

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

***One Hundred and Tenth
Legislature***

OF THE

STATE OF MAINE

Volume II

FIRST REGULAR SESSION

MAY 4, 1981 to JUNE 19, 1981

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STATE OF MAINE
One Hundred and Tenth Legislature
First Regular Session
JOURNAL OF THE SENATE
May 13, 1981
Senate called to order by the President.

Prayer by the Reverend Stewart Rowley of the Ellsworth Congregational Church.

REVEREND ROWLEY: O Thou, eternal God, the creator and maker of us all, we ask that Thou would be present with this Senate of Maine, in all of its deliberations. Guide each Senator so that they might have the understanding, patience, wisdom, strength, and courage that comes from Thee, to guide and direct them in all that they consider, not being entrapped by their own self interests, but being more aware of the good of all, for our nation, for the people of Maine. So that they may build the foundation of truth, of justice, of love, of peace. Always in Thy forgiveness, we stand, correct, guide, each and every one, so that they may find and act on the basic principles of what Thou has given to each of us, for all mankind. Guide them by Thy spirit. Through Jesus Christ, our Lord, Amen.

Reading of the Journal of yesterday.

Paper from the House Non-concurrent Matter

Bill, "An Act to Regulate Motorized Bicycles." (H.P. 906) (L.D. 1073)

In the Senate, May 11, 1981, Failed of Enactment, in non-concurrence.

Comes from the House, Passed to be Engrossed as amended by Committee Amendment "A" (H-287) as amended by House Amendment (H-367) Thereto, in non-concurrence.

The PRESIDENT: Is it the pleasure of the Senate to Recede and Concur with the House? It is a vote.

Communication House of Representatives

May 12, 1981

Honorable May M. Ross
Secretary of the Senate
110th Legislature
Augusta, Maine
Dear Madam Secretary:

The House voted today to Adhere to its former action on Bill "An Act Concerning Appointments to the Maine Veterans Home Board of Trustees" (S.P. 73) (L.D. 110).

Respectfully,
S/EDWIN H. PERT
Clerk of the House

Which was Read and Ordered Placed on File.

Senate Papers

Senator SHUTE of Waldo (Cosponsors: Representative CROWLEY of Stockton Springs, Representative DRINKWATER of Belfast and Representative HUTCHINGS of Lincolnville) presented, Bill, "An Act to Amend the Petroleum Liquids Transfer Vapor Recovery Law." (Emergency) (S.P. 602)

(Approved by the Majority of the Legislative Council pursuant to Joint Rule 27.)

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

Sent down forthwith for concurrence.

Joint Resolution

Senator SHUTE of Waldo (Cosponsors: Senator NAJARIAN of Cumberland, Representative DRINKWATER of Belfast) presented,
STATE OF MAINE

IN THE YEAR OF OUR LORD
ONE THOUSAND
NINE HUNDRED
AND EIGHTY ONE

JOINT RESOLUTION MEMORIALIZING CONGRESS AND THE PRESIDENT OF THE UNITED STATES TO CONTINUE THE PUBLIC WORKS PROGRAM OF THE ECONOMIC DEVELOPMENT ADMINISTRATION SO AS TO PERMIT FUNDING OF PROJECTS NECESSARY TO THE FUTURE WELL-BEING OF THE STATE AND NATION

We, your Memorialists, the Senate and House of Representatives of the State of Maine in the One Hundred and Tenth Legislature, now assembled, most respectfully present and petition the Honorable Ronald W. Reagan, President of the United States, as follows:

WHEREAS, this body commends the efforts of the Administration and Congress to reduce inflationary pressures in the economy by recommending budget cuts as well as tax incentives for private capital investments; and

WHEREAS, this body supports reductions of the various federal programs to achieve these objectives; however, there is great concern over the proposed elimination of future funding for the Economic Development Administration and the rescission of the remaining appropriations of fiscal year 1981 of the agency; and

WHEREAS, the Public Works and Economic Development Act of 1965, by which the Economic Development Administration was established, has resulted in \$131,684,993 being spent in Maine, amounting to 429 grants and loans; and

WHEREAS, a large proportion of the EDA investment in Maine has been to those industries that have their basis in the state's natural resources — food processing facilities and forest product manufacturing or to assist declining industries such as textiles and shoes in some of the state's smaller towns and more isolated regions; and

WHEREAS, investments in the private sector have created 8,570 permanent jobs and countless temporary jobs involved in the construction or expansion of industry in the State and local public works' projects have created over 25,000 temporary jobs and 17,050 permanent positions in the State; and

WHEREAS, it has been our experience in Maine that the benefits from this program far outweighs the public cost whenever the increased economic activities resulting from investments have been thoroughly examined; and

WHEREAS, over \$25,000,000 worth of projects in Maine are pending funding at this time, \$10,400,000 was being counted on for the development of 2 cargo ports and over \$2,000,000 was anticipated for planning and technical assistance and for development of a statewide Revolving Loan Fund; and

WHEREAS, included in the \$25,000,000 are the fish piers for which the citizens of Maine have already approved a bond issue and only \$2,000,000 of the anticipated \$7,500,000 was received before the funding cut; and

WHEREAS, projects with applications pending were notified by EDA that they should not expect to receive EDA assistance since 1981 funds were sufficient to cover only those projects for which full approval had been given prior to the Administration's rescission proposal; now, therefore, be it

RESOLVED: That we, your Memorialists, express our strong support for the Public Works Programs of the Economic Development Administration and respectfully urge the Congress and the Honorable Ronald W. Reagan, President of the United States, to continue the funding of this program so as to permit the continued development of job-generating projects so necessary to the future well-being of this State and Nation; and be it further

RESOLVED: That duly authenticated copies of this resolution be transmitted forthwith by

the Secretary of State to the Honorable Ronald W. Reagan, President of the United States, the President of the Senate and Speaker of the House of Representatives of the United States Congress and to each member of the Maine Congressional Delegation.

(S. P. 603)

Which was Read and Adopted.
Sent down for concurrence.

Order

An Expression of Legislative Sentiment recognizing:

Kathryn Ruth of Freeport, upon her initiation into the University of Maine at Orono's Delta Chapter of Phi Beta Kappa. (S.P. 601)

Presented by Senator CLARK of Cumberland (Cosponsor: Representative MITCHELL of Freeport).

Which was Read and Passed.
Sent down for concurrence.

Committee Reports House

Leave to Withdraw

The Committee on Judiciary on, Bill, "An Act Providing for Minimum Support for All Children of a Responsible Parent under the Alternative Method of Support Enforcement Law." (H.P. 843) (L.D. 1009)

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 Energy and Natural Resources on, 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)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-366)

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

Which Report was Read and Accepted, in concurrence, and the Bill Read Once. Committee Amendment "A" was Read and Adopted, in concurrence, and the Bill, 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 Related to Teacher Standards and Certification." (S. P. 319) (L. D. 909)

Leave to Withdraw

Senator HUBER for the Committee on Appropriations and Financial Affairs on, Bill, "An Act to Adjust the Rates for Reimbursement to Boarding Homes and Provide for a Cost Reimbursement." (S. P. 456) (L. D. 1302)

Reported that the same be granted Leave to Withdraw.

Senator BUSTIN for the Committee on Health and Institutional Services on, Bill, "An Act to Amend the Maine Certificate of Need Act of 1978." (S. P. 248) (L. D. 718)

Reported that the same be granted Leave to Withdraw.

Senator BUSTIN for the Committee on Health and Institutional Services on, Bill, "An Act to Amend the Maine Certificate of Need Act of 1978 to bring Nonconforming Provisions into Conformity with Federal Requirements and to make Technical Amendments." (S. P. 334) (L. D. 939)

Reported that the same be granted Leave to Withdraw.

Senator EMERSON for the Committee on Taxation on, Bill, "An Act to Exempt Fuels

Used to Heat Commercial Greenhouses from the Sales Tax." (S. P. 238) (L. D. 693)

Reported that the same be granted Leave to Withdraw.

Senator TEAGUE for the Committee on Taxation on, Bill, "An Act Concerning the Sales Tax Exemption for Air Pollution Control Facilities." (S.P. 313) (L.D. 869)

Reported that the same be granted Leave to Withdraw.

Senator EMERSON for the Committee on Taxation on, Bill, "An Act to Provide an Income Tax Check-off for Voluntary Contributions to the Department of Inland Fisheries and Wildlife." (S.P. 394) (L.D. 1187)

Reported that the same be granted Leave to Withdraw.

Senator DEVOE for the Committee on Judiciary on, Bill, "An Act to Facilitate the Removal of Clouds on Title to Proposed Unaccepted Streets in Subdivisions." (S.P. 428) (L.D. 1250)

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 McBREAIRTY for the Committee on Energy and Natural Resources on, Bill, "An Act to Authorize the Department of Environmental Protection to Provide Technical Assistance to Municipalities and other Quasi-municipal Entities Regarding Solid Waste Management." (S.P. 475) (L.D. 1358)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (S-206).

Which Report was Read and Accepted and the Bill Read Once. Committee Amendment "A" was Read and Adopted and the Bill, as amended, Tomorrow Assigned for Second Reading.

Ought to Pass is New Draft

Senator DEVOE for the Committee on Judiciary on, Bill, "An Act Concerning the Consent Requirements and Termination of Parental Rights for Adoption Proceedings." (S.P. 514) (L.D. 1436)

Reported that the same Ought to Pass in New Draft under Same Title (S.P. 604) (L.D. 1601)

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

Divided Report

The Majority of the Committee on Appropriations and Financial Affairs on, Bill, "An Act to Make Funding of the "Local Government Fund" Part of the Appropriations Process." (S.P. 90) (L.D. 206)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (S-208).

Signed:

Senators:

HUBER of Cumberland
PERKINS of Hancock

Representatives:

PEARSON of Old Town
JALBERT of Lewiston
SMITH of Mars Hill
LANCASTER of Kittery
DAVIS of Monmouth
CHONKO of Topsham
ALLOUIS of Bangor
KELLEHER of Bangor

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

Signed:

Senator:

NAJARIAN of Cumberland

Representatives:

CARTER of Winslow
BRENERMAN of Portland

Which Reports were Read.

The PRESIDENT: The Chair recognizes the

Senator from Cumberland, Senator Huber.

Senator HUBER: I move Acceptance of the Majority Ought to Pass Report.

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

The Chair recognizes the Senator from Cumberland, Senator Najarian.

Senator NAJARIAN: Mr. President and Members of the Senate, I oppose this Bill, for several reasons. I think that all of you who wanted to get more money into leeway the other day should, also, oppose this Bill.

What this Bill proposes to do is to make the Local Revenue Sharing Fund part of the Appropriations Act. As you may or may not know, the Local Revenue Sharing Act takes 4 percent of the sales and income taxes and sends that back to the municipalities.

This is the one avenue that the State has of returning money to the towns that has an inflationary growth, in it which none of the other resources that the towns have to rely on, have. For example, the property tax does not have any expansion in it for inflation. This is one source of revenue that the town has that grows as the State revenues grow.

If we put this in the Appropriations Act, it becomes an easy target when the Legislature, or the Governor, needs money. Based upon what we've done with the Inventory Tax, and the State Aid for Highways, I think that you can just about count on this kind of money being reduced, that's now going to the towns.

There are some other problems with this Bill, in that the revenue that this account will be based on estimates. If that State overestimates revenues, then the towns will have to reimburse the State. That will be money that, perhaps, they hadn't budgeted for. If the State overestimates, the towns will have to refund. If they underestimate, then the State is supposed to make up the shortfall in the next year, but based on our past history, and if we're in a tight budget crunch, we probably would not make up that shortfall.

If the Legislature wants to reduce that State Revenue Sharing Fund, they can do that. We did it in 1976, with Governor Longley, and then later on restored it back to 4 percent. I just think that this is kind of a dangerous path to go. If you want to ensure the money from the State for the municipalities so that the property tax won't increase, then I'd urge you to vote against this Bill.

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

Senator HUBER: Mr. President and Members of the Senate, this Bill proposes no change in the Municipal Revenue Formula, which is 4 percent of the State Sales Tax, Personnel Income Tax, and Corporate Income Tax. In this biennium, this amounts to roughly \$33 million, and based on estimates for the next biennium, would be in the amount of \$42 million, an increase of \$9 million, or a 27 percent increase between the two bienniums.

This item does not show up on the revenue sheets. The revenue sheets are net of this transfer. It does not show up in the budgets. I would doubt that many people in this Legislature are even aware that a \$42 million item in the next coming biennium will be transferred directly from State tax collections, to the municipalities.

We constantly have criticism that the State is decreasing its support of municipalities. This is one item that is growing, and growing substantially. This Bill proposes no change, but does propose that this amount be shown, so that the Maine Municipal Association and others, at least, know that we're aware, that we do have one substantial growth item in the budget, which is a tax transfer from the State to municipalities.

As sponsor of this Bill, I propose no change in the Revenue Sharing Formula. I think the fears

voiced by the Senator from Cumberland, Senator Najarian, are totally groundless. I do think the Legislature should be aware of a \$42 million item, which in fact, shows up only in some of the overall State reports, and even in those reports, this item is difficult to find.

The testimony before our Committee on this Bill and another Bill which proposed to increase the Revenue Sharing percentage, the testimony essentially amounted to, keep it hidden by killing this Bill, and make it bigger by passing the other one. I don't think this item should be hidden. I think it should be an item before the Legislature, not for change, but simply that they're aware that this direct transfer to municipalities is taking place.

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

Senator NAJARIAN: Mr. President and Members of the Senate: I don't question the good Senator from Cumberland, Senator Huber's, motives, but I tell you I believe this is just a first step, is to get this into the Appropriations Act, and then it will be cut back later. Forty-two million dollars. Would be very tempting to take from and to use for other purposes, which would not benefit the municipalities.

If the good Senator from Cumberland, Senator Huber, thinks that the Legislators are ignorant of this amount, or that the public is, there are many ways of highlighting this, and emphasizing it without putting it in the appropriations process. We can require it to be blocked out in the budget documents. We can have press conferences on it. We can send a notice to every legislator. There are all kinds of ways in which you can get this information across to people, without going this route, which I think, we'd all regret later down the road.

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

Senator CONLEY: Mr. President and Members of the Senate: I recall a few years ago when a very distinguished Senator from Aroostook County by the name of Collins, presented an amendment on the floor of the Senate to increase another percent of Revenue Sharing going back to communities, to try to stabilize local property tax.

I share some of the concerns the good Senator from Cumberland, Senator Najarian, has expressed, because I think that once we get in an area of having problems raising finances such as we're having right now, that the first thing the Legislature is going to go for is this package of money that is going back, and I said, to help relieve the local property tax.

I think it's unfortunate. I would hope that the Senate would Indefinitely Postpone this Bill, so that many of us can at least go back to our towns and say, well we did something to preserve something that the local communities are counting on, and not to cease something that happened a few years ago when the inventory tax was repealed, and we reneged on that promise to reimburse those communities for the loss of that revenue. We had a phase out provision that was the only thing that the Governor at that time would accept. Many communities have still not, their wounds are not healed from the loss of that money.

I just believe that if we put this in the budget, that you're going to see monies disappearing in towns and the cities such as mine, are going to be penalized and hurt very dangerously.

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

Senator WOOD: Mr. President, I'd like to make a parliamentary inquiry, if I might?

The PRESIDENT: The Senator may state his inquiry.

Senator WOOD: According to Title 30, and I think it's Section 5055, any Bill that comes out of Committee with a favorable report, which has a fiscal impact on communities or our communities, should have a Fiscal Note. This does

not have a Fiscal Note. Is it properly before us?

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

Senator HUBER: Mr. President and Members of the Senate: This Bill has absolutely no effect on the current formula. It has no fiscal impact. The arguments against the Bill, as amended, are simply arguments to keep this amount hidden from the knowledge of the Legislature. The bill does not make changes. It does not propose changes. It is not to change the formula for Municipal Revenue Sharing.

I think the arguments of keeping a major item hidden from the knowledge of the Legislature, because of the fear that, if its existence were known, it might be changed, I think is a quite an insulting argument to the Legislature.

The PRESIDENT: Is the Senate ready for the question?

The Chair recognizes the Senator from York, Senator Wood.

Senator WOOD: Mr. President and Members of the Senate: Although I'm not an expert in Revenue Sharing, it would seem to me, under this Bill, if the State overestimated to the towns, and those towns had already spent that, they would have to refund this money. There certainly would be a fiscal impact to those towns.

The PRESIDENT: The Chair recognizes the Senator from Hancock, Senator Perkins.

Senator PERKINS: Mr. President and Ladies and Gentlemen of the Senate, I rise to support one Senator from Cumberland, that of the Chairman of the Appropriations Committee, because I feel that this fund has, for many years, been hidden. Nobody has been aware of the monies that have been sent back to the towns. If we don't have confidence in ourselves enough to protect this fund when it sees the light of day, then I think that is our problem, and also the problem of people who send us here.

Therefore, I think we should show the people the monies that are being sent back to the towns, protect them as diligently as we do our other things that go to the towns now, and show the people exactly what this 4 percent means to each and every one of our communities.

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

Senator CONLEY: Mr. President, I can point out one thing. If we have a tough time passing budgets today, I can assure you we'll never be able to pass a budget if we start tampering around with the Revenue Sharing going back to the towns and the cities.

I think it's best left just the way it is, intact, so that those communities can rely on and expect revenues to come back to them, so that they can count on their budgets for that particular year.

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

Senator NAJARIAN: Mr. President and Members of the Senate: I don't think that the Legislature has any reason to have confidence that this appropriation would not be reduced. After our experiences with Tree Growth, with the Inventory Tax, and with State Aid for Highways, the whole history of the Legislature has not been very favorable towards the towns.

I would ask for a Roll Call, Mr. President, on the motion to Indefinitely Postpone.

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

Senator MINKOWSKY: Mr. President and Members of the Senate: I guess I was not truly aware of all the ramifications of this Bill. I guess, to my community, it will be of significant value. There's been this term, of a hidden appropriations back to the communities. I'm just rather curious as to what percentage, at the present time, is being reapportioned back to the communities insofar as the State Sales Tax, and the Income Tax, are concerned.

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

Senator HUBER: Mr. President and Members of the Senate: In response to the question posed, the amount is 4 percent of the Sales Tax, Personnel Income Tax, and Corporate Income Tax. The revenue sheets that are issued monthly are net of this figure. This figure does not show up on the revenue sheets, so actually the revenue sheets that you see represent 96 percent of the State Tax Collections in those three areas.

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 Cumberland, Senator Conley, that L. D. 206 be Indefinitely Postponed.

A Yes vote will be in favor of Indefinite Postponement of L. D. 206.

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, Conley, Kerry, Minkowsky, Najarian, O'Leary, Pray, Trafton, Usher, Violette, Wood.

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

ABSENT — Dutremble.

A Roll Call was had.

14 Senators having voted in the affirmative and 17 Senators in the negative, with 1 Senator being absent, the motion to Indefinitely Postpone L. D. 206 does not prevail.

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

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

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

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

Recess

After Recess

The Senate called to order by the President.

Divided Report

The Majority of the Committee on Appropriations and Financial Affairs on, Bill, "An Act to Create the Budget Stabilization Fund." (S. P. 196) (L. D. 564)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (S-209).

Signed:

Senators:

HUBER of Cumberland

PERKINS of Hancock

Representatives:

SMITH of Mars Hill

LANCASTER of Kittery

DAVIS of Monmouth

ALOUPIS of Bangor

JALBERT of Lewiston

The Minority of the same Committee on the same subject matter reported that the same

Ought Not to Pass.

Signed:

Senator:

NAJARIAN of Cumberland

Representatives:

PEARSON of Old Town

CARTER of Winslow

KELLEHER of Bangor

CHONKO of Topsham

BRENERMAN of Portland

Which Reports were Read.

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

Senator HUBER: I move Acceptance of the Majority Ought to Pass Report.

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

The Chair recognizes the Senator from Cumberland, Senator Najarian.

Senator NAJARIAN: Mr. President and Members of the Senate, this is a very bad Bill. I move the Indefinite Postponement of it. It creates a Budget Stabilization Fund, it reduces the options and flexibility of both the Executive Branch, and the Legislature. There has been no demonstrated justification for a need for it.

I want to just point one or two things about the Bill. It says, "no accepted revenue estimate may be increased after adjournment of each First Regular Session of the Legislature."

That means that regardless of the revenues coming in, even if it exceeded estimates by \$10 million or \$20 million, the Budget or Finance Office wouldn't be able to raise those estimates to cover some of the needs that State government might have in the second year of the biennium, or to do anything with that money other than, if the estimates, if revenues exceeded estimates, we'd have to put it in this Budget Stabilization Fund to prepaid bonds which had been approved by the voters, or for some kind of construction that exceeded \$500,000.

I just think that it's a terrible Bill. I hope that you will vote for Indefinite Postponement.

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

Senator HUBER: Mr. President and Members of the Senate, contrary to the opinion of the good Senator from Cumberland, Senator Najarian, I think this is a very good Bill. It happens to address two of the major problems that we create for ourselves. One is the use of surplus, unanticipated surplus to fund ongoing programs, as we did in the current biennium in the amount of roughly \$24 million. We used that surplus, created programs which will continue. There is no reason to believe that that surplus will be repeated in the next biennium.

This Bill provides that any unanticipated surpluses be used only for repayment of outstanding General Fund Bonds, for purposes for which issuance of bonds have been proved, or for major construction.

It also, in the Amendment, deals with another aspect of our State funding, in which we can cause ourselves problems. That is by enacting, toward the end of a biennium, let's say an ongoing program, fund it for one year in the next biennium. Obviously we have two years of its cost. We also can fund for less than one year, for six months for example, in which case we would have four times the cost in the next biennium, obviously.

This would provide that full biennium funding be identified with such bills proposed for less than the full biennium, and the unnecessary amount of money for the duration of the bill during the biennium in which it is enacted, would again go for similar purposes via the Budget Stabilization Fund.

This second item which is dealt with in the Amendment, was the subject of a prior joint order, which the Speaker of the other Body relegated to his broom closet, and apparently it's still there. Basically this Bill, if Enacted would deal with two of our major causes of our cre-

ating budgetary problems. If you want to spend money you don't have, or you probably would have, or almost certainly would have, vote against this Bill. If you want some sanity in the State budgeting, vote for the Bill.

The PRESIDENT: Is the Senate ready for the question?

The Chair recognizes the Senator from Cumberland, Senator Najarian.

Senator NAJARIAN: Mr. President and Members of the Senate, if the Senate perceives the arguments that Senator Huber has raised to be a problem, that sometimes we have to make an appropriation in the last six months of the biennium, there are ways to make the Legislature aware of the future costs, without appropriating money for the year and a half already past, for which we did not need that money, and putting it into this fund for retirement of bonds, and that is, to have the Fiscal Note show what the appropriation for the last six months would cost at full funding for the next upcoming biennium. Then the Legislature would be aware of the cost of that program in the upcoming biennium.

We even sometimes have limited period appointments, or temporary employees, and for the short part of the biennium, three months, or six months. Senator Huber's proposal, here, would have us fund those temporary employees for the full biennium, which has already gone by, and put it into this fund, which we may need it for a lot of other things, like highways, or whatever you can think of.

I would hate to see our money tied up in this way, especially when the voters had given us approval to retire those bonds in 20 years, and not sooner.

The PRESIDENT: Is the Senate ready for the question?

The Chair recognizes the Senator from Cumberland, Senator Huber.

Senator HUBER: Mr. President and Members of the Senate: To address two points made by the Senator from Cumberland, Senator Najarian, the Amendment to this Bill would involve bills or resolves requiring continued funding would not affect one time funding, or short term funding.

Second of all, the avoidance, or the addressing of areas which have been approved by the voters, at referendum, with funds available, I don't think in any way, subverts the intent of voters. I think when they vote for a bond issue in referendum, they are saying, we approve a project proposed in the bond issue. If you have to charge interest and charge us that interest, do so. I don't think their saying please incur us interest charges, and charge us from them.

I think, if the money is available, it seems to me that voters, via avoided debt service costs, would be appreciative if we used those current funds to address projects which they have approved.

The PRESIDENT: Is the Senate ready for the question?

The Chair will order a Division.

Will all those Senators in favor of the motion by the Senator from Cumberland, Senator Najarian, that the Senate Indefinitely Postpone L. D. 564, please rise in their places to be counted.

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

15 Senators having voted in the affirmative and 16 Senators having voted in the negative, the motion to Indefinitely Postpone LD 564 does not prevail.

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

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

Senator AULT: Mr. President, is LD 1425 in the possession of the Senate?

The PRESIDENT: The Chair would answer

in the affirmative. The Bill "An Act Relating to the Management of the Department of the Attorney General" (H. P. 1210) (L. D. 1425) having been held at the Senator's request.

On motion by Senator Ault of Kennebec, the Senate voted to Reconsider its action whereby the Leave to Withdraw Report of the Committee was Accepted.

The PRESIDENT: The Senator has the floor.

Senator AULT: Mr. President and Members of the Senate: LD 1425, the title of the Bill is, "An Act Relating to the Management of the Department of the Attorney General." It's sponsored by Representative Rolde of York, and Representative Masterton of Cape Elizabeth, who also happens to be a member of the State Government Committee before which the Bill was heard.

It's a pretty simple Bill. It just allows the Attorney General to set the compensation of his staff, the deputies, the research assistants, and the business manager. We had the hearing on the Bill, and there was support for it. Former deputy Attorney General Patterson wrote a letter to the Committee explaining his support. Former Attorney General Cohen spoke to me personally, expressing his support. The Governor, also, spoke to me personally, expressing his disapproval of the measure.

After the hearing, we did discuss it in work session. We came up with a Divided Report. The Ought Not to Pass Report was signed by Senator Ault, Senator Gill and Senator Viollette, Representative Bell, Representative Webster, Representative Paradis, Representative Lisnik, and Representative McGowan. The Ought to Pass Report was signed by Representative Small, Representative Dillenback, Representative Diamond, and one of the cosponsors, Representative Masterton. This is the Report.

There was another signature on the Ought to Pass Report, which would have completed the thirteen members of the Committee, and that has been whited out. I was surprised yesterday to see the Bill appear on our calendar, signed by Representative Kany, as Leave to Withdraw. I was never asked whether I would go along with the Leave to Withdraw Report. I have talked to some other Members from the House and they weren't either.

It's been our policy in the State Government Committee, and I assume in others, that if there was no support for a Bill in our Committee, we would ask the sponsor if he would like Leave to Withdraw. We would extend that courtesy, or if he came in and requested it himself, we would also extend that courtesy. I think that this unilateral action by the House Chairman is an insult to me and the rest of the Committee. I would move that the Bill be Recommitted to the State Government Committee.

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

Senator GILL: Mr. President, and Members of the Senate, I also, serve on the State Government Committee. I was also one of those people who signed the Ought Not to Pass Report out. I was not asked if I would consider Leave to Withdraw. In fact, after signing the Ought Not to Pass Report out, both, I'm sure all the members, but I know Senator Ault and myself, received a letter from the Governor. I'd like to read the letter. After someone from the Governor's office had looked at the jackets to see that we had signed and went along with the Governor on this Bill.

The letter reads: "I greatly appreciate your support and recent vote in Committee for my position on LD 1425, 'An Act Relating to the Management of the Department of the Attorney General.' Although we may not share the same viewpoints on all issues, I am glad we're on the same side of this issue. Again, my sincere thanks." It's signed Governor Joseph Brennan.

I feel an insult at not being asked on the Leave to Withdraw, particularly where there were members of my committee who did sign

the Bill out Ought to Pass.

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

Senator CONLEY: Mr. President and Members of the Senate: It appears there's a scandal breaking in the Joint Standing Committee on State Government. I, like everyone else, share the concerns of the good Senator from Kennebec, Senator Ault, with respect to any legislation that is presented to any committee.

It's my understanding that we had another scandalous thing take place yesterday, that the Joint Standing Committee of Labor, somebody went down and opened up the draws, took all the Bills out, and signed them, and reported them out without members of the Democrats given the opportunity to debate those bills.

I think we all better get our house in order and make sure that we run it in a fashionable manner.

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

Senator SEWALL: Thank you, Mr. President. The Minority Leader is in absolute error. Republicans did sign the Workers' Compensation Bills, none of them have been reported out of the Committee, as he knows very well. We did sign some of the bills, but none of them have been reported out, not today, and they certainly did not appear on the calendar, if he will take note.

The PRESIDENT: The pending question is the motion by the Senator from Kennebec, Senator Ault, that LD 1425 be Recommitted to the Committee on State Government.

Is this the pleasure of the Senate?

It is a vote.

Sent down forthwith for concurrence.

(Off Record Remarks)

Divided Report

The Majority of the Committee on Business Legislation on, Bill, "An Act to Reorganize the Department of Business Regulation to Insure the Independence of Regulators." (S. P. 222) (L. D. 609)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (S-210)

Signed:

Sensors:

SUTTON of Oxford
SEWALL of Lincoln
CLARK of Cumberland

Representatives:

BRANNIGAN of Portland
FITZGERALD of Waterville
POULIOT of Lewiston
PERKINS of Brooksville
TELOW of Lewiston
MARTIN of Van Buren
RACINE of Biddeford
GWADOSKY of Fairfield

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

Signed:

Representatives:

JACKSON of Yarmouth
GAVETT of Orono

Which Reports were Read.

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

Divided Report

The Majority of the Committee on Energy and Natural Resources on, Bill "An Act to Prohibit the Importation of Spent Nuclear Fuel." (S. P. 413) (L. D. 1217)

Reported that the same Ought Not to Pass.

Signed:

Sensors:

McBREAIRTY of Aroostook
REDMOND of Somerset

O'LEARY of Oxford
Representatives:
HALL of Sangerville
HUBER of Falmouth
KIESMAN of Fryeburg
DEXTER of Springfield
AUSTIN of Bingham

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

Signed:

Representatives:

DAVIES of Orono
MITCHELL of Freeport
MICHAEL of Auburn
MICHAUD of East Millinocket
JACQUES of Waterville

Which Reports were Read.

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

Senator PRAY: Mr. President, I move the Senate Accept the Minority Ought to Pass Report.

The PRESIDENT: The Senator from Penobscot, Senator Pray, moves that the Senate Accept the Minority Ought to Pass Report of the Committee.

The Chair recognizes the Senator from Aroostook, Senator McBreairty.

Senator McBREAIRTY: Mr. President and Members of the Senate: I guess I was sleeping. I would hope you would not Accept the Minority Ought to Pass Report. We spent quite a lot of time on this Bill. Definitely, passage of this Bill could backfire and mean, in the end, that we would have to store our own nuclear waste.

I would hope that you would not Accept the Ought to Pass, so that we can Accept the Ought Not to Pass Report. I'd ask for a Roll Call on this.

The PRESIDENT: A Roll Call has been requested.

The Chair recognizes the Senator from Aroostook, Senator Carpenter.

Senator CARPENTER: Mr. President and Ladies and Gentlemen of the Senate, if you will take a look at L. D. 1217, you will see that it's my Bill, a little housekeeping measure. I can't imagine all the controversy surrounding it here this morning.

I put the Bill in at the request of some people who are concerned that the State of Maine was going to become, could become, a nuclear waste dumping ground. It seems to me that we've had a number of nuclear related issues this Session, this being just the latest in a long series. It seems to me, if nothing else, we're giving a very clear message to the Central Maine Power Company, and to the Federal Nuclear Regulatory Commission, that one, we don't want to limit the size, or we don't feel that we have the capability of limiting the size of the spent storage pool at Wiscasset.

Now, if we defeat this Bill, which I fully expect it will do here in the Senate this morning, that we will tell Central Maine Power Company, Maine Yankee, and it other owners, and the Nuclear Regulatory Commission, and the new administration in Washington, welfare, and safety of our people. I don't think that's a position that this Legislature ought to be in.

I examined this Bill. Many of you know I'm going to law school. The first question that came up about this Bill was whether or not it was Constitutional. I looked the Bill over, talked to some friends of mine, and decided that the Commerce Clause of the U.S. Constitution was written specifically to support this Bill.

One of the few things that the Federal government, the U.S. Supreme Court, has consistently ruled in the states favor on, is the state's ability to protect the health, welfare, and safety of its people.

This Bill, very simply, says, you can't use it somewhere else and then bring it in, transport it into the State of Maine, or deposit it, store it,

dump it in the State of Maine.

It seems to me that we're being very hypocritical, if we this morning vote to kill this Bill, and say that we don't want to take that small amount of authority back from the Federal government.

The argument the good Senator from Aroostook, Senator McBreairty puts forth is that this thing could backfire and we might end up having to store our own nuclear waste. I would just ask him if there are any plans currently underfoot to move that nuclear waste, at Wiscasset, anywhere. If I have to make a choice between taking what we produce ourselves, and taking somebody else's garbage, then I'll put up with what we've got. I don't like it, and I would prefer to limit the size of the pool, but we've already rejected that argument.

It seems to me that the good Senator from Aroostook's position is inconsistent this morning. If we don't at least want to control what we're producing ourselves, then at least we ought to be able to say that we don't want somebody else's radioactive garbage dumped in our backyard.

I think the two positions are very inconsistent. I wonder, the latest discussion here this morning on another issue, was whether or not there were several plots afoot within the committees. I wonder if there's a plot afoot, one, to put the Legislature on Record as not wanting to limit the size of the spent fuel pool at Wiscasset, and now, to kill this Bill, to say that it's perfectly all right to bring it in, and dump it, to store it.

Another argument that I've heard is that there is a hazardous waste statute presently on the books that possibly could be enforced, if somebody wanted to bring nuclear waste in. I would simply say that in reading of the Constitution, in my reading of the case law, regarding the commerce clause, you'd have a very difficult time enforcing a hazardous waste statute as such, a statute that deals specifically with radioactive waste, I believe. Of course, this is subject to great controversy, I'm sure, but I believe, could withstand the Constitutional challenge.

I would ask you this morning to accept the motion pending before the Body, that of the good Senator from Penobscot, Senator Pray, to Accept the Minority Ought to Pass Report. Don't buy the argument, because there isn't a Constitutional Lawyer in this Chamber, don't buy the argument that this Bill, if Enacted, is unconstitutional. That's a cop out. Don't buy the argument that if we accept this Legislation, then we're stuck with what we've got forever. We don't know that. There may be state legislative bodies somewhere that want this stuff, to kill dandelions or something. I don't know. I don't think we're foreclosing any options, as far as getting rid of what we have at Wiscasset, by Enacting this Legislation. That's a phony argument. I certainly hope in the Roll Call that we'll have a majority of people voting yes. Thank you.

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

Senator O'LEARY: I dislike disagreeing with my good colleague from Aroostook, Senator Carpenter. However, we will not be sending a message to the NRC. We won't be sending a message to Maine Yankee. We will be sending a message to any other state that we may have to deal with as a group, region, or such.

If the good Senator will remember, the subcommittee on Energy and Natural Resources on Nuclear Waste Study, recommended, and the report was placed on each of our desks, that the Attorney General intervened in the case of the storage at Maine Yankee. We still have that subcommittee intact. We will be attending other states' gatherings, working with the Governor's office in this direction, to get rid of this nuclear waste. We don't want it in the State of Maine, but if we pass this Bill, no other state is going to want to talk to us, so I hope you will

defeat the pending motion.

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 Aroostook, Senator Carpenter.

Senator CARPENTER: Mr. President, Ladies and Gentlemen of the Senate, I'm amazed, I guess, that the comments of the good from Oxford, my good friend, Don O'Leary, that's all we're going to hear about this issue. We're not going to hear a Constitutional argument. We're not going to hear from the proponents of nuclear power, that Maine would be a good place to store nuclear waste. I can not believe that this Bill is going to go down the sluice this morning, which it is, without at least a discussion of the issues involved here, as to whether or not this is a good idea or a bad idea. It seems to me that we've got cement poured around our feet, and we're making a very, very bad mistake this morning, if we don't at least air the issue out.

I can count. I knew when I sponsored this Bill, that it didn't have much of a chance in this Legislature. Part of the reason I put the Bill in was to get a discussion of the issues.

On motion by Senator Collins of Knox, Tabled until later in today's session, pending the motion by the Senator from Penobscot, Senator Pray.

Divided Report

The Majority of the Committee on Labor on, Bill, "An Act to Establish Arbitration Procedures and Rules Governing Employee Activities." (S. P. 311) (L. D. 867)

Reported that the same Ought to Pass.

Signed:

Senator:

DUTREMBLE of York

Representatives:

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

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

Signed:

Senators:

SEWALL of Lincoln
SUTTON of Oxford

Representatives:

MARTIN of Brunswick
FOSTER of Ellsworth
DAMREN of Belgrade
LEWIS of Auburn

Which Reports were Read.

On motion by Senator Collins of Knox, Tabled until later in today's session, pending Acceptance of Either Committee Report.

Second Readers

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

House

Bill, "An Act to Clarify the Statutory Provisions for the Registration of Motor Vehicles in Maine." (H. P. 1214) (L. D. 1382)

Bill, "An Act to Authorize Bond Issue in the Amount of \$12,800,000 for Highway and Bridge Improvements." (H. P. 336) (L. D. 375)

Bill, "An Act Concerning Secondary Vocational Education." (Emergency) (H. P. 1451) (L. D. 1593)

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

Bill, "An Act to Provide Greater Local Control over Liquor Licensing." (H. P. 1452) (L. D. 1592)

Which was Read a Second Time.

The PRESIDENT: The Chair recognizes the Senator from Waldo, Senator Shute.

Senator SHUTE: Mr. President, I present Senate Amendment "A" under filing number S-212 and move its adoption.

The PRESIDENT: The Senator from Waldo, Senator Shute, offers Senate Amendment "A" to L. D. 1592 and moves its adoption.

Senate Amendment "A" (S-212) Read.

The PRESIDENT: The Senator has the floor.

Senator SHUTE: Mr. President, Ladies and Gentlemen of the Senate, all Senate Amendment "A" does is change the word "person" to "applicant," and makes the Amendment consistent with the Bill.

Senate Amendment "A" (S-212) Adopted.

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

Sent down for concurrence.

Bill, "An Act Clarifying the Authority of the Caribou Utilities District to Acquire the Caribou Water Works Corporation." (Emergency) (H. P. 1451) (L. D. 1591)

Which was Read a Second Time.

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

Senator PIERCE: Mr. President, I present Senate amendment "A" under filing number S-215 and move its adoption.

The PRESIDENT: The Senator from Kennebec, Senator Pierce, offers Senate Amendment "A" to L. D. 1591 and moves its adoption.

Senate Amendment "A" (S-215) Read and Adopted.

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

Sent down for concurrence.

House — As Amended

Bill, "An Act Making Certain Changes in the Law on Boilers and Pressure Vessels." (H. P. 1447) (L. D. 1588)

Bill, "An Act to Encourage Solar Easements." (H. P. 775) (L. D. 920)

Bill, "An Act to Amend the Maine Unfair Trade Practices Laws" (H. P. 707) (L. D. 832)

Bill, "An Act to Provide Optional Local Funding of the State Retirement System Membership by School Administrative Units and to Allow Out-of-State Service Credits to Those Units." (H. P. 1385) (L. D. 1562)

Bill, "An Act Concerning Insurance Proceeds under the Maine Insurance Code." (H. P. 1266) (L. D. 1481)

Bill, "An Act to Provide for Notification of Employees When a Business Plant Leaves the State." (H. P. 322) (L. D. 351)

Bill, "An Act to Reduce the Bonding Authority of the Maine Guarantee Authority." (H. P. 322) (L. D. 893)

Bill, "An Act Concerning Land Conveyed by the State to the Town of Bridgton." (H. P. 887) (L. D. 1056)

Bill, "An Act to Clarify the Laws Pertaining to Municipal Personnel Records." (H. P. 1092) (L. D. 1289)

Bill, "An Act to Amend the Municipal Securities Approval Act." (H. P. 711) (L. D. 836)

Bill, "An Act to Amend the Municipal Securities Approval Act." (H. P. 371) (L. D. 409)

Bill, "An Act to Provide for an Offset for Holiday Pay under the Employment Security Law." (H. P. 879) (L. D. 1048)

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

Bill, "An Act to Amend the Probate Laws." (H. P. 1232) (L. D. 1457)

Which was Read a Second Time.

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

Senator PIERCE: Mr. President, I present

Senate Amendment "A" under filing number S-207 and move its adoption.

The PRESIDENT: The Senator from Kennebec, Senator Pierce, offers Senate Amendment "A" to L. D. 1457 and moves its adoption.

Senate Amendment "A" (S-207) Read and Adopted. The Bill, as amended, Passed to be Engrossed, in non-concurrence.

Sent down for concurrence.

Bill, "An Act for the Assessment of Watercraft." (H. P. 1100) (L. D. 1297)

Which was Read a Second Time.

On motion by Senator Pray of Penobscot, Tabled until later in today's session, pending Passage to be Engrossed.

Bill, "An Act Concerning the Taking of Wood without Permission of the Owner." (H. P. 144) (L. D. 170)

Which was Read a Second Time

On motion by Senator Clark of Cumberland, Tabled until later in today's session, pending Passage to be Engrossed.

Bill, "An Act Providing for Administrative Changes in the Tax Laws." (H. P. 118) (L. D. 152)

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

Sent down for concurrence.

Senate

Bill, "An Act to Amend the Short Form Deeds Act." (Emergency) (S. P. 599) (L. D. 1595)

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

Sent down for concurrence.

Bill, "An Act to Clarify the Status of Certain Real Estate Titles in the State." (S. P. 598) (L. D. 1594)

Which was Read a Second Time.

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

Senator KERRY: Mr. President, Ladies and Gentlemen of the Senate, I would like to pose a question through the Chair. Would it be more in terms of administrative priority to Table this until later in the session?

The PRESIDENT: At the suggestion of the Senator it might be more prudent to Table it until later in today's session.

On motion by Senator Conley of Cumberland, Tabled until later in today's session, pending Passage to be Engrossed.

Senate — As Amended

Bill, "An Act to Improve the Community Industrial Building Program." (S. P. 401) (L. D. 1193)

Bill, "An Act to Provide for Reimbursement under the Education Finance Act for Programs for Gifted and Talented Children." (S. P. 223) (L. D. 610)

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

Sent down for concurrence.

(Senate At Ease)

Senate called to Order by the President.

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

Enactor

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

Emergency

AN ACT Making Appropriations and Allocations for the Expenditures of State Government and Changing Certain Provisions of the Law Necessary to the Proper Operation of State Government for the Fiscal Years Ending June 30, 1982, and June 30, 1983. (H. P. 1440) (L.

D. 1583)

This being an emergency measure and having received the affirmative votes of 27 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.

There being no objections all items previously acted upon were sent forthwith.

Orders of the Day

The President laid before the Senate, Bill, "An Act to Prohibit the Importation of Spent Nuclear Fuel." (S. P. 413) (L. D. 1217), Tabled until later in today's session, pending the motion by the Senator from Penobscot, Senator Pray, that the Senate Accept the Minority Ought to Pass Report of the Committee.

The Chair recognizes the Senator from Aroostook, Senator Carpenter.

Senator CARPENTER: Mr. President, not to belabor the issue, but I think that we do need to discuss this issue.

It seems to me that the feeling that was given in this Legislature just a few weeks ago, when we were talking about the issue of whether or not, if you should limit the size of the storage capacity. I heard several Senators in this Body, indicate that they weren't in the least bit fearful of radioactive waste. It was perfectly safe to have around, it was perfectly safe to allow Maine Yankee to continue to expand, and expand, and expand, the size of that spent nuclear fuel pool, at Wiscasset.

That was a very clear feeling that I was left with after debate of that and several other nuclear issues, and now we are going to defeat this Bill, because we are afraid that we, I think that this is almost a quote, might get stick with that stuff.

Where are we on this issue? Are we afraid of the stuff or aren't we? Let's be consistent. I don't mind getting beaten, but at least I want to be beaten with consistency.

If we're afraid of nuclear fuel, so be it. If we're not afraid of nuclear fuel, so be it, but the positions that we're about to take are totally inconsistent.

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

Senator TROTZKY: Mr. President, I rise to address Senator Carpenter's properly refers to this Bill as a small housekeeping measure. Peter Bradford, the Commissioner, one of the commissioners of the Nuclear Regulatory Commission, was addressing a group of Legislators from the Energy and Natural Resources Committee, also, the Public Utilities Committee. He stated very specifically, that the storage of high level nuclear waste in the State of Maine was highly unlikely.

As I've mentioned before on the Senate floor, we don't want high level nuclear wastes. There's no question about it. We have a nuclear power plant in Maine. The federal government is looking for the best place to have a repository, to store these high level wastes in a safe, sane manner.

There are many geological mediums. There is salt, and many others, there is granite. Granite is not high up on the level. Granite is low on the priorities. They're looking at salt deposits, which are not located in the State of Maine.

That's no reason that they shouldn't also be looking at granite. We have to look for the safest disposal site, but, as he said, it's highly unlikely that it will be in the State of Maine.

The real issue here is that if this State passes a law stating you can't store high level nuclear waste in the State of Maine, and every state passes the law, what do we do? There's something called, the national interest. The national interest must come before the narrow interests of just a small group in the State of Maine.

Nuclear power is in the national interest. We make use of it in the State of Maine, 30 to 40

percent of our electricity comes from the Maine Yankee Nuclear Power Plant. Even if we do pass this law, the federal government will pre-empt this law and the laws of all the other states, because the problem of disposal of nuclear waste must be solved.

This law will do nothing, it is being passed in other states also, but the federal government will, eventually, pre-empt these state laws.

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

Senator PRAY: Thank you, Mr. President. Mr. President, I'd like to pose a question through the Chair to perhaps a member of the Energy and Natural Resource Committee, or someone else who may know the answer, as to whether or not there are other states that are presently have approval from the NRC to expand its storage facilities, such as Maine Yankee has.

The secondary question, perhaps, would be perhaps more one of a philosophical question, as to whether or not if we here in the Maine Legislature are concerned with the national interests or the interests of the State of Maine?

My primary concern down here is not necessarily to be parochial to my Senatorial District, but of course to the benefit of the people of the State of Maine as a whole. Sometimes when those two do conflict, we have to make the value judgement as to which has higher priority. In various situations, that does change.

I think that if we're going to be concerned about the NRC, or the Congress of the United States is doing, then we ought to in some way give them a message as to how the people of this State feel.

I think that during the last referendum, talking to a wide variety of individuals from different, various backgrounds, and what not, though they supported keeping Maine Yankee open, they had an awful lot of concern about the storage of fuel. We've already debated that issue once, now we're talking about fuel from outside coming into the State. Even though Maine geologically is not the best state in the nation to store nuclear fuel, seemingly we are geographically the best state. If we're going to get down to a political power pressure move, and we start comparing Maine's four votes in Congress, versus those of other states, we slowly see the diminishing power that we have, no matter which political party is in power in Washington, and who votes the majority of the delegation. I think that there's grave concern there.

Individuals then become parochial, when you start talking about Massachusetts, New York, or other states along the east coast, as to where they're going to store nuclear fuel. Maine is a little over 1 million people, it's way up there in the northeast. What the heck, there's a lot of land without very many people. I think no matter what the geological findings are, Maine has the storage facility, let's ship it up there, that's in the national interest.

That's my grave concern. I see some reservations as I read over the Bill, in its present form, that may concern me to a little degree, but not to the total degree of which I would oppose the enactment of it, or even trying to attempt to promote the Bill along to Second Reading, which some of these concerns can be addressed.

I think that sooner or later the State has to start addressing its policy, telling the rest of our neighboring states where we stand on the storage of nuclear fuel. If other states do it, then perhaps it will push Washington and the National Regulatory Commission into some type of activity to address the total picture, which they seemingly have failed to do.

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

Senator NAJARIAN: Mr. President and Members of the Senate: I just very recently tuned into this debate that was going on. I heard the good Senator from Penobscot, Sen-

ator Trotzky, mention about we should prohibit high level radioactive waste from coming into this State. That kind of alarms me, that we wouldn't want to pass a law prohibiting high level, low level is bad and dangerous enough.

He, also, went on to say, well if Maine passes such a law, and all the other 49 states do the same thing, what will Congress do? The federal law would pre-empt any state legislation anyway. It would seem to me that if 50 states pass laws not wanting it, that their Representatives and Senators in Congress would reflect the view of their state legislatures, and, also, vote not to. They can look to some other areas of this world to put the spent nuclear waste. I would suggest that there's already one island in the South Pacific, that where we did hydrogen bomb testing that's unfit for human life and they could bury it over there.

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

Senator TROTZKY: Mr. President and Members of the Senate: I was appointed to the Energy Committee of the National Conference of State Legislatures. One of the issues that we would try to resolve, we as Legislators from all different states, is how to handle this nuclear waste problem. There was one concept called, consultation and concurrence, that the federal government would look and try to find a spot in one of the states. That they'd go into the state and they'd ask the state to respond, to take a good hard look and see whether it would be a safe spot, let's say, would it be New Mexico, or who knows where.

It was a concept of trying to get some agreement between a possible site in one state, and the agencies in that state.

The other option was pre-emption, where the federal government would just have the option of pre-empting whatever the states wanted. It wouldn't matter what states wanted.

When we pass laws like this, we drive the federal government away from any type of concept of consulting with the state, and seeing if they can get concurrence, because a state has passed these laws, we leave no option to the federal government, but we drive them to just walk in and pre-empt any state regulations, any state laws, for the national interest.

That's what bills like this do. They give the federal government no option, but pre-empting states.

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

Senator PRAY: Thank you, Mr. President. Mr. President and Members of the Senate, I take a little exception to the remarks of the Senator from Penobscot, Senator Trotzky, that we, the State of Maine, are putting the federal government in a position where they can't come to the state government and submit a proposal, give us their options of nuclear storage. This Legislature meets on an annual basis. Laws are changed every year in here. They're changed almost from year to year, sometimes we put one in, the next year we repeal the dam thing.

I think that to use the argument that we are blocking completely any opportunities for the federal government to address nuclear storage in Maine, is an erroneous statement to make. I think the question that we have here, again, as all of us are elected to do, is to represent the views of the people of this State.

I just ask you all, if you think that your constituents want Maine to become a dumping ground for nuclear waste? Basically this is the question what the Bill asks, is to prohibit the importation of spent nuclear fuel. We're not talking about Maine Yankee. We're talking about what we, ourselves, in this State use up at Maine Yankee, because it provides 40 percent of the power of this State, and we won't even talk about how much power is shipped out of this State into the New England Power Grid, because it produces 40 percent of what we use.

As a matter of fact, I think if we found out

that if we used all of our own power that we produce in this State, that Maine Yankee could be reduced. Not eliminated, but could be reduced in the power output. If we charged the other states the proper amount, we'd find out perhaps the cost of electricity in this State wouldn't be so much.

Maine, time and time again, bears the blunt of the national interest, because we're way up there in the northeast. Nobody seems to care about us. If I seem a little bit concerned today, that some of the Members in this Chamber have a greater concern for national interest than they do for the State of Maine's interest.

I think that that's the question we are addressing, a vote to reject the Minority Ought to Pass Report to me is an interpretation that you favor the importation of nuclear fuel. This Bill would outlaw that on a state level, a state policy for the other states, and the national government to know how the people of this State feel about nuclear waste, and particularly that which is not produced in this State.

(Off Record Remarks)

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

Senator CONLEY: Mr. President and Members of the Senate: I always have felt that I've had a very high boiling point when it comes to tolerance. I've accepted within the State the good Senator from Brooklyn, now a resident of Penobscot, Senator Trotzky. I've finally come to accept the fact that non-natives who move into this State are entitled to serve in the Maine Legislature, and to represent the people of this State once they adopt this State as their native land.

However, I don't want him bringing in his nuclear spent fuel from other states, nor do the citizens of Maine want it brought in here. I would urge the Senate to strongly support the Acceptance of the Minority Ought to Pass Report.

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

Senator TROTZKY: Mr. President, I'd like to correct the statement of the Senator, formerly and his ancestry from Ireland, that I'm not from the Bronx, or from Brooklyn, as said, but from the west side of Manhattan, originally. That should be for the Record.

I want to say that Senator Pray's remarks are in distortion of the meaning of this Bill. When he says that a vote in favor of this Bill is a vote in favor of the importation of nuclear fuel to the State of Maine. That simply is not true. A vote against this Bill is saying that the federal government shall look at the entire United States, every state, and try to find what is the safest area, or region to dispose of nuclear fuel, safely.

The fact is that we are one state in 50. We still have to look at the national interest.

The PRESIDENT: Is the Senate ready for the question?

The Chair recognizes the Senator from Cumberland, Senator Clark.

Senator CLARK: Mr. President, Men and Women of the Senate, I join with the Senator from Aroostook, Senator Carpenter, as a very minor and rather quite co-sponsor of L. D. 1217. The remarks from the good gentleman from Penobscot, via the west side of Manhattan, have brought me to my feet. I would simply say to you this day, that while the federal government is looking across the land for a satisfactory site for spent nuclear fuel, Maine is taking care of its own. If the citizens of the State of Maine were to vote in a referendum this week, or even next week, whether or not they wish to import nuclear, spent nuclear fuel from other areas of the country, I would judge that they would vote resoundingly no. Because of that, I would ask you to support the Minority Report this morning.

The PRESIDENT: The pending question

before the Senate is the motion by the Senator from Penobscot, Senator Pray, that the Senate Accept the Minority Ought to Pass Report of the Committee.

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

A No vote will be opposed.

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

ROLL CALL

YEA — Bustin, Carpenter, Charette, Clark, Conley, Dutremble, Kerry, Najarian, Pray, Trafton, Usher, Violette, Wood.

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

ABSENT — O'Leary.

A Roll Call was had.

13 Senators having voted in the affirmative and 18 Senators in the negative, with 1 Senator being absent, the motion to Accept the Minority Ought to Pass Report of the Committee does not prevail.

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

Sent down for concurrence.

The President laid before the Senate, Bill, "An Act to Establish Arbitration Procedures and Rules Governing Employee Activities" (S. P. 311) (L. D. 867) Tabled earlier in today's session by the Senator from Knox, Senator Collins, pending Acceptance of Either Committee Report.

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

Senator SEWALL: Thank you, Mr. President. I now move that we Accept the Minority Ought Not to Pass Report.

The PRESIDENT: The Senator from Lincoln, Senator Sewall, now moves that the Senate Accept the Minority Ought Not to Pass Report of the Committee.

The Chair recognizes the Senator from Cumberland, Senator Conley.

Senator CONLEY: Mr. President, I wonder if the good Senator from Lincoln, Senator Sewall, might give us a few remarks as to why it's the Majority Report.

The PRESIDENT: The Senator from Cumberland, Senator Conley, has posed a question through the Chair.

The Chair recognizes the Senator from Lincoln, Senator Sewall.

Senator SEWALL: Thank you very much, Mr. President. I would be happy to respond. I have two sets of notes. I'll give you a brief one, first. I have a substantial amount of backup material. I'd be happy to get into the subject further, if anyone would care to.

The subject is binding arbitration in the public sector. Generally, I'm not in favor of that. There are six basic reasons. I am willing to elaborate on any of them, at a later time.

The six basic reasons are, one, there is no demonstrated need for binding arbitration; two, binding arbitration destroys the collective bargaining process; three, binding arbitration would remove the authority of elected officials who are accountable to the taxpayer to determine the appropriate level of funding for public employees' salary, fringe benefits, and pension benefits; four, binding arbitration does not eliminate illegal strikes or job actions; five, there are serious questions that binding arbitration might be an unconstitutional delegation of legislative authority; and six, binding arbitration is a bad idea.

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

Senator CONLEY: I disagree with practically everything the young lady said, but to expedite this Bill along, I would ask for a Division on the motion.

The PRESIDENT: A Division has been requested.

Will all those Senators in favor of the motion by the Senator from Lincoln, Senator Sewall, that the Senate Accept the Minority Ought Not to Pass Report of the Committee, please rise in their places to be counted.

The Chair recognizes the Senator from Lincoln, Senator Sewall.

Senator SEWALL: 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 Androscoggin, Senator Minkowsky.

Senator MINKOWSKY: Mr. President and Members of the Senate: I want to make my position on this Bill perfectly clear this morning. I have taken this up with my municipal officers of the City of Lewiston. We spoke to several people involved, who understand the issue quite clearly. We received a position paper from the Lewiston City Council, and its mayor. I want to read into the Record why I am voting with Senator Sewall this morning.

"The City of Lewiston is adamantly opposed to any legislation which would impose binding arbitration on my communities of this particular State of Maine," it's as simple as that.

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

Senator CONLEY: Mr. President, I'd like to give reasons on the Record, for my reasons for voting against the motion. I think we have laws in this State that prohibit strikes. We do have collective bargaining. We have laws that prohibit strikes. One that I very strongly support. I think any time we have collective bargaining, a contract disagreement, people walk out on strike, public employees, I feel, they are violating the law in order to be able to give one further step to make sure that our municipal fathers don't go overboard with the powers that have been entrusted with them through the State Legislature, that they do bargain in good faith along with its employees. Therefore, binding arbitration is an avenue to help remedy a very, very troublesome spot. I think that binding arbitration makes good sense.

The PRESIDENT: Is the Senate ready for the question?

The Chair recognizes the Senator from Androscoggin, Senator Trafton.

Senator TRAFTON: Mr. President, I would direct a question to any knowledgeable Senator. I would ask that the type of arbitration spelled out in this particular LD be explained. I, too, have been in conversation with my municipal officials. We've talked about some of the different types of arbitration, the last final best offer, and so forth, and wondered if someone on the Committee would explain exactly how this would work, this type of arbitration would work?

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

Senator SEWALL: Yes, I would direct the Senator's attention to the Bill. I believe we are on 921 this morning. The sections are pretty much the same. There were four binding arbitration bills. I think you're discussing the difference. They are all pretty much the same, in that they, if there's a disagreement, they go to an arbitrator and the findings are binding upon the elected officials.

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

Senator CONLEY: Mr. President, I think there was a comma after the last statement made by the good Senator from Lincoln, Senator Sewall. It's not only the officials, but the employees as well.

The PRESIDENT: The pending question

before the Senate is the motion by the Senator from Lincoln, Senator Sewall, that the Senate Accept the Minority Ought Not to Pass Report of the Committee.

A Yes vote will be in favor of Accepting the Minority Ought Not to Pass Report of the Committee.

A No vote will be opposed.

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

ROLL CALL

YEA — Ault, Clark, Collins, Devoe, Emerson, Gill, Hichens, Huber, McBreairey, Minkowsky, Perkins, Pierce, Redmond, Sewall, C.; Shute, Sutton, Teague, Trafton, Trotzky.

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

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 Not to Pass Report of the Committee does prevail.

Sent down for concurrence.

On motion by Senator Pierce of Kennebec, Adjourned until 8:30 o'clock tomorrow morning.