

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

***One Hundred and Tenth
Legislature***

OF THE

STATE OF MAINE

Volume II

FIRST REGULAR SESSION

MAY 4, 1981 to JUNE 19, 1981

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

May 28, 1981

Senate called to order by the President.

Prayer by the Reverend David Stillman of the Mount Desert Larger Parish.

REVEREND STILLMAN: Let us be in a spirit of prayer. O' God, You are the creator, sustainer, and redeemer. Before we ask anything of You, we must give You thanks for everything, for You are the giver of every good and perfect gift. You have given us this earth to exercise responsible stewardship. You have created us in Your image, calling us to be caring, compassionate, and loving human beings. You have given Your Son, Jesus Christ, Who is the way, the truth, and the light. You have given us Your spirit as an ever present source of strength.

Knowing that You want us to be Your faithful creatures, we would ask that You bless all those who exercise the responsibility of government and leadership among us, granting unto them wisdom and right judgement, courage and patience, to order all things in accordance with Your will. Replenish with heavenly gifts all who are called to public service.

So strengthen the whole body of Your people, that Your name may be ever glorified in the midst of us, and that all may know that we are Your people, and You are our God. Through Jesus Christ, our Lord, we pray. Amen.

Reading of the Journal of yesterday.

Papers from the House
Non-concurrent Matter

Bill, "An Act to Authorize a Water District for the Town of Milbridge in Washington County." (S. P. 636) (L. D. 1651)

In the Senate, May 27, 1981, Passed to be Engrossed.

Comes from the House, Passed to be Engrossed as amended by House Amendment "A" (H-491), in non-concurrence.

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

Senator TROTZKY: I move we Recede and Concur with the House.

The PRESIDENT: The Senator from Penobscot, Senator Trotzky, moves that the Senate Recede and Concur with the House.

Is this the pleasure of the Senate?

The motion prevailed.

Non-concurrent Matter

Bill, "An Act Creating the Rangeley Water District." (Emergency) (S. P. 322) (L. D. 912)

In the Senate, May 22, 1981, Passed to be Engrossed as amended by Committee Amendment "A" (S-269).

Comes from the House, Passed to be Engrossed as amended by House Amendment "A" (H-479) and Committee Amendment "A" (S-269), in non-concurrence.

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

Senator TROTZKY: I move the Senate Recede and Concur with the House.

The PRESIDENT: The Senator from Penobscot, Senator Trotzky, moves that the Senate Recede and Concur with the House.

Is this the pleasure of the Senate?

The motion prevailed.

Non-concurrent Matter

Bill, "An Act to Increase Local Control of Water Districts." (S. P. 629) (L. D. 1638)

In the Senate, May 22, 1981, Passed to be Engrossed as amended by Senate Amendment "A" (S-278).

Comes from the House, Passed to be Engrossed as amended by House Amendment "A" (H-490) and Senate Amendment "A" (S-278), in non-concurrence.

The PRESIDENT: The Chair recognizes the Senator from Androscoggin, Senator Trafton.
Senator TRAFTON: I move we Recede and Concur.

The PRESIDENT: The Senator from Androscoggin, Senator Trafton, moves that the Senate Recede and Concur with the House.

Is this the pleasure of the Senate?

The motion prevailed.

Non-concurrent Matter

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

In the Senate, May 26, 1981, Passed to be Engrossed as amended by Committee Amendment "A" (H-455), in concurrence.

Comes from the House, Passed to be Engrossed as amended by House Amendment "A" (H-492) and Committee Amendment "A" (H-455), in non-concurrence.

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

Senator EMERSON: I move that we Recede and Concur with the House.

The PRESIDENT: The Senator from Penobscot, Senator Emerson, moves that the Senate Recede and Concur with the House.

Is this the pleasure of the Senate?

The motion prevailed.

Committee Reports

House

Leave to Withdraw

The Committee on Labor on Bill, "An Act to Provide Employees in Private Long-term Care Facilities and Service Agencies Wages and Fringe Benefits Equivalent to Wages and Fringes Paid in State Facilities." (H. P. 983) (L. D. 1168)

Reported that the same be granted Leave to Withdraw.

Comes from the House, the Report Read and Accepted.

Which Report was Read and Accepted, in concurrence.

Ought to Pass in New Draft

The Committee on State Government on, Bill, "An Act to Establish a Legislative Review of Agency Rules." (H. P. 1287) (L. D. 1502)

Reported that the same Ought to Pass in New Draft under New Title, "An Act to Amend the Rule-making and Review Process of the Maine Administrative Procedure Act." (H. P. 1542) (L. D. 1657)

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. Under Suspension of the Rules, the Bill, in New Draft, Read a Second Time and Passed to be Engrossed, in concurrence.

The Committee on Business Legislation on, Bill, "An Act to Amend the Maine Securities Act." (H. P. 702) (L. D. 841)

Reported that the same Ought to Pass in New Draft under Same Title, (H. P. 1541) (L. D. 1656)

Comes from the House, the Bill, in New Draft, Passed to be Engrossed as amended by House Amendment "A" (H-496)

Which Report was Read and Accepted, in concurrence, and the Bill, in New Draft, Read Once. House Amendment "A" (H-496) was Read and Adopted, in concurrence. Under Suspension of the Rules, the Bill, in New Draft, as amended, Read a Second Time and Passed to be Engrossed, in concurrence.

Divided Report

The Majority of the Committee on Local and County Government on, Bill, "An Act to Conform the Definition of Manufactured Housing with Federal Law." (H. P. 894) (L. D. 998)

Reported that the same Ought Not to Pass.
Signed:

Senators:

PERKINS of Hancock
AULT of Kennebec
CHARETTE of Androscoggin

Representatives:

STOVER of West Bath
WENTWORTH of Wells
RIDLEY of Shapleigh
ARMSTRONG of Wilton
CURTIS of Waldoboro

The Minority of the same Committee on the same subject matter reported that the same Ought to Pass in New Draft under New Title: "AN ACT to Equalize the Treatment of all Manufactured Housing." (H. P. 1534) (L. D. 1646).

Signed:

Representatives:

LaPLANTE of Sabattus
SWAZEY of Bucksport
PARADIS of Old Town
ROBERTS of Buxton
McHENRY of Madawaska

Comes from the House, the Bill, in New Draft Passed to be Engrossed as amended by House Amendments "A" (H-484) and "B" (H-489).

Which Reports were Read.

The Majority Ought Not to Pass Report of the Committee Accepted, in non-concurrence.
Sent down for concurrence.

Divided Report

Six members of the Committee on Local and County Government on, Bill, "An Act to Clarify Certain Provisions of Law Relating to the Method of Voting for School Committee Members of the Wells-Ogunquit Community School District." (H. P. 605) (L. D. 682)

Reported in Report "A" that the same Ought to Pass.

Signed:

Representatives:

WENTWORTH of Wells
RIDLEY of Shapleigh
SWAZEY of Bucksport
PARADIS of Old Town
STOVER of West Bath
CURTIS of Waldoboro

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. 1529) (L. D. 1635)

Signed:

Senators:

PERKINS of Hancock
CHARETTE of Androscoggin

Representatives:

LaPLANTE of Sabattus
ROBERTS of Buxton
McHENRY of Madawaska

Two members of the same Committee on the same subject matter reported in Report "C" that the same Ought to Pass as amended by Committee Amendment "A" (H-445).

Signed:

Senator:

AULT of Kennebec

Representative:

ARMSTRONG of Wilton

Comes from the House, Report "A" Read and Accepted and the Bill Passed to be Engrossed as amended by House Amendment "A" (H-447).

Which Reports were Read.

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

Senator CHARETTE: Thank you, Mr. President. I'd like to move at this time that this Bill and all its accompanying papers be Indefinitely Postponed and would like to speak on my motion.

The PRESIDENT: The Senator has the floor.

Senator CHARETTE: Thank you. Men and Women of the Senate, this Bill had its hearing, had hours and hours of workshop in Committee. I don't think nothing got resolved out of this. I'd like to point here a few things about the

Wells-Ogunquit Community School District, as I understand them.

Wells and Ogunquit formed a Community School District based on a clear understanding as set forth in legislation passed by the 109th Legislature in 1979. That understanding was that Ogunquit would pay for educating their children based on 100 percent evaluation, in return for a near equal representation on the Community School Board, made up of three members of each town.

It was near equal representation, because built into the agreement by legislation, was a weighted vote of 2 percent in favor of Wells, which means that in case of a tie vote, Wells would always have a 2 percent advantage.

As a result of disagreement, Ogunquit now pays \$5,849 per pupil for educating their children, compared to \$1,218 per pupil for Wells. These figures, again, I'll repeat, \$5,849 to \$1,218, which means Ogunquit pays nearly \$500,000 more each year under this formula, than they would if each community paid on a per pupil basis, like they do in almost every other community school district in the State.

Soon after the School District was formed, Wells wrote to the Attorney General, requesting an opinion about whether school boards came under the one man, one vote rule. The Attorney General ruled that they do come under that rule. As a result of that opinion, one school board member from Wells can now outvote all three members from Ogunquit. Thus, the agreement made by Ogunquit for a near equal representation on the school board was void.

In other words, Ogunquit made a \$500,000 purchase that was never delivered. Please remember, this \$500,000 additional money is paid each year by Ogunquit.

Therefore, whether this is a legislative blame for this kind of inequity, I feel that both communities should go to the courts and get this handled through the court system.

Therefore, I would hope that the Senate would vote on my motion. Thank you.

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

Senator COLLINS: Mr. President, I've heard some discussion on both sides of this matter. I'm still somewhat confused. When I have a matter like this, and I'm speaking strictly as the Senator from Knox, I appreciate the wisdom of the Senator who represents the area involved. If he doesn't have that wisdom, sometimes I think it's important to pay attention to what people in the other body have thought.

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

Senator HICHENS: Mr. President, I happen to be the Senator who represents both Ogunquit and Wells. I am in a rocky position, as everyone well realizes. At the beginning of the Session, I understood that there was a Bill being put in by Ogunquit, as far as pupil ratio was concerned, which went to the Committee on Education. I was asked by the Representative from Wells to co-sponsor a bill which would counteract that action and give them time to work out their problems.

The Committee on Education saw fit to reject the Ogunquit bill. I was then asked by that Representative if I would support her motion to withdraw her bill from the Local and County Government Committee, at which time I did go before that Committee, supported her request, and asked Leave to Withdraw.

That Committee, for some reason or other, didn't see fit to allow that request to be made. As Senator Charette has said, they worked long and laboriously over this, and went back and forth, one way or the other. We've had three amendments come out of it. I do not think that it is solving the problem.

I think it is going to the courts. I think it is just an act in futility, this morning, for us to try to solve the problem for them. Let them try to take care of it this summer. If the courts so feel, maybe it will come back to us in another

session.

The PRESIDENT: Is the Senate ready for the question?

The Chair recognizes the Senator from York, Senator Wood.

Senator WOOD: I request a Division.

The PRESIDENT: A Division has been requested.

Will all those Senators in favor of the motion by the Senator from Androscoggin, Senator Charette, that the Senate Indefinitely Postpone L. D. 682, please rise in their places to be counted.

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

20 Senators having voted in the affirmative, and 5 Senators having voted in the negative, the motion to Indefinitely Postpone L. D. 682 and all of its accompanying papers, in non-concurrence, does prevail.

The Chair recognizes the Senator from Hancock, Senator Perkins.

Senator PERKINS: Having voted on the prevailing side, I would move Reconsideration.

The PRESIDENT: The pending question before the Senate is the motion by the Senator from Hancock, Senator Perkins, that the Senate Reconsider its action whereby it Indefinitely Postponed L. D. 682.

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.

(Off Record Remarks)

Senate

Ought to Pass — As Amended

Senator USHER for the Committee on Transportation on, Bill, "An Act Authorizing a Bond Issue in the Amount of \$29,000,000 for the Purposes of Fostering Agriculture and Economic Development in the State of Maine." (S. P. 488) (L. D. 1428)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (S-297)

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

Sent down for concurrence.

Second Readers

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

House

Bill, "An Act to Phase Down the Inheritance Tax and Replace the Inheritance Tax with an Estate Tax Equal to the Federal Credit for State Death Tax." (H. P. 1544) (L. D. 1658)

Which was Read a Second Time.

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

Senator PIERCE: Mr. President, I present Senate Amendment "A" under filing number S-298 and move its adoption.

The PRESIDENT: The Senator from Kennebec, Senator Pierce, offers Senate Amendment "A" to L. D. 1658 and moves its adoption.

Senate Amendment "A" (S-298) Read and Adopted. The Bill, as amended, Passed to be Engrossed, in non-concurrence.

Sent down for concurrence.

Senate

Bill, "An Act to Establish and Coordinate Training, Education and Employment Programs for Receipt of Aid to Families with Dependent Children." (S. P. 642) (L. D. 1662)

Which was Read a Second Time.

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

Orders of the Day

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

Bill, "An Act to Revise the Public Drinking Law." (S. P. 66) (L. D. 93)

Tabled—May 27, 1981 by Senator COLLINS of Knox.

Pending—Consideration.

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

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

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

Tabled—May 27, 1981 by Senator CONLEY of Cumberland.

Pending—Passage to be Engrossed.

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

The President laid before the Senate the third 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 27, 1981 by Senator COLLINS of Knox.

Pending—Motion of Senator MINKOWSKY of Androscoggin to Reconsider.

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

Senator Hichens of York 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 Pierce of Kennebec, Recessed until 4:00 o'clock this afternoon.

Recess

After Recess

The Senate called to order by the President.

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

Papers From the House

Joint Orders

Expressions of Legislative Sentiment recognizing:

John "Jock" Coombs, of Bangor, who has been named a scholar-athlete by Springfield College. (H. P. 1561)

The University of Maine at Orono Baseball Team, coached by John Winkin, winners of the NCAA Northeast Regionals, placing them in the College World Series. (H. P. 1564)

The University of Maine at Orono Baseball Team, coached by John Winkin, ECAC New England champions for the second consecutive year. (H. P. 1565)

Tracy L. Gowen, of Scarborough, Valedictorian of Scarborough High School, Class of 1981. (H. P. 1566)

Nancy J. Littlejohn, of Scarborough, Salutatorian of Scarborough High School, Class of 1981. (H. P. 1567)

Monmouth Academy Girls Softball Team, 1981 Mid-Maine Softball Conference Champions. (H. P. 1568)

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

Ordered, the Senate concurring, that Bill, "An Act Relating to Periodic Justification of Departments and Agencies of State Government under the Maine Sunset Law," House Paper 1411, Legislative Document 1576, be recalled from the legislative files to the House.

(H. P. 1569)

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

The PRESIDENT: The Chair will order a Division.

Will all those Senators in favor of Passage of H. P. 1569, 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 5 Senators having voted in the negative, H. P. 1569 was Passed, in concurrence.

Sent forthwith.

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

On motion by Senator Collins of Knox, Re-cessed until the sound of the Bell.

Recess

After Recess

The Senate called to order by the President.

Enactors

The Committee on Engrossed Bills reported as truly and strictly engrossed the following: "AN ACT Concerning the Protection of Incapacitated and Dependent Adults." (S. P. 630) (L. D. 1639)

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

"AN ACT to Establish a Limited Tax Credit to Aid Businesses Providing Day Care Services to their Employees." (H. P. 1240) (L. D. 1465)

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

"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)

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

"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)

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

"AN ACT Concerning Minimum Limits Required under the Financial Responsibility Law." (H. P. 1455) (L. D. 1596)

On motion by Senator Sutton of Oxford, Tabled for 1 Legislative Day, pending Enactment.

"AN ACT to Protect Persons with Children against Discrimination in Fair Housing." (S. P. 620) (L. D. 1625)

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

Senator CONLEY: Mr. President, I would move that this item be Tabled for 1 Legislative Day.

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

Senator TROTZKY: I request a Division.
The PRESIDENT: A Division has been requested.

Will all those Senators in favor of the motion by the Senator from Cumberland, Senator Conley, that L. D. 1625 be Tabled for 1 Legislative Day, please rise in their places to be counted.

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

13 Senators having voted in the affirmative, and 14 Senators having voted in the negative, the motion to Table L. D. 1625 for 1 Legislative Day does not prevail.

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

"AN ACT to Authorize Municipal and Quasi-municipal Water Districts to Set Rates." (S. P. 628) (L. D. 1637)

"AN ACT to Revise the Law Concerning Absentee Voting." (H. P. 1506) (L. D. 1619)

"AN ACT to Amend Certain Motor Vehicle Laws." (H. P. 1512) (L. D. 1628)

"AN ACT to Establish the Dental Practice Act." (S. P. 633) (L. D. 1648)

"AN ACT to Amend the Charter of the North Yarmouth Water District." (H. P. 1406) (L. D. 1571)

"AN ACT to Amend the Laws Governing School Administrative Districts and Community School Districts." (H. P. 1514) (L. D. 1631)

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

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 Creating the North Berwick Water District." (H. P. 1407) (L. D. 1572)

Emergency

"AN ACT to Amend the Petroleum Liquids Transfer Vapor Recovery Law." (S. P. 602) (L. D. 1600)

These being emergency measures and having received the affirmative votes of 28 Members of the Senate, with No Senators having voted in the negative, were Passed to be Enacted and having been signed by the President, were by the Secretary presented to the Governor for his approval.

Emergency

"AN ACT to Remove the Customer Charge from Electric Utility Rate Structures." (S. P. 417) (L. D. 1240)

Comes from the House, Failed of Enactment.

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

Senator TRAFTON: Mr. President, I move we Suspend the Rules for the purpose of Reconsideration.

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

Senator TROTZKY: Mr. President, I would urge the Senate to oppose.

The PRESIDENT: The Chair would advise the Senator that it is a non-debatable item.

Senator TROTZKY: I request a Division.

The PRESIDENT: A Division has been requested.

Will all those Senators in favor of the motion by the Senator from Androscoggin, Senator Trafton, that the Senate Suspend its Rules, 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 14 Senators having voted in the negative, the Rules are not Suspended.

This being an emergency measure and having received the affirmative votes of 15 Members of the Senate, with 15 Senators having voted in the negative, L. D. 1240 Failed of Enactment, in concurrence.

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

Committee Reports

House

Ought to Pass—As Amended

The Committee on Taxation on Bill, "An Act to Increase Eligibility Levels for the Elderly Householders Tax and Rent Refund Act." (H. P. 626) (L. D. 709)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-495).

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

Which Report was Read and 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.

Divided Report

The Majority of the Committee on Education on, Bill, "An Act to Require Instruction in the Public Schools on the Ill Effects of Alcohol, Tobacco and other Substances." (H. P. 54) (L. D. 75)

Reported that the same Ought Not to Pass. Signed:

Senators:

TROTZKY of Penobscot

PIERCE of Kennebec

CLARK of Cumberland

Representatives:

CONNOLLY of Portland

MURPHY of Kennebunk

THOMPSON of South Portland

GOWEN of Standish

ROLDE of York

LOCKE of Sebec

THERIAULT of Fort Kent

BROWN of Livermore Falls

BROWN of Gorham

The Minority of the same Committee on the same subject matter reported that the same Ought to Pass as amended by Committee Amendment "A" (H-384).

Signed:

Representative:

MATTHEWS of Caribou

Comes from the House, the Majority Report Read and Accepted.

Which Reports were Read.

On motion by Senator Clark of Cumberland, the Majority Ought Not to Pass Report of the Committee Accepted, in concurrence.

Divided Report

The Majority of the Committee on Business Legislation on, Bill, "An Act to Establish a Program of Funded Self-insurance for Public Schools and Municipalities." (H. P. 835) (L. D. 1028)

Reported that the same Ought Not to Pass.

Signed:

Senators:

SEWALL of Lincoln

CLARK of Cumberland

SUTTON of Oxford

Representatives:

BRANNIGAN of Portland

GAVETT of Orono

RACINE of Biddeford

JACKSON of Yarmouth

GWADOSKY of Fairfield

PERKINS of Brooksville

TELOW of Lewiston

MARTIN of Van Buren

The Minority of the same Committee on the same subject matter reported that the same Ought to Pass in New Draft under Same Title. (H. P. 1557) (L. D. 1667)

Signed:

Representatives:

POULIOT of Lewiston

FITZGERALD of Waterville

Comes from the House, the Majority report Read and Accepted.

Which Reports were Read.

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

Divided Report

The Majority of the Committee on Transportation, Bill, "An Act to Provide Photographic Nonalterable Drivers' Licenses and Other State Documents." (H. P. 1019) (L. D. 1229)

Reported that the same Ought to Pass in New Draft under New Title: "AN ACT to Provide Photographic Nonalterable Drivers' Licenses and Identification Cards." (H. P. 1555) (L. D. 1666)

Signed:

Senators:

EMERSON of Penobscot
O'LEARY of Oxford
USHER of Cumberland

Representatives:

REEVES of Pittston
STROUT of Corinth
FOWLIE of Rockland
HUTCHINGS of Lincolnville
MACOMBER of South Portland
McKEAN of Limestone
MOHOLLAND of Princeton

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

Signed:

Representatives:

CARROLL of Limerick
HUNTER of Benton
McPHERSON of Eliot

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

Which Reports were Read.

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.

Senate**Leave to Withdraw**

Senator McBREAIRTY for the Committee on Energy and Natural Resources on, Bill, "An Act Concerning the Maine Land Use Regulation Commission." (S. P. 539) (L. D. 1498)

Reported that the same be granted Leave to Withdraw.

Which Report was Read and Accepted.

Sent down for concurrence.

Ought to Pass — As Amended

Senator DEVOE for the Committee on Judiciary on, Bill, "An Act to Ensure the Admissibility of Results of Self-contained, Breath-alcohol Testing Apparatuses." (Emergency) (S. P. 251) (L. D. 720)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (S-302)

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

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 Conform the Definition of Manufactured Housing with Federal Law." (H. P. 1534) (L. D. 1646)

In the House, May 27, 1981, Passed to be Engrossed as amended by House Amendments "A" (H-484) and "B" (H-489)

In the Senate, May 28, 1981, Majority Ought Not to Pass Report Read and Accepted, in non-concurrence.

Comes from the House, that Body Having Insisted.

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

Senator PERKINS: I move the Senate Adhere.

The PRESIDENT: The Senator from Han-

cock, Senator Perkins, moves that the Senate Adhere.

Is this the pleasure of the Senate?

The motion prevailed.

Non-concurrent Matter

Bill, "An Act to Clarify Certain Provisions of Law Relating to the Method of Voting for School Committee Members of the Wells-Ogunquit Community School District." (H. P. 605) (L. D. 682)

In the House, May 27, 1981, Passed to be Engrossed as amended by House Amendment "A" (H-447).

In the Senate, May 28, 1981, the Bill and Accompanying Papers Indefinitely Postponed, in non-concurrence.

Comes from the House, that Body Having Adhered.

The PRESIDENT: The Chair recognizes the Senator from Androscoggin, Senator Charette. Senator CHARETTE: I move that we Adhere.

The PRESIDENT: The Senator from Androscoggin, Senator Charette, moves that the Senate Adhere.

Is this the pleasure of the Senate?

The motion prevailed.

Non-concurrent Matter

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)

In the House, May 22, 1981, Passed to be Enacted.

In the Senate, May 26, 1981, Failed of Enactment, in non-concurrence.

Comes from the House, that Body Having Adhered.

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

Senator TEAGUE: I move we Recede and Concur.

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

Senator McBREAIRTY: Mr. President and Honorable Members of the Senate, if all we were doing here today by Receding and Concurring were cutting the taxes for the four towns mentioned in this Bill, I would be voting for it.

My problem is, if you allow these towns to withdraw from the Forestry District, you will be putting \$24,000 more on the towns that have to stay in. I don't believe this is fair.

The Forestry District Tax is going up tremendously this year. I have some towns, the Town of Westmoreland, will be going from \$4,000 to \$6,000. There's about 50 people in that town.

Every town we let out is going to increase their tax. It's going to decrease the income to the Forest Fire Protection District. This year the tax has gone from 21 cents an acre to 29.8. If it goes any higher, you're just going to destroy the Fire Protection Unit, because people won't be able to afford it.

I think we should have a study on this, take some of the money we'll get from these towns, if you leave them in and have a good study order, and do a good job on this and come up with something next year that's fair to all. Thank you.

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

Senator WOOD: Mr. President, Members of the Senate, I would hope that we would Recede and Concur. This Bill received a unanimous report from the Committee on Taxation, and basically for several reasons.

It might be true that other towns will have to pay a larger share, but when you deal with tax issues, and we deal with them continually in terms of tax exemptions, Sales Tax exemptions, ultimately someone else is going to have to pay. You look at the merits of each tax exemption. You look at the merit of each bill, and

act on that basis alone.

We had these towns in the District. There were bills put in to bring them out of the District. We examined the towns, the case those towns made. We felt that they had a valid claim, and decided the tax policy on that question, just as we decided the tax policy on tax exempt property, or Sales Tax exemptions to various groups. We felt that there was a compelling reason for these towns to get out.

Those legislators that have towns that want to get out, we would encourage them to come before our Committee. They did not choose to come before our Committee. I don't think we should penalize those legislators with the foresight, and the endurance, and the intelligence to come before our Committee, make their case, and receive a unanimous report.

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

Senator REDMOND: Members of the Senate, I would like to continue the statement that the good Senator from Cumberland, Senator Wood, has just made. I agree with him wholeheartedly. Two years ago, there were four towns, including Moose River, that were considered very thoroughly by the Committee. The Committee unanimously reported them out Ought to Pass. The Bill died on the Appropriations Table.

I don't think that the question is the process through the Legislature. The Committee, I think the Committee has a full understanding of the problems of these towns. I hope that the rest of the Senate will go along with the Committee's feelings and with the people who represent those towns. The more, if you take these four out, it is going to make the burden that much worse on these other towns that remain in there. There's better than 50 towns.

We're not addressing the problem where we should.

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

Senator BROWN: Thank you, Mr. President. I'd like to, also, continue with the discussion that the good Senator from York, in order not to upset those people from Cumberland.

The good Senator from York mentioned, a moment ago we talked about the fact that the merits of letting these four towns out, as opposed to any other towns that might have quote, had the intelligence or whatever to come before this committee and make a compelling case.

The fact is that we have heard already that we're going to have a study to look at this whole problem that exists with the District Forestry Tax so that we can have a fair and equitable treatment of all the towns, not to give special treatment to these four towns who have gone ahead and come forth before this Committee this year.

So, I urge that you defeat the motion to Recede and Concur.

The PRESIDENT: Is the Senate ready for the question?

The Chair recognizes the Senator from Aroostook, Senator McBrearty.

Senator McBREAIRTY: Mr. President, I'd like a Roll Call.

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

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

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

The Chair recognizes the Senator from Cumberland, Senator Conley.

Senator CONLEY: Mr. President, I have 2 wee questions I'd like to pose through the Chair to the good Senator from Farmington, Senator Redmond.

One, is this Property Tax Relief for these

four communities? The second question would be, has any other towns been removed, during the history of this great State, from the Maine Forestry District?

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

The Chair recognizes the Senator from Somerset, Senator Redmond.

Senator REDMOND: In answer to the second question, yes, there has been at least 4 other towns that were removed in the last 25 years or so. This would make about 8 of some 50, I'm not sure of the numbers, but it's more than 50 that have the problem. The first question, I don't remember. Would the good Senator from Cumberland repeat the first question please?

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

Senator CONLEY: Mr. President, the first question was more important than the second. That would be, if this Bill passed, would it bring property tax relief to these four communities?

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

Senator REDMOND: Perhaps not Property Tax, this is the Forestry Tax, and it would certainly bring them some relief, to the expense of the rest of the communities.

It's a "Robin Hood Bill," that's giving to the poor, taking away from the others with no reason whatsoever. Why charge Moose River and give it to somebody else? It's not right.

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

Senator McBREAITY: Mr. President and Honorable Members of the Senate, Passage of this Bill without the study and some other mechanism put in place to give these towns some protection could be disastrous.

If they should happen to have a major forest fire in any one of these towns that you're letting out, a major fire, they're liable for 1 percent of their total evaluation. In my town of Perham this would amount to \$54,000. It could in one fire.

This could happen to any one of these towns you let out, because they have not got the insurance that they have under this Forest District Tax, so, you may not be doing them the favor that you think you are.

The PRESIDENT: The pending question before the Senate is the motion by the Senator from Somerset, Senator Teague, that the Senate Recede and Concur.

A Yes vote will be in favor of Receding and Concurring.

A No vote will be opposed.

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEA — Bustin, Carpenter, Charette, Clark, Conley, Emerson, Gill, Hichens, Kerry, Min-kowsky, Najarian, O'Leary, Perkins, Pray, Sewall, C.; Shute, Sutton, Teague, Trafton, Usher, Violette, Wood.

NAY — Ault, Brown, Collins, Devoe, Huber, McBreaity, Pierce, Redmond, Trotzky.

ABSENT — Dutremble.

A Roll Call was had.

22 Senators having voted in the affirmative and 9 Senators in the negative, with 1 Senator being absent, the motion to Recede and Concur with the House does prevail.

Having been signed by the President was by the Secretary presented to the Governor for his approval.

Orders

An Expression of Legislative Sentiment recognizing:

Grace Greene of Brooksville, who has celebrated her 99th birthday. (S. P. 646) presented by Senator PERKINS of Hancock (Cosponsors: Representative PERKINS of Brooksville and Representative FOSTER of Ellsworth).

Which was Read and Passed.

Sent down for concurrence.

A Joint Resolution in Memoriam:

WHEREAS, the Legislaure has learned with deep regret of the death of Lewis A. Callnan, one of Houlton's prominent citizens and farmers. (S. P. 647) presented by Senator CARPENTER of Aroostook (Cosponsors: Representative SMITH of Island Falls and Representative INGRAHAM of Houlton).

Which was Read and Adopted.

Sent down for concurrence.

(Off Record Remarks)

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

Communication House of Representatives

May 28, 1981

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

The House today voted to Join in a Committee of Concurrence on Bill "An Act to Provide a Referendum to Abolish County Government and Authorize Reassignment of its Duties to Appropriate State and Municipal Departments and Agencies" (H. P. 1040) (L. D. 1259)

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

Which was Read and Ordered Placed on File.

Senate Paper

Senator GILL of Cumberland (Cosponsors: Senator PIERCE of Kennebec, Representative TARBELL of Bangor and Representative KELLEHER of Bangor) present, Bill, "An Act to Amend the Maine Health and Higher Educational Facilities Authority Act." (Emergency) (S. P. 648)

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

Reference to the Committee on Health and Institutional Services suggested.

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

Senator GILL: Mr. President, Members of the Senate: I'd like to explain the late arrival of this piece of Legislation.

This Bill addresses the problem which was brought to the attention, of the Senate President, just a week or two ago.

There is a technical problem in the Maine Health Facilities Authority Act, which finances hospital expansion projects. New York Bond Counsel recently brought to the attention of the Health Facilities Authority an inconsistency between the Maine Health Facilities Authority Act, and the Maine Certificate of Need Act.

The inconsistency is that the Health Facilities Authority Act requires that the whole project be reviewed and approved by the Department of Human Services, but the Certificate of Need Act requires only that certain portions of a project be reviewed and approved.

For example, the department reviews hospital expansion and some, but not all, equipment purchases. Also, the department does not have the authority to review financing.

The reason this Bill must be introduced, now, is that Eastern Maine Medical Center is in the final phase of its expansion project. The project has been approved under the Certificate of Need Act. Approval of the financing must be made by mid to late June. That is why this is Emergency Legislation.

The Department of Human Services has received a copy of this proposed Legislation and has no objection to it, so I would ask you to approve.

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

Senator PIERCE: Mr. President, I move that this Bill be given its First Reading without Reference to Committee.

The PRESIDENT: The Senator from Kennebec, Senator Pierce, moves that S. P. 648 be given its First Reading at this time Without Reference to Committee.

Is this the pleasure of the Senate?

It is a vote.

Under Suspension of the Rules, the Bill Read Twice and Passed to be Engrossed, Without Reference to Committee.

Sent down forthwith for concurrence.

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

The President requested the Sergeant-at-Arms to escort the Senator from Knox, Senator Collins, to the rostrum to assume the duties of President Pro-Tem.

The Sergeant-at-Arms escorted the Senator from Knox, Senator Collins, to the rostrum where he served as President Pro-Tem.

The President then retired from the Senate Chamber.

Orders of the Day

The President Pro-Tem laid before the Senate:

Bill, "An Act to Establish and Coordinate Training, Education and Employment Programs for Recipients of Aid to Families with Dependent Children." (S. P. 642) (L. D. 1662)

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

Pending—Passage to be Engrossed.

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

Senator GILL: Mr. President, I present an Amendment and move its Adoption.

The PRESIDENT Pro-Tem: The Senator from Cumberland, Senator Gill, presents Senate Amendment "A" and moves its Adoption.

Senate Amendment "A" (S-301) Read.

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

Senator CONLEY: Mr. President, I wonder if the good Senator could briefly explain the Amendment.

The PRESIDENT Pro-Tem: The Senator from Cumberland, Senator Conley, poses a question through the Chair.

The Chair recognizes the Senator from Cumberland, Senator Gill.

Senator GILL: Mr. President, Members of the Senate: This takes out of the existing Bill a portion directed at the Maine Guarantee Authority. What we had intended, with good intentions on the Committee, was to have businesses that wish to come in to the State to open, or operate within the State, that they hire 10 percent of the AFDC people within their area.

Some towns may not have that complement of AFDC people, so we were asked by the Maine Guarantee Authority to remove it, so we've done that.

Senate Amendment "A" 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 the Public Drinking Law." (S. P. 66) (L. D. 93)

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

Pending—Consideration.

On motion by Senator Hichens of York, the Senate voted to Recede from its action whereby L. D. 93 was Passed to be Engrossed.

House Amendment "D" (H-481) Read.

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

Senator HICHENS: I present Senate Amendment "B" under filing number S-305 to House Amendment "D" and move its adoption.

The PRESIDENT Pro-Tem: The Senator from York, Senator Hichens, presents Senate Amendment "B" to House Amendment "D" and moves its adoption.

Senate Amendment "B" to House Amendment "D" (S-305) Read.

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

Senator DEVOE: Thank you, Mr. President. Mr. President and Members of the Senate, I urge you to vote against the Adoption of the Amendment just offered by the Senator from York, Senator Hichens.

The reason I do that, is that I have an amendment that I will be presenting, I hope momentarily, that I think will be a more deliberate, a more balanced handling of the public drinking problem.

This Bill has been lobbied very hard in the last few days, principally by the members of Cumberland, and York Counties delegation. That probably is not the only region in the State that has the problem of the magnitude that those two counties seem to have. Nevertheless, a lot of action on this Bill has emanated out of York and Cumberland Counties.

Under the present law, under the present definition of public place, you pick up such places as: privately owned recreational facilities, campgrounds, football stadiums, and public properties. That means that the Bowdoin Hockey Arena, the Alford Arena at the University of Maine in Orono, football stadiums, privately owned beaches, such as the Thomas Point Beach, are covered under the present law. They would not be covered if the Senate passes and accepts House Amendment "D", as proposed to be amended by Senator Hichens.

House Amendment "D", more narrowly defines public place. I don't think that that is a desirable objective, given the problem that we are faced with in the State.

The Amendment, which I propose to offer, and which is the reason why I'm resisting the present Amendment, would make it a Class E crime if the person having an open container of liquor refuses a request to leave the area of the public place where the violation occurs.

If you Adopt House Amendment "D", as amended, by the Amendment just offered by Senator Hichens, it's going to recriminalize. It's going to make every person who has an open bottle of liquor or an open beer can, a criminal just by the mere fact that he has it in his possession.

The advantage of going with the Amendment which I will offer is that it will give a law enforcement officer the right to ask a person to leave, and if that person refuses then the refusal to leave, or the refusal to disperse, if you want to call it that way, will mean that that person will be guilty of a Class E crime.

I submit to you, members of the Senate, that this is the more balanced approach to take. Thank you very much, Mr. President.

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

Senator HICHENS: Mr. President and Members of the Senate: L. D. 93 would have the effect of making it illegal and an arrestable offense to drink in any public place throughout the State. However, there are certain protections afforded to Maine citizens which makes this law reasonable and fair.

First, any person is permitted to drink in a public place where he has obtained permission to do so by an owner or his authorized agent. As an example, a homeowner sitting on his front porch, or having a barbecue in his yard, would be permitted to drink alcoholic beverages if he so wished. His guest would have this same privilege, and there would not be a crime unless they became unduly boisterous, and then a dis-

orderly conduct offense would take place.

A tenant would also have this same right, if his landlord permits this activity. It would also be permissible to drink in a public park, or picnic area if the local government gave permission to do so.

Second the person who legally purchased alcoholic beverages from a licensed establishment, a state liquor store, grocery store, or so forth, would be permitted to carry his purchases of unopened alcoholic beverages without fear of arrest. However, if he had any open container with alcoholic beverages, he would be committing a crime of public drinking.

The thrust of the Bill is to protect law abiding citizens from harassment by those individuals who drink in public, and then become abusive, threatening, and lose control of themselves. A police officer would quickly defuse a situation by being able to take immediate action once it was determined that public drinking was being done without authorization by an owner or his agent.

During recent years the problems caused by those drinking in public have increased in several areas of the State, especially in beach areas during the tourist season.

I was asked to sponsor the Bill by the Maine Chiefs of Police Association, and feel honored to be asked to do so. I am pleased that the Portland Press Herald, the Kennebec Journal, and my local Portsmouth, New Hampshire Herald have endorsed my Bill in editorials, along with several other daily, and weekly papers.

The Maine Municipal Association, many local Chambers of Commerce, the Maine Innkeepers Association, Maine Merchants Association, Maine Restaurant Association, Police chiefs and State Police, appeared before the Legal Affairs Committee in support of L. D. 93. Over 150 people were present, and no opposition was expressed.

I believe that L. D. 93 addresses the problem. It protects the rights of law abiding citizens who choose to drink, or choose not to drink. Moreover, if Enacted as an Emergency measure, it will be a State law enforceable as the summer season begins, and will not force each municipality to cope with the situation by local ordinances.

The Legal Affairs Committee reported this Bill out unanimously Ought to Pass with an amendment which has since been removed in order that House Amendment "D" be accepted.

House Amendment "D" corrects some of the problems expressed with the original Bill, and Senate Amendment "B" further clarifies that a warning must first be given by a law enforcement officer before a person can be arrested for violation.

Occurrences over the weekend at several recreational areas, clearly show that this Bill is needed immediately to take care of the problems. I, therefore, urge you to Recede and Accept Senate Amendment "B" and send this Bill back to the House for concurrence.

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

Senator CARPENTER: Mr. President, I would just like to pose a number of questions, and I've just begun to look at Senate Amendment "A".

In Section I, it talks about drinking, offering a drink, knowingly permitting a drink, etc., etc. It talks about the act of, but yet, then in the next section, and I haven't gotten to the evidence section at law school yet, so bear with me, in the next section we talk about evidence and the mere fact that having an open can is prima facie evidence of drinking. It, oh excuse me.

The PRESIDENT Pro-Tem: The Chair would call the Senator's attention to the fact that we have under discussion Senate Amendment "B", under filing number S-305, and there seems to be some confusion, perhaps, Senate

Amendment "A" was never offered.

Senator CARPENTER: My apologies.

The PRESIDENT Pro-Tem: Is the Senate ready for the question?

The pending question before the Senate is the motion by the Senator from York, Senator Hichens, that the Senate Adopt Senate Amendment "B", to House Amendment "D" for L. D. 93.

The Chair recognizes the Senator from York, Senator Kerry.

Senator KERRY: Yes, Mr. President, Ladies and Gentlemen of the Senate, I would like to rise in support of Senator Hichens' Amendment, and I would like to suggest, also, that some of the concerns that were mentioned by the Senator from Penobscot, Senator Devoe, would be currently handled under the current laws that we have, and specifically, I would refer to the Trespass and Disorderly Conduct Statutes that we have in our statutes today under 17-A, Section 402, subsections D and E. Basically the way it states is that if a person remains in any place in defiance of a lawful order to leave, which was personally communicated to him by the owner or authorized person, such as a person at Bowdoin College, at the Maine Forum, or any other quasi-public body.

Secondly, under Section E is, if he enters anyplace in defiance of a lawful order not to enter, which was personally communicated to him by the owner or authorized person.

Secondly, I would say that it's important to know that during this debate, that our current law is not working. Senator Hichens is correct in stating that we are now going to be giving back to the law abiding citizens of this State, safe streets, safe places to live and bring up our children, safe beaches, and places, and parks to go, and take it easy from the persons who, by the very force of their natures, are taking it away from them.

Secondly, I would like to state, with regards to the legislation, I had sponsored another Bill, and this would have given local option for people to establish their rules and regulations, and I would defer our particular Bill to Senator Hichens' Bill, L. D. 93, because I feel and believe, and the people of my community in Old Orchard, and many of the communities through York and Cumberland Counties believe, that his Bill will put teeth into the law.

Secondly, I think it's very important that we understand that this is a preventive measure. It is going to prevent problems from happening before they get out of hand. Writing a citation or looking for persons, Adam's Apple gurgling as the beer is going down, etc., does not work in a court of law, and a good attorney will get a person off from the civil violation that is now currently enacted.

Senator Hichens' proposal is common sense. It's forthright. It has teeth, and it's going to provide for the citizens and tourists of this State, a safe community.

I would advise everyone in this Body to accept the Amendment, which I think is straightforward, and no one is going to be found criminal after they are warned. They have to be warned first, and it will avoid many problems.

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

Senator DEVOE: Thank you Mr. President. Mr. President and Members of the Senate, I want to try to clarify for all of you the difference between the approach that Senator Hichens' Amendments is offering this Body, and the approach that the Amendment I have and would like to offer.

Senator Hichens' Amendments would make the mere possession of an open can of liquor or bottle of beer a crime. My amendment would make it a civil offense. However, my amendment would allow a law officer to ask a person who had an open bottle of beer to move on, and

if he didn't move on would then allow the law officer to arrest that person for a Class E crime for failing to move on.

My amendment, also, increases the civil fine for processing an open bottle of beer from \$50 to \$150. I submit to you that that alone is going to influence some people in their attitude about this law.

The present amendment that Senator Hichens is offering and the Bill in its present posture keeps the fine at the same amount. The amendment I would be offering would increase it from \$50 to \$150, would keep the civil offense for possessing an open bottle of beer, not make it a crime, but would make it a crime if a law officer asked a person to move on and they refused. The law officer could then arrest that person and charge them with a Class E crime.

Mr. President, I hope this is helpful in explaining to the members of this Body the difference between the 2 approaches.

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

Senator HICHENS: Mr. President, I would remind the members of the Senate that it is now a civil offense to drink in public, and that's the problem the police have had, because they didn't have the power to disperse the crowd when they offered the citation.

By my amendment, they can give a warning. They don't arrest on the first offense. They have to give a warning, then, if the person refuses to comply, then they have that power to arrest.

I think that that clears up the whole matter that the good Senator from Penobscot is trying to clear up for us, but I don't think he has cleared it up in the amendment that he hopes to present to us.

I would ask for a Roll Call.

The PRESIDENT Pro-Tem: A Roll Call has been requested.

The Chair recognizes the Senator from York, Senator Kerry.

Senator KERRY: Yes, Mr. President, Ladies and Gentlemen of the Senate, I would rise mainly because I think there is some confusion.

We are currently debating the Senate Amendment offered by Senator Hichens, but also, it's relating to the House Amendment "D", which it is being added to House Amendment "D".

What Senator Devoe is referring to is an amendment that is not before this Body, but I would like to at least refer to the language to clarify it. The language would be in Section 4 of House Amendment "E", which was offered in the other Body.

It says, a law enforcement officer is authorized to request that any person found violating subsection 1 would have to leave the public place where the violation occurred. This is what Senator Devoe is discussing. This is unacceptable in my mind, mainly because a law enforcement officer in a rural community, or in any other community, says disperse, leave here or you're going to be committing a crime. The point is the person. Does he walk 500 ft.? Does he go to the next block? To the next street corner?

This law is very vague. It is very ambiguous. Senator Hichens' proposal, on the other hand, gives the strength and teeth to law enforcement officers to say, here it is. Cap that bottle. Put it away, or it's going to be a crime, or you're going to be arrested. Then the person can deal with it right there. Prevent any problems from happening.

Unfortunately, as well intentioned as Senator Devoe's position is, all he is doing is transferring, by some ambiguous language, which is they must leave the area. The areas, most communities are very large in area, it doesn't say it is 100 feet or 500 feet or do they get out of town. It isn't quite how they do it at High Noon. Get out of town. It's merely move from the

area.

I'm afraid they are going to move to someone else's area, causing more problems. So, I would suggest that we support Senator Hichens' Amendment, and support the House Amendment "D" that was Adopted by this Body.

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

Senator CONLEY: Mr. President, I always appreciate listening to the knowledgeable Senator from York, Senator Kerry, with respect to this particular issue, and I wonder if he could explain to me exactly what the first sentence says here, in Senate Amendment "D", Senate Amendment "B", in Section 2.

The PRESIDENT Pro-Tem: The Senator from Cumberland, Senator Conley, poses a question through the Chair to any Senator who may care to answer.

The Chair recognizes the Senator from York, Senator Kerry.

Senator KERRY: Your question was relating to the first line Senator? Excuse me, Senator Conley. Second, Section 2.

Well, essentially what it's referring to is that a person will be guilty of drinking in public if after they were warned by a law enforcement officer. I think that's essentially what you're trying to state, and that's exactly what I think we're trying to convey here. That was one of the main concerns that people have had in the other Body, and that various Senators had referred to in this Body, that they would not be given full faith warning, and this will give them the warning, and they will be able to leave. It's very clear to me what it means.

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

Senator CONLEY: Mr. President, Members of the Senate, it's very clear to me, also. It was, also, very clear to me what the good Senator from Penobscot had to say with respect to his amendment that he would like to offer if given the opportunity.

I intend to support a Public Drinking Bill in this Session, but I do not intend to make one that is severe as the good Senator from York, Senator Hichens, would like to do by this particular amendment.

Personally I don't think people who necessarily imbibe in alcohol, that the State seems to relish tax receipts and revenues, are entirely the guilty party. I think those who sell, certainly, have a certain amount of responsibility, the lounges, the stores, I think the licensees in the so-called dance halls, etc. have an obligation to make sure that when people leave, when they're last served and go out into the streets they have a responsibility, that the individual is not under the influence, that they don't continue to serve them once they see that the person is getting carried away.

I think the community itself that approves the licenses or the applications for the license to sell beverages, has the responsibility. I think they have the responsibility to make sure that they have the right number of law enforcement personnel who are on the streets to take care of the public.

So, what I am primarily saying, I think if somebody is raising the devil, so to speak, that individual is going to be arrested anyway. He's automatically going to be arrested. If you don't believe me, you can look to the incident in Old Orchard Beach last summer, and ask the good Senators from York, both Senator Kerry and Senator Hichens, how many people were taken off to the hoosegow after the so-called riots that began down there.

And, a question, also is, how effective was the police work at the time, and who did actually incite the riot. Was it the people who were drinking? Was it the police? Was it a combination of both? Who knows?

I think you have to weigh the entire situation.

It seems to me that the amendment that the good Senator from Penobscot, Senator Devoe, is offering is one of, it is a wee bit moderate in a sense, that it says, look, pal you're not allowed to have an open bottle, here. Put it away and get out. If you give them any problems, bang, you can be arrested for a Class E crime.

I think that warning, and I think that opportunity to move on makes a great deal of sense, and I think to start in this area of just the hard-line approach, that you're going to have the bastilles loaded, particularly on weekends, right to the hilt.

I would much rather give somebody the opportunity, in a sense, of being able to avoid this type of prosecution.

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

Senator KERRY: I would like to state very briefly that Senator Conley, I concur with Senator Conley. I don't think anyone here wants to see people going to jail for this.

The primary purposes, where I disagree, is the fact that in communities, such as mine, where there are virtually hundreds of thousands of people coming each year, and many other communities throughout the State, be they rural, or inland, or coastal, would like to have preventative measures available to the law enforcement officers, so there will not be riots. There will not be problems, so, families feel free. Elderly people and other families feel free to go into local communities.

Under Senator Hichens' proposal and the Adopted measure of House Amendment "D", the same, the very same measure is available. People can disperse. The law enforcement officers can say it is against the law. Please Leave. He does not have to put them in jail, but the key thing is, while he's sitting there debating on certain cases, that people are going to start crowding around, such as what happened in Old Orchard and other communities last year. That's when the trouble begins.

This is where the teeth is needed to be in the law, and I wholeheartedly concur with the Senator. So did many of the other Senators and people working on this Bill that we want to prevent crime. We want to prevent trouble before it happens, and therefore, not have people going to jail.

I think, the law enforcement officials of this State are not stormtroopers. They're commonsensical, and they will judiciously Enact the law.

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

Senator CONLEY: Thank you, Mr. President. Mr. President, I think what we should keep in mind is one, under Senator Hichens' Amendment, that mere possession of an open container, after warning, is a crime, automatic arrest.

Under the good Senator from Penobscot, Senator Devoe's amendment, possession is up to a \$150 civil offense which is the current law. Failure to obey the policeman, in other words to leave that area of the public place is a crime. The officer can then directly take the liquor, the booze, away from the individual, order him to leave, and if he doesn't leave the entire area of the public place, he can take him in and arrest him.

Personally I think that makes much more sense then to go along with the Amendment that Senator Hichens is offering.

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

Senator CARPENTER: Mr. President, Ladies and Gentlemen of the Senate. I apologize for my earlier outbursts. I think I'm, at least, on the right amendment now, and I disagree with my good Floor Leader. The good Senator from York, Senator Hichens, amendment says that a person is guilty of public drinking if after being forbidden to do so, etc.,

etc., if he drinks liquor. It does not say if he has an open can. It says if he drinks liquor. The act of drinking liquor, I guess, in defiance of that warning, would be reason to be arrested.

I understand, and please correct me if I am wrong, that it is presently a civil offense to have an open container of liquor, beer, whatever in the State of Maine. That is not being charged.

One thing that does bother me, and I'd just like to put it in the Record, that this is not my intent in this Amendment, and perhaps we'll get a chance to amend it again, but it says, on the 3rd line where it says, if he drinks liquor in any public place, knowing that he is not licensed to do so.

I don't want the State or the prosecuting party to have to prove that that individual knowingly, did it knowing that he did not have permission, or she did not have permission.

I think that the act of drinking the liquor in public places is what we're trying to get at here. I think that should be the *prima facie* case in court, and not the fact that, you know I can see it coming in court, that someone says I've been doing it here for 5 years. Nobody ever told me those folks in Augusta changed the law. I didn't know they changed the law. I think the burden is now being put on the prosecution to prove, under this amendment, I think, that he or she knew that they were not authorized or licensed to do so. I think that may be a problem.

My point is this does not, as I read it, affect the open container portion of the law. Senator Devoe's but we are debating, I'll debate that later, we're debating S-305 right now. It says if you drink in public after a warning, then you're guilty of a Class E crime. Thank you.

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 York, Senator Hichens, that the Senate Adopt Senate Amendment "B" to House Amendment "D" on L. D. 93.

A Yes vote will be in favor of Adoption of Senate Amendment "B".

A No vote will be opposed.

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEA — Ault, Brown, Bustin, Carpenter, Charette, Clark, Hichens, Kerry, McBreairty, Minkowsky, Najarian, Perkins, Pierce, Pray, Sewall, C.; Shute, Teague, Usher, Wood.

NAY — Collins, Conley, Devoe, Emerson, Gill, Huber, O'Leary, Redmond, Sutton, Traf-ton, Trotzky, Violette.

ABSENT — Dutremble, The President, J. Sewall.

A Roll Call was had.

19 Senators having voted in the affirmative and 12 Senators in the negative, with 2 Senators being absent, Senate Amendment "B" to House Amendment "D" was Adopted.

House Amendment "D", as amended by Senate Amendment "B", Adopted in non-concurrence. The Bill, as amended, Passed to be Engrossed, in non-concurrence.

Sent down for concurrence.

The President Pro-Tem requested the Sergeant-at-Arms to escort the Senator from Penobscot, Senator Sewall, to the rostrum where he assumed his duties as President.

The Sergeant-at-Arms escorted the Senator from Penobscot, Senator Sewall, to the rostrum where he assumed his duties as President.

The Sergeant-at-Arms escorted the Senator

from Knox, Senator Collins, to his seat on the floor of the Senate.

The PRESIDENT: The Chair would thank the Majority Floor Leader for his usual competent job.

The President laid before the Senate:

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

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

Pending — Passage to be Engrossed.

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

Senator DEVOE: Mr. President, I'll try to be brief in my comments on this Bill. We have two problems that this Bill attempts to address. The first is whether or not we should re-establish, or establish a new Board of Prison Terms that will deal with the question of whether we shorten the sentences of those presently serving time in Thomaston. That is, in my opinion, a completely different question from the second question that is contained in this Bill.

That is, what do we do to assist the prisoner in his transition into society, once he walks out the gates of Thomaston?

We have presently pending before us, or will have in a few days, a bill to create a separate Department of Corrections. I submit to members of this Body that it makes more sense for us to let that Department of Corrections start functioning, and start addressing, as one of the major problems it will have to cope with, what do we do about the question of parole?

I think a more sensible approach for us to take is to try to deal with the question of supervised release. It was in that spirit that we contacted the Governor's Office very recently, and tried to get some guidance from them as to whether or not they would be willing to work with some of us to come up with an amendment to this Bill, dealing solely with the question of supervised release.

That encouragement and assistance was not tendered. I think it would be premature for us now to pass this Bill before we have a Department of Corrections in place, functioning, that can deal with the question.

Furthermore, there is a rather large study that has been conducted over the last several months of our parole system, and the effect of the criminal code on sentencing practices in the State of Maine. It's being done by some people at the University of Southern Maine in Portland. That report is due to be filed, made public, sometime in September or October. That is another reason for waiting before we take this gigantic step of establishing a Board of Prison Terms.

For these reasons, Mr. President, I now move that this Bill and all its accompanying papers be Indefinitely Postponed.

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

Senator CONLEY: Mr. President, Members of the Senate, I would oppose the motion of the good Senator from Penobscot, Senator Devoe. The Bill before us may not be a perfect bill, but I do believe the objectives of this Bill are headed in the right direction.

I think this Legislature should be concerned with the fact that we presently have a parole system, that the sentences that are now being passed out by the court, and that is the flat term sentencing, does little or nothing at all to give some type of protection to the citizens of this State, once the person has been placed, or released, from Thomaston.

I think there are many things that have to be done within the judiciary, and the sentencing itself. I think that someone who is found guilty of breaking and entering in the southern part of the State should receive the same type of sentencing that one in the northern or the central part of the State. Sometimes the sentencing

gets out of whack and creates problems within the prison itself, because of the fact that, obviously, inmates talk to one another and they say how, what crime they were sentenced to. They find out that one person got, person they're talking to, got one sentence, he got a different one. One a lighter one, one more severe for exactly the same crime.

The important thing is that once individuals are released from prison under the present system, they are absorbed into society with absolutely no surveillance or knowledge as to what has happened to these people.

I agree that once the Department of Corrections has been established, that it will focus more directly on the law that we have before us. I still must make this Senate aware that we presently do have, presently have a parole system to handle those individuals who were sentenced prior to the adoption of the Criminal Code.

I think that we must give this legislation the opportunity to work. I know that members of the Legislature are going to scrutinize and keep a very careful eye on what does transpire in the next few years with respect to this parole board, if this legislation is passed.

I would urge the Senate to defeat the pending motion.

The PRESIDENT: The Chair will order a Division.

Will all those Senators in favor of the motion by the Senator from Penobscot, Senator Devoe, that L. D. 1429 and all its accompanying papers be Indefinitely Postponed, please rise in their places to be counted.

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

The Chair recognizes the Senator from Cumberland, Senator Conley.

Senator CONLEY: I request a Roll Call.

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

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

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

The pending question before the Senate is the motion by the Senator from Penobscot, Senator Devoe, that L. D. 1429 and all its accompanying papers be Indefinitely Postponed.

A Yes vote will be in favor of Indefinite Postponement.

A No vote will be opposed.

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEA—Ault, Collins, Devoe, Emerson, Gill, Hichens, Huber, McBreairty, Perkins, Pierce, Sewall, C.; Shute, Sutton, Teague, Trotzky, The President-J. Sewall.

NAY—Brown, Bustin, Carpenter, Charette, Clark, Conley, Kerry, Minkowsky, Najarian, O'Leary, Pray, Traf-ton, Usher, Violette, Wood.

ABSENT—Dutremble, Redmond.

A Roll Call was had.

16 Senators having voted in the affirmative and 15 Senators in the negative, with 2 Senators being absent, the motion to Indefinitely Postpone L. D. 1429 does prevail.

Sent down for concurrence.

The President laid before the Senate:

Joint Order—Relative to the Committee on Audit and Program Review reporting out a bill (H. P. 1515)

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

Pending—Motion of Senator MINKOWSKY of Androscoggin to Reconsider.

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

Senator COLLINS: I believe this matter has now been handled by the Joint Order we passed

earlier today, therefore, I would ask the Senate simply to vote no.

The PRESIDENT: The pending question before the Senate is the motion by the Senator from Androscoggin, Senator Minkowsky, that the Senate Reconsider its action whereby it indefinitely Postponed H. P. 1515.

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

Will all those Senators opposed, please say No?

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

Sent down for concurrence.

On motion by Senator Huber of Cumberland, the Senate voted to remove from the Special Appropriations Table: Bill, "An Act to License Community and Home Health Agencies (H. P. 618) (L. D. 1624).

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

On motion by Senator Gill of Cumberland, the Senate voted to Reconsider its action whereby L. D. 1624 was Passed to be Engrossed.

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

Senator GILL: I'd like to present Senate Amendment "A" to the Bill.

The PRESIDENT: The Senator from Cumberland, Senator Gill, offers Senate Amendment "A" to L. D. 1624 and moves its adoption.

Senate Amendment "A" (S-304) Read and Adopted. The Bill, as amended, Passed to be Engrossed, in non-concurrence.

Sent down for concurrence.

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

Communication Committee on Public Utilities

May 27, 1981

The Honorable Joseph Sewall
President of the Senate
State House

Augusta, Maine 04333

Dear President Sewall:

The Committee on Public Utilities is pleased to report that it has completed all business placed before it by the First Regular Session of the 110th Legislature.

Bills received in Committee	102
Unanimous Reports	97
Ought to Pass	9
Ought to Pass As Amended	24
Ought to Pass in New Draft	14
Ought Not to Pass	9
Leave to Withdraw	41
Divided Reports	4
Study Bill	1

Respectfully yours,

S/SENATOR HOWARD M. TROTZKY

SENATE CHAIRMAN

Which was Read and Ordered Placed on File.

Committee Reports

House Leave to Withdraw

The Committee on Energy and Natural Resources on, Bill, "An Act to Facilitate the Development of Hazardous Waste Management Facilities" (H. P. 1397) (L. D. 1568)

Reported that the same be granted Leave to Withdraw.

Comes from the House, the Report Read and Accepted.

The Committee on Judiciary on, Bill, "An Act to Enhance Public Safety through the Authorization of Suspension of Licenses." (H. P. 948) (L. D. 1124)

Reported that the same be granted Leave to Withdraw.

Comes from the House, the Report Read and Accepted.

The Committee on Judiciary on, Bill, "An Act Concerning Operation of a Motor Vehicle

while under the influence of Intoxicating Liquor. (H. P. 1231) (L. D. 1456)

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.

Enactor

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

Emergency

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

This being an emergency measure and having received the affirmative votes of 29 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.

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

Committee Report House

Divided Report

The Majority of the Committee on Judiciary on, Bill, "An Act to Protect Farmers' Right to Farm." (H. P. 1175) (L. D. 1399)

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

Signed:

Senators:

DEVOE of Penobscot
CONLEY of Cumberland
KERRY of York

Representatives:

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

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

Signed:

Representatives:

LUND of Augusta
CARRIER of Westbrook
REEVES of Newport

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

Which Reports were read.

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

On motion by Senator Hichens of York, Tabled for 1 Legislative Day, pending Assignment for Second Reading.

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

Ought to Pass in New Draft

The Committee on Education on, Bill, "An Act to Promote Alcohol and Drug Abuse Education and Rehabilitation." (H. P. 219) (L. D. 256)

Reported that the same Ought to Pass in New Draft Under New Title, "An Act to Promote Alcohol and Other Drug Abuse Education and Rehabilitation." (H. P. 1533) (L. D. 1645)

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.

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

Senator CONLEY: Mr. President, I would

pose a question through the Chair to any member of the Committee and ask if this Bill proposes another premium on alcohol?

The PRESIDENT: The Senator from Cumberland has posed a question through the Chair to any Senator who cares to answer.

The Bill, in New Draft, Tomorrow Assigned for Second Reading.

The Committee on Education on, Bill, "An Act to Define Eligibility for School Purposes and to Determine Financial Responsibility for the Education of State Wards. (Emergency) (H. P. 1344) (L. D. 1534)

Reported that the same Ought to Pass in New Draft Under New Title, "An Act to Define Eligibility for School Purposes and to Determine Financial Responsibility for the Education of State Wards" (Emergency) (H. P. 1559) (L. D. 1669)

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:

Committee Reports House

Ought to Pass — As Amended

The Committee on Judiciary on, Bill, "An Act to Amend Provisions Concerning the Operation of the Operation after Suspension of the Habitual Offender Laws and Certain Nonsentencing Provisions of the Operating under the Influence Law." (H. P. 556) (L. D. 635)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-501).

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

The Committee on Judiciary on, Bill, "An Act Concerning the Suspension of a Drivers License for Operating a Motor Vehicle under the Influence of Alcohol or Refusing to Submit to a Blood or Breath Analysis." (H. P. 637) (L. D. 727)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-502).

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

Which Reports were Read and Accepted, in concurrence, and the Bills Read Once. Committee Amendments "A" Read and Adopted, in concurrence, and the Bills, as amended, Tomorrow assigned for second reading.

The Committee on Marine Resources on, Bill, "An Act Concerning the Regulation of Atlantic Salmon." (H. P. 474) (L. D. 538)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-497)

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

Which Report was Read.

On motion by Senator Pray of Penobscot, Tabled for 1 Legislative Day, pending Acceptance of the Committee Report.

The Committee on Public Utilities on, Bill, "An Act to Amend the Charter of the Gardiner Water District." (H. P. 712) (L. D. 837)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-499).

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

Which Reports were Read and Adopted, in

concurrence, and the Bill Read once. Committee Amendment "A" Read and Adopted, in concurrence, and the Bill, as amended, Tomorrow Assigned for Second Reading.

Ought to Pass in New Draft

The Committee on Public Utilities on, Bill, "An Act to Provide More Public Accountability for Sewer and Sanitary Districts." (H. P. 814) (L. D. 938)

Reported that the same Ought to Pass in New Draft under Same Title. (H. P. 1562) (L. D. 1670)

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.

The Committee on Public Utilities on, Bill, "An Act to Amend the Charter of the Bethel Water District." (H. P. 810) (L. D. 969)

Reported that the same Ought to Pass in New Draft under Same Title. (H. P. 1549) (L. D. 1665)

Comes from the House, the Bill, in New Draft, Passed to be Engrossed as amended by House Amendment "A" (H-504).

Which Report was Read.

On motion by Senator Sutton of Oxford, Tabled for 1 Legislative Day, pending Acceptance of the Committee Report.

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

Senator CONLEY: Mr. President, may I pose a question through the Chair, with respect to L. D. 635. Did we give that Bill its Second Reading, or has it been Assigned for Second Reading Tomorrow?

The PRESIDENT: The Chair would advise the Senator that it was Assigned for Second Reading Tomorrow.

Senator CONLEY: Tomorrow. Thank you.

The President laid before the Senate Bill, "An Act to Protect Persons with Children against Discrimination in Fair Housing." (S. P. 620) (L. D. 1625). Tabled earlier in today's session by Senator Conley of Cumberland, pending Enactment.

The Chair recognizes the Senator from Penobscot, Senator Devoe.

Senator DEVOE: Thank you, Mr. President. Mr. President, I ask for 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 Chair recognizes the Senator from Cumberland, Senator Conley.

Senator CONLEY: Mr. President, I move that this item be Tabled for 1 Legislative Day.

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

Senator DEVOE: Mr. President, I ask for a Division.

The PRESIDENT: A Division has been requested.

Will all those Senators in favor of the motion by the Senator from Cumberland, Senator Conley, that L. D. 1625 be Tabled for 1 legislative Day, please rise in their places to be counted.

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

The Chair recognizes the Senator from Kennebec, Senator Pierce.

Senator PIERCE: Mr. President, I'd ask for a Roll Call.

The PRESIDENT: A Roll Call has been requested.

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

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

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

The pending question before the Senate is the motion by the Senator from Cumberland, Senator Conley, that L. D. 1625 be Tabled for 1 Legislative Day.

A Yes vote will be in favor of the motion to Table L. D. 1625 for 1 Legislative Day.

A No vote will be opposed.

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

ROLL CALL

YEA — Brown, Bustin, Carpenter, Charette, Clark, Conley, Hichens, Kerry, Minkowsky, Najarian, O'Leary, Pray, Trafton, Usher, Viollette, Wood.

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

ABSENT — Dutremble.

A Roll Call was had.

16 Senators having voted in the affirmative and 16 Senators in the negative, with 1 Senator being absent, the motion to Table L. D. 1625 for 1 Legislative Day does not prevail.

The pending question before the Senate is Enactment of L. D. 1625.

The Chair recognizes the Senator from Cumberland, Senator Conley.

Senator CONLEY: Mr. President, it's amazing to me what we can do for the Maine Farm Industry, we could Table a bill here, pending Second Reading, one day.

Last week we had an order in here, talking about discrimination. I listened very attentively to the good Senator from Penobscot, Senator Emerson. He sounded like a true Democrat. He was concerned with discrimination on housing.

Today we have a simple Bill, a very, very simple Bill that takes one step forward. It's going to ensure that children are going to be entitled to a roof over their head. What is wrong with the Bill before us? The good Senator from Penobscot, Senator Devoe, stated that there are exemptions, after exemptions, after exemptions. I agree with him.

Last week, one of the largest real estate developers in the City of Portland came up here and asked to have an amendment put on this Bill to exempt condominiums from this Act. I, like a good soldier, trying again to appease one more group, said yes, I will do it. The very same people who asked me to put that amendment on were up here today to defeat this Bill, to defeat this Bill that does nothing at all. Nothing at all.

I ask you, are you aware of the shortage of housing for kids today? Are you aware that three bedroom apartments are absorbed today by the public with three individuals, three gentlemen, three ladies, or even perhaps a mixed group rent these flats, because individually, they couldn't afford to pay the rent. No family, or husband and wife, can afford the rent themselves, they're so high.

I gave the statistics the other day, of rents that are advertised in the paper, state-wide, "no children wanted." Fifty percent of those ads that didn't have that cliché on the end, when people called for a rent for their children, they said, we don't accept children.

I ask you, honestly, what kind of a race are we becoming? How human are we? Do we really care about the people outside or are we going to continue to protect landlords who don't want to have anything to do with children?

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

Senator MINKOWSKY: Mr. President, Members of the Senate, I think the points that have been brought forth by the good Senator from Cumberland, Senator Conley, are very valid and deserve our full consideration. I have analyzed this Bill very, very closely. I've listened to pros and cons on both sides of the aisle relevant to this issue. You can be sympathetic with both aspects of it.

I really believe the time has come here in the State of Maine, where we recognize this very, very serious problem. Some people may not think it is serious on the surface, but I come from maybe the second largest, the second largest community in the State of Maine, where we have observed this thing time and time again. True, the landlords deny that they are discriminating against families with children. I have made it a point to speak directly with families with children. I have made it a point to research our ordinances. I have not only tried, I have been fair and objective in evaluating all aspects of this particular Bill.

I want to call the Senate's attention to one particular part of this Bill, which I think addresses the equity and fair play that we are looking for today. In subsection 6024, there's one particular paragraph that really says it all. It's this, for the Record, "A landlord may refuse to rent a dwelling unit to a family, if the size of the family, with children, would exceed the number permitted by local zoning, or other municipal ordinances, or reasonable standards of human health, safety, or sanitation, or if the dwelling unit is unsuitable for rental to a family with children, under Title 22, Chapter 252."

We don't have to go beyond that particular point to know exactly that we are being fair and equitable to people who are landlords, yes, the people who claim they are taxpayers and they are being discriminated against. We have families, we have children that have to be recognized. They are the future generation, our future citizens. I think it's about time that we address this head-on by voting for the Enactment of this particular Bill today.

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

Senator CHARETTE: Mr. President, Men and Women of the Senate, I wasn't going to speak on this issue. However, I found it pretty fascinating to receive some seventy cards all handwritten from a cross-section of the City of Lewiston, which are concerned people, concerned young couples with children, who have been having some hard time in finding rents and getting settled.

I have talked with landlords. I have talked with real estate people, some concerned people. I have mailed the Bill, pointed out some of the issues such as Senator Minkowsky just pointed out in the area where there are provisions there. There is protection for both the landlord and the tenants. I've convinced some of these real estate people that I've convinced them that my decision to vote for this Bill, and pass this Bill, was a good decision. I don't think I hurt myself. I think they understood. They didn't know what this Bill was really doing. The Amendment is a good Amendment to the Bill.

Just these post cards. You know, we get so many of them that are pre-printed, and signed, and just mailed. We just look at them and say, gee, you know, these are all personally handwritten, different comments, quite a few of them. It does come from a cross-section of Lewiston. That did concern me.

I do hope we pass the Enactment of this Bill.

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

Senator CARPENTER: Mr. President, Ladies and Gentlemen of the Senate, gosh only knows how many times this Session my seat-mate, the good Senator from Androscoggin, Senator Minkowsky, and I, have disagreed. Probably would be easier to count the times we have agreed.

I want to echo the thoughts that he had. I wonder, you've all been lobbied by the Landlords' Association. I wonder how many kids lobbied us. Senator Charette received some phone calls from, or some cards, rather, from some of his constituents who are having a problem. This day and age, I think we better become aware that we are never going to outlaw discrimination, be it racial discrimination, sexual discrimination, discrimination against folks with kids.

We've made the attempt in many areas to put people on notice that when we find these instances, we're not going to tolerate them. What more fundamental right is there than to be a child, to have a child? I point out to you, if that wasn't a fundamental right, none of us would be here today.

What's the difference? Why is it worse to have a small child, have a rent available, than to have an adult who comes home at night, drunk, and breaks up the furniture? Or to have an adult come home, who happens to be black, or happens to be a woman? What's the difference? Which is the more fundamental right?

As the good Senator from Androscoggin, Senator Minkowsky, mentioned, we've built into this piece of legislation enough flexibility so that if the particular apartment could not accommodate the people that this Bill intends to help, that the landlord doesn't have to rent to them. We've given them the out. We've given them the other out, through our Judicial System, and through our language, that we can never prevent discrimination totally. What we're saying here if we fail to Enact this Bill, is we're telling them that we think it's okay that you go ahead and do it. It's okay that you go ahead and continue to discriminate, continue to bar these people.

Back in September, I had occasion to be looking for a rent in Portland. The prices are horrendous. I have people in my class, who have had terrible problems, because they happen to have small children. They happen to have small children. If they walk through that door tonight, and every one of you is voting against this Bill, if they walk through that door tonight carrying that small child, the first thing you'd do would be to go over and say, what a beautiful child, or pick the child up, or something else.

How many of these people that you're voting against tonight walked to the voting booth, walked to the polling place, carrying that child on their hip?

Now you're telling them that they don't have the same right that I've got. That's not right. Think about it.

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

Senator WOOD: Mr. President and Members of the Senate, often times the issues we deal with up here are usually in the abstract. In this issue, it's become very real for me. When my wife and I rented our apartment, and we have economic circumstances that require us to rent, we can not own our own home at this point, we were told that this rent would be only for adults only. We accepted that.

We've tried to be good tenants while we've been there. We've painted, fixed up, landscaped the lawns. When we decided to have children, we realized we might have to move. We were such good tenants that the landlord said, well, I think that you've proven yourself. I have no problems if you decide to stay in this rent.

If that landlord had not been as understanding, the choice for us would have been substandard housing, or housing that we could not afford, because we chose to have children.

I don't think that's a fair choice to put on people. Many of the things we do up here, we try to be pro-choice, or pro-life, or pro-family. That goes to a certain point. Then we will do something like this that is certainly anti-family, and anti-life.

I would urge you to pass this Bill, so that the people of this State who choose and want to have a family, will have a place to have that family.

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

Senator BUSTIN: Mr. President and Members of the Senate, I'm a little dismayed at what I see here today. I've been fairly dismayed here before on this floor, since January, but I can't believe that because one segment of this Senate sees that a certain member is absent, and will not allow a Tabling motion on an issue that involves the people of this State. These people happen to be the little people.

The good Senator from York, Senator Wood, I'd like to relate to you one argument that I had, when I was debating this Bill with somebody out there. They said, if they want to have children, then they ought to wait until they can be able to buy their house. Why didn't you wait, Senator Wood?

I responded, that the reason that this race continues is because of the biological urge to propagate children. If we want to continue this Earth the way it is, we want to continue inhabiting it, then we ought to find some way to house children. It's an excellent birth control measure. Is that what we're looking at? I can't believe that every member, except one, of the opposite party, can believe that we shouldn't be housing children.

I urge that you Adopt this measure.

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

Senator TROTZKY: Mr. President and Members of the Senate, this Bill is an extremely difficult Bill for me. I looked very carefully at it. I think that everybody who has spoken has spoken for the Bill. If one's going to vote against the Bill, I feel that there has to be an explanation, a reason.

There are developments in communities which are for adults only. Children's behavior is different than adults'. There's a right of adults to live in developments which are for adults only. What essentially this Bill does, it cuts across the entire State, and says, you can not have a development in this State which will house families of adults, only.

I feel that's discrimination also, to turn around and say, you can't have that. That is the reason that I am voting against this Bill today, for the specific reason that it will prohibit a development in the State of Maine. There are some. There are some in Bangor. I'm sure there are some in other communities, Portland, or Lewiston, or throughout the State. I think adults have those rights, too.

It has nothing to do with landlords here. I'm not talking about landlords. This is the reason I am voting against this Bill.

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

Senator BROWN: Thank you, Mr. President. In recent years, some of the work that I've done has dealt with housing development. For the most part, communities very much like to have elderly housing. It's not a great deal of trouble to find a community that will be very open to having elderly housing. There's no children involved. They don't have to put up with noisy children, the wear and tear on the apartments, the additional burdens placed upon the services in the town, the schools and what not.

It's very seldom that you can find towns that have any interest in developing family housing. I'm talking about HUD and Farmer's Home housing. There's not a great deal of interest in developing family housing, because people don't want to be bothered by having children around. It's a sad state of affairs, where we have gotten to a point in society where children, and having children around. I'm not a big landlord of any kind. I rent one house out. I carefully select the people that go in there, because I don't want it torn apart. I've had adults in a different house who did a great deal of

damage one time, without any children. We can't base it entirely upon the damage, upon the noise, upon all the other factors that's been brought up. The fact that there ought to be sections, or a building set up specifically for adults, then we've gotten to the point where children are no longer of use to us, and we want to get them out of the way.

I urge you to, let's pass this Bill, and move it along.

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

Senator CONLEY: Mr. President, I'd like to say to the members of the Senate, I personally feel that this Bill, to me, is one of the most important pieces of legislation that we can pass this Session. I don't care whose name is on it, because it really isn't much. There's really not much to this Bill, but it establishes a policy. It gives some type of warning that we are cognizant of the problem dealing with families.

I sometimes have stated, and made jest of the free enterprise system and their rights. I believe above all that human rights is the first and most important thing. I think one of the reasons I co-sponsored the so-called "D. C. Amendment" earlier in the Session with the Senator from Penobscot, Senator Trotzky, was because I believe that individuals should have the right to a vote and to have somebody in their Congress to represent them.

I call your attention to Section D of this Bill. It clearly states, "part or privately-owned multi-unit structure, all units of which are occupied by, or reserved for, tenant households with at least one resident of 62 years in age, or over, are exempt." Exempt. There is no problem with respect to developments that are set aside for the elderly. I'm sure, honestly, if that's the right thing. I think it might be even better if the elderly did have some youth around them at times to give them some feeling of not just being tied up into one type of environment.

I am a little bit surprised that a party could take a position, almost unified, to oppose something that is going to give just a shining bright light to somebody out there. It's not going to help many people, but it's going to do something.

I would ask and urge you to all give very serious consideration to the Enactment of this piece of legislation.

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

Senator BUSTIN: Mr. President and Members of the Senate, if those people who are voting against this Bill, I would hope, and I would urge that I could expect to see some kind of legislation coming into the Special Session that would at least provide housing for those families with children. If you want to vote against this measure, then at least show your good faith at wanting to house children in this State, by providing legislation to build that housing, because they can't afford to build it themselves.

I have worked for many years on whether towns are going to put up housing units. The controversy is always elderly versus multi-family. You know what wins out every single time, and maybe it should, is the elderly.

What do we get? No multi-family. The problem is so prevalent in the United States that the Department of Housing and Urban Development mandated that if you had an elderly apartment dwelling going up in a town with HUD money, that you, also, must make some room for multi-family. That's how horrendous it became.

I would hope that if you're voting against this particular measure for whatever your reasons are, then at least show me your good faith by submitting some legislation to build them the housing.

Let me bore you a little bit with an article, an editorial that appeared in the Maine Sunday Telegram on April 19, 1981. I believe the good

Senator from York, Senator Hichens, referred to this last time when we debated this Bill. I'll only read the last two paragraphs.

"The argument that the eviction process is so unwieldy as to make it impractical as a means of controlling tenancy may have some merit, but the answer lies in streamlining the eviction process, not in allowing landlords to turn down people who have children, but might otherwise be responsible tenants.

As long as families with children pay their rent, and live by rules that apply to all tenants, they should not be denied the opportunity to rent a good home, an opportunity given by law to virtually every other Mainer."

The PRESIDENT: Is the Senate ready for the question?

A Yes vote will be in favor of the Enactment of LD 1625.

A No vote will be opposed.

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEA—Brown, Bustin, Carpenter, Charette, Clark, Conley, Emerson, Hichens, Kerry, Minkowsky, Najarian, Pray, Trafton, Violette, Wood.

NAY—Ault, Collins, Devoe, Gill, Huber, McBreaity, O'Leary, Perkins, Pierce, Redmond, Sewall, C.; Shute, Sutton, Teague, Trotzky, Usher.

ABSENT—Dutremble.

A Roll Call was had.

15 Senators having voted in the affirmative and 16 Senators in the negative, with 1 Senator being absent, LD 1625 Failed of Enactment in non-concurrence.

Sent down for concurrence.

(Off Record Remarks)

On motion by Senator Collins of Knox, there being no objections all items previously acted upon were sent forthwith.

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