

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

INDEX

FIRST SPECIAL SESSION

AUGUST 3, 1981

INDEX

FIRST CONFIRMATION SESSION

AUGUST 28, 1981

INDEX

SECOND SPECIAL SESSION

SEPTEMBER 25, 1981

INDEX

THIRD SPECIAL SESSION

DECEMBER 9, 1981

INDEX

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

May 26, 1981

The Senate called to order by the President.

Prayer by Captain Charles Brant of the Salvation Army.

CAPTAIN BRANT: Let us pray. Almighty God, we again thank Thee for the opportunity that is ours to gather today. I would ask, Lord, that You would bless each one of these men and women who have gathered here to go over the rules and the laws of our great State. We pray that Your mercy and Your eternal wisdom will guide them in their decisions this day. For we ask it in Jesus' name. Amen.

Reading of the Journal of yesterday.

**Papers from the House
Joint Orders**

Expressions of Legislative Sentiment recognizing:

Doral M. Smith, daughter of Mr. and Mrs. Norman Smith, of LaGrange, valedictorian, School Administrative District No. 41, graduating class of 1981. (H. P. 1535)

Rodney W. Russell, son of Mr. and Mrs. H. Richard Russell of LaGrange, salutatorian, School Administrative District No. 41, graduating class of 1981. (H. P. 1536)

Angela Porter, of Island Falls, who has been selected to attend the Maine Summer Humanities Program at Bowdoin College for talented and gifted children. (H. P. 1537)

Come from the House, Read and Passed.
Which were Read and Passed, in concurrence.

**Communication
Committee on Fisheries and Wildlife**

May 20, 1981

The Honorable Joseph Sewall
President of the Senate
State House
Augusta, Maine 04333

Dear President Sewall:

The Committee on Fisheries and Wildlife is pleased to report that it has completed all business placed before it by the first regular session of the 110th Legislature.

Total number of bills received 55

Unanimous reports 47

Leave to Withdraw 26

Ought Not to Pass 8

Ought to Pass 4

Ought to Pass as Amended 8

Ought to Pass New Draft 1

Divided Reports 8

Committee Initiated Bills

from Joint Orders 1

Respectfully submitted

S/ANDREW J. REDMOND

Senate Chairman

Which was Read and Ordered Placed on File.

Order

An Expression of Legislative Sentiment recognizing:

Lee Young, of Auburn, who has been selected as Citizen of the Year for 1981. (S. P. 639) presented by Senator TRAFON of Androscoggin (Cosponsors: Representative BOYCE of Auburn, Representative BRODEUR of Auburn and Representative MICHAEL of Auburn).

Which was Read and Passed.

Sent down for concurrence.

Committee Reports

House

Leave to Withdraw

The Committee on Judiciary on, Bill, "An Act to Clarify the Sentencing Statutes under the Criminal Code." (H. P. 1070) (L. D. 1273)

Reported that the same be granted Leave to Withdraw.

Come from the House, the Report Read and Accepted.

Which Report was Read and Accepted, in concurrence.

Ought to Pass — As Amended

The Committee on Judiciary on, Bill "An Act to Amend the Law Relating to Foreclosure Proceedings by Civil Action." (H. P. 773) (L. D. 918)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H. P. 463)

Come 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" Read and Adopted, in concurrence. Under Suspension of the Rules, the Bill, as amended, Read a Second Time, and Passed to be Engrossed, in concurrence.

The Committee on Taxation on, Bill, "An Act to Establish a Limited Tax Credit to Aid Businesses Providing Day Care Services to their Employees." (H.P. 1240) (L.D. 1465)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H. 466).

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

Which Report was Read.

On motion by Senator Teague to Somerset, Tabled until later in today's session, pending Acceptance of the Committee Report.

The Committee on Taxation on, Bill, "An Act to Provide Sales Tax Exempt Status for Non-profit Family Crisis Service Agencies." (H.P. 1113) (L.D. 1318)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H. 465).

Come 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. Under Suspension of the Rules, the Bill, as amended, Read a Second Time, and Passed to be Engrossed, in concurrence.

Ought to Pass in New Draft

The Committee on Business Legislation on, Bill, "An Act to Specify the Exemptions which will Apply in Bankruptcy Cases." (H. P. 630) (L. D. 711)

Reported that the same Ought to Pass in New Draft under Same Title (H.P. 1530) (L.D. 1642)

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

The Committee on Energy and Natural Resources on, Bill, "An Act to Amend the Hazardous Waste Statute to Meet Certain Requirements for Delegation of the Federal Program and to Provide Internal Consistency." (H.P. 314) (L. D. 382)

Reported that the same Ought to Pass in New Draft under Same Title (H.P. 1527) (L.D. 1640)

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

The Committee on Marine Resources on, Bill, "An Act to Clarify Certain Provisions of the Marine Resources Laws." (Emergency) (H.P. 73) (L.D. 134)

Reported that the same Ought to Pass in New Draft under Same Title (H.P. 1532) (L.D. 1644)

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

The Committee on Business Legislation on, Bill, "An Act Relating to Permits and Inspection for Electrical Installation in Commercial Buildings under the Electrician Law." (H.P. 13) (L.D. 7)

Reported that the same Ought to Pass in New

Draft under Same Title (H.P. 1531) (L.D. 1643)
Come from the House, the Bill, in New Draft, Passed to be Engrossed.

Which Reports were Read and Accepted, in concurrence, and the Bills, in New Draft, Read Once. Under Suspension of the Rules, the Bills, in New Draft, Read a Second Time, and Passed to be Engrossed, in concurrence.

(Off Record Remarks)

The Committee on Energy and Natural Resources on, Bill, "An Act to Authorize a General Fund Bond Issue in the Amount of \$5,000,000 to Assist Municipalities with Resource Recovery of Solid Waste." (H.P. 795) (L.D. 949)

Reported that the same Ought to Pass in New Draft under New Title: "An Act to Authorize a General Fund Bond Issue in the Amount of \$2,500,000 to Assist Municipalities with Resource Recovery of Solid Waste." (H. P. 1528) (L. D. 1641)

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

Which Report was Read and Accepted, in concurrence, and the Bill, in New Draft, Read Once.

On motion by Senator Huber of Cumberland, Tabled until later in today's session, pending Assignment for Second Reading.

The Committee on Transportation on, Bill, "An Act to Amend Certain Motor Vehicle Laws." (H.P. 694) (L.D. 808)

Reported that the same Ought to Pass in New Draft under Same Title (H.P. 1512) (L.D. 1628)

Come from the House, the Bill, in New Draft, Passed to be Engrossed as amended by House Amendment "A" (H.461).

Which Report was Read and Accepted, in concurrence, and the Bill, in New Draft, Read Once. House Amendment "A" was Read and Adopted, in concurrence.

Under Suspension of the Rules, the Bill, as amended, 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-283 and move its adoption.

The PRESIDENT: The Senator from Kennebec, Senator Pierce, offers Senate Amendment "A" to LD 1628 and moves its adoption.

Senate Amendment "A" (S-283) Read and Adopted.

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

Sent down forthwith for concurrence.

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

Senator CLARK: Mr. President, I request that Leave be given to Members of the Senate to remove their jackets for the duration of today's session.

The PRESIDENT: The good Senator from Cumberland, Senator Clark, moves that the Senators be allowed to remove their jackets.

Is this the pleasure of the Senate?

It is a vote.

Divided Report

The Majority of the Committee on Public Utilities on Bill, "An Act to Require Approval by the Public Utilities Commission of Any Transfer of a Controlling Interest of the Stock of a Public Utility." (H. P. 477) (L. D. 534)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H. 450).

Signed:

Sensors:

TROTZKY of Penobscot

TRAFON of Androscoggin

Representatives:

DAVIES of Orono

VOSE of Eastport

KANY of Waterville

McGOWAN of Pittsfield
BOISVERT of Lewiston
McKEAN of Limestone
RIDLEY of Shapleigh

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

Signed:

Senator:

DEVOE of Penobscot

Representatives:

BORDEAUX of Mount Desert
WEYMOUTH of West Gardiner

Comes from the House, Bill and Papers Indefinitely Postponed.

Which Reports were Read.

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

Senator DEVOE: Thank you, Mr. President. I move that the Senate Accept the Minority Ought Not to Pass Report and would speak to my motion.

The PRESIDENT: The Senator has the floor.

Senator DEVOE: Thank you, Mr. President. Members of the Senate, I would urge you to take out your book of amendments, and look at H-450, because in my opinion, it is a disaster. This amendment deals with the sale of stock in small Maine utilities that are not regularly traded, and it basically gives carte blanche authority to the Public Utilities Commission and its staff, and perhaps the Public Advocate, if we end up with a Public Advocate, to investigate when a sale of stock is going to take place, whether it is going to be for the good of the utility or the good of the State. It gives them a 30 day veto power over the sale of any stock.

This would be a dramatic 180 degree change in direction, from the way that we have gone since we have had stock in companies. Nothing has ever been to my recollection, in this State, subject to approval of any governmental body in the State of Maine. Here today because of a problem that they had down in Portland, with the Casco Bay Lines, they are proposing to completely change the law and bring in every small privately owned utility under the ambit of this amendment.

I urge you to turn to page two, in the semi-darkness that now prevails, of the amendment. I read to you the first full sentence that is on page two. "No authorization may be made by the Commission if it finds that the vesting of the controlling interest with the public interest, or will impair the efficient operation of the utility which issued the stock."

First of all, you look at the definition of controlling interest. It says, "controlling interest shall be deemed to be an ownership interest of 50 percent or more of the outstanding capital stock." Yet, I submit to you, that far less than 50 percent of the stock, a sale of far less than 50 percent of the stock, could, by itself, result in the sale of a controlling interest.

If you have 10 people, and 5 of those people are in league with each other, the sale of a 10 percent interest of stock to any one of those 5 people who are allied with each other in the operation and management of the utility, will result in the controlling interest having been sold, although the interest by itself is only 10 percent.

Mr. President, this is a difficult situation to explain. I would like to hear what the proponents of this Bill have to offer as justification for this dramatic change in the conduct of business affairs of utilities in the State of Maine.

When the vote is taken, Mr. President, I would request the Yeas and Nays.

The PRESIDENT: A Roll Call has been requested.

The Chair recognizes the Senator from Penobscot, Senator Trotzky.

Senator TROTZKY: Mr. President and Members of the Senate, the Majority of the Committee voted in favor of this bill. The Majority of the Committee felt that small utilities such as water companies, the only supply of water to

many of your local communities, and the feeling was that to protect the public interest, that whenever the controlling interest of stock is sold, the Public Utilities Commission, not the Public Advocate, as we don't have a Public Advocate now, but the Public Utilities Commission would take a good look to see whether the sale would adversely affect the service to the public, or for that matter, end service completely.

We did see with Casco Lines, that stock was transferred, was sold. The people of the islands around Portland suffered. It's the feeling of the Committee on Public Utilities that this Bill will offer protection to the public.

As I understand, there was an amendment which was going to be offered during the Second Reading, the sponsor of that amendment has decided not to offer it, which will make this Bill, I believe, more amenable to the Senator from Penobscot, Senator Devoe.

I would hope the Senator would give this Bill its First Reading at this time.

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 Chair recognizes the Senator from Aroostook, Senator Trafton.

Senator TRAFTON: Mr. President and Men and Women of the Senate, I'd like to add one additional point to the remarks of the Senator from Penobscot, Senator Trotzky. This is, that currently, all transfer of assets, under Title 35, Section 211, must be approved by the Commission in writing. This would seem to be very much in line with that statutory authority.

The PRESIDENT: The pending question before the Senate is the motion by the Senator from Penobscot, Senator Devoe, that the Senate Accept the Minority Ought Not to Pass Report of the Committee.

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

A No vote will be opposed.

The Doorkeeper will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

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

NAY—Brown, Bustin, Clark, Conley, Du Tremble, Kerry, Najarian, O'Leary, Pray, Trafton, Trotzky, Usher, Wood.

ABSENT—Carpenter, Charette, Redmond, Violette.

A Roll Call was had.

15 Senators having voted in the affirmative and 13 Senators in the negative, with 4 Senators being absent, the motion to Accept the Minority Ought Not to Pass Report of the Committee does prevail.

The Chair recognized the Senator from Penobscot, Senator Devoe.

Senator DEVOE: Thank you, Mr. President. Mr. President, having voted on the prevailing side, I move Reconsideration and ask the Senate vote against me.

The PRESIDENT: The pending question before the Senate is the motion by the Senator from Penobscot, Senator Devoe, 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.

Divided Report

The Majority of the Committee on Transportation, Bill, "An Act to Regulate the Use of Motor Vehicles on Ice-covered Bodies of Water." (H.P. 992) (L.D. 1180)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-455).

Signed:

Senators:

EMERSON of Penobscot
USHER of Cumberland

Representatives:

McPHERSON of Eliot
HUNTER of Benton
HUTCHINGS of Lincolnville
McKEAN of Limestone
REEVES of Pittston

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

Signed:

Senator:

O'LEARY of Oxford

Representatives:

CARROLL of Limerick
FOWLIE of Rockland
STROUT of Corinth
MACOMBER of South Portland
MOHOLLAND of Princeton

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

Which Reports were Read.

On motion by Senator Emerson of Penobscot, the Majority Ought to Pass, as amended, Report of the Committee Accepted, in concurrence. The Bill Read Once. Committee Amendment "A" Read and Adopted, in concurrence. Under Suspension of the Rules, the Bill, as amended, Read a Second Time, and Passed to be Engrossed, in concurrence.

(Off Record Remarks)

Divided Report

Six members of the Committee on Energy and Natural Resources on, Bill, "An Act to Establish an Emergency Radiological Response System." (H.P. 923) (L.D. 1094)

Reported in Report "A" that the same Ought Not to Pass.

Signed:

Senators:

McBREAIRTY of Aroostook
REDMOND of Somerset
O'LEARY of Oxford

Representatives:

KIESMAN of Fryeburg
AUSTIN of Bingham
DEXTER of Kingfield

Five members of the same Committee on the same subject matter reported in Report "B" that the same Ought to Pass in New Draft under Same Title (H.P. 1518) (L.D. 1633)

Signed:

Representatives:

HALL of Sangerville
MITCHELL of Freeport
DAVIES of Orono
MICHAEL of Auburn
HUBER of Falmouth

Two members of the same Committee on the same subject matter reported in Report "C" that the same Ought to Pass in New Draft under Same Title (H.P. 1519) (L.D. 1634).

Signed:

Representatives:

MICHAUD of East Millinocket
JACQUES of Waterville

Comes from the House, Report "B" Read and Accepted, and the Bill, in New Draft, Passed to be Engrossed. (H. P. 1518) (L. D. 1633)

Which Reports were Read.

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

Senator McBREAIRTY: Mr. President, I move the Ought Not to Pass Report.

On motion by Senator Pierce of Kennebec, Tabled until later in today's session, pending the motion by the Senator from Aroostook, Senator McBreairty.

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.

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

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.

Divided Report

The Majority of the Committee on Business Legislation on, Bill, "An Act to Control the Cost of Workers' Compensation Rates to Maine Employers." (H. P. 1291) (L. D. 1504)

Reported that the same Ought to Pass in New Draft under Same Title (H. P. 1483) (L. D. 1611)

Signed:

Senator:

CLARK of Cumberland

Representatives:

BRANNIGAN of Portland

RACINE of Biddeford

GWADOSKY of Fairfield

PERKINS of Brooksville

POULIOT of Lewiston

TELOW of Lewiston

FITZGERALD of Waterville

MARTIN of Van Buren

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

Signed:

Senators:

SUTTON of Oxford

SEWALL of Lincoln

Representatives:

JACKSON of Yarmouth

GAVETT of Orono

Comes from the House, the Bill, in New Draft, Passed to be Engrossed as amended by House Amendment "A" (H-453).

Which Reports were Read.

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

Senator SUTTON: I move that we Accept the Minority Ought Not to Pass Report.

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, I'm standing today as probably facilitator of the Majority of the Committee on Business Legislation relative to LD 1611, which is the New Draft, as amended by House Amendment "A" under filing number H-453.

I was not a participant in all the working sessions and there were numerous working sessions on this Bill for I had another Committee assignment. My Senate Chair on that Committee was off to Public Utilities. So, I was sitting on the Committee on Education for many, many of the working sessions.

However, I stand as a supporter of the Majority Ought to Pass Report, for experience across the nation would indicate that the simple truth is that a competitive state workers' compensation fund works. It works in Colorado. It works in Nevada. It works in California. It works in nine other states, even Ohio, as we have read so much about in the media of the state. It can, Members of the

Senate, work in Maine.

Why do we need a competitive state fund? If all casualty insurance companies were able to charge their own workers' compensation rates, based on their own experience, perhaps I would not be standing here advocating and recommending a competing state fund.

That is, unfortunately, not the case, for there is no competition today in the State of Maine for workers' compensation. We know that there is only one set of standard rates available to any insurance company, no matter what the experience of the account, they are promulgated by a body known as the National Council. The present rating system was set up in 1947, and has not been changed in all of these many years regardless of changing times.

At present, this results in a monopolistic rating system. To be sure that no company varies its standard rating structure, each policy issued must be approved for rates by a stamping office before delivery.

In addition, the current system provides no incentive for an employer to advance safety programs, as the employer's rates will not vary even if they do implement such safety programs.

There seems to be no auditing by the National Council of the reserves for losses which they receive from the insurance companies. These reserves are very important, as they play a large part in determining loss ratios, which in turn have a great affect on premiums.

Furthermore, investment income was not considered in determining the rates at the time of the last rate increase. If allowed, this might have meant a reduction of 10 percent of the rates here.

I would submit that there is discrimination against small employers. We all recognize that it is probably the small employers who are currently burdened, and yes, even overburdened by Workers' Compensation Premium Rates. For Maine, the National Council has never considered such things as area rating, or rural versus urban rating. By use of minimum premiums, there is great discrimination against the smaller employer.

Did you know that all small employers, regardless of experience, are placed in the assigned risk pool? Assigned risk means higher premiums.

Conservatively speaking, in the opinion of the Majority of the Committee on Business Legislation, a competing state fund will immediately result in a 15 percent reduction in Workers' Compensation Rates for those employers who select to join the fund. A 1979 consulting report for the State of Nevada pointed out that the expense ratio plus estimated profits for insurance companies was on the average set at 35 percent of premium, whereas the expense ratio for state funds was in the neighborhood of 12 to 13 percent.

I might also suggest at this point, that with a competing state fund, the National Council would be reluctant to increase company rates, or at least keep the increase to a minimum, if the state fund did not see fit to change rates.

With direct reference to LD 1611, as amended, the key, as the Majority of the Committee saw it, would be the executive director who runs it, very much like the captain at the helm of the ship. To attempt to get the best, the Bill requires that this person must have proven successful management experience, and have worked in the workers' compensation division of an insurance company for at least 5 years. To attract good candidates for this position, the paygrade is the same as that of commissioners.

The fund will be audited each year and be subject to examination by the insurance bureau, similar to any casualty company. The fund would be subject to premium tax, similar to any domestic insurance company. Protection for the plan, there is mandated reinsurance in the Amendment, the House

Amendment, rather than state protection. This is in direct response to a suggested question of unconstitutionality dealing with debt limits that has risen as a result of the debate in the other Body. It would work similar to the present Maine Municipal Workers' Compensation Plan, which as we all know and recognize, and certainly the municipalities in the State of Maine do, has been highly successful. It involves putting in a stop loss agreement. For example, a guarantee that all losses in excess of a 75 percent loss ratio will be picked up by a reinsurance company.

The Amendment also allows Title 24A, the insurance chapter, to apply. I would share with you that the arguments in the other Body, across the hall, against the plan in many instances were weak, confused, and in too many instances, reflected a lack of knowledge of the field of insurance.

The Bill simply furnishes the framework for the development of a workable insurance program, an alternative, a competitive state fund, to what is currently a monopolistic situation in our State. It provides for administration, including, but not limited to, rate making, underwriting, premium and benefit accounting, claims handling, and annual reporting. It provides for funding and repayment of such funding, plus interest. It provides, also, for investment of funds, and the accounting of such investments.

It is expected that the director will hire qualified consultants to help set up the system. Funds have been provided for doing this.

The Majority of the Committee on Business Legislation believed that this is indeed a good Bill. There should be an immediate savings of 15 percent, as I mentioned earlier, in workers' compensation for those with good experience. A state fund will be particularly helpful to small employers, as I previously mentioned. As the questions of minimum premiums, and their being a part of the assigned risk, will be addressed, it is the conclusion that savings to Maine employers will result.

You are invited to reject the pending motion, so that we may Accept the Majority Report from the Committee on Business Legislation.

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

Senator SUTTON: Mr. President, Ladies and Gentlemen of the Senate, quite frankly, I'm worn out. I've been anticipating this for so long that I think I've used up all my steam in anticipation. Every time I even consider the thought that the State of Maine would go into a private business, I get nervous and shaky all over.

It's incredible, regardless of the well-intentioned purposes of this Legislation, that we would even be here discussing it. By the way, it is well-intentioned. We have tremendous problems in our workers' compensation area.

This Bill, in any form, will not solve one of the problems that we are concerned with as far as that workers' compensation area is concerned. We have 50-some bills, plus or take 10, that are floating around, over and under various tables, and in various hoppers in the Legislature right now, to look at some of the problems that some people feel are inherent in the current workers' compensation situation in our State. Some of them are good. Some of them aren't. Some of them will help. Some of them won't. Until we get the opportunity to discuss them on a one by one basis, we're not going to be able to really effectively do anything as far as our workers compensation problem is concerned.

This Bill has been purported. The state fund has been purported as to be one of the things that would solve, help solve our workers' compensation problem. I would reject that notion 100 percent. I don't want to get into the line by line discussion of this Bill, I'd be very happy to, if the time comes during the debate that we need to. I'd like to just suggest to you that, it is my opinion, and the opinion of many—that I

talked to, that the people of the State of Maine, yes that people of the country, do not want more government. They want less government.

The state fund in Ohio, established in the early 1900's by the way, there hasn't been one, a state fund, established in the United States since 1933. All of them started out as complete monopolistic funds and by the way, that was the way the proponents in the State of Maine wanted to go. They've settled for a compromise bill, because, I think, they even knew that that was asking a little much. Every fund in the United States started out as a monopolistic fund. You might be interested to know in Ohio, there are 2000 employees in their state fund. In Washington, there's 900.

You want to keep government off people's backs? The people I've talked to want less government, not more.

They talk about the fact that the insurance companies, that there's no competition. The price of workers' compensation is high. If we're going to follow this line of reasoning, I would assume that we would put the State in a car manufacturing business. There's certainly not much competition. It's awfully expensive and solve that problem too by putting the State into it. We might put them in a home-building business, also. That's a pretty expensive business.

Superintendent Briggs has looked at this briefly. He asked, what are we going to do when the insurance people need underwriting, rating, policy preparation, statistical computation, accounting, secretarial services, investment services, rate making services, sales representations, legal services? I think the Bill calls for 5 people. Even to start with, that's ridiculous.

This is a tiger if I ever saw one. No matter what the proponents say, no matter how they try to amend the Bill, this is and would be a state organization. I am completely convinced that the full faith and credit of the State would be implied regardless of what it says.

Ladies and Gentlemen, the good Senator from Cumberland, Senator Clark, indicated how important a director was. That is absolutely correct. The State of Ohio has a very competent director right now. It didn't have a few years ago. It was one of the most corrupt systems in the United States. You have to appreciate we're talking about \$100 to \$150 million business. State agency?

Small employers are not automatically put in assigned risk. A lot of them are, but they all aren't. I don't see any place in the Bill, by the way, I wasn't going to discuss the Bill, so I won't bring that up now.

Ladies and Gentlemen, as you can see, after weeks and days of anticipation, all the steam and fire's out of me, so I will simply ask you, this is not a bipartisan thing we're talking about, by the way. The Report is bipartisan. I think whether the State should be in the insurance business, or any private business, is not a Republican issue. It's not a Democratic issue. Philosophically, I guess it might lean one way. I ask you to consider very carefully, whether we want to put the State in a \$100 to \$150 million business.

By the way, how much time do you spend advocating for your constituents? I find that that's one of the most important things that I do, since I've become a legislator. That's help my constituents deal with the bureaucracy. The bureaucracy is not easy to deal with.

Ladies and Gentlemen, with a state fund of any sort, you will be advocating for every injured employee in the State of Maine. If you think you've got problems now, stand by. Ladies and Gentlemen, the only thing that we can do responsibly in this matter is to support the Minority Ought Not to Pass Report. Thank You.

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

Senator CLARK: Thank you, Mr. President.

Mr. President and Men and Women of the Senate, I know exactly what the good Senator from Oxford means when he says that the steam is gone. It is gone with me too. I knew how strongly he felt because he said as we left the committee room, one time, that if there is one thing in which I am going to dig my heels in it is going to be this. I guess, I sort of reflect his sentiments, and am in harmony with them.

We do know that state fund is not a new idea. Most of the existing state funds, as he mentioned, were organized between 1911 and 1920, when workers compensation first came into being. As a matter of fact, in the arguments used against the state fund, you will hear that since none have been created since that time, perhaps we shouldn't. The fact of the matter is, that there haven't been funds organized, but there are 8 to 11 states now, which are in various positions as duplicated by the State of Maine. With legislation either for monopolistic state funds, or competitive state funds, before their general assemblies, or legislative bodies.

The reverse is also true, and listen to this, since that time not one single state with a state fund has ever abolished the fund in favor of going to a private Workers' Compensation Insurance System. No private insurance system has ever been organized to supply workers' compensation coverage to replace a state fund.

In the State of Ohio, a referendum petition has been distributed by the insurance industry, to place the question before the voters. We do not know the outcome of that yet. The State of Ohio, despite 5 years ago, its tenuous position, is well back on the road to recovery and is alive and well and kicking.

Let me repeat, no state with a state fund, has ever abolished the fund in favor of going to a private Workers' Compensation Insurance System.

There were 2 bills before the Committee on Business Legislation, and the good Senator from Oxford is absolutely correct, one of those would have established a monopolistic state fund, that is not the bill that the Committee reported out with a divided report. It was the competitive state fund that we have before us.

The state funds like private systems have changed over the years, some exclusive state funds have been converted to competitive funds, such as the State of Ohio, but other states such as the State of Washington, have declined to change their structure.

The issue of workers' compensation as addressed by this 110th Maine Legislature with the proliferation of anywhere between goodness knows how many 40 to 57 bills, deal mainly with labor laws. This does not actually or exclusively or even, in my opinion, address that issue, so let us not be confused by that.

Maine's insurance companies are not mean, wicked, or horrible, they are fine corporate citizens. Employers, Maine employers, however, aren't to blame for high workers' compensation premiums, and neither, men and women of the Senate, are Maine's employees. Inflation is the factor that has driven costs so high that the premiums are literally strangling the small business people in the State of Maine. That is the bottom line, the costs.

The premium that Maine employers, must pay, and the premium is what the competitive state fund is all about. All the evidence and all the facts point to the conclusion that a state fund will be less expensive, for Maine's business community.

As you would expect, Maine's insurance industry, most of whom are not domestic, are opposed to the competitive state fund proposal. Maine's insurance agents are opposed, because they will be in many instances, for those who select state fund, they will be deprived of their 7 percent commission for selling Workers' Compensation Insurance. Insurance companies are opposed, because contrary to what sometimes they tell us, there is profit, large profit on workers' compensation.

Ask yourself the question, why? Why if the insurance companies are losing money, as they claim, why then are they fighting to keep the business? Why haven't they moved out-of-state? Why are 88 private carriers currently writing policies in Maine? Why?

Insurance companies do make money, and I am glad that they do, because every business in the State of Maine, should earn a profit if operated efficiently, honestly and effectively. The last thing that the insurance industry would like to see Maine adopt is a competitive state fund, because, number 1, not only the state impact, but the national impact of just that kind of action.

Will Maine be the first in a long series of dominoes to fall? Well, I did mention that there are 8 to 11 other states who are currently considering various state fund legislation. Perhaps, if Maine adopts this the other states will follow suit. We do not know that and that is not as relevant to the issue as perhaps some of us would like it to be.

We must put the citizens of Maine at the top of our list of priorities. Those citizens, people, do include Maine's employers, who are paying high premium costs for Workers' Compensation. They do not have a choice, they are required by law to purchase that coverage. It is not a free enterprise system in this area, it is a monopolistic system at best.

LD 1611, as amended, provides a competitive state fund, with a projected 15 percent, modest, yes, 15 percent annual savings in premiums for those Maine employers who select the competitive state fund.

The number of employees has been raised and it has been suggested 5 won't do it, 3 won't, why heavens we may even need up to 150 in 5 years if this system works, and I would submit to you that the experience has been exactly the opposite. Maine Municipal has 3 employees dealing with their fund, and they write \$2.5 million worth of Workers' Compensation Insurance for our municipalities. They do it with good management, efficiently, effectively and containing costs.

There are those who suggest that they would rather deal with a local agent, rather than one of those bureaucrats in Augusta, as if bureaucrat was something that was nasty and horrible, instead of human, dedicated, and committed.

I would submit to you that Liberty Mutual, the second largest carrier in the State of Maine writing \$8 to \$10 million worth of insurance has no local agents.

Will they accept their share of the assigned risk pool? Private insurers take on in the assigned risk pool, a percentage of their previous years' experience. Whatever their total percentage of Workers' Comp. coverage in the industry, they must take on a similar percentage from the assigned risk pool. If for example, Company A, writes 3 percent of the Workers' Compensation Insurance in Maine, then they must take 3 percent of the assigned risk pool. What could be more equitable than that?

The state fund, while not subject to the provisions, will take on these risks selectively, using sound insurance underwriting principals.

A question has been asked, in my caucus, from what money is the first claim paid? The answer is from advanced premiums paid into the fund. How is solvency of the fund guaranteed? Through reinsurance similar exactly to the Maine Municipal plan. Will the fund be selective in risks taken? In the early stages I would submit to you, that yes, they would be selective, if experience for any risk has been good it will be taken. That is only good business, and the State of Maine is in the business to do good business, also.

We believe that 3 full-time employees can handle the total administration of this. Is the State in the insurance business? Is another question that the good Senator from Oxford, has broached here in this Chamber, and the

State is already in the insurance business. The State is in the insurance business, with reference particularly to the State Retirement System, and the State Insurance Advisory Council.

It has been suggested whether in caucus or on the floor, that a competing state fund is not as effective as an insurance company. We have answered that and we have, yes, based much of our response and the integrity of the system on the selection of a director, at a salary and with qualifications and criteria that would qualify that individual to develop a system that would be a cost effective, probably more cost effective, than insurance companies.

The issue that hasn't been raised here, but has been suggested in the other Body, is would the Bond Rating of the State of Maine be in jeopardy? The answer to that is that there would be no effect on the Bond Rating, as visualized by the State Treasurer, in a letter addressed to members of the Committee on May 13, 1981, and Moody's does concur with this evaluation.

I would suggest that perhaps we seriously consider the pending motion, and invite you to join with me in rejecting it, so that we may accept the Majority Report from that Committee.

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

Senator MINKOWSKY: Mr. President, and Members of the Senate, I am rather apprehensive this morning in addressing this particular issue, simply because of the ramifications of it.

I guess that if I had the experience of the members of the Business Legislation Committee had, in discussing insurance in general I would feel a lot more comfortable if I had a good working background in it, unfortunately, I don't.

Two short years ago, I put in a bill that addresses, what I consider to be something of paramount importance in the State of Maine, dealing with self-insurance. Self-insurance for our public schools. The estimated costs savings to the schools in the State of Maine would have been in excess of \$2 million. Yes, the program would have been mandated, but on the other hand it would have insured all those buildings for 100 percent of their replacement value. That particular proposal, as good as it was, and as workable and feasible, was shot down so badly that it never appeared on the floor of this Senate.

I can tell you from that experience and to quote the good Senator from Cumberland, Senator Clark, I did feel the insurance industry was mean, wicked, and yes, horrible.

Analyzing this particular situation today, it raised another concern which I also brought to my caucus, because in my own Senatorial district, I do have a large insurance company, it is Liberty Mutual. I have personally received a letter from them, and chances are that if I did that most of the members of this Body, also, received a letter. I think that it is of paramount importance to bring this letter into play, as we start discussing the pros and cons if we want the State to get involved in the insurance business.

This letter was dated, May 19, 1981, and it states the following: "I urge you to vote against any proposal establishing a state fund for Workers' Compensation Insurance."

The next paragraph concerns me a great deal, because it is in my area, and a lot of these people do work in the Lewiston/Auburn area. "The 375 jobs provided to local residents by Liberty Mutual alone, would be jeopardized unnecessarily by passage of this proposed legislation. In addition the costs of setting up and administering such a state fund would be an additional and inefficient burden on taxpayers, as witnessed in the Ohio situation."

Workers' Compensation Insurance can best be provided by the private enterprise insurance industry.

Thank you for your consideration in this matter. Signed, Keith H. Smith, Manager."

I am looking at it from two points of view now, here we have a large building in an industrial area in the City of Lewiston providing jobs, a substantial amount of jobs, yes the good Senator from Cumberland brought out that they do write \$8 to \$10 million worth of insurance per year. They have no local agents, which I have no verification of.

This concerns me, can I afford, or can we afford to jeopardize existing jobs, good paying jobs, in a clean industry versus a potential of having a program that may or may not work?

As researched the Workers' Comp. situation in the State of Maine it has become more complex than ever I anticipated. At one particular point we placed the onus on the lawyers as being the culprits involved in bleeding this particular system. Then we looked at the industry's point of view complaining of the high rates and wanting to bring an action against, basically the insurance companies. Then we listened to the insurance companies, telling that they are both wrong and that they are right, and they deserve to survive in the free enterprise system.

I am, also, concerned about small businesses in the State of Maine, the ones that this particular bill will address, by giving them the relief that they need, even though it is 15 percent, 15 percent off the present policy premiums that they now pay. I just wonder how long that will stabilize, or how long it will stay before the proliferation of a bureaucratic system strangles us any further than it already has.

There are many unknown factors involved in this particular problem before us this morning. If people who are our constituents think that it is easy, to receive maybe 40 to 50 cards saying support this particular plan which I received on my desk this morning plus what I received last week, it is not a simple thing because I do not think that the public is fully aware of the ramifications of what this is all about. It sounds like a very easy approach to solve all the problems that we have in the State of Maine. I assure you that it isn't.

I certainly do not want to see the bureaucrats control any more of state government than they already do. Take my word for it they have a strangle hold upon state government today. They are now even to the point of having experts coming down before committees to give them the expert point of view on the direction that we as citizen legislators should go. If you are cognizant of the fact that every 2 years there is a 30 to 40 percent turn over, how do these people apply reason and logic in making the determinations that this is the right way to go?

The issue is extremely complex, but one thing that I am going to do this morning for the Record, Mr. President, and Members of the Senate, at least for the time being, I am going to go back to my constituents as the good Senator from Oxford has done, Senator Sutton, because I rap a great deal with them, whether it is at the municipal level or out in the field, and if this thing has not been resolved before this Bill is Finally Enacted I want to make it perfectly clear here this morning that either side do not count on my support until I make a decision with my constituents in taking on this additional responsibility in the State of Maine.

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

Senator CONLEY: Mr. President and Members of the Senate, first I want to commend the good Senator from Cumberland, Senator Clark, for so eloquently laying the issue before this body this morning.

I am sure that there are many questions in everyone's mind, with respect to this particular Bill. It has been talked about for the last several weeks, not only here in Augusta, but throughout the State.

One of the things that I dislike very much,

that I have been hearing since the avalanche of Workers' Compensation Bills, came into this Session, is that everyone is talking about how much it costs and how much in disarray the whole workers' compensation field is, and the employees are taking advantage of the system.

What was the Workers' Compensation Law set up for? It was established to help those individuals who were injured on the job. It seems to me that almost every bill that we have before us today, or through this Session is in some way attacking the Workers' Comp. Law, that is going to give the employee, the individual who has been hurt on the job, the short end of the stick.

I did not come up here to the Maine Senate, to represent the Liberty Insurance Company, or any other insurance company, nor have I come in here to represent any business, whether it is large industry of this State, or the small businessmen of this State. I try to act and use common sense judgement, as to how the whole ball of wax is going to affect everyone.

When the good Senator from Oxford, Senator Sutton, said well, we'll be building houses. We've been building houses, where has the Senator been, we have the Maine State Housing Authority that has been in business for years now, and not one default has been made on any of those homes that have been built.

The Bill before us is and does make common sense. It is strange to me, because every time, I find myself up here, speaking on the free enterprise system and establishing competition that makes this country grow, and I look at the present system and I wonder if really someone isn't in violation of the Anti-trust Laws, that the rates are set in such a manner that they can almost put the little businessman, and particularly the little businessman right out of business.

Those are the concerns that I have. I have talked with a lot of people, the little mom and pop stores who have a few employees, some of the fast food chains, some of the fellows around Portland that own little pancake kitchens that probably have 20 to 30 people and are being put right out of their minds, but you know something, all the letters that I got dealing with workers' comp. you know where it came from, it came all from the small businesses. I called them all and I said, John, or Jim, or Mary, or whatever, I says, Who initiated you, or primed you to write me with respect to the the Workers' Comp. Legislation? The insurance companies.

The insurance companies, now God love the insurance companies I want to see them make a living, they certainly are doing it in the medical field, they are doing a good job on that.

There is no reason in the world, perfect logic that the State can establish a fund that will bring about fair competition for the rates on workers' comp in this State. No reason in the world, and I would urge the Senate to put away the partisan, partisan side of this report that was signed, and look at the Majority Report which was non-partisan or bi-partisan, the Ought to Pass Report.

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

Senator KERRY: Yes, Mr. President, and Ladies and Gentlemen of the Senate, this specific issue has really caused a great deal of concern for all of us, especially for those of us who are small businessmen and who do believe that the Workers' Compensation Fund is out of hand, the way that the complete issue is developing in the State.

I know as a Senator representing both the workers and industry, that the most difficult question for me is not that the problem is now rising to the point where people can't control it, but the climate of the decision making process that we're now addressing. What concerns me is that I have a worker calling me up and writing to me, telling me how she's going to go on welfare because of the slow process by which

her legitimate claim is being taken, and that the process itself is not being changed to accommodate the virtually thousands of working people throughout this State who are ending up, they're either going on welfare, or they're going the local General Assistance Program, because they can not keep their homes, they can not keep their rents, they can not feed their families during the winter. Those concerns are not going to stop.

My concern is that there is an adversarial position developing within the State with regards to this program. The Governor's Small Business, Blaine House Conference on Small Business, created the raising of the consciousness, if you will, of the business community and the collective concerns of the business community with regards to this issue.

Much criticism has been levied against all public policy makers, because much of their concerns, which were included in a package of over 50 bills presented to this Legislature, has not been passed. Well that it should be, because it was a one-sided affair. Only the business side of the affair was seen.

I think someone brought to my attention, why didn't they hold the Blaine House Conference on workers who are injured in the work place? I think you would see, if that was done, a complete change in attitude. The workers would be coming in with their side. Everyone would be complaining, why isn't business listening to us? Why isn't the State Senate, or the State Legislature listening to us? Granted, they would probably not be heard in a completely even or disinterested manner by the other Body.

I think there has been a solution suggested. The solution incorporated in this Bill, like many of the other 50 proposals, will not solve the problem of workers' compensation. We passed two pieces of the legislation here earlier, LD 988, and LD 987, which required the disclosure of the reserves, which is a major problem that we're dealing with in establishing rates. This was not in the Legislature before. The public policy making bodies did not have them. This will help solve the problem, piecemeal.

Secondly, I think what's necessary if we're going to address this issue comprehensively, that you are going to have to hold a Blaine House Conference, if you will, on the whole issue, and bring together the Legislature, bring the Labor Committee, the Business Regulation Committee, bring someone from the Executive Department, the Governor's Office, the Department of Business Regulation, the Department of Labor, bring, also, industry. I don't mean the insurance companies. I mean industry, small employers such as myself, where you find that there are many employers that wrote to me and said that it's out of whack. They didn't know who to blame. They were blaming the insurance companies. They were blaming laggard workers. They didn't know who to blame. They were blaming, ultimately, the Legislature for trying to solve their problems.

This Bill, or any of the other Bills, will not solve the problem. I think, if the good Senator from Oxford, Senator Sutton, and the other members of this Senate, are truly interested in resolving this problem in long term, recognizing that inflation, probably the true cause of the problem of the workers' comp. issue is not going to go away over night. Injured workers, unsafe conditions in the work place, is not going to be eradicated overnight by a piece of legislation, either this one or any of the others that have been submitted.

This Body, or the other Body, meeting behind closed doors, trying to come up with a comprehensive, all-knowing, omnibus package to resolve it, is not going to do the job. I think there has to be an admission, a solid admission, that we have to bring all the forces that are involved in this proposal together. Not in the seven days that we have to resolve the prob-

lem, along with the highways, along with the funding for Human Services and other problems, but in a clear, unambiguous, disinterested manner, rationally discussing this issue. You will be doing the best service to the people of Maine, the taxpayers of Maine, the industries of Maine, the workers of Maine, and ourselves, if we accept a proposal that I understand is now before the Labor Committee, or in one of the Labor Committee members, Senator Dutremble from York, has the proposal, to have a comprehensive study of his issue.

Bring all these people with good will together, including the Governor's Office, including AIM, including Labor, to resolve it.

I find a 15 percent saving out of \$100 million very compelling. Fifteen million dollars, that is what is purported to be saved by the Enactment of the state fund. I also find very compelling the fact that no one can really define clearly and unambiguously whether or not there will be future costs from this or any other pieces of legislation to the State.

It appears to me, that before we can make an intelligent decision on whether or not this or any other piece of legislation is going to really work, that there has to be a change in the adversary proceeding that is now taking place between the workers, industry, and the private insurers in this State.

If we want to act earnestly and honestly with the people of this State, I would say that the proposal to have the study done is of paramount importance. To pass any one of these pieces of legislation without that, I think, we're doing a disservice.

Therefore, I say, if the good Senator and others would get together with the other members of their committees, and with leadership, to establish such a fund, then I think you will resolve the problem in the future. If not, I think this is going to be, all the pieces of legislation dealing with the workers' comp. problem, are not going to address one iota of it. If they can save \$15 million, and they can prove it, then I think anyone who is against it is not being honest with themselves.

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

Senator DUTREMBLE: Just a little clarification, Mr. President, and Men and Women of the Senate, I have had in the past few months a Study Order in Legislative Research, to study the whole problem of workers' compensation. I haven't brought it up. It's still there, because I would hope, I understand that the problems under which workers' compensation is right now have to be addressed right away.

I haven't brought this Study Order out so it wouldn't muddy the whole situation. Since we do have only seven days left, unless it's been resolved, I will be bringing the Study Order up. I hope that when it does come up, that we all can support it.

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

Senator SUTTON: First of all, when the vote is taken, Mr. President, I would request the Yeas and Nays.

Just to summarize briefly, because this has already had quite a discussion, and certainly a lot more down on the other end of the Hall. We've been discussing this as a competitive fund. Ladies and Gentlemen, there is nothing competitive about this. The word is a misnomer. It's completely out of context. There's nothing that this would do that would be competitive.

You keep hearing about the proposed 15 percent. There is no way of knowing there's going to be a 15 percent savings. The insurance companies, and you hear all of these different numbers. I've heard them until I'm tired of hearing them. One of the numbers is that for every dollar paid into the State of Maine for workers' compensation, \$1.50 is paid out in claims. The loss experience ratio, the insurance compa-

nies tell us, is 150 percent.

Our Bond Rating, Treasurer Shapiro says it is his opinion, if premiums are sufficient to cover costs and claims payment. Boy, that "if" is as big as Mt. Katahdin. Moody's says, yes, sure they would, based on that if. By the way, Standard and Poor's didn't say anything. Both those companies disagree on what our Bond Rating should be to start with.

It was mentioned of the Ohio fund, 500,000 signatures in one day to put it on the ballot to see whether they should do away with the fund in Ohio.

Eighty-eight carriers doing business in the State of Maine. A couple of them probably have their headquarters in the State. They pay a 1 percent premium tax. All the rest pay 2 percent.

The Superintendent of Insurance says, if a foreign one, that's not in the State of Maine, comes in to do business in the State of Maine, he would have to be capitalized for \$2.5 million.

Competitive? Solve the workers' compensation problems? Come on. Not a chance. The Maine Municipal Association is a self, is a group self insurance. There's nothing like a state fund. Any more than the Woodsman's is, or any other things.

By the way, we have some bills in here to discuss that, if we could ever get them off the tables, where they're being held hostage. All the Workers' Compensation Bills are, except the few that originated in the Senate. We debated them. They're down the Hall. The rest are still laying on a table someplace. You're right. We studied this thing to death, this workers' compensation problem. Until we stop studying, and start doing something, we're not going to do anything for the workers of the State of Maine. There's not one of those bills that's trying to take away things that the employees already have. We're trying to limit the growth of one of the highest benefits in the United States.

The reason why it's one of the most costly. It's the reason why that workers don't have any incentive to go back to work, between their Social Security, Workers' Insurance, all non-taxable. Would you go back to work? That's not what we're talking about here. We're talking about putting the State in the insurance business. Ladies and Gentlemen, the good Senator from Cumberland was right, that's exactly what I said, when I walked out of that meeting. If I did one thing, I would fight to my dying breath to keep the State of Maine from going into the insurance business, regardless of whether you like insurance companies or not. I'll pay 15 percent more to deal with the independent insurance agents and companies in the State, rather than have to try to deal with the bureaucracy of the State of Maine. Ladies and Gentlemen, I submit that your constituents will, also.

You better think long and hard what you're going to tell them when you go back and tell them you voted to put the State in the insurance business. To tell them that you were going to solve the workers' compensation problems, I don't think they're going to buy.

This is not a competitive fund. What we have now is not perfect, but Ladies and Gentlemen, the devil I know is better than the devil I don't.

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

Senator PRAY: Thank you, Mr. President. Mr. President and Members of the Senate, just to take a few more moments of your time on this issue, being late into the morning Session, early afternoon of the Session. First of all, I find some concerns about the remarks of the Senator from Oxford, Senator Sutton, in reference to the problem on workmens' compensation, excuse me ladies. Workers' Compensation. No one that I have heard yet speak today has said that this proposal here is going to solve the problem of workers' comp. concerns of the constituents throughout this

State.

Time and time again, I find that concern to be what employers are paying for premiums. The question from there on becomes a little cloudy as to whose fault it is that the premiums are high? Some people say it's the benefits. Some say it's the lawyers. Others say it's the profits of the insurance companies. We have quite a cast of characters here which we can all cast our suspicions upon.

I think one thing that we have to understand, when we deal with workers' comp. is the mechanism by which it works, and why it works. Workers' compensation is a mechanism for providing cash wage benefits and medical care to victims of work connected injuries. In replacing the cost of these injuries ultimately upon the consumer through the medium of insurance premiums, which are passed on in the cost of the product. That is the design of which it is to work in this system, the American system.

It would mean that consumers ultimately pay for the different products that they buy, depending upon the risk of that product. Those in the logging industry, for an example, which is a high rate, the cost of wood and lumber, and so on, would increase, as accidents occur in that industry. Those in, perhaps, such as those who run a small general store and have just a couple of employees, their premiums would be lower. That of course is passed on to the goods of which they sell through their store.

The significance of the insurance in theory is a way to ease the liability to an employer. As a matter of fact, workers' compensation was established by employers in an attempt to seek relief and to share the burden of the cost to particular injuries, which cost a great deal of money. It was the employers that came to the Legislature back around 1910, and 1915, and asked for a Worker's Compensation Program, to mandate it by law, to have the Legislature involve itself into the private industry and free enterprise system, and have the State mandate so that they would receive as their benefit, the lack of liability, or law suits of which could mean to some individuals, if they won the case, the injured employee that business would, again, be wiped out.

Those who argue on the variety of issues that are facing us, and sit and say that there are 50-some bills being held hostage somewhere. These are the issues that are going to solve the problems of Workers' Comp., is also trying to put a sham onto the people of this State. I see basically two positions being taken. Those which want to limit benefits, put a freeze on benefits, and say this will solve the problem to the employers of this State, which are being shockingly hit by the premiums that they pay. There's the other side of the issue of those who are seeking to find some other type of measurement which does not affect the benefits, which does not affect the injured individual. That may not always be the right proposal, the correct proposal. It's seemingly the philosophical lines are being drawn, between those two.

It concerns the Senator from Oxford, Senator Sutton, in reference to the fact that rumor has it somewhere along the line, of all the figures that have been passed out, that in the State of Maine, for every dollar paid in, \$1.50 goes out. I read with interest in last week's Maine Times, where one insurance company had released some of its figures. It stated that it sells \$87 million in benefits, and pays out around \$7 million in legal service fees, \$5 million to the injured employees' lawyer, and a little over \$1 million to their own legal services. That still comes up to about \$62 million. You can subtract \$62 million from \$87 million come out of, on the insurance company, and the rest of its profits, plus what they invest on the \$87 million.

That's not to cast a shadow on the insurance companies to say that they're making exorbitant profits in the State of Maine. There is one

particular insurance company, which states that it's not paying out \$1.50 for every \$1.00 that they raise in premiums.

The issue is acute, perhaps because of the publicity that it has received, and the partisanship that has taken place through the Labor Committee and through the media on this issue. It has become a little bit more clouded than it has in the past. The issue at this time is a state fund. I think that the comments on that, I'll try to restrict my comments to that topic, and to why I feel that it will give the people of this State an opportunity, the small employers, or the employers be they large or small, an opportunity to look elsewhere than their local or the insurance companies which are writing the policies in this State now. It's an option for them. It's nothing mandated by law. They can go to their private carrier, or they can come to the State and seek assistance.

The ultimate responsibility for bureaucratic growth lies in this Chamber and the other end of this third floor. Between the two of them, those and ourselves here in this Chamber, we are the ones who are ultimately responsible for bureaucratic growth, not bureaucrats themselves.

If we feel that this, or those of you that feel that this will not offer any type of relief to the employers of the State, I hurt to think that you have been mislead somewhere along the line and you are missing a great opportunity to provide something for the people of this State, if they want to do it.

If it fails, and it does not save money, the ultimate responsibility comes back to us, again. We can always abolish it. We have that power. To pass that power on to say that we don't have it, the bureaucrats have it, is again, a sham that you're putting on to the people of this State. We shouldn't call it a representative form of government if that's what you feel.

The figures that have been projected by the Senator from Cumberland, Senator Clark, and myself, have been very accurate. The arguments have been strong. I see on the other side more philosophical questions against. I would hope that we would not be hung out on philosophical opposition to this. I commend the members, the bipartisan support of the members of the Committee on Business Legislation for reporting this Bill out.

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 Accept the Minority Ought Not to Pass Report of the Committee.

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

A No vote will be opposed.

The Doorkeeper will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEA—Ault, Brown, Collins, Devoe, Emerson, Gill, Hichens, Huber, McBairty, Perkins, Redmond, Sewall, C.; Shute, Sutton, Teague, Trotzky.

NAY—Bustin, Charette, Clark, Conley, Du Tremble, Kerry, Minkowsky, Najarian, O'Leary, Pray, Trafton, Usher, Wood.

ABSENT—Carpenter, Pierce, Violette.

A Roll Call was had.

16 Senators having voted in the affirmative and 13 Senators in the negative, with 3 Senators being absent, the motion to Accept the Minority Ought Not to Pass Report of the Committee does prevail.

The Chair recognizes the Senator from

Oxford, Senator Sutton.

Senator SUTTON: Having voted on the prevailing side, I move Reconsideration and ask the Senate to vote against me.

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 voted to Accept 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.

Senator Hichens of York was granted unanimous consent to address the Senate, On the Record.

Senator HICHENS: Thank you, Mr. President. Mr. President and Members of the Senate, Saturday, May 23rd will go down in Maine History as a crucial day in the future of farming in the State of Maine. Previously this year, the Department of Agriculture and the Legislative Committee have been working on bills to promote the Maine Potato Industry. Only two months ago, the bottom fell out of the Poultry Industry, which may or may not make a come back, and then Saturday, by the ruling of a Superior Court Judge, the Maine Dairy Industry received a crushing blow.

The present dire situation results from an initial ambiguous statute, the perseverance and able legal representation of a multi-state retailer who has constantly striven to undermine the present Maine Milk Commission, and most important, from the recent very detailed interpretation of the high court coupled in particular with the recent well-calculated maneuvers of the multi-state retailer and the Saturday ruling by Judge Perkins.

According to news reports, the ruling was quietly made at 3:45 p.m. Saturday afternoon. Yet when huge posters appeared in many Cumberland Farm stores Sunday, I asked how they had been printed so quickly. The answer I received was "we had them ready for a week." I ask this morning "what is going on?" I think we should get some answers and get them quickly.

Saturday's ruling negates all orders of all Maine Milk Commissions since its inception in 1930. The Court has stripped the Commission of all its power or ability of administration even through Maine Legislatures, year after, year having granted that power. There can no longer be a floor under Maine milk prices to maintain a relatively stable and favorable economic climate. The Maine Dairy Industry cannot survive a sustained price war.

I sincerely do not know what can be done. If the courts can overrule the Legislature's action of the past, will a bill restoring the power of the Commission have any effect? Can the Governor by presenting a bill, say to the Court, "your ruling is of no value"? I sincerely hope that some one can give me the answer. The future of the Maine Dairy Industry depends on it.

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

Senator CONLEY: Mr. President and Members of the Senate, I just feel that the remarks of the good Senator from York, Senator Hichens, just can't go unnoticed. I think what the Senator has failed to mention is the fact that the judge in this particular case has made a ruling based on law. It's the way the law was written. I am certain that the justice certainly was being as impartial as any person could be, coming down and refusing the restraining order. To add a little levity to it, all I can say is the people in my neighborhood are chuckling and so happy now that they can buy milk for

some of their children, at \$1.82 a gallon.

Senator Hichens of York was granted unanimous consent to address the Senate, on the Record.

Senator HICHENS: Mr. President and Members of the Senate, I don't think that there is any opportunity, or opening for levity in this situation. Maybe the people of Portland are smiling. I think the consumer is happy, but they're not going to be happy when, as of last week, I traveled up through the middle of the State and saw many buildings which housed broilers and laying hens, suddenly all empty. I saw some beautiful dairy farms, which if this ruling is sustained, are not going to be beautiful dairy farms. They're going to be out of existence. I think the people of Maine are going to be very, very sorry for this ruling which was made last Saturday.

Senate Leave to Withdraw

Senator WOOD for the Committee on Taxation on, Bill, "An Act to Provide Equity for Stepchildren in the Inheritance Laws." (S. P. 349) (L. D. 992)

Reported that the same be granted Leave to Withdraw.

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

Ought to Pass in New Draft

Senator DEVOE for the Committee on Public Utilities on, Bill, "An Act to Authorize a Water District for the Town of Milbridge in Washington County." (S. P. 424) (L. D. 1246)

Reported that the same Ought to Pass in New Draft under Same Title. (S. P. 636) (L. D. 1651)

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

Senator TROTZKY for the Committee on Public Utilities on, Bill, "An Act to Restructure the Public Utilities Commission." (S. P. 439) (L. D. 1279)

Reported that the same Ought to Pass in New Draft under Same Title. (S. P. 637) (L. D. 1652)

Which Report was Read and Accepted, and the Bill, in New Draft, Read Once.

On motion by Senator Collins of Knox, Tabled until later in today's session, pending Assignment for Second Reading.

Senator DEVOE for the Committee on Public Utilities on, Bill, "An Act to Encourage Small Power Production Facilities." (S. P. 474) (L. D. 1330)

Reported that the same Ought to Pass in New Draft under Same Title. (S. P. 638) (L. D. 1653)

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 Judiciary on, Bill, "An Act to Establish a Board of Prison Terms and Supervised Release." (S. P. 494) (L. D. 1429)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (S. 280).

Signed:

Sensors:

CONLEY of Cumberland
KERRY of York

Representatives:

HOBBINS of Saco
O'ROURKE of Camden
JOYCE of Portland
SOULE of Westport
BENOIT of South Portland
DRINKWATER of Belfast

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

Signed:

Senator:

DEVOE of Penobscot

Representatives:

LUND of Augusta
REEVES of Newport
LIVESAY of Brunswick
CARRIER of Westbrook

Which Reports were Read.

On motion by Senator Conley of Cumberland, 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 — As Amended

Bill, "An Act to Require Fire Detectors in All Multiapartment Dwellings and New Single-family Residences." (H. P. 1409) (L. D. 1573)

Which was Read a Second Time.

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

Senator SUTTON: I request a Division.

The PRESIDENT: A Division has been requested.

Will all those Senators in favor of the Passage of LD 1573 to be Engrossed, please rise in their places to be counted.

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

16 Senators having voted in the affirmative, and 11 Senators having voted in the negative, LD 1573 is Passed to be Engrossed, as amended, in concurrence.

Senate

Bill, "An Act to Amend the Site Location of Development Law to Protect Ground Water." (S. P. 632) (L. D. 1647)

Which was Read a Second Time.

On motion by Senator Collins of Knox, tabled until later in today's session, pending Passage to be Engrossed.

Bill, "An Act to Establish the Dental Practice Act." (S. P. 633) (L. D. 1648)

Which was Read a Second Time.

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

Bill, "An Act to Revise Workers' Compensation Disability Payments." (S. P. 358) (L. D. 1033)

Which was Read a Second Time.

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

Bill, "An Act to Provide for a Commission to Propose a Method of Providing Volunteer Legal Services." (Emergency) (S. P. 634) (L. D. 1649)

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

Sent down for concurrence.

Senate — As Amended

Bill, "An Act Concerning the Use Tax on Used Damaged or Returned Merchandise Donated to Charitable Organizations." (S. P. 287) (L. D. 813)

Bill, "An Act to Equalize the Tax Burden of Rural Community Health Centers." (S. P. 261) (L. D. 743)

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

Sent down for concurrence.

Bill, "An Act Relating to Veterans' Tax Exemptions." (S. P. 236) (L. D. 654)

Which was Read a Second Time.

On motion by Senator Teague of Somerset, Tabled for 1 Legislative Day, pending Passage to be Engrossed.

Enactors

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

AN ACT to Require the Department of Human Services to Provide Home-based Care as an Alternative to Nursing Home Care. (S. P. 614) (L. D. 1620)

On motion by Senator Huber of Cumberland, placed on the Special Appropriations Table, pending Enactment.

AN ACT Requiring an Annual Report on Safety Problems by Nuclear Power Plants. (S. P. 420) (L. D. 1242)

On motion by Senator Conley of Cumberland, Tabled for 1 Legislative Day, pending Enactment.

AN ACT to Remove the Towns of Medford, Osborn and Great Pond and Lakeville Plantation from the Maine Forestry District. (H. P. 252) (L. D. 292)

On motion by Senator McBreaity of Aroostook, Tabled until later in today's session, pending Enactment.

AN ACT Authorizing Reasonable Fees for Nonresident Users of Public Libraries. (H. P. 548) (L. D. 624)

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

Senator DEVOE: Thank you, Mr. President. Members of the Senate, I reluctantly, but nevertheless steadfastly, arise to ask you to vote against my own bill. LD 624 is a Bill that has a disarming title. I guess I was disarmed by the title, "An Act Authorizing Reasonable Fees for Nonresident users of Public Libraries."

However, I think that the librarian in Bangor, and the librarian in Orono, have helped me see the light on this Bill. I'm going to ask you to vote against the Bill. I don't profess to be an expert in librarian policies as they have developed over the years. I would submit to you that present law allows all public libraries in this State, with the exception of Bangor and Portland libraries, to charge nonresident user fees. Many public libraries do so charge.

In 1973, Portland and Bangor agreed to provide essential regional services, free of charge, to users in return for certain State funding. One such service was direct free access for district residents.

Direct free access is a necessary and a basic principal of the Regional Library System. It is the basis of a longstanding hope to provide state-wide free access to the entire resources of the State for all residents. Free access to our two strongest public libraries would be sacrificed if this Bill were to pass. This would be a setback to state-wide library development.

User fees, I suggest, automatically create barriers to essential materials for the educational and informational needs of residents. Many members of our population can not afford the fees, and therefore, will not have the same advantage of others who can afford to pay these fees.

I would, also, submit to you, Members of the Senate, that the library community of our State does not support LD 624. The Maine Governor's White House Conference of Libraries, composed of two-thirds of non-librarians, opposed user fees.

In 1979, when the Governor had a White House Conference of Libraries, free access was the top priority resolution emanating from that Conference.

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

On motion by Senator Conley of Cumberland, Tabled until later in today's session, pending the motion by the Senator from Penobscot, Senator Devoe.

AN ACT to Encourage Motorists to Protect Children in Motor Vehicles by Use of Approved Child Safety Seats. (H. P. 1360) (L. D. 1545)

AN ACT to Clarify the Law Prohibiting Persons under Disabilities from Getting Married.

(H.P. 320) (L.D. 349)

AN ACT to Clarify the Domestic Violence Statutes. (H.P. 636) (L.D. 726)

AN ACT Clarifying Municipal Authority to Invest Funds. (H.P. 884) (L.D. 1053)

AN ACT to Improve County Budget and Financial Procedures. (H.P. 1095) (L.D. 1292)

AN ACT to Adopt the Maine Municipal and Rural Electrification Cooperative Agency Act. (H.P. 1096) (L.D. 1295)

AN ACT to Establish an Arson Reporting Immunity Act. (H.P. 1272) (L.D. 1487)

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 Provide Cost-of-living Adjustments to Retired State Employees, Teachers and Beneficiaries. (S.P. 385) (L.D. 1143)

On motion by Senator Huber of Cumberland, placed on the Special Appropriations Table, pending Enactment.

Emergency

AN ACT to Amend the Unfair Sales Act. (H.P. 1479) (L.D. 1610)

This being an emergency measure and having received the affirmative votes of 26 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.

Emergency

RESOLVE, to Change an Authorized Expenditure of Franklin County for the Year 1981. (H.P. 1509) (L.D. 1623)

This being an emergency measure and having received the affirmative votes of 25 members of the Senate, with 1 Senator having voted in the negative it was Finally Passed 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.

On motion by Senator Collins of Knox, Referred until 3:30 o'clock this afternoon.

Recess

After Recess

The Senate called to order by the President.

Orders of the Day

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

Bill, "An Act to Give Leaseholders Option to Purchase Lands Acquired by the State in Exchange with Paper Companies." (H.P. 1477) (L.D. 1609)

Tabled—May 21, 1981 by Senator AULT of Kennebec.

Pending—Passage to be Engrossed.

On motion by Senator Collins of Knox, Referred until later in today's session.

The President laid before the Senate the second Tabled and specially assigned matter: VETO—Bill, "An Act Promoting the Availability of Health Care Services." (S.P. 303) (L.D. 847)

Tabled—May 22, 1981 by Senator GILL of Cumberland.

Pending—Consideration.

On motion by Senator Collins of Knox, Referred until later in today's session.

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

Bill, "An Act to Revise the Salaries of Certain County Officers." (H.P. 1508) (L.D. 1622)

Tabled—May 22, 1981 by Senator CONLEY of Cumberland.

Pending—Adoption of Senate Amendment "A" (S-277)

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

Sent down for concurrence.

The President laid before the Senate the fourth Tabled and specially assigned matter: Bill, "An Act to Permit the Abolition of the Position of Elected County Treasurer and Allow the Appointment of a Treasurer by the County Officers." (H.P. 1488) (L.D. 1615)

Tabled—May 22, 1981 by Senator PERKINS of Hancock.

Pending—Enactment.

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

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

SENATE REPORTS—from the Committee on Labor — Bill, "An Act to Standardize the Death Benefits under the Workers' Compensation Laws." (S.P. 359) (L.D. 1034) MAJORITY REPORT Ought Not to Pass; MINORITY REPORT Ought to Pass.

Tabled—May 22, 1981 by Senator COLLINS of Knox.

Pending—Acceptance of Either Report.

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

Senator SEWALL: Thank you, Mr. President. I move we Accept the Majority Ought Not to Pass Report and would speak briefly.

The PRESIDENT: The Senator has the floor.

Senator SEWALL: Thank you, Mr. President. I was the signer of the other report and the one I move today, I don't find very much support for this bill, and to expediate things, I think we might as well just let it go along.

On motion by Senator Sewall of Lincoln, the Majority Ought Not to Pass Report of the Committee Accepted.

Sent down for concurrence.

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

Bill, "An Act to Make Allocations from the Highway Fund and Appropriations from the General Fund for the Fiscal Years Ending June 30, 1982, and June 30, 1983, and to Establish a Local Road Assistance Program." (Emergency) (S.P. 609) (L.D. 1607)

Tabled—May 22, 1981 by Senator COLLINS of Knox.

Pending—Passage to be Engrossed.

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

Senator EMERSON: Mr. President, I now present Senate Amendment "B" to LD 1607 and move its adoption.

The PRESIDENT: The Senator from Penobscot, Senator Emerson, offers Senate Amendment "B" to LD 1607 and moves its adoption.

Senate Amendment "B" (S-285) Read and Adopted.

The Bill, as amended, Passed to be Engrossed.

Sent down for concurrence.

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

Bill, "An Act Establishing the Bonding and Excess Insurance Requirements for Self-insuring Workers' Compensation Employers." (H.P. 834) (L.D. 1001)

Tabled — May 22, 1981 by Senator COLLINS of Knox.

Pending — Motion of Senator SEWALL of Lincoln to Reconsider Adoption of Committee Amendment "A" (H-388)

On motion by Senator Sewall of Lincoln, Referred for 1 Legislative Day.

The President laid before the Senate the eighth Tabled and specially assigned matter: Joint Order — Relative to the Committee on Audit and Program Review reporting out a bill (H.P. 1515)

Tabled — May 22, 1981 by Senator COLLINS of Knox.

Pending — Motion of Senator MINKOWSKY of Androscoggin to Reconsider.

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

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

Bill, "An Act to Protect Persons with Children Against Discrimination in Fair Housing." (S.P. 620) (L.D. 1625)

Tabled — May 22, 1981 by Senator PRAY of Penobscot.

Pending — Passage to be Engrossed.

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

Senator CONLEY: Mr. President and Members of the Senate, I offer Senate Amendment "A" under filing number S-279 and move its adoption.

The PRESIDENT: The Senator from Cumberland, Senator Conley, offers Senate Amendment "A" to LD 1625 and moves its adoption. Senate Amendment "A" (S-279) Read.

The PRESIDENT: The Senator has the floor.

Senator CONLEY: Mr. President and Members of the Senate, the Amendment addresses condominiums and further exempts them from the Act, and clarifies a few areas that have been complicated in Section 4 of the Bill.

Senate Amendment "A" Adopted.

The Bill, as amended, Passed to be Engrossed.

Sent down for concurrence.

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

Bill, "An Act Concerning Minimum Limits Required under the Financial Responsibility Law." (H.P. 1455) (L.D. 1596)

Tabled — May 22, 1981 by Senator CONLEY of Cumberland.

Pending — Enactment.

On motion by Senator Devoe of Penobscot, the Senate voted to Suspend its Rules, for the purposes of Reconsideration.

On motion by Senator Devoe of Penobscot, the Senate voted to Reconsider its action whereby LD 1596 was Passed to be Engrossed.

On motion by Senator Devoe of Penobscot, the Senate voted to Reconsider its action whereby it Adopted Senate Amendment "A" to LD 1596.

On motion by Senator Devoe of Penobscot, Senate Amendment "A" was Indefinitely Postponed.

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

Senator TRAFTON: Mr. President, I now offer Senate Amendment "B" under filing number S-286 and move its adoption.

The PRESIDENT: The Senator from Androscoggin, Senator Trafton, offers Senate Amendment "B" to LD 1596 and moves its adoption.

Senate Amendment "B" (S-286) Read.

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

Senator TRAFTON: Mr. President, Men and Women of the Senate, I'd like to briefly explain what Senate Amendment "B" does. This is the Bill dealing with minimum limits required under the Financial Responsibility Law. The current limit in the law was put into the law in 1969. I think there is a need for some adjustment based on increasing economic factors such as inflation.

The original bill had a much higher set of minimum limits. Senate Amendment "B" proposes a more moderate rise in those limits from the current \$20,000 in bodily injury to \$25,-

000, from the current \$40,000 to \$50,000, and the current \$10,000 in property damage to \$20,000.

From the estimates that I have received, these increases would mean in terms of premiums, approximately a 9 percent increase in premiums. Under the Bill, as originally drafted, the estimates were as high as 30 percent increases in the amount of premiums.

I would suggest to you that 9 percent is indeed a reasonable increase, since this would be the first increase since 1969. Thank you.

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

Senator MINKOWSKY: Thank you very much, Mr. President. Mr. President and Members of the Senate, it is certainly very gratifying to see what's materialized with this Bill this afternoon, compared to what we were faced with in the Enactment stage of the Bill that was before us before the good Senator from Penobscot brought it down to the amendment stage.

When I had this Bill set aside, or Tabled, I should say, I was concerned with that particular segment of time that no other state in the United States had a Financial Responsibility Law as high as what was proposed in the Bill we had before us. The question I had was that was not adequately answered previously, is why should Maine be a leader with high financial responsibility limits, when in fact, we have a very low per capita income by comparison to other states.

Thirdly, this Bill is in itself self-serving, and would insure the benefit of my friends, the trial lawyers, seeking higher judgements. That was my major concern.

These things now have been apparently resolved somewhat, but when you look at the Bill as it was before the Amendment offered by Senator Trafton came into play, I think it's very important to have this for the Record, to show exactly what could have materialized.

This morning, I had circulated to you a fact sheet based upon the ISO, the Insurance Service Office rates. I think it's of significant value that the people of the State of Maine understand how close it came to them to have rate increases in automobile insurance policies, anywhere from 19 to 29 percent. Especially in today's economy, that is a substantial amount of money to be faced with.

Granted, true, the people have said, well, there has been motorists on the road that have not been adequately covered. On the other hand, it would be far worse, in my opinion, to have people on the road who could not afford to buy insurance, because of being priced out of the market, which would be more of a dilatory affect upon everybody in the State of Maine.

If you look at the proposal I sent out this morning to you, we had indicated the middle age married person, using a pleasure vehicle, and having no accidents, with the \$10,000/\$20,000 insurance limitations, that would have been a 19 percent increase, if we do not adopt this Senate Amendment this afternoon.

If you look at the next category, the elderly person, married, using a pleasure vehicle, no accidents, that would have been a 20 percent increase in that particular category.

Let's get to the teens. A teen female, good driver, Driver Education, pleasure vehicle, no accidents, that would have been a 19 percent increase. As you well realize, as family people, this would have a substantial increase on mom and dad's pocketbook, not necessarily the teen.

The assigned risk, which many people were concerned with, because some of the catastrophes that have happened, the single male under 25, no accidents, no accidents, but being an assigned risk, a 29 percent increase. The assigned risks, single, female, under 25, no accidents, again a 29 percent increase.

Basically, Mr. President and Members of the

Senate, it gives me a great deal of satisfaction this afternoon to have the proposed Amendment before us, which is basically a one step increase, versus my original proposal, which would be to have Indefinitely Postponed this particular Bill and all accompanying papers. In all sincerity, I hope that you accept the Senate Amendment as proposed by Senator Trafton, and endorse by all indications the Chairman of the Judiciary Committee, Senator Devoue.

Senate Amendment "A" Adopted.
The Bill, as amended, Passed to be Engrossed, in non-concurrence.
Sent down for concurrence.

The President laid before the Senate the eleventh Tabled and especially assigned matter:

RESOLVE, Authorizing the Governor, Acting on Behalf of the State, to Execute Certain Quitclaim Deeds. (S. P. 605) (L. D. 1604)

Tabled — May 22, 1981 by Senator COLLINS of Knox.

Pending — Final Passage.
On motion by Senator Collins of Knox, Re-tabled for 1 Legislative Day.

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

Bill, "An Act Assuring Legislative Participation in Nuclear Waste Repository Research and Development Activity within the State. (H. P. 1526) (L. D. 1636)

Tabled — May 22, 1981 by Senator PRAY of Penobscot.

Pending — Adoption of Senate Amendment "A" (S-276)

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

Senator COLLINS: Mr. President, in looking at this Bill, I am disturbed by the fact that the Bill calls for the appointing of two or four members of the Legislature to assist the Governor in the managing of low level waste. I conceive the Legislature as being confined to legislating, and not to assisting the Governor in managing low level waste.

I think it poses a separation of powers question. The explanatory note relating to the Committee Amendment, and I do favor Adoption of the Committee Amendment, it does help a bit, the explanation seems to think that it has cured that kind of a problem. I just raise this question now, because I would not think that I could vote for this kind of a Bill on Enactment, if it still contains provisions that make the Legislature a part of the Executive Department. Thank you.

Senate Amendment "A" Adopted.
The Bill, as amended, Passed to be Engrossed, in non-concurrence.
Sent down for concurrence.

The President laid before the Senate:
Bill, "An Act to Give Leaseholders Option to Purchase Lands Acquired by the State in Exchange with Paper Companies." (H. P. 1477) (L. D. 1609)

Tabled earlier in today's session by Senator Collins of Knox Pending Passage to be Engrossed.

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

Senator McBREAITY: Mr. President, Honorable Members of the Senate, I would hope that we did not, at this time, Pass this Bill to be Engrossed. We have 490 camp owners out there who lease land from the public lands. This Bill only deals with about 150.

There's another bill that has already passed. I understand it is on the Governor's desk, sponsored by Senator O'Leary, that deals with all of the camp lots, all 490. What it will do, the Bill that we've already passed, is it will require the Bureau of Taxation to put a value on the camp lots during this next summer. It will allow up to 10 percent be charged of that total value for leases.

I think that once we get the values on these lots, and find out how much income the State will get from the leases, that we will consider it good business to continue to lease these lots.

The Bill that's before us now, I believe there's great danger that people without enough time will accept a lifelong lease and find out shortly that they made a mistake. I would hope that we don't pass this Bill. If we want to keep it around a while, I'd hope it be Tabled until we find out what the other Bill, what the Governor does with the Bill that's already passed.

I think we should treat every one of the 490 lease holders the same. The Bill we have already passed does that. Thank you.

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

Senator AULT: Mr. President and Members of the Senate, I hope the Bill will be Passed to be Engrossed today. I would like to point out to the Members of the Senate that the title of the Bill is misleading in that it says, it gives leaseholders option to purchase lands acquired by the State. It does not do that now in its redraft.

This Bill applies to a unique situation in that these number of camp owners had leases with private owners of the land, be it paper companies or whatever. When the land was transferred to the State in an exchange, they suddenly found themselves on State-owned land.

What this Bill proposes to do is to give them an option of either a five year renewable lease, or a lifetime lease for the person that presently has the camp on the lot. It treats the people that found themselves in this situation fairly. I hope the Bill will be Passed to be Engrossed.

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

Senator McBREAITY: Mr. President, there's a couple of little items in this Bill that bothers me tremendously. One is, that a lifetime lease could be anywhere from 1 year to 75, I assume. You get the lease for the same price. It doesn't seem to me that's a very fair method of leasing.

Under this Bill, eventually, if you had a \$30,000 camp out there, it will revert back to the State in not too long a time. This seems to me when the people bought or rented these small parcels of land and built a building on it, they assumed that they were going to be treated fairly and allowed to continue that lease.

If I understand this correctly, if you took the lifelong lease and happened to pass away, which we all are going to do, you have nine months to move that camp. Your will won't be processed in nine months, so the camp would automatically return to the State.

I don't think this Bill is very fair to anybody. I hope you would not pass it. I hope you would let the other Bill take its course and come back next year. We'll have the values of these parcels of land. Then we treat everybody the same.

Once that land was swapped, they're all on public land. There's no difference between people who have leases on land that has been swapped recently and the people who have been on land, or are on land that the State has owned for quite a while.

I'd like a Roll Call on this.

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 Passage to be Engrossed of LD 1609.

A Yes vote will be in favor of the Passage to be Engrossed of LD 1609.

A No vote will be opposed.

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

ROLL CALL

YEA — Ault, Gill, Hichens, Huber, Sewall, C.: Sutton, Trafton, Trotzky, Wood.

NAY — Brown, Bustin, Carpenter, Charette, Clark, Collins, Conley, Devoe, Dutremble, Kerry, McBreairty, Minkowsky, Najarian, O'Leary, Perkins, Pray, Redmond, Shute, Teague.

ABSENT — Emerson, Pierce, Usher, Violette.

A Roll Call was had.

9 Senators having voted in the affirmative and 19 Senators in the negative, with 4 Senators being absent, LD 1609 Fails of Passage to be Engrossed.

The Chair recognizes the Senator from Aroostook, Senator McBreairty.

Senator McBREAIRTY: Mr. President, I move Reconsideration.

The PRESIDENT: The pending question before the Senate is the motion by the Senator from Aroostook, Senator McBreairty, that the Senate Reconsider its action whereby LD 1609 Failed of Passage to be Engrossed.

The Chair recognizes the Senator from Androscoggin, Senator Trafton.

Senator TRAFTON: Mr. President, I would request a Division on this. It occurs to me that many people were confused about exactly what the motion was before us. Perhaps that's not true, but I would hope that we would Reconsider this. This relates to public lots and whether or not those will remain in the public domain, regardless of those leases which can be renewable.

I would ask for a Division and hope that we could give this more thorough treatment.

The PRESIDENT: The Chair would apologize if there was any confusion in the minds of the Senate. The Chair attempted to state it very plainly.

A Division has been requested.

Will all those Senators in favor of the motion by the Senator from Aroostook, Senator McBreairty, that the Senate Reconsider its action whereby LD 1609 Failed 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.

13 Senators having voted in the affirmative and 16 Senators having voted in the negative, the motion to Reconsider does not prevail.

Sent down for concurrence.

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

Enactors

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

AN ACT Relating to Law Libraries. (SP 562) (LD 1532)

On motion by Senator Huber of Cumberland, placed on the Special Appropriations Table, pending Enactment.

AN ACT to Promote the Maine Potato Industry by Improving the Quality of Packing and Marketing Maine Potatoes. (HP 1486) (LD 1613)

On motion by Senator Huber of Cumberland, placed on the Special Appropriations Table, pending Enactment.

AN ACT to License Community and Home Health Agencies. (SP 618) (LD 1624)

On motion by Senator Huber of Cumberland, placed on the Special Appropriations Table, pending Enactment.

AN ACT to Adjust Annually Individual Income Tax Laws to Eliminate Inflation Induced Increases in Individual State Income Taxes. (HP 907) (LD 1074)

On motion by Senator Huber of Cumberland,

placed on the Special Appropriations Table, pending Enactment.

AN ACT Relating to Retirement for Justices and Judges. (HP 1497) (LD 1617)

On motion by Senator Huber of Cumberland, placed on the Special Appropriations Table, pending Enactment.

AN ACT to Create a Blue Ribbon Commission to Study the Public Education Delivery System. (HP 1178) (LD 1402)

On motion by Senator Huber of Cumberland, placed on the Special Appropriations Table, pending Enactment.

AN ACT Establishing the Women's Training and Employment Program. (HP 568) (LD 644)

On motion by Senator Huber of Cumberland, placed on the Special Appropriations Table, pending Enactment.

AN ACT to Provide for the Election of Jury Trials in Certain Criminal Cases. (HP 1328) (LD 1527)

On motion by Senator Huber of Cumberland, placed on the Special Appropriations Table, pending Enactment.

AN ACT Relating to State Participation in Local Leeway under the School Finance Act. (SP 265) (LD 747)

On motion by Senator Huber of Cumberland, placed on the Special Appropriations Table, pending Enactment.

AN ACT Relating to Aquaculture. (HP 1128) (LD 1345)

AN ACT to Amend the Charter of the York Sewer District. (HP 290) (LD 334)

AN ACT to Authorize the Eastern Maine Vocational-technical Institute to Operate a Program for Practical Nursing in Ellsworth. (SP 426) (LD 1248)

AN ACT to Amend the Definition of State Employee under the State Employee Labor Relations Act. (HP 1431) (LD 1582)

AN ACT to Require the Escort of Certain Oversize Vehicles. (HP 956) (LD 1132)

AN ACT to Improve the Efficiency of County Government. (HP 1094) (LD 1291)

AN ACT Relating to the Employment of Minors. (SP 188) (LD 490)

AN ACT to Increase the Licensing Fee for Games of Chance and to Increase the Limit on the Amount that can be Gambled for Any One Chance. (HP 184) (LD 199)

AN ACT to Clarify the Definition of Resident Individual in the Income Tax Law. (HP 21) (LD 14)

AN ACT Concerning Teacher Certification. (HP 1106) (LD 1311)

AN ACT to Require Periodic Reapportioning of Districts for Election of Representatives to Congress. (HP 1120) (LD 1337)

AN ACT Concerning Drug Abuse by Registered Pharmacists. (HP 1117) (LD 1334)

AN ACT to Amend, Revise and Codify the Landlord-Tenant Laws. (HP 1476) (LD 1608)

AN ACT to Authorize the Public Utilities Commission to Adopt Filing Requirements for Utility Rate Changes. (HP 527) (LD 593)

AN ACT to Clarify the Inland Fisheries and Wildlife Laws of Maine. (HP 1423) (LD 1577)

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

RESOLVE, Requiring the State Planning Office to Conduct an Educational Program on Manufactured Housing, and Directing the Committee on Local and County Government to Monitor and Report on the Program. (HP 892) (LD 996)

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

Emergency

AN ACT to Authorize the Public Utilities Commission to Purchase Electric Energy for Resale on a Nonprofit Basis to Electric Utilities Serving this State. (HP 1513) (LD 1632)

On motion by Senator Huber of Cumberland, placed on the Special Appropriations Table, pending Enactment.

Emergency

RESOLVE, Providing for Standards to Achieve Erosion Control on Roads in Organized Areas under the Site Location of Development Law. (HP 1365) (LD 1550)

Emergency

RESOLVE, for Laying of the County Taxes and Authorizing Expenditures of Kennebec County for the Year 1981. (HP 1516) (LD 1629)

These being emergency measures and having received the affirmative votes of 23 Members of the Senate, with No Senators having voted in the negative, were Finally Passed and having been signed by the President, were by the Secretary presented to the Governor for his approval.

Emergency

RESOLVE, to Authorize Expenditure of Certain Federal Funds for New or Expanded Programs. (HP 1361) (LD 1546)

Comes from the House, Failed of Final Passage.

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 Finally Passed and signed by the President.

Sent down for concurrence.

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

Papers from the House Non-concurrent Matter

Bill, "An Act to Provide a Referendum to Abolish County Government and Authorize Reassignment of its Functions and Duties to Appropriate State and Municipal Departments and Agencies." (HP 1040) (LD 1259)

In the House, May 8, 1981, Passed to be Engrossed.

In the Senate, May 14, 1981, the Majority Ought Not to Pass Report Read and Accepted, in non-concurrence.

Comes from the House, that Body having Insisted.

On motion by Senator Charette of Androscoggin, Tabled for 1 Legislative Day, pending Consideration.

Non-concurrent Matter

Bill, "An Act to Require Public Hearings Prior to Proposing Exchanges of Public Reserved Lands." (SP 455) (LD 1301)

In the Senate May 19, 1981, Passed to be Engrossed as amended by Committee Amendment "A" (S-250).

Comes from the House, Passed to be Engrossed as amended by House Amendment "A" (H-474), in non-concurrence.

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

Joint Order

ORDERED, the Senate concurring, that Bill, "An Act Authorizing and Directing the Bureau of Mental Health to Enhance and Protect the Rights of Recipients of Mental Health Services," House Paper 912, Legislative Document 1078, be recalled from the Governor's desk to the House. (HP 1547)

Comes from the House, Read and Passed.

Which was Read and Passed, in concurrence.

Orders of the Day

The President laid before the Senate:
VETO — Bill, "An Act Promoting the Availability of Health Care Services." (SP 303) (LD 847)

Tabled earlier in today's session by Senator Collins of Knox Pending Consideration.

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

Senator **GILL**: Mr. President, Members of the Senate, LD 847 is a Bill that I presented to this Session of the Legislature. It's one of the few bills that the Governor has vetoed. I'd like to respond to his veto message, if I may.

I'm sure you all had a chance to read it. It was quite a lengthy message. I'd like to go through it, if I may, briefly by paragraph and respond to it.

In the message, in the third paragraph, the Governor states that the Department of Human Services does not now have the authority to limit the registration or licensing of health care professionals, or their number or their location, nor does it contemplate seeking the authority to do so. I would say to that, not so. The Bill states that it may not impose any regulatory policy. The authors of the Bill, and the proponents of this measure, have repeatedly stated to the Governor's representatives and members of the Department of Human Services that it is there, the Department's arbitrary and capricious regulatory policies, which this Bill does address, not any legislative policy passed down by the Maine State Legislature, or by the United States Congress.

Gordon Brown testified in behalf of the Department of Human Services at the public hearing on the Bill, and said that the Department would not have any further objection to the Bill if the Certificate of Need were exempted. It was so exempted, as evidence of good faith by the sponsors.

In paragraph three, the Governor says the Department discussed this Bill with health care providers who expressed their concern that the Department would seek and acquire that authority, and would use it to establish quotas for numbers or positions, and particularly specialists in given areas around the State.

In response, the Department drafted language to ensure that this would not happen. Deputy Commissioner Frank McGinty said, it is possible, in the future, that the Department could use Medicaid reimbursement to limit which doctors a patient could see, and that the Department may contract with an HMO to be the treatment agency for Medicaid patients, a clear intention to set up a second level of treatment for poor people.

Consider that Maine does not presently have the Medicaid mills that other states have, and we don't want those here either.

In paragraph four, it talks about the Department's good faith effort was rejected. It reaches far beyond the legitimate concerns of the health care community and attacks and undermines the State's legitimate interest in encouraging adequate health care for all citizens regardless of where they live.

It goes on saying studies have shown that while Maine does not face an overall shortage in health care providers, there are many locations throughout the State which are served by inadequate numbers of doctors and nurses. To deal with this problem, the Department does undertake some activities which may affect the registration or licensing of health care professionals, with specific emphasis on the location of these professionals.

I'd like to respond by saying that the Department's language was purely eye wash. It was carefully contrived by their lawyer to avoid restricting the Department's ability to determine which doctors patients would be allowed to see.

We postponed action on this Bill to allow them time to draft more acceptable language. What they did was emasculate the Bill, which had already passed this Body by a vote of 20 to

10, and passed the House by a vote of 123 to 18. The Department's good faith effort may be judged by its constantly changing position on the Bill.

I'd like to go on to paragraph six. It states that they offer two examples of how the State's obligation to help serve the health needs of its people would be handcuffed by this Bill. They say, first it appears that President Reagan has agreed to allow states the flexibility to administer their Medicaid programs in a manner which would encourage professionals to locate in underserved areas, and provide them with the financial support needed to sustain their practices.

This would mean that the Department could pay for an incentive premium to physicians who agree to serve in Jackman, or Lubec, but for example, in order to provide those areas with the health care which they need. If this became law, the State would be unable to take advantage of that.

This program is strictly misleading. There is nothing at all in the Bill which prohibits encouraging programs to bring medical care to underserved areas. To the contrary, the Bill would prohibit the Department from unilaterally setting reimbursement policies, which would discourage practitioners from settling in underserved areas.

The aim of the Department, as demonstrated in the controversial State Health Plan, is to concentrate and consolidate health care in fewer areas. Historically, hospitals, communities, private groups, have been responsible for encouraging and arranging for the arrival of the new health care provider, where a need develops. Historically, the Department of Human Services has not been involved in the placement or encouragement of new providers.

On the contrary, the thrust of the Department's efforts all too often has been to discourage new health care facilities. To say that LD 847 would prevent the Department from encouraging health care professionals to practice in areas where they are needed is like saying, a good watch dog prevents a fox from encouraging the occupants of the hen house from laying more eggs.

In paragraph seven, the State may designate areas where provider shortage exists, according to the Governor's statement. This designation entitles an area to a special consideration by the federal government, which can assign a public health service doctor to that area. If the State were unable to make that designation, we would, therefore, be unable to take advantage of these physicians, because taking steps to attract them does indeed affect registration of physicians by reason of location.

Again, this paragraph is designed to mislead. Federal laws always take precedence in matters such as this. It is encouraging to see the Governor finally recognizing that some flexibility, such as President Reagan has mentioned, is needed in the Medicaid program. If such a federal law is passed, this Bill can in no way affect the higher law. All this Bill says is that the bureaucrats can not restrict the licensing of health care providers through non-legislative regulatory whim.

Again, if the federal government encourages, by action of law, LD 847 can not stop it. This paragraph is again an attempt to mislead.

Nothing in this Bill hampers the flexibility of the Department to meet the health care needs in the State. It hampers their intention of setting up a secondary health delivery system for poor people by removing their free choice of treatment by a medical doctor, osteopath, dentist, or chiropractor of their own selection.

The medical and dental students, who testified in support of this measure, encouraged its passage as an assurance that the bureaucrats would not, after ten or eleven years of training, and many thousands of dollars of debt, prohibit them from coming back to Rumford, Fort Kent, or Boothbay Harbor, to practice, because

someone had arbitrarily decided that health care providers did not have the same rights as a plumber or an electrician. That is, to live in the home town of their choosing, and be paid for their work, if there are people in town who need their services.

Far from being a detriment to health care, LD 847 is a positive statement in behalf of fledgling practitioners who wish to come back here to provide the additional health care services which the Governor, in his final paragraph, admits are needed by the citizens of this State.

For these reasons, I respectfully ask that you vote for freedom of access to health care by overriding this misguided veto. I truly have no illusions that this will be overridden, since one of the Senators, the Democratic Senator who supported this Bill all the way through, told me early Thursday morning, he was sorry about the veto, but had to go with the Governor at this time. It was before I had any word that the veto was coming down.

I would ask you to support the override.

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

Senator **PIERCE**: Mr. President and Members of the Senate, I, too, would like to add some words to the good Senator from Cumberland, Senator Gill, because I feel as dismayed as she does that the Governor has vetoed this Bill, which represented an assurance to Maine's present and future doctors and dentists, that their right to practice in communities of their choosing would not be limited or restricted by the arbitrary goals of a handful of health planners.

It was our own Body, you might recall, through the Amendment of the Senator from York, Senator Wood, that limited the scope of this Bill to the Department of Human Services. This was done for good reason. It was the personnel within this Department that had stated, and continued to state, a goal of direct and indirect restriction on licensing.

I'm further amazed at the lack of logic in the veto message. First the Governor says the Department does not now have the authority to limit the registration or licensing of health professionals by reason of their number or location, and further, the Department does not desire to do so.

He then goes on to recite the fact that the Department does not indeed undertake activities which may affect an impact on licensing by location. He then gives further examples of the Department's intent in this area.

His veto of this Bill is simply further evidence of its imminent need. I can recall when this Bill was initially debated in this Body. The Senator from Kennebec, Senator Bustin, said the administration wasn't lobbying against this Bill. I wonder what happened between the time of the public hearing, when the Department said they had no problem with the Bill if the Certificate of Need process was exempted, which was done, and final enactment?

As for underserved areas, the Bill does nothing to eliminate communities or hospitals efforts to attract qualified personnel, as has been done in the past. If the Department imposes the type of regulation policy suggested in the measure, not only will a two-tier level of health care delivery be established, one for the poor and one for the rich, but the Department will actually be interfering with the efforts of the underserved communities by establishing reimbursement policies which discourage practitioners from settling there. Who is the Department kidding? With reimbursement at 1976 levels, with no increase proposed in the budget, a practitioner would obviously starve were he to serve only Medicaid eligible patients, unless the Department, as the Deputy Commissioner said it might, restricts Medicaid patients to seeing only certain practitioners.

This may very well create what Senator Gill

just referred to as a Medicaid mill. That's something I would think none of us would want to see.

Finally, let's remember that this Bill does not limit the ability of this Legislature to determine in the future whether direct or indirect restrictions or licensing may occur. This Bill simply takes this decision away from the unelected bureaucrats, and places it here in this Legislature where a decision of this magnitude rightfully belongs.

I believe this veto is further evidence of the anti-medical community attitude that seems to pervade this administration. It's the same attitude that brought the Governor to eliminate completely the Medical Compact Program. We overturned that decision, and that is clearly what we should do here today with this ill-designed decision.

If we don't the Governor and a handful of bureaucrats may feel well-served, but the people of the State of Maine surely won't be.

The PRESIDENT: The pending question before the Senate is, shall this Bill become a law notwithstanding the objections of the Governor?

According to the Constitution, the vote will be taken by the Yeas and Nays.

A vote of Yes will be in favor of the Bill.

A vote of No will be in favor of sustaining the veto of the Governor.

Is the Senate ready for the question?

The Doorkeepers will secure the Senate.

The Secretary will call the roll.

ROLL CALL

YEA — Ault, Collins, Devoe, Gill, Hichens, Huber, McBreairey, Perkins, Pierce, Pray, Redmond, Sewall, C.; Shute, Sutton, Teague, Trotzky, The President, J. Sewall.

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

ABSENT — Emerson, Usher, Violette.

17 Senators having voted in the affirmative and 13 Senators in the negative, with 3 Senators being absent, and 17 being two-thirds of the membership present, the veto of the Governor is sustained.

The President requested the Sergeant-at-arms to escort the good Minority Floor Leader the Senator from Cumberland, Senator Conley, to the rostrum to assume the duties of President pro tem.

The Sergeant-at-Arms escorted the Senator from Cumberland, Senator Conley, to the rostrum, where he served as President Pro-tem.

The President then retired from the Senate Chamber.

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

Committee Reports House

Leave to Withdraw

The Committee on Taxation on, RESOLUTION, Proposing an Amendment to the Constitution of Maine to Amend the Provisions Requiring the State to Reimburse Municipalities and Counties for Losses Caused by Property Tax Revenues and Credits Enacted after April 1, 1978. (H. P. 1449) (L. D. 1589)

Reported that the same be granted Leave to Withdraw.

Comes from the House, the Report Read and Accepted.

The Committee on Taxation on, Bill, "An Act to Replace the Inheritance Act with a Maine Estate Tax and Provide for Funding through Gradual Elimination of Certain Tax Credits." (H. P. 1241) (L. D. 1466)

Reported that the same be granted Leave to Withdraw.

Comes from the House, the Report Read and Accepted.

The Committee on Taxation on, Bill, "An Act to Abolish the Maine Inheritance Tax and to

Provide for an Estate Tax Similar to Federal Law." (H. P. 800) (L. D. 954)

Reported that the same be granted Leave to Withdraw.

Comes from the House, the report Read and Accepted.

Which Reports were Read and Accepted, in concurrence.

Ought to Pass

The Committee on Public Utilities on, Bill, "An Act to Amend the Charter of the North Yarmouth Water District." (H. P. 1406) (L. D. 1571)

Reported that the same Ought to Pass.

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

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

Ought to Pass — As Amended

The Committee on Public Utilities on, Bill, "An Act Creating the North Berwick Water District." (Emergency) (H. P. 1407) (L. D. 1572)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-469).

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

The Committee on Education on, Bill, "An Act to Amend Special Education Statutes to Provide for the Computation of Board and Care and to Authorize Rate Approval by the Commissioner." (H. P. 268) (L. D. 302)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-470).

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

The Committee on Taxation on, Bill, "An Act to Establish the Municipal Cost Components for Services to be Rendered in Fiscal Year 1981-1982." (Emergency) (H. P. 1290) (L. D. 1484)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-468).

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

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

Ought to Pass in New Draft

The Committee on Education on, Bill, "An Act to Amend the Laws Governing School Administrative Districts." (H. P. 1066) (L. D. 1277)

Reported that the same Ought to Pass in New Draft under New Title: "AN ACT to Amend the Laws Governing School Administrative Districts and Community School Districts." (H. P. 1514) (L. D. 1631).

Comes from the House, the Bill, in New Draft, Passed to be Engrossed as amended by House Amendment "A" (H-459) and "B" (H-473).

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

The Committee on Taxation on, Bill, "An Act to Recover Overdue Student Loan and Child Support Payments." (H. P. 1238) (L. D. 1463)

Reported that the same Ought to Pass in New Draft under New Title: "AN ACT to Provide for the Setoff against Income Tax Refunds of Debts Owed to the State or Collectible by the

State." (H. P. 1538) (L. D. 1650)

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

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

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

Paper from the House Non-concurrent Matter

Bill, "An Act to Revise the Law Concerning Absentee Voting." (H. P. 1506) (L. D. 1619)

In the Senate, May 20, 1981, Passed to be Engrossed, in non-concurrence.

Comes from the House, Passed to be Engrossed as amended by House Amendment "A" (H-472), in non-concurrence.

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

Senator PIERCE: Mr. President and Members of the Senate, I just want to bring this Bill to your attention. It was an Absentee Ballot Reform Bill, which went through this Body for two readings, and has not been successful down in the other Body. What you see before you are a couple of housekeeping amendments taking everything out of the Bill, so that it really is a nothing Bill, except we are passing a title.

I thought everybody should know that we're not passing any kind of a reform bill that was initially intended. This is strictly now just a nothing housekeeping bill.

The PRESIDENT Pro Tem: The chair recognizes the Senator from Penobscot, Senator Pray.

Senator PRAY: Mr. President and Members of the Senate, when this Bill came through earlier in this Session, I made several remarks in opposition to it, basically to the part of which candidates would be removed from having the opportunity if they were a J. P. or a Notary of collecting absentee ballots. Basically, with the House Amendment in form now, that is a major section that has been removed, at least that I can see.

I think that the present form of the Bill, which is basically a cost savings to a small degree to the State on the printing of absentee ballots and so forth, warrants the passage of it.

It's a little more than major or minor housekeeping. It's a small step in that area to correct those absentee ballots and the concerns that many people have with it.

The PRESIDENT Pro Tem: Is it the pleasure of the Senate to Recede and Concur with the House?

It is a vote.

Committee Report House Divided Report

The Majority of the Committee on Taxation on, Bill, "An Act Promoting Alcoholism Prevention, Education, Treatment and Research." (HP 1270) (LD 1485)

Reported that the same Ought to Pass in New Draft under Same Title. (HP 1540) (LD 1655)

Signed:

Senators:

TEAGUE of Somerset

WOOD of York

EMERSON of Penobscot

Representatives:

POST of Owl's Head

HAYDEN of Durham

KANE of South Portland

MASTERMAN of Milo

TWITCHELL of Norway

DAY of Westbrook

KILCOYNE of Gardiner

HIGGINS of Portland

The Minority of the same Committee on the same subject matter reported that the same Ought to Pass in New Draft under Same Title.

(HP 1539) (LD 1654)

Signed:

Representatives:

BROWN of Bethel
INGRAHAM of Houlton

Comes from the House, the Majority Report Read and Accepted and the Bill in New Draft (HP 1540) (LD 1655) Passed to be Engrossed.

Which Reports were Read.

On motion by Senator Teague of Somerset, the Majority Ought to Pass, in New Draft, Report of the Committee Accepted, in concurrence, and the Bill, in New Draft, Read Once and Tomorrow Assigned for Second Reading.

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

Order

A Joint Resolution in Memoriam:

WHEREAS, the Legislature has learned with deep regret of the death of Shirley Povich, Esquire, of Ellsworth, former municipal judge and outstanding citizen of Ellsworth and Hancock County. (SP 640) presented by Senator PERKINS of Hancock, (co-sponsored by Representative FOSTER of Ellsworth)

Which was Read and Passed.

Sent down for concurrence.

Orders of the Day

The President Pro Tem laid before the Senate:

HOUSE REPORT — from the Committee on Taxation — Bill, "An Act to Establish a Limited Tax Credit to Aid Businesses Providing Day Care Services to their Employees." (H. P. 1240) (L. D. 1465) Ought to Pass as Amended by Committee Amendment "A" (H-466)

Tabled — Earlier in the Day by Senator TEAGUE of Somerset.

Pending — Acceptance of Report.

Which Report was Accepted, in concurrence, and the Bill Read Once. Committee Amendment "A" Read and Adopted, in concurrence. Under Suspension of the Rules, the Bill, as amended, Read a Second Time, and Passed to be Engrossed, in concurrence.

The President Pro Tem laid before the Senate:

Bill, "An Act to Authorize a General Fund Bond Issue in the Amount of \$2,500,000 to Assist Municipalities with Resource Recovery of Solid Waste." (H. P. 1528) (L. D. 1641)

Tabled — Earlier in the Day by Senator HUBER of Cumberland.

Pending — Assignment for Second Reading. Under Suspension of the Rules, the Bill Read a Second Time.

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

Senator HUBER: I present Senate Amendment "A" to the Bill under filing number S-289 and move its adoption.

The PRESIDENT Pro Tem: The Senator from Cumberland, Senator Huber, offers Senate Amendment "A" and moves its adoption.

Senate Amendment "A" (S-289) Read and Adopted. The Bill, as amended, Passed to be Engrossed, in non-concurrence.

Sent down for concurrence.

The President Pro Tem laid before the Senate:

HOUSE REPORTS — from the Committee on Energy and Natural Resources — Bill, "An Act to Establish an Emergency Radiological Response System." (H. P. 923) (L. D. 1094) Report "A" Ought Not to Pass — Report "B" Ought to Pass in New Draft under Same Title (H. P. 1518) (L. D. 1633) Report "C" Ought to Pass in New Draft under Same Title (H. P. 1519) (L. D. 1634)

Tabled — Earlier in the Day by Senator PIERCE of Kennebec.

Pending — Motion of Senator McBairty of Aroostook to Accept Report "A" Ought Not to Pass.

The PRESIDENT Pro Tem: The Chair recognizes the Senator from Washington, Senator Brown.

Senator BROWN: Thank you, Mr. President. Men and Women of the Senate, I urge you to defeat the pending motion of the Acceptance of the Committee "A" Report, so you can Accept the Committee "B" Report. I'd like to briefly speak to the motion.

The PRESIDENT Pro Tem: The Senator has the floor.

Senator BROWN: This is not a nuclear power issue in the sense of being anti or pro. What this particular Bill does is to recognize and accept responsibility for the area surrounding our nuclear power plant in terms of an evacuation plan. Back in 1979, in September, the Legislature passed a plan, at that time, which authorized the State Police, rather the State Police had it, until that time, it was turned over to the Civil Emergency Preparedness. They have been working for the past two years at the expense of almost \$1 million, in coming up with a plan, an evacuation plan surrounding the area around Wiscasset, the nuclear power plant.

Due to recent happenings in the State of Alabama, relative to a nuclear generating station, relative to my own area of Washington County, where we're 28 miles away from the Pont LePereau nuclear generating station, I feel that it behooves the people surrounding that site to be protected and having an evacuation plan that's been put together and well thought out.

The Report "B" of this particular Bill is similar to Report "C", except for the fact that Report "B" authorizes a fee of \$75,000 to be collected from the nuclear generating, a licensee, for the first year, and \$50,000 for each year thereafter. This would go into a fund which would accumulate to a maximum of \$250,000. It would, also, establish a new group to look over the plan yearly. Those people being the Director of Civil Emergency Preparedness, the Commissioner of Public Safety, and the Director of Health Engineering. Also, each licensee holder or the power plant itself would also send us a non-voting member on that particular board.

This Bill, also, provides for an annual review of the planned evacuation plan. I feel it's the responsibility, in terms of the two versions, whether it's "B" or "C", it's the responsibility of those people who benefit from the use of nuclear power, that they should, also, be the one to pay for the plans surrounding the plant. That's the difference between the two.

I urge you to defeat the pending motion, the one by Senator McBairty, the Ought Not to Pass, so we can Accept Committee Report "B". Thank you, Mr. President.

Mr. President, I request a Division.

The PRESIDENT PRO-TEM: A Division has been requested.

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

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

8 Senators having voted in the affirmative, and 16 Senators having voted in the negative, the motion to Accept the Ought Not to Pass Report "A" of the Committee does not prevail.

Report "B", Ought to Pass, in New Draft, (H. P. 1518) (L. D. 1633) Accepted, in concurrence. The Bill, in New Draft, Read Once, and Tomorrow Assigned for Second Reading.

The President Pro-Tem laid before the Senate:

Bill, "An Act to Restructure the Public Utilities Commission." (S. P. 637) (L. D. 1652)

Tabled—Earlier in the Day by Senator COLLINS of Knox.

Pending—Assignment for Second Reading.

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

Senator TROTZKY: Mr. President and Members of the Senate: I feel that it's important for me to rise and explain what this Bill does. We are all faced, the State of Maine is faced with an initiative referendum, where the people in November will vote on whether to have an elected Public Utilities Commission. The Public Utilities Commissioners are appointed for seven year terms. What's taking place, is, over a period of time, all the reappointments come up very close to one another.

The Public Utilities Committee unanimously felt that this procedure, where they all came up in a group for reappointment, resulted in potentially a lack of accountability to the public.

What we did is we shortened the terms of all the commissioners to six years. We staggered the terms, so that, and by the way, most of the states have six year terms, we staggered the terms so a commissioner comes up every two years for reappointment, meaning that each governor will be able to appoint two commissioners during his term of office.

We felt that this results in a more direct accountability to the Governor, and really to the people of the State of Maine. The way it's been set up is that Commissioner Smith's term will end twelve months earlier. Commissioner Gelder's term will end ten months earlier. Commissioner Carrigan's term will be extended by four months.

This was the way, we felt, was the best way to go, unanimously the Committee on Public Utilities.

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

Senator PIERCE: Mr. President and Members of the Senate: I'm sure that the Committee did act in good faith and with good intentions. I think the end result has not been a particularly positive one for the State of Maine. If we were to change these terms, and not affect the people that are there now, I would say fine.

I think that we have made a commitment to these people for a term of a given length. They should be allowed to serve it out before we change the law. If we did it in that manner, I would have no objection whatsoever.

I think if we're going to go through with this, we ought to label this Bill right up front for what it is, and let the people know what it is. It's a get Lincoln Smith Bill. It's to put his head on a platter, serve it up to the public, and try to effect the coming referendum. I don't think that's honest. I don't think it's fair. I don't think it's proper for us to be doing that.

If it was Ralph Gelder whose term was affected, or Diantha Carrigan's, or anybody, I would feel just as strongly. For us to try to affect the coming referendum in this way, I don't think is proper. I think it's very clear what we are trying to do. We should keep our commitment to both those Commissioners, change the terms for future officeholders, and leave everybody with a far better taste in their mouth than they're going to have with this particular situation.

Everybody is so, all fired, up tight about defeating the upcoming referendum, that they're doing everything except maybe what would have some plain common sense in doing, and that's telling the people what most of us around here think. It's a lousy idea. Have some faith in the common sense of the people in Maine that they will defeat it. Stop trying to jockey behind the scenes. Stop trying to fool them and affect the outcome of that referendum in ways that are something less than admirable, as far as I'm concerned.

Mr. President, I would request the Yeas and Nays.

The PRESIDENT Pro Tem: The Chair rec-

ognizes the Senator from Penobscot, Senator Trotzky.

Senator TROTZKY: Mr. President and Members of the Senate: I resent the implications here that this Bill is to get one of the Commissioners. This Bill was not put forth by the Committee to get one of the Commissioners. This Bill was put forth to get greater accountability of commissioners, because right now the rotation is every seven years, and they all come together.

What this Bill does is essentially shorten the term by one year. It shortens two commissioners by approximately one year. Our interests in the Committee are for the best interest of the State of Maine. That's why we acted the way we did.

I will say very clearly that the Committee members felt very strongly that it's not the best interest of the State of Maine to have elected commissioners. The feeling was, also, that we have an obligation in every Session to take a good look at the Public Utilities Commission, see how it's working. We felt that each governor should be able to choose two commissioners. When all the commissioners are chosen by one governor, we felt that there is a period of time where maybe there is possibly a lack of accountability, because the governor is elected every four years, and should be able to choose some commissioners.

Our interest were not to get any commissioner, but to do what we felt was in the best interests in the State of Maine, and that was to have six year terms with a rotation every two years, so that a governor could appoint two commissioners.

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

Senator CARPENTER: Mr. President, Ladies and Gentlemen of the Senate: I guess I can sum up my remarks today by saying, only in America. Only in America could we stand here and talk about the referendum that would make the public utilities commission elected, and say that they can't be accountable. That would be put politics into the system, and the elected people somehow wouldn't be as good as what we have now. We sit here, all 33 of us, elected-leaders, and discuss that.

I think clearly this Bill is an attempt by the Committee to do something. I think it's a good faith attempt, but I do think that the referendum was on their mind. I'll vote against this Bill today, because I don't think the referendum is that bad an idea. I don't think that we would get less accountability by having some more elected officials making tough decisions. We've all based tough decisions on taxes, and things like that. I think we account for ourselves fairly well as a group. I don't see that circumventing the referendum in this way is going to solve anything. I don't know if this is a get anybody bill. I was not involved in the drafting of it. I certainly hope it wasn't on the part of the Committee.

This might be a good, you know, maybe the referendum has caused this bill to come about. This might be a compromise if the people in Maine, and I'm not so sure that their good judgement is going to be to defeat that bill. After all, they put us here, didn't they? Maybe they'll exercise the same kind of good judgement and we'll have elected PUC commissioners. Thank you.

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

Senator TRAFTON: Thank you, Mr. President. Mr. President, and Men and Women of the Senate, I'd like to speak this afternoon as one of the sponsors of this Bill, and to assure those members of the Senate who think there's some insidious plot afoot here, that this Bill was not originally conceived as a response to the referendum. It was initiated before that time. It was initiated, because having served

on the Public Utilities Committee for a Session, I recognized that there are some structural problems with the way the PUC was constituted.

This is not a compromise effort. This is not an effort to in any way undermine the petition drive or to in any way predict or affect the results of the election, of the vote, which will be held in the next fall.

This does represent, I think, common sense. It recognizes that the current three commissioners were appointed by the same governor. This Bill before us tries to make evenly staggered, six year terms. Really, that's the essence of the Bill, which is quite a change from what the Bill originally tried to do.

In the original Bill, I had asked for four year terms, and would have terminated all the commissioners on the effective date of this act. Again, I don't think there's any motivation here to adversely affect any of the Commissioners currently in office.

I think it is important that we have this kind of accountability, and that the people can regularly see that in a two year period, one of the commissioners will be coming up for election, or for appointment. If the referendum were to pass, again, these are not competing measures, and so the referendum would become law as it is written.

I hope you will Accept this Report today. I don't think it represents a radical change, at all, from the way Public Utilities Commissions should operate and in fact do operate in many states in this country. I urge your support.

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

Senator PIERCE: Mr. President, because of the parliamentary position that the Bill is in right now, I would request Leave of the Senate to Withdraw my motion for a Roll Call, for the moment.

The PRESIDENT Pro Tem: The Senator from Kennebec, Senator Pierce, requests Leave of the Senate to Withdraw his motion for a Roll Call.

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

It is a vote.

The Bill, Tomorrow Assigned for Second Reading.

The President Pro Tem laid before the Senate:

SENATE REPORTS— from the Committee on Judiciary — Bill, "An Act to Establish a Board of Prison Terms and Supervised Release." (S. P. 494) (L. D. 1429) MAJORITY REPORT Ought to Pass as Amended by Committee Amendment "A" (S-280); MINORITY REPORT Ought Not to Pass.

Tabled—Earlier in the Day by Senator CONLEY of Cumberland

Pending—Acceptance of Either Report.

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

Senator KERRY: Senator Conley, President, Mr. President, I appreciate the encouragement on this Bill. Senator Conley, Mr. President and Members of the Senate, I move the Ought to Pass Report from the Committee.

On motion by Senator Kerry of York, the Majority Ought to Pass Report of the Committee Accepted and the Bill Read Once. Committee Amendment "A" Read.

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

Senator COLLINS: Mr. President, I think that Committee Amendment "A" should be Adopted, but I do want to express some reservations about the Bill as a whole. As you know, the State Prison is in my District and I have taken considerable interest in the sentencing practices and in the administrative practices that have to do with whether the prison is overflowing or half empty. We know it's been over-

flowing. The original Bill said in very plain language that if it's too full, let them out.

I raised some objections to that. I'm glad to say that Committee Amendment "A" takes that part of the Bill out.

The thing that troubles me about the effort to change our sentencing practices is partly the fact that we've only been in the new Criminal Code, as to sentencing now, for about four years. With respect to the more important crimes, those that draw a long sentence, we really haven't had enough time to test the efficacy of determinate sentencing.

I agree with some parts of this Bill. I think that it is true that some system of supervised release is a valuable part of the system. I understand that information that came to the Committee on Judiciary indicated that the cost of supervised release would be even greater than the Fiscal Note of about \$46,000 that's attached to this Bill. I would think that would be so, if we're going to have a really effective program.

The thing that troubles me most is that our judges, across the State, these last four years, in their sentencing practices, have established their sentences with the knowledge that the Criminal Code provided flat sentencing, no parole. They have recognized the big change from the day when they used to say, from 10 to 20 years, or from 5 to 10 years, or 2 to 4, or 2 to 12, or whatever it might be. Those were the days of parole, where the treatment of the prisoner after the minimum sentence was very much in the hands of an appointed board.

Sometimes that board did good work. Sometimes not so good, but the fact was that the Criminal Code Commission that worked for two or three years establishing the legislation that we enacted in 1975 was not very much impressed with the fact that, into the 90's, I think it was 94 or 95 percent of the criminals that came before the parole board were released at the earliest possible moment. When they went out into the community, the percentage of recidivism was high. So, it seemed worthwhile to try a different method. When he different method was presented, it included a provision for resentencing. After a criminal has served half the term, if the criminal who is in the prison wants to, he may petition the court, not the parole board, but the court, to go back and be resentedenced.

We haven't tried that yet. There hasn't been time, or else the fellows that are in the Thomaston Prison don't have enough confidence in their opportunity to get out, that they're willing to try it. I'd like to see that tried, myself.

Other states followed Maine and California in adopting determinate sentencing. Illinois adopted it a little over a year ago. Several other states have followed. It's an experiment across the country. It may not be a successful experiment. I think it's too early to know.

I've lectured at the State Prison a couple of times to classes of inmates. Before I finished the class, I make it a point to ask them which system do they prefer, the flat sentence when they know when they're going to get out, or the indeterminate sentence, in which it's up to a parole board. On voting and these classes include both types, it's been about two to one in favor of the flat sentencing.

I'm running out of voice, so I'm not going to carry on much longer. I may be able to support this Bill, if it's changed a bit to concentrate strictly on supervised release. I'm not entirely happy with the complete story that the Bill now contains.

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

Senator DEVOE: Thank you, Mr. President. Members of the Senate, to supplement what the good Senator from Knox, Senator Collins, has just related to you, Illinois, California, Indiana, Minnesota, North Carolina, and Connecticut, since 1976, have followed Maine's

lead and have adopted a flat sentencing technique in their criminal code.

The Judiciary Committee did go to the State Prison on or about March 27. We had a tour, as several other legislative committees have had tours of that facility. We had at least a 45 minute, or an hour long, meeting with any prisoner who wanted to come to take with the Judiciary Committee that was there. I think I'm relating this correctly. One of the questions that was on our collective minds was, what did the individuals in that room with us think of the Parole Bill?

I think I'm reporting accurately that there was a great variety of opinions expressed. Some people were categorically for it. They thought it was a terrific idea, even though it had not yet then been printed in L. D. form. They liked the notion of it. That was just a small, small number of people.

The rest of them were either uncertain or absolutely opposed to the idea. Some of them even went so far as to say, they didn't want any Parole Bill. They didn't want any parole or probation department official telling them, at all, what they could do once they got out.

As the Senator from Knox, Senator Collins, related to you, there are two things that this Bill purports to do. One is to set up a parole board that will hasten a prisoner's departure from the State Prison. The second part of the Bill, and I think a far more meritorious part of the Bill, has to do with their being in place, probation and parole officials, case workers, on the outside who can help, who can figuratively and maybe sometimes literally take the prisoner by the hand and help him in his transition back into society, for about a six month period after his release from the State Prison.

That part of the Bill deserves far more consideration than it was given. I think that part of the Bill may have a lot of merit next year, after we get the Corrections Department, perhaps, in place, so that we know who we're talking with, so that we can have an indepth dialogue with that Corrections Department.

For now, I think it's hasty for this Legislature to pass this Parole Bill, because of its impact on the Criminal Justice System, because of its adverse impact on the sentencing procedures that have been in place since the Criminal Code was Enacted. You have to keep in mind that if this Bill were to pass in its present form, its effect is going to be to have every term that is being presently carried out in Thomaston, today, with one or two exceptions, it's going to substitute the action of a visible conspicuous judiciary that has heard the trial, that has had the benefit of pre-sentence investigation, and have been right up front in the way they have sentenced prisoners, it's going to substitute the judgment of a judge who has been close to the case with that of a more or less invisible bureaucracy that's going to be working behind the scenes, that's going to be cutting the length of these sentences. Thank you, Mr. President.

Committee Amendment "A" Adopted.

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

Senator KERRY: Mr. President and Ladies and Gentlemen of the Senate, I think the good Senator from Penobscot has given a good assessment of what has taken place with regards to the visitation that the Judiciary Committee made to the Thomaston State Prison.

I think what we have here is, there was a little bit of differentiation at the Prison, when we went. Number one, many of the individuals at the Prison were in opposition to the Parole Bill, mainly because, I believe, they felt that the probation and parole, or supervised release board, would add more difficulty to their getting out, rather than allowing them to get out earlier.

I believe that the basic purpose behind the Bill, as presented by the Commissioner of Mental Health and Corrections and other de-

partmental people, who have been working on this Bill for quite some time, is that we need to have control over the prisoners who are in prison, notwithstanding very effective measures taken recently by the Governor to lock down the prison while they're in there, but while they're outside of the prison.

The current system that we have now is the system of total security and no security. When a prisoner is in the Maine State Prison, or any other correctional facility, we have control over them. Under the current Criminal Code, and under our current system, there is absolutely no supervision once they leave the prison.

I might add that the Amendment that was added to the Bill, for example, just in order that we might not get the wrong impression with regards to who it would cover. The individuals who would be ineligible for parole or release would be persons convicted of the following offenses, of murder, felony murder, causing a catastrophe as such, and with the use of a dangerous weapon, manslaughter, kidnapping, burglary, robbery, and theft.

The key thing is with regards to our Committee. The Enactment of this legislation would number one, include, the development of standards for supervised release, which would take very much into concern the recidivism rate that was discussed by the good Senator from Knox, Senator Collins.

I studied the prison system and the correctional system in the State of Maine for over a year, several years ago. I think it was very indicative to find that over 86 percent of the individuals that were taken into prison, or to our correctional facilities, they were creating problems later, once they were released.

Today, we have absolutely no control, or no programs geared, to supervising them on the streets. As I see this particular program, it was brought to our attention by the Commissioner and others that the teeth in the law is necessary. We need to have something to do with the people once they've left the prison.

I, also, would bring into mind that several years ago, and during the last session, there were many people who were in opposition to the separate Department of Corrections. I think it was well understood that they did not want to see this enacted, because they were thinking of the timing, because of the possible costs. I think, today, that most of those persons who were in opposition to this recognize that there is a great need to focus in on our correctional system. They are now main proponents of this legislation.

I think we're happy to see that we didn't have the riots or major problems down as they had in Michigan and other states, because of strong action taken by the Executive Department in the lock down.

I think the people and the citizens of the State of Maine want our correctional facilities to be tough. I think they want the people who go into these facilities to get some sort of rehabilitation.

The clear point of fact is that once they leave these facilities today, right now, there is absolutely no supervision of these individuals on the streets. Very little whatsoever. This particular measure provides for developing standards with the advice and consent of legal scholars, sociologists, of people in the legal framework, people who are correctional experts, as well as the judiciary.

It was clear to the members of our Committee that in order to implement a system that would service all of the people within the correctional facilities, and to protect the public themselves, that we've got to take a major stand now to implement a system that was going to overcome the problems that have been created because there is today a major problem out on the streets.

Every time we get up before this Body, we find people crying about crime on the streets. We have people who want to take their guns to

the people who are now breaking into their homes. This particular measure would try to accommodate that issue. It would try to say to a person, you have hope once you get on the streets, because we're going to provide some services to you, plus guidance and direction.

If while you're in the prison system, you do not accommodate the rules and regulations, there will be bad time added to your term, that you would not be able to get out at an earlier date.

This is not going to operate under the previous, if you will, background of the previous parole and probation department. They know they made mistakes in the past. We realize that the judiciary sentenced people to long terms in the past, and they were let out earlier, to no benefit to the public.

The Department of Mental Health and Corrections, under its current administration, is fully cognizant of that. They do not want to fall into that specific trap. This legislation says, there are many people in the facilities who do not belong there, for long periods of time. There are others who are absolutely bad apples. They should not be allowed out on the streets. They are exempted from this Bill. It seems to me that is a responsible action on the part of the Governor's Office and the Department of Mental Health and Corrections, to pass this legislation to give the appropriate tools to the correctional program to be able to protect the public.

I think it's very interesting that the good Senator from Knox brought up the fact that it would cost more. It has been indicated by the people in the Correctional Department, that there would probably be only one person per month added to the caseload of the current probation and parole officers if this Bill was passed.

Secondly, not a single person would be released until after 1982. That would be only after legislative review of the standards that were presented and guidelines presented to the board.

I would, therefore, move that we do pass this legislation. I would move its passage.

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

Senator SHUTE: Mr. President, Ladies and Gentlemen of the Senate, as I understand this Bill, it does two things. One, is cut the time in half on the sentencing. Another thing, have some guidance for the criminal after he's let out of Thomaston.

The good Senator from York, Senator Kerry, just stated, that there are many people in Thomaston that don't belong there. I wonder how they got there if they didn't belong there? There must be a reason why they're there. If they shouldn't be there, they should be let out immediately.

Also, on the Bill, as I understand it from the debate, people using weapons, for some serious crimes, wouldn't come under this section of the law. I wonder if dope peddlers or rapists, or child molesters, or some of those people would be eligible for the half term? Maybe somebody could bring that up in the debate.

It seems that a few years ago, the Legislature made a determination that we would have a determinate sentence for criminals when they went to Thomaston. Now, under this Bill, it seems that we're cutting that in half, plus the good time. Would this mean that somebody going into Thomaston for five years, would be let out in, say, two years, counting their good time? Is this a good benefit to society, or even to the prisoners in Thomaston?

I don't really see much benefit to society in this Bill. I'm sure if I was in Thomaston, you can now ask me, if I'd rather get out in two.

I think we ought to look at some of the victims of the crime, also, when we make some decisions here in the Legislature to relax the rules that this Legislature itself set in the Criminal Code just a few years ago. I didn't

vote for the Criminal Code to begin with. There was a decision made at that time that should be some sentence set by the judge. He should have some authority in that area.

Now we're going to say that the judge really doesn't have that expertise to make that determination. We're going to say, you can get out in half your time, minus your good days off. Is that the drift of this Bill?

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

Senator KERRY: Number one, I would like to address that. No, that is not the intent of this legislation. I think that is a very poor characterization of what it would be.

First of all, the key thing, if the person was going to prison, and I am not going to sit here and advocate for a person who has been a rapist, or he's been a murderer, or someone who's committed a major felony against the State. I'll tell you, when we went to the Prison, and I've probably been in correctional facilities a lot more than most of the people on our Committee. I've probably met a lot more inmates than probably a lot of other people as well, maybe as many in the Senate.

The key purpose is that this program would allow for the, if eligible, for parole. The reason why the prisoners were against it, is because they're afraid this board is going to act judiciously. They're going to say, you are not eligible for parole now. You have not been, if you will, rehabilitated, and therefore, you're going to have to serve the full complement of your sentence, minus the good time.

That would not mean that a person would be getting out at half time. I think it's very indicative here that I said to many members on the Committee, I've been in the Prison between 1970 and 1981 several times. I have been there before the riots and after the riots. After speaking with many of the prisoners there, I said, you know what I think, most of this, the guy that was talking to us, the inmate that was talking to us, I said, you know, I think he's really putting us on. He's just throwing a big snow job at us. I really don't respect what he said.

There was another inmate there saying, well, gee, I'd do anything if I could get out. I'd be a God serving man. I'd go to church. I'd do whatever I could. I believe most of the members of the Committee didn't believe that. Maybe he was telling the truth, maybe he wasn't. The point is that this particular program, if instituted, would allow an impartial, disinterested body, to assess the man's capabilities emotionally, assess his capabilities economically, his family's capabilities, the interest of society, and of the correctional facilities.

It is not a get easy attitude on prisoners that is the motivation behind it. It is a matter of being realistic, commonsensical. I hear this word so often, common sense, here in this Body. What we are really doing, we're prostituting the word at every stretch of the imagination. Whenever it's bad, we always accuse the other person of it.

What's ever happened here, is I'm just trying to say, that this particular Bill would give the Department of Mental Health and Corrections the tools to deal with convicted criminals. They are criminals. They've gone to institutions. They have matriculated up to the system of the Boy's Training Center, the Men's Correctional Center, and Thomaston. When they get out, they're going to be raping your children, and your family members. They're going to be beating up on the people. They're going to be stealing. They're not going to have jobs. They're not going to have anybody trying to guide them through society. The ones who can not be guided, and they have proven the fact that they're not going to do anything, are going to be still in prison.

I know another thing, that there's very few people in this Body that are going to allow the State to fund programs necessary to really do

some rehabilitation. It is my concerted belief that there is no rehabilitation in our correctional facilities in most cases. De facto, what is happening in our correctional facilities is people are going in there, and they're saying, and I would just say to the good Senator from Penobscot, in the sense of dealing with people getting out early, is the fact that I believe, and it is my considered belief that he is well motivated in his judgement here in trying to project the discretionary powers of the judiciary, I concur with many of his thinkings in that area. I also believe this, that most of the prisoners that we met, and many of the prisoners that I know go into that prison, and say to keep your nose clean to the best of your ability, and get your good time. You'll be out on the streets doing exactly what you want to do later. That's what's happening today. Anyone who goes in with a character defect, that you're so concerned about, Senator, is going to still have it when he gets out. It's been that way for 25 years that I can remember, and it will be that way for 25 years in the future, until we give these people a chance to get some good programs, and give the Department some tools to work with the people.

That's going to be a true faith attestation to the people of this society. I really think, every time we want to kill a Bill, all we have to do is mention the word rape, or let people out early. This Bill would merely allow the board to say, yes or no. It doesn't say automatic, yes. It doesn't say automatic, no. It means judgement and reason, and true rehabilitation. I think, really, that that's the case. Those who do not deserve it will not get out.

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

Senator SUTTON: Thank you, Mr. President. Ladies and Gentlemen of the Senate: I'm a little confused. Maybe the good Senator from York could clarify a few things for me, also. There has been a lot of talk about common sense, but maybe I don't understand. Is history repeating itself? I thought the common sense came in play a few years ago, when this board that we're talking about was turning everybody that came before it loose on the streets. The judges weren't using their discretion in properly sentencing people, because they knew that as soon as they did, this board was going to turn them all loose again.

The idea was to let the judge use some common sense. Give a determinate sentence that was fair and just, for whatever the crime was, so that we would get away from this lack of common sense that was being perpetrated by the appeals board.

I don't understand how all of a sudden, we're turning around and saying, hey, history was wrong. Those guys were right. Determining sentencing is wrong, so we've got to correct it right now. I'm a little confused.

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

Senator KERRY: Mr. President and Ladies and Gentlemen of the Senate: To answer the Senator from Oxford's question, I think you're accurate. I think the fact that historically it was proven that the board, the parole board, was releasing people virtually in most cases, 75 to 80 percent of the cases, on their first occurrence before the parole board. This unquestionably was an affront to the Judicial System.

Secondly, I believe it did have a chilling effect on the judiciary with regards to their sentencing procedures. This particular Bill is built on historical realization of that inequity, and of the failures of that system.

Thirdly, this Bill has built in to it guidelines, strict guidelines that would be approved by a board and once again, be reviewed by this Legislature, and the Department of Mental Health and Corrections.

I feel, and I believe, based on that, that the current experience is that the current system

is not working, also. The fact of the matter is, many decisions have been made on the policy decision at the state level, where we enacted laws, that they did not work out well, and we amend them. I think that's the process that we have before us.

I would like to make it very clear to the Senator that I agreed, and I used to constantly criticize the previous parole board for doing the very fact that you had mentioned about.

Secondly, I would say that this would be corrected in this system. It would give greater discretion to the correctional system to deal with people who have been judiciously given a sentence. It is not a criticism of the judiciary, but it is growing with regards to the fact of where we are today in 1981. Where we are today, the current system is not working. Being dynamic as it is, we have to ameliorate the situation.

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

Senator DEVOE: Thank you, Mr. President. I must respectfully take issue with the comments by the Senator from York, Senator Kerry, in his reply to the question of Senator Shute. He stated that he did not think that this Bill would result in people being released in one half of their sentence, less good time.

I refer the good Senator and all of his colleagues, to page three of the Bill, Section 1571, paragraph 3, which states, "in no event may any prisoner be released to community supervision before the expiration of one half of his sentence of imprisonment, less any earned special deductions awarded under Title 17A, Section 1253, Subsection 4", which is the section in the Criminal Code which permits release for good time.

The present law says, if you serve 30 days, and you behave yourself during those 30 days, you can have 10 days of your sentence reduced. It further goes on to say, if you work within the prison, and behave yourself within those 30 days, you can have an additional 2 days of earned good time. You can earn 12 days out of every 30 that you behave yourself now.

What this Bill is going to do, if it passes, is to say, first of all, that judges were, in effect wrong, because they imprisoned people for longer than they should have, so every sentence, in effect, is going to be cut in half. Then it is going to be further reduced by earned good time, and good behavior time, the 12 days out of 30 that I've just referred to.

If you consider the exceptions, I suppose you can't fault the member of the Committee who suggested that we ought to exempt people from this benefit that's going to be conferred on the prisoners, if they happen to be guilty of murder. I can understand that. Felony murder, I can understand that.

Now you get down to with use of a dangerous weapon. Manslaughter, kidnapping, burglary, robbery, and theft. They've left out, as the good Senator from Waldo, Senator Shute, has pointed out, those guilty of sex offenses, those guilty of drug offenses, rapists. They can be paroled, but if you kidnap somebody, you commit robbery or theft, if you steal somebody's lawnmower, that's theft. If you steal something worth \$500 or \$1000, that's theft.

Is that as bad an offense as somebody who has raped someone? Somebody who has committed a heinous sex offense? Somebody who has been trafficking in drugs? Acquiring drugs by deception? Are you going to let those people out, but yet you are going to exempt from the protection of this Bill, somebody who stole \$500 or \$1000 worth of somebody's goods or property, and was caught and sentenced and sent to Thomaston? These are some other considerations to keep in mind.

You know, when the Criminal Code was passed, it said three things that a judge should keep in mind about sentencing. Is the punishment commensurate with the seriousness of a prisoner's criminal conduct? Item one. Is

criminal conduct and the protection of the public from further crimes by the defendant likely to be furthered?

Mr. President, I move that the Bill and all its accompanying papers be Indefinitely Postponed, and would ask for the Yeas and Nays.

The PRESIDENT Pro Tem: The Senator from Penobscot, Senator Pray.

Senator PRAY: Thank you, Mr. President, Mr. President, and Members of the Senate, the objections which are raised by the Senator from Penobscot, it seems to me, because of our Judicial Code, we have a number of classifications of crime, and there may be some of us where who agree with the overall problems and concerns of our prisons that would find it acceptable and would be willing to go along with such an amendment, as that proposed by the Senator from Waldo, Senator Shute, of including additional crimes which they feel, perhaps, should be exempted from this statute.

I think that we have basically two problems that we are addressing here at this time, and one is the situations of our State Prison and Correctional Facilities, and the overcrowding that has taken place in the last several years. With the national mood and the mood that has been reflected in this State, as well, we ought to get tough on criminals. It is true that it has taken a few years for us to look at it and find out that the crime rate we just received a booklet the other day, really has not fluctuated that much, as a matter of fact, it is still on the increase. We have an overall problem here, that we have to address, and I would think that this Bill would, perhaps be more palatable if an amendment was offered in the proper stage, which could be in the Second Reading tomorrow, to include those offenses which they find objectionable that are not presently included in the report.

I would think that the position that they may want to take would be one to address it through an amendment process instead of attempting to kill the entire Bill and not allow the problem to be addressed.

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

Senator HICHENS: Mr. President and Members of the Senate: I have been here long enough to see the changes which have been made in the Criminal Code and in the system. I was Chairman of the Health and Institutional Services Committee when the Parole Board was criticized because they were so lenient. When people all over the State got upset, because of the fact that a man would be sentenced to a certain time, and then in a very few years would be put out on parole, and many of them committed the same crimes over again, and landed back in prison.

Even though this amendment has taken care of some of the more serious crimes and prohibits parole for those people, there are a great many crimes that are serious that a person could be paroled for. I am sure that if this Bill is passed that the people are going to rise up again.

We have heard a great many arguments that we need to do something, because our facilities are overcrowded, but had the Legislature not been so short-sighted a few years ago, and practically gave away the Fairfield Sanitarium, and closed the Women's Correctional Center in Skowhegan, the Girls' School at Hallowell, and the Maximum Security unit, we would have not have been presented with the Charleston Bill this year, to make more room.

This parole system is not going to be the answer, to the problems which we have.

I don't agree with the editor of the Portland Press Herald very often, and I think that they are sort of coming around this year, because they have had several editorials which have been agreeable with the way that I have been thinking. I would like to read a portion of an editorial that they had not too long ago, entitled

"Parole, Why not Wait for More Facts?" In which the editor says, "as persuasive as the arguments may be for reinstating the more carefully shaped system of parole, the Legislature would do well to wait a bit longer before taking that important step. They should wait for the results of a \$60,000 federally sponsored study aimed at gauging the effects of the current sentencing structure in Maine. That report now being completed by the University of Southern Maine, is due to be released sometime this fall, and unquestionably would be helpful to lawmakers in considering the parole question.

The Criminal Code has been in effect for only about four years, there is no good reason why the Legislature can't wait just one more year to get the kind of factual information that is needed to make a careful and informed decision.

There appear to be several good arguments for restoring the modified parole system in Maine, but if it was a mistake to do away with the parole in the first place, it would be an even bigger mistake to restore it on the bases of incomplete information."

I, therefore, hope that you will go along with the Indefinite Postponement Motion.

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

Senator KERRY: Yes, Mr. President, Ladies and Gentlemen of the Senate, to answer the good Senator from Penobscot, and the original answer that I have given to the good Senator from Waldo, Senator Shute. When I stated, I was not saying, his question to me, was would this be a Bill to automatically release people at one-half of their prison time? My answer was no. I stick by that answer.

What I said was that it would be, that they would be eligible for release, under specific guidelines, and those who were judged by the board, to be emotionally psychologically, socially, and economically capable to being released would be.

I would answer the good position by the good Senator from Penobscot, Senator Devoe. In Section 1573 of the Bill, it states "Release Decisions". If you look at Subsection 4, it says "Postponement of Release." This is what I was specifically relating to for the good Senator from Waldo. "The Board shall postpone a prisoner's scheduled release date if it finds, after a hearing, that the prisoner has been disciplined for misconduct during his confinement, and that the misconduct was serious. The Board, after consulting with the Advisory Commission, shall adopt rules defining serious misconduct, and specify periods of postponement for that misconduct."

This was not available. This particular mechanism was not available under the previous probation and parole mechanism.

Secondly, Number 6, Subsection 6, once again to identify. This is not just opening the doors up for prisoners to leave the facilities. This is to be in the best interest of both the community, the correctional facilities, and the inmates, and the fact that they are to be receiving some council. Subsection 6 states, "Prisoners with a record of violence, or who have severely emotionally disturbed backgrounds, that the Board finds after a hearing that the prisoner has had a substantial record of violence, or finds, after consulting a psychologist, or psychiatric report, submitted to them pursuant to Subsection 3, that the prisoner is severely, emotionally disturbed, the Board may order postponement of the scheduled release until a further date.

The Board, after consulting with the Advisory Commission, shall establish rules for the implementation of this Section."

My point, Ladies and gentlemen of the Senate, is not that we are going to open the doors for people to run amuck in society. I know I want my children, who are going to be hopefully living in this society for the next 25 to

50 years, I want them to have adequate protections.

I honestly believe, after having been involved in the Correctional System for over 20 years, in one way or the other, I find that there is no real true rehabilitation taking place. I don't want my daughter to be subjected, or any of my daughters, to be subjected to a rapist. I would support wholeheartedly your measure to take rapists, to make them ineligible also, it is something I would see.

I also do not want my family or my friends, or community, subjected to violence. I think if you really look at this and say, you just want to wait until you get more statistical data in the future. It says we should address the problem now. We address it effectively with this legislation.

The PRESIDENT Pro Tem: 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 Penobscot, Senator Devoe, that the Senate Indefinitely Postpone L. D. 1429 and all its accompanying papers.

A Yes vote will be in favor of the Indefinite Postponement of L. D. 1429.

A No vote will be opposed.

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEA — Devoe, Hichens, Minkowsky, Redmond, Shute, Sutton, Trotzky, Wood.

NAY — Ault, Brown, Bustin, Carpenter, Charette, Clark, Collins, Conley, Gill, Huber, Kerry, McBreaarty, Najarian, O'Leary, Perkins, Pierce, Pray, Sewall, C.; Teague, Traf-ton, Violette, The President, J. Sewall.

ABSENT — Dutremble, Emerson, Usher.

A Roll Call was had.

8 Senators having voted in the affirmative and 22 Senators in the negative, with 3 Senators being absent, the motion to Indefinitely Postpone LD 1429 does not prevail.

The Bill, as amended, Tomorrow Assigned for Second Reading.

The President Pro Tem laid before the Senate:

Bill, "An Act to Amend the Site Location of Development Law to Protect Ground Water." (S. P. 632) (L. D. 1647)

Tabled — Earlier in the Day by Senator COLLINS of Knox.

Pending — Passage to be Engrossed.

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

Senator PIERCE: Mr. President, I present Senate Amendment "A" under filing number S-282 and move its adoption.

The PRESIDENT Pro Tem: The Senator from Kennebec, Senator Pierce, offers Senate Amendment "A" and moves its adoption.

Senate Amendment "A" (S-282) Read and Adopted.

The Bill, as amended, Passed to be Engrossed.

On motion by Senator McBreaarty of Aroostook, the Senate voted to Reconsider its action whereby L. D. 1647 was Passed to be Engrossed.

On motion by Senator Collins of Knox, Tabled for 1 Legislative Day, pending Passage to be Engrossed.

The PRESIDENT Pro Tem laid before the Senate:

Bill, "An Act to Establish the Dental Practice Act." (S. P. 633) (L. D. 1648)

Tabled — Earlier in the Day by Senator COL-

LINS of Knox.

Pending — Passage to be Engrossed.

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

Senator PIERCE: Mr. President, I present Senate Amendment "A" under filing number S-284 and move its adoption.

The PRESIDENT Pro Tem: The Senator from Kennebec, Senator Pierce, offers Senate Amendment "A" and moves its adoption.

Senate Amendment "A" (S-284) Read and Adopted. The Bill, as amended, Passed to be Engrossed.

Sent down for concurrence.

The President Pro Tem laid before the Senate:

Bill, "An Act to Revise Workers' Compensation Disability Payments." (S. P. 358) (L. D. 1033)

Tabled — Earlier in the Day by Senator COLLINS of Knox.

Pending — Passage to be Engrossed.

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

Senator SEWALL: Thank you, Mr. President, I present Senate Amendment "A" under filing number S-287 and move its adoption, and would speak briefly.

The PRESIDENT Pro Tem: The Senator from Lincoln, Senator Sewall, presents Senate Amendment "A" and moves its adoption.

Senate Amendment "A" (S-287) Read.

The PRESIDENT Pro Tem: The Senator has the floor.

Senator SEWALL: Thank you, Mr. President. Members of the Senate, my Amendment does two things to the Bill. First it takes out everything that's in the Bill, and then it replaces two things.

It places a 5 percent limit on the annual inflation adjustment of Workers' Compensation benefits. It provides for an offset for Social Security Retirement benefits.

In other words, an individual's Workers' Compensation benefits would be reduced by the Social Security benefits the individual is entitled to at age 62. The maximum reduction in the Workers' Comp. benefits would be 50 percent of those benefits. The provision is necessary in order to ensure that unnecessary duplication in benefits is avoided. This will represent a significant reduction in cost.

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

Senator PRAY: Thank you, Mr. President. Mr. President and Members of the Senate, under the existing federal law, Social Security is adjusted to what an individual has for income. When an individual is reaching the age of retirement, and he files for his Social Security, and he states on his form that he is receiving Workers' Compensation, his Social Security is adjusted to that.

Could the good Senator from Lincoln, Senator Sewall, respond to how this would affect the federal legislation? Would the federal act precede this act on the state level, and that the Social Security benefits are going to be cut no matter what the Workers' Comp. is going to be, or no matter what adjustments we make according to her Amendment?

The PRESIDENT pro tem: The Senator from Penobscot, Senator Pray, poses a question to any member of the Body who may respond.

The Chair recognizes the Senator from Lincoln, Senator Sewall.

Senator SEWALL: Thank you, Mr. President. I don't think I understand completely what the good Senator is asking. I would hope that someone would Table this until later, until I can look it up. Thank you.

On motion by Senator Pray of Penobscot, Tabled until later in today's session, pending

Adoption of Senate Amendment "A".

The President Pro Tem laid before the Senate:

Bill, "An Act to Remove the Towns of Medford, Osborn and Great Pond and Lakeville Plantation from the Maine Forestry District." (H. P. 252) (L. D. 292)

Tabled — Earlier in the Day by Senator McBREAIRTY of Aroostook.

Pending — Enactment.

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

Senator McBREAIRTY: Mr. President, Honorable Members of the Senate, I'm very reluctant to speak against this Bill because I think it is a very unfair tax, the way it's being administered. The only problem is that every time you let out a town, it's that much more unfair to the ones who are left.

I would hope that we would continue to hold towns in or let them all out. I would ask for a Roll Call on this Enactment, and hope you might not Enact it.

The PRESIDENT Pro Tem: The Chair recognizes the Senator from Somerset, Senator Teague.

Senator TEAGUE: I would hope that you would pass this Bill, and send it on its way. These four towns, Medford, Osborn, Great Pond, and Lakeville Plantation, had bills in front of the Taxation Committee this time to remove themselves from the Maine Forestry District.

The Taxation Committee was unanimous in the Report. The Taxation Committee, also, decided that the priority number one item for the Taxation Committee this summer, would be a study of the Maine Forestry District.

The PRESIDENT Pro Tem: The Chair recognizes the Senator from Washington, Senator Brown.

Senator BROWN: Thank you, Mr. President. Women and Men of the Senate, I urge you to go along with the good Senator McBreairty on this. I have a number of towns in Washington County who have, also, requested to get out of the Forestry District Tax, because of the fact that they, too, feel it's unfair.

As the good Senator has mentioned, the more towns that get out of it now, the greater the affect to those towns that still remain in there.

If we're going to study the issue, let's not go ahead and allow certain towns to get out now, and place the additional burden on those other towns while we're waiting. Let's go ahead and defeat this Bill, keep all of them in there that are in there at present, until we revise the entire system. Thank you, Mr. President.

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

Senator PRAY: Mr. President and Members of the Senate, this is my fourth term in this Chamber, and I've sat from down here in the front row over to there in the back row and now over here for a couple of terms. When I first came down here, it was the Senator from Washington, Senator Wyman, who always stood up near the end of the Session, when we talked about Forest District Tax, how he always said, we ought to take this Bill and we ought to look at it for a while, and put it in his pocket. Lo and behold, all the communities that wanted to get out from the Forest District Tax went by the wayside, time and time again.

I understand the concerns of the two Senators who expressed opposition to the Bill. It's my understanding that these are the only communities that requested withdrawal from the Forest District Tax at this time. They came before this Session, and they have made that plea before the Taxation Committee. Not speaking for the Taxation Committee, but I think part of their understanding, or their support, of this measure is that these individual communities made the effort to appear to the

Legislature to be removed from the Forest District Tax.

The Committee has seen fit to throw several proposals together. One of these communities happened to be in my District, the Town of Medford. I think Medford, unlike any other community, was one of those communities that was put in the Forest District Tax and then taken out, and then put back in again by this Legislature through no choice of their own. Most of the other communities or plantations, or towns that belong to the Forest District Tax, at one time or another, had an option of staying or withdrawing from it, all except for the Town of Medford.

I would hope, anyway, that we would pass this at this time, and to allow these communities to join the three others that over the seven years that I've been here, three of them have been able to be withdrawn through the Legislative process. Perhaps if we added these other three, then those remaining communities in the Forest District Tax would have a greater opportunity to address the unfair burden, which the Senator from Aroostook, Senator McBreairty, expressed concern about.

Perhaps they will come back to the Legislature and the study that the Chairman of the Committee, Senator Teague, has talked about will show the Legislature the error of its past ways.

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

Senator REDMOND: Mr. President and Members of the Senate, it's the third term that I'm in this Body. The last Session, we had at least four of these small towns that are located in the Forestry District. One of them was in Somerset County, that we had a Bill to remove Moose River from that District.

I would agree with the Senator from Aroostook, Senator McBreairty, that this is a just cause. I'm sure that the study is well worthy. I think that these towns should go with the others, because it's a very unjust tax for any small town that happens to be located in the Forestry District.

I hope that you would vote to kill this Bill.

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

Senator PERKINS: Mr. President and Ladies and Gentlemen of the Senate, representing two towns mentioned in this Bill, I fail to see where four towns took the initiative to appear before the Taxation Committee, have shown the Taxation Committee a favorable action towards their removal, why they should be penalized by those who lacked initiative, and who had made no request. I think if you're talking fairness, then fairness should be to those who take the initiative.

If the other towns do not take the initiative, and have not taken the trouble to try to prepare a bill and come before the Taxation, or before this Legislature, then I fail to see why they should penalize the other towns who have.

I, also, think that this could work in the way that the Senator from Washington has said. It will put impetus on those towns remaining, that they should then indeed try to respond to this study that Senator Teague is referring to, and perhaps they, too, should be removed.

To penalize those towns which have appeared and presented their case to the Taxation Committee, had the unanimous report, seems to me to be a little ridiculous.

The PRESIDENT Pro Tem: The Chair recognizes the Senator from Washington, Senator Brown.

Senator BROWN: Thank you, Mr. President. Honorable Senators, I'd like to also say that we could add an amendment, perhaps, here to this Bill. There's five other towns that came to me out of Washington County, and asked for a similar bill to be put in. After looking at the issue, and after realizing it was going to place this

burden upon the towns that still remained in the District Tax, then it seemed reasonable that we should wait until we had the study done before we made any decision.

Apparently, there's a number of things I need to learn from the good Senator Wyman, in regards to Tabling bills. I'm not familiar enough with how to go about doing that yet or I could have tried on this one, perhaps.

If this Bill is allowed to go through, maybe it would be reasonable that I could also add an amendment for five other towns who have a similar concern in Washington County. If we're going to do it for these people this year, why don't we go ahead and allow me to offer an amendment for five other towns. Thank you.

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

Senator PRAY: Thank you, Mr. President. Mr. President and Members of the Senate, this Bill is now in the enactment form. The Legislative procedure would require us to back this Bill up into the amendable form. I have no objections to removing all of the towns. As a matter of fact, last year, the Senator from Somerset, Senator Redmond, offered a bill, an order to have a bill reported out to remove the Town of Moose River. The following day, I had a bill in here to remove the other 54 communities under the Forest District Tax. Both orders went by the wayside. The Senator and I worked on a compromise proposal, which adjusted the tax on the communities in the Unorganized Territories, and the plantations. We equalized the tax formula out over so much per evaluation, and equalized the figure, which brought the two in line. It made the Unorganized Territories pay a greater amount to the Forest District Tax. Of course, we all know that a majority part of this State is unorganized.

That assisted those communities which had seen a number of increases in the Forest District Tax over the last several years. It helped alleviate some of the increases that they were having.

As a matter of fact, I think, out of the 54 communities that still remain in the Forest District Tax, that all but 3 received a decrease in the amount of tax that they had to pay into the State due to that legislation last year.

I have to kind of agree with the Senator from Hancock, Senator Perkins, that these are the communities that made an effort this year. They are the ones that have come back continuously time and time again. This proposal always seemingly ends up on the Appropriations Table, and has gone the way of many bills, because there wasn't enough money available.

Basically, the new formula dispenses that cost not only to the other communities, plantations that you have in the Forest District Tax, but it equalizes it by a far greater number to the Unorganized Territories, which makes the amount of these three communities, or four communities, being removed from the Forest District Tax almost unnoticeable.

The PRESIDENT Pro Tem: 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 Enactment of L. D. 292.

A Yes vote will be in favor of the Indefinite Postponement of L. D. 292.

A No vote will be opposed.

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

ROLL CALL

YEA — Carpenter, Charette, Clark, Najarian,

an, O'Leary, Perkins, Pray, Sutton, Teague, Trafton, Trotzky, Violette, Wood.

NAY — Ault, Brown, Collins, Conley, Devoe, Gill, Hichens, Huber Kerry, McBreairey, Minowsky, Pierce, Redmond, Sewall, C.; Shute, The President, J. Sewall.

ABSENT — Bustin, Dutremble, Emerson, Usher.

A Roll Call was had.

13 Senators having voted in the affirmative, and 16 Senators in the negative, with 4 Senators being absent, L. D. 292 Failed of Enactment, in non-concurrence.

The PRESIDENT Pro Tem: The Chair recognizes the Senator from Aroostook, Senator McBreairey.

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

The PRESIDENT Pro Tem: The pending question before the Senate is the motion by the Senator from Aroostook, Senator McBreairey, that the Senate Reconsider its action whereby L. D. 292 Failed of Enactment.

On motion by the Senator from Penobscot, Senator Pray, Tabled until later in today's session, pending the motion by the Senator from Aroostook, Senator McBreairey.

The President Pro Tem laid before the Senate:

Bill, "An Act Authorizing Reasonable Fees for Nonresident Users of Public Libraries." (H. P. 548) (L. D. 624)

Tabled—Earlier in the Day by Senator CONLEY of Cumberland

Pending—Motion of Senator DEVOE of Penobscot to Indefinitely Postpone.

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

Senator TROTZKY: Mr. President and Members of the Senate, I oppose the motion at this time to Indefinitely Postpone this bill.

Area Reference and Resource Center is justified it is a large library which makes its services available free, to that area, be it the Portland Library or the Bangor Library or the State Library.

Now, we have right now 2 bills, one which is on the Appropriations Table, which is an appropriations bill, which as it came in here originally appropriated \$195,000 for the Area Reference and Resource Centers. I have not seen this bill, yet, and I do not know what it does.

Passage of this Bill, today, allows these Area Reference Resource Centers, specifically Portland to start charging fees. It is known, for example, that when a library charges fees, many people stop using it. For example, I think, Senator Najarian said, in South Portland, which is not an Area Reference Resource Center, started charging fees, it dropped off by one-half the people using the library.

I was told at the hearing, and I have a note, that when a \$.50 fee was charged 3/4 of the people stopped using the library. So there is a tradition of free access, the basic principal, and therefore, until this other bill comes out, to see where it stands and how much money the State is going to give to these Area Reference and Resource Centers, I would hope that someone would Table L.D. 624.

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

Senator NAJARIAN: Mr. President and Members of the Senate, I have no objection to somebody Tabling this later, but I would like to speak a little bit on this Bill. Number one, that to clear up a misrepresentation that was just made, possibly, by the good Senator from Penobscot, Senator Trotzky.

When South Portland started to charge a fee to non-resident users of their library, it is true that half of the people did not pay the fee. Then they began to use their own library services which is what the libraries want them to do

anyway. Instead of for example, the Cape Elizabeth commuters instead of stopping into the South Portland Library they went to their own library and got the same books that they wanted through inter-library loan.

The fact that somebody would not have the money to pay the fee doesn't mean that they are not going to have access to the library. They could still have access through their own town libraries and the inter-library loan. So, I just wanted to clear that up.

I would, further like to say that I know that people just dislike the idea of libraries charging fees to non-residents, however it is currently practiced by at least 22 communities in Cumberland and York Counties already and I could read the list off, and probably will have an opportunity later on.

I would, also, say that those resource libraries, request \$195,000 which would obviate the need for this Bill. The Bill on the Appropriations Table currently only provides \$3,000 to each library which doesn't go anywhere near to meet their needs.

If somebody wants to Table it, fine, and we'll debate it later on in this Session.

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

Senator DEVOE: Thank you, Mr. President. Members of the Senate, I talked with my own Regional Librarian today, and got some information that I think is significant to our understanding this Bill.

He told me that in 1979, the last year for which the reports have presently been filed with the Maine Library Commission, the City of Portland circulated 395,000 books, the City of Bangor circulated in that same period of time, and bear in mind that this is a city of about half the population of Portland, circulated 452,000 books.

I think that one of the things that hasn't been mentioned here is that the City of Portland has a rather large brand new building that happens to be electrically heated. Bangor and Portland were very happy to become Regional Libraries back in 1973, and they got some State funds for that. Just in the last two or three years, or so, a new library was constructed in Portland, which among other things is electrically heated. Think of it. In 1979 when this building was opened to the public it was electrically heated. What was the electrical bill in December 1980, \$15,000. That was a surprise to me. Fifteen thousand dollars.

Now that is part of the problem and nobody has been up front enough to mention it, but that is why this Bill is in, and I am darn sorry that I did not consult with my own Regional Librarian before I became a co-sponsor of it.

As he explains it, we have been trying to develop for years the Regional Library concept, which would be free of user charges. Now, because of one municipality happens to have been imprudent enough, perhaps, to build a brand new library to have it electrically heated, which means that you have to air-condition on hot days. I imagine that if we had walked into the Portland Library today, we would have found the air-conditioning running, because it is very warm out. We have fresh air-conditioning here, it doesn't always work, but today it has been fairly helpful.

Portland now has a library that has to have air-conditioning all of the time. Electric heat when it is cold and the air-conditioning system running when it is warm out like it is today.

Now, that is why we have got this Bill, and that is why I am now against this Bill.

Thank you very much, Mr. President.

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

Senator NAJARIAN: Mr. President and Members of the Senate, for the few people who

are still left here listening to this debate, the Senator from Penobscot, Senator Devoe, is absolutely wrong, on the reasons why this Bill is in here.

We have last year over 443,000 people using our public library, 95,000 to 115,000 of these users, were non-residents. One-fourth of the people who borrowed books from our library are non-residents. We are reimbursed \$33,000 from the State for the watts lines, for the libraries in Cumberland and York County, for inter-library loan services, for back-up reference and for information, and for direct free access to district residents. That is fine, even though the \$33,000 doesn't cover that cost.

What we are concerned about are the almost 9,000 non-resident card holders who come in and use our libraries and borrow over about 1/5 of the books at any one time.

Now the problem is that there is no such thing as free library services, every Portland resident is paying about \$16 per head, in property tax to support this library. So I mean, the Portland residents are forced to pay for the 9,000 non-resident users. Now, I just want to tell you what is happening, because everybody is suffering from the cost of the library. Last year library services were reduced to the Portland residents all the branch libraries were reduced by, I have forgotten how many hours, we lost our bookmobile, and the fact that the branch libraries, and the main library had to reduce its hours. That is for residents and non-residents alike.

The fact of the matter is, it is not a question of the user fee, or a non-user fee, at this point, it is a question whether Portland is going to remain in Resource Library to all of the towns in Cumberland and York Counties. The fact is that if this Bill doesn't pass, Portland will withdraw as a Resource Library, and who is going to suffer are not the residents of Portland, but all those other towns in Cumberland and York, who currently use our library services, and appreciate having the services.

There is a provision in the bill, that a community may contribute to the library a reasonable sum and then their residents will not be charged, so that is an option open to the communities, in Cumberland and York Counties.

I am very interested for those towns in Cumberland and York, that this Bill passes, otherwise they are going to lose valuable library services.

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

Senator TROTZKY: Mr. President and Members of the Senate, I would just like to repeat, I believe, a statement that was made by Commissioner Reynolds, at the public hearing, or else he made it when he spoke to me, and he said, if we don't fund the library properly, the Area Resource and Reference Centers, and that is that other bill, which I mentioned, if we do not fund it properly, then he would be for this Bill, which would allow Portland to charge fees.

It is unfortunate, because I think, the concept, you know, of access has been a tradition here in the State, and it is radical departure, but it is unfair that all of this fall on the people of the City of Portland.

I would hope that someone would table this until we find out what happens with the funding bill.

On motion by the Senator from Knox, Senator Collins, Tabled for 1 Legislative Day, pending the motion by the Senator from Penobscot, Senator Devoe.

The President Pro Tem laid before the Senate:

Bill, "An Act to Revise Workers' Compensation Disability Payments." (S. P. 358) (L. D. 1033) Tabled earlier in today's session, by the Senator from Penobscot, Senator Pray, pending Adoption of Senate Amendment "A".

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

Senator SEWALL: Mr. President and Members of the Senate: I am sorry for my confusion, Senator Pray was talking about Social Security Disability payment off-set, and my Bill refers to Social Security Retirement Payment off-set. That is where the difference is.

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

Senator PRAY: Thank you, Mr. President. Mr. President, and Members of the Senate: I would like to thank the Senator from Lincoln, Senator Sewall for the answer and appreciate her quick response in that matter, in finding out my concerns on that issue.

I do have a greater concern in reference to the 5 percent cap which we will be passing. As we debated the Workers' Comp. issue, this morning, in reference to the state fund, and the concerns about the Workers' Comp. problems a number of things were expressed on the overall problem.

This morning I made a basic statement that seemingly there are two philosophies in this manner. One basic, first of all I think that everybody agrees that the reason for the concern at this time, is because premiums have increase at such a great rate, that businesses finally voiced a strong enough voice that many of us in Augusta has heard that voice and have concerns about what they are paying for Workers' Comp.

One of the philosophies that we have presented at this time, is that philosophy which I believe punishes the injured employee. That punishes him by putting a cap upon a particular mechanism which is supposed to deal with the increased cost of living of the inflational factors in our present day society. I say present day, but inflation has been going on since the creation of time, and it is only recently that we seemingly hung into the double digit inflation insistently. As a matter of fact, in 1978 inflation, the cost of living index, went up some 13 percent, the 1979 from 14 percent, 1980 in excess, again into the double figures, I think somewhere around 12 to 13 percent there.

The cap that is going to be placed is going to be placed upon the benefits received which is tied into the average weekly wage. The average weekly wage, itself, without any cap, and over the same three years that I just mentioned, from 1978 went up 8.4 percent, and in 1979 it went up 5.7 percent, and in 1980 it went up 4.8 percent. When you compare those with the inflation figures, the cost of living index, just with the fact of what the average wage itself went up, the individuals in the State of Maine, based upon their average wage fell behind the cost of living index by in excess of 20 points, 20 percentage points. That would mean a dollar in 1978 to them, if they were an injured employee and out on Workers' Comp, would only be worth 80¢ to them today, considering the inflation increase over the increase in the average weekly wage.

I think, that basically what the Senate will be doing by accepting this Amendment and the Bill, is basically adopting a philosophy or an intent, Legislative Intent, is the fact that the cause of the problem is the injured employee, and it is him that we are going to cap. While insurance premiums continue to rise, continue to increase to the people running the businesses in Maine, and it is a false premium that we are going to save them money, and we are going to save them cost of premiums by enacting this Legislation.

I think, that it is the wrong road for the State of Maine to go down, that these are the individuals who can the least and have the least opportunities available to themselves, due to the fact, that they are injured through no fault of their own through a work related injury, they are the ones who can least afford to be penalized at this

period of high inflation and cost of living.

I would hope that we would not accept the Amendment.

(Off Record Remarks)

The PRESIDENT Pro Tem: The Chair recognizes the Senator from Lincolnville, Senator Sewall.

Senator SEWALL: Thank you, Mr. President. Members of the Senate, this is the priority Bill, the 5 percent cap, businesses' number one bill. It is the recommendation of the Blaine House Conference on Small Business.

Let me try to explain it to you. How the present law works first. Each year an individual's benefits are adjusted in proportion to the increases, in State-wide average weekly wages. Now the average weekly wage is computed annually by the Department of Manpower Affairs, and it is simply the average paid to employees in the State.

When the good Senator from Penobscot said that we have been having double digit inflation, we have not been having it in the method in which we set this increase.

The increases since 1972, as he has said, in 1972 it was 4 percent and increased in 1973, 2 percent; in 1974, 5 percent; in 1975, 7 percent; in 1976, 7.3 percent; in 1977, 9 percent; in 1978, 4.8 percent; in 1979, 5.7 percent; in 1980, 8.4 percent.

What is the problem with the present law? The problem with the present law, is that there is no limit on the amount by which benefits may be increased. This has been proven to be one of the most costly factors of the system. In those years in which there has been substantial increases in the average weekly wage, the cost of the system have risen substantially.

Equally important the inflation adjustment provision has made accurate reserving by insurance carriers impossible. A reserve is an amount set aside and invested by a carrier, to cover the long term cost of the claim. Insurance carriers, can not predict the future inflation rates. As a result they generally over reserve to be on the safe side. This directly effects rates, since the reserve is considered to be a loss, and rates are determined by a comparison of how much the carriers receive annually in premiums and the amount that they annually pay in losses.

My amendment addresses this problem, it will restore predictability to reserving claims and reduce overall costs to the system.

According to the insurance industry Enactment of this Bill, will reduce annual costs by 8 percent.

How costly is Workers' Compensation Coverage? In terms of costs the system is clearly out of control, in 1970 Workers' Compensation Premiums cost Maine Employers roughly \$15 million. Now approximately 10 years later, it costs about \$100 million.

The Bureau of Insurance has just granted the insurance industry an average 25 percent increase, so premiums will approach \$125 million in the coming year.

The most alarming aspect of this is that the insurance industry claims that they are actually entitled to an increase of over 140 percent and they are expected to seek additional increases this summer.

Even at their present levels the costs of Workers' Compensation are a deterrent to the development in this State, a deterrent to the expansion of existing industry. A threat to the entire small business community and a threat to the competitive position of a substantial portion of the business community, in this State, which must compete with businesses in other states which have lower costs. Jobs are at stake.

Enactment of this Bill, is one of the most important steps in getting the system under control.

The point that the system is unfair to em-

ployees, in most states, 35 states, do not even have an inflation adjuster at all. The trouble with our system, the thing that has made it so expensive is that we give very high benefits. We are not taking any benefits away in the short-term most people coming into this, will not even be effected by this in two years.

We are not trying to take away, we are only putting a cap on the inflationary raise so that we will be better able to determine the cost, and bring down the cost of Workers' Compensation.

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

Senator PRAY: Mr. President and Members of the Senate, first of all, I would apologize I realize that the hour is extremely late, as I can tell by the absenteeism of many individuals from their seat. To me the issue is far more important than just to allow some of the comments to go unanswered.

First of all, if an individual took the multiplier which the Senator from Lincoln, Senator Sewall, addressed, and she pointed out what the inflational increase to the average state wage has been over the last several years, if we average the last 4 years, we find out that the average rate of the increase has been 7 percent.

I think, that the insurance companies in setting their premiums, through a basis mathematical problem here of figuring out the average increase are and they speculate, as they do anyway, and by that speculation they come up with the amount of reserves that they have to set.

If you take the last four years it averages 7 percent, if you take the last five years, it averages 7 percent, if you take the last eight years, you find out that the average is still roughly 7 percent. So they do know, in fact, what the inflational increases are going to be, and they adjust accordingly to that.

All insurance premiums, be they on a life policy, an automobile accident policy, or what have you, is projected and speculated as to how much money has to be set aside for those particular instances.

What we are talking about is not necessarily the short-term problem of a type of cap upon inflational benefits to an injured employee, but what about that individual who is long-term injured, that individual who goes a number of years, and each year that inflation eats away at his income of his disability.

If you put a 5 percent cap on that is the individual, for which you create the greatest amount of problems for, and where do they end up, they end up back home on the local welfare roll, and assistance, costing the taxpayers money on the property tax. If you think that that is progressive taxation, I think that you ought to think again.

The concern that I have in reference to the last several years increases, we have had due to the act of this State Legislature when we tied into minimum wage increases, and the federal government itself had a step series of minimum wage increases built in, the average wages in the State of Maine had a continuous increase. Far below the inflational increases, in this country, but still there was a moderate increase in the average citizen's wage in this State.

We are talking about a State whose average wage earning is projected by the federal government to be that of property level in the country, and we are asking individuals who are injured, be they those individuals who come from a mill town, such as mine, or from rural areas, such as some of the others of you in this chamber, to lock themselves into some type of inflational benefit. Again, I remind you that we are talking about that guy who has been hurt, and has been found through the Workers' Compensation Commission to be adjudicated to be able to receive that benefit. That that is his

through the Workers' Compensation Laws, that we have on the books. What you are going to say is that that is the individual who is going to pay the price of the increase in premiums, and as the good Senator from Lincoln, Senator Sewall, spelled out the increase in the premiums in this State should not be tied to an increase which is averaging 7 percent when over that same time period they have gone from the meager amount which she mentioned up to into over a \$100,000 in premiums, \$125,000, I believe was the statement that she made.

When you see that type of increase in premiums and as I have stated this morning on the Workers' State Fund Bill, one insurance company had stated that in Maine they sell \$87 million worth of premiums, they pay out \$55 million in benefits, \$7 million in legal fees, and that leaves so \$30 million still setting there somewhere. If that \$30 million is the price that has been passed on to the employers of this State in Workers' Comp. Premiums.

We do not come in here, with any proposal, I do not see any proposal from the Blaine House Conference on Small Businesses. And I am a small businessman. I did not see anything at that conference, which talked about capping insurance premiums. All we are talking and all that we are looking at, is looking at the injured employees and we are telling them that we are going to cap them, and what they are going to receive in benefits, and it is a cap on their benefits and it takes away from benefits to them which are built into the present system, due to the inflational cost and consideration of this Legislature.

I think, now to change that and to start bring a cap, particularly on those, as I stated earlier, injured for a long period of time is unjust and I think that we are just passing the burden of paying that expense back upon the municipalities in the long run. Some where along the line we will probably have to address the additional State Funding of General Assistance because of the increased burdens, that we and the federal government are pushing back onto the State and us in turn back onto the municipalities.

The amendment which the Senator from Lincoln, Senator Sewall offered, is far better than that of the Bill, and though I had asked for a Roll Call or a Division I would request permission of the Senate to Withdraw that. My objections are not to the Amendment though I dislike the amendment, it is far better than the Bill, which she sponsored originally.

The PRESIDENT Pro Tem: the Chair will order a Division.

Will all those Senators in favor of Adoption of Senate Amendment "A", please rise in their places to be counted.

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

19 Senators having voted in the affirmative, and 7 Senators having voted in the negative, Senate Amendment "A" Adopted.

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

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

The PRESIDENT Pro Tem: 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 Passage to be Engrossed.

A Yes Vote will be in favor of Passage to Engrossed.

A No vote will be opposed.

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

ROLL CALL

YEA—Ault, Brown, Carpenter, Charette, Clark, Collins, Conley, Devoe, Gill, Hichens, Huber, Kerry, McBreaity, Minkowsky, Perkins, Pierce, Redmond, Sewall, C.; Shute, Sutton, Teague, Trafton, Trotzky, Wood, The President, J. Sewall.

NAY—Najarian, O'Leary, Pray, Violette.

ABSENT—Bustin, Dutremble, Emerson, Usher.

A Roll Call was had.

25 Senators having voted in the affirmative and 4 Senators in the negative, with 4 Senators being absent, LD 1033 was Passed to be Engrossed, as amended.

Sent down for concurrence.

The President Pro Tem laid before the Senate.

Bill, "An Act to Remove the Towns of Medford, Osborn and Great Pond and Lakeville Plantation from the Maine Forestry District." (H.P. 252) (L.D. 292)

Tabled earlier in today's session by Senator Pray of Penobscot.

Pending the motion by the Senator from Aroostook, Senator McBreaity that the Senate Reconsider its action whereby this Bill Failed of Enactment.

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

Senator PRAY: I request a Division.

The PRESIDENT Pro Tem: A Division has been requested.

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

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

14 Senators having voted in the affirmative, and 14 Senators having voted in the negative, the motion to Reconsider does not prevail.

Sent down for concurrence.

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