

# 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**

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**Senate Confirmation Session  
September 16, 1977**

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## SENATE

June 7, 1977

Senate called to Order by the President.  
Prayer by the Honorable Richard A. Morrell of Brunswick.

Mr. MORRELL: Dear Lord, grant us the courage to change what can be changed, the serenity to accept what cannot be changed, and the wisdom to know one from another. Amen.  
Reading of the Journal of yesterday.

(Off Record Remarks)

Papers from the House  
Non-concurrent Matter

Bill, An Act Authorizing Control Over the Electrical Rates Charged Maine Consumers by Out-of-State Electrical Utilities. (H. P. 835) (L. D. 1008)

In the House June 2, 1977 Passed to be Engrossed as amended by Committee Amendment "A" (H-401).

In the Senate June 3, 1977 Majority 'Ought Not to Pass' Report Read and Accepted, in non-concurrence.

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

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

Mrs. CUMMINGS: Mr. President, I move we adhere and would speak to my Motion.

The PRESIDENT: The Senator has the floor.

Mrs. CUMMINGS: The Bill, as it now stands, is quite different from the original Bill. It says that consideration of rates in neighboring communities. The original Bill had to do with the electrical rates of people who lived actually down in the county of York, where they are paying a New Hampshire utility for their electricity. The rates are different than the ones in Maine, and at this point they are higher. Now in the past, they have not been higher, and nobody put in a Bill to try and have their electrical rates the same as the rates that were being charged in Maine, and this Bill is to force the New Hampshire utility company to charge Maine residents whatever it is that their neighboring utility supplier is charging for their electricity.

The Amendment goes further than this. We were told in the Committee that this might be unconstitutional, so the Amendment was put on trying to make this constitutional, so that it would apply to everyone. So now it does not say out-of-state utilities, now it says neighboring communities, which means that CMP and Bangor Hydro and Public Service all would have to charge their customers the same rate. Well, we know that they do not charge the same rate, and we also are well aware of the fact that their rates are settled by the PUC according to the costs that are incurred in creating the electricity to give to the customers. There is no way that there can be a flat rate for the entire State, so in my mind it is an impossible Bill. I hope you will go along with my Motion to adhere.

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

Mr. HICHENS: Mr. President: I would ask that the Senate insist and Join in a Committee of Conference.

I have been very much involved with the problems of the rates charged by the New Hampshire Power Company, being one of their customers, and it was not until five or six years ago that their rates suddenly jumped, because they used a different energy source, and their charges for their fuel rates are much higher than those charged in Maine.

I do not know that this would solve all the problems. The Public Utilities Commission has been working on this for about a year and a half, trying to get Central Maine Power and the

Public Service Company in New Hampshire organized to have suitable rates or compatible rates. But at the present time, we are paying about 40 to 50 percent higher rates being served by this Public Service Company in New Hampshire and naturally the people along the border in Kittery, Eliot, and York are very much concerned, and justifiably so, and I think that even if this Amendment does not solve the things, if we had a Committee of Conference, we might be able to work this out to the satisfaction of those people who are concerned in southern York County.

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

Mr. LOVELL: Mr. President, I have five towns on the New Hampshire border out of my 13 towns, and I have had many complaints, too, that New Hampshire Public Service is a good deal higher than Maine, and they have written me and asked, isn't there something you can do about it? And, this is not just now, this has been for the last three years, when I was in the other Body in the last Session.

Now I have not read this Bill and as the good Senator from Penobscot says that maybe it does not mean anything the way it is amended down, but if there is no way we work it out that we could have Maine, and I cannot see how the State Legislature can force New Hampshire Power Company to cut their rates in Maine, because of the fact that the people live in Maine. I do not know what we can do, but I wish we could do something.

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

Mr. CARPENTER: Mr. President and Ladies and Gentlemen of the Senate, I sat through a considerable public hearing on the original Bill, which we no longer have before us. It was so bad it was unconstitutional, and this is a redraft, and this is a completely new Bill. First of all, it has never had a public hearing. Secondly, it came out of the public hearing that the rates being paid in York County, although this really perhaps does not pertain to the Bill, are considerably lower than they are in the Bangor Hydro area, in the Maine Public Service where I live, and in many other areas of the State.

I would just point out to you, that the Public Service Company of New Hampshire, which is the company we are talking about, in order to charge their customers in York County, or wherever, what they charge them, has to go through the same exact procedure that Central Maine Power Company or any other utility in the State of Maine, before our Public Utility Commission. So if you accept the philosophy of this Bill, what you are saying is Public Utility Commission, we do not like what you did, and we do not think that you are treating the people in York County right, and we are going to turn your decision over. I do not think that is right. We set the Public Utilities Commission up to do certain things, and we have appeal processes all the way along the line, and I do not think this Bill is going to do what the sponsors hope it will do.

I hope that you will vote to adhere.

The PRESIDENT: Is the Senate ready for the question? The pending question before the Senate is the Motion by the Senator from York, Senator Hichens, that the Senate insist in join in a Committee of Conference with the House.  
The Chair will order a Division.

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

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

12 Senators having voted in the affirmative, and 16 Senators in the negative, the Motion to

insist and join in a Committee of Conference does not prevail.

The Senate voted to adhere.  
(See Action later Today)

## Non-concurrent Matter

Bill, An Act to Assess a Surcharge on Fines and Penalties for the Operation of the Maine Criminal Justice Academy. (S. P. 179) (L. D. 493)

In the Senate June 3, 1977 Passed to be Engrossed as amended by Committee Amendment "A" (S-179).

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

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

Mr. SPEERS: Mr. President, I move that the Senate insist and ask for a Committee of Conference.

The PRESIDENT: The Senator from Kennebec, Senator Speers, now moves that the Senate insist and ask for a Committee of Conference with the House.

The Chair recognizes the Senator from Cumberland, Senator Conley.

Mr. CONLEY: Mr. President, the Motion is to insist and ask for a Committee of Conference?

The PRESIDENT: The Chair would answer in the affirmative.

Mr. CONLEY: Mr. President, I move that the Senate Recede and Concur, and I would speak very briefly to my Motion.

The PRESIDENT: The Senator has the floor.

Mr. CONLEY: I think it is a waste of time to continue to debate this useless piece of merchandise, and hope that the Senate will Recede and Concur with the House.

The PRESIDENT: The Pending question before the Senate is the Motion by the Senator from Cumberland, Senator Conley, that the Senate Recede and Concur with the House.

The Chair will order a Division.

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

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

12 Senators having voted in the affirmative, and 17 Senators in the negative, the Motion to Recede and Concur does not prevail.

The PRESIDENT: The pending question before the Senate now, is the Motion of the Senator from Kennebec, Senator Speers, that the Senate insist and ask for a Committee of Conference with the House.

Will all those Senators in favor of the Motion to insist and ask for a Committee of Conference with the House please, rise in their places.

Will all those Senators opposed to the Motion to insist and ask for a Committee of Conference with the House, please rise in their places to be counted.

14 Senators having voted in the affirmative, and 13 Senators in the negative, the Motion to insist and ask for a Committee of Conference with the House does prevail.

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

Mr. CONLEY: Mr. President, I move that the rules be suspended and that this Bill be sent forthwith to the House.

The PRESIDENT: The Senator from Cumberland, Senator Conley, now moves that the Senate suspend its rules, and that LD 493 be sent forthwith to the House.

The Chair recognizes the Senator from Cumberland, Senator Conley.

Mr. CONLEY: Mr. President, I just wanted to assure the Majority Floor Leader that this Bill is just barely breathing.

Sent down forthwith for concurrence.

**Reconsidered Matter**

The PRESIDENT: The Chair recognizes the Senator from Penobscot, Senator Cummings.  
 Mrs. CUMMINGS: Mr. President, having voted on the prevailing side, I would ask that we reconsider our action whereby we voted to adhere on LD 1008, and I hope that you vote against me.

The PRESIDENT: The Senator from Penobscot, Senator Cummings, now moves the Senate reconsider its action whereby it voted to adhere on LD 1008.

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

**Non-concurrent Matter**

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

In the Senate May 31, 1977 Passed to be Engrossed.

Comes from the House, Passed to be Engrossed as amended by House Amendment "B" (H-509) in non-concurrence.

On Motion of Mr. Katz of Kennebec, The Senate voted to Recede and Concur.

**Communications**

House of Representatives

June 6, 1977

The Honorable May M. Ross  
 Secretary of the Senate  
 108th Legislature  
 Augusta, Maine  
 Dear Madam Secretary:

The Speaker appointed the following Conferees to the Committee of Conference on the disagreeing action of the two branches of the Legislature on Bill "An Act to Prohibit Smoking at Public Meetings" (H. P. 361) (L. D. 453)  
 Mr. Goodwin of South Berwick  
 Ms. Clark of Freeport  
 Mr. Dexter of Kingfield

Respectfully,  
 (Signed) ED PERT  
 Edwin H. Pert  
 Clark of the House

Which was Read and Ordered Placed on File.

**(Off Record Remarks)**

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

Mr. SPEERS: Mr. President, I now move the Senate stand in recess to the sound of the bell.

The PRESIDENT: The Senator from Kennebec, Senator Speers, now moves that the Senate stand at recess until the sound of the bell. Is this the pleasure of the Senate? It is a vote.

(Recess)

**After Recess**

Senate called to order by the President.

**Committee Reports  
 House**

**Ought to Pass in New Draft**

The Committee on Education on, Bill, An Act to Provide for Regional Special Education Compacts. (H. P. 1576) (L. D. 1796)

Reported that the same Ought to Pass in New Draft under new title: RESOLVE, to Provide for Regional Special Education Compacts. (Emergency) (H. P. 1643) (L. D. 1842)

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

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

The Committee on Energy on, Bill, An Act Exempting Solar and Wind Energy Equipment from Sales Tax. (H. P. 841) (L. D. 1044)

Reported that the same Ought to Pass in New Draft under new title: Bill, An Act to Encourage the Use of Solar Energy in Maine

Through Tax Exemptions. (H. P. 1645) (L. D. 1845)

Comes from the House, the Bill, in New Draft, Passed to be engrossed as amended by House Amendment "A" (H-513).

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 and the Bill, as amended, Read Once and Tomorrow Assigned for Second Reading.

**Divided Report**

The Majority of the Committee on Business Legislation on, Bill, An Act Relating to an Increase in the Volume Fees Paid by Major Creditors under the Maine Consumer Credit Code. (H. P. 180) (L. D. 242)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-485).

Signed:

Senators:  
 PIERCE of Kennebec  
 CHAPMAN of Sagadahoc

Representatives:  
 KILCOYNE of Gardiner  
 WHITTEMORE of Skowhegan  
 BOUDREAU of Portland  
 CLARK of Freeport  
 HOWE of S. Portland  
 ALOUPIS of Bangor  
 JACKSON of Yarmouth  
 PEAKES of Dexter  
 SPROWL of Hope

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

Signed:

Senator:  
 FARLEY of York  
 Representative:  
 RIDEOUT of Mapleton

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

Which Reports were Read.

On Motion of Mr. Speers of Kennebec, Tabled for Two Legislative Days, pending acceptance of either Committee Report.

**Divided Report**

The Majority of the Committee on Agriculture on, Bill, An Act to Give Milk Markets the Option of Terminating the Maine Milk Commission's Retail Price-fixing Authority. (H. P. 1335) (L. D. 1600)

Reported that the same Ought Not to Pass.

Signed:

Senators:  
 HICHENS of York  
 JACKSON of Cumberland  
 LEVINE of Kennebec

Representatives:  
 SMITH of Mars Hill  
 TORREY of Poland  
 ROLLINS of Dixfield  
 MAHANY of Easton  
 STROUT of Corinth  
 LOUGEE of Island Falls  
 TOZIER of Unity

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

Signed:

Representatives:  
 WOOD of Sanford  
 HALL of Sangerville  
 (Rep. Carroll abstained because of a conflict of interest.)

Comes from the House, Bill and Papers Indefinitely Postponed.

Which Reports were Read.

Majority Ought Not To Pass Report Accepted.

**Divided Report**

The Majority of the Committee on Education on, Bill, An Act Relating to Special Education Tuition and Board. (Emergency) (H. P. 583) (L. D. 712)

Reported that the same Ought to Pass in New Draft under same title. (H. P. 1638) (L. D. 1836)

Signed:

Senators:  
 KATZ of Kennebec  
 PIERCE of Kennebec  
 USHER of Cumberland

Representatives:  
 CONNOLLY of Portland  
 LYNCH of Livermore Falls  
 MITCHELL of Vassalboro  
 WYMAN of Pittsfield  
 BAGLEY of Winthrop  
 FENLASON of Danforth  
 BIRT of E. Millinocket  
 BEAULIEU of Portland  
 PLOURDE of Fort Kent

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

Signed:

Representative:  
 LEWIS of Auburn

Comes from the House, the Bill in New Draft, Passed to be Engrossed as amended by House Amendment "C" (H-517).

Which Reports were read.  
 Majority Ought to Pass in New Draft Report Accepted in concurrence.

The Bill in New Draft read once. House Amendment "C" read and adopted, and the Bill, as amended, Tomorrow Assigned for Second Reading.

**Divided Report**

The Majority of the Committee on State Government on, Bill, An Act to Prohibit State Officials From Appearing on Media Advertising Funded by the State. (H. P. 440) (L. D. 547)

Reported that the same Ought Not to Pass.

Signed:

Senators:  
 SNOWE of Androscoggin  
 COLLINS of Aroostook

Representatives:  
 CHURCHILL of Orland  
 KANY of Waterville  
 BACHRACH of Brunswick  
 SILSBY of Ellsworth  
 STUBBS of Hallowell  
 MASTERTON of Cape Elizabeth

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-468).

Signed:

Senator:  
 MARTIN of Aroostook

Representatives:  
 DIAMOND of Windham  
 LOCKE of Sebec  
 VALENTINE of York  
 CURRAN of S. Portland

Comes from the House, the Bill Passed to be Engrossed as amended by Committee Amendment "A" and House Amendment "A" (H-511).  
 Which Reports were Read.

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

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

The PRESIDENT: The Senator from Aroostook, Senator Collins, now moves that the Senate accept the Majority Ought Not to Pass Report of the Committee. Is this the pleasure of the Senate?

The Chair recognizes the Senator from Aroostook, Senator Martin.

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

This Bill would simply prohibit any State official from appearing in advertisements paid for by the State, and State funds. I think it is a good Bill.

The PRESIDENT: A Division has been requested.

The Chair recognizes the Senator from Aroostook, Senator Collins.

Mr. COLLINS: Mr. President, when this Bill first came to us, it seemed to do too much, and it has been cleaned up somewhat. It would have prohibited the DOT from inserting public notices, the Department of Fish and Game from doing likewise, and the Industry Boards from advertising. It really appears to be directed at one or two persons in the past in State government, and I really think it is unnecessary legislation.

The PRESIDENT: The Pending question before the Senate, is the Motion by the Senator from Aroostook, Senator Collins, that the Senate accept the Majority Ought Not to Pass Report of the Committee.

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

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

The Chair recognizes the Senator from Cumberland, Senator Conley.

Mr. CONLEY: 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 risen, a Roll Call is ordered.

The Chair recognizes the Senator from Cumberland, Senator Conley.

Mr. CONLEY: Mr. President and Members of the Senate, I think the Bill that the good Senator from Aroostook, Senator Collins, makes reference to, is really a very mild Bill, and I question very seriously as to whether or not any of us here would like to see a department head or a commissioner using State dollars to promote himself on television, and then three months later, after running a National or a State-wide news media campaign against fishing on Sunday, or whatever the case might be, then decide to run for public office, at the expense of the taxpayers of this State.

I just think that this is good progressive legislation that prohibits such a thing, and I would hope the Senate would vote against the pending Motion.

The PRESIDENT: Is the Senate ready for the question? The pending question before the Senate is the Motion by the Senator from Aroostook, Senator Collins, that the Senate accept the Majority 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 to accepting the Ought Not to Pass Report.

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

#### ROLL CALL

YEA — Chapman, Collins, D.; Collins, S.; Greeley, Hewes, Huber, Jackson, Katz, Lovell, Morrell, Pierce, Redmond, Snowe, Wyman.

NAY — Carpenter, Conley, Curtis, Danton, Farley, Hichens, Levine, Mangan, Martin, McNally, Merrill, Minkowsky, O'Leary, Pray, Speers, Trotzky, Usher.

ABSENT — Cummings.

14 Senators having voted in the affirmative, and 17 Senators in the negative, with one Senator being absent, the Motion to accept the Ought Not to Pass Report does not prevail.

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

The Bill read once. Committee Amendment "A" read and adopted in concurrence.

House Amendment "A" read and adopted, in concurrence, and the Bill, as amended, tomorrow assigned for Second Reading.

#### Divided Report

The Majority of the Committee on Legal Affairs on, Bill, An Act to Limit Access to Security Interest Records Filed in a Municipality. (H. P. 1271) (L. D. 1499)

Reported that the same Ought Not to Pass.

Signed:

Senators:

HEWES of Cumberland  
CARPENTER of Aroostook  
CUMMINGS of Penobscot

Representatives:

COTE of Lewiston  
CARRIER of Westbrook  
BURNS of Anson  
GOULD of Old Town  
DUDLEY of Enfield  
SHUTE of Stockton Springs  
JOYCE of Portland

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

Signed:

Representatives:

MOODY of Richmond  
DURGIN of Kittery  
BIRON of Lewiston

Comes from the House, Bill and Papers Indefinitely Postponed.

Which Reports were Read.

On Motion of Mr. Hewes of Cumberland, Majority Ought Not to Pass Accepted.

#### Divided Report

The Majority of the Committee on Business Legislation on, Bill, An Act to Repeal the Age Limit for Directors of Mutual Institutions. (H. P. 860) (L. D. 1049)

Reported that the same Ought Not to Pass.

Signed:

Senator:

FARLEY of York

Representatives:

KILCOYNE of Gardiner  
WHITTEMORE of Skowhegan  
BOUDREAU of Portland  
PEAKES of Dexter  
JACKSON of Yarmouth  
CLARK of Freeport  
ALOUPIS of Bangor  
SPROWL of Hope  
RIDEOUT of Mapleton

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

Signed:

Senators:

PIERCE of Kennebec  
CHAPMAN of Sagadahoc

Representatives:

HOWE of So. Portland

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

Which Reports were Read.

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

Mr. CHAPMAN: Mr. President, I move that we accept the Minority Ought to Pass Report, and I would like to speak to my Motion.

The PRESIDENT: The Senator has the floor.

Mr. CHAPMAN: Mr. President and Members of the Senate, a person can be very young at 72 or very old at 62. The age limit of 72 for directors was established in the last revision of the Banking Code, and was directed towards encouraging mutual savings banks to be more responsive to the public. Admittedly in some banks, directors serve at rather elderly

ages, but to use age as a sole criterion for encouraging responsiveness is wrong in my view. I feel a better approach would be to limit the number of years of service on a board, or to require that board members can serve only so many terms of so many of each.

I hope the Senate will agree that setting an age limit for directors is not proper, and that it will accept the Minority Ought to Pass Report.

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

Mr. FARLEY: Mr. President and Members of the Senate, I would ask for a Division on the motion, and simply explain my signature on the Bill, along with many other Members of the Body.

First of all, with the exception of one, there was not a banker in this State who supported this Legislation. The present Commissioner of Banking is opposed to this Legislation, and the former Commissioner of Banking is opposed to this Legislation. Simply because some of the bank Presidents today said that some of these business practices today by banks, investing in new industry and new ways of investing the banks money, could have been possible under the old laws, and they better like it the way it is now, and I think that is why a majority of the Committee went along with that.

I would ask for a Division on the Motion.

The PRESIDENT: A Division has been requested.

Will all those Senators in favor of the Motion that the Senate accept the Minority Ought Not to Pass Report, please rise in their places to be counted.

The Chair recognizes the Senator from Sagadahoc, Senator Chapman.

Mr. CHAPMAN: Mr. President, I would like to request a Roll Call.

The PRESIDENT: A Roll Call has been requested. In order for the Chair to order a Roll Call, it must be the expressed desire of one-fifth of those Senators present and voting. Will all those Senators in favor of a Roll Call on this issue, 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 Sagadahoc, Senator Chapman.

Mr. CHAPMAN: Mr. President, I request leave to withdraw my Motion.

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

The pending question before the Senate is the Motion of the Senator from Sagadahoc, Senator Chapman, that the Senate accept the Minority Ought to Pass Report of the Committee.

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

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

23 Senators having voted in the affirmative, and 7 Senators in the negative, the Motion to accept the Minority Ought to Pass Report does prevail.

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

The Committee of Conference on the disagreeing action of the two branches of the legislature, on "An Act Relating to the Spending Ceiling for Education Purposes" (Emergency) (H. P. 0968) (L. D. 1165)

Have had the same under consideration, and ask leave to report: that the House recede from its action whereby it passed the bill to be engrossed as amended by Committee Amendment "A" (H-282) as amended by House Amendment "C" (H-307) thereto; recede from adoption of Committee Amendment "A" as amended by House Amendment "C" thereto; recede from adoption of House Amendment

"C" and indefinitely postpone House Amendment "C"; indefinitely postpone Committee Amendment "A"; adopt Committee of Conference Amendment "A" (H-520) and Pass the Bill to be Engrossed as Amended by Committee of Conference Amendment "A" (H-520)

That the Senate recede from its action whereby it passed the bill to be engrossed as amended by Committee Amendment "A" (H-282) as amended by Senate Amendment "A" (S-161) thereto; recede from adoption of Committee Amendment "A" as amended by Senate Amendment "A" thereto; recede from adoption of Senate Amendment "A" and indefinitely postpone Senate Amendment "A"; indefinitely postpone Committee Amendment "A"; adopt Committee of Conference Amendment "A" (H-520) and Pass the Bill to be Engrossed as Amended by Committee of Conference Amendment "A" (H-520) in concurrence.

(Signed)

NAJARIAN of Portland  
MITCHELL of Vassalboro  
HIGGINS of Scarborough

— of the House.

Senators:

MORRELL of Cumberland  
HUBER of Cumberland

— of the Senate.

Comes from the House, the Report Read and Accepted.

Which was Read

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

Mr. KATZ: I move that the Committee Report be accepted.

The PRESIDENT: The Senator from Kennebec, Senator Katz, now moves that the Senate accept the Committee Report.

The Chair recognizes the Senator from Cumberland, Senator Merrill.

Mr. MERRILL: Mr. President and Members of the Senate, I would like to begin by requesting that when a vote is taken, it be taken by the yeas and nays, and speak briefly against the pending Motion which is to accept the Report.

Now this issue has been debated at some length in this Senate Chamber. It is not a partisan issue, and we are going to hear today, I am sure, that this is the final judgment day for the Maine Legislature on this question. If we do not accept this Committee of Conference Report, I am sure we will be told that there will be no chance for us to do anything else.

Of course, as we all know, especially those of us who have been in this Chamber in the past, that is written into the script on all Educational Bills. The final judgment day comes, and then we have to do what we do not want to do, because it has arrived.

I submit to this Senate that there are a lot of options available to us, and that there are enough interests that are united in favor of doing something about this, so that this legislature can be assured that whatever vehicles have to be designed, or whatever the final posture that we find ourselves in, there will be an adjustment made in the present law as far as the ceiling is concerned. If only to accommodate the interest of those who want to see the Uniform Property Tax continued, there will be some accommodation made on this matter, because everyone knows that the present situation is so untenable as to add another major arrow to the quiver of those who want to defeat the Uniform Property Tax if we do not make some change.

So, it is my judgment, that we can rest assured, that ultimately we will deal with this issue, which allows us, I think, to address the very important philosophical question that this puts before us here today, and that is the question of whether or not in the interest of serving some State desire to totally equalize the dollars spent on education, that we should require local school board members and local schools to

come before the bureaucrats in Augusta to show that failure for them to give their permission to the local government to spend more money would cause, and I quote from the Statement of Fact in this Bill, "a severe educational hardship." It is my opinion that there is no justification for that, unless one believes very strongly in the idea that the ultimate goal of education should be to see to it that the same number of dollars are spent in every community for every child in similar circumstance. If that is your belief about where we should be going, then I suggest to you that you should vote for the acceptance of this Conference Report, and many people who voted for 1994, and who supported the concept believe that is a good idea. That is not my idea of what we should be doing with educational funding, and if you do not share that idea, and if you think that there ought to be a place for local decision making to expand on what they want to spend on education, if that is their desire, or local circumstances in their opinion require it, then you ought to vote against accepting this Committee of Conference Report here today. I think the question is really that simple.

Now you will hear some argument, as they have argued in this Chamber before, and as they argued on the Conference Committee, that when we impose this ceiling, the net effect of that is really to hold down the money that the Legislature has to spend on education, that is argument one, that if you allow this local decision making, that if you allow these locals to spend more money, the result of that will be to increase the pressure on the Legislature to spend more money. Even and in spite of the fact that what Senator Huber was originally talking about with his Amendment and what I support, would have that money reported separately to us, and present to us an option as to whether or not we wanted to give that consideration, or, if we did, what sort of consideration we wanted to give it.

But that is the position of some of the people who are in favor of this ceiling, that they think that the net effect would be over the years to hold down the base grant that the Legislature would give, if we could keep this ceiling on, and that position was held very strongly by at least one Member of the Conference Committee.

Then there is the direct opposite position of many people who are in favor of this ceiling, and that argument goes as follows. If you want to spend a lot of money at the State level on education, you have to have a ceiling, because they argue that there are these communities that have been referred to sometimes as light house communities, that want to spend a lot more money on education, that these are the leading pressure points, and the desire to increase the amount to be spent on education, and the only way to really push up the base grant, and keep it moving up, is to put a lid on those guys, and that forces them to come to Augusta every year and to push up the base grant that we give. Now that is the position that was held by another Member of the Conference Report.

Now I suggest to the Senate that you need a crystal ball to figure out which one of those two positions is right. They are obviously contradictory. So I suggest to the Senate that we look at the more fundamental question, and I think the more important one, which is the philosophical question posed by this Bill, and that question pure and simple is whether or not we think that the goal in the long run here should be to compress the thing together so ultimately we have the same number of dollars being spent per student in every school district in this State, in essence, to have the State one big school district from the funding point of view, or whether we think that there is some middle ground where the State provides a base grant, sees to it that the fundamentals of an education are provided to every student, or that the funds are available

for local districts to do that, and then allows the local districts to do what they want beyond that, and allow the Legislature to consider what they did as they will in making a decision about what they should do with the base grant the following year.

Now I think that there is room for a compromise, if we do not ultimately accept this Report, and I would remind the Senate that this is an emergency measure and ultimately will require two-thirds vote, and I think that ultimately there is room for a compromise if we can put everybody in a position where they really want to reach a real compromise, which in my opinion this Amendment does not represent, and that compromise can at least be to provide some area with the sort of local effort that I am talking about, and we can put some sort of a lid on it to satisfy those with the greatest concerns and to see how it works, because it is my sincere feeling that as we gain more experience in this area, and as the people have a chance to reflect on what we have done with educational finance to a greater extent, there is going to be a growing feeling on the part of the people, and, therefore, on the part of the Legislature, that what we do not want to do in Augusta finally is to completely monopolize the important financing decisions on education. I think that there is a very, very different justification that can be made with the State saying to every city and town, you provide enough money to provide a good education, and we are going to help you to a significant extent with that, and saying on the alternative, which the acceptance of this report would have us saying, is that we will decide in Augusta what should be spent, and we will homogenize it and equalize it and any deviants will have to go and talk to the bureaucrats that live in the great building across the way. I am totally opposed to it, and I would hope that the Senate would vote against the acceptance of the Conference Report.

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

Mr. MORRELL: Mr. President and Members of the Senate, I hear what my friend from Portland, Senator Merrill, has said, and I must admit that I share many of his concerns as he expresses them. But as the signer or one of the five signers of this compromise, I really feel that it is a middle ground, the ceiling is back on, there is an avenue suggested for redress. It is not the avenue that I would have preferred. As you all know, I would have preferred the complete lifting of the ceiling. This is not the final answer I am sure. It is not a perfect one. It is not this or nothing, but it is late in the game.

The Chairman of the Education Committee, Senator Katz, has reminded us on several occasions, in a very proper way, that not only is the solution suggested to the communities important, but the timing, and in his opinion, and I respect him for what he says, the time is really well over due. The communities do want to know. The Conferees on the part of the Senate did then a good deal more than perhaps we would have initially wanted to, but we did not have the luxury as you might with the Conference Committee on just an LD of saying really there is no solution, lets call it a day. It is a middle ground. We might have wanted something else. It is workable. I have chatted with several communities who will need to make a substantial request of the State Board of Education. They can live with it. They do not feel that it is unreasonable. They did share my feelings on the preference for a complete lifting, but they can live with it.

I would hope this morning that the Senate would vote in favor of the Report, and that we can make things a bit more comfortable for the communities as they plan their own programs.

The PRESIDENT: Is the Senate ready for the question? The pending question before the

Senate is the Motion to accept the Committee of Conference Report.

A Roll Call has been requested.

In order for the Chair to order a Roll Call, it must be the expressed desire of at least 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 risen, a Roll Call is ordered.

The pending question before the Senate is the acceptance of the Committee of Conference Report.

A yes vote will be in favor of accepting the Committee of Conference Report. A nay vote will be opposed.

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

#### ROLL CALL

YEA — Chapman, Collins, D.; Collins, S.; Greeley, Hewes, Hichens, Huber, Jackson, Katz, Lovell, Morrell, Pierce, Redmond, Snowe, Speers, Trotzky, Wyman.

NAY — Carpenter, Conley, Curtis, Danton, Farley, Jackson, Levine, Mangan, Martin, McNally, Merrill, Minkowsky, O'Leary, Pray, Usher.

ABSENT — Cummings.

16 Senators having voted in the affirmative, and 15 Senators in the negative, with one Senator being absent, the Committee of Conference Report is accepted in concurrence.

(See Action later today.)

Senator Pray of Penobscot was granted unanimous consent to address the Senate on the Record.

Mr. PRAY: Mr. President and Members of the Senate, I apologize for this unseemly time to request, but I would like to point out a matter which has received great publicity in the State of Maine. That item is reference to many miles of our shore line and our coast. This publicity is not in the positive sense of its beautiful rock bound coast, and its occasional sand beaches, but of its many inlets and miles of seclusion, which makes it ideal for illegal trafficking of drugs.

The activity I refer to is that activity which has received great publicity in the Maine Press as of recent time, and it has also come to the attention of many individuals that Maine is becoming a central point for the importation of illegal drugs. This activity has become of great concern to Maine, and it became a great concern to me prior to this Session, to the point where I introduced certain Legislation.

We in the Legislature have faced the question of recriminalization of marijuana. We will be faced with the funding question for the Division of Special Investigation, which mainly deals with the drug problem.

I point this out at this time, because the next item on the calendar deals with that problem. The title of the Bill, if you will look at L. D. 135 may be a little misleading. The title is "An Act to Impose a Mandatory Minimum Sentence For Drug Sales". Perhaps the Bill should be retitled to create "An Act to Impose a Mandatory Minimum Sentence for the Sale of Drugs to Children who have not yet Obtained Their 16th Birthday; or perhaps "An Act to Protect Maine's Youth From Drugs."

The Bill, as you will note, has a unanimous Ought Not to Pass Report according to Rule 20. It is my intention, and what I feel the Bill says, is that for people who traffic drugs, and this list of drugs under the schedules that are addressed in this Bill does not include marijuana, but the schedule W and X drugs, which are barbiturates, cocaine, heroin, and other narcotic drugs, and hallucinatory drugs. These people who are profiting from our junior high school, and our grade school children, people who are exploiting our young people for the profit they

make through drug sales, this Bill will require a mandatory term of imprisonment.

The reason I point this out, because under the Rules Unanimous Ought Not to Pass Report cannot be addressed. So it would be my intention to ask for suspension of Joint Rule 20, and then move to accept the Bill in the place of the Committee Report. I would like to put this matter before this Body where we can address this problem. I am very concerned with this Bill, and I would hope that the majority, the two-thirds vote that is necessary for this Bill, can put this Bill before us so that we can address this severe problem.

We have seen an increased use of drugs among our young children in Maine, and I would like to address that problem directly.

Thank you Mr. President.

#### Reconsidered Matter

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

Mr. KATZ: Mr. President, in reference to "An Act Relating to the Spending Ceiling for Education Purposes" (Emergency) (H. P. 0968) (L. D. 1165) I now move that the Senate reconsider its action whereby it accepted the Committee of Conference Report, and urge the Senate to vote against me.

The PRESIDENT: The Senator from Kennebec, Senator Katz, now moves that the Senate reconsider its action whereby it accepted the Committee of Conference Report on LD 1165.

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

Senator Collins of Knox was granted unanimous consent to address the Senate on the Record.

Mr. COLLINS: Mr. President, in response to the address just given us by the Senator from Penobscot, Senator Pray, I would say that the Judiciary Committee shares his concern about drug trafficking.

This Legislature has addressed that problem in a couple of ways already. You will recall that we asked for an emergency act early in the Session to strengthen the hand of the Special Unit on drug enforcement in the State police. There is also a Bill, I have forgotten for the moment where it is, that would strengthen the existence and funding of that Special Drug Investigation Unit for the future.

The problem with Bills of this type is that they adopt the theory that the Legislature can sentence criminals much better than the Judges can. Every case is a little different, and we have several Bills this Session for mandatory sentences of various kinds. Some of them extreme, some of them moderate, but each one takes away from the judge all of the discretion and judgment that we have him there to perform, and it just does not make sense from where we sit in the Judiciary Committee to so organize our judicial system that it becomes just an automatic push button affair. There has to be human judgment applied case by case.

That does not mean that we are soft on drugs, but this type of thing leads from one to another. We have Bills in, too, for mandatory sentence for anyone that robs a drug store. We have several in relating to alcohol. We had one that just went through the Senate relating to accidents where the driver leaves the scene. These are all serious matters, each case is serious, but I submit that the proper way is that each case be looked at on its own merits within the sentencing structure that is available, and that we should work in this area in providing better law enforcement and better judges.

#### 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 to Impose a Mandatory Minimum Sentences for Drug Sales." (S. P. 64) (L.D. 135)

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

Mr. PRAY: Mr. President, I move that the rules be suspended, and that the Bill be accepted in place of the Committee Report.

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

Mr. SPEERS: Mr. President, I understand that there is no Bill presently before this body, is that correct?

The PRESIDENT: The Chair would answer in the affirmative.

The Chair recognizes the Senator from Penobscot, Senator Pray.

Mr. PRAY: Mr. President, an inquiry, if the Joint Rules were suspended, would the Bill then be before this Committee?

The PRESIDENT: The Chair would answer in the negative. The pending question before the Senate is the Motion by the Senator from Penobscot, Senator Pray, that the Senate suspend its rules.

The Chair recognizes the Senator from Kennebec, Senator Speers.

Mr. SPEERS: Mr. President, the Motion before the Body is to suspend the Joint Rules?

The PRESIDENT: I think that the Motion put by the Senator was to suspend the Joint Rules.

Mr. SPEERS: I would inquire as to what purpose the suspension of the Senate rules might be?

(Off Record Remarks)

The PRESIDENT: The Chair has been advised by its parliamentarian that if the rules were suspended, then the Bill could be substituted for the Report, and that would be the only Motion available to the Senator. The other alternative is to introduce a Joint Order which would require a two-thirds vote of both Branches.

The Chair recognizes the Senator from Kennebec, Senator Speers.

Mr. SPEERS: Mr. President, Is this Body in power to suspend the Joint Rules?

The PRESIDENT: The Chair would answer in the negative. The Chair has been advised, that if we were to suspend our rules, we would then send the matter to the House, and they would have to concur by suspending their Rules.

The pending question before the Senate, is the Motion by the Senator from Penobscot, Senator Pray, that the Senate suspend its rules.

The Chair recognizes the Senator from Knox, Senator Collins.

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

The PRESIDENT: A Division has been requested.

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 Senator present and voting.

The Chair would request the Majority Floor Leader to approach the rostrum.

(Senate at Ease)

The Chair would advise the Senator from Penobscot, that this Motion is out of order.

The Chair will also call the Senate's attention to Joint Rule 20, Ought Not to Pass Report, Any Bill or Resolve which bears the unanimous Ought Not to Pass notation by the Committee to which it has been referred, shall upon notification of such actions of both Houses be placed in the legislative file. No further action shall be taken following such disposition, unless such Bill or Resolve is recalled for reconsideration by a vote of two-thirds of both Houses.

The Chair will further call the Senate's atten-

tion to Rule 9, Joint Order, No Joint Rule or Order shall be suspended without the consent of two-thirds of the Members present in each House.

#### Leave to Withdraw

Mr. Curtis for the Committee on Judiciary on, Bill, An Act Relating to Hearings on Juvenile Offenders in Juvenile Court and on appeal in Superior Court. (S. P. 451) (L. D. 1534)

Reported that the same be granted Leave to Withdraw.

Mr. Mangan for the Committee on Judiciary on, Bill, An Act Concerning Powers of the District Court to Send Juveniles for Mental Examinations. (S. P. 300) (L. D. 926)

Reported that the same be granted Leave to Withdraw.

Which Reports were Read and Accepted. Sent down for concurrence.

#### Ought to Pass in New Draft

Mr. Huber for the Committee on Appropriations and Financial Affairs on, Bill, An Act Making Current Service Appropriations from the General Fund for the Fiscal Years Ending June 30, 1978 and June 30, 1979. (Emergency) (S. P. 54) (L. D. 118)

Reported that the same Ought to Pass in New Draft under same title. (S. P. 530) (L. D. 1859)

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

Mr. HUBER: Mr. President, I would just like to make a brief comment at this time on the Part 1 Appropriations Bill, and say that the Appropriations Committee is pleased today to present the real people's budget.

We tried, in this budget, to limit the administration and bureaucracy as far as possible in favor of service delivery. The budget reinstates such programs as Day Care, Health and Education, moderate increase in funding for the University, and in other areas. We hope that in eliminating administration or bureaucracy, and I do not mean to use that term in any derogatory sense, we have not unduly undermined or impaired management ability.

We have tried to present an essentially bare Part 1 covering services budget, reinstating those services which were deleted by the Governor where we felt it was advisable. The dollar result is that this budget is about \$725,000.00 under the Governor's Budget. This figure of \$725,000.00 does not include a budgetary savings of \$1.6 million in education, which was accomplished by reducing the Governor's recommended 10 percent increase in the second year of the biennium to a 5 percent increase in general purpose aid for Education.

I would at this time essentially give a warning that we by statute will have to reconsider the level of funding for education for the second year of the biennium, and to the extent that the legislature should accept the figure in excess of 5 percent, each 1 percent increase would mean an additional \$1.9 million required for this purpose.

I hope that we can move this along today, giving people time to review the budget document in detail, and hope that this will receive its first reading and acceptance of the Ought to Pass Report.

Ought to Pass in new Draft Report accepted. The Bill in new draft Read Once, and Tomorrow Assigned for Second Reading.

Mrs. Snowe for the Committee on Health and Institutional Services on, Bill, "An Act to Provide for the Immediate Issuance of Food Stamps for Needy Families." (S. P. 164) (L. D. 440)

Reported that the same Ought to Pass in New Draft under same title. (S. P. 531) (L. D. 1853)

Mr. Collins for the Committee on State Government on, Bill, "An Act to Merge the

Passenger Tramway Safety Board with the Board of Elevator Rules and Regulations." (S. P. 398) (L. D. 1396)

Reported that the same Ought to Pass in New Draft under same title. (S. P. 532) (L. D. 1860)

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

#### Divided Report

The Majority of the Committee on Taxation on, Bill, "An Act to Make Possible Property Tax Valuation Assistance to Local Officials." (Emergency) (S. P. 464) (L. D. 1607)

Reported that the same Ought to Pass.

Signed:

Senator:

MARTIN of Aroostook

Representatives:

POST of Owls Head

CARTER of Bangor

CHONKO of Topsham

TEAGUE of Fairfield

IMMONEN of West Paris

CAREY of Waterville

COX of Brewer

TWITCHELL of Norway

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

Signed:

Sensors:

WYMAN of Washington

JACKSON of Cumberland

Representatives:

MACKEL of Wells

MAXWELL of Jay

Which Reports were Read.

On Motion of Mr. Wyman of Washington, Tabled One Legislative Day, Pending acceptance of either Committee Report.

#### Divided Report

The Majority of the Committee on Fisheries and Wildlife on, Bill, "An Act to Promote a Mandatory Hunters' Safety Course." (S. P. 266) (L. D. 824)

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

Signed:

Senator:

USHER of Cumberland

Representatives:

MCKEAN of Limestone

GILLIS of Calais

MacEACHERN of Lincoln

PETERSON of Caribou

ROLLINS of Dixfield

DOW of West Gardiner

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

Signed:

Sensors:

REDMOND of Somerset

PRAY of Penobscot

Representatives:

PEARSON of Old Town

TOZIER of Unity

MASTERMAN of Milo

Which Reports were Read.

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

Mr. REDMOND: Mr. President, although I signed the Ought Not to Pass Report, after reconsideration now I Move the Ought to Pass Report.

The PRESIDENT: The Senator from Somerset, Senator Redmond, now Moves the Senate accept the Ought to Pass As Amended Report of the Committee.

The Chair recognizes the Senator from Penobscot, Senator Pray.

Mr. PRAY: Mr. President and Members of the Senate: I would just point out that the inten-

tion of this Bill is to promote safety, basically in the Fall of the year when individuals go out and start hunting and harvesting our deer herd, but I just question the desirability of mandating individuals to take a hunters safety course. And as to who will pay for this mandated course, the funding will most likely come either from the school systems or will come out through the general public. I think that Augusta mandates enough.

I would hope that individuals who are interested in hunting and what not would raise their children up properly so that they would be aware of the precautions that they should take when they are out in the woods, and I see no need for this legislation. Thus I move the indefinite postponement of this bill and all its accompanying papers.

The PRESIDENT: The Senator from Penobscot, Senator Pray, now moves that L. D. 824 be indefinitely postponed.

The Chair recognizes the Senator from Cumberland, Senator Usher.

Mr. USHER: Mr. President, I request a Division, and I would like to make a couple of comments.

This is not only safety, this is to promote the farmers rights. It helps all the young people going into the field, into the woods. It has compass readings. It helps them to respect the rights of all the land owners. It is also survival. It shows them how to read the compass, how to survive if they are lost over night, and it is a very good program. It has been involved in Maine since 1972. A lot of volunteers, the Lions Clubs and the Kiwanis Clubs have been conducting these courses. A lot of industry has taken this on, and I think it is a very good course.

I would oppose the pending motion.

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

Mr. PRAY: Mr. President, and Members of the Senate: I think that the Senator from Cumberland, Senator Usher, just pointed out what is being done now by National Guard groups, by many business groups, large companies throughout the State. I cannot see the necessity of passing a piece of Legislation at this time that is going to cost the Department of Fisheries and Wildlife \$92,000.00, — \$92,671.00 is what was estimated. And I am not sure that the Department does not have the right at this time to promote hunting safety courses around the State. I believe it has been done by the Department. This would be just an expansion of it, and I also would question what we would do to individuals that come in during the Fall from other states that do not necessarily give these tests so the individual would not have the certificate so that he could get a Maine hunting license?

Now a large part of the economy of the State of Maine is tourism. A number of individuals come in here and hunt the big game animals that we have. What is the situation going to be with these people is the question that we have to address ourselves with, and I think definitely be concerned with.

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

Mr. USHER: Mr. President and Members of the Senate, presently this course has been accepted by 34 states. It is pending in New Hampshire and Vermont Legislatures, and there would not be any problem of certificates when they come from out of State, and I believe this is still a good program.

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

Mr. MERRILL: Mr. President and Members of the Senate, I would just like to direct a question through the Chair. Exactly who or what is mandated in this Bill? What is required and what is the result of failing to comply with the requirements?

The PRESIDENT: The Senator from



Cumberland, Senator Merrill has posed a question through the Chair to any Senator who may care to answer.

The Chair recognizes the Senator from Cumberland, Senator Usher.

Mr. USHER: Mr. President and Members of the Senate, they would have to go to this course, which is 10 hours, and upon completion of this course they would receive the card of completion, and this they would have to show to obtain a hunting license in the State of Maine.

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

Mr. REDMOND: Mr. President, there is an Amendment to this Bill, and amend the Bill in the first line after the Amending clause by striking out the underlined figure of 1980, and inserting in its place the underlined figure 1981.

Also the fiscal note on the Bill requires the following correction. The mandatory program outlined in the Bill would be implemented at no cost to the Department. Of course, if it is going to start in 1981, and it is my understanding that those who already have licenses are going to be grandfathered, and I can appreciate the objections from the good Senator from Penobscot, Senator Pray, and I can agree with him with all my heart; however, each time someone gets shot in the country, there is a lot of work being done and the sportsmen are worried about losing their rights of hunting and, I think, that as far as I am concerned the Sportsman's Alliance of Maine is supporting this program wholeheartedly in an effort to try and educate their young people so they will be better sportsmen. It is becoming mandatory, and the way I felt, I spent many hours being a family man with my own children, trying to educate them, but Sportsman's Alliance of Maine points out that there are many people who are unable to spend all these hours educating their young people how to handle guns, and they support this wholeheartedly.

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

Mr. MANGAN: Mr. President, I would just like to pose a couple of questions through the Chair to anybody who may wish to answer them.

One is when are these courses going to be offered and, secondly, would they have to be offered to an out of stater prior to a license being issued?

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 Usher.

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

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

Mr. USHER: Mr. President and Members of the Senate, these courses are being offered now by many fish and game clubs throughout the State, and, like I said before, the Lion's Club have adopted this and the Kiwanis Clubs, and a lot of industries down in our area. The S.D. Warren Company has graduated over 500 people the past few years. Presently this year the General Electric Company in South Portland just called to get directions on how to start these courses, and they are in the making now of starting a course. Presently there has been over 4,000 young people that have graduated through this course. This is aimed at the younger person. That is why we say 1981, and they do not object to going to a course and an adult would. Also, back in 1971, I believe, or 1972, they started keeping records of all hunting licenses sold in Maine, so you would not have any problem if you did not buy a license in the

last few years. They would just check back in your records.

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

Mr. MARTIN: Mr. President and Ladies and Gentlemen of the Senate, I seriously urge you to put this Bill in its right place; in File 13. I can just envision a Bill next year requiring all hunters to be accompanied by National Guardsmen.

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

Mr. FARLEY: Mr. President and Members of the Senate, my problem with this piece of Legislation is there are ample people who have training of one kind or another who would still have to go through this course. Certainly a Senior Boy Scout has had training in survival and similar Merit Badges and safety with guns. I know the only time I ever purchased a hunting license it lasted about 30 minutes, until I found out what it was all about. I just came back from 10 weeks of Mountain Training and Cold Weather Command up in Camp Hill, Colorado, and I do not believe a two-hour course would have told me any more about survival than I already had. Some of these people have had this training, and I do not believe they ought to go through this problem here.

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

Mr. PRAY: Mr. President, I just share one last thought with the Members of this Body. Being an individual who spends a great deal of time in the wood when time permits, I wonder, if we do accept this Bill, perhaps we should amend it to read everybody, because I think there is an awful lot of individuals out there right now that we should be concerned about, and I do share the concerns expressed by the good Senator from Cumberland, Senator Usher. I think that in principle and idea this is a great movement and belief that we should as individuals, as members of different organizations, should support. But to come to the State legislature and to mandate it, I think is definitely the wrong step.

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

Mr. MANGAN: Mr. President, this piece of Legislation sounds like a good Bill. I can see that the out of Staters are going to have trouble getting ahold of this course or at least spending 10 hours after coming to the State of Maine to get a hunting license, by going through this course. This would be one way, I suppose of, keeping our wildlife for the people of the State of Maine, and it is a good way to keep the out of staters out and let only the Mainers share in our plentiful.

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 this Bill and all its accompanying papers be indefinitely postponed.

A Division has been requested. Will all those Senators in favor of the Motion to indefinitely postpone, please rise in their places to be counted.

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

15 Senators having voted in the affirmative, and 13 Senators in the negative, the Motion to indefinitely postpone does prevail.

Sent down for concurrence.

#### Divided Report

Nine members of the Committee on Legal Affairs on, Bill. An Act Prohibiting the Dissemination of Obscene Matter to Minors. (S. P. 281) (L. D. 894)

Reported in Report A that the same Ought to Pass in New Draft under same title. (S. P. 533) (L. D. 1861)

Signed:

Senators:

HEWES of Cumberland  
CARPENTER of Aroostook

Representatives:

COTE of Lewiston  
MOODY of Richmond  
SHUTE of Stockton Springs  
GOULD of Old Town  
CARRIER of Westbrook  
DURGIN of Kittery  
DUDLEY of Enfield

Two members of the same Committee on the same subject matter Reported in Report B that the same Ought to Pass in New Draft under same title. (S. P. 534) (L. D. 1862)

Signed:

Representatives:

JOYCE of Portland  
BURNS of Anson

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

Signed:

Senator:

CUMMINGS of Penobscot

Representative:

BIRON of Lewiston

Which Reports were Read.

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

Mr. HEWES: Mr. President, I Move the Senate accept Report "A", Ought to Pass.

The PRESIDENT: The Senator from Cumberland, Senator Hewes, now Moves the Senate Accept Report "A" of the Committee.

The Chair recognizes the Senator from Cumberland, Senator Conley.

Mr. CONLEY: Mr. President, I notice that there were three Reports on this particular measure, and I know that I would hate to leave the judgment in the hands of one person to decide what is obscene and what is not obscene.

I think the best Report to receive on this particular Bill would be Report "C", and I would urge the Senate to vote against accepting Report "A".

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

Mr. HEWES: Mr. President and Members of the Senate, there is a ground swell of report in this State for some kind of Legislation relating to obscene matter for minors. This is an attempt, Report "A" or Report "B", they are attempts to pass some kind of Legislation. The main difference between Report "A" and Report "B" is that in Report "A" the District Attorney or the Attorney General decides if something is, in his opinion, obscene, and he then files a declaratory judgment Act, which have been on the books for years, and this trial could be by jury on whether or not a matter is obscene or not. Then there is a second trial whether or not somebody actually distributed, knowingly distributed it and the issue of obscenity would be discussed again.

The second proposal, Report "B", would have the Grand Jury which meets periodically, once a month in most Counties, in many counties anyway. The Grand Jury would decide if something were obscene. It is somewhat novel to have the Grand Jury decide this issue, something like this, but maybe that would give a better cross section of the public.

A little background may be helpful. The U.S. Supreme Court, in a case of Miller versus California in 1973 decided that the local community, — and the word community was not defined whether it meant State, County, Municipality, I guess, or even neighborhood — that the local community should decide what is obscene so that what applies in New Mexico might not be obscene in Maine, or vice versa, or in Aroostook County and York County. So this particular Bill sets up the very same definition of obscene matter that was used in the U.S. Supreme Court Ruling in 1973, set forth in paragraph D of Section 2911.

I feel that we ought to try and pass something. The public wants something. We think this is a workable Bill and I hope you will support Report "A".

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

Mr. CONLEY: Mr. President, again I would address the question to the good Senator from Cumberland, Senator Hewes, but it strikes me that to put out a statute which has wide implications across the State, and that communities on the local level have the opportunity to draft local ordinances dealing with this subject matter, would not this be the best route to try to proceed at this particular time.

It seems to me that in the case of Old Orchard Beach, for example, where they just passed an ordinance down there relative to, I believe, topless waitresses, that an ordinance that was written was found unconstitutional. It seems to me that every time we get into this area of obscenity or skirting that subject, that we have great difficulties.

I share the same feelings that the good Senator from Cumberland, Senator Hewes, and I know that everyone in this Chamber does, but it just seems to me that an average person sitting back reviewing this Bill would certainly find a great deal of problem with it, and probably also recognize the fact there might be a great deal of Constitutional problems with it.

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

Mr. HICHENS: Mr. President and Members of the Senate: Two years ago I presented a Bill relating to dissemination of Obscene Matter to Minors. Librarians and some others opposed the Bill, and the Judiciary Committee accepted a report that the Bill was unconstitutional, and reported it out Ought Not to Pass.

In the interim between Sessions, Massachusetts and West Virginia passed a law prohibiting dissemination of obscene matter to minors, which was declared Constitutional. Using those Laws as a basis for L. D. 894, the Bill was presented to the Committee on Legal Affairs. Again a librarian protested, stating that it would prevent the use of several educational books in the libraries and schools throughout the State. The only other opponent was a representative of magazine sellers. Several groups from Portland, Biddeford and other areas of the State supported L. D. 894, although the press reported that only two clergymen spoke for the bill following the adopted Media philosophy; don't let the facts spoil a good story.

In the redraft, the Committee has taken the complaints under consideration and in Section "A" it states "This Section shall not apply to any non-commercial distribution or exhibition for purely educational purposes by any library, museum, public or private school or institution of learning".

People all over the state, as well as the nation, are justifiably concerned with the publications displayed in full view and available for reading to our boys and girls in the corner bookstores, the paperback stores, etc., throughout our State.

I urge you to accept the Report of the Committee and show our constituents, old and young alike, that we are concerned. Leaving this up to the local towns is a very slow process. If we can do this state-wide, it will handle the problems immediately.

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

Mrs. CUMMINGS: Mr. President, there is another Bill coming which I am strongly supporting, which will prevent the display of so-called obscene materials, and that material is rather graphically defined.

This Bill covers too much territory, geological territory as well as cultural territory, as well as religious territory. It

enters individual's rights on too many fields. Here it says that obscene matter means matter which is considered, as a whole, to lack serious literary, artistic, political or scientific value. Now it is going to be impossible for everybody to agree what has serious literary, artistic, political or scientific value.

I think that this again is a mandatory Bill. Things can be settled on a local basis. There is one community in the State, namely the fair City of Houlton, that has passed an excellent ordinance. It was done by local people, with their local attitudes, and will affect their local stores, and, to me, this is the route that we should be taking, not a state-wide mandatory law.

When the other Bill comes along, which will protect the minors and young people from seeing things which we do not think they should be exposed to at an early age, I hope that you will give it your support. This one, I think, should not pass.

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

Mr. CARPENTER: Mr. President and Ladies and Gentlemen of the Senate, I feel somewhat like my good colleague from York, Senator Lovell. I get the worst Bills to debate. If I am not washing dogs in Sebago Lake, I am trying to clean up the dirty book business. I would like to take just a moment of your time to explain what this Bill does and why I signed Report "A".

First of all, I would like to make you very well aware of the public interest in this issue. I have in my hands about 5,000 signatures on petitions and little slips of paper that the Committee and Senator Hewes received from primarily the southern part of the State. So this is not the little old lady, just the little old ladies that go to a church on Sunday that are behind this Bill. We had testimony at the Committee from a great, broad cross section of the people of the State of Maine that are concerned about this. I also have an article here of a related subject dealing with child pornography.

We have a problem folks. Let us face it. I think something should be done. What this Bill purports to do, it tries to take the Supreme Court decision, using prevailing community standards and say that the community cannot be defined as the Nation. We think we can take this Bill, we think it is a workable Bill, preferably Report "A", and I will explain the difference between Report "A" and Report "B" in a second. I would like to touch just briefly on what the Senator from Penobscot, Senator Cummings, talked about in my fair town of Houlton which does have what I consider to be a fairly good ordinance on its books passed at the last general election about three to one, to give you an idea of the sentiment in that particular section of the State.

But these ordinances will not work once you get above, say, a population of 15,000. This ordinance is based on a lot of peer pressure. You know, in the town of Houlton, we only have a few stores that sell books and they are not about to raise the ire of the community by defying this ordinance. It will not work in the City of Portland, where most of these signatures that I spoke of earlier, come from. It will not work, I do not think, in the City of Augusta, the City of Lewiston, the City of Bangor.

I would like to see us take and try to make a law for the State of Maine, which says you shall not sell obscene material to minors. That is all this Bill says. It repeals Title 17, Section 2901, which is obscenity, which is no good because of the Supreme Court decision anyway. It is way too broad. And what we would say in Report "A" is that the District Attorney, if you will look at Report "A" which is actually L. D. 1861, new draft, it says that the District Attorney, in the various counties, the prosecutorial districts of the State, shall make a declaratory judgment when somebody brings him a book and says I

think this is obscene. It should not be sold. Within 10 days after this, he may petition the Superior Court to declare the matter obscene. And, such a petition shall be held not more than 10 days from the filing of the petition.

Why do I prefer Report "A" to Report "B"? Report "B" goes the Grand Jury route, which in some instances in some people's minds may better fit the qualifications of community standards. But I think the problem you are going to have if you decide to go the Grand Jury route; let us say I have January's copy of some magazine, that I think is obscene, and I take it to my District Attorney. He then goes to the Grand Jury, so that in the middle of May or June the Grand Jury says yes, January's issue of "X" magazine is obscene. Well, you know, we are never going to get at the problem that we are trying to get at, I think, if we go the Grand Jury route. It is going to be too slow and too cumbersome. You know after the first of February, the store owner is no longer selling January's issue, and in May he is told he cannot sell any more. Well, you know, big deal. We are making a law that cannot be enforced. We are making a law that has absolutely no teeth in it.

This Bill was gone over many, many times in the Committee. If you are at all concerned with this problem, I would ask that you do accept Report "A". If you have some problems, if some of the attorneys, some of my colleagues here in Senate may have some problems with this, perhaps they think that it is unconstitutional. I do not. Perhaps we can get an Amendment, but please do not accept the Motion or the remarks of my good colleague, the Senator from Penobscot, Senator Cummings, and Accept the Ought Not to Pass, because then we are sitting on our hands and we are doing nothing. And, I think we can do something at the state level. My good colleague from York, Senator Hichens, named you a couple of the states that have done something, and have been found to be Constitutional. I do not think that he mentioned the State of Rhode Island, which did pass a state law, and I would hope that this morning we could Move to Accept Report "A", at the very least, Report "B", and if we have some problems, I know my colleague from Kennebec, Senator Levine, has some problems, perhaps he can offer an Amendment to clarify his problems, but let us not sit here and say we cannot do it. The people of the State of Maine think we can do it. I think we can do it, and I think we should make an honest attempt. As I said, there was a great deal of division within the Committee, but I think it is incumbent upon us to try something and I think that Report "A" is a very, very acceptable solution. Thank you.

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

Mr. MERRILL: Mr. President and Members of the Senate, I would like to pose two questions through the Chair.

First, I would like to ask why in granting what shall not be considered as obscene matter, there is not an exemption made for religious matter. It has to be serious literary, artistic or political matter, and I think that most religious works, including our own Bible, describe activities that otherwise fit into this description. We draw attention to Sodom and Gomorrah as an example, and I would also, not noting the presence of the Senator from Verrill, Dana in the Chamber, would ask in lieu of that, one of the Members of the Committee to explain why this draft excludes motion pictures.

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

The Chair recognizes the Senator from Aroostook, Senator Carpenter.

Mr. CARPENTER: Mr. President and Ladies and Gentlemen of the Senate, in response to the Senator from Cumberland's questions, I do not

think under the intent of this Bill that a religious institution would have to worry. Page 2, Section 2 A, does say institution of learning. Whether that would cover religious institutions or not or religious matters, I do not know. Perhaps this is a problem that could be taken care of with an Amendment.

The second question: the reason that motion pictures are excluded are two-fold, actually. One, there is another Section of the Law that specifically deals with obscene movies and, secondly, the motion picture industry itself regulates itself to some degree. We tried to keep this as constricted as possible because we knew that the biggest problem that we were going to have with attempting to pass Legislation of this sort was the cry that it was going to be too broad. So rather than make a broad statute that could easily be struck down on many different points, we decided to narrow it down to, — primarily what we are trying to get at are the monthly magazines, I think. We had complaints from Maine Teachers Association, other organizations and we tried to build in restrictions or exemptions for them.

I would just point out that, do not be misled by the idea that the poor store owner is going to be persecuted under this. I do not think that is a possibility. If you will look through the Bill, there are many safeguards built in. Just to point out one. Under general rule 2 Section 2 general rule, says a person is guilty of disseminating obscene matter to a minor if he knowingly distributes or exhibits, or offers to distribute or exhibit to a minor any obscene matter, declared obscene. So, here is the key.

One last point that I would like to make is the other Bill that the good Senator from Penobscot, Senator Cummings, talked about is a covering Bill which we have coming out which probably will be less controversial than this Bill. It merely says that, basically, that magazines with frontal nudity and this sort of thing must be covered. It does not say anything about selling it. All you have got to do is cover them up, tell Susie Jones or Jimmy Jackson what is in the book, and sell it to them. It does not cover sale in the statute we presently have on the books. As I mentioned, Title 17, Section 2901 is not enforceable. We tried prior to enactment of the Houlton ordinance, we tried to enforce that statute and we could not, so I hope that I have answered the good Senator's question.

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

Mr. MERRILL: Mr. President and Members of the Senate, the questions have not been answered to my satisfaction.

First of all, in reference to the matter of the religious exception, there is in that list some fairly specific items listed, types of institutions. They are specific enough and the list is thorough enough so that it would seem to me that it could be well interpreted that it was intended by the Legislature to include a religious exception, and I am afraid of hanging it on the learning hook anyway, because I am afraid that we might consider that is in our religious books learning, and what is in people who have a religion offensive to us to be something otherwise.

Secondly, I am very interested in the answer on the movie industry, because it allows me to point out to the Senate how broad this field is. The answer that the industry now tries to regulate films is not responsive to the Bill before you, because it is not necessary that this obscene matter be distributed for what we refer to in the law as consideration. In other words, it is not necessary that it be distributed in such a way as the person be paid for it. I suppose the reason for that would be that if somebody was going down the street handing out obscene material, or somebody decided to do it at a Boy Scout meeting, that he should be prosecuted, which is understandable. but I would point out

that under this Law, you could show the movie, you know the 16 millimeter film hot from Paris, and it would be accepted. Frankly, I just do not think there is a reason for that exception, particularly when I read the words visual representation, and would assume that would include a play. So I assume that we have established a distinction here between the play and the movie, and I honestly do not see the difference.

The problems that you run into in writing a Law at the State level to try to regulate something that is so vague, because it is so much in the eyes of the beholder, I think is demonstrated with what I consider to be the drafting clause in this Legislation, recognizing that the Committee has worked long and hard to try to come up with something that is palatable.

I would hope that the Senate will go along with the Senator from Penobscot and indefinitely postpone this Bill and all its accompanying papers.

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

Mr. LEVINE: Mr. President, I have a very serious problem with this Bill. If this Bill passes, what we are doing, we are defining local community as the State. Well, after we pass this Bill, perhaps then we should pass a Bill saying we will have no local government, we shall have no county government, we will only have State government.

It is my understanding that local community, at least in my mind, and I hope in the minds of all the people in the State of Maine, it means just that, — The local community. I do not care to define local community as the State. I do not care to have the State to serve all the powers and all the prerogatives of local government.

I have another question for the Senator from Aroostook, Senator Carpenter, if he would care to answer it. It is my understanding that these particular slips that have been passed out do not deal with this Bill at all, but rather with the so-called cover bill, and I wonder if you might explain that to me.

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

Mr. CARPENTER: Mr. President and Ladies and Gentlemen of the Senate: First, to answer first the Senator from Kennebec, Senator Levine, I will just read you from the one I happen to have. I, the undersigned, urge a Bill prohibiting the display and sale and that is what this Bill that I am presently discussing has to do with, and the petitions we have are very similar.

I am not going to get into debate with the Senator from Kennebec, Senator Levine, as to what the community, is, be it the village of Ogunquit, the Town of Houlton, or the City of Augusta or the State of Maine. All I know is the Supreme Court has said that the community cannot be a Nation. The Supreme Court has ruled that State Laws in several states are Constitutional in this area, and they have defined the community as the State. So I think the argument is very false that we cannot define the community as the State.

To touch just briefly on the arguments of my dear, dear friend, the Senator from Cumberland, Senator Merrill, I would just say that if he is, or anybody in this Chamber, happens to be hung up on the religious institution non-exemption, if you will, if this Bill goes to Second Reader, I personally will prepare an Amendment to take care of religious institutions and any other that a majority of this Body feels are necessary.

I agree very much with the Senator from Cumberland, Senator Merrill, that motion pictures are not covered under this. I think I stated earlier that motion pictures are covered under a different section of the statutes, and the reason we did not put them in this Bill was because we did not want to make the statute too broad.

I would just end my comments by requesting that when the vote is taken, it be taken by the yeas and nays.

The PRESIDENT: A Roll Call has been Requested.

The Chair recognizes the Senator from Kennebec, Senator Levine.

Mr. LEVINE: Mr. President, when I arose earlier and addressed the good Members of the Senate, as I rise again, I did not question the Constitutionality of our saying the State is the local community. I question the precedent that we are setting. If we, in fact, in this Bill say that the State is a local community why do we need local government? Why do we need county government?

As to the statement Senator Carpenter made when he read from this, perhaps we should read the complete statement on this. I know it is a small point, but I think we should all understand exactly what these say. "I, the undersigned, urge a Bill prohibiting the display and sale of pornographic magazines and materials where they can be viewed by children under the age of 18."

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

Mr. CURTIS: Mr. President, I was interested in the observation regarding the Bible. It seems to me that there is no question at all but the Bible will be excluded under D-3, which says obscene matter means matter which considered as a whole, lacks serious literary, artistic, political or scientific value. I was always under the impression that, considered as a whole, the Bible certainly had serious literary value.

The question that concerns me, and I think I know the answer, but I would like to get the Legislative intent clear on the matter, has to do with the general rule, Part 2. The question is this: If a smut magazine, June issue, is declared to be obscene under Section 3, would that declaration also apply automatically, or might it apply automatically to the July, August, September and October issues of the same magazine, or is this declaration only on existing publications.

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

Mr. HEWES: Mr. President and Members of the Senate: I think in reply to the Senator from Penobscot's question, I feel that it applies only to the June issue, to that one particular issue.

I think that once a publication has been declared obscene, then the printers, the people that publish the magazine or periodical would use discretion accordingly.

I would like to point out that we presently do have the right to, for municipalities to pass their own obscenity laws. I believe Westbrook, Houlton and Old Orchard Beach have attempted to do so. There was hue and cry from the public that what is being done is not satisfactory. We have proposed this. I call to your attention that it is not just the District Attorney or Attorney General deciding whether something is obscene. He has a right to veto whether or not something is obscene, but if he feels that it may be obscene, he petitions the Superior Court and, as said on page two of the L. D. 1861, trial on the issue of obscenity shall be by jury under the declaratory judgment statute.

I submit that this is a good Bill, and I urge you to vote for the adoption of Committee Amendment "A".

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

Mr. MERRILL: Mr. President and Members of the Senate: I would submit to the Members of the Senate, the Senator from Penobscot, Senator Curtis, has unwittingly but very graphically demonstrated what is bad with laws that attempt to limit what people can read. because in handling my broad objection of how we are going to allow religious matter to be

dealt with, he read the serious literary, artistic, political value and concluded that "the Bible" meets that qualification. Well the Bible, I would submit, is not the religious work of every religion, and because we are satisfied that our own, the majority's religious work satisfies us that it has this value, is not good reason to be satisfied that this will take care of everybody's religious works, and it just shows the problems with trying to deal with obscenity.

I would move that this Bill and all accompanying papers be indefinitely postponed.

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

Mr. CARPENTER: Mr. President and Members of the Senate: I am not going to discuss the religious aspect any further. I have already made a statement as to what I would attempt to do if this Bill gets by its First Reading. I would agree with my colleague, my seat mate, the Senator from Cumberland, Senator Hewes, as to succeeding issues of a magazine that had been declared to be obscene.

I have heard the arguments from local control, to too broad, to unconstitutional, to whatever on this Bill, the arguments that I expected to hear when I decided that I could support this type of Legislation.

To touch just briefly on the local control argument, perhaps we should withdraw state funding for education, state mandated programs for education, state-wide driver testing, and let each community decide who can drive a car and who cannot drive a car. I am being facetious, but still, I mean the argument that we should, if we pass this type of Ordinance or this type of statute, that we are taking away local control or local government role is just a bit more facetious than my remark, and I would just go back, I think, to the basic issue here. Do you or do you not, and I think this is the answer that will come out when we have the vote taken, do you or do you not want to do something at the state level to restrict the flow of pornographic material, I could have brought some of it in here. It does not say anything about you or I reading it. It just says that it shall not be sold to minors, distributed to minors, do you or do you not at the state level want to do something about what I personally do consider to be a problem, and, obviously many other people do consider it to be a problem. I think this is the question, the particular clause or mechanics of this particular legislation. I certainly have no pride of authorship, and would be very happy to work with anybody in this Chamber who agrees with me that there is a problem and wants to work out specific points. Thank you.

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

Mr. CURTIS: Mr. President, there is an observation that the Senator from Cumberland, Senator Merrill, made earlier. In my opinion, and it is only an opinion, there is not a jury in the State which would ever find that the Bible, as a whole, considered as a whole, lacks serious literary value.

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

Mr. CUMMINGS: Mr. President, in spite of my respect for the Senator from Aroostook, Senator Carpenter, this is not your last chance to do something about the casual dissemination of pornographic literature. There is another Bill coming along, which I think will be much more easy to enforce.

It is a long time between the time that some magazine or book is considered obscene before it is finally judged so. The person has to be guilty of disseminating obscene matter or unwillingly, so that that too is going to be a question, a moot point that will have to be debated at great length. By this time, there will be several more months editions of some of these magazines that will have been passed around, and I just think that this is an awkward, un-

workable Bill, and I hope that we go along with the present Motion.

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

Mr. MERRILL: Mr. President, I request consent of the Senate to briefly speak a fourth time on this matter.

The PRESIDENT: The Chair would advise the Senator that he has made a new Motion so the restrictions do not apply.

Mr. MERRILL: Mr. President, I did not do that to create a loop hole, so I will be very brief. I would just like to point out that the Senator from Penobscot, Senator Curtis, totally misses my point. My point is not that a jury in Maine would not consider our religious document, the one that we share, the Bible, as having literary value. My point is that there are other religions that have other books that are not held by a majority of the people, and my point was that in making his argument and referring only to ours, he demonstrates the problem with laws that regulate free speech.

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

Mr. HICHENS: Mr. President and Members of the Senate, I am reluctant to discuss a Bill that is not even before us. It has been referred to several times by the good Senator from Penobscot, and I would now bring your attention to that Bill, that it says that it has to be covered by an opaque covering so if any nudity is covered over, it has to be sealed. Now if these magazines are in front of us or in front of the youngsters, you can be sure they are going to find a way to unseal them. It is going to increase their curiosity, rather than decrease it.

This Bill takes care of the problem in the dissemination of that obscene literature altogether. I would ask you why wait for the next Bill. Let us take care of this one and send it on its way.

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

Mr. LOVELL: Mr. President, I hesitate to get into this debate at all, but the thing that bothers me, and I have had some comment in the Sanford area, that since the Supreme Court decided that this material was Constitutional, that we are flooded with it in the mails. Now this Bill does not say anything about mail. You can get, by-mail-order-just-about-anything-you-want. I do not know where they get their mailing list, but they get their mailing lists from all over, somehow, someway. I do not know if they got my mailing list out of Who's Who in America or where they got it, but I get material and it says on the material — sexual oriented, throw it away if you do not want it, — but if you look at it, you can buy just about anything you want through the mails from magazines to a rubber woman, or just about anything.

So, actually, I think that we should indefinitely postpone this Bill, I do not think that it is going to do us any good.

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

Mr. MANGAN: Mr. President and Members of the Senate, I am not really impressed by the content of the Bill itself, but I am impressed greatly by the intent of the Bill.

I feel that the morality of society has slowly but surely gone down the drain. I feel that there is a serious problem as far as obscene matter, as far as minors are concerned. I feel that it may be wise to send this Bill through the First Reading, and to try to amend this Bill so that we can save something of this and eventually I hope save most of the children of our State.

The PRESIDENT: Is the Senate ready for the Question? The Pending Question before the Senate is the Motion by the Senator from Cumberland, Senator Merrill, that this Bill and all its accompanying papers be indefinitely postponed.

The Chair will Order a Division.

The Chair recognizes the Senator from Aroostook, Senator Carpenter.

Mr. CARPENTER: 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 pending question before the Senate is the Motion by the Senator from Cumberland, Senator Merrill, that the Senate indefinitely postpone L. D. 894.

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

The doorkeepers will secure the Chamber.

The Secretary will call the Roll.

#### ROLL CALL

YEA — Chapman, Collins, D.; Conley, Cummings, Huber, Katz, Levine, Lovell, Martin, McNally, Merrill, Minkowsky, Morrell, Pray, Trozky.

NAY — Carpenter, Collins, S.; Curtis, Farley, Greeley, Hewes, Hichens, Jackson, Mangan, Morrell, O'Leary, Pierce, Redmond, Snowe, Speers, Usher.

ABSENT — Danton, Wyman.

14 Senators having voted in the affirmative, and 16 Senators in the negative, with 2 Senators being absent, the Motion to indefinitely postpone does not prevail.

Report "A" Accepted.

The Bill, in new Draft, (H. P. 533) (L. D. 1861) Read Once, and Tomorrow Assigned for Second Reading.

#### Reconsidered Matter

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

Mr. FARLEY: Mr. President, in regard to Bill, "An Act to Promote a Mandatory Hunters' Safety Course." (S. P. 266) (L. D. 824) having voted on the prevailing side I now move reconsideration.

The PRESIDENT: The Senator from York, Senator Farley now moves the Senate reconsider its action whereby it indefinitely postponed L. D. 824.

The Chair recognizes the Senator from Somerset, Senator Redmond.

Mr. REDMOND: 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 Pending Question before the Senate is the Motion by the Senator from York, Senator Farley, that the Senate reconsider its action whereby it indefinitely postponed L. D. 824.

A yes vote will be in favor of reconsideration. A nay vote will be opposed.

The doorkeepers will secure the Chamber.

The Chair recognizes the Senator from Cumberland, Senator Usher.

Mr. USHER: Mr. President, is this issue debatable?

The PRESIDENT: The Chair would answer in the affirmative.

The Chair recognizes the Senator from Cumberland, Senator Usher.

Mr. USHER: Mr. President and Members of the Senate: I would hope the Senate would go along with the reconsideration.

I think back to last November when we had two killings in my District in Gorham, and after reading the results of the testimony when it was mistaken identity, I am wondering if just saving these two lives would have been worth this

whole course. This is the thought of everybody, and the thought does not appear in everybody's mind until October and November of the year.

So I would hope that the Senate would vote to reconsider this item.

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

Mr. PRAY: Mr. President and Members of the Senate: I would also like to point out at this time that it is believed that the individual was under the influence of drugs.

The PRESIDENT: A yes vote will be in favor of reconsideration. A nay vote will be opposed. The Secretary will call the Roll.

#### ROLL CALL

YEA — Chapman, Conley, Curtis, Danton, Greeley, Hewes, Hichens, Huber, Jackson, Levine, Lovell, Pierce, Redmond, Usher.

NAY — Carpenter, Collins, D.; Collins, S.; Cummings, Farley, Katz, Mangan, Martin, McNally, Minkowsky, Morrell, O'Leary, Pray, Snowe, Speers, Trotzky.

ABSENT — Merrill, Wyman.

14 Senators having voted in the affirmative, and 16 Senators in the negative, with 2 Senators being absent, the Motion to reconsider does not prevail.

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

Mr. HUBER: Mr. President, I Move the Senate stand in recess until 5:00 this afternoon.

The PRESIDENT: The Senator from Cumberland, Senator Huber, now Moves the Senate stand in recess until 5:00 this afternoon. Is this the pleasure of the Senate? It is a vote.

(Recess)

#### After Recess

Senate called to order by the President.

Senator Katz of Kennebec was granted unanimous consent to address the Senate on the record.

Mr. KATZ: Mr. President, when the Senate recessed until 5:00 I wondered what good thing could happen by bringing us back here at 5:00 on a day all of us wanted out.

But a good thing happened to me just now. It is called Bill Caldwell, Enjoying Maine, and there is this strange bearded figure on the cover, and inside is a real smorgasbord of the kind of Maine lure that Bill has been writing in his columns.

I am particularly pleased for two reasons. First, the book is going to be printed by the Daily Kennebec Journal, Maine's outstanding daily newspaper, and, in the second place, it is written by a man who we all know, and whose work we admire, and I want to express my congratulations to Bill Caldwell, and hope that the book does very, very well commercially.

(Off record Remarks)

#### Second Readers

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

##### House

Bill, "An Act Concerning Proof of Residence Required for Certain Inland Fisheries and Wildlife Licenses." (H. P. 261) (L. D. 329)

Bill, "An Act to Provide for the Department of Transportation to Participate in the Federal Railroad Administration Track and Equipment Safety and Inspection Program and to Administer Railroad Safety Investigation Provisions of the Maine Statutes." (H. P. 1632) (L. D. 1835)

RESOLVE, Authorizing the Attorney General to Undertake Proceedings on Behalf of Resident Taxpayers of this State to Recover Certain Taxes Paid to the State of New Hampshire. (H. P. 1633) (L. D. 1834)

Bill, "An Act to Exempt Energy Conserva-

tion Materials from the Sales Tax." (Emergency) (H. P. 1642) (L. D. 1841)

Bill, "An Act to Revise the Oil Burner Men Law." (H. P. 1644) (L. D. 1844)

RESOLVE, Authorizing and Directing the Commissioner of Inland Fisheries and Wildlife to Promulgate Rules and Regulations Pertaining to Ice Fishing. (H. P. 1637) (L. D. 1839)

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

Bill, "An Act to Avoid Delays in Payment of Workmen's Compensation Claims because of the Involvement of Two or More Insurance Carriers." (H. P. 1261) (L. D. 1490)

Which was read a Second Time. On Motion of Mr. Hewes of Cumberland.

Tabled One Legislative Day, Pending Passage to Be Engrossed.

Bill, "An Act to Establish County Boards, to Allow Them to Set and Approve County Budgets and to Allocate Services." (H. P. 1620) (L. D. 1825)

Which was Read a Second Time.

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

Mr. JACKSON: Mr. President and Members of the Senate: I move that L. D. 1825 and all accompanying papers be indefinitely postponed, and I would like to speak to my motion.

The PRESIDENT: The Senator has the floor.

Mr. JACKSON: Mr. President and Members of the Senate: This Bill is the result of a study of two years with the Local and County Government Committee. As you will all note, I imagine when the Bill first came up from the Committee, it was 11 to 2 Report, 11 Ought Not to Pass and 2 to Pass.

The Bill has not fared too well, and we have many problems with the piece of Legislation, and instead of trying to clean them up and get everything into concurrence, we just do not see how we possibly can, so that is why I am making the Motion to indefinitely postpone this bill and all of its accompanying papers.

The PRESIDENT: The pending question before the Senate is the Motion by the Senator from Cumberland, Senator Jackson, that L. D. 1825 be indefinitely postponed in concurrence. Is this the pleasure of the Senate. It is a vote.

#### Second Readers

##### House — As Amended

Bill, An Act Clarifying the Tax Status of Regional Planning Commissioners and Councils of Government. (H. P. 555) (L. D. 672)

Resolution, Proposing an Amendment to the Constitution to Repeal the Section Concerning Continuity of State and Local Government in Case of Enemy Attack. (H. P. 15) (L. D. 24)

Bill, An Act to Provide for Legislative Confirmation of Gubernatorial Nominations to the Maine Human Services Council. (H. P. 723) (L. D. 856)

Bill, An Act Relating to Granting Administration of an Intestate's Goods or Estate under the Law of Decedent's Estates. (H. P. 1202) (L. D. 1431)

Resolve, to Provide for an Agreement Between the Department of Education and Cultural Services and the City of South Portland to Establish a Greenbelt Area on the Southern Maine Vocational-Technical Institute Campus. (H. P. 1265) (L. D. 1492)

Bill, An Act to Amend the Oil Pollution Control and Discharge Prevention Laws. (H. P. 1283) (L. D. 1641)

Bill, An Act Empowering the State of Maine to Enter into the Interstate Corrections Compact. (H. P. 358) (L. D. 451)

Bill, An Act to Amend the Membership and the Legislative Mandate of the Capitol Planning Commission. (H. P. 1128) (L. D. 1345)

Bill, An Act Appropriating Funds to Provide Road and Bathing Facilities on Lucia Beach at Owls Head. (H. P. 1217) (L. D. 1453)

Bill, An Act to Encourage Energy Conserva-

tion in Maine. (H. P. 1468) (L. D. 1711)

Bill, An Act to Provide for Adult Education for Certain Students under the Provisions of the School Finance Act of 1976. (H. P. 1466) (L. D. 1720)

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

#### Senate

Bill, An Act to Provide Relief from Extremely Burdensome Property Taxes. (S. P. 386) (L. D. 1331)

Which was Read a Second Time.

On Motion of Mr. Speers of Kennebec, Tabled for One Legislative Day, Pending Passage to Be Engrossed.

Bill, An Act to Clarify the Definition of Professional Nursing and Practical Nursing. (S. P. 529) (L. D. 1847)

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

Sent down for concurrence.

#### Senate — As Amended

Bill, An Act to Lighten the Burden of Property Taxes on the Elderly Widowed or Disabled. (S. P. 440) (L. D. 1531)

Bill, An Act to Clarify Physician Certification of Patient Deaths in Maine Nursing Homes. (S. P. 408) (L. D. 1416)

Which were Read a Second Time and Passed to Be Engrossed, as amended.

Sent down for concurrence.

#### Enactor

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

##### Emergency

"An Act to Clarify Vocational Education Reimbursement in Vocational Centers and Vocational Regions." (H. P. 98) (L. D. 122)

This being an emergency measure and having received the affirmative votes of 28 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.

#### Reconsidered Matter

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

Mr. KATZ: Mr. President is the Senate in possession of "An Act to Authorize Bond Issue in the Amount of \$2,348,000 for Construction of an Educational Wing at Central Maine Vocational-Technical Institute, a Mechanicals Building at Eastern Maine Vocational-Technical Institute and a Building Construction Facility at Southern Maine Vocational-Technical Institute." (L. D. 1819)

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

The Chair recognizes the same Senator.

Mr. KATZ: Mr. President, because there are conflicting Amendments, I move that the Senate reconsider its action whereby this Bill was passed to be engrossed.

The PRESIDENT: The Senator from Kennebec, Senator Katz, now moves that the Senate reconsider its action whereby L. D. 1819 was passed to be engrossed. Is this the pleasure of the Senate. It is a vote.

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

#### Orders of the Day

The President laid before the Senate: Bill, "An Act Relating to the Jurisdiction of the Administrative Court." (S. P. 241) (L. D. 733)

Tabled — June 6, 1977 by Senator Speers of Kennebec

Pending — Consideration

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

COLLINS: Mr. President, I now move that the Senate recede.

The PRESIDENT: The Senator from Knox, Senator Collins, now moves that the Senate recede. Is this the pleasure of the Senate? It is a vote.

The Chair recognizes the same Senator.

Mr. COLLINS: Mr. President, I now offer Senate Amendment "A" (S-201) and move its adoption.

The PRESIDENT: The Senator from Knox, Senator Collins, now offers Senate Amendment "A" (S-201) and moves its adoption. The Secretary will read Senate Amendment "A".

Senate Amendment "A" Read and Adopted. The Bill, as amended, Passed to be Engrossed in non-concurrence.

Sent down for concurrence.

The President laid before the Senate: Bill, "An Act to Provide for Legislative Review of Federal Grant Applications by State Agencies." (H. P. 1393) (L. D. 1636)

Tabled — June 6, 1977 by Senator Huber of Cumberland

Pending — Enactment

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

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

The PRESIDENT: The Senator from Cumberland, Senator Huber, now moves that the Senate reconsider its action whereby L. D. 1636 was passed to be engrossed. Is this the pleasure of the Senate? It is a vote.

The Chair recognizes the same Senator.

Mr. HUBER: Mr. President, under further suspension of the rules, I move the Senate reconsider adoption of Committee Amendment "A".

The PRESIDENT: The Senator from Cumberland, Senator Huber, now moves that the Senate further suspend its rules and reconsider its action whereby it adopted Committee Amendment "A".

The Chair recognizes the same Senator.

Mr. HUBER: Mr. President, I now present Senate Amendment "A" to Committee Amendment "A" (S-202) and move its adoption.

The PRESIDENT: The Senator from Cumberland, Senator Huber, now offers Senate Amendment "A" to Committee Amendment "A" (S-202) and moves its adoption. The Secretary will read Senate Amendment "A".

Senate Amendment "A" Read and Adopted. Committee Amendment "A", as amended, adopted in non-concurrence.

The Bill as amended, Passed to be engrossed in nonconcurrency.

Sent down for concurrence.

The President laid before the Senate:

House Reports — from the Committee on Election Laws — Bill, "An Act to Change the Deadline for Change in Party Enrollment in Order to Qualify for Voting in a Primary Election." (H. P. 1028) (L. D. 1246) Majority Report — Ought to Pass as Amended by Committee Amendment "A" (H-452); Minority Report — Ought Not to Pass

Tabled — June 6, 1977 by Senator Speers of Kennebec

Pending — Acceptance of Either Report On Motion of Mr. Speers of Kennebec, Retabled for One Legislative Day.

The President laid before the Senate: Bill, "An Act to Clarify and Reform the Laws Relating to County Law Enforcement." (H. P. 214) (L. D. 224)

Tabled — June 6, 1977 by Senator Katz of Kennebec

Pending — Adoption of Senate Amendment "B" (S-192)

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

Mr. LEVINE: Mr. President, I move the indefinite postponement of Senate Amendment "B" (S-192).

The PRESIDENT: The Senator from Kennebec, Senator Levine, now moves that Senate Amendment "B" (S-192) be indefinitely postponed. Is this the pleasure of the Senate? It is a vote.

The Chair recognizes the Senator from Cumberland, Senator Jackson.

Mr. JACKSON: Mr. President, I offer Senate Amendment "C" (S-200) and move its adoption, and I would like to speak briefly to my motion.

The PRESIDENT: The Senator from Cumberland, Senator Jackson, now offers Senate Amendment "C" (S-200) and moves its adoption. The Secretary will read Senate Amendment "C".

Senate Amendment "C" Read.

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

Mr. JACKSON: Mr. President and Members of the Senate, as I stated yesterday, that if somebody did table the Bill I would try to clean up that Section, which I think I have done with this Amendment, and the purpose of the Amendment is to allow the Deputy Sheriff, if he seeks public office, to solicit funds for his own campaign, and we put the same restrictions against the Sheriff, so without any further debate we did not put candidate in so that when the fellow takes out nominations papers, he can solicit contributions at that time, without having to wait for filing deadline.

Senate Amendment "C" Adopted.

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

Mr. O'LEARY: Mr. President, once again I move the indefinite postponement of this Bill and all its accompanying papers.

Mr. President and Members of the Senate: If you read this Senate Amendment "C" (S-200), you will find that we are limiting our Sheriffs and Deputy Sheriffs to roles in life that are not in keeping with good Government, nor with anyone participating in the political process.

I would suggest that each and every one of us can solicit and raise campaign contributions for anyone seeking office, and I do not believe that it is right to limit these Deputies nor the Sheriff in their political activities.

Therefore, I move indefinite postponement.

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

Mr. JACKSON: Mr. President and Members of the Senat, I rise to oppose that Motion.

I do not want to continue this debate on into the late hours of the evening, but it has been debated several times, the various sections of the Bill, and I felt with this Amendment, if you are going to have a degree of professionalism in law enforcement at the County level, that you need to get this professionalism into line and not have a group of political hacks out there running all over the County soliciting funds for various candidates, and for various offices, and I think that the Bill in the posture it is in presently is an excellent piece of Legislation. It is something that the Counties have needed for many, many years. As I stated earlier in the debate. Over the last week, that law enforcement has not changed much in the Counties in the last 120 years.

I think again that I would hope that the Senate would not vote to indefinitely postpone this Bill, and give it its Second Reading, and pass it to be engrossed, and let it take its proper course.

The PRESIDENT: The pending question before the Senate is the Motion by the Senator from Oxford, Senator O'Leary, that L. D. 224 and all its accompanying papers be indefinitely postponed.

The Chair will order a Division.

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

Will all those Senators opposed to indefinite

postponement, please rise in their places to be counted.

4 Senators having voted in the affirmative, and 23 Senators in the negative, the Motion to indefinitely postpone does not prevail.

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

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

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

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

A viva voce vote being had,

The Motion to reconsider does not prevail.

Sent down for concurrence.

The President laid before the Senate: Bill, "An Act to Increase the Salaries of the Judiciary." (H. P. 310) (L. D. 401)

Tabled — June 6, 1977 by Senator Speers of Kennebec

Pending — Passage to be Engrossed

On Motion of Mr. Speers of Kennebec,

Retabled for Two Legislative Days.

The President laid before the Senate: Bill, "An Act to Revise the Water Quality Program," (S. P. 508) (L. D. 1793)

Tabled — June 6, 1977 by Senator Chapman of Sagadahoc

Pending — Enactment.

On Motion of Mr. Chapman of Sagadahoc, Retabled for Two Legislative Days.

#### Reconsidered Matter

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

Mr. WYMAN: Mr. President, with reference to Bill, "An Act to Establish County Boards, to Allow Them to Set and Approve County Budgets and to Allocate Services." (H. P. 1620) (L. D. 1825) having voted on the prevailing side, I move reconsideration, and hope everybody will vote against me.

The PRESIDENT: The Senator from Washington, Senator Wyman, now moves the Senate reconsider its action whereby L. D. 1825 was indefinitely postponed.

A viva voce vote being had,

The Motion to Reconsider does not prevail.

Out of Order and under Suspension of the Rules, the Senate voted to consider the Following papers from the House:

#### Order

An Expression of Legislative Sentiment recognizing that: James D. Larsen of Dixfield, Maine, on June 10, 1977, will be awarded the high rank and distinction of Eagle Scout as a member of Boy Scout Troop No. 593, (S. P. 535) (Presented by Senator O'Leary of Oxford)

Which was Read and Passed.

Sent down forthwith for concurrence.

#### Joint Orders

Expressions of Legislative Sentiment recognizing that:

Jeff Tenney of Hampden has won the Penobscot County Spelling Bee Championship for 1977, (H. P. 1655)

Jane McBreairty, daughter of Mr. and Mrs. Hampton McBreairty of Perham, has been recognized for her excellent academic record by being chosen Salutatorian of Washburn District High School, (H. P. 1657)

Gordon Scott, son of Mr. and Mrs. Wilburn Scott of Washburn, has been recognized for his excellent academic record by being chosen Valedictorian of Washburn District High School, (H. P. 1658)

Peter Adams, Susan Brightman, Michael Elwell, Carolyn F. Hampton, Christine Horne, Susan Anne Jenis, Alicia Maddaleni, David J.

Perkins, Thomas Pinansky, Kevin L. Rand and Malcolm L. Weatherbie are the top 11 seniors in the 1977 graduating class of Cape Elizabeth High School. (H. P. 1668)

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

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

Mr. KATZ: Mr. President, before we pass these Joint Orders, I would like to add my personal congratulations to Jeff Tenney of Hampden who has won the Penobscot County Spelling Bee Championship.

I wish it were possible for all of us to honor those who won the Championship in their home Counties.

I also would like to congratulate those who have been chosen as Valedictorians and Salutatorians of their high schools. I wish it were possible for us to similarly honor all of those who won this honor in our local high schools.

I particularly want to congratulate those who finished as the top 11 seniors in the graduating class of Cape Elizabeth High School, who we are recognizing for their academic excellence, here today.

Which Joint Orders were adopted in concurrence.

**Joint Resolution**

A Joint Resolution In Memoriam:

Forest K. Moors of Old Town, former councilman, former school board member and court recorder, (H. P. 1667)

Comes from the House. Read and Adopted.

Which was Read and adopted in Concurrence.

**Communications**

**House of Representatives**

June 7, 1977

The 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 Assess a Surcharge on Fines and Penalties for the Operation of the Maine Criminal Justice Academy" (S. P. 179) (L. D. 493)

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

Which was Read and Ordered Placed on File.

**Orders**

On motion by Mr. Pray of Penobscot, ORDERED, the House concurring, that Bill, "An Act to Impose a Mandatory Minimum Sentence for Drug Sales," Senate Paper 64, Legislative Document 135, be recalled from the legislative files to the Senate. (S. P. 536)

Which was Read.

The PRESIDENT: The Chair would call the Senate's attention that pursuant to Joint Rule 20, in order for this Joint Order to be passed it requires a two-thirds vote of those Senators present and voting.

The Chair recognizes the Senator from Knox, Senator Collins.

Mr. COLLINS: Mr. President, I would urge the Senate to vote against this Order, for the same reasons that were stated this morning with respect to the action of the Judiciary Committee on this matter.

The PRESIDENT: The Chair will order a Division.

The pending question is passage of Joint Order S. P. 536.

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

Will all those Senators opposed to passage of this Order, please rise in their places to 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 to be 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, I would like to pose a question through the Chair to the Chairman of the Judiciary Committee as to whether or not certain Members of that Committee had considered offering Amendments to it and signing out the Bill Ought to Pass.

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

The Chair recognizes the Senator from Knox, Senator Collins.

Mr. COLLINS: Mr. President, in response to the question, the Committee debated several possible alternatives on this matter, one of which was to amend the Bill, but it finally came to the unanimous conclusion that this was not a good bill to put before the Body.

The PRESIDENT: Is the Senate ready for the question? The pending question before the Senate is passage of S. P. 536.

A yes vote will be in favor of passage. A nay vote will be opposed.

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

**ROLL CALL**

YEA — Carpenter, Chapman, Greeley, Hewes, Hichens, Levine, Lovell, Martin, Minkowsky, O'Leary, Pray, Usher, Wyman.

NAY — Collins, D.; Collins, S.; Cummings, Huber, Jackson, Katz, Mangan, McNally, Merrill, Morrell, Pierce, Redmond, Snowe, Speers, Trotzky.

ABSENT — Conley, Curtis, Danton, Farley.

13 Senators having voted in the affirmative, and 15 Senators in the negative, with 4 Senators being absent, and 13 being less than two-thirds of the membership present, this Order fails of passage.

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

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

The PRESIDENT: The Senator from Cumberland, Senator Morrell, now moves that the Senate reconsider its action whereby S. P. 536 failed of passage.

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

**Committee Reports**

**House**

**Leave to Withdraw**

The Committee on Agriculture on, Bill, "An Act to Amend the Law Establishing Uniform Standards for the Measurement of Wood." (H. P. 1480) (L. D. 1689)

Reported that the same be granted Leave to Withdraw.

Comes from the House the Report Read and Accepted.

The Committee on Judiciary on, Bill, "An Act to Provide for a Minimum 30-Year Sentence for Murder." (H. P. 430) (L. D. 537)

Reported that the same be granted Leave to Withdraw.

Comes from the House the Report Read and Accepted.

The Committee on Judiciary on, Bill, "An Act Concerning Sentencing for a Person Commit-

ting a Criminal Homicide in the 2nd Degree." (H. P. 819) (L. D. 992)

Reported that the same be granted Leave to Withdraw.

Comes from the House the Report Read and Accepted.

The Committee on Judiciary on, Bill, "An Act Relating to Eligibility of Offenders for Transfer to Correctional Alternatives and to Authorize Prerelease Community Supervision of Offenders." (H. P. 1076) (L. D. 1298)

Reported that the same be granted Leave to Withdraw.

Comes from the House the Report Read and Accepted.

The Committee on Judiciary on, Bill, "An Act to Authorize Conditional Discharge as a Sentencing Disposition." (H. P. 1081) (L. D. 1305)

Reported that the same be granted Leave to Withdraw.

Comes from the House the Report Read and Accepted.

The Committee on Judiciary on, Bill, "An Act to Provide a Supervised Work Program as an Alternative Form of Sentencing for Juveniles." (H. P. 1314) (L. D. 1562)

Reported that the same be granted Leave to Withdraw.

Comes from the House the Report Read and Accepted.

The Committee on Judiciary on, Bill, "An Act Relating to Records of a Juvenile Charged with Certain Offenses." (H. P. 1475) (L. D. 1708)

Reported that the same be granted Leave to Withdraw.

Comes from the House the Report Read and Accepted.

The Committee on State Government on, Bill, "An Act Concerning Community Industrial Buildings under the Maine Guarantee Authority Statutes." (H. P. 1006) (L. D. 1248)

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 Health and Institutional Services on, Bill, An Act to Require the Maine Human Services Council to Hold Public Hearings on Maine's Title Plan of Social Services. (H. P. 1447) (L. D. 1673)

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

The Committee on Local and County Government on, Resolve, to Correct the Personal Services Appropriation for the Sheriff of Washington County for the Year 1977. (Emergency) (H. P. 1615) (L. D. 1822)

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

The Committee on Business Legislation on, Bill, An Act to Clarify the Provision Relating to Late Payment of Insurance Claims. (H. P. 1023) (L. D. 1247)

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 Amend the Elderly Householders Tax and Rent Refund Act to Allow Access to State Tax Assessor's Records by the Department of Human Services. (H. P. 919) (L. D. 1115)

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

The Committee on Business Legislation on, Bill, An Act to Enable Domestic Stock Insurance Companies to Acquire Minority Interests and to Insure That Minority

Shareholders Receive Fair Value For Their Shares. (H. P. 902) (L. D. 1117)

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

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

The Committee on Taxation on, Bill, An Act to Amend the Maine Income Tax Law. (H. P. 1514) (L. D. 1749)

Reported that the same Ought to Pass. Comes from the House, the Bill Passed to be Engrossed as amended by House Amendment "B" (H-527).

Which Report was Read. The PRESIDENT: The Chair recognizes the Senator from Kennebec, Senator Katz.

Mr. KATZ: Mr. President, the Statement of Fact says that there is no financial impact of this Bill on the General Fund, but apparently it does transfer a significant amount of money from one group of people to another, and perhaps at the time it is up for Second Reader we might have an explanation of what the implications are.

Ought to Pass Report Accepted. The Bill Read Once. House Amendment "B" Read and Adopted, and the Bill, as Amended, Tomorrow Assigned for Second Reading.

**Ought to Pass — As Amended**

The Committee on Business Legislation on, Bill, An Act to Increase Certain Fees under the Pharmacists Law. (H. P. 1110) (L. D. 1377)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-504)

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

The Committee on Education on, Bill, An Act Authorizing the Approval of New School Construction in the Town of Stockholm. (Emergency) (H. P. 1613) (L. D. 1821)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-505).

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" Read and Adopted in concurrence, and the Bills, as amended, Tomorrow Assigned for Second Reading.

The Committee on Taxation on, Bill, An Act to Remove Sales Tax from Residential Water. (H. P. 1400) (L. D. 1567)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-500).

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

Which Report was Read. The PRESIDENT: The Chair recognizes the Senator from Kennebec, Senator Katz.

Mr. KATZ: Mr. President, I just want to call the Senate's attention to the fact this Bill has a price tag of \$420,000.00 on it.

Ought to Pass, as amended, Report accepted. The Bill Read Once. Committee Amendment "A" Read and Adopted in concurrence, and the Bill, as amended, Tomorrow Assigned for Second Reading.

**Ought to Pass in New Draft**

The Committee on Election Laws on, Bill, An Act to Clarify the Investigatory Authority of the Commission on Governmental Ethics and Election Practices in Regard to Contested Elections. (H. P. 687) (L. D. 869)

Reported that the same Ought to Pass in New Draft under same title. (H. P. 1649) (L. D. 1850)

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

The Committee on Performance Audit on, Bill, An Act Pertaining to the Granting of Preference in the Letting of State Contracts to State of Maine Resident Bidders. (H. P. 1502) (L. D. 1729)

Reported that the same Ought to Pass in New Draft under same title. (H. P. 1648) (L. D. 1849) Comes from the House, the Bill in New Draft, Passed to be Engrossed.

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

The Committee on Taxation on, Bill, An Act Providing for Establishment of a State Tax Mix. (H. P. 1508) (L. D. 1740)

Reported that the same Ought to Pass in New Draft under same title. (H. P. 1648) (L. D. 1848) Comes from the House, the Bill in New Draft, Passed to be Engrossed.

Which Report was Read. The PRESIDENT: The Chair recognizes the Senator from Kennebec, Senator Katz.

Mr. KATZ: Mr. President, I would like to call the Senate's attention to this Bill. It is very, very important legislation. It is very short legislation, and in effect gives the Governor another duty when the Legislature comes in. He not only now has to present the Budget, but he will have to recommend to the Legislature a tax mix indicating his view as to what portion of the budget should be financed by what taxes, and it is a very, very interesting question.

Ought to Pass, in new Draft, Report accepted in concurrence, and the Bill, in New Draft, Read Once and Tomorrow Assigned for Second Reading.

**Senate**

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:

RESOLUTION, Proposing an Amendment to the Constitution to Provide for the Selection and Duties of a Lieutenant Governor. (S. P. 365) (L. D. 1205)

Bill, "An Act to Exempt Antiques from the Personal Property Tax." (S. P. 322) (L. D. 1079)

**Leave to Withdraw**

Mr. Pierce for the Committee on Education on, Bill, "An Act to Provide State Support for Preschool Programs for Handicapped Children." (S. P. 153) (L. D. 393)

Reported that the same be granted Leave to Withdraw.

Mr. Collins for the Committee on State Government on, Bill, "An Act to Create an Advisory Board to the Department of Environmental Protection and the State Development Office." (S. P. 434) (L. D. 1512)

Reported that the same be granted Leave to Withdraw.

Mr. Martin for the Committee on Taxation on, Bill, "An Act to Provide New Car Dealers with a Use Tax Credit." (S. P. 468) (L. D. 1672)

Reported that the same be granted Leave to Withdraw.

Which Reports were Read and Accepted. Sent down for Concurrence.

**Ought to Pass**

Mrs. Snowe for the Committee on Health and Institutional Services on, Bill, "An Act to Require that a Hospital Pharmacist, a Chain Pharmacist and an Independent Pharmacist be Appointed to the Board of Commissioners of Pharmacy." (S. P. 251) (L. D. 759)

Reported that the same Ought to Pass. Which Report was Accepted.

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

**Committee of Conference**

The Committee of Conference on the disagreeing action of the two branches of the

Legislature, on Bill, "An Act to Amend the Requirement for Public Notice of Public Proceedings under the Right to Know Law." (S. P. 426) (L. D. 1484) have had the same under consideration, and ask leave to report: that they are unable to agree.

CUMMINGS of Penobscot  
SNOWE of Androscoggin  
CARPENTER of Aroostook

Committee

On the Part of the Senate

COTE of Lewiston  
BURNS of Anson

Committee

On the Part of the House

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

The Committee of Conference on the disagreeing action of the two branches of the Legislature, on Bill, "An Act Pertaining to License Fees for the Regulation of Certain Amusements." (H. P. 577) (L. D. 701) have had the same under consideration, and ask leave to report:

that the Senate recede from its action whereby it Passed the Bill to be Engrossed, as amended by Senate Amendment "A" (S-50); recede from its action whereby it adopted Senate Amendment "A" and indefinitely postpone same; adopt Conference Committee Amendment "A" (S-199), submitted herewith; and Pass the Bill to be Engrossed, as amended by Conference Committee Amendment "A"; that the House recede from its action whereby it Passed the Bill to be Engrossed; adopt Conference Committee Amendment "A" (S-199), submitted herewith; and Pass the Bill to be Engrossed, as amended by Conference Committee Amendment "A".

HEWES of Cumberland  
CARPENTER of Aroostook  
CUMMINGS of Penobscot

Committee  
on part of  
Senate

JOYCE of Portland  
BURNS of Anson  
MOODY of Richmond

Committee  
on part of House

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

**Enactors**

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

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

An Act Relating to Voter Registration. (H. P. 146) (L. D. 176)

An Act to Improve the Laws Relating to Exceptional Children. (H. P. 1607) (L. D. 1812)

An Act to Amend the Land Use Regulation Commission Statutes. (H. P. 946) (L. D. 1141)

An Act to Assist in the Determination of the Mental Condition of Criminal Defendants. (H. P. 1366) (L. D. 1597)

An Act Concerning Warrantless Arrests by a Law Officer. (H. P. 630) (L. D. 771)

An Act Relating to Sentences for Leaving the Scene of an Accident which Results in Death or Injury. (H. P. 1619) (L. D. 1815)

An Act Relating to Actions in Trespass for Cutting Trees on the Land of Another. (H. P. 1611) (L. D. 1816)

An Act Requiring Permanent Markers Prior to the Sale or Conveyance of Land in an Approved Subdivision. (H. P. 832) (L. D. 1005)

An Act to Limit the Liability for Damage to Underwater Lines. (H. P. 501) (L. D. 619)

An Act Relating to Purse Seining and Stop Seining. (H. P. 999) (L. D. 1240)

An Act Concerning Postgraduate Education in the Field of Medicine, Dentistry, Optometry



and Veterinary Medicine. (H. P. 408) (L. D. 502)

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

An Act to Amend the Priority Social Services Program to Serve Elderly Health and Home Care Needs. (H. P. 224) (L. D. 288)

Which were Passed to be Enacted, and having been Signed by the President, were by the Secretary Presented to the Governor for his Approval.

An Act to Amend the State Tuition Equalization Fund. (H. P. 258) (L. D. 327)

An Act to Exempt Nonprofit Medical Facilities from the Maine Sales Tax. (H. P. 1609) (L. D. 1814)

An Act to Establish the Maine Food and Farmland Study Commission. (H. P. 1336) (L. D. 1593)

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

**Emergency**

An Act Concerning the Effect of Special Authorized Appropriations upon the Calculation of State Aid to Public Schools. (H. P. 1612) (L. D. 1817)

**Emergency**

An Act to Clarify the Statutory Provisions Concerning the Legal Capacity of a School Bus. (H. P. 1017) (L. D. 1232)

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

**Emergency**

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

This being an emergency measure, and having received the Affirmative votes of 28 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.

The PRESIDENT: Is it the pleasure of the Senate that all matters acted upon today be sent down forthwith? It is a vote.

On Motion of Mr. Huber of Cumberland,  
Adjourned until 9:30 tomorrow morning.