

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

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

STATE OF MAINE
One Hundred and Tenth Legislature
First Regular Session
JOURNAL OF THE SENATE

March 27, 1981

Senate called to order by the President.

Prayer by the Honorable Andrew J. Redmond of Madison.

Senator REDMOND: Dear Lord, fill the heart of every Senator with the desire to do the people's work. Give them the leadership and everlasting fidelity, to think first of the well-being of the great State of Maine. Amen.

Reading of the Journal of yesterday.

Senator Trafton of Androscoggin was granted unanimous consent to address the Senate, On the Record.

Senator TRAFTON: Mr. President and Men and Women of the Senate: as you probably noticed, Father Louis Berube of St. Philip's Church of Auburn was scheduled to be here this morning. I'd like to thank the good Senator from Somerset, "father" Redmond, for taking his place. I asked that Father Berube not come today because of the inclement weather and very poor driving conditions. He looks forward to joining us in the very near future.

Papers from the House
Joint Orders

Expressions of Legislative Sentiment recognizing:

State Police Officer Malcolm T. Dow, of Patten, named 1980 Trooper of the Year, the highest annual award of the Maine State Police. (H. P. 1260)

Mary Jane Yahn, of Farmington, for representing Maine in the 1981 Junior Eastern United States Ski Association Competitions. (H. P. 1261)

Elizabeth A. Keene, valedictorian of Edward Little High School, class of 1981. (H. P. 1262)

Christopher G. Scales, valedictorian of Edward Little High School, class of 1981. (H. P. 1263)

Susan Tame, Cindy Foster, Lawrence James Newman, III, Vicki Scribner, Greg Newell, Martha Scribner, Penny Griffith, Carol Poland, Tony Whitman and Margaret Kimball, who are the top ten students of Oxford Hills High School Class of 1981. (H. P. 1279)

Rumford High School, winner of the State Class A wrestling championship. (H. P. 1280)

Westbrook College, which is celebrating the 150th anniversary of its founding. (H. P. 1281)

Come from the House, Read and Passed.

Which were Read and Passed, in concurrence.

Joint Resolutions

Joint Resolutions in Memoriam:

WHEREAS, the Legislature has learned with deep regret of the death of Rose Rand, of Sherman Mills, life-long member of the Order of the Eastern Star and Washburn Memorial Church. (S. P. 1282)

WHEREAS, the Legislature has learned with deep regret of the death of Archbishop Oscar Romero of El Salvador, who was assassinated while celebrating Mass on March 24, 1980 and offer these sentiments on the first anniversary of that tragic event. (H. P. 1283)

Come from the House, Read and Adopted.

Which were Read and Adopted in concurrence.

House Papers

Bill, "An Act Concerning Payment to the State Retirement System by Elected or Appointed State Officials." (H. P. 1227) (L. D. 1446)

Comes from the House, referred to the Committee on Aging, Retirement and Veterans and Ordered Printed.

Which was referred to the Committee on

Aging, Retirement and Veterans and Ordered Printed, in concurrence.

Bill, "An Act Concerning Cancellation of Individual Health Insurance Policies." (H. P. 1228) (L. D. 1447)

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

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

Bill, "An Act Concerning Disposal of Material by Certain Water Disposal Systems." (H. P. 1229) (L. D. 1448)

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

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

Bill, "An Act to Establish Rights for Residents of Nursing, Boarding and Foster Homes." (H. P. 1230) (L. D. 1455)

Comes from the House, referred to the Committee on Health and Institutional Services and Ordered Printed.

Which was referred to the Committee on Health and Institutional Services and Ordered Printed, in concurrence.

Bill, "An Act Concerning Operation of a Motor Vehicle while under the Influence of Intoxicating Liquor." (H. P. 1231) (L. D. 1456)

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

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

Bill, "An Act Relating to the Filing of First Reports and the Workers' Compensation Law." (H. P. 1215) (L. D. 1441)

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

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

Bill, "An Act to Authorize a Self-liquidating Bond Issue for Kennebec County for the Construction of a New Detention Facility." (H. P. 1216) (L. D. 1445)

Reference to the Committee on Local and County Government 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 Improve Agency Rulemaking by Mandating Procedures to Analyze the Availability of more Flexible Regulatory Approaches for Affected Businesses, Organizations and Governmental Jurisdictions." (H. P. 1217) (L. D. 1440)

Bill, "An Act to Provide for Legislative Review of Proposed Agency Rules." (H. P. 1218) (L. D. 1442)

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

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

Bill "An Act to Change the Method of Taxing Nuclear Power Plants." (H. P. 1219) (L. D. 1443)

Bill, "An Act to Tax Gas Guzzlers." (H. P. 1220) (L. D. 1444)

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.

Communications
House of Representatives

March 26, 1981

Honorable May M. Ross
Secretary of the Senate
110th 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 Concerning the Size of Exempt Lots under the Subdivision Laws" (S. P. 141) (L. D. 312)

Representative HALL of Sangerville
Representative MARTIN of Eagle Lake
Representative HUBER of Falmouth

Respectfully,
S/EDWIN H. PERT,

Clerk of the House
Which was Read and Ordered Placed on File.

House of Representatives

March 26, 1981

Honorable May M. Ross
Secretary of the Senate
110th 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 Reduce the Minimum Size of Exempt Lots Subdivided Under the Land Use Regulation Law" (S. P. 51) (L. D. 60)

Representative HALL of Sangerville
Representative MARTIN of Eagle Lake
Representative HUBER of Falmouth

Respectfully,
S/EDWIN H. PERT,

Clerk of the House
Which was Read and Ordered Placed on File.

Senate Papers

Senator MCBREAIRTY of Aroostook (Cosponsors: Senator REDMOND of Somerset, Senator O'LEARY of Oxford and Representative AUSTIN of Bingham) presented,

Bill, "An Act Concerning the Maine Land Use Regulation Commission." (S. P. 539)

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

Sent down for concurrence.

Senator WOOD of York (Cosponsor: Representative POST of Owl's Head) presented,

Bill, "An Act to Provide a Tax Exemption for the First \$3,000 of Savings for Individuals who Invest the Money in a Housing Development Account." (S. P. 538)

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

Sent down for concurrence.

Order

An Expression of Legislative Sentiment recognizing:

Joanne Palombo of Brunswick, winner of the Western Maine Class A girls' tournament's "Red" McMann Award, as its most valuable player-sportsman. (S. P. 537)

presented by Senator CLARK of Cumberland (Cosponsors: Representative MARTIN of Brunswick and Representative LIVESAY of Brunswick).

Which was Read and Passed.

Sent down for concurrence.

(Off Record Remarks)

Committee Reports

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:

RESOLVE, to Name the Bridge at Brown-

ville Village which Crosses Pleasant River the Rodney W. Ross Bridge. (H. P. 615) (L. D. 692)

Leave to Withdraw

The Committee on Transportation on, Bill "An Act to Make all Drivers' License Information Confidential." (H. P. 1021) (L. D. 1231)

Reported that the same be granted Leave to Withdraw.

Comes from the House, the Report Read and Accepted.

Which Report was Read and Accepted, in concurrence.

Ought to Pass — As Amended

The Committee on Aging, Retirement and Veterans on, Bill, "An Act Relating to Eligibility for World War Assistance." (H. P. 699) (L. D. 824)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-124).

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

The Committee on Business Legislation on, Bill, "An Act Relating to Loans to Purchase Foreclosed Properties." (H. P. 518) (L. D. 584)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-125)

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.

Senate

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 Relating to Use of Flashing Lights on School Buses." (S. P. 116) (L. D. 283)

Ought to Pass — As Amended

Senator McBREAIRTY for the Committee on Energy and Natural Resources on, Bill, "An Act Further Amending the Planning and Zoning Statute." (S. P. 183) (L. D. 461)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (S-76)

Senator EMERSON for the Committee on Taxation on, Bill, "An Act to Remove Certain Time Restrictions Exempting Tax on Sales, Storage or Use of Certain Food Products for Human Consumption." (S. P. 105) (L. D. 235)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (S-77).

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

Second Readers

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

House — As Amended

Bill, "An Act Relating to Credit Disability Insurance Under the Consumer Credit Code." (H. P. 490) (L. D. 542)

Bill, "An Act Relating to Unemployment Compensation Benefits for Persons Receiving a Pension or Retirement Pay." (Emergency) (H. P. 354) (L. D. 402)

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

Senate

Bill, "An Act to Exempt Certain Island Motor Vehicles from Inspection Requirements." (S. P. 309) (L. D. 865)

Which was Read a Second Time and 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 Exempt Fuel Adjustment Charges of Electric Utilities from the Requirement that such Charges be Prorated." (H. P. 529) (L. D. 595)

AN ACT Concerning the Qualifications of Licensed Guides Leading Trips Involving Children from Boys and Girls Camps." (S. P. 234) (L. D. 652)

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

Emergency

AN ACT to Clarify Food Stamp Allotment Calculations in Cases of Immediate Economic Loss." (S. P. 257) (L. D. 739)

This being an emergency measure and having received the affirmative votes of 30 members of the Senate, with No Senators having voted in the negative, was passed to be Enacted and having been signed by the President, was by the Secretary presented to the Governor for his approval.

On motion by Senator Perkins of Hancock, Out of Order and Under Suspension of the Rules, the Senate voted to consider the following:

Paper from the House Joint Order

An Expression of Legislative Sentiment recognizing:

Tom Brown, of Northeast Harbor, who has been named American Cancer Society's 1981 Honorary Crusade Chairman in Maine. (H. P. 1225)

Comes from the House, Read and Passed.

Which was Read.

The PRESIDENT: The Senator has the floor.
Senator PERKINS: Mr. President and Ladies and Gentlemen of the Senate: I have the pleasure of co-sponsoring an Order today honoring Tom Brown of Northeast Harbor who has been named Chairman of the American Cancer Society Honorary Crusade for the month of April.

Tom is with us today, along with his mother Becky Brown, Virginia Tona who is Director of Public Relations for the American Cancer Society, and Pat Dimick who is a volunteer of this all strictly volunteer organization.

I would appreciate it if the Senate would give a rising acclamation to Tom Brown, and his family, and the volunteers of the Cancer Society.

Which was Passed, in concurrence.

(Off Record Remarks)

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

Senator Conley of Cumberland was granted unanimous consent to address the Senate, Off the Record.

On motion by Senator Collins of Knox, Recessed until the sound of the Bell.

Recess

After Recess

The Senate called to order by the President.

Orders of the Day Unfinished Business

March 26, 1981
The following matters, in the consideration of

which the Senate was engaged at the time of adjournment yesterday, have preference in the Orders of the Day and continue with such preference until disposed of as provided by Rule 25.

The PRESIDENT: The Chair would direct the Senate's attention to the first matter of Unfinished Business:

HOUSE REPORTS — from the Committee on Fisheries and Wildlife Bill, "An Act Relating to the Issuance of Motorboat Racing Permits." (H. P. 396) (L. D. 439) MAJORITY REPORT OUGHT TO PASS as amended by Committee Amendment "A" (H-121); MINORITY REPORT OUGHT NOT TO PASS.

Tabled—March 26, 1981 by Senator COLLINS of Knox.

Pending—Acceptance of Either Report.

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

Senator USHER: I move Acceptance of the Majority Report.

The PRESIDENT: The Senator from Cumberland, Senator Usher, now moves that the Senate Accept the Majority Ought to Pass, as amended, Report of the Committee.

The Chair recognizes the Senator from Somerset, Senator Redmond.

Senator REDMOND: I request a Division.

The PRESIDENT: A Division has been requested.

The Chair recognizes the Senator from Cumberland, Senator Usher.

Senator USHER: Mr. President, this was an 11 to 2 Report. The Bill involves about three different motor boat organizations within the State, the most is three. Presently they are only required to send a letter of intent to the department to say they're going to have a race. That's as far as it goes.

Last year there was an episode in Falmouth, where none of the town officials were informed, there were so many people, they didn't know how to control it.

All this does is make the secretary of the boat committee, of whatever committee it is from, send the letter of intent to the municipal officers and the Fish and Game Department. A 60 day requirement.

The PRESIDENT: Will all those Senators in favor of the motion by the Senator from Cumberland, Senator Usher, that the Senate Accept the Majority Ought to Pass, as amended, Report of the Committee, please rise in their places to be counted.

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

29 Senators having voted in the affirmative, and 2 Senators having voted in the negative, the motion to Accept the Majority Ought to Pass, as amended, Report of the Committee in concurrence does prevail.

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

The PRESIDENT: The Chair would direct the Senate's attention to the second matter of Unfinished Business:

SENATE REPORTS — from the Committee on Labor — Bill "An Act to Place a Maximum Limit on the Inflation Adjustment under the Workers' Compensation Act." (S. P. 281) (L. D. 789) MAJORITY REPORT OUGHT TO PASS as amended by Committee Amendment "A" (S-70); MINORITY REPORT OUGHT TO PASS.

Tabled—March 26, 1981 by Senator COLLINS of Knox.

Pending—Acceptance of Either Report.

On motion by Senator Collins of Knox, Tabled for 1 Legislative Day, pending Acceptance of Either Committee Report.

The PRESIDENT: The Chair would direct the Senate's attention to the third matter of Unfinished Business:

Bill, "An Act to Provide Collective Bargain-

ing Rights to County Employees." (S. P. 145) (L. D. 316)

Tabled—March 26, 1981 by Senator Collins of Knox.

Pending—Passage to be Engrossed.

The PRESIDENT: The Chair recognizes the Senator from Oxford, Senator Sutton.

Senator SUTTON: Mr. President, Ladies and Gentlemen of the Senate, we discussed this some the other day. I'm still very concerned and would like to make a few comments for your consideration and let you know why I'm concerned.

Philosophically, I still believe there's a difference between the public sector and the private sector. The main difference is that the public sector is taxpayer-supported as opposed to, and is not subject to the profit motive of, the private sector.

I also have to admit that I do have concerns about employees who want to serve the State Government, at any level, having to pay tribute to anyone to have to do it.

This is a Collective Bargaining Bill, but as I said the other day, as far as I'm concerned, it's turning the unions over to the county, turning the county over to the unions. As far as I'm concerned, we're talking about a union situation.

There is a big difference, also, in my mind, between county government and other levels of government. Your town government is very close to the people through your town meeting, and/or your council. Your State Government is very sophisticated with its checks and balances. But the county is the weakest and the most remote level of government from the people.

I am very philosophically concerned about turning the county government over to the unions. The unions run our State employees right now. You virtually have to pay for the privilege of working for the State. As far as the University of Maine is concerned, you have to pay somebody or something for the privilege of working for the University of Maine System.

As far as I'm concerned, although the closed shop is against the law, as far as the State is concerned, our employees working for the State, the University of Maine, some of them in the municipalities, are faced with virtually a closed shop situation. I don't see how anyone that supports the right to work concept can support this measure, because it doesn't give you the right to work without, in my opinion, without paying tribute, based on my philosophy that most of the levels of government right now are virtually closed shops.

It's also been said that this is only fair, that everybody else in government can do it. First of all, I don't think that one mistake warrants another. I think the others are mistakes to start with.

Second of all, I'd like to ask, fair to who? Fair to the worker that's going to have to pay the union dues and going to have to pay the tribute to work? Is it fair to the employer who is ultimately responsible to the taxpayer and the public, but now who is going to have to deal with this third group? Is it fair for the worker who wants to bargain with himself? Is it fair to the taxpayer? I'd just like to know who it's fair to.

I'd also like to ask each of you to think for a second on who you're representing here today. I'd like to have you think for a second, if you were to put this out to referendum in your areas, whether to allow collective bargaining for county employees, whether the majority of the people in your area would support this measure. If in your own heart and mind, you answer that negatively, then I ask you who you're going to be voting for, your constituents or for the unions and their leaders.

Again, I am very concerned about turning the county over to the union, especially the law enforcement. Most of the municipalities that are now unionized are unionized by the Teamster's

Union. It's also been brought to my attention that the Teamsters have already done a heck of a good job getting the dissident deputies, and what have you, that we have around the State ready to join, just waiting for this Bill to pass.

It really concerns me to think that what would happen with the Teamsters controlling our sheriff's departments, and the Teamsters controlling our local municipality's law enforcement agencies, and to have a teamsters strike, and wonder who is going to cross the picket lines that our trucking companies or maintain law and order, while that's going on. What happens when there's a work action? Of course work actions are against the law, but I guess we do have blue sickouts and all of these situations.

It worries me to think of having union members, possibly the Teamsters, driving from one end of our county every day, at taxpayer's expense, possibly performing mischief. It worries me about the daily contact that the Teamsters, possibly, or whatever union, would have with our local small town police departments that now maybe have two or three people, and aren't really a group that would entice possible unionism, but certainly, with this situation, they are going to be prime targets. Yes, it worries me terribly of the distinct possibility of Teamsters taking over the law enforcement and taking over the running of our counties.

Finally, what I'd like to suggest as far as the Penobscot deputy situation is concerned, some have said that had we had collective bargaining, this wouldn't have happened. I'd like to suggest to you that that's not so, that they in essence have had collective bargaining. They've gotten together, decided what they wanted. They went to the sheriff. The sheriff approved it. They went to the county delegation. The county delegation said that they thought that 17 percent was too much, offered 12.5 percent, and they got sick, or they quit, or something. I don't think that had we had collective bargaining that there would have been any difference.

Again, finally, I would just ask that you sincerely think about the possible consequences of turning our counties over to the unions. In fact, I plead with you please don't do it.

Now, Mr. President, I would move the Indefinite Postponement of this Bill and all its accompanying papers.

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

Senator DUTREMBLE: Mr. President, Men and Women of the Senate, I enjoy hearing about unions so much today, especially when we're talking about a Collective Bargaining Bill. Yesterday the good Senator from Oxford, Senator Sutton, talked about being second class citizens, those people being second class citizens if they don't belong to unions. He was very upset. Believed that some people believed, if you don't belong to a union, you're a second class citizen. I don't believe that and I don't think anybody believes that, but after listening to the good Senator today, I surely believe that he believes, that anybody that belongs to a union, isn't any class citizen. I don't understand why he thinks unions are so bad and evil. That's the impression that I get from what I've heard here today.

We're talking about collective bargaining. We're not talking about unions. I'll be straightforward, I believe that it could lead to unions, but the Bill itself talks about the right for a group of people to bargain collectively. It doesn't talk about the University of Maine professors. It doesn't talk about the unions. It doesn't talk about the Teamsters. To muddy the Bill, because of a person's own belief, I don't think is right.

The main thing that we still have to discuss here today is whether or not we feel that a person who applies for a job, let's just assume that the person has applied for a secretary's job, whether it's any difference for her if she

applies at the county or in the private sector, whether she should be treated differently because one is public and one is private. I don't think that's right. We have it already at the State levels. We have it at the local levels. All the problems that the good Senator has told us about doesn't seem to be happening there.

I still have not heard one good reason why we should not allow collective bargaining at the county levels.

I would hope that we would vote against the Indefinite Postponement here.

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

Senator DEVOE: Thank you very much, Mr. President. I generally don't get involved in union issue debates. I will simply try to ask a brief question, which the good Senator from York, or anyone else in the Chamber may care to answer. Let us relate the debate for a moment to what has happened in Penobscot County and the dispute that we have had there with the members of the Deputy Sheriffs Association. If there had been collective bargaining, what could have been done by the deputy sheriff's or by any other county employees, that was not already done in their ongoing negotiations over the last many weeks and months with the county commissioners?

The good Senator from Lincoln, a few days ago, pointed out a fact that so far as the county budgets are concerned, the county commissioners really only proposed to the Legislative Delegation. My understanding of the current law is, even if there were collective bargaining, and one bargaining agent negotiated on behalf of all county employees with the county commissioners, and the county commissioners insert a wage item or other items in their budget, that is really only a recommendation. It is a proposal made to the Legislative Delegation at the first level and then to the general Legislature as a whole at a little higher level, as to what will ultimately be passed. We are, as I view it, we here in this Chamber and in the other Body, are the ultimate people who will decide what will be paid for wages.

The county commissioners bring to us a proposal, but we, as individual Legislators, as part of a county delegation, and then as part of the full Senate, and the full House, we vote on that. How is collective bargaining going to give county employees any more rights than are already being exercised in all 16 counties? Thank you very much, Mr. President.

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

Senator CONLEY: Mr. President and Members of the Senate, I don't believe that debating this Bill today is going to change the feelings amongst many of us. I think, again, just for the Record, we should be aware of the fact that this is one of the very, very few segments of public employees that do not have the right to sit down and negotiate a working contract.

I think we first have to keep in mind, that under the statutes, if what was done in Penobscot County, under collective bargaining, the sheriffs had walked out, they'd have been terminated, they'd have been fired. As I stated the other day, that's exactly what should be done until there is some other avenue addressing that type of a situation.

I have faith that reasonable people can sit down and negotiate. It's just not dollars and cents. I wish we would try to think of the whole spectrum of what employment is. It's working conditions. It's the hours, and how many hours one must work a week. It's grievance procedure. It's management's rights, the commissioners. It's employees' rights. There's a large segment of various issues that are of concern to the working class of this State, and particularly these people, who really have no job security. They can be almost terminated at will. It's no way to really petition for a raise in pay. Whoever your immediate department head says, well I'll look into it, and he'll go before

the county commissioners and say, we would like to see a 10 percent or a 12 percent increase in salaries.

We didn't discuss the Workmens' Comp. Bill today, but we're talking about a cap on inflation, dealing with Workmens' Comp. It's the same thing here. People are being paid far below the living standards, where many of them, many, and I'm talking about those faceless employees in county government that you never hear about. We always talk about sheriffs and deputy sheriffs. It's the last thing I wanted. I didn't want to see a sheriff even stick his nose forward with respect to collective bargaining. There are a tremendous amount of people that are employed by counties all over this State that barely meet the minimum wage, because county commissioners are elected and they serve the populace of the county as a whole, and they make that determination within their minds they've got to consider the fact of running for re-election. We can't give too much of an increase, or any at all, if we're going to succeed at staying on in a longevity situation as a county commissioner.

I think, when we establish a law, and we're always here to be able to change that law if we see things not done in a manner in which we'd like to see done, particularly in the public sector. It was done in this Chamber, under collective bargaining, and I say, as the Democratic Floor leader, in violation of the law, but it was done, needless to say. We are the general court, so to speak. Some people had a very, very strong feeling against the State Employees Contract, that was negotiated under the Fair Share Provision. We were able, or at least the parties were able to get together again and work out a compromise which was acceptable to just about everyone.

I don't think you're going to see any difference with respect to a turmoil, the outrageousness of the employees as being shown, as being demonstrated today in Penobscot, as was demonstrated just a short time ago in Androscoggin County. There have been threats in other counties. There's got to be a reason for that.

As I stated very clearly the other day, in my city, and I hate to use my city as an example, I'm sure Penobscot could use the same, Bangor could use the same, we have county, municipal, federal, and even state employees all within a very, very small pattern of buildings. Yet, for the equal work, or work that's being done, equal pay is not being given. We can't talk about the Federal Government, because they've gone right out of their tree tops with salaries for Federal Employees, for judges, congressmen, right down the line. State employees just began, recently, of getting what I feel is a working salary, a liveable salary.

We've done the same thing on the municipal level, as I stated the other day, at least with the police and fire departments. I think, perhaps, those on the lower echelon again are being shortchanged, but perhaps some time down the line they might catch up a little.

We talk about financing the cost. We know that it comes from the taxpayer. Don't be so naive, Senator Sutton. The fact that I belong to a union that is not in the public sector, I can assure you, as a citizen of this State, you are participating in my salary just through the passing off the cost of the goods, delivering of the services. Everyone in this Chamber is being taxed in some small way, their back pocketbook, to help pay my salary.

I think, that unions, as I stated, I hate to see the Teamsters being thrown up here as sort of a cloud to say, well, everybody in this State is going to be organized by the Teamsters. I think that's the most farfetched thing I've heard, because I know that the Maine State Employee's Association would certainly be very happy to represent counties. ASCE-ME certainly would be very happy to represent counties. But employees themselves make that decision, not me, no one here, and they vote on that.

I think this is a step forward. It's something that's going to restore and bring back what I think would be some calmness, and at least, some hope for the future for county employees, that one day they might be able to look across the street and say, well, I am finally getting equal pay for equal work.

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

Senator SEWALL: Thank you, Mr. President. Members of the Senate, I would just like to go back to the question that I asked that was not answered in the last time that we debated this, and the question that Senator Devoe asked today. With whom will the county employees be negotiating? And how is that going to bind all the other levels of government in this issue? This is what I really want to know. This has not been answered. I want to know, that as the Senator from Lincoln, if I'm going to be bound to vote for an agreement made between the sheriffs, perhaps, of Penobscot County and whom-ever. Is that going to bind my vote when that budget gets here eventually? How are the mechanics of this going to work? That's the answer I want to know.

The second thing, just mentioning the unions, which union represents most of the municipal unionized policemen in the State of Maine?

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

Senator COLLINS: Mr. President, I have to share the concern of the people that I represent with the Senate. Some of the ideas expressed by the good Minority Leader, the Senator from Cumberland, Senator Conley, are in the tradition of freedom to organize and bargain collectively. That has played an important role in the American history and the private sector.

When we come to the public sector, we have to balance another consideration. That consideration can, very briefly, be described as government by the people. Unfortunately, matters do not work out with as much idealism as we might wish. What will happen in the two counties that I represent, if this Bill passes, is this. The deputy sheriffs, who are the active group, will be organized by the Teamster's Union. The Teamster's Union will employ a professional bargaining agent to negotiate the contracts. The professional negotiator will be so skillful that he will be miles ahead of the county commissioners in ability to negotiate. The county commissioners will either be at a great disadvantage in the negotiation, or they will have to hire a professional negotiator, just as the State of Maine has had to do in negotiating in contracts.

This cost of negotiation will fall on the taxpayers. The result, in the long run, is that the tax rate on the homes and businesses of the people in my county will be set, to a very important degree, by the officials of the Teamster's Union.

Those officials will be people who are controlled from outside the State of Maine.

If you think that I'm talking scare tactics, you ought to look at the history of the City of New York and what its unions have done to it. If you like the financial condition of the City of New York, and what its unions have done to it. If you like the financial condition of the City of New York, then you'll want to think about what may happen to your own county.

What happens on the other side of the political coin is, that the people get restive with the soaring tax rate. They petition onto the ballot such things as Proposition 2½ in Massachusetts, or the propositions that were passed in California, or the proposition that passed in the City of Saco, put a cap on. What happens then? Education suffers, welfare suffers, and so on.

The union contract is sacrosanct, except that a few union people lose their jobs, because there isn't enough money to go around.

So you accomplish one goal, but you find a new specter rising in another area. That's the scenario I see, and I see it because of what I

have seen happen in other places that have gone this route.

I think that in Maine, our counties are small enough, in the number of employees, that our employees can communicate with the management, that they can discuss these things on an informal basis, as they do now, without the necessity of formalizing the arrangement and bringing in the unions, the extra cost, the program of having our tax rate set by outsiders. Thank you, Mr. President.

The PRESIDENT: Is the Senate ready for the question?

The Chair recognizes the Senator from Oxford, Senator Sutton.

Senator SUTTON: Mr. President, when the vote is taken, I ask that it be taken by the yeas and nays.

The PRESIDENT: A Roll Call has been requested.

The Chair recognizes the Senator from Penobscot, Senator Pray.

Senator PRAY: Mr. President, and Members of the Senate, I'd just like to take a moment of your time to respond to a few of the comments that have been made here today in the debate of this issue, and perhaps relate a little bit of what's happened in Penobscot County, as well, and answer the questions from the Senator from Penobscot, Senator Devoe, and the Senator from Lincoln, Senator Sewall.

The Bill that we have before us is a question as to whether or not, if employees, first of all, would have the right to even choose as whether or not if they would want to organize together collectively for the purpose of approaching those who administer county government. That's what the Bill does.

The debate that has centered around this Bill mostly is the instance of carrying it a step, or two, or three steps further, as if these individuals in the first place have already done that. The Senator from Knox, Senator Collins, has stated that most of the counties are small enough, he believes, so that they could operate without this. Well they may very well do that anyway. If there are no problems, if the county employees in those counties feel as if that the county commissioners are treating them fairly at this time, then they may not choose to go that route.

Let's remember the private sector, of where organizations, businesses, the employees have the right to do it. In the State of Maine, roughly only 15 percent of our labor force belongs to a union. That leaves 85 percent of the public which have chosen not to. This may very well carry forth in the private sector as well.

The Senator from Oxford, Senator Sutton, expressed grave concerns about the Teamsters. I have grave concerns about the Teamsters. Look at who they endorsed for President last time, the man that now sits in the White House. Maybe we ought to investigate him a little bit, since he's connected with the Teamsters. The Teamsters have given him his blessing.

I think that we should put this question back in perspective, as to the choice that we are making. We are giving one segment of our society, which now does not have a right, the right that every level of the public sector has. If you want to know what restraints it's going to put on Legislative Delegations, then look at what restraints it's put on the Legislative Delegation of the entire Legislature dealing with state employees, or the restraints which it's put on town councils and city councils and boards of selectmen which negotiate with organizations which have formed in their municipalities. I think that in many instances you may find that it's not a union that these individuals are having to negotiate with, but just an association of employees which has already been created in Penobscot County, the Deputy Sheriffs Association of Penobscot County. The Senator from Penobscot, Senator Devoe, raised several questions about that. If he remembers our work sessions on the county

budget, there are a number of individuals who wanted to address each department separately, because they felt as if one particular department deserved a greater increase than another, even though they may have been doing the same work.

There was other debate in the delegation meeting as to whether or not if the increase in Penobscot County should only go to the deputy sheriffs, because they were the only ones that left their job last year. The other employees shouldn't have any type of increase in the vicinity of the 15 percent.

It's those types of problems which could create another problem the following year. If you allowed employees first of all, the option of making that choice for themselves, then perhaps Penobscot County wouldn't have ended up in the problems it had, and perhaps other counties, from what I read in the paper, are also going through a series of problems as well.

I think if we fail to pass this Bill today, to allow them at least that choice, in a democratic process of either choosing to join, or not to join an organization in which collectively goes and represents all of the employees, then we're making a grave mistake.

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 question before the Senate is the motion by the Senator from Oxford, Senator Sutton, that LD 316 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 — Ault, Collins, Devoe, Emerson, Gill, Huber, McBreairty, Perkins, Redmond, Sewall, C.; Shute, Sutton.

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

ABSENT — Hichens.

A Roll Call was had.

12 Senators having voted in the affirmative and 19 Senators in the negative, with 1 Senator being absent, the motion to Indefinitely Postpone L. D. 316 does not prevail.

The PRESIDENT: The Chair recognizes the Senator from Oxford, Senator Sutton.

Senator SUTTON: Mr. President, I present Senate Amendment "A" (S-74) to L. D. 316 and move it's Adoption.

The PRESIDENT: The Chair would advise the Senator that a Reconsideration motion must be accomplished before the Amendment can be offered.

Senate at Ease

The Senate called to order by the President.

The PRESIDENT: The Chair understands the Senator from Oxford, Senator Sutton moves that the Senate Reconsider its action whereby it Adopted Committee Amendment "A".

The Chair recognizes the Senator from Cumberland, Senator Conley.

Senator CONLEY: I would request a Division.

The PRESIDENT: A Division has been requested.

The Chair recognizes the Senator from Oxford, Senator Sutton.

The Chair recognizes the Senator from Cumberland, Senator Conley.

Senator CONLEY: Mr. President, I would ask if the good Senator from Cumberland, was

on the prevailing side?

The PRESIDENT: The Senate will be At Ease, pending the research into the files, unless the good Senator from Oxford, Senator Sutton would care to respond.

The Chair recognizes the Senator from Oxford, Senator Sutton.

Senator SUTTON: Mr. President, No.

The PRESIDENT: The Senator from Oxford, was not on the prevailing side.

The Chair recognizes the Senator from Kennebec, Senator Pierce.

Senator PIERCE: A Parliamentary Inquiry.

What is the pending question?

The PRESIDENT: The pending question was Reconsidered.

Senate At Ease

The Senate called to order by the President.

The PRESIDENT: The Chair would advise the Senate that the Senator from Oxford, Senator Sutton was on the prevailing side on the Adoption of Committee Amendment "A".

The question now before the Senate is the motion by the Senator from Oxford, Senator Sutton, that the Senate Reconsider its action whereby it Adopted Committee Amendment "A".

The Chair recognizes the Senator from Cumberland, Senator Conley.

Senator CONLEY: I request that the vote be taken by the Yeas and Nays.

The PRESIDENT: 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 pending question before the Senate is the motion by the Senator from Oxford, Senator Sutton, that the Senate Reconsider its action whereby it Adopted Committee Amendment "A" (S-66) to L. D. 316.

A Yes vote will be in favor of Reconsideration.

A No vote will be opposed.

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEA — Ault, Collins, Devoe, Emerson, Gill, Huber, McBreairty, Perkins, Pierce, Redmond, Sewall, C.; Shute, Sutton, Teague.

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

ABSENT — Hichens.

A Roll Call was had.

14 Senators having voted in the affirmative and 17 Senators having voted in the negative, with 1 Senator being absent, the motion to Reconsider Adoption of Committee Amendment "A" (S-66) does not prevail.

The PRESIDENT: Is it now the pleasure of the Senate that L. D. 316 be Passed to be Engrossed.

The Chair recognizes the Senator from Knox, Senator Collins.

Senator COLLINS: I move that this be Tabled for 1 Legislative Day.

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

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

The PRESIDENT: A Division has been requested.

Will all those Senators in favor of the motion by the Senator from Knox, Senator Collins, to Table L. D. 316 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.

13 Senators having voted in the affirmative and 18 Senators having voted in the negative, the motion to Table for 1 Legislative Day, does not prevail.

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

Senator COLLINS: I request a Division.

The PRESIDENT: A Division has been requested.

Will all those Senators in favor of Passage to be Engrossed, 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 13 Senators having voted in the negative, the Bill was Passed to be Engrossed.

The Chair recognizes the Senator from Cumberland, Senator Conley.

Senator CONLEY: Mr. President, having voted on the prevailing side, I now move Reconsideration whereby this Bill was Passed to be Engrossed and I would urge the Senate to vote against me.

The PRESIDENT: The pending question before the Senate is the motion by the Senator from Cumberland, Senator Conley that the Senate Reconsider its action whereby LD 316 was Passed to be Engrossed.

Will all those Senators in favor of Reconsideration, please say "Yes".

Will all those Senators opposed, please say "No".

A Viva Voce Vote being had, the motion to Reconsider does not prevail.

Sent down for concurrence.

The PRESIDENT: The Chair would direct the Senate's attention to the fourth matter of Unfinished Business:

Bill, "An Act to Encourage the Establishment of Municipal Energy Commissions." (H. P. 313) (L. D. 381)

Tabled—March 26, 1981 by Senator Collins of Knox.

Pending—Enactment.

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

Senator COLLINS: I request a Roll Call.

The PRESIDENT: 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 Oxford, Senator O'Leary.

Senator O'LEARY: Mr. President, I would like to briefly remind the Members of this Body, that we debated this Bill fully last week. It went through here with an 18 to 14 vote, bipartisan. The sponsorship is bipartisan on this Bill. It is not mandating anything to the towns, or the cities. There are presently 4 towns and cities doing it, Rangeley, Wayne, Auburn and Litchfield. I hope that you will vote for the Enactment of this Bill.

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

Senator MCBREAIRTY: Mr. President and Honorable Members of the Senate, I would like to repeat what I did last time that we debated this Bill. Almost the first thing that the sponsor said when she appeared at the hearing was that this Bill is not really needed, the towns can do this now.

I think Senator O'Leary's remarks a minute ago proves that. He said several towns are already doing this.

I think that the passage of this Bill, could restrict towns from what they might do over what they can do now.

Now if you want to vote for a Bill, to please a

nice lady and put a law on the books that is not needed, at the taxpayers expense, I think that you should vote for this Bill. Thank you.

The PRESIDENT: The pending question before the Senate is Enactment of LD 381.

A Yes vote will be in favor of Enactment.

A No vote will be opposed.

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

ROLL CALL

YEA — Ault, Brown, Bustin, Carpenter, Charrette, Clark, Conley, Dutremble, Huber, Kerry, Minkowsky, Najarian, O'Leary, Pray, Trafton, Usher, Violette, Wood.

NAY — Collins, Devoe, Emerson, Gill, McBrearty, Perkins, Pierce, Redmond, Sewall, C.; Shute, Sutton, Teague, Trotzky.

ABSENT — Hichens.

A Roll Call was had.

18 Senators having vote in the affirmative and 13 Senators in the negative, with 1 Senator being absent, the Bill was Passed to be Enacted.

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

Senator O'LEARY: Mr. President, I move Reconsideration and would ask you to vote against me.

The PRESIDENT: The pending question before the Senate is the motion by the Senator from Oxford, Senator O'Leary that the Senate Reconsider its action whereby LD 381 was Passed to be Enacted.

Will all those Senators in favor of Reconsideration, please say "Yes".

Will all those Senators opposed, please say "No".

A Viva Voce Vote being had, the motion to Reconsider does not prevail.

The Bill having been signed by the President, was by the Secretary presented to the Governor for his approval.

The Chair laid before the Senate the Tabled and specially assigned matter:

HOUSE REPORTS—from the Committee on Business Legislation — "Bill, An Act to Repeal the Termination Date of the Emergency Petroleum Products Supply Act." (H. P. 863) (L. D. 977) Majority Report Ought to Pass as Amended by Committee Amendment "A" (H-116); Minority Report Ought Not to Pass.

Tabled—March 26, 1981 by Senator COLLINS of Knox.

Pending-Motion of Senator CLARK of Cumberland to Accept Majority Report.

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

Senator COLLINS: Mr. President, a couple of months ago when the Governor requested us to consider this matter in a meeting with Joint Leadership, I was one of those who accepted the Governor's request on the basis that it would be on a 60 day basis with a companion bill to follow which would permit a full public hearing so that we would have a chance to hear the other side of the story. We were willing to go with the Governor's request, hearing only one side of the story in a temporary posture.

Now that I have heard both sides of the story, it is my feeling that this would really not be a significant enough measure to warrant putting it on the books, with the possible danger that many other states would follow suit, and that our oil companies would be faced with 51 conflicting jurisdictional requirements instead of the one that they have known in the past.

I was asked, I think quite properly, whether I was willing to take the responsibility that suppliers might withdraw from Maine and leave Maine in a very difficult position. I answered in this way. It is a serious responsibility and I have not taken it lightly. Maine has no oil wells and no refineries. We are dependent for our oil allocations upon forces outside of this State. The effect that the Maine law can have on those forces is extremely small. We have, as assistance to us in the case of gasoline, a Federal

six months notice, which does help in some measure. I recognize it does not cover heating oil, and that there are other circumstances of where there might not be notice.

It is my experience, in observation of the business world, that business people do give advance notice whether they're required to or not, and that rumors of changes become rampant the minute they are out of the executive board room. I can not conceive that Maine will not have ample notice if there are changes. All of the evidence that I have heard is any of those who decide to withdraw from Maine. If it should go to the extreme that Maine begins to feel a pinch, then it is my best judgement that the remedy would be in Washington, and not in Augusta, because only national forces can affect the reallocation of petroleum supplies. If that situation should come about, I fully expect that the Congress would act to give the President standby powers to protect states where there was a lack of supply.

So I will be voting today against extending the notification provision.

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, L. D. 977 had a lengthy public hearing. I believe it was back on March 9, if I remember the remarks of the gentleman from Oxford, Senator Sutton, yesterday, at which extensive conflicting testimony was presented, conflicting testimony specifically in the area of the opponents to the measure, simply because many of the questions of the committee were not answered.

I am obviously a signer of the Ought to Pass Report, and am under no delusions that this Bill will pass ultimately with its emergency preamble.

I think it's appropriate that we address some of the issues of the opponents' testimony today. We heard at that lengthy public hearing that the opponents to L. D. 977 fear that what we do here in Maine is a very precedential move. We heard that the Feds are in the process of developing some form of allocation formula in the event of a supply emergency. We heard that this Legislation is unnecessary, and that in 1978 the Petroleum Marketing Practices Act was passed by Congress makes everything all better. We also heard a suggestion that this Act may even be unconstitutional, and that the free market force should determine the price of oil products, and that encouraging producers to make the largest investments in their production in the United States is the way to go. We also heard that there is no evidence to justify a return to government controls. This would be a backward step in this nation's emergency energy policy. We also heard that such an approach is contrary to a national emergency policy. Oil companies should be allowed to govern and control distribution of their products. We also heard that lower cost retail operations will edge out the higher ones, and that Maine would be denied the free market system, and that this would ultimately work to the disadvantage of Maine consumers.

To summarize, L. D. 977 is a Bill that reflects an overreaction to a perceived supply crisis.

Let's address the issue of the Petroleum Marketing Practices Act of 1978, which is limited in scope. It applies only to gasoline and diesel fuels. It requires notification of 180 days in advance of a total market withdrawal when a supplier is cutting off its own franchises, i. e., dealers selling under its own brand name. It allows for a major loophole permitting 90-day withdrawal notice to the dealer only, not to the Governor of the State. It covers only withdrawals from either the entire state or from Standard Metropolitan Statistical Areas (SMYA) of which Maine has only three—Portland, Lewiston-Auburn, and just recently, Bangor.

As stated by the good Senator from Knox, Senator Collins, the PMPA does not cover the following points covered by L. D. 977:

The PMPA does not cover home heating oil, kerosene, jet and aviation fuel, residual oil, Bunker C, propane, butane and LPG at all.

It does not cover partial withdrawal from most parts of the State, for example withdrawal from Aroostook County, Kennebec County, and Knox County.

It does not cover withdrawal with respect to gasoline and diesel from dealers who do not have a franchise relationship with the supplier, many of these we have in Maine.

It does not cover reductions in supply to dealers when these reductions are not connected with market withdrawal. (Our law allows reductions without notice, only if they are a result of some external force and are applied equitably here and elsewhere).

It does not provide for enforcement by any Federal or State authority or by any end-use customer, only for law suits by franchisees.

L. D. 977 removes the sunset date, and also takes into account the PMPA which supercedes our own law in the narrow area that it covers.

Maine, as we know, is not a prime market; in fact, Maine is somewhat less than a competitive market.

We are not worried about a normal attrition of gas stations; we are worried, however, about suppliers to these stations. Our idea is to make sure that there is enough gas and oil available in Maine so that Maine people can function.

On the basis of the history prior to 1973, we have been asked to have confidence in the major suppliers. L. D. 977 will provide that sense of security... as safety net, if you will. I believe, and the majority of the Committee on Business Legislation believes, that Maine needs this safety net, for it will allow us the opportunity to collect data and related information in order to gain that sense of security.

The Senior U. S. Senator from Maine, Senator William S. Cohen, wrote a letter to our Governor complimenting the Governor and the Legislature for acting so promptly, as we did earlier in this Session, to prevent immediate reductions in supply of petroleum products in Maine.

There is a growing belief that the nation's economic problems will be solved by allowing corporations free rein to operate in a deregulated market. Have we forgotten the irresponsible environmental pollution, the anti-competitive practices and the price gouging which inspired legislation to protect the health, safety and welfare of the citizenry? Now that the oil industry has been decontrolled, we are expected to rely on the oil companies to meet our energy needs and to manage a shortage. I submit to you that the record of the oil companies does not warrant such trust.

Oil was deregulated under the guise of needed freedom to research in the area of alternative energy sources and to seek more extensive oil explorations, and what in fact, has been done, expanding into the area of mining.

The major refiners have consistently realized excessive profits at the expense of consumers. According to the Department of Energy, many oil companies have violated price regulations and overcharged consumers billions of dollars. During the year of the gasoline shortage, the earnings of the twenty-five largest companies increased an average of 66%. The Council on Wage and Price Stability charged eleven refiners with obtaining unlawful profit margins in 1979 (some as high as 40%). The worst violations occurred during the third quarter, the height of the shortage. Refinery margins for heating oil, a decontrolled product at that time, increased 806% in 1979. 1980 profits rose another 26% over the record levels of the previous year. In the weeks following decontrol, gasoline and heating oil prices jumped at least ten cents a gallon. With decontrol, oil analysts expect "rampant prosperity" on the producing end of the business, and they wonder "only how high profits will go" in 1981.

These incredible profits may even have been understated. A House Study Group charged that inventory accounting techniques hid the full extent of domestic profits. According to a Citizen-Labor Energy Coalition report, oil companies avoided paying \$800 million in taxes to states by failing to report all domestic profits. Not only have refiners overcharged, but they have cost consumers by failing to pay taxes.

The major oil companies have not treated their distributors and dealers any better. Refiners have tightened credit terms at a time when higher product prices and soaring interest rates create serious cash flow problems for local dealers. Last summer, Amoco failed to offer its traditional summerfill program which allows distributors to obtain heating oil in the summer and pay a discount price for it in the fall. Instead, they imposed a penalty fee on late payments. Major oil companies are also pressuring gasoline dealers to meet minimum volume requirements and are threatening to terminate supplies if a dealer is unsuccessful. Texaco is offering current, gasoline contracts which allow the company the right to stop supplying any product or change its product grades at any time. The contracts also include strict credit terms. Texaco mailed termination notices to distributors who had not even seen the new contract. Although a Texaco official claimed it was a mistake, Texaco customers perceived the action as intimidation. An oil marketing journal polled its readers and asked if they would recommend their supplier. Five out of the nine refiners mentioned, received negative comments from 40% or more of the respondents. At a time when oil companies are realizing record profits, many distributors and dealers are fighting for survival.

Even with deregulation, free enterprise will not occur in the oil industry because a handful of companies control the production, refining and marketing of petroleum products. The Federal Trade Commission has charged the eight largest refiners with anti-competitive practices including coordinated efforts to raise prices, to avoid dealing with independent oil companies, and to curtail the supply of crude. Major oil companies are also assuming control of alternative energy sources such as coal, uranium, geothermal, solar and shale oil. The Federal Trade Commission has also expressed concern that oil company involvement in solar energy will restrain the development of that resource. As long as petroleum is available, oil companies will not rush to develop other kinds of energy which might curtail their oil profits.

Refiners have already announced state-wide withdrawals and will continue to consolidate their markets in order to maximize profits. Further pull-outs are inevitable, a fact acknowledged by oil industry sources and publications. Companies serving Maine have promised supplies for only one year. They are in business to make a profit, and will stay in the state only if it is lucrative. Why should we listen to their assurances that the free market will resolve Maine's supply problems when they have gouged consumers, harassed dealers and collaborated to restrain competition? The oil companies have not demonstrated good faith and should not be expected to guard the needs of Maine citizens and consumers. It is the responsibility of this state government to protect the health, safety and welfare of our people. Corporations, too frequently, have no conscience. They are here today because supplies are plentiful. The majority of our committee dare not trust them in an uncertain future.

I have no interest in imposing long-term restrictive legislation on oil companies. But, the operation of this law requires the good will and cooperation of the oil companies, and would not impose a burdensome restriction on suppliers.

I believe, that considering all the testimony that we heard at that particularly public hear-

ing, that it is indeed appropriate that today, this Maine Senate, Accept the Majority Ought to Pass Report.

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

Senator MINKOWSKY: Mr. President and Members of the Senate, yesterday you might recall I asked a very, very simple question and I never got really any constructive answers. I guess I did have some motivation because there has been very many compelling arguments raised this afternoon, by the good Senator from Cumberland, Senator Clark.

I listened most attentively. I thought that she was so involved in the evaluation that I guess I have to apologize if I forgot her name.

I think that I made it perfectly clear yesterday that I myself personally as a taxpayer, as a homeowner, as a father, am compelled, just like every other citizen in the State of Maine, to pay the outrageous costs. My concern was exemplified quite clearly when I supported the Governor's position back in January, as basically every single member of this Senate did do at that time.

I think that I also expressed yesterday, that I too, did not trust the oil industry. I think that I further stated I never trusted multinational corporations.

Now if my memory serves me correctly, deregulation took place under my party's administration, but I understand that it was not supposed to be implemented until later on this year.

I am also cognizant of the American public, was fully aware that we basically had artificially low prices at that particular segment of time. Even though in Maine we have addressed this problem continually, it has finally come to rest, that has affected the entire nation.

When I mentioned that the drafters of this particular legislation, and I must add on a bipartisan basis, must have had a crystal ball to make the assumption that whereas a reduction or discontinuance of petroleum product supplies may occur April 1, I am now sort of coming to the conclusion that that might have been so.

My concern also is with the Federal Government who seems to have taken over much of the State's rights in so far as distribution of our petroleum products as we fondly referred to him as being Big Brother.

The standby allocation regulations that are currently in effect at the Federal Level and they are activated in the event of severe supply disruption. I guess basically this is a safeguard that I had looked upon somewhat which would be accepted universal throughout this nation and not have the 50 state legislatures address their particular problems on an individual basis.

My other concern with the Bill that is before us was the costs of enforcement, and auditing. The State of Maine would have to fund these costs out of the Office of Energy Resources, because of the termination of Federal funds in the MAGE area. That brought to mind is there an appropriation that should be attached to this particular measure?

Please believe me, Ladies and Gentlemen of the Senate, that I am not locked into this particular proposal one way or the other. All I was asking yesterday, was for more additional information to make a constructive evaluation on behalf of the people that I represent in my Senatorial District.

On the other hand maybe there is a great distrust and I think that the good Senator from Cumberland, Senator Clark brought out many things that have happened since 1973. Things that I, as an individual, or the people of the State of Maine in our very turbulent times had forgotten about. That is one basic reason why we have so many Bills before a Legislative Session, because we are in very turbulent times, and social, and economy things do change very

drastically and very rapidly.

Even though I concur that in my own estimation and I think the term was used "gouge the American public", in my feeling had a great deal of relevancy. On the other hand, I think, that I am somewhat compassionate to a degree to simply say that since we do have the Federal Law standing behind us, at the present time, unless there are other drastic changes taking place, I would vote against today, at least today, the extending of these provisions under the amendment as before us.

I just wanted the Record to state very clearly, Mr. President and Members of the Senate, that I, as an average rank and file employee, am faced with the same conditions that most people in the State of Maine do face. On the other hand I want to be sure that as we move along these lines, that we are being fair and very objective.

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

Senator PRAY: Mr. President and Members of the Senate, first of all I apologize at this late time on Friday afternoon to stand up and add a few words onto the lengthy debate which we have already had.

I would like to respond to the, I believe the, only question that I heard the Senator from Androscoggin, Senator Minkowsky ask, dealing in reference to, enforcement or what the penalties that exist under this statute, how are they going to enforce it? This Bill does not provide for any enforcement by Federal or State authority or any type end-run injury to the customer. What it does provide for is law suits by individuals who have franchises, dealerships and whatnot that in case the supplier leaves them high and dry and there is no oil, then the free market system or what you have provides an opportunity for these individuals to seek actions in the courts.

I am a little perplexed as to how we solve such a complex problem. The Senator from Knox, Senator Collins says, if I am right in his statements, that if anything is going to be done then perhaps it should be the Federal Government that should do it. The other arguments are that state's rights and we should allow the states to address these issues.

This is a pretty large country that we have, the interests vary in the country, the necessities and the needs of each individual state vary as you go through each one of them. It just so happens that here in Maine that one of the greatest concerns that we all share and one of the greatest expense that we all have are the winter months that we endure the cost of fuel and the necessity of heating fuel and gasoline and so forth to travel such a large rural State is a day to day necessity that we meet.

This Legislation is intended to address this problem. It is something which I think that if we follow the remarks or the sentiment of the Senator from Oxford, Senator Sutton, expressed earlier on another matter, since we are here to represent our people, how do we really think that our constituency would feel if we put this out to the voter for their approval? I believe that the voters of this State would largely, overwhelmingly, perhaps through some misconceptions seeking revenge against who they consider to be the enemy, the oil companies, I believe that they would overwhelmingly endorse this. I would hope that we would do so today. Thank you.

The PRESIDENT: Is the Senate ready for the question?

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 An-

droscoggin. Senator Minkowsky.

Senator MINKOWSKY: Mr. President and Members of the Senate, just one more point of clarification, which I think is important, to have into the Record. Under existing law approved January 29, 1981, which was H. P. 485, L. D. 489 the last paragraph does refer specifically to the right of action injunction and damages. It says, wherever, whenever the Attorney General, after a complaint has been filed by any person alleging injury under this section or upon his own initiative after investigation believes any supplier has violated or is known to be in violation of the provisions of this act, he shall bring an action to enjoin the violation in any Superior Court in the State of Maine. Additionally any person who is injured in his business or property by the violation of this act may bring an action to enjoin the violation and to recover all damages sustained thereby including cost of suit, and reasonable attorney fees, in any Superior Court of the State. In addition, in any action for money damages the court or jury may award punitive damages not to exceed 3 times the actual damages if the violation is found to be willful."

I think basically this is another reason why we should be very, very cautious of how we approach this particular matter, not to basically injure some of the suppliers that we have here in the State of Maine.

The PRESIDENT: The pending question before the Senate is the motion by the Senator from Cumberland, Senator Clark, that the Senate Accept the Majority Ought To Pass, as amended, Report of the Committee.

A Yes vote will be in favor of Accepting the Majority Report.

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, Najarian, O'Leary, Pray, Trafton, Usher, Violette, Wood.

NAY — Ault, Collins, Devoe, Emerson, Gill, Huber, McBreairty, Minkowsky, Perkins, Pierce, Redmond, Sewall, C.; Shute, Sutton, Teague, Trotzky.

ABSENT — Hichens.

A Roll Call was had.

15 Senators having voted in the affirmative and 16 Senators in the negative, with 1 Senator being absent, the motion to Accept the Majority Ought to Pass, as amended, Report of the Committee, in concurrence, does not prevail.

The Minority Ought Not to Pass Report of the Committee Accepted, in non-concurrence.

The PRESIDENT: The Chair recognizes the Senator from Oxford, Senator Sutton.

Senator SUTTON: Mr. President, having voted on the prevailing side, I now move Reconsideration and I would urge you to vote against my motion.

The PRESIDENT: The pending question before the Senate is the motion by the Senator from Oxford, Senator Sutton, that the Senate Reconsider its action whereby it Accepted the Minority Ought Not to Pass Report of the Committee.

Will all those Senators in favor of Reconsideration, please say "Yes."

Will all those Senators opposed, please say "No".

A Viva Voce Vote being had, the motion to Reconsider does not prevail.

Sent down for concurrence.

On motion by Senator Pierce of Kennebec, Adjourned until Monday, March 30, at 5 o'clock in the afternoon.