed, the whole question that is before us today is simply very basically who is to pay for the cost of education in the State of Maine. The burden of education or the responsibility for payment of education, should that fall upon the property taxpayers of the State of Maine, or should it be borne more equitably by the broader base taxes, the sales and income taxes which we gather in the general fund here in Augusta.

That is simply, basically the question that we are facing, and it is a question which we have faced before in previous Sessions of the Legislature. It is a question which was faced in the 106th Legislature which enacted a revolutionary new form of funding for education in the State of Maine. It is a question we faced again in the 107th Legislature when we

revised some of those provisions of that particular funding law. It is a question we faced just last year and, again, the Legislature reaffirmed its position, that the property taxpayers in the State of Maine should not be charged with the sole and overpowering, overburdening responsibility for payment of education in this State. And here again it is a question which we have faced previously in this Legislature and, as is his right, the Governor has asked us finally, once more, to face that basic question again.

And I would ask this Senate to reaffirm the positions that we have taken consistently over the past several years in the State of Maine. As I mentioned in remarks earlier this month, the State of Maine is not the only state faced with this question. The State of California started this entire matter in a Supreme Court test of the educational funding system of that State. And other states have found themselves in dire problems because of the educational burden lying upon property taxation in their various states.

In the State of New Jersey the schools were closed down by the Supreme Court of that state because the funding was unconstitutional. And as I mentioned, the Supreme Court of the State of Connecticut has now found that state's system of school funding to be unconstitutional. I think we can be proud in the State of Maine of the fact that we recognize this as a problem, and of the fact that we took steps early, before other states ran into the same kinds of problems, to alleviate this problem and to alleviate the burden upon the property taxpayers of this State.

Now let there be no mistake whatever in the minds of anyone that the property taxes in the State of Maine are going to go up because of the cost of education. Who can deny that costs of government have gone up; have escalated, primarily because of inflation. And no one can deny that as the cost of everything else, the cost of education has increased as well. Even at the level that we have funded, of \$290.6 which I would remind this Body was the recommendation of the Commissioner of Educational and Cultural Services, even at that level, the cost of education is going to demand that there be a rise in local property taxation.

The Governor in this message is basically requesting that to save a few more dollars of the general fund in the State of Maine, that we place more responsibility back upon the local municipalities in the State, back upon the local property taxpayers to pay for the cost of education. And it is basically that simple a choice, whether the cost of education should be borne by local property taxation or should be borne by the broader base taxes that we enact in Augusta.

There have been comments with regard to the amount that the cost of education is taking from the general fund. I simply want to set the record straight, and the good Chairman of the Appropriations Committee has indicated that the cost, the increasing cost of education in reliance upon the general fund this year is at 6 percent, whereas the over-all increase of the cost of the general fund is 9.2 percent. Those figures belie the argument that education is grabbing off all of the funds of State Government.

There is one other point that I would like to make with regard to the use of the funds. The Governor in his message last Friday recommended that some of these funds be used to enact a sales tax exemption program. And I think that the sales tax exemption program that he suggested is worthy. It is a very worthwhile program, and I hope we can place that into the general fund programs and find the money to pay for some of these programs when they come along later on in the Session.

But the Governor is suggesting that those

programs be paid for by reducing the amount of the general fund to be borne by the educational costs. Those exemptions would benefit home owners. But I would simply like to make the point that if we place a heavier burden upon the property taxpayer in order to give certain benefits to homeowners, what have we really gained? In effect we are granting them certain amounts of money through the sales tax exemption, but at the same time in order to get that money, we are taking the money away from them in the form of higher property taxes.

So again, Ladies and Gentlemen of the Senate, this question is indeed a cross-roads for the State of Maine, but it is not one that we have not seen before. The basic question is whether the cost of education in the State of Maine must be borne more heavily by property taxation or by the taxes which we can raise here in Augusta.

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

Mr. CONLEY: Mr. President and Members of the Senate, I, too, am going to be extremely brief this morning dealing with the Governor's message.

I think that it would be wise for the Senate this morning to, one, just think back over the past three and a half months, nearly four months of the time we have been here. The veto that comes before us this morning is not a veto really that has not in some way been here since we got here on January 5th.

One of the first things that those of us in leadership discussed are the two priorities that have been vetoed by the Governor and on our desks today. At no time from January 5th until the present day, or the day this Bill was enacted, did leadership try to jam something down — as the good Senator from Kennebec, Senator Katz has stated — the 184 throats. I know that at least in my caucus of the Members of my party, on numerous times we discussed both the inventory tax and the educational funding Bill. Some Members, as I stated the night we enacted this law, some Members wanted \$293.1 million, primarily because they felt the rural communities of the state were being denied financial assistance within the local leeway provision of the law.

Again, that failed. We could not get enough support even though it was unanimous within our caucus to support that and support full reimbursement of the \$14.2 on the inventory tax back to the communities. That failed.

We do not have the perfect document that we would like to see. We are voting really, I am sure a majority of us at least in my party, are voting for what they consider to be a real compromise measure. The fact is that the Governor compromised his position and accepted the Commissioner of Education's figures of \$290.6, and if you recall on the evening that I offered an Amendment on this floor, it was summed up in the local press the following day as one of the most fiscally irresponsible acts ever to be suggested since the Chief Executive became governor. And yet today he is stating that he is willing to accept that portion.

I do not know where we go or how we turn fiscally to be in total and complete agreement with the Governor, because it appears to me that almost every turn in the road has been discussed over and over again with the Governor. He said he has been fully aware of the extravagance that some Members would like to go. He is aware of the fact that there are others obviously here in this Body and the other House who would like to go much slower.

But again, as it has been stated here this morning, it takes two-thirds of both Branches to pass the Bill that went to the Governor, and it is once again going to take two-thirds to override the Governor's veto. I honestly say that we have more than taken the first and the last step, and

it would be my hope that the Senate today would vote to override.

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

Mr. HEWES: Mr. President, and Members of the Senate, I submit the issue today is, are going to vote for a state-wide increase in taxes or are we not going to? All of you here, I think, are intellectually honest, and you have to agree with yourselves that if you vote for this, to override the Governor's veto now, then down the long run, two months from now, later in this Session, you are going to have to vote for some kind of state-wide tax increase, or else you are going to have crumbs for the other programs, the University of Maine, the State employees, the VTI's, corrections, human services — the cupboard is getting bare. There just is not enough money to provide other services and a balanced budget which we all want, and we have got to have a balanced budget, and to increase the state aid for local funding as requested by this Bill.

The good Senator from Kennebec, Senator Katz, my very good friend, said that people told him last night they do not want to "cut school spending." I submit, we are not cutting school spending. On the contrary, last year the State allocated or allowed for school spending \$262,592,000.00. I have this on a flyer from the Department of Education and Cultural Services, — \$262 million. What we are talking now is \$290 million versus \$286 million. It is not a cutting of school expenses or money for school funding; it is just do you increase it \$28 million, or do you increase it about \$25 million?

I submit that a \$24 million increase over \$262 million is an adequate increase. I am willing to bite the bullet, and only allow \$24 million here and not vote for a tax increase down the line.

And when I mention down the line, let us look several years in the future. We cannot afford a substantial tax increase this year as we had last year. Do we have one next year, the year following? Pretty soon they will be paying 100 percent of their profits, their income in taxes the way we are headed. Last year \$18.5 million was taken from the working people of Maine. Do we want to do that again this year? I submit, no. We have great unemployment now. The working man is losing enough money as it is now in taxes.

I submit to you that the issue today is do you want to increase taxes for local education when the local people can control their education, or do you not want to increase taxes.

And the other programs that we have are state-wide programs, the University of Maine, no locality, Cape Elizabeth, Portland, Bangor, what-not cannot pay for the University of Maine expenses or VTI expenses or corrections or human services or aid to the what-not state-wide.

What we are talking about is a program of local school funding that can be decided by the local people and not by the people of the State as a whole. So I submit that we should vote for an increase in State funding for school financing of \$24 million and not for \$28 million, and I hope that you will be honest with yourselves and want to vote against a tax increase and vote to sustain the Governor's veto today. I thank you.

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

Mr. CHAPMAN: Mr. President and Ladies and Gentlemen of the Senate, the good Senator from Kennebec, Senator Katz, indicated that he had talked to some of his constituents. Well, I think many of us have. I know I have.

I have listened to my constituents, and they are divided. Some are very strongly in opposition to the present school funding program. Some are in favor of the present program. But they all want efficiency in Government. They agree on that. They all prefer not to have newly

imposed taxes upon them from the State.

Now you all know my concerns over the promotion of more and more centralization in government. They know how I feel about that. The Uniform Property Tax is not an issue here today. That is going to be settled in November.

The Governor has urged us to slice the pie in a little different manner, to allow a little more money to be available for some other worthwhile programs, that I think most of us agree are worthwhile, programs that will benefit the elderly, programs that will benefit the Maine State employees, the University of Maine and many others. He would like to see a little more money available from this budget, so that we will not have to certainly raise other taxes, which would be imposed upon our constituents.

To this would admittedly place back on the local property tax a little more pressure, a little more burden, but it would make it a local decision. And this in my view is a good thing. The choice is theirs at that point. Otherwise, the choice is not theirs.

It is my opinion that these constituents of our who bite these bullets, perhaps they might be efficient and reduce some spending, perhaps they will feel concerned about the level of education and spend it, but that decision will be theirs, and made locally.

The more closely we can relate our Government to the people, the better will be the government. To get people involved in the process is what we desperately need today.

I urge that we sustain the Governor's veto. The PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Huber.

Mr. HUBER: Mr. President and Members of the Senate, the \$290.6 million contained in this Bill as presented to the Governor is the Commissioner's recommendation. It is based primarily on this year's cost of education, that is fiscal year 1977. Actual costs in the fiscal year 1978 will be in the neighborhood of \$315 to \$320 million. Thus there is already about \$25-\$30 million burden on the local property tax inherent in this Bill as presented to the Governor. Local control will be exerted on the increase in the cost of education from the 1977 level funded in this Bill to the actual expenditures in 1978. This is a local decision.

The Governor's recommendation would impose an additional \$4 million burden on the local property tax. I think it is unfair to the people of Maine to try to delude them into thinking that this increased local tax burden is not a tax increase.

From the standpoint of the Appropriations Committee and the defense of the general fund, certainly our easiest way out would be to dump the additional \$4 million of unavoidable expenses back on the local property tax. However, I think that this is less than straightforward and I hope the Senate will override the veto.

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

Mr. MANGAN: Mr. President, I, being one of the more popular members of the Senate, I cannot really say that I have received a great deal of reaction from my constituents. I can only honestly say that I received one phone call from a constituent, who is also a State official. I have also received a great deal of urgings both ways from Members of the Senate, and I can honestly say that I have worked on the horns of a dilemma, so to speak, I have been in a quandary the last couple of days on this thing, and I was wondering whether it would be nice to have to be out in Boston today for some reason or other.

But the question that comes down is as a municipal official of the City of Lewiston, I have to look at it from their point of view, what will the \$290 versus the \$286 do? Now on a \$286 funding for education, we would probably have an additional \$4 million to spend on legislative documents. Hopefully I would like to see about \$2 million of that going for State employees'

raises. I would like to see another million at least go for the University of Maine, which has great needs.

However, I am not sure that is where the \$4 million will go. The Governor has suggested that he would like to use some of this \$4 million for tax and rent relief and free drugs for the elderly, sales tax exemptions on electricity for home-owners and other Part II programs. And I am kind of questioning as to whether these new programs are really not going to cost us an arm and a leg as the years go along. You just really cannot provide, for example, desperately needed programs for tax exemptions on home-owners and not expect it to really snowball in the next few years from now, which will probably cost us as much as education in the long run.

The other side of the coin is that if the City of Lewiston, as my prime source of reference, ends up with a \$286, the City will reduce its revenue by approximately \$220,000.00. This loss of revenue to the City of Lewiston translates to approximately 1.25 to 1.5 mills. These are additional taxes that have to be placed on the taxpayers of the City of Lewiston. Therefore, the property taxes will go up.

Now I can understand that the two sides of the point are probably very simplistic. I would seem to me that the Governor is attempting to begin some new programs which will eventually cost the State of Maine a good deal of money. On the other hand, after reducing the benefits for State mandated programs onto the local municipalities.

Now it will be my impression that at this point since education is already well underfunded, and since the cities have already basically approved their budgets for the next 18 months, that we really do not have any choice at this point other than to vote for the \$290 as listed originally in the compromise measure.

I am not really sure that I am pleased with the \$290 as such. I am convinced, I think, at this point that I am displeased with the \$286, because I do not see here in the \$286, in the Governor's proposal, any increase in salaries for State employees and seriously any assistance for the University of Maine, which I feel is desperately needed this year.

So that considering my simplistic approach, I would urge the Members of the Senate to override the Governor's veto.

The PRESIDENT: Is the Senate ready for the question? The pending question before the Senate is shall this Bill become a law notwithstanding the objections of the Governor.

According to the constitution, the vote will be taken by the yeas and nays. A vote of yes will be in favor of the Bill. A vote of no will be in favor of sustaining the veto of the Governor.

The Secretary will call the Roll.

YEAS — Carpenter, Collins, D.; Collins, S.; Conley, Cummings, Curtis, Danton, Farley, Huber, Katz, Levine, Lovell, Mangan, Martin, McNally, Minkowsky, Morrell, Pray, Redmond, Snowe, Speers, Usher, Sewall.

NAYS — Chapman, Greeley, Hewes, Hichens, Jackson, Merrill, O'Leary, Trozky, Wyman.

ABSENT — Pierce.

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

Mr. CHAPMAN: Mr. President, I would request my vote be paired with Senator Pierce.

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

Mr. CONLEY: Mr. President, I would pose a parliamentary inquiry as to whether a vote can be paired on a veto message.

The PRESIDENT: The Chair would answer the parliamentary inquiry that a vote may be paired, but the Chair would suggest to the Senator from Sagadahoc, Senator Chapman, that it is reasonably late in the game to request to pair at this point in time, plus the additional

fact that the vote would serve no purpose whatsoever.

The Chair recognizes the Senator from Sagadahoc, Senator Chapman.

Mr. CHAPMAN: Thank you, Mr. President. Before Senator Pierce left for his trip, he requested that I consider pairing my vote with him, and I so acknowledge that I would do so.

23 Senators having voted in the affirmative, and 9 Senators in the negative, with one Senator being absent, and 23 being more than two-thirds of the Membership present, it is the vote of this Senate that the Bill become a law notwithstanding the objections of the Governor, and the Secretary will present the Bill to the Secretary of State.

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

Mr. SPEERS: Mr. President, having voted on the prevailing side, I urge the Senate reconsider its action, and urge the Senate to vote against the Motion.

The PRESIDENT: The Senator from Kennebec, Senator Speers, now moves the Senate reconsider its action whereby it over-rode the veto of the Governor.

A viva voce vote being had,

The Motion to reconsider does not prevail.

Orders of the Day

The President laid before the Senate:

L.D. 394, "An Act to Remove Restrictions on the Salary of County Commissioners Who Hire Full-Time County Administrators," which was tabled earlier in today's Session by the Senator from Cumberland, Senator Conley, pending consideration.

On Motion of Mr. Speers of Kennebec, Retabled for one legislative day.

(Off Record Remarks)

On Motion of Mr. Huber of Cumberland, Adjourned to 10:00 tomorrow morning.