

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

June 19, 1981

Senate called to order by the President.

Prayer by The Honorable John M. Kerry of Old Orchard Beach.

Senator KERRY: The Legislature is strong, so weak and alone, the ultimate paradox with facets unknown.

The universe now opened,
no world beyond reach,
we quest for the zenith,
that all may beseech.
We search for the answers
to questions untold,
about life and its problems
that we do behold.
I wonder what science
or practical art,
will ever teach lawmakers
to search in their hearts.
This is the message of
the universe traversing time,
linking the past, present
and future, communicating the
subconscious of the spirit,
from the mountain of the mind
to the shore of the soul. Amen.

Reading of the Journal of yesterday.

Communication
House of Representatives

June 12, 1981

Honorable May M. Ross
Secretary of the Senate
110th Legislature
Augusta, Maine 04333

Dear Madam Secretary:

The House voted today to Adhere to its action whereby it Indefinitely Postponed Bill "An Act to Clarify the Status of Certain Real Estate Easements in the State" (Emergency) (S. P. 224) (L. D. 611)

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

Which was Read and Ordered Placed on File.

Senate Paper

Senator DEVOE of Penobscot presented, Bill, "An Act to Make Additional Corrections of Errors and Inconsistencies in the Laws of Maine." (Emergency) (S. P. 701)

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

Reference to the Committee on Judiciary suggested and Ordered Printed.

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

Senator PRAY: Mr. President and Members of the Senate, yesterday the Legislative Council met at approximately 11:15 in the morning, to discuss the introduction of item 3-1 on the House Calendar, which is the Highway Allocation Act. There were seven members of the Council present. At that time the vote was, all seven members voting in the affirmative to allow the Bill in.

Also, at that same time considered was the LD which is presently on the Senate Calendar, item 3-1, "An Act to Make Additional Corrections of Errors and Inconsistencies in the Laws of Maine." The Council held a vote on that. The vote was 5 to 2, thus it failed introduction.

Immediately upon that failing, the Council adjourned. To my knowledge, there has not been another meeting of the Council. I would question the Chair as to how this proposal is before this Body?

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

Senator COLLINS: Mr. President, I don't know that I have all the answers, but the information that came to me was that as we walked

to another part of the building immediately following that meeting, Speaker Martin, who had voted in the negative, came to me and said, I'm changing my vote to yes, to admit the Bill in. He was on his way to the recorder to make that change. That's all I know about it.

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

Senator PRAY: Mr. President and Members of the Senate, I still question this proposal being on the Calendar this morning, because the Council Meeting had adjourned. I wish that perhaps some of us, all in this Chamber, would like to, we have the opportunity of walking out of this Chamber after the Session adjourning, of perhaps having changed our vote on one or two issues, but that's not possible.

I would still question the, if not necessarily the legality, the proper introduction of this proposal at this time. I think that it makes a little bit of a mockery of the system.

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

Orders

On motion by Senator TEAGUE of Somerset (Cosponsors: Senator PERKINS of Hancock, Representative NELSON of Portland and Representative PEARSON of Old Town)

WHEREAS, Legislative Document 1683, Bill, "An Act to Fund and Implement Certain Collective Bargaining Agreements and to Fund and Implement Benefits for State Employees Excluded from Collective Bargaining" has been passed; and

WHEREAS, the passage of this bill has serious ramifications for the Maine State Retirement System; and

WHEREAS, no opportunity was afforded for a full actuarial study of the implications of the legislation; and

WHEREAS, the precedent established may have serious implications for the funding of the system; now, therefore, be it

ORDERED, the House concurring, subject to the Legislative Council's review and determinations hereinafter provided, that a committee composed of a subcommittee of the Joint Standing Committee on Appropriations and Financial Affairs and a subcommittee of the Joint Standing Committee on Aging, Veterans and Retirement shall study the retirement provisions contained in L. D. 1683 to determine if the funding is sound and to make recommendations for corrective action in the event that it is the finding of the committee that remedial action is required; and be it further

ORDERED, that the committee report its findings and recommendations, together with all necessary implementing legislation in accordance with the Joint Rules, to the Legislative Council for submission in final form at the Second Regular Session of the 110th Legislature; and be it further

ORDERED, that the Legislative Council, before implementing this study and determining an appropriate level of funding, shall first ensure that this directive can be accomplished within the limits of available resources, that it is combined with other initiatives similar in scope to avoid duplication and that its purpose is within the best interests of the State; and be it further

ORDERED, upon passage in concurrence, that a suitable copy of this Order shall be forwarded to members of the committee. (S. P. 700)

Which was Read and Passed.

Sent down forthwith for concurrence.

An Expression of Legislative Sentiment recognizing:

That the personnel of Reprographics Division of the Bureau of Purchases have provided the professional expertise, dedication and enthusiasm to make this session a success. (S. P. 702) presented by Senator AULT of Kennebec

(Cosponsors: Senator PIERCE of Kennebec, Senator BUSTIN of Kennebec, Representative HICKEY of Augusta, Representative LUND of Augusta and Representative PARADIS of Augusta).

Which was Read and Passed.

Sent down forthwith for concurrence.

Committee Report
House

Divided Report

The Majority of the Committee on Labor on, Bill, "An Act Relating to Self-insurance under the Workers' Compensation Act." (H. P. 821) (L. D. 975)

Reported that the same Ought Not to Pass. Signed:

Senator:

DUTREMBLE of York

Representatives:

TUTTLE of Sanford

McHENRY of Madawaska

LAVERRIERE of Biddeford

MARTIN of Brunswick

HAYDEN of Durham

BAKER of Portland

The Minority of the same Committee on the same subject matter reported that the same Ought to pass in New Draft under Same Title, (H. P. 1517) (L. D. 1630).

Signed:

Senators:

SEWALL of Lincoln

SUTTON of Oxford

Representatives:

BEAULIEU of Portland

LEWIS of Auburn

DAMREN of Belgrade

FOSTER of Ellsworth

Comes from the House, Bill and accompanying Papers Indefinitely Postponed.

Which Reports were Read.

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

Senator SEWALL: Thank you. Mr. President and Members of the Senate, this Self-insurance Bill has been incorporated in LD 1001 and is no longer necessary. I move that this Bill and all its accompanying papers be Indefinitely Postponed, in concurrence.

On motion by Senator Sewall of Lincoln, LD 975 and all its accompanying papers.

Indefinitely Postponed, in concurrence.

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

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

Recess

After Recess

The Senate called to order by the President.

Orders of the Day

The President laid before the Senate: Bill, "An Act to Make Additional Corrections of Errors and Inconsistencies in the Laws of Maine" (Emergency) (S. P. 701), Tabled earlier in today's session, by Senator Conley of Cumberland, pending Reference.

Is it the pleasure of the Senate that Under Suspension of the Rules, SP 701 be given its First Reading at this time without Reference to Committee?

It is a vote.

Under Suspension of the Rules, the Bill Read Twice.

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

Senator DEVOE: Thank you, Mr. President. Mr. President, I present Senate Amendment "A" to LD 1692 and move its adoption.

The PRESIDENT: The Senator from Penobscot, Senator Devoe, offers Senate Amendment

"A" to SP 701 and moves its adoption.

Senate Amendment "A" (S-374) Read.

The PRESIDENT: The Senator has the floor.
 Senator DEVOE: Mr. President, all that this Amendment does is to make Sections 3 and 4 of the Bill an emergency measure in addition to Section 2 of the Bill as it presently is worded.

Senate Amendment "A" Adopted.

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

Senator CONLEY: Mr. President, I would like to present Senate Amendment "B" and move its adoption.

The PRESIDENT: The Senator from Cumberland, Senator Conley, offers Senate Amendment "B" to SP 701 and moves its adoption.

Senate Amendment "B" (S-375) Read.

The PRESIDENT: The Senator has the floor.

Senator CONLEY: Mr. President and Members of the Senate, I have spoken with the members of the Leadership in this Branch with respect to this particular Amendment. What it does, it clarifies any ambiguity presently under the Collective Bargaining Statutes dealing with municipal employees.

As we all know, we passed legislation earlier this year that dealt with collective bargaining for county employees. The County Employees Bill was amended to the Municipal Collective Bargaining Act. This clarifies that those who are appointees within county government are not exempt from collective bargaining.

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

Senator SUTTON: I'm a little confused about this, and I wonder if we might Table this, have somebody Table this until later in today's session.

On motion by Senator Pray of Penobscot, Tabled until later in today's session, pending Adoption of Senate Amendment "B".

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

Paper from the House House Paper

Bill, "An Act to Make Allocations from the Highway Fund and Appropriations from the General Fund for the Fiscal Years Ending June 30, 1982, and June 30, 1983, to Establish a Local Road Assistance Program, to Continue the Maine Turnpike Authority and to Adjust Highway Fund Revenue." (Emergency) (H. P. 1696) (L. D. 1691)

Reference to the Committee on Transportation suggested.

Comes from the House, Passed to be Engrossed without reference to Committee and Ordered Printed.

The PRESIDENT: Is it the pleasure of the Senate that Under Suspension of the Rules, that LD 1691 be given its First Reading at this time without Reference to Committee?

It is a vote.

Under Suspension of the Rules, the Bill Read Twice.

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

Senator COLLINS: Mr. President, this Bill represents a compromise. Like many compromises, it does not please most of us entirely. We are faced with a time limit over which we have no control. We have struggled valiantly in committees and super-committees, and in meetings of leadership, and in meetings with the Governor, to work out solutions that were more palatable to more of us.

The fact is that it takes a two-thirds vote of both Bodies and the signature of the Governor to make law in this area. If we go home tonight without any Highway Budget, we will not have performed that basic duty that every legislature has to pass budgets, to levy taxes.

I think, like most of us in this Chamber, I have mixed emotions about this Bill. I'm not going to dwell on them at length. If we are going to pass a Highway Bill, we have to swal-

low a number of our personal preferences. We have to take, what, for many of us, is a second best solution. So, I am going to support this Bill. I hope that the Senate will support this Bill, and that we will move ahead toward completing our business.

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

Senator MINKOWSKY: Mr. President and Members of the Senate, I also was very concerned with this particular piece of legislation. I attended our caucus on it. I think we had a very, very thorough evaluation by the three gentlemen involved in drafting this piece of legislation. I want the Record to be very clear that I appreciate their endeavors and their efforts. I think they were working with some of the existing bills we've had, if I understood correctly.

I do not concur with the final results of the piece of legislation before us. Number one, I don't think we should be pilfering any further the General Fund of the State of Maine to the tune of \$3.5 million. Number two, in my heart, I know the people of the State of Maine, in my discussions with them in various parts outside of my District, even, are fed up, fed up wholeheartedly with this fee increase on their motorcycle registrations, examinations, drivers' licenses, regardless of what class.

Those people say one thing. Maybe this is the time to emphasize it right now. We've had a 9 cent Gasoline Tax for many years. We've had a 9 cent Gasoline Tax when gas was 35 cents a gallon. Today it runs from \$1.41 to, or \$1.45 a gallon. We have to look at the long term of this particular legislation, not to immediate stop-gap measures, or as I referred to in caucus yesterday, a band-aid approach.

I realize the Governor's position on this particular Bill. He has his ideas. Maybe he has much more expertise surrounding his office down there to conduct a more thorough evaluation than I as an individual Senator.

I know from the people that I've discussed this issue with, that 1 cent increase in the Gasoline Tax will produce about \$5 million, if the statistics are correct, 2 cents about \$10 million. If there's any relevancy that the figure is 17 percent of out-of-state use, or maybe 20 percent, that could be as high as \$1,600,000 for out-of-state use.

When you further correlate this with the State of New Hampshire, which I understand is going to 14 cents increase, 14 cents per gallon on their Gasoline Tax, effective in July of this year, then I don't see why the people of the State of Maine had to be a Good Samaritan for everybody else, to use this particular approach to address a very serious ongoing problem. The only way you can do this effectively is, and be responsible, is to look at it constructively at the present time. Stop hitting the people of the State of Maine with these fee increases, or premiums, as the term was used when discussing the legislation pertaining to booze.

I know my position this morning, amongst my party, is not the most popular, as I received telephone calls, I want that to be on the Record, also, I'm not here representing my party, I'm representing here the people in my District who have contacted me relevant to this thing.

Insofar as the Turnpike is concerned, just a few short days ago, we discussed this in depth. I indicated very clearly on the floor of this Senate, that that would be used as a vehicle, that would be used as a vehicle to address potholes and snow removal and everything else under block grants in other parts of the State of Maine. You know something, it's coming to pass, when I look at this piece of legislation today.

We were ripped off when I introduced that Bill in 1977, because I was a Good Samaritan then, thinking full well that subsequent legislative sessions would be ethical and honest in

addressing the needs of a large city who has put its foot forward in addressing industrial development. Which was interestingly brought up by the Commissioner of Transportation in our caucus yesterday, addressing the area of additional jobs producing Sales Tax Revenue, Income Tax Revenue, yes, and utilizing the skills and talents of the kids we're educating in our VTI's, which we are bonding ourselves to the point of oblivion. The end result is by the time kids get a job, they have to go out-of-state. They'll come back in 20 or 25 years. By that time, we'll be paying off the bond issues that educated them.

There's only one logical constructive way. I'm not talking about political expediency in this particular manner, and that is addressing it constructively, facing up front, what the people of the State of Maine fully expect and fully would want, because they know the devastating situation in the Department of Transportation. We know the devastating effects it's going to have upon our municipalities in the State of Maine. That is taking that 2 cent increase in the Gasoline Tax, if you can't buy a 2 cent increase, at least buy a 1 cent increase, which is \$5 million, or \$800,000 paid by your out-of-staters, and address it that way. Then relieve the people of the State of Maine with these fee increases.

I'll never be satisfied with this piece of legislation, only because I've been so deeply hurt with the strategies used on that Turnpike issue, where we are fully cognizant of one thing. That was simply that when those bonds were paid off, that road would be toll free, as in the existing law. Yet, we are being deprived of that and using this as a vehicle that addresses everybody else's problems, but never addressing our particular problem which is, in a constructive fashion, addressing the needs of our municipality and addressing what it can do for the State of Maine and its people as a whole.

This morning, the way this thing stands at the present time, and again, it's no reflection upon the people who drafted this, because they did this in good conscience based upon what material they had to work with. Unless there's a radical change in this particular Bill, I can assure you right now this morning that I'm not voting for it.

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

Senator CONLEY: Mr. President and Members of the Senate, it's the 102nd day, I believe, of this Legislative Session, or the 103rd. Everyone knows, only too well, the problems that have been confronted in this Legislative Session, as well as the previous Legislature, the 109th, with respect to funding highways.

The political realities are that there will be no gas tax passed in this Session of the legislature. The political realities are that there will be no large sums of General Fund monies being used to finance DOT over the next two years.

Last week, when we were coming to a conclusion to this Session, we said, let's try, let's just try one more time to see if some type of a package can be put together free of input from those of us who share different political views with respect to the financing of this package. The fact that Commissioner Campbell, Mr. Schlosser, and a former Commissioner of DOT, got together and worked for a number of days. Personally, I must commend them. I commend them for the proposal that they brought before us yesterday. It meets the needs of financing DOT over the next two years.

I'm sure, if we want to sit back, and pick here and pick there, that we could all tear this package apart. No one comes from a community that uses the Maine Turnpike as much as the Cities of Lewiston and Auburn, than the City of Portland. The truth be known that back in 1952, when the Turnpike Bill was first, or the Maine Turnpike Authority was first established, that the Turnpike was to go from Kit-

tery right through to Fort Kent. Right through to Fort Kent. Then the federal government passed a so-called "interstate highway system." Those that lived north of Augusta got the biggest break of their lives, in a sense.

In all honesty, it would be like throwing the baby out with the bath water, if tolls were removed from the Maine Turnpike. We know what the breakdown is with respect to revenue coming into the Turnpike Authority. They have that pretty well established, that during the summer time, it's approximately 75 percent out-of-state money. During the non-months of the year, it breaks down almost to a 50-50 breakdown. What we're doing is we've got a Turnpike that's being financed primarily by out-of-staters.

I share some of the concerns with the good Senator from Androscoggin, but on the other hand, the things that Androscoggin have been asking for mostly over these years have been the access roads from the pike into their communities for industrial park development. This Bill here expedites that process by almost three years. What does that mean to Lewiston and Auburn? It means higher revenues and Property Taxes. It means more jobs. What does it mean to the State? It means more Income Tax, Corporate Taxes, etc., down the line. It makes good common sense to pass this legislation, to expedite that process, and to solve, most importantly, a dilemma that this Legislative Session has been in since the first day we came here.

I know the good Senator from Penobscot, Senator Emerson, has worked diligently since they organized the Joint Standing Committee on Transportation, both in this Session and in the last. If you'll recall the last Session, we had unanimous Committee Reports coming out from the Joint Standing Committee on Transportation that couldn't pass either Body.

I think, sometimes you remove the politicians from the arena and allow those who are mostly in command or in charge, who really know the financial problems of the State, and the needs for DOT, and taking into view the parameters that the ten of us in Leadership asked them to try to meet, was one, to stay away from a Gas Tax, and secondly, not a general raid on the General Fund. I commend them on the fact that they have brought to us a highway program that will keep DOT going for two years, and I believe, remove many of the objections that those of us may have personally had with respect with either or two or one of those two major funding areas.

It would be my hope that this morning that the Senate would accept this Bill. Keep in mind that if we fail today, if we fail today, DOT meets a financial crisis in another week, or week and a half. It means that we'll be back here again, trying to put together a package by politicians that may not be acceptable at all. I would again urge the Senate to vote for passage of this Bill. Mr. President, when the vote is taken on the Engrossment of this Bill, I request it be taken by the Yeas and Nays.

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

Senator TROTZKY: Mr. President and Members of the Senate, the Democratic Minority Leader states very clearly that the political realities today say that there's going to be no Gas Tax. There's going to be no Gas Tax, because the Governor of the State of Maine made a promise, promise that he would veto any tax increases. Today, the Governor puts his promise above the best interests of the State of Maine. Democratic leadership supports the Governor, right or wrong. That's the political reality.

The reality of the situation here that we're facing today is that Governor Brennan is mis-managing State government by not allowing the highways to be funded properly on a long term basis by an increase in the Gas Tax. The only long term solution that I see today to funding the highways properly is the election of a

new governor.

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

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

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

The Chair recognizes the Senator from Androscoggin, Senator Minkowsky.

Senator MINKOWSKY: Mr. President and Members of the Senate, let me make one point clear to the good Senator from Cumberland, Senator Conley, relevant to the City of Portland, who endorsed the concept that my City had at the time. The whole city council endorsed the concept of a barrier system on the Turnpike. Whether their delegation to Augusta did is not the point here today.

It's not a matter of picking here or picking there. The matter is very simple, that Portland, in the highway budget, has \$50 million going to it. Bangor has another \$50 million. The area of Lewiston and Auburn has about \$13.6 million going to it. What I'm saying about this whole thing is equity and fair play. By no indication has equity and fair play materialized in my particular part of the City, or my part of the State.

Also, between I-295, which starts at Portland North, the people of Portland have access along the coastal route. Also, US 1 goes through the City of Portland. Isn't that fine? All we have is the Turnpike. You know something, all the roads around the area from Lewiston coming to Augusta, Lewiston going to Lisbon, or Topsham, have never had any reconstruction work for a number of years. You talk about getting ripped off? I think it's about time we stand firm on what we believe in and start getting our fair share of this entire pot, instead of becoming conformists to what has been materializing here for a number of years.

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

Senator PRAY: Mr. President and Members of the Senate, when the good Senator from Penobscot, Senator Trotzky, spoke, I attempted to stay in my chair. The longer I thought about it, I just couldn't do that. The good gentleman from Penobscot is the same Senator who advocated and supported that we pass legislation to give Jet Fuel Tax Relief for the City of Bangor. On the other hand, he had the case of Gas Tax increase.

It's the consistency such as that, which I think the Governor weighed in his campaign promise, that there would not be a Gas Tax. I'd just like to assure the good Senator, or whomever passed around this editorial from the Bangor Daily newspaper a few days ago, which in its closing remarks, basically advocates that the voters remember this Session well, and use their best judgment when they go back to the voting booths in the following year, when legislators, and particularly legislative leadership, and the Governor, are up for re-election.

I have faith in the voters. I think that the voters will consider the campaign promises, those that are kept, those that are broken. They'll consider the actions of this Chamber, upon either solving a problem, or not solving a problem. I think when we work in the parameters of what we have, we try to come down here. There's 184 individuals with different viewpoints and different opinions, representing different constituencies. It's the Legislative Process which allows the meeting of minds.

Not always are they the way that we advocate. I know that the Senator from Penobscot, Senator Trotzky, has for years advocated a Gas Tax increase. I suppose, if I had a district as small as his, and my people didn't have to travel as far to work, and had the economic base in such a small geographical area, that a

Gas Tax would be a sensible way to solve the transportation problem with the major highways in this State.

When we look at the State of Maine, I think we're all aware of how large we are. When I take a ride through my Senatorial District, it's in excess of 200 miles from one end to the other. Some of the Senators in here have more state highway mileage than I do, some of them into the 600 and 700 miles of state roads. Mine is around 560. The Senator from Penobscot, Senator Trotzky, is somewhere around 12.

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

Senator TROTZKY: Mr. President and Members of the Senate, Senator Pray mentions that he has 560 miles of roads in his District. People who buy a new car today, it costs \$6000 or more. When people have bad roads, they may not be paying the Gas Tax, but they're paying it in fees to garage mechanics and so on to maintain their cars. The front ends get out of line and everything else takes place with the car.

On this Bill here, it also does everything else. I want to state first of all, I'm voting for this Bill today. I'm voting for it under protest, because I realize the political realities that Senator Conley mentioned. There is no choice. There is no choice. We've got to do something. Consequently, the Governor is going to veto a Gas Tax. We're going to have to use the term "fee", and charge the people of Maine increased fees. There's no difference whether it comes out of the Gas Tax or it comes out of fees it comes out of their wallets, out of their pockets. It's dollars.

I want to say something because I think it's important. This Bill takes \$1.1 million, that's \$3.5 million out of the General Fund, to fund highways. I stood on this floor before and I said again, that we're funding Local Leeway, support of education, \$2 million in the Local Leeway Program less than we funded it last year. Last year! \$2 million less. Yet we can afford, by not increasing the Gas Tax, to take money out of the General Fund, which should have gone to funding Local Leeway, at least at the level that it was funded last year. We couldn't seem to fund it that way.

I will say that I am voting for this Bill, because there are certain political realities. The political realities are due, in my opinion, to mismanagement of State government, because a man wanted to keep his promise.

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

Senator VIOLETTE: Mr. President and Members of the Senate, today I am an opponent to the proposed Highway Allocation Act. The present Maine Department of Transportation's transportation improvement program for 1982-1983, reflects, in my opinion, the present administration's negative attitude for Aroostook County as well as northern Maine as a whole. Aroostook County represents 8.5 percent of Maine's population. Yet, this administration and its Department of Transportation directs only 3.9 percent of its effort and its transportation improvement program for 1982-1983 for Aroostook County.

Aroostook County has 12.8 percent of the total lane miles of State highway and State aid roads, and 19 percent of all State highways in the State of Maine. Yet, we receive 3.9 percent of the monies under the Allocation Act in the Road Improvement Program.

Economic development has been a difficult prospect in Aroostook County. The relative isolation of the area has resulted in high fuel and power costs, major impediments to economic development. A lack of a limited access highway, we'd gladly take a Turnpike, when Androscoggin doesn't want theirs, are major impediments to economic development. The lack of a limited access highway running north to the area from southern Maine has stifled business and recreational traffic.

Knowing this, the present Transportation Im-

provement Program calls for practically no major programs to Route 1, Aroostook County's primary artery. Transportation is one of the most critical factors affecting Aroostook's economy and lifestyle. Northern Maine has an inadequate highway network. There is a need, which, for whatever reasons, this administration does not consider a priority. That need is to upgrade the major arterial highways and connector. There is an immediate need to improve US Route 1 in Aroostook County. This work would deal with roads classified as critical and poor already by the Department of Transportation. This would vastly improve access to Aroostook, to southern markets, and spin off other economic benefits. This is essential to the only county in Maine whose population, according to the 1980 census, decreased. The only county in the State of Maine, also, the lowest county in the State of Maine when it comes to the average State wage, only 77 percent of the State average.

I'm very concerned about the continued economic vitality of northern Maine. The transportation network is vital to the stabilization of an economically deteriorating region. I'm, also, concerned about the present emphasis on reducing the State's obligation to rural roads by turning them over to municipalities under the guise of a so-called "block grant program," will cost small towns more money, and a further deterioration of the transportation network.

The use of General Funds tends to be a stop gap measure and requires annual legislative action, unless there is a permanent legislation of the dedication of those General Funds. I can not support additional General Funds and fee increases going to the Department until the priority of that Department changes. Thank you.

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

Senator AULT: Mr. President and Members of the Senate, I have many friends and constituents who work in the Department of Transportation. Their livelihood depends on what we do up here in the Legislature. I voted for a Gas Tax increase last week, because I think it was the cheapest way out and the most responsible way out. I think it would take advantage of the people that come here in the summer and in the winter from out of state.

In addition to the exorbitant fee increases in this so-called compromise, which the Governor, for some reason, can rationalize aren't tax increases, I understand that winter maintenance is being further cut under this proposal. A young man was killed on Route 202 in Winthrop last winter, due directly to the fact that the Department of Transportation had not sanded Route 202 during the morning commuting hours.

Apparently, the Governor knows something I don't know or we don't know. He won't support a Gas Tax increase, because there's no dire emergency down there in DOT. Since there's no emergency, I can't vote for this proposal.

The PRESIDENT: Is the Senate ready for the question?

The pending question before the Senate is Engrossment of LD 1691.

A Yes vote will be in favor of Engrossment of LD 1691.

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, Collins, Conley, Devoe, Dutremble, Huber, Kerry, Najarian, O'Leary, Pray, Traf-ton, Trotzky, Usher, Wood.

NAY — Ault, Emerson, Gill, Hichens, McBreairty, Minkowsky, Perkins, Pierce, Redmond, Sewall, C.; Shute, Sutton, Teague, Violette.

ABSENT — None.

A Roll Call was had.

18 Senators having voted in the affirmative and 14 Senators in the negative, with No Senator being absent, L. D. 1691 is Passed to be Engrossed in concurrence.

Orders of the Day

The President laid before the Senate:

Bill, "An Act to Make Additional Corrections of Errors and Inconsistencies in the Laws of Maine." (Emergency) (S. P. 701) tabled earlier in today's session, on motion by Senator Pray of Penobscot, pending Adoption of Senate Amendment "B".

Senate Amendment "B" Adopted. The Bill, as amended, Passed to be Engrossed, without reference to Committee and Ordered Printed.

Sent down forthwith for concurrence.

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

Orders

Expressions of Legislative Sentiment recognizing:

Leslie G. Merrill of Stetson, member of the 88th, 94th and 101st Maine Legislatures, who celebrated his 94th birthday on June 4, 1981. (S. P. 703) presented by Senator EMERSON of Penobscot (Cosponsor: Representative REEVES of Newport).

Lila G. Lincoln, who is retiring after 40 years of dedicated service to the Town of Wayne; including service as town clerk and tax collector. (S. P. 704) presented by Senator AULT of Kennebec (Cosponsor: Representative DAMREN of Belgrade).

Wendy B. Brown, of Brunswick, Miss Teen Maine for 1981. (S. P. 705) presented by Senator CLARK of Cumberland (Cosponsors: Representative MARTIN of Brunswick and Representative LIVESAY of Brunswick).

Rev. John F. Crozier, Pastor of St. Mary's Church, Orono, for his devoted service to parishioners and townspeople of Orono. (S. P. 706) presented by Senator DEVOE of Penobscot.

Robert J. Shinnors of Millinocket, Vice President of Operations, Great Northern Paper Company, an outstanding leader in industry and the community. (S. P. 707) presented by Senator PRAY of Penobscot (Cosponsors: Representative CLARK of Millinocket and Representative MICHAUD of East Millinocket).

Which were Read and Passed.

Sent down forthwith for concurrence.

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:

Anne D. Stimpson who is retiring after 30 years of dedicated service as librarian of the Mark and Emily Turner Memorial Library in Presque Isle. (H. P. 1697)

Arnold and Lillian Forsman of New Sweden who will celebrate their 50th wedding anniversary on July 12, 1981. (H. P. 1698)

Frank Stevens, upon retirement after 33 years' service with the Kennebec Police Department, 23 of those years as Chief of Police. (H. P. 1700)

Come from the House, Read and Passed.

Which were Read and Passed, in concurrence.

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

Paper from the House Non-concurrent Matter

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

In the Senate, May 26, 1981, Passed to be Engrossed as amended by Senate Amendment "B" (S-285).

Come from the House, Bill and accompanying papers Indefinitely Postponed, in non-concurrence.

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

Senator COLLINS: Mr. President, I move the Senate Recede and Concur.

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

Is this the pleasure of the Senate?

The motion prevailed.

Enactors

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

AN ACT to Amend the Maine Tree Growth Tax Law. (H. P. 801) (L. D. 955)

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

AN ACT to Clarify the Status of Certain Real Estate Titles in the State. (S. P. 598) (L. D. 1594)

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

Senator SEWALL: Thank you, Mr. President. Members of the Senate, if I might take a few minutes of your time this morning, as the original sponsor of this piece of legislation, LD 1594, I'd like to explain House Amendment "A".

The Amendment provides a procedure whereby a party may apply to the Bureau of Public Lands for a declaration that certain land was filled in prior to October 1, 1975. This declaration may then be filed in the appropriate Registry of Deeds.

In the process of making this change, the entire Bill was redrafted. Most of this is merely a change in writing style rather than a change in substance. For example, the legislative intent and purpose in Subsection 1 was not intended to make any substitutive changes in Section 1 of LD 1594, as approved by a majority of the Judiciary Committee.

In addition, the House Amendment changed the word "conveyed" to "released" in the subsection entitled "Declaration of Clear Title." This change was not intended to make any substitutive change but only to use modern language to reflect the fact that this is a Release or Quitclaim Conveyance of the State's interests.

Finally, I wish to explain the source of the October 1, 1975 date. This is the effective date of the Submerged Lands Act of 1975. In an opinion of the Attorney General, dated March 26, 1981, it was concluded that the emergency clause included on the Submerged Lands Act was unconstitutional, therefore, the effective date of that Act was October 1, 1975, 90 days after the legislative recess, rather than May 19, 1975, the date the Act was finally passed. Thank you.

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

Senator KERRY: Just very briefly Mr. President and Ladies and Gentlemen of the Senate, as I indicated to you before that as a member of the Judiciary Committee, I opposed this legislation not because of the intent of it, per se, but because I believe this is a matter of sufficient importance to be considered by the Supreme Court. I think there are many unanswered questions here that deal with the 3000 miles of our coastline and our great ponds.

Once again, I would encourage the Governor, once it reaches his desk, to submit this question to the Supreme Court to remove all clouds and doubt and ambiguity from this issue. Thank you.

The PRESIDENT: The Chair recognizes the

Senator from Cumberland, Senator Conley.

Senator CONLEY: Mr. President and Members of the Senate, before us today is an important piece of legislation, LD 1594, "An Act to Clarify the Status of Certain Real Estate Titles in the State." The purpose of this Bill is to remedy a serious problem that affects the ownership of shore front land in nearly every community along the coast and the great ponds of the State.

The problem this legislation seeks to remedy is complicated. Our Judiciary Committee, under the co-chairmanship of Senator Devoe and Representative Hobbins, carefully studied the problem for several weeks during the public hearings and work sessions. If I may, I would like to provide the members of the Senate with a brief summary of the problem this legislation seeks to remedy.

As the members of the Senate may be aware, the State of Maine owns lands that are submerged below the waters of the ocean and great ponds. The State owns these submerged lands for the benefit of the public. In Maine, unlike many other states, even though the owners of waterfront property are considered to own all the way to the mean low water mark, the public also has interests in what are called "the intertidal lands", the lands between the high and low water marks.

Some members of the Senate may recall that the State's ownership of these submerged lands raised a problem in 1975, during environmental licensing proceedings. The problem was that the law court had rendered the decision in which it said that in order to apply for municipal or state permits, applicants who had to have right title or interest in the lands they proposed to develop. That decision caused a problem for the Pittston Oil Refinery project and other developments needing structures like piers and wharfs on submerged lands.

The applicants had to be able to prove right title or interest in the submerged lands, but there was no way to acquire it. The submerged lands were owned by the State. It was decided that the best way to solve the problem was to permit the applicants to lease submerged lands from the State for the purpose of erecting structures.

In 1975, the 107th Legislature enacted enabling legislation as an emergency measure. That Bill was Chapter 287, "An Act to Include the Right to Use Submerged Lands as Part of Environmental Licensing." That Bill did two things. First, it permitted the Bureau of Public Lands to grant leases or easements for structures to be erected on submerged lands. Second, the Bill gave a 30 year grandfather clause, lease or easement to people who already had structures on submerged land, on the effective date of the act.

In 1979, that Bill was recodified and now appears as Title 12, Section 558. Today, in 1981, that Bill is raising a problem that we certainly never anticipated. As every member of the Senate knows, throughout the State's history, Maine's people have filled in submerged lands to provide a foundation for buildings, wharves, and access to the water. Thousands of acres of valuable Maine land is actually filled land, reclaimed from the ocean. Every member of this Senate can think of some of these areas. The Commercial Street and the Marginal Way areas in my District, Portland, is one example.

There are also large parts of Rockland, Camden, Belfast. The list goes on and on. We have 3000 miles of Maine coast. The problem confronting us today, and the problem LD 1594 remedies, is that the 1975 enabling legislation for leases on submerged lands has now been applied to areas that were filled years ago. The State of Maine, acting through the Bureau of Public Lands, on the basis of certain opinions from the Attorney General, has asserted ownership so the lands that may have been submerged 10 years ago or 50 years ago or even 150 years ago, but were filled in over the years.

The 1975 law has been interpreted to mean that the people owning these areas now only have 24 years remaining on a 30 year grandfather clause lease. This was never intended by that 1975 Bill.

In the light of this background, the problem before us today is that the people who have filled land have always believed they owned it free and clear. The State says they do not. This is the problem that has received recent publicity in the Portland Press Herald, the Maine Times, and other newspapers. In my District, for example, when the State of Maine began proceedings to acquire property for the construction of the Portland Fish Pier project on Commercial Street, the Department of Transportation found an 1833 map, which they believe shows the original low water mark before any of Commercial Street was filled. This 1833 line runs right through the middle of millions of dollars worth of waterfront property that was created by filling during the 1800's. The State asserts it owns the land under the fill. The State's position is that the present owners have only a grandfather clause constructive easement under that 1975 legislation. The easement of the owners runs out in 24 years.

I am sure that my colleagues in the 107th Legislature never intended these problems to arise when we enacted the 1975 emergency law, that was designed to resolve a problem in environmental licensing proceedings. We simply did not foresee that the law might be applied to submerged land that was filled in years and years ago.

Even if we were to amend the 1975 law however, we would still be left with the problem of what should be done to resolve the uncertainty surrounding the ownership of lands that once were submerged, but were filled in years ago.

I urge the members of the Senate to consider what this problem means to the people and communities of our State. A particular concern of mine throughout our Committee deliberations has been the impact of this problem on our municipalities. During this Session, we have been told of the problems of cities and towns trying to make ends meet during a time of decreasing federal assistance. Unless we resolve this submerged lands problem, the Property Tax base of our coastal communities may be seriously eroded. The municipalities have taxed this filled waterfront land for years, but this situation can not continue for long.

If the State is correct, that the landowners do not own this property free and clear, it will only be a matter of time before some of the owners begin to apply for abatements or start court challenges. Mr. President, this is the problem that gives rise to the legislation before us today, LD 1594. Our Senate Chairman of the Judiciary Committee, Senator Devoe, is prepared to discuss how LD 1594 would resolve this problem. I would urge the members of the Senate to pass this most important legislation.

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

Senator DEVOE: Thank you, Mr. President. Members of the Senate, the Senator from Cumberland, Senator Conley, has outlined what the problem is. Now I'd like to give an explanation of how LD 1594 would remedy that problem. I'd first like to compliment every member of the Judiciary Committee that worked on this Bill, because the day we had the hearing and subsequent days, we had a good many people attending both the hearing and the work sessions.

Senator Conley had explained that the State's claim to ownership of filled land has created substantial uncertainty and anxiety up and down the coast. We are aware of projects in Camden and in Belfast that have been halted or delayed because of uncertainty about the extent and validity of the State's claim to ownership of filled land.

Title lawyers are required to perform historical research into the filling of additional parcels in order to determine whether the areas

might be submerged or intertidal lands that were owned by the State. At its last work session, the Committee was informed that there may be a law suit attempting to halt a development in Portland that may be located on filled land.

As we all know, there are more than 3000 miles of Maine coast. Unless something is done about the submerged lands problem, private citizens, municipalities and the State itself will likely become entangled in endless litigation to determine when and under what circumstances a particular parcel of land was filled in. Was the fill placed on submerged or intertidal land owned by the State? Where was the original low water line? If the fill is on State owned land, is the previous owner legally responsible? What is the value of the property for tax purposes? These questions arise as fast as answers are sought.

The staggering thought is that the process would have to be repeated for each and every parcel of land. If the circumstances under which these properties were filled does not matter now, what matters now is that until very recently, the owners, municipalities, and even the State thought that the owners held this land free and clear. These lands have been sold, leased, taxed, and treated in good faith by the people of this State as if the land were owned with a clear title and the right to use it. In many, many cases, the owner's parcel is only partly filled in land, with the result that the State claims to own one half or one fourth or even one sixteenth of a parcel.

From all appearances, however, you can not tell the difference between the filled in submerged land and the land that has always been solid ground. In many instances, records are either incomplete or nonexistent. Landowners in communities with complete historical records would be subject to the State's claims while landowners without records would have an advantage. It might be impossible to determine whether or where the property was filled.

We would be abdicating our responsibility as a Legislature if we did not resolve this problem before it becomes worse. What we need is a common sense solution that will avoid the paralyzing problems of lingering State claims to filled in submerged lands, while balancing the State's legitimate interest in public trust in coastal resources. This is what we have done in LD 1594. It was amended slightly by the Judiciary Committee and has been slightly amended again in the House. These amendments have only been made to anticipate problems in the application of the law and to clarify what always has been its intent.

LD 1594 says and means that if land was already filled in when that 1975 legislation went into effect, the State has no claim to public trust ownership. The owners of the parcel hold the property free and clear of any claimed ownership in public trust to the extent that the areas of the property were not submerged or intertidal lands when the 1975 act became effective on May 19, 1975. It will not require the people of this State to halt the legitimate use of waterfront property during the next two decades, while extensive historical research is performed to piece together the circumstances under which a particular parcel may or may not have been filled in.

The cost in lost opportunity, jobs, tax revenue, and good will is simply too great. As the text of 1594 makes clear, the intent of the Bill is only to release the State's claim to ownership in public trust of lands that once were submerged or intertidal lands owned by the State. The State does not give up any of its rights to any land that it may have acquired by gift, purchase, or the power of eminent domain. No person would ever be permitted to sue the State for any reason arising out of the State's claim to ownership of filled lands in public trust prior to the day LD 1594 becomes effective.

In addition, the Act does not grant any rights

to any persons who may have filled in lands in violation of the Wetlands Act. I should also point out what LD 1594 does not do. It does not affect the public trust in submerged and intertidal lands that are still submerged or intertidal lands as of the effective date of the 1975 legislation. The public trust in these lands is preserved because they are still usable for the trust purposes, unlike lands that have been solid ground for years.

We have specifically preserved the public trust in lands that are still submerged and intertidal, leaving the State to use and regulate those lands under existing law. During our deliberations of LD 1594, we were keenly aware of the State's role as trustee of submerged lands for the public.

Where the present situation is concerned, however, I think the members of the Legislature have to ask themselves whether the reason for the public trust doctrine is really being served by the State's claim. What public purpose can be served by the State's claim to ownership of one acre, or one quarter of a parcel of land, otherwise in private ownership?

These lands, having been filled, are valueless for fishing and navigation. The purposes historically associated with the public trust. In fact, in many instances, the public benefit was promoted by the filling of these lands so that wharves and structures could be built to promote commerce and the development of the State.

The Committee was also aware of the argument that it is beyond the power of the Legislature under the Constitution, to release State rights in lands that were once submerged. The Judiciary Committee carefully considered those arguments and reviewed various cases and extensive legal materials. After careful consideration, the Majority of the Committee has accepted the views of legal authority that the Legislature is not powerless to remedy the problem with which we are confronted today.

The Legislature is today faced with a prospect of stifled development and years of confusion and bitter litigation. As private parties, municipalities and the State try to sort out when certain lands were filled during the State's history, because these lands are now and have been for years, valueless for public trust purposes, because the State, in fact, encouraged people to fill some of these lands from time to time, because the State has done nothing to assert its ownership for decades, and because the failure to take action now will result in the serious problems I've described.

The Legislature is not powerless to discharge its responsibility to the people of the State by resolving the problem now, once and for all. Let us now start with a clean slate.

Mr. President and Members of the Senate, for these reasons I strongly urge that LD 1594 be Enacted. Thank you.

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

Senator MINKOWSKY: Mr. President and Members of the Senate, I was in the other Body when this particular thing came up insofar as House Amendment 573. It was sort of bewildering in one respect, to listen to the debate over there, especially by some of the sponsors of the Bill, as well as members of the Judiciary Committee.

It left me with the impression that we were not doing this on behalf of the people of the State of Maine, as much as we were doing it for some prestigious law firm located in the City of Portland. If there is any relevancy to what the good Senator from Portland said earlier, that the lease runs out in 24 years insofar as the grandfather clause, then what's the emergency today in pushing this particular piece of legislation through?

The areas that I was concerned with at the particular time zeroed around one particular point, that the members in the other Body that

debated this particular issue were willing, right then and there, willing to send it back to Committee for further study. If the people who worked on this particular Bill, as they stated very clearly on the floor, were members of the third house, or the lobby, in a covert type operation which was the indication given to us, then again, it leads me to the point of wondering exactly all the window-dressing we're building up on this thing at the present time. Are we doing it for the people of the State of Maine? Are we doing it for some prestigious law firm, or the lobbying, the group behind this, because they might have their shingles tied up somewhere along the line, in some particular law suit? It doesn't make good sense.

I agree wholeheartedly with the testimony projected ethically, I assure you, by both Senator Devoe and Senator Conley, but there seems to be some type of hidden picture in this particular landscape that I don't quite see fully at the present time. Maybe these two gentlemen might clarify this at some other point.

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

Senator CONLEY: Mr. President and Members of the Senate, the allegations that have been raised by the good Senator from Androscoggin totally and completely escape me with respect to the third house. I can assure the good Senator from Androscoggin that when this Bill was first heard on the floor of this Senate, I made it emphatically clear as to what the problems were in my community. I did not single out any particular law firm. I talked about Commercial Street being three miles or three and a half miles long, being totally filled land.

The Back Bay of Portland is totally filled land. People have been paying property taxes down there for years. Now all of a sudden we're going to have the State come in and say that this land does not belong to these people. That is ludicrous. These people have been paying property taxes for the last 150 years. Now if that doesn't raise a question in somebody's mind as to whether or not, what the municipal fathers are going to be confronted with with respect to a tax rebate, if what the State says is true, it would throw total chaos in our entire State. It's not just Portland. It's the whole coastal area of Maine that these things have happened to.

In years gone by, I personally feel that the State gave away any title or ownership once they allowed communities or individuals to fill land and they didn't step in and say to them at any time that they were violating State law, or that they needed a permit, or they needed a lease for 30 years. That's what I'm concerned about. That's what every municipal official in this State that appeared before the Judiciary Committee the day this Bill was heard was concerned about.

1975 created a problem that no one ever anticipated. We want to set the Record straight. From my point of view, in representing the good citizens of Portland and the good citizens of the State of Maine, I feel that these municipalities and these businesses own that land.

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

Senator MCBREARTY: Mr. President and Honorable Members of the Senate, no one realizes better than I how the people must presently feel who have property on the so-called "submerged lands." The Department of Conservation has been taking land from people who I represent for years through the power we have given them to promulgate rules and regulations. LURC has zoned thousands of acres of unorganized territory and plantations and towns organized after 1972, for special interest groups, land that we have no doubt who the owners are.

It amuses me to see people in the organized areas facing the same problems we have faced for many years through this Department. I'm going to vote for this Bill, because I don't be-

lieve any State agency should be allowed to take land from our people. I hope most of you will remember in the future, and maybe have some sympathy for the people I represent.

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

Senator CONLEY: Mr. President, when the vote is taken, I request it be taken by the Yeas and Nays.

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

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

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

The pending question before the Senate is Enactment of LD 1594.

A Yes vote will be in favor of Enactment of LD 1594.

A No vote will be opposed.

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

ROLL CALL

YEA—Ault, Brown, Bustin, Carpenter, Charrette, Clark, Collins, Conley, Devoe, Dutremble, Emerson, Gill, Hichens, Huber, McBrearty, Najarian, O'Leary, Perkins, Pierce, Pray, Redmond, Sewall, C.; Shute, Sutton, Teague, Trotzky, Usher, Violette, Wood.

NAY—Kerry, Minkowsky.

ABSENT—Trafton.

A Roll Call was had.

29 Senators having voted in the affirmative, and 2 Senators in the negative, with 1 Senator being absent, LD 1594 was Passed to be Enacted, and having been signed by the President, was by the Secretary presented to the Governor for his approval.

(Off Record Remarks)

On motion by Senator Pray of Penobscot, there being no objections all items previously acted upon, with the exception of those items previously held, were sent forthwith.

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

Senator PRAY: Directing the Senate's attention to Supplemental Journal dealing with the Highway Allocations Act, having voted on the majority side, I move Reconsideration.

The PRESIDENT: The Senator from Penobscot, Senator Pray, moves that the Senate Reconsider its action whereby An Act Relative to the Highway Allocations Act, for the Fiscal Years ending June 30, 1982 and June 30, 1983 was Passed to be Engrossed.

The Chair recognizes the Senator from Penobscot, Senator Pray.

Senator PRAY: Inquiry. That is the LD introduced this morning dealing with the Highway Allocation Act?

The PRESIDENT: The Chair would advise the Senator that the Senate has acted upon 2 highway bills, this morning. One was the major bill, on Supplemental Journal Number 1, which was Passed to be Engrossed. The other was on Supplemental Journal Number 4, LD 1607 which was Indefinitely Postponed, in concurrence.

Senator PRAY: Thank you.

The PRESIDENT: Does the Senator from Penobscot, Senator Pray, intend to proceed with his motion to Reconsider?

Senator PRAY: Mr. President, I withdraw my motion.

The PRESIDENT: The Senator from Penobscot, Senator Pray requests leave of the Senate to withdraw his motion to Reconsider Passage to be Engrossed.

Is it the pleasure of the Senate to grant this leave?

It is a vote.

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 Taxation on, Resolution, Proposing an Amendment to the Constitution of Maine to Undedicate the Highway Fund. (H. P. 733) (L. D. 833)

Reported that the same Ought Not to Pass. Signed:

Sensors:

TEAGUE of Somerset
EMERSON of Penobscot

Representatives:

MASTERMAN of Milo
TWITCHELL of Norway
DAY of Westbrook
BROWN, of Bethel
INGRAHAM of Houlton

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

Signed:

Sensor:

WOOD of York

Representatives:

POST of Owl's Head
KILCOYNE of Gardiner
KANE of South Portland
HAYDEN of Durham
HIGGINS of Portland

Comes from the House, the Bill and Papers Indefinitely Postponed.

Which Reports were Read.

On motion by Senator Collins of Knox, LD 833 and all its accompanying papers, Indefinitely Postponed, in concurrence.

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

Paper from the House Non-concurrent Matter

Bill, "An Act to Create a Fuel Efficiency Adjustment Program and Other Highway Revenue Adjustments." (Emergency) (H. P. 1652) (L. D. 1689)

In the House, June 9, 1981, (H. P. 1653) (L. D. 1690) Passed to be Engrossed.

In the Senate, June 10, 1981, Passed to be Engrossed as amended by Senate Amendment "A" (S-363), in non-concurrence.

Comes from the House, that Body Having Adhered.

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

Sensor COLLINS: Mr. President, I think that it is clear that this Bill is dead and the easiest way to dispose of it, therefore, would be for the Senate to Adhere. I move that the Senate Adhere.

The PRESIDENT: The Senator from Knox, Senator Collins, moves that the Senate Adhere.

Is this the pleasure of the Senate?

The motion prevailed.

On motion by Senator Pierce of Kennebec, Recessed until 2:00 o'clock this afternoon.

Recess

After Recess

The Senate called to order by the President.

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

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

Recess

After Recess

The Senate called to order by the President.

(Off Record Remarks)

Orders of the Day

On motion by Senator Huber of Cumberland, the Senate voted to remove from the Special Appropriations Table:

Bill, "An Act Establishing a National Guard Scholarship Program in Vocational-technical Institutes." (H. P. 452) (L. D. 499)

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

On motion by Senator Huber of Cumberland, the Senate voted to Reconsider its action whereby LD 499 was Passed to be Engrossed.

The PRESIDENT: The Senator has the floor.

Sensor HUBER: I present Senate Amendment "A" to LD 499 and move its adoption.

The PRESIDENT: The Senator from Cumberland, Senator Huber offers Senate Amendment "A" to LD 499 and moves its adoption.

Senate Amendment "A" (S-376) Read and Adopted. The Bill, as amended, Passed to be Engrossed, in non-concurrence.

Sent down forthwith for concurrence.

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

Sensor CONLEY: Mr. President and Members of the Senate, perhaps the news is old hat, but I know that the Senate certainly wants to take this opportunity to congratulate Senator Frank Wood and his very lovely wife, Debby, upon their new arrival of Amanda Grace Wood, who weighed in at 7 pounds, 3 ounces, on Wednesday this past at 3:00 in the afternoon. I know we wish the three of them the best of happiness.

The PRESIDENT: The Chair would ask the Senate to rise and extend its greetings.

(Applause, the members rising.)

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

Sensor HICHENS: I was waiting until the Order had come up before us but the good Senator from Cumberland beat me to the punch. I have penned a few appropriate words as might be expected.

Amanda Grace — how sweet the sound — it makes one feel good

Especially the parents Frank and Debby Wood Who on the 17th of June — presented to the State

A bouncing baby daughter — and we all think that's great.

We've waited for the word to come — for she was overdue

And on one occasion I recall — debating soon was through

When Frank announced he had to leave — and hoped he'd get to vote

Before he headed down the road and have the chance to gloat

But that day passed and many more before the baby came

And Frank — Expectant father — will never be the same.

Yes all the waiting's ended and with him we are glad

For the future holds great promise — the best is to be had

So join with me this afternoon — put things in proper place

In Welcoming God's precious gift — sweet Amanda Grace.

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

Paper from the House Joint Order

ORDERED, the Senate concurring that Bill, AN ACT to Continue the Maine Turnpike Authority," Senate Paper 650, Legislative Document 1676, be recalled from the Governor's desk to the House. (H.P. 1699)

Comes from the House, Read and Passed. Which was Read and Passed, in concurrence. Sent forthwith.

Orders

Expressions of Legislative Sentiment recognizing:

Mr. and Mrs. Vernon Haslam of Eastbrook, who are celebrating their 65th wedding anniversary. (S.P. 708) presented by Senator PERKINS of Hancock (Cosponsor: Representative CONNERS of Franklin).

Merrilee Monks-Paine, Brunswick Police Department youth aid officer, who was honored by the Kiwanis Club as "Police Officer of the Year" for the year 1981. (S.P. 709) presented by Senator CLARK of Cumberland (Cosponsors: Representative MARTIN of Brunswick and Representative LIVESAY of Brunswick).

Ann Sutherland Riley of Brunswick who received the Brunswick Kiwanis Club's Citizen of the Year award for the year 1981. (S.P. 710) presented by Senator CLARK of Cumberland (Cosponsors: Representative MARTIN of Brunswick and Representative LIVESAY of Brunswick).

The birth of Amanda Grace Wood, on June 17, 1981 at 3 p.m., weighing 7 lbs, 3 oz., daughter of the State Senator Frank P. Wood and Assistant Clerk of the House Deborah Bedard Wood. (S.P. 711) presented by Senator CLARK of Cumberland (Cosponsors: Senator KERRY of York, Senator HICHENS of York and Senator DUTREMBLE of York).

Which were Read and Passed.

Sent down forthwith for concurrence.

Enactor

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

Emergency

AN ACT to Make Allocations from the Highway Fund and Appropriations from the General Fund for the Fiscal Years Ending June 30, 1982, and June 30, 1983, to Establish a Local Road Assistance Program, to Continue the Maine Turnpike Authority and to Adjust Highway Fund Revenue. (H. P. 1696) (L. D. 1691)

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

Sensor MINKOWSKY: Mr. President and Members of the Senate, the points have been very well debated on this particular issue this morning. The only thing of significant value to me this afternoon is just for the future Record, that a Roll Call vote be taken on this particular measure, on its Enactment.

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 Somerset, Senator Redmond.

Sensor REDMOND: Mr. President, Members of the Senate, while we were debating this Highway Funding issue, I would like to impress on the Senate and the Department of Transportation the importance of good highways at the various ports of entry into our State. This factor, in our discussion, is particularly important at this time of year, when our economy is beginning to flourish with traffic from tourists.

My Senate District covers the Jackman port of entry. In recent months, I have been continually reminded by many of my constituents of

the poor condition of our highway. Our highway that's leading from the border crossing at Armstrong to the Town of Jackman, the distance of this particular highway is about 20 miles, 13½ miles is long past due for reconstruction, and carries top priority. Only 4½ miles is scheduled for this summer and 9 miles will not be touched.

I understand that from the DOT, that nothing can be done about it unless the federal government votes money to rebuild these US Highways. It seems as if the problem is very serious. It seems as if there should be a way we could address it.

The latest traffic survey of this crossing showed 915 vehicles a day using it. This is an official count made by our Department of Transportation. My people in the Jackman area are very concerned about the effect the poor highway will have on their business. I'm, also, concerned about the effect this highway will have on transient business throughout western Maine. The traffic which uses this port of entry flows through the State. Canadians pass through here on their way to the beach resorts in southern Maine from such cities as Montreal and Quebec City.

We need a good highway program, but we need to pay particular attention to our ports of entry. Our Maine Publicity Bureau and the whole tourist industry predicts one of the most busy summers ever. We need to do everything we can to help make this happen. We must, also, think of our truckers. I think we should be very aware that good highways are a major asset.

When you vote on this issue, I hope that you will consider these matters. When this Highway Funding Bill is passed, hopefully, that everyone understands that at this late hour, we are not solving the State's problems. In two years we'll have to start over again. I might say that I, for one, would like to know where we're going in the future, not only with DOT, but with other departments, the BPI, for instance and other areas.

I'm going to vote for this, only to fulfill my responsibilities as a legislator. I do not like to see us go into the General Fund. I'd prefer increasing the traditional Gas Tax. The only solution to the problems of this State depends on the leadership on the second floor. This will be addressed, hopefully, by the voters of Maine at the ballot box in 1982. Thank you, Mr. President.

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

Senator PRAY: Thank you, Mr. President. Mr. President and Members of the Senate, first of all, I'll apologize at this late hour on an issue which has pretty well been debated. First of all, I think the reason for the late hour, the blame belongs with other individuals. I'll leave that alone.

The continuing cry that I hear in reference to the package that's before us is the alternative, is the Gas Tax. This is a proposal which has been well debated previously. I think that the action taken by this Body would show that it wasn't going to go anywhere.

Underlying every comment is the continuing accusations that the problem belongs on the second floor, and if the voters will reflect their displeasure, or hope that the voters would express their displeasure in 1982. I, for one individual, will trust the voters to make the correct decision. I think I know how that one's going to come out.

As an individual, who, similar to the Senator from Somerset, Senator Redmond, who represents a large rural area, I contend a Gas Tax is against the voters of your Districts, against the constituency of the District, because out of necessity they have to travel great distances.

Inland Maine does not receive the certain amount of tourism that comes up along the coastal areas. I think that's well reflected when we look at the, perhaps, the highway sys-

tems which the Senator from Aroostook, Senator Violette, earlier raised objections to. The further inland you go, the further north you go, the less upkeep or maintenance we see on the State highways. The further upland we go, of course, the greater the frost. The further upland we go, the greater the truck weight loads with trucks hauling lumber, hauling pulpwood, hauling the heavy loads on those roads where the frost is the greatest, particularly in the spring and the fall of the year.

To continue at this late hour to advocate that this package is not a good package and that this package passes a responsibility back upon Maine citizens to pay for the burden, first of all, is incorrect. Second of all, I believe that the accusation and the cry for a Gas Tax is contrary to what the public opinion is in this State. I, for one, as I stated already, will trust the voters in their decision and deliberations in 1982, to reflect their true feelings that there was no desire and there is no desire for a Gas Tax in this State.

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

Senator PERKINS: Mr. President and Ladies and Gentlemen of the Senate, I realize the hour is late, but I have had some reservations earlier in the day and expressed them yesterday afternoon, when the three workers on this particular piece of legislation were present. I asked them again this morning. My concerns, rather than those of the good Senator from Somerset, are not with the summer months, but with the winter months and with winter maintenance. I continue to be concerned and I would express my concern here today although I intend to vote for this piece of legislation, I do it with reservations. I will do it with tongue in cheek because I feel that unless we have better winter maintenance and more winter maintenance than we had last year, we are doing a disservice to all our State, whether it be rural or urban, or whatever.

If we had the problems that we encountered in the past season that we have, or that we predict that we might have them, then I think this is indeed a generous disservice for the Legislature of the State of Maine.

However, one has to place his faith in those who espouse some sort of authority and some sort of expertise. I'm doing this today and ask others to join me because I think they have worked long and hard towards something that is a solution for two years only, but is a solution. Our highways are our only asset within the State of Maine. Those of us who must travel those and those of us who don't have the blessings of either the Turnpike or the Interstate, or what have you, but have one highway which is the access and the regress must be dependent upon this Department to keep our communities, our transportation, and our supply lines open.

Therefore, I intend to keep my portion of good faith this afternoon and vote for this piece of legislation, but the first bad storm that my highways are not addressed in a proper manner and in good faith, that's where the line of transportation, the road and the good faith will end. I'm depending on our Department of Transportation to fulfill their degree of good faith and keep our lines of transportation open.

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

Senator REDMOND: Mr. President, Members of the Senate, I will try and be brief, however, in view of the mixed emotions that I have before taking this vote, I would like to add on to the statement from the good Senator from Hancock. When he mentions winter maintenance, I have given up on that one. This is why I forgot to mention it when I spoke previously, because I acquired a four wheel drive. The people from the Jackman area, when they came down river, if they want to be sure they'll get there, they have to own a four wheel drive. Unfortunately, those who don't own one have to car pool with

the ones who own four wheel drives. That's what the winter, how the winter maintenance affects the area over there.

I would, also, like to say something with regards to the Senator from Piscataquis, Senator Pray, or from Piscataquis, Penobscot, Piscataquis, because I'm sincere when I say I have mixed emotions. How can I stand here and vote for a bill like that when the Canadians flow into this State through the port of entry at Jackman, and the Gas Tax would be letting them pay a share of, pay their own share of taking care of our highways, not letting only the Maine residents pay for taking care of the highways? I think it would be only fair to let them contribute to that.

There are many, many Canadian trucks that market their product in the New England states. They go as far as across the continent with some of their products. They travel through the whole State. A Gas Tax, there again, would be only fair. They have to buy gas when they're going through the State.

This is why my convictions are that way. I have very mixed emotions. I still don't know what I'll do when my name comes up.

The PRESIDENT: The pending question before the Senate is Enactment of LD 1691.

A Yes vote will be in favor of the Enactment of LD 1691.

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, Collins, Conley, Devoe, Dutremble, Emerson, Gill, Huber, Kerry, McBreaity, Najararian, O'Leary, Perkins, Pray, Redmond, Trafton, Trotzky, Usher, Wood, The President, J. Sewall.

NAY—Ault, Hichens, Minkowsky, Pierce, Sewall, C.; Shute, Sutton, Teague, Violette.

ABSENT—None.

A Roll Call was had.

24 Senators having voted in the affirmative and 9 Senators in the negative, with No Senators being absent, LD 1691 was Passed to be Enacted.

The Chair recognizes the Senator from Cumberland, Senator Conley.

Senator CONLEY: Mr. President, having voted on the prevailing side, I move Reconsideration and urge the Senate to vote against me.

The PRESIDENT: The pending question before the Senate is the motion by the Senator from Cumberland, Senator Conley, that the Senate Reconsider its action whereby LD 1691 was Passed to be Enacted.

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

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

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

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

The PRESIDENT: The Chair would like to take this occasion before the Highway issue is gone and forgotten to particularly thank Senators Emerson, Teague and Huber; Senator Emerson who spent so many long hours attempting to fathom his way and our way out of the highway morass.

I would, also, like to thank former Department of Transportation Commissioner Roger Mallar, present DOT Commissioner George Campbell and Assistant Legislative Finance Officer Bent Schlosser. These 3 gentlemen were able to successfully complete and finish a compromise Highway Budget which, for the moment at least, has gained the support of two-thirds, at least, of the Maine Legislature and hopefully will serve the Department of Transportation well in the 2 years ahead.

On motion by Senator Collins of Knox, the Senate voted to remove from the Unassigned Table:

House Reports—from the Committee on Taxation—Bill, "An Act to Provide a 3¢ Increase in the Gas Tax" (H.P. 829) (L.D. 985) Majority Report Ought Not to Pass: Minority Report Ought to Pass as amended by Committee Amendment "A" (H-545).

Tabled—June 9, 1981 by Senator COLLINS of Knox.

Pending—Acceptance of Either Report.

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

Senator COLLINS: I now move that we Accept the Majority Ought Not to Pass Report of the Committee.

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

Senator CONLEY: Mr. President, I was really looking forward to moving to substitute the Bill for the Report, but I will recommend that the Bill be Indefinitely Postponed in concurrence.

On motion by Senator Conley of Cumberland, LD 985 Indefinitely Postponed in concurrence.

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

Committee Report House

Committee of Conference

The Committee of Conference on the disagreeing action of the two branches of the Legislature on, Bill, "An Act Concerning Workers' Compensation Cost Containment." (H.P. 502) (L.D. 553) have had the same under consideration, and ask leave to report:

That they are unable to agree.

On the part of the House, Representatives:

MITCHELL of Vassalboro

DIAMOND of Windham

HIGGINS of Scarborough

On the part of the Senate, Senators:

SEWALL of Lincoln

SUTTON of Oxford

BROWN of Washington

Comes from the House, the Report Read and Accepted.

Which Report was Read, and Accepted, in concurrence.

Enactor

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

Emergency

AN ACT to Make Additional Corrections of Errors and Inconsistencies in the Laws of Maine. (S. P. 701) (L. D. 1692)

This being an emergency measure and having received the affirmative votes of 26 Members of the Senate, with No Senators having voted in the negative, was Passed to be Enacted and having been signed by the President, was by the Secretary presented to the Governor for his approval.

Bond Issue

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

This being a Bond Authorization Act and having received the affirmative votes of 24 Members of the Senate, with 2 Senators voting 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.

Orders of the Day

On motion by Senator Emerson of Penobscot, the Senate voted to remove from the Special Highway Appropriations Table:

Bill, "An Act to Provide Photographic Nonalterable Drivers' Licenses and Identification Cards." (H. P. 1555) (L. D. 1666)

The PRESIDENT: The pending question

before the Senate is Passage to be Enacted.

The Chair recognizes the Senator from Waldo, Senator Shute.

Senator SHUTE: I 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 Enactment of LD 1666.

A Yes vote will be in favor of Enactment of LD 1666.

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, Clark, Collins, Conley, Devoe, Dutremble, Emerson, Gill, Hichens, Huber, Kerry, McBreaity, Najarian, Pray, Sutton, Teague, Trafon, Trotzky, Usher, Violette.

NAY — Minkowsky, Perkins, Pierce, Redmond, Shute.

ABSENT — Charette, O'Leary, Sewall, C.; Wood.

A Roll Call was had.

23 Senators having voted in the affirmative and 5 Senators in the negative, with 4 Senators being absent, LD 1666 was Passed to be Enacted and having been signed by the President, was by the Secretary presented to the Governor for his approval.

On motion by Senator Emerson of Penobscot, the Senate voted to remove from the Special Highway Appropriations Table:

Bill, "An Act to Establish a Consolidated Map of the State." (H. P. 1158) (L. D. 1379) (Emergency)

This being an emergency measure and having received the affirmative votes of 25 Members of the Senate, with 2 Senators having voted in the negative, was Passed to be Enacted and having been signed by the President, was by the Secretary presented to the Governor for his approval.

On motion by Senator Emerson of Penobscot, the Senate voted to remove from the Special Highway Appropriations Table:

Bill, "An Act to Provide Highway Use Permits for Motor Trucks and Truck Tractors not Registered in Maine and Identification Permits for Those Registered in Maine." (H. P. 1439) (L. D. 1581) (Emergency)

On motion by Senator Emerson of Penobscot, LD 1581 was Indefinitely Postponed, in non-concurrence.

Sent down forthwith for concurrence.

On motion by Senator Huber of Cumberland, the Senate voted to remove from the Special Appropriations Table:

Bill, "An Act to Provide Relocation Assistance to Certain Persons Ineligible for Federal Benefits." (H. P. 19) (L. D. 25)

Bill, "An Act to Establish a Maine Set-aside Program under the State Purchasing Law to Expand Work Opportunities for Multiple Handicapped Citizens." (H. P. 224) (L. D. 261)

Bill, "An Act to Provide one Additional Judgeship for the District Court." (S. P. 158) (L. D. 366)

Bill, "An Act to Increase the Mileage Reimbursement Payment for Jurors." (H. P. 348) (L. D. 396)

Bill, "An Act to Establish a Revolving Fund for the Maine State Library." (S. P. 185) (L. D. 463)

Bill, "An Act to Improve the Nursing Home Ombudsman Program's Capacity to Respond to Nursing and Boarding Home Complaints." (H. P. 456) (L. D. 503)

(H. P. 456) (L. D. 503)

Bill, "An Act Relating to State-municipal Revenue Sharing." (H. P. 444) (L. D. 523)

Bill, "An Act to Provide Funds for the Provision of the State Cost Sharing of Telecommunication Typewriters for the Hearing Impaired." (S. P. 201) (L. D. 568)

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

Bill, "An Act to Create a Lake Restoration and Protection Financial Aid Program." (H. P. 551) (L. D. 627)

Bill, "An Act to Provide for Determination of the Engineering Feasibility and the Environmental and Economic Effects of the Cobscook Bay Tidal Power Project." (H. P. 552) (L. D. 628)

Bill, "An Act Relating to and Increasing the Appropriation of Funds for Assistant District Attorneys." (H. P. 560) (L. D. 634)

Bill, "An Act Establishing the Women's Training and Employment Program." (H. P. 568) (L. D. 644)

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

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

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

Bill, "An Act to Appropriate Funds for the Expenses of the Capitol Planning Commission." (S. P. 293) (L. D. 819)

Bill, "An Act Relating to Eligibility for World War Assistance." (H. P. 699) (L. D. 824)

Bill, "An Act in Support of Regional Library Systems." (S. P. 308) (L. D. 864)

Bill, "An Act to Create a State Compensation Commission." (H. P. 757) (L. D. 894)

Bill, "An Act to Create an Environmental Health Program." (H. P. 804) (L. D. 914)

Bill, "An Act to Establish a Statewide Cancer-Incidence Registry." (H. P. 807) (L. D. 967)

Bill, "An Act Relating to Boarding Cost Payments and Transportation Accounts for Secondary School Pupils in Remote Units under the Education Laws." (H. P. 818) (L. D. 972)

Bill, "An Act to Exempt State Mandated Revolving Fund Accounts at the Maine State Museum from the State Cost Allocation Program." (H. P. 867) (L. D. 1036)

Bill, "An Act to Authorize a School Nursing Health Coordinator in the Department of Educational and Cultural Services." (H. P. 909) (L. D. 1075)

Bill, "An Act Covering Cost-of-Living Increases for Teachers." (H. P. 918) (L. D. 1089)

Bill, "An Act to Create a Department of Corrections." (S. P. 376) (L. D. 1134)

Bill, "An Act to Increase the Compensation Paid to Judges and Justices." (S. P. 382) (L. D. 1140)

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

Bill, "An Act to Appropriate Funds to Upgrade Facilities of the Maine Center for the Blind." (H. P. 997) (L. D. 1196)

Bill, "An Act Concerning Tuition Reimbursement to Private Schools." (H. P. 1002) (L. D. 1199)

Bill, "An Act to Appropriate Funds to Support Regional Ride Share Programs." (H. P. 1087) (L. D. 1296)

Bill, "An Act to Raise Survivors' Benefits in the Maine State Retirement System." (S. P. 464) (L. D. 1320)

Bill, "An Act to Authorize the Department of Environmental Protection to Provide Technical Assistance to Municipalities and Other Quasi-municipal Entities Regarding Solid Waste Management." (S. P. 475) (L. D. 1358)

Bill, "An Act Making Appropriations from

the General Fund for Operations of the Seed Potato Board." (S. P. 517) (L. D. 1439)

Bill, "An Act to Create an Appellate Division of the Workers' Compensation Commission." (H. P. 1252) (L. D. 1476)

Bill, "An Act to Provide for the Election of Jury Trials in Certain Criminal Cases." (H. P. 1328) (L. D. 1527)

Bill, "An Act Relating to Law Libraries." (S. P. 562) (L. D. 1532)

Bill, "An Act to Update and Clarify Legislation Concerning Agencies within or Affiliated with the Department of Business Regulation." (H. P. 1453) (L. D. 1597)

Bill, "An Act Relating to Retirement for Justices and Judges." (H. P. 1497) (L. D. 1617)

Bill, "An Act to Require the Department of Human Services to Provide Home-based Care as an Alternative to Nursing Home Care." (S. P. 614) (L. D. 1620)

Bill, "An Act Concerning the Protection of Incapacitated and Dependent Adults." (S. P. 630) (L. D. 1639)

Bill, "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)

Bill, "An Act to Amend the Rule-making and Review Process of the Maine Administrative Procedure Act." (H. P. 1542) (L. D. 1657)

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)

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

On motion by Senator Huber of Cumberland, the Senate voted to remove from the Special Appropriations Table:

Bill, "An Act to Authorize Bond Issues up to the Amount of \$5,100,000 for Energy Conservation Improvements for State Owned Buildings, Completion of State of Maine Park Facilities and Equipment Replacement for the Maine Public Broadcasting Network in the State of Maine." (H. P. 1550) (L. D. 1663)

This being a Bond Authorization Act and having received the affirmative votes of 25 Members of the Senate, with 2 Senators having voted in the negative, was Passed to be Enacted, and having been signed by the President, was by the Secretary presented to the Governor for his approval.

On motion by Senator Huber of Cumberland, the Senate voted to remove from the Special Appropriations Table:

Bill, "An Act to Promote the Maine Potato Industry by Improving the Quality of Packing and Marketing Maine Potatoes." (H.P. 1486) (L. D. 1613)

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

Senator McBREAIRTY: Mr. President and Honorable Members of the Senate, LD 1613, as you've just heard, is the Bill dealing with the Maine Potato Industry. During the past year, there has been considerable misunderstanding concerning the Potato Branding Law. Some thought that the Audit Bill last year repealed the Branding Law. I would like to make it clear, that the Audit Bill did not repeal one word of the Branding Law. I wish the Record to show that this Bill anticipates the use of Branding Law personnel during the potato shipment season to enforce proper labelling of potatoes.

Originally, the Part II Budget provided for two Branding Law personnel for this activity. Since that item was deleted from the Budget, it is the intent of the Legislature that the Commissioner of Agriculture, Food, and Rural Resources utilize positions now in the retail store inspection program to perform this work. Thank you.

Which was Passed to be Enacted and having

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

On motion by Senator Huber of Cumberland, the Senate voted to remove from the Special Appropriations Table:

Resolve, Reimbursing the Town of Madison under the Maine Tree Growth Tax Law. (H.P. 1386) (L.D. 1563)

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

On motion by Senator Huber of Cumberland, the Senate voted to remove from the Special Appropriations Table:

Resolve, Reimbursing Certain Municipalities on Account of Taxes Lost Due to Lands being Classified under the Tree Growth Tax Law. (H.P. 1387) (L.D. 1564) (Emergency)

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

On motion by Senator Huber of Cumberland, the Senate voted to remove from the Special Appropriations Table:

Resolution, Proposing an Amendment to the Constitution of Maine Clarifying Residency Requirements for Candidates for the Members of the Maine House of Representatives. (H.P. 295) (L.D. 339)

The PRESIDENT: The Chair would inform the Senate that this is a Constitutional Resolution, and requires a two-thirds vote.

Is the Senate ready for the question? This is a Constitutional Resolution, and in order for its passage it requires the affirmative vote of two-thirds of those members present and voting.

Will all those Senators in favor of the passage of this Resolution, please rise and remain standing until counted.

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

22 Senators having voted in the affirmative and No Senators having voted in the negative and 22 being more than the required two-thirds vote, the Resolution was Finally Passed, and having been signed by the President, was by the Secretary presented to the Secretary of State.

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

Senator COLLINS: Mr. President, it is my understanding that LD 1134 has a procedural nicety about it that we have not observed. I would, therefore, move that we Reconsider the Enactment of LD 1134.

On motion by Senator Collins of Knox, the Senate voted to Reconsider its action of earlier in today's session whereby Bill, An Act to Create a Department of Corrections (S.P. 376) (L.D. 1134) was Passed to be Enacted.

The PRESIDENT: In accordance with Article 5, Part 1, Section 8 of the Constitution of Maine, a two-thirds vote of those Senators present and voting is required for passage.

Will all those Senators in favor of the Passage of LD 1134, please rise in their places to be counted.

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

25 Senators having voted in the affirmative and 2 Senators having voted in the negative, and 25 being more than two-thirds of the members present, LD 1134 was Passed to be Enacted and having been signed by the President was by the Secretary presented to the Governor for his approval.

On motion by Senator Huber of Cumberland, the Senate voted to remove from the Special

Appropriations Table:

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

Bill, "An Act to Authorize the Public Utilities Commission to Purchase Electric Energy for Resale on a Nonprofit Basis to Electric Utilities Serving this State." (H.P. 1513) (L.D. 1632) (Emergency)

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

On motion by Senator Huber of Cumberland, the Senate voted to remove from the Special Appropriations Table:

BOND ISSUE An Act Authorizing a Bond Issue in the Amount of \$29,300,000 for the Purposes of Fostering Agricultural and Economic Development in the State of Maine. (S.P. 488) (L.D. 1428)

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

These being Bond Authorization Acts and having received the affirmative votes of 25 Members of the Senate, with 1 Senator 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.

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 Hanson of Hampden for receiving the National University and Continuing Education Association Award for his outstanding work in the area of labor education. (H.P. 1701)

Kenneth E. Wormell of Bangor, Former President of the Greater Bangor Labor Council, upon his retirement as Business Agent for Local 621, C.J.A., after 15 years of service. (H.P. 1702)

Lucille Audet, Executive Secretary of the Lawrence Alumni Association who has provided years of service and has unselfishly given of herself in the spirit of Lawrence High School. (H.P. 1703)

Come from the House, Read and Passed.

Which were Read and Passed, in concurrence.

Communication

June 19, 1981

To the Honorable Members of the 110th Maine Legislature:

I am returning without my signature or my approval, L.D. 1688, "AN ACT to Establish Temporary Minimum Prices to be Paid to Milk Dealers and Retailers and to Facilitate Compliance of the Milk Commission with Recent Cases before the Maine Courts".

I cannot, in good conscience, ask Maine consumers to bear an artificial 30 to 40 cents increase in the price of a gallon of milk.

I cannot, in good conscience, condone or acquiesce in price fixing for this vital commodity.

I cannot, in good conscience, assist in reversing a judgment by the Supreme Court of this State that the prices compelled by the Commission were based on standards that ignored the law and relied on unaudited evidence.

This decision is based on two fundamental principles:

First, I believe the free market is generally the fairest and most efficient way to deliver to

the people the goods they want in the quality and quantity they desire.

The free market affords no special privilege based on political clout and guarantees no minimum price to protect the inefficient.

The free market tolerates no reliance on artificial advantages granted by the government.

The free market allows people to compete vigorously, to lower prices to their fair value and to innovate changes for the benefit of all.

It is the free enterprise system which has allowed this nation to become so rich and bountiful.

The Maine Milk Commission, with its guaranteed minimum retail prices, its protection for inefficiency and its creation of a special class, is the very antithesis of the free enterprise system.

Second, I believe that a government of the people ought to commit itself to doing the greatest good for the greatest number of its citizens. And it ought to limit itself to doing for the people only that which they cannot better do for themselves.

It is true that there may be some dislocations, some mergers, other rearrangements resulting from this change in milk marketing.

No doubt the post-World War II trend of attrition in both dairies and farms will continue.

In 1945 there were over 1,000 dealers, sub-dealers and dairies in Maine.

In 1945 there were over 5,000 individual dairy farms. Despite the existence of price-fixing during all that time, by 1981 there were just 79 dealers and sub-dealers — of which only 17 were active processing dairies.

And in 1981, there are fewer than 1,100 dairy farms — and more than half of those are on the Boston market unprotected by the Commission.

It is hardly surprising retail price fixing of milk has failed.

If we fix the price of milk, why not fix the price of cheese, eggs, potatoes or blueberries or other Maine products?

The answer is obvious; that is that it just wouldn't work.

And the same applies here.

The impact of the significant reduction in milk prices for nearly 400,000 households in Maine is real and it is substantial.

It means more Maine families can afford to buy more milk, or they can spend the savings on upgrading their diets, or make other expenditures they could not previously afford.

Indeed, a Maine family with four children could save as much as \$100 in the course of a year with the abolition of retail milk price fixing.

In the aggregate, this kind of savings between the old Milk Commission price of \$2.20 a gallon and the free market price of \$1.80 or less can represent as much as \$14 million dollars annually to the consumer of this State.

These are decisions the individual family, the individual consumer, ought to be free to make without being shackled to artificial price controls imposed by the government. At the same time, the rationale upon which the Commission, and its price fixing regulation, was founded has vanished as a genuine concern.

Enacted during the Great Depression, the Milk Commission was to ensure adequate supplies of milk of proper quality together with a reasonable profit.

Nearly half a century later, there is no question but that there will be adequate supplies of milk, with or without price regulation.

Likewise, there is no question but that all milk marketed in Maine must meet stringent health and quality standards, with or without price regulation.

And, finally, the fact that more than half our dairy farmers sell to the Boston market at a dollar a hundredweight less than their Maine market order neighbors and continue in business is demonstrable evidence that a profit can be made, with or without price regulation.

I respect the views of those who disagree with our position and the sincerity with which they hold their positions.

But, I am convinced the time has come in Maine to let the free enterprise system operate in one of the basic consumer food needs.

We have tried retail price fixing for this commodity for 45 years. I suggest that we can risk for four months the process of free market, the process of free competition, the process that has made American economy what it is.

Therefore, I respectfully request your support to sustain this veto.

Yours truly,
S/JOSEPH E. BRENNAN
Governor
(H. P. 1704)

Comes from the House, Read and Ordered Placed on File.

Which was Read and Ordered Placed on File, in concurrence.

The accompanying Bill, "An Act to Establish Temporary Minimum Prices to be Paid to Milk Dealers and Retailers to Facilitate Compliance of the Milk Commission with Recent Cases before the Maine Courts." (H. P. 1660) (L. D. 1688)

Comes from the House with the following endorsement.

In the House, June 19, 1981, this Bill having been returned by the Governor, together with his objections to the same pursuant to the provisions of the Constitution of the State of Maine, after reconsideration, the House proceeded to vote on the question: "Shall this Bill become a law notwithstanding the objection of the Governor?"

96 votes in favor and 46 against, and accordingly it was the vote of the House that the Bill become a law, notwithstanding the objection of the Governor, since two-thirds of the members of the House so voted.

S/EDWIN H. PERT
Clerk of the House

The PRESIDENT: The question now before the Senate is: Shall this Bill become a law notwithstanding the objections of the Governor?

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

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

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

The Chair recognizes the Senator from Cumberland, Senator Conley.

Senator CONLEY: Mr. President, Members of the Senate, since the introduction of this piece of Legislation into this Session of the Legislature, I would say that there has been a lot of emotion, a lot of hysteria and a lot of misinformation given.

In the midst of all the speeches we've heard, too many of us lost sight of some of the very basic principles. I would suggest that certainly too many Republicans have conveniently ignored their historic commitment to the free enterprise system, to carve out a special irrational exception for this one, a single group.

To my profound regret too many Democrats have forgotten their principles as well. We profess to be the party of the people. The party that represents the working men and women of this State. The party of consumer protection. The party that has fought retail price fixing for milk long and hard for decades, since the end of the depression. We have time and time again proposed the abolition of retail price fixing in our platforms. We have time and again nominated candidates for Governor firmly opposed to the Commission and retail price fixing.

Well now the time has come to act on our principles. To act with courage and integrity. The chips are down. I implore you to remember the people who elected you, the people whom you are accountable, the people who have faith in you to protect and advance their interests. The hundreds of thousands of Maine

people, for whom it truly does make a difference, whether a gallon of milk costs \$2.20 or \$1.80. Hard working people who will truly benefit if they can save approximately \$100 a year in the price of milk. Mothers who can improve their families' diets with the savings from the ending of price fixing.

These are the people that our party works for, and who have faith in us. Do not shatter that faith by driving the price of milk back up to the highest priced milk in New England. Do not box yourselves into having to tell your constituents you personally voted to raise their cost of living. They simply won't understand. They will not tolerate even after just 2 weeks of a free market to return to the dark ages of price fixing, nor should they.

Those people back home, those four hundred thousand households of this State, have a right to expect you to act with courage and conviction no matter how many lobbyists or how many false scare stories, or how many farmers pressured by their dealers circulate the Halls.

I can not speak for the Republicans, it is up to them to decide whether they can square their special interest legislation with their free enterprise principles. I wonder how they can do it? But I speak to all of you who are proud to call yourselves Democrats and urge you to support the principles of our party and keep faith with the vast number of poor and middle income consumers who are counting on us to protect them.

Ladies and Gentlemen of this Body, I would urge you to vote to sustain the veto of the Governor.

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

Senator HICHENS: Mr. President, and Members of the Senate, I stand here this afternoon urging you to vote to override the veto of the Governor on LD 1688.

I could stand here and speak on this issue for hours, but I will confine my statements to a few pertinent facts.

Like the Governor I am a staunch supporter of free enterprise when free enterprise is feasible. There are times when it isn't. Such a case in point is the Maine Milk Commission: protector for the Maine Dairy Industry.

I do not agree with the Governor when he states that the Commission is the protective agency for inefficient farmers and the creation of a special class of Maine people.

The Governor asks why we do not fix prices on cheese, eggs, potatoes or other Maine products. He doesn't mention broilers, but had we had set minimum prices on poultry, the business wouldn't be in the desperate straits that it is in today.

Electric companies are independent suppliers of electricity, the N.E. Telephone Company is an independent agency, yet we have a Public Utilities Commission to regulate what they can and cannot charge. Why not abolish the P.U.C.

Maine dairymen, poultrymen, farmers in general have to pay higher grain and transportation costs than farmers in other states. Farmers in western states are subsidized by the Governor for their farm produce. Maine farmers are not.

Some say that you don't find farmers on welfare. That's right. Most farmers would die rather than ask their neighbors to support them.

As I stated last week, lower prices will prevail only until after the Maine Milk Commission has been forced out of existence. Then watch them go up when it's too late to do anything about it. The Governor talks about artificial pricing, the lower costs are what's artificial. The real price will come forth in the future and Maine consumers will pay and pay and pay.

For the best interest of all Maine's people, we should vote to override the Governor's veto this afternoon.

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

Senator MINKOWSKY: Mr. President and Members of the Senate, to pick up a little bit on the remarks made by Senator Conley, from Cumberland, right from the outset let me remind you of one thing, as the good Senator said in the beginning of this particular Session that he was a Democrat from the time that he was 21 and he is going to die a Democrat, I fall in the same category, but with the difference being that I am going to vote this afternoon to override the Governor's veto.

He went on to mention too many Democrats have forgotten the principles of their party. I can assure you that I have not forgotten the principles of the Democratic Party.

He, also, said that it takes courage and integrity to address this issue. I am standing up this afternoon, displaying courage and integrity, in protecting the rights of those small farmers and dairymen who are also Democrats, they are not all Republicans.

He, also, said that the people who elected you, you should stand accountable to. I stand before you this afternoon accountable because the people who elected me have not raised a hue and cry in favor of the Governor's position.

He talked about the working men in the State of Maine, I have always represented truly the interests of the working men in the State of Maine, but I am also concerned that the working man is being used in a temporary fashion by vested interests in the State of Maine, who now artificially lower the price of milk and eventually will tack it to them in the long run. Those are the people that I am standing here to protect, because I fall in that category of raising six children as a rank and file worker, also.

I do not condone high milk prices, or artificial prices. I do condone the free enterprise system, I fully and wholeheartedly believe in it, but I guess that sometimes it takes people to have clear understanding that the farmer in the State of Maine maybe is not unionized and I am sure doesn't work 8-5 p.m. I am sure that this individual has a huge mortgage. He has to feed his cows more than grain and silage. He must employ people and pay minimum wage. He must replace equipment. For some of these particular farmers it represents a \$300,000 to \$400,000 investment.

If you break it down at the end of the year for that particular investment as to what their earnings are and if somebody says between \$15,000 and \$17,000 that may be correct, but equate that to the minimum wage and they are working far less than the minimum wage. The only reason why is that they love what they are doing.

I feel basically to give them a reprieve of 180 days, is a very, very fair evaluation. To act impulsively and emotionally in the name of consumerism is not going to benefit the consumer in the long-run.

I have received many phone calls as most of you have and they were not from the lobbyists per se. They were from individual dairies, and farmers who find it rather difficult to cope with this type of irrational approach.

In fact I was talking to one dairy processor who told me very frankly, who had been in business, or who still is in business for 41 years that if we do not override the Governor's veto that he will simply be out of business. Naturally some people will say well, if he can't survive in the free competitive market he deserves to lose. Also, seven employees will be terminated. He went on to state an interesting fact he doesn't have the accessibility to the large chain stores in which to make distribution of his milk, but he said that it costs him about \$1.35 per gallon to purchase that milk off the farm, another 16 cents to process it, and about 14 cents for the container, which in round figures comes to about \$1.65. How in heaven's name can he use his truck, or trucks, to cart

this milk out, and keep it dated, and still make a profit and survive?

During the early part of the Session, we had a great and keen interest in helping the family farmer. Today, it seems to be a turnabout. We are out to get the family farmer, the family that really has been dedicated to the State of Maine and its people. It seems to be the almighty dollar, or lowering prices, or to give the consumer a break.

I just happened to be talking with some teachers this afternoon about our low income people. I said, at the end of a school day, how much milk is thrown away? They laughed and said most of it was thrown away with the food, which is all costing the taxpayers money. Interestingly enough, I say, if they were given money to purchase, would they buy milk? They say, heck no, they would just as soon feed their kids a bag of potato chips and a Coke.

Is this what we are talking about as far as a balanced diet for basically people who are low income? It's going to be a complete education program for them to get a clear understanding that nutrition is of significant value and paramount importance.

I know the dilemma that the people in the State of Maine are facing insofar as costs. I assure you, by dismantling the Maine Milk Commission at the present time, without giving them an opportunity to at least address this program between now and January 15 of 1982, it's not doing a service to the people of the State of Maine, nor is it doing a service to the people who are on the Maine Milk Commission, whom I think we don't understand clearly the trials and tribulations they have been subjected to.

I, like anybody else, relish a low price. I like to have the continuity of that particular price during a long haul. I don't think, basically at the present time, we are going to see this price war on milk really last much more than five to seven months, until the Maine Milk Commission gets back on an even keel. After that, ladies and gentlemen, just watch what happens in the State of Maine insofar as competition in the price of milk. They'll be out the window and we'll be paying maybe much more in the so-called "free market" than we're paying today.

I hope basically, and I'm basically bringing this up as a Democrat, which I'm proud to be. I spoke to many Democrats about this particular issue. The reason why I'm talking about this this afternoon is because I have their blessings to make those particular remarks. I say very frankly, if you want to do justice to the people in the State of Maine, you will definitely override the Governor's veto and allow the Maine Milk Commission, as well as the Supreme Court of the State of Maine, to rationalize their differences and come up with a viable, practical, feasible plan.

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

Senator KERRY: Yes, Mr. President and Ladies and Gentlemen of the Senate, I rise today because I am going to vote to sustain the Governor's veto, as I voted against the passage to this Bill in the past. I realize that the Bill, as it stands right now, looks like the veto will be overridden. It seems to me that the question today is not whether or not we are in favor of the farmers of this State, or the producers of this State, because most of us are.

The question is before us, because the Supreme Court rules that the prices compelled by the Milk Commission were not based on audited standards or figures.

I think it's important for us to realize that if this Legislation is passed, it is not only the families of this State that will be paying an extra price because of artificial controls, but also the businesses, and particularly small businesses. If you read the information that has been presented to us by the Executive Department, it has been estimated that there will be a \$14 million additional cost to the consumers of this

State.

I think it is rather odd that we are here today to resolve many of the problems of the Highway Fund, and many of these very valuable LD's that were taken off the Table. I do not recall a single bill that estimated the cost would be \$14 million. In essence, this is an additional tax we are placing on the people of the State of Maine. I think you must face this fact four score and forthrightly. The fact that we must see the fact the consumers are going to be paying \$14 million more than they would if the prices were not controlled artificially.

Secondly, to me, I find it as a matter of legislative policy, inappropriate that we would reward inefficiency recognized by the Supreme Court of this State, and promulgated by a ruling that overturned the actions of the Commission.

As a small businessman, and I've been in three or four different small businesses. Maybe it was poor judgement to get into the real estate business. Maybe it was poor judgement to be involved as a social worker trying to help people. What happens in the free market is that the monies seem to dry up when you want to try to do things that are based on the free market system.

I happen to be still in the real estate business. I think if anyone in this room was in the real estate business, or development business, most of us in that business are having a very difficult time. Nobody is stepping in to assist us. No one can put a minimum price on the amounts of money that real estate brokers can make.

Secondly, I am in the restaurant business. I don't see anyone trying to put a minimum price on any of the products that I sell. Many of them are dairy products. When the price of cheese goes up, or meat, or anything else goes up, or flour, we pay the price. When the mortgage rates are now in double digit figures, the Boston prime rate was at 23 percent. Many of the people in small businesses in the State went under because of that. No one came to their assistance. The government didn't come to their assistance, not the federal, nor the state. It doesn't mean that these people aren't good people. It isn't the fact that my family business and everyone who works with us didn't work hard to make the business work. It is still thriving today.

I think there are many other small businessmen who worked throughout the State who are in the same position. That is one of the inconsistencies that bothers me about this legislation. Not only that we are going, contravening, if you will, a Supreme Court decision, but that we are rewarding the inefficiencies at the price of the elderly people, of the children of this State, of the schools, of the small businesses, they are all going to be taxed by this.

Many farmers may not approve of this. I have farmers in my District. I understand that. I won't appeal to the principles of the Democratic party per se, as the Democratic leader of this Body may do, because I think that is his right and that is his position.

I would say, as a small businessman, as a person who does believe that everyone has the right to proper employment, and everybody has the right to get the fairest price for any product, in free competition, without additional assistance from anyone, that this is wrong.

I give the Governor great credit for his stand, knowing full well that there was a great hue and cry from a special interest group that would go against him on this. Knowing full well that there were many members of his own party in both branches of Legislature that would find fault with him. I think he stood up and I think this veto message sustains the principle that the Governor represents all of the people of this State, rural and urban, rich and poor, small businessman or large businessman. I don't think anyone should use the argument that the small family farmer is going to be

harm by this, because as a small business-man with five of my family members and as many as 20 of my indirect family members working with us, that we have to stand on our own two feet.

I don't want to see the people in Saco that I know are buying milk today for \$1.66 a gallon paying \$2.20 tomorrow. That's what's going to happen. If you want to vote for that, fine, but it is a tax. It is far greater than the 3 cent tax that we rejected here today, far greater than other taxes we have presented. It's going to rub against the farmers in the wrong way. This unquestionably is not the way to pass this legislation.

I would sustain the gubernatorial veto. I think everyone else should do as well.

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

Senator TROTZKY: Mr. President, today we are seeing what's happening to the poultry industry. It seems to be going down the drain. I think all of us look back and say, we wish we had done something. We wish we could have done something before.

There is a difference between a restaurant or a real estate business. When they go out of business, maybe the building is sold, the man gets into another business. He can always re-establish a restaurant someday or a real estate business. As a real estate broker, I've seen what happens when a dairy farm, a dairy farmer goes out of business. A large farm may be 200, 300 acres. It's subdivided into house lots. The farm house, which has a barn which probably can hold 150, 200 cows, is then sold off on one lot or 10 acres, with 10 acres. There's no way that dairy farm is going to come back into existence. So there is a difference between a dairy farm and a restaurant, or a real estate broker in terms of business.

As I understand the Commission, the Commission is supposed to strike a balance between the consumer and try to maintain a stable dairy industry. Now the courts just struck down the last milk order, because they said that the Commission had no basis, I believe, for the prices that it set. We did put consumers, I think one of the bills that I voted for is, long ago, is to put consumers on the Milk Commission. We took out all the industry representatives, because we felt that was like putting a fox in a chicken house. We put consumer representatives on the Milk Commission.

Today we have one, the Commissioner of Agriculture who is on it, one holdover from the Longley Administration, and three of the members, consumer members, put on the Milk Commission, are Governor Brennan's appointees.

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

Senator BROWN: Thank you, Mr. President. Men and Women of the Senate, I'm amazed this afternoon as I sit and listen at the contortions that some of us are going through to try to justify our position. It interests me that the good Senator from Androscoggin, Senator Minkowsky, the good Senator from York, the good Senator from Penobscot, who has in the past talked about intellectual honesty. We talk about selectively determining when we're going to have the free enterprise system to work.

I would like very much to request that somewhere along the line that we also consider the sardines, because I've got people in Washington County that are going out of business. The blueberries, because they're having a tough time, so when we're going to selectively decide which of the industries that the state government is going to step in to help out when they get in trouble, then please keep those areas in mind, also.

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

Senator NAJARIAN: Mr. President and Members of the Senate, I don't think we should

lose sight of the fact that we're not talking about the whole dairy industry. Out of 1100 dairymen, more than half, more than 500, are already competing freely and successfully at Boston market prices, without the benefit of the Maine Milk Commission. These are the farmers who pay the same price for their equipment, their feed, their electricity, and everything else that the Maine market farmer. They work just as hard and just as long hours. They produce milk just as good a quality, every bit as pure and wholesome, as Maine market milk. Often this milk does not even leave Maine.

Yet, despite all these similarities, these 570 Maine farmers received a dollar a hundred-weight less for their milk. They manage to stay in business. They manage to make a profit at the consumers expense to the other 500 Maine dairy farmers.

To make this grotesquely unfair situation even worse, it is not even the State using state laws to choose who will be the lucky beneficiary of one price level, while the other half of our dairy farms work at a lower level.

Many unfair hearings (inaudible) are made by individual dairies who choose and most often the standard they use is nothing better than heredity. They have created an aristocracy based on nothing better than unmitigated arbitrary discrimination through its Milk Commission.

(Inaudible) help subsidize the Milk (inaudible) mandatory state laws out of the pockets of Boston market group of farmers, just (inaudible) as the law is going to (inaudible).

The PRESIDENT: Is the Senate ready for the question?

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

ROLL CALL

YEA — Ault, Bustin, Carpenter, Charette, Collins, Devoe, Emerson, Gill, Hichens, Huber, McBrearty, Minkowsky, Perkins, Pierce, Pray, Redmond, Sewall, C.; Shute, Sutton, Teague, Trafton, Trotzky, Usher, The President, J. Sewall.

NAY — Brown, Clark, Conley, Dutremble, Kerry, Najarian, O'Leary, Violette.

ABSENT — Wood.

A Roll Call was had.

24 Senators having voted in the affirmative, and 8 Senators in the negative, with 1 Senator being absent, and 24 being more than two-thirds of the membership present, the veto of the Governor is not sustained. It is the vote of the Senate that this Bill become a law notwithstanding the objections of the Governor, and the Secretary will present the Bill to the Secretary of State.

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

Senator HUBER: Mr. President and Members of the Senate. I have prepared and have distributed a list of tax increases proposed by Governor Brennan which, I hope, is now on your desks.

I have a, perhaps, naive view of tax changes and tax proposals. If people pay more money to government because of such changes, I naively call it a tax increase.

On the first two sheets of the material I have distributed you will find a listing of the tax proposals included in the Governor's Financial Plan presented to this Legislature in January. The references on the left side of each sheet cite the page numbers in volume one of the yellow budget book with which I am sure you are familiar.

I would like to very briefly review these changes and the increases in revenue that each one was estimated to produce.

The first would have provided a minimum annual corporate income and franchise tax of \$50. This could be termed a tax on little losers and would have produced \$500,000 in additional

revenue for the biennium. Fortunately this idea was killed by the Legislature. Second is a proposal which would eliminate the provisions for carry-back and carry-forward of net operating losses. This apparently furthers a policy of "kicking them while they're down" and would have produced additional revenue of \$2.6 million for the biennium. This was also killed by the Legislature.

The next item concerns small investors and the deductibility of interest and dividend payments. This proposal assures that the State does not follow the recent federal increase of this exclusion and that the State continues its tax at the present rate. If this measure had not been enacted, small investors would have benefited by \$4.4 million during the biennium.

Other items I will mention only briefly. A provision dealing with the holding period for abandoned property would have produced revenue of \$1.3 million. Advancing the due date for Maine death taxes produces \$2.5 million on a one-time basis. Changes in the tax on off-road fuel would produce \$4,579,000 for the biennium. Other changes shown on page 2 of the material I have distributed would produce \$500,000, \$600,000 and \$400,000 for the biennium.

If all of these changes proposed by the Governor were enacted, payments by taxpayers to government would be increased by a total of \$13,159,000. I hope that when you are presented with a so-called "non-tax-increase budget" you will examine it very carefully to see what it actually contains.

The reason I mention this is that this Legislature has very recently killed what I feel was a responsible and logical proposal by the Senator from Penobscot, Senator Emerson, which would have adjusted a dwindling revenue source to produce the same number of dollars as at present. It would have produced constant dollars not more dollars, yet it was considered a tax increase by the Governor.

I guess that a tax increase is in the eye of the beholder.

Thank you very much.

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

Senator CONLEY: Mr. President and Members of the Senate, I wish to commend the good Senator from Cumberland, Senator Huber (inaudible).

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

Orders

Expressions of Legislative Sentiment recognizing:

Portland Press Herald television critic, David A. Williams of Freeport, who has been elected to the Board of Directors of the Television Critics Association. (S. P. 712) presented by Senator CLARK of Cumberland (Cosponsor: Representative MITCHELL of Freeport)

Bruce Lockhart, Brunswick High School baseball pitcher, who was named 1981 Southern Kennebec Valley Athletic Conference Player of the year. (S. P. 713) presented by Senator CLARK of Cumberland (Cosponsors: Representative MARTIN of Brunswick and Representative LIVESAY of Brunswick).

Which was Read and Passed.

Sent down forthwith for concurrence.

Enactor

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

AN ACT Establishing a National Guard Scholarship Program in Vocational-technical Institutes. (H. P. 452) (L. D. 499)

Which 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:

**Paper from the House
Non-concurrent Matter**

Bill, "An Act to Continue the Maine Turnpike Authority." (S. P. 650) (L. D. 1676)

Recalled from the Governor's desk pursuant to Joint Order (H. P. 1699).

Comes from the House, Indefinitely Postponed, in non-concurrence.

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

(Off Record Remarks)

On motion by Senator Pray of Penobscot Recessed until the sound of the Bell.

Recess

After Recess

The Senate called to order by the President.

Subsequently a message was received from the House of Representatives through Representative Mitchell of Vassalboro, the Majority Floor Leader of the House, that the House had transacted all business before it and was ready to Adjourn, Without Day.

Out of Order and Under Suspension of the Rules:

On motion by Senator Collins of Knox,

ORDERED, that a message be sent to the House of Representatives informing that Body that the Senate has transacted all the business which has come before it and is ready to Adjourn Without Day.

Which was Read and Passed.

The President appointed Senator Collins of Knox, to convey the message to the House of Representatives. The Senator then retired to the Hall of the House, and subsequently reported that he had delivered the message with which he was charged.

Out of Order and Under Suspension of the Rules:

On motion by Senator Conley of Cumberland,

ORDERED, that a message be sent to His Excellency, the Governor, informing him that the Senate has transacted all the business which has come before it and is ready to Adjourn Without Day.

Which was Read and Passed.

The President appointed Senator Conley of Cumberland, to convey the message to his Excellency the Governor.

Subsequently, Senator Conley of Cumberland reported that he had delivered the message with which he was charged, and the Governor was pleased to say that he would attend the Session forthwith.

(Senate at Ease)

The Senate called to order by the President.

The Sergeant-at-Arms escorted the Governor of Maine the Honorable Joseph E. Brennan to the rostrum. (Amid the applause of the Senate the members rising.)

The PRESIDENT: His Excellency, Governor Joseph E. Brennan.

Governor BRENNAN: Mr. President and Members of the Senate, it gives me great pleasure to appear before you this evening to congratulate you on a job well done, and to thank you for the many progressive and important bills that you passed on behalf of the people we serve.

Over the past few weeks, the greatest share of attention certainly has been focused on those few areas of discord. The fact remains, and I believe this, that this Legislature has accom-

plished a great deal. When the final Record of the 110th Legislature is compiled, you will be remembered not for the disagreements, but for the positive achievements that have been enacted.

I'd like to just cite a few examples: Together we have taken historic steps to address one of our most pervasive social problems, the abuse of alcohol and its many unfortunate consequences. Early this week, I signed into law a tough mandatory sentencing bill for those convicted of drunken driving, a crime that figures in two out of three deaths on our highways. I hope that that Bill is effective in deterring some of those deaths.

Last week, I signed a landmark bill that you enacted, to create a special fund for programs dealing with the prevention and treatment of alcoholism. Together we have passed some important consumer legislation, including a bill to establish the Office of Public Advocate, whose responsibility will be to represent the consumer before the PUC.

Another bill, to reduce the burden of mandatory and unfair minimum charges for electric service, which have been a particular hardship to many of the low income and elderly neighbors that we have.

Together we have written some new legislation to promote our mutual goal of making Maine a more humane and sensitive place to live, by prohibiting discrimination against children in rental housing, by guaranteeing privacy in divorce and custody hearings, and by furthering the security of the home against the danger of fire.

Together I believe we've made some important contributions to our economic future, by a major revision in our inheritance tax law, by passing bond issues that support some of our oldest and most vital industries, by deregulating interstate trucking, and by providing the means to assist with the marketing of one of our most important products, the Maine potato.

Together we have dealt creatively with the dangerous hazards of our modern world by creating a new means of protecting our land, our waters, and our woods from the dangers of hazardous wastes, and by establishing a new environmental health unit in State government.

Together we have acted to improve the structure of State government by creating a separate, but a much needed, Department of Corrections, and by an important reform in our court system, the so-called "One Trial Bill," something that should streamline criminal justice in this State, convict the guilty more promptly and more certainly, and acquit the innocent likewise.

Again, we have enacted a highway program that will continue to fund the Maine Department of Transportation at a level that will continue to mean safe roads and safe bridges for our people and our guests. Incidentally, we did that without a tax increase. The agreement we reached together proved once again that men and women of good will can set aside their differences in recognition of that that matters. What matters is not really winning or losing, but acting in the best interests of Maine, her people, and her future.

Some may say that the long and painful process that led to compromise may have exposed some weaknesses in our system. I say it exposed the strengths, for compromise is the art of give and take. It has been the fuel of our government process at every level of government for more than 200 years. It has worked throughout history, and it has worked again here today.

I congratulate each of you for the concern you have shown, for acting according to your consciences, and for the thoroughness of your study and attention on this and every other issue that came before you during this six intensive months.

I want to say that I personally enjoyed working with you. I know there have been some dis-

agreements but I think they have been honorable disagreements. I think from our standpoint where we have disagreed, we have brought our issues out in the open, afford the opportunity for someone to act on them.

I respect you for your views, even though they may disagree with mine. For the most part, I think we've agreed a great deal more than we have disagreed. I think the result has been some very progressive legislation for this State, again, without spending not a great deal more money. I think we have tried to attend to some of the other problems of State government by trying to focus in some areas financially where we were spending too much before, and cutting back a great deal.

I enjoyed the Session. I'm sort of glad it's over. When Legislatures are around, they keep Governors humble. I've been humble for six months, and we can kind of attend to the administrative functions of government for the next six months, hopefully. I want to say sincerely that I have appreciated working with you and I have a great deal of respect for all of you. Thank you.

The Sergeant-at-Arms escorted the Honorable Joseph E. Brennan, the Governor of Maine from the Senate Chamber. (Amid the applause of the Senate, the members rising.)

The PRESIDENT: The Chair recognizes the Senator from Aroostook, Senator McBreaity. Senator McBREAITY: Mr. President and Honorable Members of the Senate, I move that the Senate Adjourn Sine Die.

On motion by Senator McBreaity of Aroostook, at 7:52 p.m. on Friday, June 19, 1981, the Honorable Joseph Sewall declared the Senate of the First Regular Session of the 110th Legislature Adjourned, Sine Die.