

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

***One Hundred and Tenth
Legislature***

OF THE

STATE OF MAINE

Volume I

FIRST REGULAR SESSION

December 3, 1980 to May 1, 1981

KJ PRINTING
AUGUSTA, MAINE

ERRATA:

**The header on page 493
in the First Regular Session
should read
“SENATE, MARCH 25, 1981”
instead of
“HOUSE, MARCH 25, 1981”**

STATE OF MAINE
One Hundred and Tenth Legislature
First Regular Session
JOURNAL OF THE SENATE
March 25, 1981
Senate called to order by the President.

Prayer by the Reverend Moses Baker of the Augusta Gospel Tabernacle.

REVEREND BAKER: Our heavenly Father, we thank You for this, another day. We thank You for Your blessings, Your kindness, and Your love that You bestowed upon us as human beings. As we approach Your throne this morning, we ask, O God, that You will guide and direct every thought and every decision that would have to be made here today. We pray, O God, that You would give wisdom and guidance where it's needed in this Session today. We thank You, O God, for the liberty of being able to make decisions and to decide. We just commit this day into Your care, into Your will. We thank You. Amen.

Reading of the Journal of Yesterday.

Papers from the House
Joint Orders

Expressions of Legislative Sentiment recognizing:

David McCall, of Sanford, who won the State Elks Hoop Shoot and placed second in the New England competition. (H. P. 1243)

Kristin Gatz of Auburn, who has been selected to compete as a cross country racer in the National Junior Ski Championship. (H. P. 1244)

Heidi Gatz of Auburn, who has been selected to compete as a cross country racer in the National Junior Ski Championship. (H. P. 1245)

Rusty Young of Auburn, who has been selected to compete as a Nordic Combined Specialist in the National Junior Ski Championship. (H. P. 1246)

Come from the House, Read and Passed.

Which were Read and Passed, in concurrence.

House Papers

Bill, "An Act to Protect Farmers' Right to Farm." (H. P. 1175) (L. D. 1399)

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

Which was referred to the Committee on Agriculture and Ordered Printed, in concurrence.

Bill, "An Act to Create a Blue Ribbon Commission to Study the Public Education Delivery System." (H. P. 1178) (L. D. 1402)

Bill, "An Act Relating to Compulsory School Attendance and the Enforcement of Truancy." (H. P. 1177) (L. D. 1401)

Bill, "An Act to Add a Class Size Adjustment to the School Finance Act." (H. P. 1176) (L. D. 1400)

Come from the House, referred to the Committee on Education and Ordered Printed.

Which were referred to the Committee on Education and Ordered Printed, in concurrence.

Bill, "An Act to Require Insulation Standards for New Electrically Heated Buildings." (H. P. 1179) (L. D. 1403)

Bill, "An Act to Require Immediate Public Notification of Radioactive Releases and Other Safety Related Events at Nuclear Power Plants." (H. P. 1181) (L. D. 1405)

Bill, "An Act to Establish an Energy Conservation Program for Commercial and Light Industrial Buildings." (H. P. 1180) (L. D. 1404)

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

Which were referred to the Committee on Energy and Natural Resources and Ordered Printed, in concurrence.

Bill, "An Act to Provide for Municipal Development of Energy Resources." (H. P. 1150) (L. D. 1398)

Reference to the Committee on Energy and Natural Resources suggested.

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

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

Bill, "An Act to Revise the Small Claims Law." (H. P. 1182) (L. D. 1406)

Bill, "An Act Recommending Changes in the Maine Juvenile Code and Related Provisions." (H. P. 1183) (L. D. 1407)

Come from the House, referred to the Committee on Judiciary and Ordered Printed.

Which were referred to the Committee on Judiciary and Ordered Printed, in concurrence.

Bill, "An Act Concerning the Qualifications of Persons and Firms in the Valuation of Property for Tax Purposes." (H. P. 1160) (L. D. 1392)

Bill, "An Act to Revise the Property Tax Laws." (H. P. 1161) (L. D. 1393)

Bill, "An Act to Improve the Valuation of Property for Tax Purposes." (H. P. 1163) (L. D. 1384)

Bill, "An Act to Provide an Investment Tax Credit for Farmers and Fishermen." (H. P. 1164) (L. D. 1385)

Come from the House, referred to the Committee on Taxation and Ordered Printed.

Which were referred to the Committee on Taxation and Ordered Printed, in concurrence.

Communication

Department of Transportation

March 25, 1981

Governor Joseph E. Brennan and Members of the 110th Legislature Transmitted herewith is a copy of Maine's Transportation Improvement Program for Fiscal Years 1982 and 1983.

In recognition of the need to present a more comprehensive and integrated program of capital improvements relative to Maine's overall transportation system this program includes, proposed highway and bridge improvements, and projects associated with the airport and waterway modes of transportation. The Department has determined these projects to be of sufficient priority to be authorized for improvement during the next two years, provided that funds are made available.

The projects contained in the Highway and Bridge portion of the program require \$77,092,000 in Federal funds, \$15,750,000 in State funds and \$4,796,700 in Local or other funds for a total effort of \$97,638,700. Airport improvements, as proposed, require \$5,987,000 of which \$5,379,300 is from Federal sources, \$298,500 from State sources and \$304,150 from Local sources. The proposed financing of the Waterways Program requires \$10,300,000 of Federal funds, \$23,000,000 in State funds and \$11,200,000 in private funds for a total effort of \$44,500,000.

We trust you will find this program represents a realistic and balanced effort to maintain and improve transportation service within the State in the face of decreasing resources.

Very truly yours,

S/GEORGE N. CAMPBELL, Jr.
Commissioner of Transportation

Which was Read and, with accompanying Report, Ordered Placed on File.

Senate Papers

Senator DUTREMBLE of York presented, Bill, "An Act to Permit a Draftsman to Perform Limited Work without being Registered as an Architect." (S. P. 531)

Which was referred to the Committee on Business Legislation and Ordered Printed.

Sent down for concurrence.

Senator BUSTIN of Kennebec (Cosponsors: Senator HICHENS of York, Representative CONNOLLY of Portland and Representative MURPHY of Kennebunk) presented,

Bill, "An Act to Protect Persons with Children against Discrimination in Fair Housing." (S. P. 530)

Which was referred to the Committee on Judiciary and Ordered Printed.

Sent down for concurrence.

Senator DUTREMBLE of York presented, Bill, "An Act Relating to the Regulation of Providers of Cable Television Service." (S. P. 528)

Which was Referred to the Committee on Public Utilities and Ordered Printed.

Sent down for concurrence.

Orders

An Expression of Legislative Sentiment recognizing:

Robert E. Peacock, of Lubec, who has been honored by the Maine Extension Association, as an outstanding community leader. (S. P. 529)

presented by Senator BROWN of Washington (Cosponsor: Representative VOSE of Eastport)

Which was Read and Passed.

Sent down for concurrence.

Committee Reports
House

The following Ought Not to Pass report shall be placed in the legislative files without further action pursuant to Rule 22 of the Joint Rules:

Bill, "An Act to Prevent the Unauthorized Sale of Stripped Cover Magazines and Paperback Books." (H. P. 267) (L. D. 330)

Leave to Withdraw

The Committee on Business Legislation on, Bill, "An Act to Provide for Licensing of Dog Groomers and Grooming Shops." (H. P. 590) (L. D. 668)

Reported that the same be granted Leave to Withdraw.

Comes from the House, the Report Read and Accepted.

The Committee on Business Legislation on, Bill, "An Act Concerning Application of the Insurance Code to the Nonprofit Hospital or Medical Service Organization." (H. P. 649) (L. D. 754)

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 Local and County Government on, RESOLVE, for Laying of the County Taxes and Authorizing Expenditures of Lincoln County for the Year 1981. (Emergency) (H. P. 1213) (L. D. 1381)

Reported pursuant to Joint Order (H. P. 264) that the same Ought to Pass.

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

The Committee on State Government on, Bill, "An Act to Provide for a Transition before the Attorney General takes Office." (H. P. 607) (L. D. 684)

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 Exempt Deeds of Distribution from the Real Estate Transfer Tax." (H. P. 334) (L. D. 373)

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 and Resolve Read Once and Tomorrow Assigned for Second Reading.

Ought to Pass — As Amended

The Committee on Business Legislation on, Bill, "An Act to Enable Eastern Maine Medical Center to File Articles of Incorporation under the Maine Nonprofit Corporation Act." (Emer-

gency) (H. P. 650) (L. D. 755)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-113)

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

The Committee on Energy and Natural Resources, on Bill, "An Act to Require Primary Suppliers to Report Deliveries of Petroleum Products to the Office of Energy Resources." (Emergency) (H. P. 659) (L. D. 762)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-117).

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

The Committee on Labor on, Bill, "An Act to Clarify and Make Consistent Appeal Procedures in the Employment Security Law." (H. P. 638) (L. D. 728)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-119)

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

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

Divided Report

The Majority of the Committee on Agriculture on,

Bill, "An Act to Improve Marketing of Maine Agricultural Products." (H. P. 308) (L. D. 380)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-114).

Signed:

Senators:

HICHENS of York
WOOD of York
SHUTE of Waldo

Representatives:

MAHANY of Easton
SHERBURNE of Dexter
NELSON of New Sweden
SMITH of Island Falls
CALLAHAN of Mechanic Falls
MICHAEL of Auburn
LOCKE of Sebec
LISNIK of Presque Isle

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

Signed:

Representatives:

McCOLLISTER of Canton
CONARY of Oakland

Comes from the House, the Bill Passed to be Engrossed, as amended by Committee Amendment "A" (H-114).

Which Reports were Read.

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

Divided Report

The Majority of the Committee on Labor on, Bill, "An Act to Permit School Bus Drivers to be Eligible for Unemployment Compensation." (H. P. 70) (L. D. 98)

Reported that the same Ought Not to Pass

Signed:

Senators:

SEWALL of Lincoln
SUTTON of Oxford
DUTREMBLE of York

Representatives:

BEAULIEU of Portland

LEWIS of Auburn
MARTIN of Brunswick
FOSTER of Ellsworth
TUTTLE of Sanford
LAVERRIERE of Biddeford
HAYDEN of Durham
LEIGHTON of Harrison

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-120).

Signed:

Representatives:

McHENRY of Madawaska
BAKER of Portland

Comes from the House, the Majority Ought Not to Pass Report Read and Accepted.

Which Reports were Read.

The Majority Ought Not to Pass Report of the Committee Accepted, in concurrence.

Senate

Leave to Withdraw

Senator SUTTON for the Committee on Business Legislation on,

Bill, "An Act to Facilitate Recovery under Uninsured Vehicle Coverage." (S. P. 242) (L. D. 697)

Reported that the same be granted Leave to Withdraw.

Senator BUSTIN for the Committee on Health and Institutional Services on,

Bill, "An Act to Preserve Philanthropic and Charitable Gifts to Hospitals." (S. P. 295) (L. D. 821)

Reported that the same be granted Leave to Withdraw.

Which Reports were Read and Accepted.

Sent down for concurrence.

Ought to Pass as Amended

Senator SEWALL for the Committee on Business Legislation on,

Bill, "An Act to Amend the Manufactured Housing Act." (S. P. 63) (L. D. 90)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (S-62).

Senator CLARK for the Committee on Business Legislation on,

Bill, "An Act Relating to Cash Reserve Requirements." (S. P. 197) (L. D. 565)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (S-63).

Senator McBREAIRTY for the Committee on Energy and Natural Resources on,

Bill, "An Act to Revise the Law Concerning Discharges into Certain Lakes." (S. P. 102) (L. D. 215)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (S-64).

Senator O'LEARY for the Committee on Energy and Natural Resources on,

Bill, "An Act to Describe, Define and Officially Adopt a System of Coordinates for Designating the Geographic Position of Points on the Surface of the Earth within the State of Maine." (S. P. 346) (L. D. 989)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (S-65)

Which Reports were Read and Accepted and the Bills Read Once. Committee Amendments "A" were Read and Adopted and the Bill, as amended, Tomorrow Assigned for Second Reading.

Divided Report

Eight Members of the Committee on Labor on,

Bill, "An Act to Provide Collective Bargaining Rights to County Employees." (S. P. 145) (L. D. 316)

Reported in Report "A" that the same Ought to Pass as amended by Committee Amendment "A" (S-66).

Signed:

Senator:

DUTREMBLE of York

Representatives:

BEAULIEU of Portland
McHENRY of Madawaska
LAVERRIERE of Biddeford
HAYDEN of Durham
MARTIN of Brunswick
BAKER of Portland
TUTTLE of Sanford

Three Members of the same Committee on the same subject matter reported in Report "B" that the same Ought Not to Pass.

Signed:

Senators:

SEWALL of Lincoln
SUTTON of Oxford

Representative:

FOSTER of Ellsworth

Two Members of the same Committee on the same subject matter reported in Report "C" that the same Ought to Pass as amended by Committee Amendment "B" (S-67).

Signed:

Representatives:

LEIGHTON of Harrison
LEWIS of Auburn

Which Reports were Read.

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

Senator DUTREMBLE: Mr. President, Men and Women of the Senate: I would move that we Accept Report "A".

The PRESIDENT: The Senator from York, Senator Dutremble, moves that the Senate Accept the Ought to Pass, as amended, Report A of the Committee.

The Chair recognizes the Senator from Lincoln, Senator Sewall.

Senator SEWALL: I would ask for a Division on that motion and speak briefly to it.

This Bill is "An Act to Provide Collective Bargaining Rights to County Employees." As you'll notice, I signed the Ought Not to Pass Report, and I'd like to tell you my reasons.

The argument that's been put forth is that this is the only section of the public sector which does not have collective bargaining. I think there's a very good reason for that. Philosophically, myself, I'm not for collective bargaining in the public sector.

In the county, we have an exceptional problem. First, over the past few years, we've had the problems of county government as a whole. As you know, every year, there's a bill put into the Legislature to entirely eliminate county government. There's a lot of support for that at home, too. The Bill has come very close to passing. Primarily, it's been the smaller counties that have tried to keep county government. Why is that? Because of overlapping services, perhaps, those were the arguments used when they want to get rid of county government.

The sheriff's department is a good example. Right now the sheriffs in some counties are going out on strike because, or walk out, whatever, or quitting, because they aren't getting the pay raises they think they should have.

What would happen if we had collective bargaining in those situations right now? Let's try a few examples. The first is, that the sheriffs decide that they want to have, let's say, a pay raise of 10 percent and they negotiate this with the county commissioners. The county commissioners agree. Those in the Legislative Delegation do not agree. Is that union busting? Let's say the Legislative Delegation does agree, and they take the bill to the Legislature and present it to the committee. The committee does not agree with this pay raise. Is that union busting? Then let's say that the committee even agrees and it goes to the full Legislature. The full Legislature says, gosh, you know, this spending is too much, we're going to put a cap on county government in its entirety. We're going to put a cap on all expenses for county government. We're going to put a cap of

9 percent. Is that union busting? Let's say that it gets through there and the governor vetoes the county budget bill. Is that union busting?

I think the mechanics of this, and I don't have a lot of hope for winning this argument this morning, but I want to put my reasons on Record. And I want to talk briefly about collective bargaining in the public sector, because I believe there's a difference.

What must be recognized is that the decision making process in government is different than that of the decision making process in business. These differences are dictated by the fundamental differences in economics of the private and public sectors. The public sector is monopolistic, while the private sector is competitive. The public sector deals in essential services, while the private sector deals in goods and services which the consumer demand is elastic. The source of revenue to the public sector is compulsory taxation, while the revenue to the private sector comes from free contract. The motivating force in the public sector is to provide needed services, while the motivation of the private sector is profit. The primary goal of all public sector decisions is political, while the primary goal of the private sector is economic. Governments provide services to those unable to pay for them. Governments often hire unneeded employees, because of political considerations. Government wages and fringe benefits are determined by elected officials, who have a political stake in them. Government expenditures are determined by an elected body which is subject to change, and must stand for re-election every two years. The executive function of government is government by a person who is subject to replacement every four years. Thank you very much.

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

Senator DUTREMBLE: Mr. President, Men and Women of the Senate, before I start, a few clarifications. First of all, this collective bargaining bill does not have anything to do with unions. It doesn't say that it won't in the future. Right now we are talking about collective bargaining. About those county employees that went on strike, they did not go on strike, they resigned, from what I understand from what I read and heard in the news reports. I just can imagine how frustrated county employees must be to have to resign because they don't feel that they're getting a fair shake. We all have to understand that, because we have the final control of these things. I think it's important.

Yes, this Bill here is going to allow county employees to have collective bargaining, something that state employees and local municipalities have now. I don't see any reason why these people shouldn't be allowed to do the very same thing, no reason at all. City officials are elected, too. State officials are elected, too. So this thing here about county officials being elected every two years doesn't hold any water.

The collective bargaining process has not devastated the people of the local municipalities. Neither have the people of the State of Maine been devastated by the collective bargaining process. Inflation has, energy has, but I haven't heard too many people on the corner of the street saying, hey, the collective bargaining process is why I'm paying so many taxes today, or why I'm having a hard time making my payments on anything. Now let's not blame it on collective bargaining.

Are they getting a fair shake, that's all I'm asking you. What we have to ask ourselves, are county employees getting a fair shake? What kind of process do they have to go through? This is what they have to go through. They have to go through the department heads. Then they have to go through the county commissioners. Then they have to go through the budget subcommittee of the Legislature. Then they have to go through the Legislative Delegation. I

agree with the good Senator from Lincoln, Senator Sewall, when she said that. So what does it mean? It means that county employees have three sets of employers, two possible sets of philosophies, conservative or liberal, two possible sets of influences, Democrats or Republicans, 20 to 30 people to decide what they're going to get for benefits, or salaries, and then maybe at the end, they're finally going to get something to live with.

These people need the collective bargaining process for their own protection, first of all. They deserve a decent living. Can we honestly say that they are getting a living that's as equal as anybody else that's working for the same kind of job in the private sector. There shouldn't be any difference between a person working in the private sector or the public sector just because everybody said on their campaign that we were going to cut taxes, or keep the taxes down. That's important. The decent living of people is always important. This Bill would insure that. It would also probably give these people that they have a good positive direction for the future. They can plan their future, too.

I would hope that we would pass the Majority Ought to Pass Report. Thank you.

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

Senator CARPENTER: Mr. President, Ladies and Gentlemen of the Senate: in looking over L. D. 316 and the amendment that goes along with it, I can not see any good reason why we should continue to make our county employees second class citizens. The good Senator from Aroostook, Senator McBreaity, and myself have put a piece of legislation in here dealing with a revamp of the county government system in Aroostook County. I very rarely hear anybody around here tell me that they like county government, that they like the way it functions, that they like the way the budget process works.

The good Senator from Lincoln, Senator Sewall, talked about the politics of collective bargaining and the political influences that might be exerted if this Bill were to pass, and her philosophy on collective bargaining in the public sector. If you don't think that county budgeting is the biggest political porkbarrel in the State of Maine, then some of you aren't attending your county budget meetings. I've been through three in Aroostook County, I've been sick three times after coming out. If the people saw how we spend their money in the county budgeting process, they'd throw us all out of office.

What we're doing by this process, we're doing a very unprofessional job. We're asking our county employees to be professionals, be they deputy sheriffs, or assistant registers of deeds, or whatever, we're requiring them to be professional, but we're telling them that we're going to fund them and we're going to pay them, we're going to deal with all of their problems in a very unprofessional way.

Now the arguments I've heard this morning in favor of the Ought Not to Pass Report, I'm sure, could almost be taken literally from the same debates that probably took place in this Chamber years ago, when they talked about collective bargaining for public employees in general. No different, except that we seem to have overlooked the county employees, and we seem to have said to them that we sort of like county government, we never have had the guts to do anything about it in this Chamber or the other one, so we're going to keep it, and we're going to continue to hold our nose and complain about the way it functions. We're going to try to professionalize the people in it. Maybe they can somehow rectify some of these problems from within, but we're not going to deal with their labor problems in an honest and straightforward manner.

I don't understand why anybody has any great fear of this particular piece of Legis-

lation, I am very pleased to hear the good Senator from Lincoln, Senator Sewall, express such concern about possible union busting. But as the good Senator, Senator Dutremble, just pointed out, we're not talking about unionism, unionizing, any particular union, as in regards to county government. We're talking about county employees being able to get together, and to sit down, and talk with three elected officials, bargaining over their wages, and their salaries, and their working conditions.

I think that Aroostook County has done a pretty good job, as best they can, within the system the last few years. We have changed the wages about three times. We have changed the working conditions an untold number of times. We've gone from 40 hours a week to 37 hours a week, back and forth, back and forth, depending on whether we're in an energy crisis, or whether we're not. The county employees don't know what to expect from one day to another. I mean, we've often heard the joke around these Halls that the people can rest easily when we go home. County employees practically have nervous breakdowns when we start to talk about budgets down here, because they never know what to expect. They never know what's going to come out of the Legislative Delegation, as far as their salary, their working conditions. There are very few records kept as far as what went on in these budget meetings, in 327, or in the Speaker's office, or wherever they happened to be held. The whole process is a shambles. By ignoring this particular issue, which we have in front of us this morning, we're just making an even larger farce out of the whole thing.

I would hope that the Senate this morning would reject the arguments that collective bargaining for county employees is somehow bad, insidious, it's going to break county government, it's going to further ruin county government, that it's going to be a bad force.

Mr. President, when the vote is taken, I requests the Yeas and Nays. Thank you.

The PRESIDENT: A Roll Call has been requested.

The Chair recognizes the Senator from Oxford, Senator Sutton.

Senator SUTTON: Thank you, Mr. President. Ladies and Gentlemen of the Senate, I'm very glad that we're going to have the opportunity to go on Record on the Roll Call on this vote, because I think the people of the State of Maine should know how we feel about this issue.

Just very briefly, there is a difference between county and state government. A very, very basic difference, among other things, and that is, that county government is funded by the property tax and the state government is not. This is a very, very basic difference.

By the way, I might point out that of the 19 or 16 counties in the State, they're not all having problems. In fact, I would venture to say, half or better have communicated well with their employees and are not having any problems that would necessitate collective bargaining.

Let's not mince words. We are talking about unions. We are talking about unions. Anybody who thinks we're not, are just kidding themselves, so let's come up front and talk about unions. Philosophically, I do not believe government employees should be unionized at any level. Let's be honest about that. Certainly, we should not start adding to this burden on a county level. That's going to fall directly back on the property tax, and the overtaxed people of our state right now.

I don't understand this philosophical thought that everybody is a second class citizen unless they're in a union. That's baloney. All I keep hearing is don't treat them like second class citizens. I would certainly hate to think for one second that about 85 percent of our working people in the State of Maine are considered second class citizens, because they're not in a union.

I think this is an important subject. I don't

think the fact that we are already stuck with unions in all other levels of government is important. I think the place to put a stop to it is right now. Thank you.

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

Senator TROTZKY: Mr. President and Members of the Senate: I voted against this Bill in past Legislative Sessions, but in the last year I went through an experience which was enlightening to me. Penobscot County Deputies, in the Sheriffs Department were upset with wages, many were on food stamps, and they tried to communicate with county commissioners. There were resignations, and things went back and forth and I sat through a meeting where 3 commissioners fired every one of the deputies in Penobscot County.

Somehow it grated against my sense of fair-play. Today in Penobscot County, last night or early this morning all the deputies resigned. I think basically it is because of a lack of understanding and a lack of communication. Basically I see collective bargaining as an orderly process of communication, an orderly process where labor and management can communicate, and hopefully where the process doesn't breakdown.

There is a difference between collective bargaining and binding arbitration. All collective bargaining would do for county employees would allow them to sit down with the commissioners and come up with a recommendation as to what a fair pay scale should be and working conditions. We do not have binding arbitration, the Legislative Delegation still retains the right to reject that agreement, our obligation is still first and foremost to the taxpayer.

Again, to me, it enables an orderly process for communication, why should we single out only one group, one small group? I have stood on this floor, and I presented the Right to Work Bill in front of four thousand people. I stood up and opposed binding arbitration, but I believe in a sense of fair-play. I, also, believe in something called "dignity in labor". That they have the right to sit down in an orderly process and not just at the whim of county commissioners every one fired, 20 deputies fired. I, also, think that if we had collective bargaining we would not have seen the deputies resign in Penobscot County, because they feel right now, that the agreement that was made between a three member blue ribbon panel is binding on the Legislative Delegation. I do not think that they realize that it is not binding on the Legislative Delegation.

I would hope that the Legislature would give some consideration to this Bill. It is only one group, we have given collective bargaining to every other group. Why not give it to the one last group, the county employees. Are they different than any other group?

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

Senator CONLEY: Mr. President and Members of the Senate: I would like to respond to some of the words made by the good Senator from Lincoln, Senator Sewall. I think she has hit the nail on the head in a sense when she said that nobody likes county government. There have been bills in to repeal county government, to do away with it. In fact, there is such an animosity toward county officials not only on the local level, but right here in Augusta. A good example is those who hold elective office in Cumberland County, when we had our delegation meeting, totally rejected any type or any kind of an increase for any of those officials based on the fact that they knew what the job paid when they ran for it. Now that is great mental philosophy, all right. They would still be paid the same rate as 100 years ago if that were the type of intelligence one was to use when it comes to deciding what their position should pay.

I agree with Senator Sewall, no one has any love for county government, but we may go a

step further, or two steps, or three steps further, having served on the Portland City Council, I was quite aware that not too many people in Portland had any respect for that government. We hear everyday in the press that nobody has any respect for the Federal Government, and I do not want us all to think, because we are serving here in the State Government, that people out there are lauding us for the job we do. It is strange we'd all hang together on a rope each and every one of us, 184 if we were all brought together in a coliseum. The strange thing about it is that when we go back individually into our own districts we are treated with respect, and the dignity, that the office holds.

Now you might say what does this have to do with collective bargaining, it doesn't. I just wanted to get that thing straightened out with respect to government itself. Let's not kid ourselves, I hate county government. I do not have any great faith in it, but the fact is that it is there. It is a creature created by the State years ago. I am just as perturbed, disturbed and angry at what I see happening in some of our sheriff's departments around the State.

If I sit back and start to analyze what is happening, there are good reasons for what has happened. The reason that it has happened is because county commissioners, and I have often said right on the floor of this Senate, eanie, meanie, miny, thank God, there is no mo, will not face up to what I believe is their responsibility of paying people an adequate salary to get by on. If they do make some recommendations, generally they have to come to Augusta, and if they didn't make the recommendation to improve the salaries, or if they did, then the county delegations generally turn right around and kick them back down again.

I look at collective bargaining as sacred as human rights itself, particularly with public employees. Now if you want to use the argument that the public collective bargaining is different than that of the private collective bargaining of unions, that it is the taxpayer that pays, it is the taxpayer who pays anyway that you look at it. Whether, in the private market it is built into the product itself. Yes, I agree with the good Senator from Oxford, that property tax is what raises the revenue to pay county employees.

We have a Municipal Collective Bargaining Act on the statutes. It has worked extremely effectively. There has been no human cry about unions or about how public employees have gone on strike. I maintain and stand sacred that the law itself if they go on strike that they be fired and terminated the moment that they walk off their jobs. That happened one day when I served as a member of the Portland City Council, when the Portland Fire Department voted to go on strike. The day that the strike was to go into effect, they went back on their jobs, they did not go on strike. But when they voted to strike, I said, that is unfortunate, but each of their positions will be terminated the moment that they leave and I feel just as strongly today, as I did then.

I think that we have to look at this as a social issue dealing with county employees. I can spell out a very excellent example, and I am sure that the City of Lewiston sees the same problem. In Portland for example, in one corner we have a Federal Court House, on another corner right opposed, we have the County Court House, up the street we have the bastion of city employees, City Hall, we have the Public Safety Building which employs the Portland Police Department. All those people, with the sole exception of the county employees, are in some type of collective bargaining process.

I remember how strongly this Senate supported the so-called "Hay Plan" back several years ago. When Governor Longley stood up and he said, equal pay for equal work. Well how, can you allow a secretary, and county employees, as a whole are very diligent, they are

just as faithful to their employers as people in city hall or in State government or Federal government, they are just as dedicated. How can you expect them to be taking a check home at the end of the week, for \$90, eligible for food stamps, and almost any other social service program that is on the books. How can we in good faith say that they should be denied the right to have someone to bargain and represent them dealing with a contract?

I think, again, that we should keep in mind, in spite of the fact that the good Senator from Oxford, Senator Sutton has stated, this is Enabling Legislation. He says, there is no problem in many of our counties and perhaps there isn't. There are plenty of people in the State who have taken the option of not wanting to have people represent them in dealing with negotiations as far as salaries are concerned. I think it is clear and it is obvious and it is standing in front of us as to what is going to continue to happen throughout this State with what has taken place in Penobscot County, what has taken place in Androscoggin County, and can very well take place in Cumberland County.

I just fear that many people are going to be hurt, because of the fact that we are denying, we are denying one segment of public employees the same right that we have given almost every other public employee in this State.

I do not think that we have anything to fear whatsoever to give people the opportunity to bargain in good faith for what I would consider to be an equitable day's pay. I would urge the Senate to support the Majority Ought to Pass Report.

The PRESIDENT: Is the Senate ready for the question?

The Chair recognizes the Senator from York, Senator Hichens.

Senator HICHENS: Mr. President, I would urge the Senate to reject this motion to Accept the Majority Report, so that they may consider the third report from this committee, which gives the county employees the right to be represented by unions on a voluntary basis. We went through this a few years ago regarding our State employees and the right of a person to join a union or not, and I think that this same right should be granted our county employees.

The PRESIDENT: Under the Constitution in order for the Chair to order a Roll Call it requires the affirmative vote of at least one-fifth of those Senators present and voting.

Will all those Senators in favor of ordering a Roll Call, please rise and remain standing until counted.

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

The pending motion before the Senate is the motion by the Senator from York, Senator Dutremble, that the Senate Accept the Ought to Pass, as amended, Report A of the Committee.

A Yes vote will be in favor of Accepting the Ought to Pass, as amended, Report A of the Committee.

A No vote will be opposed.

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

ROLL CALL

YEA — Brown, Bustin, Carpenter, Charette, Clark, Conley, Dutremble, Kerry, Minkowsky, Najarian, O'Leary, Pierce, Pray, Teague, Trafton, Trotzky, Usher, Violette, Wood.

NAY — Ault, Collins, Devoe, Emerson, Gill, Hichens, Huber, McBreairty, Perkins, Redmond, Sewall, C.; Shute, Sutton.

ABSENT — None.

A Roll Call was had.

19 Senators having voted in the affirmative, and 13 Senators in the negative, with No Senator being absent, the Motion to Accept the Ought to Pass, as amended, Report A of the Committee, does prevail. The Bill Read Once, Committee Amendment "A" Read and Adopted, and the Bill, as amended, Tomorrow Assigned for Second Reading.

Second Readers

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

House

Bill, "An Act to Provide for an Annual Report by the Board of Trustees of the Maine State Retirement System to the Legislature." (H. P. 896) (L. D. 1063)

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

Senate — As Amended

Bill, "An Act to Amend the Group and Blanket Health Insurance Law." (S. P. 154) (L. D. 362)

Bill, "An Act to Adopt a Lead Emission Standard under the Laws for Protection and Improvement of Air." (S. P. 103) (L. D. 216)

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

Sent down for concurrence.

Bill, "An Act to Amend the Group Life Insurance Law." (S. P. 190) (L. D. 514)

Which was Read a Second Time.

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

Senator PIERCE: I present Senate Amendment "A" under filing number S-68 and move its adoption.

The PRESIDENT: The Senator from Kennebec, Senator Pierce, now offers Senate Amendment "A" to L. D. 514 and moves its adoption.

Senate Amendment "A" (S-68) was Read and Adopted.

The Bill, as amended, was Passed to be Engrossed.

Sent down for concurrence.

Enactors

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

AN ACT to Amend the Laws Relating To Examinations of Motor Vehicles by Police Officers and to Increase the Penalty for Avoiding a Police Roadblock. (H. P. 178) (L. D. 225)

AN ACT to Facilitate the Distribution of Child Custody Reports. (H. P. 620) (L. D. 703)

AN ACT Relating to Games of Chance Sponsored by Charitable Organizations. (H. P. 504) (L. D. 555)

AN ACT to Establish Guidelines for the Issuance of Concealed Weapon Permits. (H. P. 467) (L. D. 519)

AN ACT Providing Due Process when the State Liquor Commission Designates a Location for a State Liquor Store. (S. P. 180) (L. D. 458)

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 Relating to the Licensing of Pin Ball Machines. (H. P. 503) (L. D. 554)

On motion by Senator Pierce of Kennebec, Tabled for 1 Legislative Day, pending Enactment.

AN ACT Concerning Retirement and Benefits for State Employees Returning to Work After Attaining the Age of 60. (S. P. 299) (L. D. 843)

On motion by Senator Teague of Somerset, the Senate voted to Suspend its Rules.

On motion by Senator Teague of Somerset, the Senate voted to Reconsider its action whereby L. D. 843 was Passed to be Engrossed.

The PRESIDENT: The Senator has the floor.

Senator TEAGUE: I now present Senate Amendment "A" to L. D. 843 under filing number S-69, and move its adoption.

The PRESIDENT: The Senator from Somerset, Senator Teague, now offers Senate Amendment "A" to L. D. 843 and moves its adoption.

Senate Amendment "A" (S-69) was Read.

The PRESIDENT: The Senator has the floor. Senator TEAGUE: Mr. President, this bill was passed out of committee with a unanimous Ought to Pass, as amended, Report of the Committee, somewhere in the process the Committee Amendment was left off and this Senate Amendment takes care of this problem.

Senate Amendment "A" was Adopted.

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

Sent down for concurrence.

AN ACT to Provide an Open Season on Moose. (S. P. 128) (L. D. 300)

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

Senator PRAY: Mr. President, I move the Indefinite Postponement of L. D. 300.

The PRESIDENT: The Senator from Penobscot, Senator Pray, now moves that the Senate Indefinitely Postpone "An Act to Provide an Open Season on Moose" (L. D. 300)

The Chair recognizes the Senator from Somerset, Senator Redmond.

Senator REDMOND: Mr. President, I request a Division.

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

Senator CARPENTER: Mr. President, I would request a Roll Call vote when the vote is taken. I would just like to urge the Senate this morning in all sincerity to join with me and the good Senator from Penobscot, Senator Pray, in opposing the Moose Bill.

Two years ago, when we had the bill for the first time for the experimental season, I worked very diligently for it. I told members of the committee, when this Bill was introduced, that I was going to have a very difficult time supporting it, as long as there were non-residents left in the Bill. I fully recognize the amount of money that this means to the department. I fully recognize the importance of the non-resident hunter in the Maine fish and game business. However, we have many generations of Maine people who have never had an occasion to hunt the moose. I think we're, this morning establishing, if we Enact this Bill, I think we're establishing a very bad, we're helping to establish some very bad feelings out there on the part of some of our people. I have talked to dozens, and dozens of people in Aroostook County who very strongly want a moose season, very strongly. They have told me almost to a person, that if we have to accept non-residents, that they do not want me to vote for the Bill. My personal feelings aside, when the feeling in my district is this strong, I don't see how I can support the Bill.

I think, the other thing that we're doing, indirectly, and that thing that scares me, is that we're telling the resident hunter, who puts his or her name in the lottery and fails, and then sees a small amount granted, 100 licenses, go to out-of-state hunters. We're telling that hunter that we don't care as much for them as we do for the out-of-state person who is going to bring us in a few more dollars.

I think you're going to see a great deal more poaching of moose by our own people, if this Bill passes as it is. Poaching is illegal now, and we do a lot of things in this Legislature, and the department does a lot of things to prevent poaching. I don't think we ought to be doing anything here which implicitly encourages expansion of the poaching problem in the State of Maine. I think if you stop and look at this Bill, and talk to the people you represent back home, you're going to find that just exactly what I said is true. I have talked to a number of people in this Chamber and in the other Chamber who have said that they didn't like the non-resident in there, but they had to accept it, it was a compromise, and all this. I say, if they didn't like it, then why did they vote for it?

We're at a position right now where we can come out of this Session of the Legislature with a good clean Moose Bill. But the way the Bill is

written right now, I can not, in good conscience, support it. I hope that you would join me this morning, with the good Senator from Penobscot, and vote to kill the Bill. Thank you.

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

Senator MCBREAIRTY: Mr. President, Honorable Members of the Senate, I am the sponsor of L. D. 300. I wish I could say that L. D. 300 is my Bill. I can not. I can not because L. D. 300 is a combination of many years of effort by many people and organizations. L. D. 300 was drafted with input from the Sportsman's Alliance of Maine, Maine Guides Association, University of Maine's Wildlife Department, valuable information from New Brunswick Natural Resource people, where they have had a moose season for over 21 years, our own Fish and Game biologists and Department, and others.

I am not going to bore you with a long speech, but I am going to point out that our moose herd is a very valuable natural, renewable resource, that has been built up by the protection and effort provided by the Maine sportsmen, through their license fees. Our game biologists tell us that the time has come, when we can better manage our herd by having a controlled, limited, open season. Our game biologists tell us that we could take from 2000 to 3000 per year without any damage whatever to our herd.

I feel the time has come, when we have to decide whether to allow our sportsmen to collect a small return on their money. I strongly feel that the time has come when we have to decide whether to use a valuable, renewable, natural resource, or continue to let our moose die off and rot in the woods, as they're doing now.

As far as the non-resident, the non-residents are paying 55 percent of the protection of the animals in the State of Maine. Non-residents are helping to pay 75 percent of our biologists through Federal Funds. I think it's also time that we decide whether we treat non-residents as guests who are helping pay their way, or ban them altogether. If we feel that we can afford to ban them and lose the 55 percent that we're using now, well, I think you should do so. We are going to continue to take their money, we should treat them as such.

We're spending money to promote the State of Maine, spending good money. Our Fish and Game commissioner was at a meeting somewhere a while ago, where there was a lot of sportswriters. They gathered around him, and they were all interested in our Moose Bill.

If this Bill goes through, we'll be bringing people in with that limited number of 100. We'll be bringing people in to the State of Maine from all over the nation, and possibly other countries to hunt moose. It will be the greatest promotion gimmick the State of Maine has had in years, the best advertising we've had in years.

They voted 91 to 50 in the House to pass this Bill. We voted 20 to 10 the other day to pass this Bill. I would hope that you'd stick to your guns and pass this Bill today. Thank you.

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

Senator CARPENTER: Mr. President, Ladies and Gentlemen of the Senate. I've heard all the reasoning both sides of this Bill, I think, up to this point, but I, for one, am not going to vote for or against this Bill this morning, because it's a good gimmick. I don't like the idea of the moose hunt being sold as a promotional item. This is a very important game animal in the State of Maine. I just don't think that we ought to be treating this whole thing this way.

I thought that two years ago, we had a very constructive discussion of the issues in this Chamber and the other, when we Enacted the first experimental season. I thought that we could come down after that season and clean it up a little bit, and make it run right, and come up with an annual season, perhaps someday down the road, after some of our people have

had a chance to get licenses to hunt moose, to go-ahead and allow the non-residents in at some point later on.

But at this point, it's the wrong place, it's the wrong time. I think the good Senator from Aroostook, Senator McBreairty, laid it out pretty well for you, the two different sides of the issue. If you're going to vote for this Bill the way it is now you're going to take those 100 licenses, and you're going to waive them to the out-of-state hunter, as the good Senator from Aroostook has already said, the hunter from all over the country, and say, we have 100 licenses, we have a token amount of licenses we're going to give you. This is a gimmick to lure you into the State of Maine, to make you spend your money here. I mean, if that's what you want to do with the moose herd, then you'll vote no on the pending motion. If you want to keep the moose hunt pure as we can possibly make it, clean and restricted to residents, then you'll vote yes on the pending motion and we can get this Bill cleaned up a little bit. Thank you.

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

Senator HICHENS: Mr. President and Members of the Senate, I'm not going into a long discourse on this Bill, because I presented my arguments when the Bill first came before us a week or so ago. It seems strange to me that this is the 25th day of March, 1981, and on the 23rd day of 1979, I read a poem, when it came up for Final Enactment, and I would like to share that poem with you again this morning for the benefit of the new Members of the Senate, and because my thoughts haven't changed one iota since that time regarding the moose season. It is entitled "In Fond Farewell".

"March 23rd in '79 will go down in history as the day the grand and stately moose lost its privilege to run free. The great and gracious symbol emblazoned on our flag will be a hunted animal—just subject to a tag. The heartless gun-crazed hunters will talk our mighty moose and with careful aim and then the shot will really 'cook his goose'. So long he's run his earthly course and learned to fear no man 'Dead Duck' is what he's sure to be—as in wonderment he'll scan the stalking hunter unaware that he will soon be dead by a bullet whizzing through the air—Implanted in his head. This animal long looked upon as Maine's proud symbol—Great! Will never run—he's known no fear—and he shall meet his fate because he's been so trusting or people passing by and never learned to fear them—and he must wonder why He's suddenly become a target—free to roam no more between Maine's lofty mountain peaks to distant ocean's shore. And as I look upon this emblem on the Senate floor I realize its significance is lost forevermore; and every time I pass it I shall hang my head in shame to think that our beloved moose—is nothing more than game. Oh may the good Lord up above forgive men's brutal ways as the grand old moose like other beasts are living numbered days. Any may as he looks from above—and feels a twinge or pain have a great compassion for these thoughtless folk of Maine who gave in to the hunters, whims—and vote that they may kill this creature we're so proud of—in their own time and will and as we cast our votes today—each one as he may choose—let's all give thanks to God above—that we weren't born a Moose".

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

Senator CLARK: Thank you, Mr. President. Mr. President, Men and Women of the Senate, in the 109th Maine Legislature, I had the privilege to serve on a commission to study the funding crisis of the Department of Inland Fisheries and Wildlife. That was probably one of the most expensive learning experiences for me, in my experience in state government. I learned a lot about an area that I had little knowledge previous to that time.

In the 109th Maine Legislature, I supported a pilot, experimental moose season. The reason at that time that non-resident hunters were not included, was because it was just that, a pilot experimental moose hunting program.

There are in our state, many hunting lodges, guides, and suppliers of sporting equipment that rely, to a great extent, on the influx, at various seasons during the year, of out-of-state hunters and sports people. Some of those businesses, we find in each of our senatorial districts, not the least among them, mine.

I guess I am at extreme odds with the remarks of the gentleman from Aroostook, Senator Carpenter, relative to the issue of poaching, that including non-resident hunters in the moose hunting program, upon which I hope we are embarking today, would encourage the expansion of poaching in Maine. Now common sense, and perhaps even a lot of tales, would remind us that poaching of all game species, and even non-game species, the largest of them being moose, in Maine, has existed since time immemorial. It has existed since there were moose, and there were men, and maybe even women. So I don't agree with his allegations that we are encouraging poaching. As a matter of fact, I think that is a specious argument.

The management of the game species here in this state, for literally over 100 years, and yes, the non-game species, has been supported in large part, per the remarks of the gentleman from Aroostook, Senator McBreairty, by the nonresident hunting fees as well as resident hunting fees. If in fact, the efforts this morning are an effort to place this Bill in non-concurrence with the House, so that we can remove non-resident hunters or non-resident access of Maine's proposed annual moose harvest, then I would hope and invite the majority of this Chamber to join with me, and others, in supporting the pending motion. Thank you.

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

Senator PRAY: Mr. President and Members of the Senate, the intent of my motion is that as was expressed by the Senator from Cumberland, Senator Clark, is to put this Bill in non-concurrence and hopefully that we would end up in a Committee of Conference and take care of this issue which has stirred a great number of phone calls from my constituents as well as some other constituents of some other Senators in this Chamber.

I'd just like to respond to several of the comments that had been made to clear up the issue. First of all, I support a moose season. I do disagree with some of the comments that were being made. First of all, I'll take those in order that they were stated, Senator McBreairty, and his concern about the sportsmen. His statement was: "Let our sportsmen collect on their investment". Well that's the exact intent that I have in my motion is to put the Bill in non-concurrence so we can let the Maine sportsmen, those that have decided to stay in this state, or those who live in this state, and forest the hard winters that we have survive the economic conditions in Maine for those certain few benefits that exist in Maine.

As far as the fact that non-residents supply the 55 percent of the department's revenues, his concern that we'll lose that 55 percent, if you'll check now, we don't gather a cent on the Moose Bill from non-residents. The last season is a prime example. They were not included. We received that non-residents from fishing and from deer hunting. When you start comparing with other states in this country as far as big game goes Maine ranks pretty high in the deer population and the deer herd. Many sportsmen come to Maine to hunt from out-of-state, they also hunt in New Jersey, they hunt in Pennsylvania, they hunt in New Hampshire, they hunt in Rhode Island, and they come to Maine, because we have a very valuable resource. We have a "buck", a deer, that aver-

ages pretty close to over 200 pounds. That's what brings them here. They come now, and they're not going to stop coming because they can't hunt moose. They're still going to come. That would bring additional people, perhaps, but it's not going to stop those that are already coming.

In reference to the 74 percent of the biologists that are paid for by Federal Funds, the fact that we may jeopardize that, some of the Maine people pay part of that 75 percent in Federal Taxes as well. So let's not just say that 75 percent came from non-residents.

I clearly agree with the Senator from Aroostook, Senator McBreairty, in reference to the work that has gone in the recommendations for a season. I think that to throw that up at this time, I think Senator Carpenter from Aroostook, made it very clear that he was not opposed to a moose season. We are all supportive of the findings of the State biologists and the University of Maine.

I am a little disturbed that today, we would have this sheet finally distributed. I think this is the sheet that Senator Pierce asked for several weeks ago, or around 10 days ago, that today, now because the rumor of the Bill is in trouble, and I'll tell you, it's a rumor that's already reached Washington D. C., because last night I received a call from the commissioner from Washington D. C., wanting to know what was going to happen to the Moose Bill today. I don't know, maybe this was reproduced in Washington and sent here, because we haven't seen it before.

I would think that perhaps if we indefinitely Postponed this Bill, put it in non-concurrence, those of us in this Chamber would have an opportunity to read this and digest it. When the Bill comes back, make the final determination then, but at this time, I would hope that you would join me in my motion for the purpose for those of you who are concerned about the moose, I think I know why you're voting your reasons, but those of us who would like to see a season, and would like to see it be distributed only among Maine residents, would join me in my motion.

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

Senator TRAFTON: Mr. President, Men and Women of the Senate, in the past, I too, have supported a moose season, both in the 109th Legislature and indeed, in the first two votes that have been taken on this Bill. In the course of the debate on this issue, we've heard several things. I was led to believe at one point that an amendment would be offered in the Second Reading, so I awaited that eagerly. I was also under the impression that after the good Senator from Kennebec, Senator Pierce, asked for information on the moose hunt, that we would receive that forthwith. As the Senator from Penobscot has mentioned, I received it 10 minutes ago. I must say, if this is worth \$25,000, I'm a little disappointed in the effort.

Now I'm under no illusion about this sporting event that we're talking about this morning. I've paddled down the Allagash and come within about 10 feet of a number of moose. If I'd had my dog's leash, I could have reached out and brought one home to have a pet.

I supported this Bill, because I have been convinced that the biological arguments were sound. However, today I will not support this, because I feel we need to go to a Committee of Conference and resolve some of the questions that still remain in this Bill, some of which have been raised today.

One of the questions that I asked my district, was whether or not they favored the continuation of a moose hunting season. On this particular issue, I put great stock by what my constituents tell me. In the past, they have overwhelmingly supported a moose hunt season. The results this year were a complete turn around. Most of my towns had a very even split on whether they would support it and in

fact, one of the towns, which had supported it heavily, voted 2 to 1 against it this time.

Now I recognize this isn't an accurate survey. Indeed, many of the people who may be concerned about this issue are not included in my results. But I think it is telling the difference between this year's survey that I conducted, and last Session's survey.

Primarily, they were concerned about two things. One, the non-resident hunting licenses. I think that issue has been debated sufficiently. Two, the fact that we, as the Legislature, were going to completely give up control of our responsibility in terms of reviewing the progress of the moose hunting season. I would refer you to Section 3 of the Bill, under Section 7463, and if we act today to Enact this piece of Legislation, we essentially are giving all that power, delegating that power to the commissioner.

I, for one, based on the results of my constituent's interest in this subject, feel that the results of the moose hunting data are not all in. It would be premature for us to totally release control of this season this morning.

I would urge you to support the motion of the good Senator from Aroostook, Senator Carpenter, and Indefinitely Postpone this Bill, so that we can move to a Committee of Conference, and try to resolve some of these problems that seem to have arisen. I think the biological arguments are indeed sound, but some of the provisions I think are not.

The PRESIDENT: Is the Senate ready for the question?

The Chair recognizes the Senator from Somerset, Senator Redmond.

Senator REDMOND: Distinguished Members of this Body of government, I'll be very brief. I don't have a long prepared speech as I have had read several pages when the report came in to this Senate. I would like to, I've just been listening to the comments that were made. I recall back in the 108th, I believe, I had asked the Members of the Senate here, the distinguished members who represent the urban areas, to think a little bit about those who live in the rural areas. Now I find my good friend from Aroostook County, Senator Carpenter, who suddenly decides that this Bill is not good for his area. I would like to point out that in the prepared statement that I had read to you, that back since the 1800's, they have some information on the moose. It is very well understood that the moose can survive in colder areas than the deer can. The deer herd has been reduced substantially in the northern part of this State, because we had several cold winters. Now they're coming back a little bit. We've had a couple of mild winters. We can already see the difference.

I would ask the Members of the Senate here to think of those people in the northern part of the State that have lost a tremendous amount of tourist business and people coming in for the deer season. This 100 moose, you may say, will not satisfy the thirst of probably all those who would like to get some venison. As was mentioned here before, it's going to be a tremendous boost to the economy, because the promoters and the writers have indicated a tremendous amount of interest. They said that the State of Maine will benefit, the entire state will benefit by having the moose season and accepting some non-residents.

I would like to point out, also, again, that the non-residents have to pay a \$65 license, as opposed to a \$9 license that the resident pays. Then the non-resident will have to pay \$200 to get a moose hunting license. I don't think that the residents of the State of Maine should feel bad about seeing the non-residents get a few moose in here.

Therefore, I urge you to think about it, and think about your fellow citizens of the northern countries, think about the overall picture. I think that following our reputation of the responsible Senate, I hope that you will vote against this move.

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

Senator PRAY: Mr. President, and Members of the Senate, as one individual in this Chamber who has a slight insight into the tourist trade, and particularly the sporting tourist trade, I'm sure that any individual who runs sporting camps, or makes a living off from guiding, or anything else, would tell you that he'd like to see a year 'round deer season, year 'round fishing, and perhaps snowmobiling in Baxter Park as well. This would all add to the economic picture of this industry.

I'm sure if you ask the people along the coastal area, they'd like to have us pass a bill that would make this summer year 'round so that we wouldn't have a fall off in the winter, due to the cold weather we receive. Course, there are only certain things that are in our control.

So I'm sure that the Senator from Somerset, Senator Redmond, is correct that it would be, to some degree, an economic boost to a minority of Maine citizens. But we're talking basically about a minority of Maine citizens, when we're talking about who's going to be allowed to harvest this resource that we have or not harvest this resource.

I think, when we talk about the fact that last season was an experimental season, I, at that time, supported the Bill, and I went along with that. I think that this season here is also an experimental season. With only one season thus in the last 36 years, I think a second season would give us some more data and more statistics to compare it to. I think that that's, you know, just receiving the report today, as to the summaries and everything else, I think that we've got to just allow Maine residents that greater opportunity.

Those of you in this Chamber that have your particular feelings one way or the other on the issue, I'd just like to restate that the intent of this motion is to put the Bill in non-concurrence so that we can address the issue of non-residents. I think that each and every one of us are going to have to face our constituency at one time or another on this issue. If you are in favor of non-residents being allowed to hunt in this State in a moose season, then you'll vote against the pending motion. If you would like to see the opportunity to have non-residents removed, then you would vote for the motion, because whatever takes place in this Chamber today will probably come back tomorrow in non-concurrence from the House, so you'll have a opportunity to express, depending upon what the other Body does, your feeling of an overall moose season.

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

Senator McBREAIRTY: Mr. President, I'd like to urge Members of the Senate, I'd like to urge you again to stick with our guns and pass this Bill today.

A moose season in Maine, I believe, will create an incentive, an incentive to protect the herd. Presently, to the ordinary person out there, there's no incentive to protect something that's completely going to waste.

As far as non-residents, we've had a public hearing on this Bill. The room was practically full of people. There was very little, if any, opposition to non-residents. It was discussed thoroughly at that hearing. I sponsored the Bill. Usually the sponsor is contacted as much as anybody on a Bill. I have no problem with non-residents. The people I know in Aroostook County haven't had any problem with non-residents. In fact, we depend on non-residents in Aroostook County to buy our potatoes. If they banned Aroostook County potatoes from crossing the line, like we're trying to ban a few people from coming in here, we wouldn't get very far in Aroostook County. We'd be out of business.

I would hope you'd stick with this Bill. I think that you're greatly endangering it if you start

kicking it around between Bodies. I don't believe there's any need of it.

As far as future legislators, if we want to rescind the action of this Legislature next year or the year after, it can be done. We turn things more serious than this over to department and bureau heads here to control, and believe me, they do it. They promulgate rules and regulations all over the place.

I think that this is a good Bill. It's been worked on for a long time. Sportsmen's Alliance, who represents 4,000 or 5,000 sportsmen in the State of Maine, is 100 percent behind this Bill. If they had any problem with non-residents, they would have said so. Thank you.

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

Senator CONLEY: Mr. President and Members of the Senate: I've long awaited for this moment, for this Bill to die in a filibuster. I didn't really believe it was going to be over non-residents and residents, through, that would create the demise of this Bill. Get the Record clear and straight, the only moose that I want to see killed in Maine is this Bill. I think everyone's aware of that.

I really get a little nauseous feeling in my stomach when one of the good Senators responded to this being a hunting Bill. That sort of, really, ties me up in knots. I, too, had the occasion, a short time ago, to come down the Allagash, and practically go up and shake hands with one of these majestic creatures in the waterway. In fact, I think we counted seven of them on the river the three or four days that I was there.

I just want to get back to two years ago, or three years ago when we first passed this Bill, or one like it. I said it wouldn't be long when the commissioner and S.A.M., and everybody else who loves the so-called "moose hunt", would be back in here with another Bill for an annual hunt. It wouldn't be long when they'd be coming in asking for non-resident licenses, jack up the rates to the point where they'll raise sufficient revenues to keep the department going. That is simply, and the only reason, this Bill is here today, to bring in more revenues for the department.

If anybody's confused with the fact that we're doing a big study out there, I think the department is full of baloney. For years, in fact almost every year that I've been in here, there has been a bill in and it's been soundly defeated until recent years. With respect to our departed governor, Governor Longley, he had the guts to put the Veto on the bill when it was initially passed.

I would like to see this Bill go down the drain, and you can all, particularly those people here who are opposed to aliens coming in to this State from outside, those will be the people who will get my support in killing this Bill.

The PRESIDENT: Is the Senate ready for the question?

A Roll Call has been requested. Under the Constitution, in order for the Chair to order a Roll Call it requires the affirmative vote of at least one-fifth of those Senators present and voting.

Will all those Senators in favor of ordering a Roll Call, please rise and remain standing until counted.

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

The Chair recognizes the Senator from Cumberland, Senator Usher.

Senator USHER: Thank you, Mr. President. I feel I have to respond to a couple of comments that were made here today. It's pretty obvious that we want a moose season with the results of the votes from both Bodies. The issue seems to be non-residents. We do receive Federal Funds, in my opinion, this makes them eligible to participate in our season, the Federal Funds. It surprises me that the good Senator from Aroostook says dozens, and dozens, of his people are opposed to non-residents. What kind

of philosophy are we adopting here? Maybe if they use that philosophy in their potatoes, they wouldn't sell any. Think of how many businesses survive on out-of-state people. If we're talking about a product, how many products are before us? Non-residents participate in all our daily operations, whether it be in sporting camps or anything. They are eligible to participate. They have supported the Maine sporting industry for years, and years, and years.

As far as being the State animal, I have a copy of some literature that we passed out to all our constituents. I can't find the State animal on it. I find the pine tree on this. That's our natural resource. We manage this, and it's a renewable resource, one of our greater resources. We have a state fish, the salmon. We manage this, and the salmon's still in the lakes, because I caught a 5 pounder last year.

So be considerate on this vote, and oppose this measure.

The PRESIDENT: The pending question before the Senate is the motion by the Senator from Penobscot, Senator Pray, that L. D. 300 be Indefinitely Postponed.

A Yes vote will be in favor of Indefinite Postponement.

A No vote will be opposed.

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

ROLL CALL

YEA — Bustin, Carpenter, Charette, Conley, Emerson, Gill, Hichens, Huber, Minkowsky, Najarian, O'Leary, Perkins, Pray, Shute, Trafton, Trotzky, Wood.

NAY — Ault, Brown, Clark, Collins, Devoe, Dutremble, Kerry, McBreaity, Pierce, Redmond, Sewall, C.; Sutton, Teague, Usher, Violette.

ABSENT — None.

A Roll Call was had.

17 Senators having voted in the affirmative, and 15 Senators in the negative, with No Senators being absent, the motion to Indefinitely Postpone L. D. 300 in non-concurrence does prevail.

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

Senator PRAY: Mr. President, Under Suspension of the Rules, I move that this Bill be sent forthwith to the House.

The PRESIDENT: The Senator from Penobscot, Senator Pray, now moves that the Senate Suspend its Rules.

Is this the pleasure of the Senate?

The Chair recognizes the Senator from Cumberland, Senator Conley.

Senator CONLEY: Mr. President, having voted on the prevailing side, I now move that the Senate Reconsider its action.

The PRESIDENT: The Chair would advise the Senator we have a pending motion, the motion by the Senator from Penobscot, Senator Pray, that the Senate Suspend its Rules. The Chair is in doubt.

The Chair recognizes the Senator from Penobscot, Senator Pray.

Senator PRAY: I request permission of the Senate to Withdraw my motion.

The PRESIDENT: The Senator from Penobscot, Senator Pray, now requests Leave of the Senate to Withdraw his motion that the Rules be Suspended.

Is it the pleasure of the Senate to Grant this Leave?

It is a vote.

The Chair recognizes the Senator from Cumberland, Senator Conley.

Senator CONLEY: Mr. President, having voted on the prevailing side, I now move that the Senate Reconsider its action whereby this Bill was Indefinitely Postponed.

The PRESIDENT: The Senator from Cumberland, Senator Conley, now moves that the Senate reconsider its action whereby this Bill was Indefinitely Postponed.

The Chair recognizes the Senator from Knox, Senator Collins.

Senator COLLINS: I move this matter lie on the Table 1 Legislative Day.

The PRESIDENT: The Senator from Knox, Senator Collins, now moves this Bill be Tabled for 1 Legislative Day, pending the motion of the Senator from Cumberland, Senator Conley, that the Senate reconsider Indefinite Postponement.

Is this the pleasure of the Senate?

The Chair recognizes the Senator from Cumberland, Senator Conley.

Senator CONLEY: I request a Division.

The PRESIDENT: A Division has been requested.

Will all those Senators in favor of Tabling L. D. 300 for 1 Legislative Day, please rise in their places to be counted.

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

18 Senators having voted in the affirmative, and 14 Senators having voted in the negative, the motion by Senator Collins of Knox, to Table L. D. 300 for 1 Legislative Day, pending the motion by the Senator from Cumberland, Senator Conley, does prevail.

Emergency

AN ACT to Adjust the Fiscal Year of the Cobbesee Watershed District. (H. P. 479) (L. D. 535)

AN ACT to Clarify Transition Provisions for Guardians under the Probate Code and to Conform Certain Language Concerning Appellate Procedure in Adoption Cases to the Procedures Adopted in the Probate Code. (H. P. 246) (L. D. 280)

These being emergency measures and having received the affirmative votes of 27 members of the Senate, with no Senators having voted in the negative, were Passed to be Enacted and having been Signed by the President, were by the Secretary presented to the Governor for his approval.

Orders of the Day

The President laid before the Senate the first Tabled and specially assigned matter:

RESOLVE, Authorizing Jeanette Hodgdon, Administratrix of the Estate of Kenneth R. Hodgdon, to Maintain a Civil Action Against the State of Maine. (S. P. 227) (L. D. 614)

Tabled—March 24, 1981 by Senator COLLINS of Knox

Pending—Passage to be Engrossed

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

Senator COLLINS: Mr. President, I want to call the attention of the Senate to this Bill, because it seems to me that it may create a very serious precedent. I'm not sure that we want to give it full discussion this morning. It may be that you would like to take further time with it.

The point that bothers me, as a professional, and as one who for four years headed the committee that screened these bills, is that the gist of the difficulty, that's complained of here, is a design defect in highway.

Matters of design which usually are matters that are covered over a long term of time are matters of professional judgement. We make judgements in all branches of government. We don't always make the right judgement, but governmental immunity has protected the operation of government in that regard for a long time.

The Tort Claims Act opened up a number of areas where we felt it was appropriate for citizens to have a right to sue the State. This is not one of those areas. Therefore, it comes before a committee. I would ask that the committee advise the Senate more fully of why it felt that a brand new territory of lack of immunity ought to be opened up.

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

Senator MINKOWSKY: Mr. President, and Members of the Senate, even though I'm not a

member of the committee that heard this particular Bill, I share the same concerns expressed by the good Senator from Knox, Senator Collins, relevant to the sovereign immunity being impinged in this particular matter today.

I have researched, through the assistance of Senator Emerson, some of the arguments which I feel should be part of the Record for future reference in this particular matter. At least, if no decision is rendered today, at least part of these particular issues can be researched further.

They include seven major concerns. The first concern raised, this Resolve is already the subject of litigation now pending in Lincoln County Superior Court, to which the State, the Town of Dresden, and Arlene Alvarada, are defendants. Therefore, any and all legal and factual issues should be resolved in the judicial, not in a Legislative forum, which we are addressing here in this particular Bill.

Secondly, the Legislature, by its passage of the Maine Tort Claims Act, reaffirmed in 1977 the sovereign immunity of the State of Maine from negligence suits, except for those limited circumstances expressed in the Act.

The third point, the State has relied on the immunity provisions of the Maine Tort Claims Act in planning and executing its programs. Now passage of this particular Bill would seriously hamper the operation of the State government by bringing into question its liabilities in areas previously considered immune from suit.

Four, this special legislation seeks to carve out another exemption to the State's sovereign immunity by forcing the State to waive defenses established by law, all under the guise of protecting the interest of the Town of Dresden.

Five, this Bill fails to disclose anything unusual and unique, which would distinguish it from other tort actions to which the State is subject.

Six, by forcing the State to waive its immunity, this Resolve would increase the State's potential for liability up to \$300,000 plus interest. In addition, it should be noted that the State is liable for reimbursing the town, in this case, the Town of Dresden, for the reasonable attorney fees, costs, and expenses incurred in defending this action. Furthermore, the State must reimburse the Town up to \$6,000 for any judgement rendered against it.

Seven, and finally, this legislation is an AD HOC attempt to single out one individual for special privileges not provided to the citizens of Maine. There is no rational basis for distinguishing between this case and those of others similarly situated.

Accordingly, where a general law is applicable, such as the Maine Tort Claims Act, the passing of special legislation, as in L. D. 614, violates the constitutional guarantee of equal protection under the law.

Now Mr. President and Members of the Senate, I felt those particular points are very, very valid, and we should be very, very cautious in the direction we move in in fulfilling this particular Resolve.

Let me clarify one more point. I am very compassionate towards the family. I'm sympathetic toward what has happened in this particular case. I think we can think of innumerable other areas in the State of Maine where roads have presented similar problems. If we allow this particular Resolve to materialize, in addition to maybe the \$4 million or more of claims against the Department of Transportation at the present time, we are going to find ourselves in one serious dilemma in addressing all those particular resolutions.

If this particular case is gone through the judicial process, and is being presently evaluated and analyzed by the judicial system, if there are insurance companies involved, is this going to mean they might be immune from meeting their obligations in this particular case?

There leaves many questions to be answered about this particular bill and I hope that the

Senate really gives this great consideration before proceeding too quickly. Thank you, Mr. President.

The PRESIDENT: The Chair recognizes the Senator from Lincoln, Senator Sewall.

Senator SEWALL: Thank you, Mr. President, I would like to answer. I'm sure there are many legal questions having to do with this Bill. I would like to answer some of the seven questions and then hope that perhaps someone will table this another day, so that we can get all the facts together on this case.

I believe, first, that this Bill came out, about the only one, came out with the unanimous committee report because there was something unusual. Now in the Tort Claims Act was set up and we put limits on expenditures that the State could have from suits. We left an opening for those people who had a very unusual circumstance. In this one, there was an unusual, very unusual circumstance. That is the road design. We're not opening this up for every design of the road, every pothole or anything. We're saying in this case, the road was designed in such a bad way that the citizens of the area, for years, petitioned, asked, pleaded, with the State to change it, asked them to put up signs, asked them to do all these things. The State didn't.

There's a case here of gross negligence, which puts it into a totally different situation. I'll try to get all these facts put together and give you the full presentation or have the members of the committee do another day. This was the unanimous committee report, and the only one, I believe, they've done so far.

On motion by Senator Collins of Knox, Retabled for 1 Legislative Day.

The President laid before the Senate the Second tabled and specially assigned matter:

Bill, "An Act to Require Employers with Employee Pension Plans to Provide Status Information on Group Pension Plans upon Request." (S. P. 513)

Tabled—March 24, 1981 by Senator COLLINS of Knox.

Pending—Reference.

On Motion by Senator O'Leary of Oxford, referred to the Committee on Aging, Retirement and Veterans and Ordered Printed.

Sent down for concurrence.

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

Committee Report

House

Ought to Pass

The Committee on Local and County Government on, Bill, "An Act to Extend the Time for the Apportionment of County Taxes." (Emergency) (H. P. 1248) (L. D. 1427)

Reports pursuant to Joint Order (H. P. 1247) that the same Ought to Pass.

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

Which Report was Read and Accepted, in concurrence. Under Suspension of the Rules, the Bill Read Twice and Passed to be Engrossed, in concurrence.

On motion by Senator Pierce of Kennebec, Adjourned until 9:30 o'clock tomorrow morning.