

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

***One Hundred and Eighth
Legislature***

OF THE

STATE OF MAINE

Volume II

May 26, 1977 to July 25, 1977

Index

**Senate Confirmation Session
September 16, 1977**

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KJ PRINTING
AUGUSTA, MAINE

SENATE

Tuesday, May 31, 1977

Senate called to Order by the President.
Prayer by Reverend Robert E. Canfield, of Gardiner Methodist Church, in Gardiner.
Rev. CANFIELD: Let us bow in prayer. Father we thank you that this day we may approach you, and yet in realizing that you have already approached us. You have promised to always be with us, and never forsake us. You are with us because you love us. You are with us because You know that we need You, and we need You this day.

Help us in all the considerations of this hour that we may seek divine guidance, knowing that our actions will guide our lives in the future, as well as many others. So give us wisdom that is from above. We ask this in the name of Our Saviour, Jesus Christ.

Amen.
Reading of the Journal of yesterday.

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

Bill, An Act Relating to Instruction Posting under the Election Laws. (H. P. 454) (L. D. 559)
In the Senate May 20, 1977 Passed to be Engrossed as amended by House Amendment "A" (H-341), in concurrence.
Comes from the House, Passed to be Engrossed as amended by House Amendment "A" as amended by House Amendment "A" thereto (H-424), in non-concurrence.
On Motion of Mr. Katz of Kennebec,
The Senate voted to recede and concur.

Non-concurrent Matter
Bill, An Act Concerning the Power of Podiatrists. (S. P. 280) (L. D. 893)
In the Senate May 20, 1977 Passed to be Engrossed.
Comes from the House, Passed to be Engrossed as amended by House Amendment "A" (H-421), in non-concurrence.
The PRESIDENT: The Chair recognizes the Senator from Androscoggin, Senator Snowe.
Mrs. SNOWE: Mr. President, I move the Senate recede and concur.
On Motion of Mr. Conley of Cumberland,
Tabled until later in Today's Session, Pending the Motion of the Senator from Androscoggin, Senator Snowe, that the Senate recede and concur.

(See Action Later Today)

**Joint Order
State of Maine**

House

ORDERED, the Senate concurring, that the Department of Transportation when next publishing the Official Transportation Map shall include, where reasonable and feasible, bilingual legends in French and English. (H. P. 1604)

Comes from the House, Read and Passed.
Which was Read.
The PRESIDENT: The Chair recognizes the Senator from Kennebec, Senator Katz.
Mr. KATZ: Mr. President, I wonder whether we might have some input on this as to the motivation behind it from any Member of the Senate who might care to answer.
The PRESIDENT: The Chair recognizes the Senator from Waldo, Senator Greeley.

Mr. GREELEY: Mr. President, the way I understood it, the situation was going to be taken care of anyway. I thought it was an agreement between three Members of the other Body and the Commissioner of Transportation. We had a Bill pertaining to this, and they asked leave to withdraw. There was an agreement set up between three Members of the other Body and the Commissioner of Transportation to take care of it.

On Motion of Mr. Katz of Kennebec,
Tabled for One Legislative Day, Pending Passage.

Joint Order

Expression of Legislative Sentiment recognizing that: the Volunteer Fire Department of Athens, whose Fire Chief is Hoyt Hall, has just held a mortgage-burning celebration on its new firehall, a celebration which caps over 8 years of volunteer endeavor and sacrifice to pay off this mortgage. (H. P. 1608)
Comes from the House, Read and Passed.
Which was Read and Passed, in concurrence.

Joint Resolution

An Expression of Legislative Sentiment In Memoriam: Whereas, the Legislature has learned with deep regret of the death of Edith Gertrude Pride Elliot who, during all of her century of life, contributed actively to the educational, cultural, political and charitable life of Windham. (H. P. 1605)
Comes from the House, Read and Adopted.
Which was Read and Adopted, in concurrence.

(Off Record Remarks)

Committee on Labor

May 27, 1977

The Honorable Joseph Sewall
President of the Senate of Maine
State House
Augusta, Maine, 04330
Dear President Sewall:
In accordance with 3 M.R.S.A., Chapter 6, section 151, and with Joint Rule 37 of the 108th Maine Legislature, the Joint Standing Committee on Labor has had under consideration the nomination of Asa Richardson to the position of member of the State personnel Board.
After public hearing and discussion on this nomination, the Committee proceeded to vote on the motion to recommend to the Senate of the 108th Maine Legislature that this nomination be confirmed. The vote was taken by the yeas and nays. The Committee Assistant called the roll with the following result:
YEA:
Senators
McNALLY of Hancock
PRAY of Penobscot
REDMOND of Somerset
Representatives
BUSTIN of Augusta
LEWIS of Auburn
PELTIER of Houlton
FLANAGAN of Portland
ELIAS of Madison
McHENRY of Madawaska
TARR of Bridgton
LAFFIN of Westbrook

NAYS:
Representatives
BEAULIEU of Portland
ABSENT:
Representative
DUTREMBLE of Biddeford

11 Members of the Committee having voted in the affirmative and 1 in the negative, it was the vote of the Committee that the nomination of Asa Richardson to the position of member of the State personnel Board be confirmed.

Sincerely,
(Signed) SEN. CECIL McNALLY
Senate Chairman
(Signed) REP. DAVID W. BUSTIN
House Chairman

Which was Read and Ordered Placed on File.

The PRESIDENT: The Joint Standing Committee on Labor has recommended that the nomination of Asa Richardson be confirmed.
The pending question before the Senate is:

Shall the recommendation of the Committee on Labor be overridden? In accordance with 3 M.R.S.A., Chapter 6, Section 151, and with Joint Rule 37 of the 108th Legislature, the vote will be taken by the yeas and nays.

A vote of Yes will be in favor of overriding the recommendation of the Committee. A vote of No will be in favor of sustaining the recommendation of the Committee. Is the Senate ready for the question?

The doorkeepers will secure the doors.
The Secretary will call the Roll.

ROLL CALL

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

ABSENT — Hewes.
One having voted in the affirmative and 31 Senators in the negative, and One being less than two-thirds of the membership present, it is the vote of the Senate that the Committee's recommendation be accepted. The nomination of Asa Richardson is confirmed.

(Off Record Remarks)

House of Representatives

May 27, 1977

Honorable May M. Ross
Secretary of the Senate
108th Legislature
Augusta, Maine
Dear Madam Secretary:
The House voted today to Adhere to its former action whereby it indefinitely postponed Bill "An Act to Prohibit the Sale and Use of Devices for the Detection of Radar" (S. P. 147) (L. D. 389)

Respectfully,
(Signed) EDWIN H. PERT
Clerk of the House

Which was Read and Ordered Placed on File.

**Committee Reports
House**

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

Bill, An Act Concerning the Renewal of Special License Plates. (H. P. 1099) (L. D. 1323)
Bill, An Act to Amend Certain Provisions of the Maine State Retirement System. (H. P. 1515) (L. D. 1750)
Bill, An Act to Establish Presidential Primaries in Maine. (H. P. 1141) (L. D. 1368)

Leave to Withdraw

The Committee on Marine Resources on, Bill, An Act to Create the Maine Coastal Protection Fund for Natural Gas and Liquefied Natural Gas. (H. P. 1322) (L. D. 1643)

Reported that the same be granted Leave to Withdraw.

Comes from the House, the Report Read and Accepted.

The Committee on Taxation on, Bill, An Act to Insure That Low Paid Workers, the Elderly and the Poor of Maine are not Taxed at a Higher Rate Than All Other Citizens. (H. P. 1328) (L. D. 1613)

Reported that the same be granted Leave to Withdraw.

Comes from the House, the Report Read and Accepted.

The Committee on Election Laws on, Bill, An Act to Make Certain Changes in the Election Laws. (H. P. 1350) (L. D. 1649)

Reported that the same be granted Leave to Withdraw.

Comes from the House, the Report Read and Accepted.

The Committee on Taxation on, Bill, An Act to Provide Property Tax Relief to Maine's Elderly Citizens. (H. P. 1479) (L. D. 1731)

Reported that the same be granted Leave to Withdraw.

Comes from the House, the Report Read and Accepted.

The Committee on Election Laws on, Bill, An Act to Provide for the Registration of Voters on Election Day in all Polling Places. (H. P. 748) (L. D. 953)

Reported that the same be granted Leave to Withdraw.

Comes from the House, the Report Read and Accepted.

The Committee on Election Laws on, Bill, An Act Concerning the Inspection of Nomination Petitions by Boards of Voter Registration. (H. P. 1352) (L. D. 1623)

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 Taxation on, Bill, An Act Relating to the Declaration and Payment of Estimated Tax for Corporations under the Maine Income Tax Law. (H. P. 464) (L. D. 569)

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 Providing for Improvements in the Sales Tax Collection Provisions Specified by Statute. (H. P. 395) (L. D. 501)

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 Revise the Excise Tax on Camper Trailers. (H. P. 953) (L. D. 1147)

Reported that the same Ought to Pass.

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

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

Ought to Pass — As Amended

The Committee on Agriculture on, Bill, An Act to Promote Direct-Marketing of Agricultural Commodities. (H. P. 1339) (L. D. 1619)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-422).

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

The Committee on Natural Resources on, Bill, An Act Clarifying the Saco River Corridor Commission Statutes. (H. P. 1281) (L. D. 1517)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-425).

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 Health and Institutional Services on, Bill, An Act to Amend the Law Regulating Mass Gatherings. (H. P. 485) (L. D. 605)

Reported that the same Ought to Pass in New

Draft under same title. (H. P. 1603) (L. D. 1806)

Comes from the House, the Bill, in New Draft, Passed to be Engrossed, as amended by House Amendment "A" (H-441).

Which Report was Read and Accepted in concurrence, and the Bill, in New Draft, Read Once. House Amendment "A" was Read and Adopted in concurrence. The Bill, as amended, Read Once and Tomorrow Assigned for Second Reading.

Ought to Pass in New Draft

The Committee on Health and Institutional Services on, Bill, An Act Relating to Communicable Diseases. (H. P. 267) (L. D. 337)

Reported that the same Ought to Pass in New Draft under same title. (H. P. 1602) (L. D. 1805)

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.

Divided Report

The Majority of the Committee on Public Utilities on, Bill, An Act to Establish a Fund to Insure the Safe and Proper Decommissioning of Nuclear Energy Generating Facilities. (H. P. 1454) (L. D. 1694)

Reported that the same Ought Not to Pass.

Signed:

Senators:

CUMMINGS of Penobscot
COLLINS of Aroostook
CARPENTER of Aroostook

Representatives:

LUNT of Presque Isle
TARR of Bridgton
SMITH of Mars Hill
CUNNINGHAM of New Gloucester
PEARSON of Old Town
BERRY of Buxton

The Minority of the same Committee on the same subject matter Reported that the same Ought to Pass in New Draft under same title. (H. P. 1599) (L. D. 1804)

Signed:

Representatives:

NADEAU of Sanford
KELLEHER of Bangor
WOOD of Sanford
McHENRY of Madawaska

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

Which Reports were Read.

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

Mrs. CUMMINGS: Mr. President, I move we accept the Majority Ought Not to Pass Report.

The PRESIDENT: The Senator from Penobscot, Senator Cummings, now moves that the Senate accept the Majority Ought Not to Pass Report.

The Chair recognizes the Senator from Penobscot, Senator Curtis.

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

The PRESIDENT: A Division has been requested.

The Chair recognizes the Senator from Cumberland, Senator Conley.

Mr. CONLEY: Mr. President and Members of the Senate: I notice that the Bills are starting to come from Committee very rapidly, and because of the fact that there seems to be a fairly divisive report here, I wonder if one Member of the Senate may possibly explain very rapidly what this Bill does.

The PRESIDENT: The Senator from Cumberland, Senator Conley, has posed the question through the Chair to any Member of the Committee who may care to answer.

The Chair recognizes the Senator from Penobscot, Senator Cummings.

Mrs. CUMMINGS: Mr. President, this Bill is designed to spread the costs of decommissioning a Nuclear Facility over a long period of time. It is extremely expensive to stop and completely dismantle a Nuclear Plant. So, the idea and the philosophy and it was a good idea, behind the reason for putting this Bill in was so that those who were having the benefit of lower power at this time would start to share in the ultimate costs of dismantling a Nuclear Power Plant.

However, there is no way of knowing at the moment how much this would cost. Surely, we do know what the few plants that have been dismantled — what those costs have been. But, there has been a tremendous variety; some plants have been used again for other reasons. There are new methods coming up which will perhaps change the entire picture.

It seemed unreasonable to start charging the present customers a certain percentage of their bill to pay for a cost in the future which might never happen. We felt it was premature, and there are several other reasons about it that Committee action of the Committee that would be formed by this would represent a confiscation of the Utility Property; maybe if the fund is overly large when it is collected and the facility is dismantled, what would happen to the extra funds and how would these funds be treated for tax purposes. There are too many questions.

We felt that perhaps if this became more imminent that maybe a study would help us figure this out. At the moment, this is an unwieldy Bill and we felt it should receive an Ought Not to Pass.

The PRESIDENT: Is the Senate ready for the question? The pending question before the Senate is the Motion by the Senator from Penobscot, Senator Cummings, that the Senate accept the Majority Ought Not to Pass Report of the Committee.

A Division has been requested.

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

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

28 Senators having voted in the affirmative, and 2 Senators in the negative, the Motion to accept the Majority Ought Not to Pass Report does prevail in non-concurrence.

Sent down for concurrence.

Divided Report

The Majority of the Committee on Agriculture on Bill, An Act Relating to Exhibition Dates for Agricultural Fairs and Exhibitions. (H. P. 420) (L. D. 525)

Reported that the same Ought Not to Pass.

Signed:

Senator:

JACKSON of Cumberland

Representatives:

ROLLINS of Dixfield
MAHANY of Easton
SMITH of Mars Hill
TOZIER of Unity
LOUGEE of Island Falls
STROUT of Corinth

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-413).

Signed:

Senators:

HICHENS of York
LEVINE of Kennebec

Representatives:

HALL of Sangerville
WOOD of Sanford
CARROLL of Limerick
TORREY of Poland

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

Which Reports were Read.

On Motion of Mr. Hichens of York, Minority Ought to Pass Report accepted in non-concurrence.

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

Divided Report

The Majority of the Committee on Election Laws on, Bill, An Act to Require Direct Mailing and Verification of Absentee Ballots and Concerning the Marking of Absentee Ballots. (H. P. 452) (L. D. 557)

Reported that the same Ought Not to Pass. Signed:

Senators:

DANTON of York
TROTZKY of Penobscot

Representatives:

BUSTIN of Augusta
McMAHON of Kennebunk
BOUDREAU of Portland
BOUDREAU of Waterville
RAYMOND of Lewiston
TALBOT of Portland
DURGIN of Kittery
MITCHELL of Vassalboro

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-419).

Signed:

Senator:

KATZ of Kennebec

Representatives:

TRUMAN of Biddeford
BIRT of E. Millinocket

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

Which Reports were Read.

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

Mr. KATZ: Mr. President, as election Law Bills go, this is a major issue. I feel that the Senate should know about it.

I would like to move for acceptance of the Minority Ought to Pass as amended Report.

The Bill is a very simple Bill in that it completely removes the third person from absentee voting.

Now, if you are perfectly happy with Absentee voting as it exists with the Candidates going around picking up the applications, going into the house and helping the ill or the disabled person vote; if you feel this is a good, healthy atmosphere; if you feel that the system where some workers wander around with as many as 50 ballots in their pockets, some of which never get turned in, and if you think that this is your idea of what Democracy should be all about, you will vote against this Bill.

I have a feeling that the one complication in the Electoral Process that is most offensive to me is what absentee voting has become in this State. I recall just a handful of years ago there were two kinds of ballots. One is the sick ballot, and the other is an absentee ballot. An absentee ballot, if you were going to be out of town, was either handled by mail or it was handled by walking into the City Clerk and voting if you were going to be out of town. The sick ballot was so stringently administered that you had to get a Doctor's signature that you were sick and you could not actually vote. From that point to this point we have let down on all the bars that were sensible protection of the process, and in the process I think we have opened ourselves up to all kinds of abuses that come to haunt us.

As clearly as I can give my prejudiced point of view, that is what this Bill is all about.

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

Mr. DANTON: Mr. President and Members of the Senate, if there is anything that bothers me about Bills like this is that one more time it makes the politicians or those seeking an elective office look like the bad guy.

Now I do not know of any case in the State of Maine where any candidate for any office has ever been caught, accused, brought to court and found guilty of going in and persuading someone to vote one way or another on an absentee ballot. I am not so naive that I do not believe that perhaps it is done. Maybe it is. But somewhere along the line I feel that we as elected officials should stand up and be counted, and feel that we are honorable people.

I request a Division on the Senator's Motion.

The PRESIDENT: A Division has been requested.

Is the Senate ready for the question? The pending question before the Senate is the Motion by the Senator from Kennebec, Senator Katz, that the Senate accept the Minority Ought to Pass, as amended, Report of the Committee.

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

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

9 Senators having voted in the affirmative, and 21 Senators in the negative, the Motion to accept the Minority Ought to Pass Report does not prevail.

Majority Ought Not to Pass Report accepted in concurrence.

(Off Record Remarks)

Senator Danton of York was granted unanimous consent to address the Senate on the record.

Mr. DANTON: Mr. President and Members of the Senate: Last week we had a great debate in this Chamber pertaining to Chester Greenwood, and as many of you can recall, I wished to offer an Amendment to that Bill.

I would like to read this. It will just take a minute, but I think I would like to read it here. The Maine Times, May 27, 1977; it had a little thing in the editorial page:

"Capitol Wit"

"There is no award for State House Wit, but, if there were, it would go to Senate Minority Leader Gerard P. (Jerry) Conley, the Portland Democrat who does more to maintain a sense of humor in Augusta than any two other lawmakers. Last week, Jerry Conley made the national newspapers when he kicked off his own physical fitness program by jogging around the State House in a T-shirt decorated with a portrait of Governor Longley."

"Earlier, Conley had listened to his seat-mate and Assistant Minority Leader, Senator Peter Danton of Saco argue that if Chester Greenwood was to be memorialized for inventing the earmuff in Farmington, then Danton would like the bill to also memorialize the name of the man who invented the camera."

"I was watching television last night," Danton told the Senate, "and I saw this feature about some fellow from my district who invented the camera. I don't recall his name, but I'd like to add it as an amendment to this Chester Greenwood bill!"

"Whereupon, Jerry Conley rose and addressed his colleague as follows: 'I would remind my seat-mate from Saco that the fellow who invented the camera was Kodak, not Kojak!'"

"Well, it was funny at the time."

I got this letter over the weekend.

"Dear Senator Danton:

"The name you did not recall was John Johnson, the man who helped design and build the first camera patented in the United States in 1840. Mr. Johnson was the founder and the first president of the York Institute Museum."

"Please tell Mr. Conley that Kodak was a word coined as a trade-mark by George Eastman, and given to his first commercial camera in 1888, much later than Mr. Johnson's."

"Well, the lady signed, it is still funny."

Barbara Bond, Librarian
Dyer-York Institute
Saco, Maine.

Thank you.

Divided Report

The Majority of the Committee on Education on, Bill, "An Act to Reduce the Funding Level of the University of Maine Law School, to Establish a Law School Loan Fund and to Require Part-time Programs to be Offered at the University of Maine Law School" (H. P. 1263) (L. D. 1515)

Reported that the same Ought Not to Pass.

Signed:

Senators:

KATZ of Kennebec
PIERCE of Kennebec
USHER of Cumberland

Representatives:

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

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-403).

Signed:

Representative:

CONNOLLY of Portland

Comes from the House, Bill and Papers Indefinitely Postponed.

Which Reports were Read.

Majority Ought Not to Report Accepted.

Divided Report

The Majority of the Committee on Taxation on, Bill, "An Act to Exempt Property under Construction from Real Property Taxation." (H. P. 1327) (L. D. 1554)

Reported that the same Ought Not to Pass.

Signed:

Representatives:

CARTER of Bangor
TEAGUE of Fairfield
IMMONEN of West Paris
MACKEL of Wells
TWITCHELL of Norway
MAXWELL of Jay
POST of Owls Head

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

Signed:

Senators:

WYMAN of Washington
MARTIN of Aroostook
JACKSON of Cumberland

Representatives:

CHONKO of Topsham
CAREY of Waterville
COX of Brewer

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

Which Reports were Read.

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

Mr. WYMAN: Mr. President, I move we accept the Minority Ought to Pass Report.

The PRESIDENT: The Senator from Washington, Senator Wyman, now moves that the Senate accept the Minority Ought to Pass Report.

The Chair recognizes the Senator from Kennebec, Senator Katz.

Mr. KATZ: Mr. President, it seems to be a short Bill, but I am completely unfamiliar with the issue and would benefit from an explanation.

The PRESIDENT: The Senator from Kennebec, Senator Katz, has posed a question through the Chair.

The Chair recognizes the Senator from Washington, Senator Wyman.

Mr. WYMAN: Mr. President and Members of the Senate: I think if there is anything we need here in Maine it is jobs. I think this Bill is designed to tax some of the new mills we are getting before they are completed, and before they can earn money. This might not make the difference in bringing a new industry to Maine or a new mill to be built by a present industry, but I do think it is just one more deterrent toward expanded industry and making jobs.

I do hope that the Senate will support the Ought to Pass Report.

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

Mr. MANGAN: Mr. President, I would have a question through the Chair to anybody on the Committee who would care to answer it. In the City of Lewiston almost any property that is really under construction come April the 1st is taxed, either through real property tax or through property tax of the items that at least on the premises.

I wonder why the Members of the Senate on the Committee felt that it was not wise to tax Real Estate that had quite a bit of construction material thereon, and some of these buildings could last four or five years in construction and through property tax of the items that are at least on the premises.

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

The Chair recognizes the Senator from Washington, Senator Wyman.

Mr. WYMAN: Mr. President and Members of the Senate, as I tried to explain, I think this is one more deterrent toward new industry to tax their property before they can begin to earn with it. It just seems to me that it is, as I say, one more deterrent and it might not make any different to any particular industry but it might be just the one factor that keeps us from getting the new industry, and I think if there is anything we need here in Maine it is jobs.

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

Mr. KATZ: Mr. President, two things about this Bill confused me. One, there is no fiscal note to indicate how much money it is going to be draining from the Treasury.

Although the title is to exempt property under construction, as I read the Bill, it seems to me that it only talks about identifying, using the construction as a vehicle to determine when an exemption shall be. The Bill says that a building or construction of a value of \$25 million or more is entitled to exemption for four years, and I have a feeling that one thing that the Legislature never does is hesitate to remove revenues from the pockets of local people. I call to your attention the fact that these are local property taxes. The Bill gives no indication that the local community if going to be reimbursed by the State for the loss of local property taxes. As I read the Bill, there is no restriction and if the \$25 million building only takes one year to construct, I get the distinct impression that the exemption is going to last for four years anyway.

These are some of the things that disturb me at first glance.

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

Mr. LOVELL: Mr. President and Members of the Senate, having worked for some 20 odd years on industrial development and having brought some 17 new industries, with the help of others, into the town of Sanford, I can tell you that you have got to meet and sometimes beat competition if you are going to do business. Many times in Sanford — which maybe we would not be doing that now, because we have got quite a number of industries in there — but many times we have given concessions to industries, and the only way since they dissolved the Department of Economic Development and took off the some 10 or 12 workers. They used to travel to New York with me and to many parts of the United States and try to get new industries in the State of Maine. They are all gone except Hadley Atlans and I believe one or two others.

So, consequently, the Governor feels that the only way that we are going to get industry in Maine is keep the taxes down. But, that is not the whole answer, because New Hampshire alone last year got 69 new industries against 39 for the State of Maine, and they have got no sales tax or income tax.

Consequently, I believe a Bill such as this, to give the incentive for industries to come into Maine is certainly worthwhile. I would sure hope that when a mill comes into Maine, I do not care if you give them the exemption for two years or three years, if they employ a thousand persons at a normal wage of approximately — they will have skilled workers, — and that is about a million a year, and I am sure that a million dollars a year turns over in that city or town three or four or five times before it leaves the State.

To me this is a good thing to pass, and I think that we could definitely pass to allow those concessions to be given on new buildings being built, and this is only for new commercial buildings, and it will not hurt the town on the taxes because if the industry had not come into the town, they would never have had any taxes from it anyway.

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

Mr. MANGAN: Mr. President, I rise again with another problem on this thing as relating to the value of portions of the buildings added or renovated as of April 1. In the City of Lewiston we have got a building known as the Sparks Building that has been sitting there for years and apparently, as a result of the housing boom, is going to be renovated to the tune of something in the vicinity of \$1.5 million. What this would imply is that the City of Lewiston cannot tax that building for at least one year and, therefore, will take that completely off the tax roles, and that will hurt in a bad way.

I have got a problem with this and I would ask for a Division when the vote is taken.

The PRESIDENT: A Division has been requested.

The Chair recognizes the Senator from Cumberland, Senator Jackson.

Mr. JACKSON: Mr. President and Members of the Senate: I rise to concur wholeheartedly with the good Senator from York, Senator Lovell. I think he did an excellent job of explaining the portion of the Bill which does attempt to bring new industry into the communities, and that they would not have realized any taxes if they had not.

In reference to what Senator Mangan from Lewiston just stated; I think that if he reads the Bill correctly, is that the only portion that will be tax exempt will be that portion that is renovated. Therefore, the exemption would be for the \$1.5 million, not for the value of the building. If they were going to improve the building, it would be for what improvements are going to be.

I think the Bill is an excellent Bill. I think the

merits are on the plus side. Maine does need industry. We need to grow. I have a register that goes back to 1848 House of Representatives and Senate here in the State — and the population of Maine at that time was a little over 900,000 people. We are a little over a million now, and I do think it is time that Maine attempted to grow. We have a good, clean environment up here. We probably have the strongest environmental laws in the nation, so I do not think that we are going to draw unhealthy industry. I think this will attempt to draw industry that would be compatible with the State.

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

Mr. KATZ: Mr. President, I am terribly sensitive to the remarks of the Senator from York about jobs and industrial development. I agree with him wholeheartedly.

But this Bill goes far beyond that. God forbid if a retail jewelry store wanted to build something out here in the boondocks. You are going to give a tax exemption, and if the thing is part of a complex that is more than a million, you are going to give them exemption apparently for a couple of years. And on what basis, on what possible basis you want to give a tax exemption to a retail outlet that is putting up a building to make profit, I do not know. The intent of the Bill is fine. The title is a little erroneous, because the title gives the impression that the tax exemption exists only for the period of construction, and I can not find that in the Bill.

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

Mr. COLLINS: Mr. President, I am very sympathetic to the purpose of this Bill, but I have only been able to study it this morning, and I am concerned about the constitutionality of it, and I would inquire of the Committee on Taxation whether they have had an opinion about this point.

The PRESIDENT: The Senator from Knox, Senator Collins, has posed a question through the Chair to any Member of the Taxation Committee who may care to answer.

The Chair recognizes the Senator from Washington, Senator Wyman.

Mr. WYMAN: Mr. President and Members of the Senate: I have not checked the constitutionality of this. I assumed the Bill was all right if it would make jobs.

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

Mr. LOVELL: Mr. President and Members of the Senate: Last year at the 107th Legislature we gave exemptions for electricity, which went into the manufacture of products we give tax exemptions to it, up near Bangor, Eddington or some such town. Down in Rockland we gave them exemptions on something that went into cement. I am not much on cement so I do not know. So I say it definitely was constitutional, and to the good Senator from Androscoggin, Senator Mangan, I would definitely state if he has gotten somebody that is putting \$1.5 million in an old building in Lewiston, he had ought to pray every night that somebody has got nerve enough to put \$1.5 million in an old building down in Lewiston.

Now, as far as Senator Katz, the good Senator from Kennebec is concerned, if any jeweler is crazy enough \$1 million building outside of Augusta to sell jewelry, well God bless him. Let him put it out there, because he is going to hire a lot more people and it will mean a lot more money for the State of Maine. And that is what we want — jobs. There is pretty near 10 percent out of work now. We are losing 11,000 young people every year that are going out of State. They cannot get work. Someday they will come back. Well, when they come back they are generally 65 and retired.

Let us put this thing through.

On Motion of Mr. Speers of Kennebec, Tabled for One Legislative Day Pending the Motion of the Senator from Washington, Senator Wyman, that the Senate accept the Minority Ought to Pass Report of the Committee.

Senate

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

Bill, An Act Relating to the Compensation for District Attorneys. (S. P. 361) (L. D. 1223)

Leave to Withdraw

Mr. Redmond of the Committee on Energy on, Bill, An Act to Require Posting of Prices of Certain Internal Combustion Engine Fuel. (S. P. 312) (L. D. 1032)

Reported that the same be granted Leave to Withdraw.

Which Report was Read and Accepted.
Sent down for concurrence.

Divided Report

The Majority of the Committee on Taxation on, Bill, An Act to Establish a Tax Credit to Aid Businesses Providing New Jobs in Areas of High Unemployment. (S. P. 436) (L. D. 1513)

Reported that the same Ought Not to Pass.

Signed:
Senators:

WYMAN of Washington
JACKSON of Cumberland

Representatives:

MAXWELL of Jay
IMMONEN of West Paris
CAREY of Waterville
TWITCHELL of Norway
CARTER of Bangor
CHONKO of Topsham
COX of Brewer
MACKEL of Wells
POST of Owl's Head
TEAGUE of Fairfield

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

Signed:
Senator:

MARTIN of Aroostook

Which Reports were Read.

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

Mr. JACKSON: Mr. President, I move we accept the Majority Ought Not to Pass Report of the Committee.

The PRESIDENT: The Senator from Cumberland, Senator Jackson, now moves the Senate accept the Majority Ought Not to Pass Report.

The Chair recognizes the Senator from Penobscot, Senator Pray.

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

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

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

The Chair recognizes the Senator from York, Senator Lovell.

Mr. LOVELL: Mr. President and Members of the Senate, I have not had time to read this Bill and I would like to know what I am going to vote on. I wonder if some Member of the Committee would explain if it is going to help bring in new industry, or is it just going to hurt our industry, or if somebody would explain, I would appreciate it very much.

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

The Chair recognizes the Senator from Penobscot, Senator Pray.

Mr. PRAY: Mr. President and Members of the Senate: I would like to briefly explain the Bill as to exactly what it does.

I refer to the Statement of Fact. The Bill is divided, basically, into three parts. It provides for a tax credit on any business that expands or hires new employees through the creation of new employment. The qualification for new employment is an individual who works at least 32 hours a week, and at least 1,600 hours a year for the company that hires them. The one requirement would be that the industry expands or develops into an area that has unemployment exceeding 7 percent, and also the tax credit would be established. One percent, as I said, of the wages paid would be a tax credit that would carry over for a three year period, and the third thing about the Bill is that it expires, self termination, 1983.

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

Mr. JACKSON: Mr. President and Members of the Senate: I think that the good Senator from Penobscot, Senator Pray, did an excellent job of telling you about this piece of legislation.

There is one thing that concerns me. It is the 7 percent factor. I think that if we are going to have a piece of Legislation such as this, that it should be uniform all over the State. I think that if we are going to allow a credit, that it should be allowed to all the businesses in the State that expand; not where there is a margin of unemployment of 7 percent or greater. This I think is probably the biggest hang-up of the Bill. I am sure I could support it if you wanted to amend that Section out, where any industry in the State that expanded in the State would enjoy this credit.

I do not think that the Bill, in its proper structure at the present time is a credit to industry in the State, because of that 7 percent factor, and I would urge the Members of the Senate to vote against it.

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

Mr. LOVELL: Mr. President and Members of the Senate: I frankly agree with the good Senator Jackson. I had not read the Bill, but if it is applied to all industries I would say that it would be excellent, as I can remember many industries we had come into Sanford, and the new people we had to teach them how to — actually a person that can sew at a home on a machine cannot go into a dress factory and make dresses because the machines are so high speed, so fast, so they have to learn all over. We had to give all kinds of different courses in Sanford. We paid them the minimum wage, but even then the owners of the plant said they could not make enough money. They lost money on their employees.

Now I would like to see the good Majority Leader who has just tabled a Bill, table this one, and let us get this one in shape so that we can get some industry in Maine.

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

Mr. PRAY: Mr. President and Members of the Senate: I would like to explain a little bit of the philosophy behind this Bill. It is similar to the Federal Jobs Act that we had, which has a kick in and kick out theory behind it, similar to this thing. For an example, let us take Washington or Hancock County. We will use a County basis just for explanation. If the County area had an unemployment of over 7 percent, I would think that it would be desirable to the State of Maine that we promote industries in those areas with the largest labor force that is unemployed. That was the reason for this factor

of the requirement of 7 percent of unemployment, and as the economy, for example, bounded back in one of those areas, then the concentration on new businesses or the incentives for them would be diverted into another area which still has high unemployment. And as I said, it is very similar to the Federal Jobs Bill, and was the intention of that.

I agree, I would like to bring any business into the State of Maine, into any area, no matter what the employment situation was in that area, but I think that we have a number of areas in this State that needs it more than other areas. That was the intent and the purpose for entering this theory into the thing, and also the fact that it was self-terminating. If the Legislature in 1985 desired to continue this program, it would take another Legislative Act to do it. I think that the intention there is so that it is not an on-going tax exemption to any business that comes along.

I will point out one thing that I was advised by the Bureau of Taxation that this one percent credit would be equal to \$2 million loss of revenue. I would just point out to that if one percent of the tax credit is \$2 million, that means that the amount of wages would be \$200 million, and if you stop and think about it we lose \$2 million on tax credit, but we gain \$200 million to put on a personal income tax and plus the revenue that we would receive out of that same \$200 million in sales tax, I think it would be well set off. If the Bureau of Taxation is expected to lose \$2 million in this one area alone, then we should look at the income that would be created, and perhaps the potential jobs that it would be creating along with a price tag such as that.

On Motion of Mr. Conley of Cumberland, Tabled for One Legislative Day, Pending the Motion of Mr. Jackson of Cumberland that the Senate accept the Majority Ought Not to Pass Report.

Divided Report

The Majority of the Committee on Taxation on, Bill, "An Act to Establish a Property Tax Exemption for New and Expanding Businesses." (S. P. 416) (L. D. 1457)

Reported that the same Ought Not to Pass.

Signed:

Senators:

WYMAN of Washington
JACKSON of Cumberland

Representatives:

MAXWELL of Jay
IMMONEN of West Paris
CAREY of Waterville
TWITCHELL of Norway
CHONKO of Topsham
MACKEL of Wells
POST of Owl's Head
COX of Brewer
TEAGUE of Fairfield

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

Signed:

Senator:

MARTIN of Aroostook

Which Reports were Read.

On Motion of Mr. Jackson of Cumberland, Tabled for One Legislative Day, Pending the acceptance of either Report.

Second Readers

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

House

Bill, An Act to Amend the Method of Collecting Municipal Costs in The Abatement of Malfunctioning Domestic Sewage Disposal Units. (H. P. 1323) (L. D. 1557)

Resolve, to Convey Land from the State of Maine to Clarence E. Nichols. (H. P. 726) (L. D. 846)

Bill, An Act Concerning the Motor Vehicle Certificate of Title and Anti-theft Laws of Maine. (H. P. 1595) (L. D. 1803)

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

House — As Amended

Bill, An Act to Authorize the Town of Beals to Withdraw from the Moosabec Community School District. (Emergency) (H. P. 47) (L. D. 68)

Bill, An Act Concerning the Practical Training of Electricians. (H. P. 122) (L. D. 155)

Bill, An Act Concerning the Membership of the Standardization Committee. (H. P. 134) (L. D. 171)

Bill, An Act to Authorize Bond Issue in the Amount of \$5,370,000 for the Construction and Renovations of Higher Education Facilities at the University of Maine. (H. P. 613) (L. D. 750)

Bill, An Act to Authorize an Archeologist for the Maine Historic Preservation Commission. (H. P. 781) (L. D. 934)

Bill, An Act Concerning the Per Pupil Cost of a School Administrative Unit Losing More than 33% of its Enrollment between June and September. (H. P. 907) (L. D. 1106)

Bill, An Act to Adjust the Civil Process Fees and Travel Allowances for Deputy Sheriffs. (H. P. 1378) (L. D. 1571)

Bill, An Act to Permit State Aid to be Distributed to the Unit or School which the Student Attends. (Emergency) (H. P. 1348) (L. D. 1651)

Which were Read a Second Time and Passed to Be Engrossed, As Amended, in concurrence.

Bill, An Act to Provide for Visitation Rights for Grandparents of Children Involved in Divorce or Custody Proceedings. (H. P. 704) (L. D. 885)

Which was Read a Second Time.

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

Mr. DANTON: Mr. President and Members of the Senate, as I read L. D. 885, I know it is a good sounding Bill, but over the week-end I had occasion to speak to two members of the Judiciary. I spoke to some attorneys. And I think that this Bill is going to take and cause an awful hardship on the Court.

They tell me that perhaps one of the most difficult things, and some of the attorneys in this Chamber can get up and speak after I sit down, — one of the most difficult things in divorce proceedings is setting a day for visitation between the father and the mother of the children involved. Now what we are asking the Court is take and allow the grandparents from both sides.

Now I think that once again we are asking the Court to get into an area that should be handled by the parents of these children. For all we know, in many of these cases, perhaps one of the grandparents on one side or the other were probably the cause of the divorce.

I am going to make a Motion that this Bill and all of its accompanying papers be indefinitely postponed, and I would hope the Senate would support me.

The PRESIDENT: The Senator from York, Senator Danton, now moves that L. D. 885 and all its accompanying papers be indefinitely postponed. Is this the pleasure of the Senate?

The Chair recognizes the Senator from Penobscot, Curtis.

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

Mr. President, I think if the Members of the Senate will look at the Committee Amendment which is the entire Bill now (H-400), you will determine that what this Bill now does is to describe something that has not previously been in the Law, and that is a provision regarding visitation rights. It would seem to me that this

would make it easier for Judges, and for Attorneys, and for parents, and for anybody else who was interested in the welfare of a child to determine what the child's rights are regarding visitation and determine what powers of the Courts are.

I think if you will look at it carefully you will see that it does not refer to grandparents specifically, but generally lays out a new description in the Law, something which had been assumed prior to the existence of this proposal, and which really should be written out carefully in the statutes so they will be available for Judges.

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

Mr. MANGAN: Mr. President, I spoke on this again last week reiterating the fact that I thought divorce, generally speaking, is a family affair. Generally speaking, if the wife is seeking a divorce, mother is right there behind her. Generally speaking, mother is one of the witnesses in Court, and generally speaking, since the wife has got the children if they are under 14 most of the time, Grandma is right there faithfully babysitting most of the time. Therefore, we really do not need this.

I question again in the Amendment itself; whether the Court has opened up a new area, — any third person, according to the Amendment, to whom care, custody, right of visitation has been granted, any blood relative or any person. I look at all of the fathers who can see their children from 12:00 until 2:00 on a Saturday afternoon and I can see all of the competition coming in from Grandma and the Department of Human Services and the next door neighbor. I see that as a problem.

Also, the Amendment throws in a kicker here which allows the wife to change her name, at her request, and I can see all the children from the age of 7 on through 17 or so with the name Jones and the wife wants to get her maiden name of Smith back, and I can see all the hang-ups the kids are going to have.

I just see so many problems with this thing that I would urge you to support the Motion of the Senator from York County, Senator Danton, to indefinitely postpone.

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

Mr. DANTON: Mr. President and Members of the Senate, my main concern here is the children, of course, and I think we should do everything possible not to allow these kids to be confused, and I think a Bill of this nature is going to do just that. We are going to keep these kids constantly confused.

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

Mr. SPEERS: Mr. President, Ladies and gentlemen of the Senate, I want to clarify something that might possibly be a confusion in the minds of some, and that that this Bill does not mandate visitation rights for grandparents, but simply allows the Court as the Court now considers the visitation rights for the parents. It allows the Court to consider all of the ramifications and various elements that are presented to the Judge with regards to the visitation rights, and allows that Court to make a determination that there would be visitation rights to grandparents as well as to the parents. This does not mandate that there must be visitation rights along those lines, but allows the Court to make that determination if the Court deems fit.

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

Mr. FARLEY: Mr. President and Members of the Senate: I rise to disagree with my seat mate from York, Senator Danton. I think the problem with juveniles today, and especially in divorce cases, is there is not enough communication between parents or uncles and

aunts. A lot of that is taken away. He is left by himself with children his own age, and eventually children in that same predicament as him. I think the more communication the Judge sees fit; parents, grandparents, then I think it would do us all a lot of good in the area of juvenile problems in this State.

I would ask that you defeat the Motion before you and pass this Bill on.

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

Mr. MANGAN: Mr. President, just one last word on this matter. One of the biggest problems that we have in the State of Maine today relating to divorce is not that there is a lack of communication between the child and his grandparents, but that there is a tendency to try and discourage the father from seeing his children, and it is this lack of communication between a 14 year old daughter and her father or a 15 year old son and his father that really causes most of our problems today. I think that if they had the guiding light and if this relationship were encouraged than to try and spread it very thinly and let everybody else into the picture, I think that we would see a lot more straightening out in the State of Maine.

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

Mr. CONLEY: Mr. President, I have sat here and I have listened to debate on this particular Bill and you know I kind of put it all together and I just do not see grandparents running down to the Court House, nor have I been contacted by grandparents with any problems relative to visiting their grandchildren. I just wonder if there is a need for this particular Bill.

It always appears to me that is what we sort of have to rely on, is whether or not there is a need for legislation, and as far as I am concerned I do not think this Bill is needed.

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

Mr. CURTIS: Mr. President, I think that the last comment really should be responded to, and I would do so in this way. There are hundreds of divorces every year in the State of Maine. They all go through the legal process that is provided for under the statutes, and each one of them is different. As anybody knows who has talked to, been through a divorce, or advised people who are in the middle of a divorce, each instance is individual and entirely separate.

It seems to me that one of the things we can be most helpful, as Legislators, is to provide the Courts with enough direction and flexibility so that the Judge, in his discretion, as he sits listening to the case and making the decisions, will be able to utilize all of the alternatives that might possibly be available to help those children.

The PRESIDENT: A Division has been requested.

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

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

22 Senators having voted in the affirmative, and 7 Senators in the negative, the Motion to indefinitely postpone does prevail.

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

Mr. DANTON: Mr. President, having voted on the prevailing side, I now move reconsideration, and I hope you vote against me.

The PRESIDENT: The Senator from York, Senator Danton, now moves the Senate reconsider its action whereby L. D. 885 was indefinitely postponed.

The Chair recognizes the Senator from Kennebec, Senator Speers.

Mr. SPEERS: Mr. President, I move this item lie on the Table for One Day.

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

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

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

Will all those Senators in favor of tabling L. D. 885 pending the Motion to reconsider, please rise in their places to be counted.

Will all those Senators opposed to tabling L. D. 885 pending the Motion to reconsider, please rise in their places to be counted.

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

The PRESIDENT: The pending question before the Senate is the Motion by the Senator from York, Senator Danton, that the Senate reconsider its action whereby it indefinitely postponed L. D. 885.

A viva voce vote being had, The Motion to reconsider does not prevail. Sent down for concurrence.

Bill, An Act to Provide for Legislative Review of Federal Grant Applications by State Agencies. (H. P. 1393) (L. D. 1636)

Which was read a Second Time.

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

Mr. KATZ: Mr. President, this Bill provides for the filing with the Legislature of any State Grant Applications that do not involve just a pass through. I wonder if some Members of the Committee, I think it was Performance Audit, will explain to me the use to which the stack of reports will be put for the benefit of the Legislature.

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

Mr. MORRELL: Mr. President, in response to the Senator from Kennebec, the purpose of this Bill is to attempt initially to further involve the Legislature early in the game before Federal Funds are accepted and we get into programs which ultimately do involve commitments from the Legislature relative to the General Fund. We find continual situations of frustration when we are called upon to pick up through the General Fund the continuation of programs funded Federally in which we had no part in their initial adoption.

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

Mr. KATZ: Mr. President, I support the Bill, the concept of the Bill, but I would like I would point out to the Senate that Federal Grantmanship is a pretty sophisticated thing, and if you have seen some of the Federal Grants, they are pretty big and it is not the kind of thing you can skim through and find out what we are trying to do. I think we should realize that if we are going to get into the program of reviewing the Federal Grants and commenting on Federal Grants, and trying to influence the Department, it is going to be an expensive addition to the Legislative staff.

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

Mr. MANGAN: Mr. President, the only hang-up I have with this thing, there are a couple of them — One, is that Federal Grants do not just happen to be written at the time that the Legislature happens to be in Session. Many of these are 30 day Grants, 90 day Grants, which happen in September sometimes, and would almost require a prior call of the Legislature just to review these Grant Applications.

Secondly, a lot of these Grants are kind of instant overnight matters where you have to apply for these things, and then these things within 12 hours. I have seen some of these Amendments come through on a variety of Federal Grants, and I do not think that the Legislature could

really assimilate all of this matter instantly.

Another question that comes up, and I understand that the Governor is about to refuse another package of Federal money, I wonder whether we do not really have an ombudsman, so to speak, on Federal Grant matters in the second floor office, since we have already had x amount of thousands of dollars refused by the Governor already. I feel that this may be sufficient.

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

Mr. MORRELL: Mr. President, if this Bill was passed and a Federal Application was either applied for or contemplated being received, this would not involve calling the Legislature into Session. It could be handled administratively without going to that extent.

Which Bill was passed to be engrossed, as amended, in concurrence.

Bill, "An Act to Create a Clients' Bill of Rights and Responsibilities." (H. P. 1594) (L. D. 1802)

Which was Read a Second Time.

On Motion of Mrs. Snowe of Androscoggin, Tabled for Two Legislative Days, Pending Passage to be Engrossed.

Bill, "An Act Authorizing Municipalities to Create Development Districts." (H. P. 1216) (L. D. 1482)

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

Sent down for concurrence.

Senate

Bill, "An Act to Authorize Bond Issue in the Amount of \$11,500,000.00 for the Highway and Bridge Improvement Program." (S. P. 65) (L. D. 136)

Bill, "An Act Relating to Registration of Trucks of Less Than 6,000 Pounds as Motor Automobiles." (Emergency) (S. P. 113) (L. D. 272)

Bill, "An Act to Increase the Use of Wood Fuel as a Supplement to Conventional Energy Sources in Residential Space Heating." (S. P. 295) (L. D. 921)

Bill, "An Act to Establish an Assessment of Student Performances in the Basic Skills." (Emergency) (S. P. 518) (L. D. 1810)

Which were 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 Concerning the Podiatric Practice Act." (S. P. 425) (L. D. 1483)

"An Act Concerning Wharf and Piers under the Submerged Lands Law." (H. P. 1320) (L. D. 1550)

"An Act to Provide Limited Immunity to Aid in Arson Investigation." (H. P. 959) (L. D. 1151)

"An Act to Repeal the Definition of Insane Person Contained in Title 1 of the Maine Revised Statutes." (S. P. 357) (L. D. 1182)

"An Act Concerning the Taking of Black Bass." (H. P. 265) (L. D. 333)

"An Act Relating to Application Fees for Official Inspection Stations." (H. P. 136) (L. D. 169)

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

Emergency

"An Act to Amend the Law Relating to Gas Tax Reimbursement." (H. P. 1219) (L. D. 1446)

This being an emergency measure and having received the affirmative votes of 29 members of the Senate, was Passed to be Enacted, and hav-

ing been signed by the President, was by the Secretary presented to the Governor for his approval.

Emergency

Resolve, Designating Weskeag Marsh at Thomaston as the "R. Waldo Tyler Wildlife Management Area." (H. P. 1533) (L. D. 1765)

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

Orders of the Day

The President laid before the Senate: Bill, "An Act to Clarify Vocational Education Reimbursement in Vocational Centers and Vocational Regions." (H. P. 98) (L. D. 122) (Emergency)

Tabled — May 26, 1977 by Senator Katz of Kennebec

Pending — Enactment

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

Mr. KATZ: Mr. President, for the purposes of reconsideration, I move the Senate suspend its rules.

The PRESIDENT: The Senator from Kennebec, Senator Katz, now moves the Senate suspend its rules. Is this the pleasure of the Senate? It is a vote.

The Chair recognizes the same Senator.

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

The PRESIDENT: The Senator from Kennebec, Senator Katz, now moves the Senate reconsider its action whereby L. D. 122 was passed to be engrossed. Is this the pleasure of the Senate? It is a vote.

The Chair recognizes the same Senator.

Mr. KATZ: Mr. President, I move reconsideration of our action whereby we adopted Senate Amendment "A".

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

The Chair recognizes the same Senator.

Mr. KATZ: Mr. President, I now move that Senate Amendment "A" be indefinitely postponed.

The PRESIDENT: The Senator from Kennebec, Senator Katz, now moves that Senate Amendment "A" be indefinitely postponed. Is this the pleasure of the Senate? It is a vote.

The Chair recognizes the same Senator.

Mr. KATZ: Mr. President, I now offer Senate Amendment "B" (S-175) and move its adoption.

The PRESIDENT: The Senator from Kennebec, Senator Katz, now offers Senate Amendment "B" (S-175) and moves its adoption. The Secretary will read Senate Amendment "B".

Senate Amendment "B" (S-175) Read.

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

Mr. KATZ: Mr. President, the little exercise that just took place killed one Senate Amendment and substituted the second, and although it looks like an awful lot of words, it just adds, so far as I can determine, three words to make it clear that when we are talking about "sending units", we are talking about youngsters being sent for vocational education programs. The three words are the text of the Bill.

Senate Amendment "B" adopted.

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

Sent down for concurrence.

The President laid before the Senate: Bill, "An Act to Clarify Sex Discrimination in

the Maine Human Rights Act." (S. P. 260) (L. D. 821)

Tabled — May 26, 1977 by Senator Speers of Kennebec

Pending — Passage to be Engrossed.
On Motion of Mr. Katz of Kennebec,
Retabled for Two Legislative Days.

The President laid before the Senate:
Bill, "An Act Relating to State Income Tax Deduction for Student Tuition Payments." (S. P. 402) (L. D. 1385)

Tabled — May 26, 1977 by Senator Katz of Kennebec

Pending — Motion of Senator Katz of Kennebec to Indefinitely Postpone Bill and Papers.
On Motion of Mr. Conley of Cumberland,
Retabled for One Legislative Day.

The President laid before the Senate:
Bill, "An Act to Dissolve Vocational Region 9 and to Establish a Vocational Center to Serve Northern Oxford County." (H. P. 1113) (L. D. 1372) (Emergency)

Tabled — May 26, 1977 by Senator Speers of Kennebec

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

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

Tabled — May 27, 1977 by Senator Speers of Kennebec

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

Mr. KATZ: Mr. President, I feel that with all of the emotions that are available to me today, that there is none that quite fits what is required.

I notice that the other Body has insisted and asked for a Committee of Conference, and that is one alternative, although I have every reason to believe that there is an inflexible attitude. Another alternative is to move that we adhere to our present position, in which case there is a very real danger that we will have an exercise experience in killing a piece of Legislation, for which the State is waiting.

Having made these preliminary remarks, I will sit down and wait with interest for the response of the Senate.

On Motion of Mr. Conley of Cumberland,
The Senate voted to Insist and Join in a Committee of Conference.

The President laid before the Senate:
HOUSE REPORTS — from the Committee on Fisheries and Wildlife — Bill, "An Act to Eliminate Weight Limits on Certain Species of Fish and to Provide for Uniform Possession Limits by Numbers." (H. P. 188) (L. D. 250)
Majority Report — Ought to Pass as Amended by Committee Amendment "A" (H-398)
Minority Report — Ought Not to Pass

Tabled — May 27, 1977 by Senator Redmond of Somerset

Pending — Motion of Senator Pray of Penobscot to accept Minority Ought Not to Pass Report

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

Mr. REDMOND: Mr. President, I oppose the Motion by Senator Pray of Penobscot to accept the Minority Ought Not to Pass Report.

This is a Departmental Bill, and the reason for bringing it into the Legislature is to avoid having to hold 16 hearings, one in each County. The Sportsman's Alliance of Maine at first had some objections, and the Committee put an Amendment on there, made some changes, and it is a conservation measure that reduces the bag limit. There are two Amendments on it, and

as I understand it from the Department, as we go along, as more people, more pressure, and more accessibility to our fishing areas, and this just brings the Law up to date.

I ask for a Division, and hope that the Senate will accept the Majority Ought to Pass Report.
The PRESIDENT: A Division has been requested.

The Chair recognizes the Senator from Cumberland, Senator Usher.

Mr. USHER: Mr. President and Members of the Senate, I would hope the Senate would support the Minority Report. This is an Amendment to Title 12, Section 2553.

I would like to share the last comment in the law. "This Section may be modified or changed by the rules and regulations of the Department under Section 1960," which is under the Commissioner's duties. I do not think we ought to eliminate these public hearings, and I hope you accept the Minority Ought Not to Pass Report.

The PRESIDENT: Is the Senate ready for the Question? The Pending question before the Senate is the Motion by the Senator from Penobscot, Senator Pray, that the Senate accept the Minority Ought Not to Pass Report of the Committee.

Will all those Senators in favor of this Motion, please rise in their places and be counted.

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

The Chair recognizes the Senator from Penobscot, Senator Pray.

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

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

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

The Chair recognizes the Senator from Penobscot, Senator Pray.

Mr. PRAY: Mr. President and Members of the Senate, I just would like to share with you basically the existing situation we have in the State on fishing regulations. We have thousands of lakes, rivers, ponds and streams, and each of those have different regulations. As Senator Usher, the Senator from Cumberland, pointed out, under the present statute, the Commissioner has the authority at any time to change this Act that we are just about to pass, or the present Act that is in there at this time. On these thousands of lakes and ponds and inland waters that many of our sportsmen fish, different situations exist which require different regulations, different size limits.

It is my belief that this Bill is a Department Bill for one purpose. The powers and duties that we have given to that Commissioner down there to make these decisions, — he has decided that the heat is a little too hot in the kitchen, so he wants to change those regulations, so he put a Bill in. When the heat comes back from the people around this State, our constituency, to that Department, he is going to say, "Don't talk to me. I didn't do it. The Legislature did it."

I think that we had better just take a good look at what this Bill says and what it does because it is going to be cutting down the limits on all areas of the State, except Aroostook County. I am not in disagreement with the fact that Aroostook County perhaps should have a little bit larger catch because in that area the season starts a little bit later than it does in the rest of the State and stops a little bit sooner. But for us to be the fall guy for the Department I think is an erroneous act for us to take, and I would hope that we would reconsider the way the prevailing vote was going at this time on this Roll Call.

The PRESIDENT: The Chair recognizes the

Senator from Cumberland, Senator Usher.

Mr. USHER: Mr. President and Members of the Senate, presently the Law is you can catch 12 fish in Aroostook, and 8 fish in the other 15 Counties. This lowers it in 15 Counties to 5 and leaves it in Aroostook at 12.

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

Mr. REDMOND: Mr. President, those people from Aroostook County who insisted on leaving their limits the way they were before — the reasons for that that they give us is because the season is much shorter in Aroostook County. Therefore, it gives them a chance to catch their quota as well as those in the other counties.

The Sportsman's Alliance of Maine go along with this. They feel very strongly this reduction probably only goes only halfway in establishing proper limits that will in the long run greatly improve the quality of sport fishing in the State. It will stop the taking of illegal length fish under the existing Law, if they weigh one pound or less. It also protects certain waters that contain only one or two species of the above mentioned fish. They say, however, that they protest the dropping of the seven and one-half pound aggregate limitation. Well, this was taken care of in the Amendment. I could go on and there is plenty of material here. I am anxious to get back to Somerset, and look after my business. I do not want to spend anymore time than we have to debating this Bill, and I hope that the Senate will vote favorably.

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

Mr. CURTIS: Mr. President, for one Senator who is not a fisherman, I would appreciate one bit of information, and that is can these new restrictions be placed under present Law by the Department now, or is this Legislation necessary in order to lower the restriction.

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

The Chair recognizes the Senator from Kennebec, Senator Levine.

Mr. LEVINE: Mr. President and Members of the Senate: As one of the Senators who does fish, it is my understanding that the Department may now promulgate rules and regulations to in fact do this. Therefore, the Legislation is unnecessary.

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

Mr. PRAY: Mr. President and Members of the Senate: I would like to start off with, first of all, a little advice to the Senator from Somerset, Senator Redmond, that if he wants to shorten this Session any bit, then his Motion today or the action today would be to kill this Bill at this time, because I will oppose it all the way through the system as it is going.

To answer the good Senator from Penobscot, Senator Curtis, the last sentence says, and I will repeat it again, "This Section may be modified or changed by the rules and regulations of the Department under Section 1960." When you go to 1960, it is that Section of the Law which gives the Commissioner the authority to set any rules or regulations on any inland water, brook, stream, pond, lakes or what have you.

Just one last thing. In my area it usually only takes two fish to get the seven and one-half pound limit anyway, sometimes one fish. Like I said, to push this law through we are just taking the Commissioner off the hook.

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

Mr. CONLEY: Mr. President, I always enjoy listening to my good friends, the Senator from Penobscot, Senator Pray, and the Senator from Somerset, Senator Redmond.

The question is, is there pheasant stamp on this particular bill.

The PRESIDENT: The Senator from Cumberland, Senator Conley, has posed a question to any Senator who may care to answer. A Roll Call has been ordered.

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

A yes vote will be in favor of accepting the Ought Not to Pass Report. A nay vote will be opposed.

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

ROLL CALL

YEA — Chapman, Conley, Curtis, Danton, Farley, Hichens, Jackson, Levine, Mangan, McNally, Merrill, Minkowsky, O'Leary, Pray, Usher.

NAY — Carpenter, Collins, D.; Collins, S.; Cummings, Greeley, Huber, Katz, Lovell, Martin, Morrell, Pierce, Redmond, Snowe, Speers, Trotzky, Wyman.

ABSENT — Hewes.

15 Senators having voted in the affirmative, and 16 Senators in the negative, with one Senator being absent, the Motion to accept the Minority Ought Not to Pass Report does not prevail.

Majority Ought to Pass, as amended, Report accepted in concurrence.

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

The President laid before the Senate: Bill, "An Act to Clarify the Role of the Department of Educational and Cultural Services Relating to Local School Systems." (H. P. 1586) (L. D. 1799)

Tabled — May 27, 1977 by Senator Pierce of Kennebec

Pending — Motion of Senator O'Leary of Oxford to Indefinitely Postpone Bill and Papers

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

Mr. KATZ: Mr. President, I oppose the Motion and request a Division.

The PRESIDENT: A Division has been requested.

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

Mr. O'LEARY: Mr. President, on or about March 5th of this Term the good Senator from Kennebec, Senator Katz, entered into the record certain remarks about this Legislative Document, 1799 which is a new draft of 123. My remarks are going to really be in relation to 123 and 1799, which is the redraft. I have looked at the redraft, and I have looked at the Amendment, and I cannot see much difference.

This Bill is strictly a retaliatory Bill and is one of the most obnoxious Bills to come before this legislature. I asked an opinion of the Attorney General, and I prepared my remarks on this Bill at that time, before it was recommittees, because this Bill was in trouble; however, in the redraft it went unnoticed through the House and it had its First Reading in the Senate, and I happened to catch it in its Second Reading.

Mr. President and Members of the Senate, I am very concerned about the potential impact of L.D. 123 or 1799 on the right of local communities to decide for themselves the adequacy of resources allocated to educational programs. Because of my concern, I posed several questions to the Attorney General's Office for their interpretation of L.D. 123 or 1799, which is not any different.

I have received a response, and I would like to review that response here so that all of us can have a clear understanding of the implications of this Bill as we act on it today. Basically, my review of this legislation, confirmed by the At-

torney General's opinion, is that it does not change the law from what it is today — it merely clarifies authority which already exists, except, potentially, in the area of Department of Education oversight of adequacy of local spending. In that area this Bill is unclear, and I will inquire, Mr. President, as to its intent in that area.

My first question to the Attorney General's Office was: "With regard to the proposed 20 M.R.S.A., Section 5, would this section express an intent to in any way reduce the control that voters or local elected officials have over local school matters?"

The Attorney General's Office advised that the expression of legislative intent in section 5 would not reduce local control over local school matters. If anything, the statement will clarify where the power to control and manage public schools is vested, and I would submit that this Bill is intended to vest that with the Department.

However, the Attorney General's Office advised that the phrase which states "... so long as those units are in compliance with appropriate state statutes," raises some question as to the location of such authority if the unit is not in compliance with state statutes. Although it is not clearly expressed, other provisions of this document would indicate that in such circumstances the Department of Educational and Cultural Services could have a large role in the control and management of the schools to the limited extent that the statutes are being infringed.

Mr. President, I would ask the sponsors of the legislation what, if any, controls over local schools the proposed section 5 is intended to give to the Department of Education?

My second question was as follows:

"With regard to the same section, would it be an expression of intent to in any way reduce local control of school budgets?"

The Attorney General's Office advised that there have been certain situations in which the Legislature has mandated specific educational programs which are to be offered in the public schools, while leaving the question of financing those programs to the local budgetary processes. If the local budget as finally approved contains insufficient funds to support such programs, it is possible that the school unit might be considered not to be "... in compliance with appropriate state statutes." In this case, the wording of the statement of intent in section 5 could be interpreted as an intent to compel local units to include sufficient funding in their budgets. The Attorney General indicated the question of sufficiency of the local appropriation would initially be determined by the Department of Educational and Cultural Services. In other words, they are going to make the determination. To this extent, the statement may represent a reduction in local control of school budgets.

Mr. President, I would ask the third question, if section 5 is indeed intended to allow the Department of Education to second guess local communities on the sufficiency of local education appropriations?

My third question was:

"What would be the legal effect of the proposed section 6, subsection 1, in light of the fact that the Commissioner is already authorized to withhold state aid to assure compliance with reporting requirements by 20 M.R.S.A. section 3744?"

The Attorney General's Office advised that Title 20 M.R.S.A. section 3744 sets forth certain statistical information which each administrative unit is required to provide to the Commissioner of Educational and Cultural Services on an annual basis. That section ends with the sentence, "The Commissioner is granted the authority to withhold monthly subsidy pay-

ments from an administrative unit when information is not filed within specified time schedules." The proposed section 6, subsection 1, in effect, restates this authority, but adds the provision that due notice must be given to the appropriate school officials, and that the withholding of funds may continue only until the statistical information is provided. Therefore, the proposed section 6, subsection 1, as amended, would have very little legal effect in light of the preexisting authority to take such action.

My fourth question was:

"What is meant by the term 'probable cause,'" and you will find this is both drafts, one versus the other one, 123 or 1799, — "What is meant by the term 'probable cause' as that term is used in the proposed subsection 3 to section 6?"

After reviewing cases on the matter, the Attorney General's Office concluded that the term "probable cause" as used in the proposed section 6, subsection 3 would mean a belief by the Commissioner, on the basis of his investigation, that a cautious, reasonable and prudent man would determine that the non-compliance which was the basis of the complaint is in fact true.

My fifth question was:

"What would be the nature of the hearings conducted by the State Board of Education under proposed subsection 3 of section 6, in light of the provision of paragraph B that the purpose of the hearing shall be limited to findings of fact and the provision of paragraph C which implies that the Board will make determinations of non-compliance?"

The Attorney General's Office's reply noted an apparent inconsistency between paragraph B which would limit the purpose of the Board's hearing to "findings of fact" and paragraph C which by implication indicates that the Board would reach a conclusion as to whether there had been compliance with the statutory provisions based upon its findings of fact. They determined that a finding of "noncompliance" would actually be a quasi-judicial determination reached by the Board after application of the pertinent statute to the facts which have been found. Therefore, they advised that the Board would be making conclusions of law as well as findings of fact, the language of paragraph B notwithstanding, if the Board were to pursue any given complaint to the extent of preparing it for reference to the Attorney General.

My sixth question was:

"If the result of a public hearing conducted by the State Board of Education is a determination that an administrative unit is not complying with statutory requirements, would there be any right of appeal or other post determination relief?"

The Attorney General's Office advised that section 6 does not specify any appeal process or other post determination action other than reference to the Attorney General. No sanctions are directly imposed as a result of the Board determination. Thus, the Board determination represents advice to the Attorney General that noncompliance with the law may have occurred. Such an advisory finding is not appealable as it results in no action which directly harms a local district. The local district would get its day in court should the Attorney General deem follow up court action appropriate.

My final question was:

"With regard to the proposed section 6, subsection 1, paragraph A, and subsection 3, paragraph C, what would be the effect of these provisions upon the Attorney General, i.e., would the Attorney General be forced to commence a legal action even if he believed that such action would not be appropriate in light of the circumstances of a particular case?"

The Attorney General advised that the provi-

sions as drafted would not force their office to take any specific legal action if it is their judgment that action is not warranted in light of the circumstances of the particular case.

Mr. President, I believe this material I have just reviewed is important to clarify the intent of this legislation so that there can be no future dispute, if the legislation is enacted, regarding key provisions. It is my understanding based on this discussion that this does not significantly change the law from what it is today and the local communities are and remain the prime decisionmakers regarding adequacy of resources allocated to vocational education and other educational programs.

And, Mr. President, I would submit to the Members of this Legislative Body, this Senate, that the powers that are being sought by the Department of Educational and Cultural Services are already the powers of the Governor of this State. Now where do you want these powers to lie?

I will read to you Title 20, Subsection 854, School Funds Withheld from Delinquent Towns of Administrative Units, — and this is our present law.

When the Governor has reason to believe that a town or district has neglected to raise and expend the school money required by law, or to employ teachers certified as required by law, or to have instruction given in the subjects prescribed by law, or to provide suitable textbooks in the subjects prescribed by law, or faithfully to expend the school money received from the State or in any way to comply with the law prescribing the duties of administrative units in relation to public schools, he shall direct the Treasurer of State to withhold from the apportionment of state school funds made to that administrative unit such amount as he may deem expedient. The amount so withheld shall not be paid until such administrative unit shall satisfy said Governor that it has expended the full amount of school money as required by law and that it has complied in all ways with the law prescribing the duties of administrative units in relation to public schools. Whenever such administrative unit shall fail, within the year for which the apportionment is made, so to satisfy the Governor, the said amount withheld shall be forfeited and shall be added to the General Fund of the State.

Now I submit to this Senate, the Governor already had this power under law. Now do we want to pass this power on to the Department of Educational and Cultural services?

I submit that this Bill is for the mental midgets in the other building over there who seem to want to grasp at more and more power, and they want to —

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

Mr. KATZ: Mr. President, the Gentleman is speaking about some highly dedicated, capable, honest State employees, and I object to the use of the term.

The PRESIDENT: The Chair would request the Senator to keep his remarks more in bound.

Mr. O'LEARY: I am sorry, Mr. President, and I beg forgiveness of the Senator from Kennebec, Senator Katz. I should not speak off the top of my head without preparing my notes. I do get carried away, and I beg his apology.

Mr. President, I hope that in view of the opinions that I have read from here in my prepared text, that you will go along with the indefinite postponement of this Bill and all its accompanying papers.

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

Mr. KATZ: Mr. President, this unanimous Committee Report comprised of three dedicated Senators and two dedicated, conscientious Members of the other Body, start to bring you a Bill that is very simple. The Bill

right now has two paragraphs plus an Amendment. The first part of the Bill states the responsibilities of the State in Education under the Constitution, and the second part of the Bill says that it is the intent of the Legislature that control and management of the public schools be handled locally as long as those units are in compliance with the Constitution and State Law. If there is anything controversial about that, I am not quite sure what it is.

It is my understanding that in Senator O'Leary's District there was a hassle about Vocational Education, and one of the major communities, trusting my memory, appropriated \$1.00. Let us translate it into terms of the City of Augusta where we built a Vocational School for about \$5 million or something. What would the State's attitude be if the City of Augusta appropriated \$1.00 for the operation of that building that all of the people in the State have paid for, which was supposed to serve the whole area of the State. What would we do?

What would we do if State Law says that you have got to have 180 days of school and a community chose to go 120 days and give the kids a very, very long summer vacation? Obviously, you have got to have some way of enforcing Law.

This Bill does it two ways. If the Senator from Cumberland, Senator Huber, were here, he would know that the State under its Funding Law has to have information in a timely, accurate way. The first thing this Bill does is says if a community is not in reporting compliance, funds can be withheld or it can be taken to the Attorney General's Office, — Very, very extreme, — Very, very extreme. I do not know that it has ever been done, but you have got to have the whole State tax structure based upon knowing what is going on with the communities, and you have got to have some way of getting it.

The second thing; program requirements. What do you do if a school system thumbs its nose and says we are going to hold school 150 days this year. We think it is enough for our kids. The State Law says 180 days. If the Commissioner gets wind of this, he looks into it, conducts his own investigation, and then calls the matter to the attention of the State Board of Education. The State Board of Education gives due notice, has hearings and if they find that the local community is in violation of the State Law by not having the proper number of days, then they turn the Question over to the Attorney General. The Attorney General is not bound to do anything, but if the Attorney General feels in effect that the State has a case, he may do that which he thinks appropriate. I think it is very reasonable and I think the Senator is correct. It varies very, very little from existing Law. We felt it was absolutely essential to clarify the rights and responsibilities under existing Law. I call it to your attention that it is here, having been passed to be engrossed in the other Body, and it is a unanimous Committee Report, and a very reasonable Bill.

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

Mr. O'LEARY: Mr. President, I am afraid the good Senator from Kennebec has inferred that we in Area 9 vocational area, wish to be nothing but law breakers, which is not true.

I think perhaps I should hang out a little bit of the dirty linen that went with the creation of this Bill. In Area 9 we appropriated, I think, it was \$158,000.00 for Vocational Education in its first year. We had a Director and a Chairman of the Cooperative Board who totally ran the operation and after the Director's initial appointment, it became a two man Board, and which way they wanted it that is the way it went. So, from that time on, there was never a duly constituted Board. When asked certain questions by Members of the Finance Board,

the Director replied "It is none of your business. I run the operation and that is the way it is going to be." And, he had the endorsement of the Department of Cultural and Educational Services. So, we were left with a problem. He wanted a lease on a building known as the Mart Building, which is in excess of \$47,000.00. His salary was to go to \$17,000.00. He was advised by the Department of Educational and Cultural Services that at that time there was not a duly constituted Board. They did not have a quorum, but yet they signed a lease on this building with an option to buy for in the neighborhood of half a million or so.

That is why the people took the actions they did in my area, and I feel sure that you have troubles in all your Vocational Areas in the State, centers and such. They have all got problems. We have got problems in ours, but they are being corrected.

This measure was put in expressly to get even with the Towns of Rumford, Mexico, Dixfield, Bethel and the surrounding area, and that is where our vocational area is. This Bill was directed, and when I asked the Deputy Attorney General if this Bill was drafted for that one purpose, and his answer was "yes". But it will affect each and every one of you in your areas when you have a problem with one man and a Chairman of a Board, two persons out of a duly constituted Board who may write contracts and then make you financially responsible for them. This was why we had troubles up there. We do not have that problem any more. We broke the contract with the Director. We broke the contract with the Mart. We do not purchase or lease. We are in the process now of setting up a Vocational Center or an Area. We are working towards that, and we will have the best one when we get done. But, this piece of Legislation is obnoxious. The intent just rubs the wrong way. It is un-American.

I move its indefinite postponement and ask for a Roll Call.

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

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

Is the Senate ready for the question? The pending question before the Senate is the Motion by the Senator from Oxford, Senator O'Leary, that L.D. 1799 be indefinitely postponed.

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

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

YEAS — Chapman, Farley, Jackson, Levine, Mangan, Minkowsky, O'Leary, Pray.

NAYS — Carpenter, Collins, D.; Collins, S.; Conley, Cummings, Curtis, Danton, Greeley, Hichens, Huber, Katz, Lovell, Martin, McNally, Merrill, Morrell, Pierce, Redmond, Snowe, Speers, Trotzky, Usher, Wyman.

ABSENT — Hewes.

8 Senators having voted in the affirmative, and 23 Senators in the negative, with one Senator being absent, the Motion to indefinitely postpone does not prevail.

The Bill, as amended, Passed to be Engrossed in concurrence.

The President laid before the Senate: Bill, "An Act Relating to Adult Education." (S. P. 102) (L. D. 231)

Tabled — May 27, 1977 by Senator Merrill of Cumberland

Pending — Passage to be Engrossed On Motion of Mr. Merrill of Cumberland, Retabled for One Legislative Day.

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

Tabled — May 27, 1977 by Senator Speers of Kennebec

Pending — Passage to be Engrossed.

On Motion of Mr. Speers of Kennebec, Retabled for One Legislative Day.

The President laid before the Senate:

HOUSE REPORTS — from the Committee on Local and County Government Bill, "An Act to Clarify and Reform the Laws Relating to County Law Enforcement." (H. P. 214) (L. D. 224) Majority Report — Ought to Pass with Committee Amendment "A" (H-387); Minority Report — Ought Not to Pass.

Tabled — May 27, 1977 by Senator Speers of Kennebec

Pending — Motion of Senator O'Leary of Oxford to Indefinitely Postpone

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

Mr. JACKSON: Mr. President and Members of the Senate, I rise to oppose the Motion of the good Senator from Oxford, Senator O'Leary, to indefinitely postpone this Bill and all of its accompanying papers.

This Bill that we have before us now was the result of a study by the Joint Select Committee on Local and County Government that lasted for one and one-half years. Law enforcement was chosen as one area of study, because we found it to be one of the most important and significant departments in the function of county government.

We also found when we picked this area to study that it has been criticized for several years in the various 16 counties throughout the State. But despite the extensive study and discontent, the County Sheriff's Department and related County Enforcement functions really have not been all that significant for many, many years.

We found also from a great amount of information that we received on law enforcement throughout the State, the Committee was able to obtain a good view of the role the County Sheriff's Department should have and should do. Some counties, particularly the more urbanized or urbanized Counties, provide significant investigation and supportive powers to complement the efforts of municipal Police Departments. The rural Counties have begun to consider or to operate centralized communications for County and municipal police and fire departments, while other Counties provided ambulance or rescue service, either by contract or directly, and the Counties have provided a wide range of law enforcement services throughout the 16 counties in the State.

We felt that in trying to improve this department, the Sheriff's Department, that we might put County Government on the right road for responsibility and for effectiveness.

We also found that it appeared that there was an important role for County law enforcement that has only begun to develop here in the State. With this in mind, the Committee considered and drafted Legislation that would not only reflect the changes in County Law Enforcement, but would also enhance the capacity of the County and the Sheriff to fulfill his new role, this new role. In drafting Legislation to reform County Law Enforcement, the Committee identified four critical issues.

The first issue was the present political influences on the Sheriff's Department and the need for increased professionalism. The Sheriff's Departments, as we are all aware, have traditionally been a source of political patronage in this State. We thought we might be able to resolve that with this piece of Legislation and one Section of the Bill alludes to this.

The political influence, to a greater or lesser extent in different Counties, directly interfered with the development and retention of professional and experienced deputies. This was a change with an election of a new Sheriff. He usually brought his own entourage in, and many of them had not attended or were familiar with law enforcement.

The Committee came to the conclusion that the time had come to offer alternatives to the present system, and L.D. 224 is an alternative. The Bill provides that full time and part time Deputies are to be appointed by the Sheriff with the approval of the County Commissioners. This is somewhat different than they are done presently. They are appointed and approved by the Sheriff. They work at the pleasure of the Sheriff. Now, under the piece of Legislation that was adopted in the last regular Session, one of seven, we tried to set guidelines for Deputy Sheriffs in a salary Bill. One thing that concerned us, and to get back to it, is that the election of a new Sheriff and then the appointment of the Deputies. We have a new Sheriff elected. He presently stands or did stand until the Supreme Court ruling here in '76, of Elrod versus Burns, where the Sheriff could hire and fire at will, the Supreme Court ruled that they cannot. We felt that the Civil Service portion of our Bill is in good shape. We feel that it provides for job security for Deputy Sheriffs. They can be appointed for six months on a probationary period. At the end of six months, they can be appointed for a term of three years. The Sheriff serves in an elected position of two years, so we have continuity of service, qualified people, experienced people.

We also felt in that Section that we should have a provision for discharge on disciplinary action, and it is by cause to be reviewed by the approval authority, and that is in Section 4 of the Bill which is either the County Commissioners or if a County wants to, they may have a County Personnel Board.

Sections 6 and 7 clarify the authority of Special Deputies. Section 9 covers the Chief Deputy. The Committee felt that the Chief Deputy should continue to serve at the pleasure of the Sheriff. He would be appointed and approved by the Sheriff. He would work at the pleasure of the Sheriff.

The second issue was County law enforcement functions. We discovered that many functions of County law enforcement have developed with the Sheriff's common law duties, and are only vaguely defined by statute. Most of his duties were defined by common law. When Maine became a State we took many of the laws from Massachusetts, which in turn had come from England. We did say in the Section that the Bill authorizes the County to provide certain support functions to the Sheriff's Department, such as juvenile services, which many of the Counties are getting involved in presently, rescue services, communication centers, and this is all just enabling Legislation. It does not mandate that every County shall be involved in this, except for the detention of prisoners. Now, they may contract with an adjoining County or another County for the detention of their prisoners.

Counties may also provide for ambulance services, and you will notice in House Amendment "A" that we had a referendum in the original Bill itself. House Amendment "A" took the referendum off because it was the only function that we required a referendum on. We felt that if the Counties wanted to contract or involve themselves in this, that they should be allowed to do so.

We also felt that because the County Commissioners and the Sheriff are each directly elected, and the County Budget is approved by the Legislature, that there have been, on many occasions, a conflict between the Sheriff and

the Commissioner. Sheriffs have traditionally viewed themselves as independent of the County Commissioner, except the approval of the budget. The reasoning, because they are directly elected. On the other hand, County Commissioners view the Sheriff as a County Officer, subject to their general policy and close budgetary control. This has caused controversy and discord between these County offices.

Presently, there is no statutory provision governing this relationship and clearly defining the duties and responsibilities among these offices. We as a Committee concurred that it was necessary to statutorily define this relationship, and the Bill does contain such definitions, making the Sheriff the Chief County law enforcement officer in charge of administering the Sheriff's Department. The County Commissioner's role in the Civil Service Provisions governing Deputies is carefully defined.

Also required in the draft is a biannual meeting between the Commissioner, Sheriff, Municipal Police Chiefs to encourage coordination of law enforcement throughout the County. These meetings will serve to encourage coordination but will also provide it a forum for solving problems and conflicts between the Commissioners, Sheriffs and Municipal Chiefs.

I thought I would explain some of the Bill this morning for those Members who have not had the opportunity to look at it yet, and I think it is a Bill which will be in the right direction to improve County Government, and sort of update it. I would hope that the Members of this Body, when the vote is taken, would vote against the Motion to Indefinitely postpone this Bill and give it its First Reading, and if somebody does have a problem with it, I would be more than glad to sit down and talk with them. If they would like to work up an Amendment that would be compatible to the Bill, we would help them. Thank you.

On Motion of Mr. Speers of Kennebec, Retabled for One Legislative Day.

The President laid before the Senate: Bill, "An Act to Permit Carpools Under the Public Utilities Law." (H. P. 247) (L. D. 319)

Tabled — May 27, 1977 by Senator Speers of Kennebec

Pending — Motion of Senator Minkowsky of Androscoggin to Indefinitely Postpone.

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

Mr. MERRILL: Mr. President and Members of the Senate, I looked into this proposal subsequent to our action last week and here is a Department Communication from Mr. True in the Department of Transportation in which he makes it clear that under Title 35 Chapter 97, Sections 1641 through 1646, that presently carpooling operations, where the person is reimbursed for expenses, technically comes under the purview of the Department of Public Utilities. It would be my feeling, therefore, that we should enact this Legislation to exempt car-pools from Public Utility regulation.

I would hope that the Senate would reject the Motion to indefinitely postpone, and if it does so, I will then offer an Amendment which will take out the Section of the law pertaining to insurance, because I have been assured by the Senator from Sagadahoc that it is unnecessary to have this insurance section. Other insurance people that I have talked to have felt the same way. So, I would hope that the Senate would reject the Motion to indefinitely postpone, and then I can amend this Bill, so that all it would do is make clear that carpools are not covered by the Public Utilities Commission.

I would at this time request permission of the Senate to withdraw my Motion for a Roll Call on the vote to indefinitely postpone.

The PRESIDENT: The Senator from Cumberland, Senator Merrill, now requests leave of the Senate to withdraw his request for a Roll Call. Is this the pleasure of the Senate to grant this leave? It is a vote.

The Chair recognizes the Senator from Androscoggin, Senator Minkowsky.

Mr. MINKOWSKY: Mr. President, and Members of the Senate, if it is the intention of Senator Merrill to submit this Amendment (S-176), I will draw my Motion that this Bill be indefinitely postponed.

The PRESIDENT: The Senator from Androscoggin, Senator Minkowsky, now requests leave of the Senate to withdraw his Motion to indefinitely postpone LD 319. Is it the pleasure of the Senate to grant this leave? It is a vote.

The Chair recognizes the Senator from Cumberland, Senator Merrill.

Mr. MERRILL: Mr. President, I move the Senate suspend its rules and reconsider its action whereby this Bill was passed to be engrossed.

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

The Chair recognizes the Senator from Cumberland, Senator Merrill.

Mr. MERRILL: Mr. President, I would now move that we reconsider our action whereby we adopted Committee Amendment "A".

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

The Chair recognizes the Senator from Cumberland, Senator Merrill.

Mr. MERRILL: Mr. President, I now offer Senate Amendment "A" to Committee Amendment "A" (S-176) and move its adoption.

The PRESIDENT: The Senator from Cumberland, Senator Merrill, now offers Senate Amendment "A" (S-176) and moves its adoption. The Secretary will read Senate Amendment "A".

Senate Amendment "A" to Committee Amendment "A" (S-176) Read and adopted. Committee Amendment "A", as amended, adopted in non-concurrence.

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

Sent down for concurrence.

The President laid before the Senate:

Bill, "An Act to Authorize Educational Rehabilitation under the Workmen's Compensation Statutes." (H. P. 1188) (L. D. 1424)

Tabled — May 27, 1977 by Senator Speers of Kennebec

Pending — Enactment

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

The President laid before the Senate:

Bill, "An Act Concerning the Power of Podiatrists" (S. P. 280) (L. D. 893) which was tabled earlier in today's Session by the Senator from Cumberland, Senator Conley, pending the Motion of the Senator from Androscoggin, Senator Snowe, that the Senate recede and concur.

The Senate voted to recede and concur.

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

Enactors

The Committee on Engrossed Bills reports as

truly and strictly engrossed the following:

"An Act to Amend the State "on" and "off" indicators for Extended Benefits." (H. P. 1614) (L. D. 1823)

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

Mr. MANGAN: Mr. President, I am confused what we are voting on, the "on" and "off" indicators, and I would like to know what I am voting on. I would like some information from somebody.

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

The Chair recognizes the Senator from Cumberland, Senator Merrill.

Mr. MERRILL: Mr. President, I read the Bill subsequent to reconsideration last week, and this Bill allows the State of Maine to get more money for unemployment compensation from the Federal Government, and it seems to me the Bill meets some technical requirements in order to get this money, and I think it could be passed at this time.

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

Emergency

RESOLVE, Authorizing a \$450,000 Advance from the General Fund to the Department of Educational and Cultural Services to Provide Working Capital on Renovation of and Equipping of Building at Eastport. (H. P. 1572) (L. D. 1788)

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

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