

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

One Hundred and Tenth

Legislature

OF THE

STATE OF MAINE

SECOND REGULAR SESSION

January 6, 1982 to April 13, 1982

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FOURTH SPECIAL SESSION

April 28, 1982 and April 29, 1982

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FIFTH SPECIAL SESSION

May 13, 1982

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July 16, 1982

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

Augusta, Maine
March 12, 1982

Senate called to order by the President.

Prayer by the Reverend Timothy Evans,
Church of the Nazarene of Gardiner.

REVEREND EVANS: Our heavenly Father, we thank You for allowing us another day with which we might serve You. Lord, it is our privilege to enjoy Your beautiful world.

Today, Father, we thank You for these elected officials. We know that the duty they perform is sometimes a difficult one. We pray that You will give them wisdom, as they go about their tasks, and that You might guide their steps.

We pray that we all might do whatever we can to make our State a great state, our country a strong one, and our world a better place in which to live.

Now Father, be with these men and women as they look to the business at hand. We ask for Your blessing upon this day and upon our lives, in the name of our Lord and Saviour. Amen.

Reading of the Journal of yesterday.

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

Bill, "An Act to Increase the Working Capital of the State Liquor Commission." (H. P. 1807) (L. D. 1792)

In the Senate, March 9, 1982, Passed to be Engrossed, in concurrence.

Comes from the House, Passed to be Engrossed as amended by House Amendment "A" (H-644), in non-concurrence.

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

**Committee Reports
House**

The following **Ought Not to Pass** reports shall be placed in the legislative files without further action pursuant to Rule 22 of the Joint Rules:

Bill, "An Act to Provide for Mandatory Jail Sentences for Repeat Offenders who Commit Certain Crimes on or to a Person 60 Years of Age or Older." (H. P. 2095) (L. D. 2029)

Bill, "An Act Incorporating Federal Funds Directly into the State Budgeting Process." (H. P. 1249) (L. D. 1473)

Ought to Pass

The Committee on Marine Resources on, Bill, "An Act to Increase the Sardine Tax." (H. P. 2157) (L. D. 2057)

Reported that the same Ought to Pass. Comes from the House, the Bill Passed to be Engrossed.

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

Divided Report

The Majority of the Committee on Legal Affairs on, Bill, "An Act Relating to the Closing of the State Liquor Stores in Communities with One Store." (Emergency) (H. P. 1996) (L. D. 1972)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-641)

Signed:

Senators:

SHUTE of Waldo
CHARETTE of Androscoggin
VIOLETTE of Aroostook

Representatives:

COX of Brewer
McSWEENEY of Old Orchard Beach
STOVER of West Bath
STUDLEY of Berwick

TREADWELL of Veazie
BOISVERT of Lewiston
SWAZEY of Bucksport
PERRY of Mexico

The Minority of the same Committee on the same subject matter reported that the same Ought to Pass as amended by Committee Amendment "B" (H-642).

Signed:

Representatives:

SOULAS of Bangor
DUDLEY of Enfield

Comes from the House, the Bill substituted for the Reports and subsequently Passed to be Engrossed.

Which Reports were Read.

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

Second Readers

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

House

Bill, "An Act to Clarify Fish Inspection Responsibilities." (H. P. 1742) (L. D. 1731)

Bill, "An Act to Allow the Transfer of Aquaculture Leases." (H. P. 1955) (L. D. 1927)

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

House — As Amended

Bill, "An Act to Provide a Data Input and Retrieval System for the Workers' Compensation Commission." (H. P. 1901) (L. D. 1886)

Bill, "An Act to Allow Priority Social Service Program Funds to Match Appropriate Federal Funds." (H. P. 1835) (L. D. 1832)

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

Senate — As Amended

Bill, "An Act to Amend the Maine Consumer Credit Code Regarding Educational Loans and Cosigner Notices." (Emergency) (S. P. 787) (L. D. 1852)

Bill, "An Act to Amend the Maine Consumer Credit Code Regarding Second Mortgages and Mobile Homes." (S. P. 759) (L. D. 1817)

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

Sent down for concurrence.

Enactors

The Committee on Engrossed Bills reported as truly and strictly engrossed the following:
AN ACT Revising Executive Salary Ranges. (S. P. 813) (L. D. 1909)

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

AN ACT Relating to Fuel Adjustment Clause of Natural Gas Utilities. (S. P. 817) (L. D. 1921)

AN ACT to Abolish the Mandatory Reporting of Alcoholism Section of the Board of Registration in Medicine Act. (S. P. 830) (L. D. 1938)

AN ACT Relating to the Installation of Utility Poles. (S. P. 839) (L. D. 1962)

AN ACT to Amend Charters of Various Water Districts Organized Under the Private and Special Laws Including Milbridge and Strong. (H. P. 2151) (L. D. 2054)

AN ACT to Establish Voluntary Certification for Building Energy Auditors. (H. P. 1916) (L. D. 1893)

AN ACT to Permit Municipalities to Adopt Contract Zoning under the Maine Zoning Laws. (H. P. 1827) (L. D. 1809)

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

Emergency

AN ACT to Revise the Lubec Water and Electric District Charter to Modify the Requirements for Issuance of Bonds. (H. P. 1976) (L.

D. 1951)

Emergency

AN ACT to Raise the Annual Public Utilities Commission Regulatory Fund Assessments to \$1,300,000. (S. P. 785) (L. D. 1850)

Emergency

AN ACT to Amend the Terms of the Directors of the Auburn Water and Sewerage Districts. (S. P. 868) (L. D. 2013)

These being emergency measures and having received the affirmative vote of 26 members of the Senate with No Senators having voted in the negative, were passed to be Enacted and, having been signed by the President, were by the Secretary presented to the Governor for his approval.

Emergency

RESOLVE, Authorizing the State Planning Office to Study the Implications for Maine of Canadian Tidal Power Development in the Bay of Fundy. (H. P. 1975) (L. D. 1950)

This being an emergency measure and having received the affirmative vote of 25 members of the Senate with 1 Senator having voted in the negative, was Finally Passed and, having been signed by the President, was by the Secretary presented to the Governor of his approval.

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

Recess

After Recess

The Senate called to order by the President.

Orders of the Day

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

Bill, "An Act to Make the State Unemployment Tax Exemption for Individuals Engaged in Fishing Consistent with the Federal Unemployment Tax Exemption for Such Individuals." (H. P. 2008) (L. D. 1979)

Tabled—March 10, 1982 by Senator COLLINS of Knox

Pending—Passage to be Engrossed

Which was Passed to be Engrossed, in concurrence.

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

Bill, "An Act to Adjust the Eating, Lodging and Recreational Place Licensing Fee." (S. P. 811) (L. D. 1907)

Tabled—March 11, 1982 by Senator COLLINS of Knox

Pending—Motion of Senator McBREAIRTY of Aroostook to Reconsider Passage to be Engrossed.

On motion by Senator Collins of Knox, Retabled for 2 Legislative Days.

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

Joint Order—Relative to Taxation Committee reporting out a Bill regarding United States Internal Revenue Code. (S. P. 922)

Tabled—March 11, 1982 by Senator COLLINS of Knox

Pending—Passage

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

Senator WOOD: Mr. President, I would request a Roll Call.

The PRESIDENT: A Roll Call has been requested.

The Chair recognizes the Senator from Knox, Senator Collins.

Senator COLLINS: Mr. President, the other day we discussed another order related to keeping the State of Maine Income Tax Code a piggyback arrangement with the Federal Code. Some Members of the Legislature have raised questions as to whether there are technical

problems with that first order. I said at that time that this is a matter that deserves the support of both parties in the Legislature. We still think that is so. I'm happy to support the Passage of this Order.

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

Senator WOOD: Mr. President, Men and Women of the Senate, I am pleased to see that there is a bi-partisan support for this Order. The other day, when there was an order before us, I felt that members of our party were unfairly castigated as being against this in principle. I don't think that was the point that I raised, and other members raised. I think it was with the order that we had before us.

I think that this Order, although maybe even this Order could stand some improvement. I think, in general, we support it. It was the order the other day and not the general income tax question.

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

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

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

(Senate at Ease)

The Senate called to order by the President.

The PRESIDENT: The pending question before the Senate is the Passage of S. P. 922. A Yes vote will be in favor of the Passage of S. P. 922.

A No vote will be opposed.

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

ROLL CALL

YEA—Ault, Brown, Carpenter, Charette, Clark, Collins, Emerson, Gill, Hichens, Huber, McBreairey, Minkowsky, Najarian, O'Leary, Perkins, Pierce, Pray, Redmond, Sewall, C.; Shute, Sutton, Teague, Trotzky, Usher, Wood.

NAY—Bustin, Conley, Dutremble.

ABSENT—Devoe, Kerry, Trafton, Violette. Senator Dutremble of York was granted permission to change his vote from Nay to Yea. Senator Bustin of Kennebec was granted permission to change her vote from Nay to Yea.

A Roll Call was had.

27 Senators having voted in the affirmative and 1 Senator in the negative, with 4 Senators being absent, S. P. 922 was Passed.

Sent down for concurrence.

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

Bill, "An Act to Prohibit Public Drinking on School Premises Without Requiring Prior Warning by a Law Enforcement Officer." (H. P. 1929) (L. D. 1912)

Tabled—March 11, 1982 by Senator CHARETTE of Androscoggin

Pending—Enactment

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

Senator CHARETTE: Mr. President, I will move that this Bill and all its accompanying papers be Indefinitely Postponed and would speak briefly on my motion.

The PRESIDENT: The Senator has the floor. Senator CHARETTE: Thank you, Mr. President. Women and Men of the Senate, as I've studied over this Bill in my own conscience as to which way I was going to vote on this Bill this morning. I felt it my duty, at least, to get up and speak on this issue this morning.

I felt that last year's laws, we passed it, it was a very severe law. It was sufficient. It took care of whatever problems we felt we had as a public drinking law.

This law here takes the warning out of last year's law, and applies it only to schools. My

understanding in hearings is that in schools, at the functions, basketball games, etc., and so forth, it appeared that the grownups would be drinking. If they were four or five rows up in the stands, it was almost near impossible for a policeman to give the warning. That seemed to create a problem in some areas.

However, I'm still looking at this Bill and what it entails. That tells me now that 90 percent of our youth will be exposed a Crime E offense with no warning. Is this what we want to do? do I want my boys, three of them, growing up to think that, on their first mistake, they might be labelled for life as a Crime E offense? Let's think about this for a little bit. Let's study our own conscience. Let's pretend that it's our own son or our own daughter that's being put the finger on.

I wouldn't like either one to be labelled with a Crime E offense at that age, 19 or 20. I would think that would have a gross effect on that individual to find a suitable job, or at least try to explain that for the first time in his life, he took a sip out of a bottle of beer, and here he is slapped with a Crime E offense.

I think it's a shame if we pass this law and create this monster on our growing youth of the State of Maine.

I oppose this Bill. I sincerely believe that last year's law is stringent enough to serve the purpose, because of one isolated area, where this problem occurred, it doesn't mean that we need this in every city in the State of Maine. My City of Lewiston certainly doesn't need that as a law.

I would hope you vote with me on the motion.

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

Senator CARPENTER: Mr. President and Ladies and Gentlemen of the Senate, very briefly, because I think this Bill has been pretty well debated in here. This Bill is not aimed at the youth of our State, to give them a criminal record, to arrest them the first time they ever have a drink of alcohol.

This Bill is aimed at, primarily, adults on school premises, or school functions. We are seeking to make those premises a special case. I will not argue that point with you.

The good Senator from Androscoggin and the rest of the Senate ought to be aware that juvenile records are treated considerably different than our adult records. If he really believes, and if there are those of you who really believe, the philosophy just espoused, then let's make an exception in our laws so that no matter what a child a minor does, that person's record is expunged as of the age of majority. If that's what we want to do, let's do that.

That's not the issue here before us today. The issue here before us today is, are school premises a sufficiently unique area? Is the problem large enough? The problem has been outlined at least in two areas of the State of Maine. There has been a problem resulting in a court case in one of those areas. You've heard the good Senator from Knox, Senator Collins, the other day tell you that he had recognized, or noticed a problem in his area.

This bill is not going to turn our children into criminals. It's a spurious argument to even use that argument. This Bill, I would anticipate, that if a youngster was found with alcohol on school premises, they would be treated as they are now, under the law, for illegal possession.

If, in fact, they were arrested for public drinking, then this law would, in fact, hold.

If this is what we feel about public drinking, then why didn't we make an exception for children in the law last year that we all voted for? That seems to be the place that we should start. Why is it different? Why give a child a criminal record because they drank at Old Orchard Beach, and no criminal record because they drank at school?

I say that a school is a sufficiently unique part of the property of the State of Maine, so that we're going to change the rules. We're

going to let the people know, again, primarily adults, what this Bill is aimed at. There is a problem. We've seen this is a problem. We've been told that this is a problem. Don't ignore it.

Mr. President, I would request that when the vote is taken, it is taken by the Yeas and Nays.

The PRESIDENT: A Roll Call has been requested.

The Chair recognizes the Senator from York, Senator Hichens.

Senator HICHENS: Mr. President and Members of the Senate: In all due respect to the good Senator from Lewiston, he said he had been sitting there debating as to how he would go on this Bill. I don't think there was any indication that he would go any way else except for the motion that he made, because he made that very plain last week when we debated it. He has made it plain ever since, as he has spoken to the different people round about the Legislature.

As the good Senator from Aroostook has put out that we are not after the youngsters, they are already taken care of by possession. If they walk into any place, regardless of school, or anywhere else, and someone detects a bottle in their pocket or they take a bottle out of their pocket, they immediately can be apprehended as a civil offense. They don't even have to open it.

I don't think that this idea that we're going to make criminals out of them carries any weight at all. They know the law. This is aimed at the adults who will go in and open the bottle at one of these events. They are protected through the Amendment as to different functions where they could go on the school premises, which are used for multi-purpose buildings in many communities, and be able to have open bottles. There will be notices posted to give them that right, or they could have a permission slip in their pocket which gives them that right. I think the Amendment very well takes care of the situation.

All this rhetoric about making criminals out of them, they wouldn't have to go that far to open a bottle be guilty of that civil offense.

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

Senator BROWN: Thank you, Mr. President. Members of the Senate, the strongest that I've heard concerning this Bill is the fact that it won't hurt anybody. That's about the strongest case that I've heard for this Bill.

You know there's a couple of isolated incidents that have happened, one in Aroostook County and the other one that's been referenced by good Senator Collins that we have a problem with drinking on school property.

You know, initially, I thought this was just probably an unnecessary Bill, but I'm convinced now that it's a bad Bill and we ought to defeat it. I urge you to let's do that.

This Bill was heard in Committee. It came out of a Committee Report which can be verified at 12 to 1 Ought Not to Pass. So why do we have this Bill here presently before us now? Why are we entertaining this and making this what could be a useless law?

I was thinking the other day and kind of fantasizing, since we are approaching 1984 fairly soon, that probably what we ought to have, since we're making schools a special case, maybe we could have one of those revolving cameras in the center of the auditorium or the gymnasium that might just beam around through the audience all the time. Any time that somebody's arm was raised up with a can of beer maybe, or a bottle of some kind, maybe we could beam a light out there and say we've got a school drinker, a drinker on school property. That's about the absurdity of the whole issue, as far as I'm concerned.

We've got a problem. We've got a problem at school functions, where it be an athletic function or a social function. The problem is not the people that are drinking on school property. The problem are the people that come stoned

already when they come there. That's where the problem comes. It's not the people that are drinking.

There's never any confusion. There's not confusion on people's part of whether they can drink at basketball game or a school dance. People know that. There's no confusion whatsoever.

In the years that I've been involved chaperoning events like this, I could count the number of times, on one hand, that people have caused a problem by drinking on school property. But I'd have to use my hands and toes, and Senator Charette's to count the number that have come, because they drink, are drinking before they get there, they come stoned.

What we need are ways to teach youngsters how to behave whether it's with marijuana use, or alcohol use, or cocaine or pill popping, or whatever when they come to these various events that are in these conditions.

What we have now is a Bill before us that's come about because of two or three school administrators who felt they couldn't do an adequate job, so they've come back complaining that we've got to have tightened up laws before we can actually do our job.

This is a Class E offense that we're talking about. Let's look at what a Class E crime is. Under the OUI law, if we have below .10 percent alcohol in our blood, here's what that's punishable by. That's not even a violation. That can be, I think, can happen as a result of three or fewer drinks, depending on our body weight.

If you've got a .10 to a .20, that's four to eight drinks, that's an infraction, but no criminal record. That's a fine of \$250 to \$500 and a suspended license of 45 days.

Above .20 percent, that's eight drinks in a one to two hour period, that's a Class D crime. That's a fine of \$350 to \$1,000, a minimum of 48 hours in the slammer, and 90 days suspension of the license.

We're talking about a Class E crime. If somebody, let's assume that what's been said here by the good Senator Carpenter from Aroostook, that this is not, doesn't involve the children. Let's say it involves a 19 year old. He comes there and for the first time he's got a can of beer in his hands, not drunk and causing trouble. The fact is that he's got an open can of beer in his hands. That's a Class E crime, a criminal record.

Somebody mentioned to me the other day that there was a function held recently in a neighboring town by one of the major political parties. There was free beer and wine that was served on church property. We'll go ahead and go to a function like that, but on school property. On school property, if we have an open can of beer, we're going to go ahead and label this individual a criminal as a Class E crime.

I thought at first that this was just kind of a worthless Bill and we would just go ahead and let it slide on through. It wasn't going to hurt anybody, but it is going to hurt somebody. It's a ridiculous Bill.

I urge you to let's go with the good Senator from Androscoggin, Senator Charette, and let's Indefinitely Postpone this Bill. Thank you, Mr. President.

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

Senator McBREAITY: Mr. President, Ladies and Gentlemen of the Senate, I think since I've been here I have nearly a perfect score with the Christian Civic League on alcohol related bills. Probably I'm one of the few in this whole complex that can say that I've never tasted one drink of alcoholic beverage. I have plenty of friends that have plenty of relatives that have. I'm not that, I respect their desires and wishes.

This Bill originated in my Senate District, because of one policeman that didn't do his job well. I talked with him yesterday. He said, I'm an alcoholic, and I want to protect the kids.

I haven't seen a bill here yet that I feel as

strongly opposed to as this Bill. If we pass this Bill, some cop that doesn't like a kid can watch him, catch him with a can of beer in his hand anywhere on school property, and slap a Class E crime on him that will follow him the rest of his life.

I don't have any children young enough to get in this mess, but I have grandchildren. Believe me, I don't want it on my conscience that I have voted for a Bill that will give an 18 year old kid a record, the rest of his life, for holding a can of beer in his hand on some school property.

This law applies to the hall in the Senator Motel. How many people in the Senator Motel want to take off the warning? So that if some cop drops in one of those doors, they are hooked with a Class E crime, without any warning? I don't believe any of us would, even I and I'm not in any danger of being caught with an alcoholic drink in the halls of the Senator Motel.

Now I would hope that we would do just like that Committee told us to do, with a 12 to 1 Report. Let's please kill this Bill today so I can go home to my Senate District, where this originated, and tell those parents that I voted for their children today. Thank you.

The PRESIDENT: Is the Senate ready for the question?

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

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

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

The pending question before the Senate is the motion by the Senator from Androscoggin, Senator Charette, that LD 1912 and all its accompanying papers be Indefinitely Postponed.

A Yes vote will be in favor of the Indefinite Postponement of the LD 1912.

A No vote will be opposed.

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

ROLL CALL

YEA—Ault, Brown, Charette, Conley, Emerson, Gill, McBreaity, Minkowsky, Najarian, O'Leary, Perkins, Pierce, Pray, Redmond, Sewall, C.; Sutton, Teague, Trozky, Usher.

NAY—Bustin, Carpenter, Clark, Collins, Du-tremble, Hichens, Shute, Wood.

ABSENT—Devoe, Huber, Kerry, Trafton, Violette.

Senator Pierce of Kennebec was granted permission to change his vote from Yea to Nay.

A Roll Call was had.

18 Senators having voted in the affirmative and 9 Senators in the negative, with 5 Senators being absent, the motion to Indefinitely Postpone L. D. 1912 in non-concurrence, does prevail.

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

Senator BROWN: A question, if I may.

The PRESIDENT: The Senator may state his question.

Senator BROWN: Having voted on the prevailing side, is that a reasonable question at this time? I would urge for Reconsideration.

The PRESIDENT: The Senator is in order. The motion is definitely in order.

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

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

Senator CARPENTER: Mr. President, I would move this lie on the Table 1 Legislative Day, pending Reconsideration.

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

Senator CONLEY: I request a Division.

The PRESIDENT: A Division has been requested.

Will all those Senators in favor of the motion by the Senator from Aroostook, Senator Carpenter, that L. D. 1912 be Tabled for 1 Legislative Day, please rise in their places to be counted.

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

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

The pending question before the Senate is the motion by the Senator from Washington, Senator Brown, that the Senate Reconsider its action whereby L. D. 1912 was Indefinitely Postponed.

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

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

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

Sent down for concurrence.

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

Orders

Expressions of Legislative Sentiment recognizing:

Sister Hedwig Michael, leader of Koreshan Unity, on her 90th birthday. (S. P. 923) presented by Senator WOOD of York.

Peter Hemond, of Minot, on his election as road commissioner the 3rd generation of Hemonds to serve in that capacity. (S. P. 924) presented by Senator TRAFTON of Androscoggin (Cosponsor: Representative CALLAHAN of Mechanic Falls).

Which were Read and Passed.

Sent down for concurrence.

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

Communication

Committee on State Government

March 12, 1982

The Honorable Joseph Sewall
President of the Senate of Maine
State House

Augusta, Maine

Dear President Sewall:

In accordance with 3 M.R.S.A., Chapter 6, section 151, and with Joint Rule 38 of the 110th Maine Legislature, the Joint Standing Committee on State Government has had under consideration the nomination of Cynthia Murray-Beliveau to the position of member of the State Personnel Board.

After public hearing and discussion on this nomination, the Committee proceeded to vote on the motion to recommend to the Senate of the 110th Maine Legislature that this nomination be confirmed. The vote was taken by the yeas and nays. The Committee Clerk called the roll with the following result:

YEAS: Senators 2

Representatives: 8

NAYS: Senators 0

Representatives: 0

ABSENT: Sen. Violette of Aroostook, Rep. Bell of Paris, Rep. J. Diamond of Bangor.

10 members of the Committee having voted in the affirmative and 0 in the negative, it was the vote of the Committee that the nomination of Cynthia Murray, Beliveau to the position of member of the State Personnel Board be confirmed.

Sincerely,

S/DAVID R. AULT

Senate Chairman

S/JUDY C. KANY

House Chairman

Which was Read and Ordered Placed on File.

The PRESIDENT: The Joint Standing Committee on State Government has recommended

that the nomination of Cynthia Murray-Beliveau be confirmed.

The pending question before the Senate is: Shall the recommendation of the Committee on State Government be overridden? In accordance with 3 M.R.S.A. Chapter 6, section 151, and with Joint Rule 38 of the 110th Legislature, the vote will be taken by the yeas and nays. A vote of YES will be in favor of overriding the recommendation of the Committee. A vote of NO will be in favor of sustaining the recommendation of the Committee.

Is the Senate ready for the question?

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

ROLL CALL

YEA—None.

NAY—Ault, Brown, Bustin, Carpenter, Charette, Clark, Collins, Conley, Dutremble, Emerson, Gill, Hichens, Huber, McBreairty, Minkowsky, Najarian, O'Leary, Perkins, Pierce, Pray, Redmond, Sewall, C.; Shute, Sutton, Teague, Trotzky, Usher, Wood, The President-J. Sewall.

ABSENT—Devoe, Kerry, Trafton, Violette. No Senators having voted in the affirmative and 29 Senators in the negative with 4 Senators being absent and none being less than two-thirds of the membership present, it is the vote of the Senate that the Committee's recommendation be accepted. The nomination of Cynthia Murray-Beliveau is confirmed.

(Off Record Remarks)

Committee Report House

Ought to Pass—As Amended

The Committee on Transportation on, Bill, "An Act to Amend the Maine Turnpike Authority Statutes." (Emergency) (H. P. 2165) (L. D. 2064)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H. 648)

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

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

Sent down forthwith to the Engrossing Department.

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

Senate Paper

Senator TRAFTON of Androscoggin (Co-sponsors: Senator MCBREAIRTY of Aroostook and Representative HALL of Sangerville) present, Bill, "An Act Implementing Certain Recommendations of the Citizens' Commission to Evaluate the Department of Environmental Protection." (Governor's Bill) (S. P. 925)

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

Sent down for concurrence.

Enactors

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

AN ACT to Provide for a Comprehensive Career and Occupational Information System. (H. P. 2015) (L. D. 1985)

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

AN ACT to Clarify the Statutes Pertaining to Search and Rescue. (H. P. 1837) (L. D. 1834)

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

AN ACT Concerning Salaries of District Court Judges. (H. P. 1869) (L. D. 1863)

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

AN ACT Concerning look-alike Drugs. (H. P. 1882) (L. D. 1875)

AN ACT to Authorize Governmental Entities to Provide Self-insurance. (H. P. 1825) (L. D. 1807)

AN ACT to Permit the Superintendent of Insurance to Promulgate Rules Requiring Provisions in Group Health Contracts Providing for Conversion to Individual Coverage Upon Termination of Group Coverage. (S. P. 774) (L. D. 1845)

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

Emergency

AN ACT to Amend the Uniform Commercial Code Regarding Investment Securities. (H. P. 1935) (L. D. 1919)

Emergency

AN ACT to Establish "Free Look" Requirements for Medicare Supplement Policies. (H. P. 2111) (L. D. 2036)

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.

(Senate at Ease)

The Senate called to order by the President.

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

Papers from the House Joint Resolutions

State of Maine

IN THE YEAR OF OUR LORD NINETEEN HUNDRED AND EIGHTY-TWO

JOINT RESOLUTION MEMORIALIZING THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY CONCERNING SARDINE PROCESSING WASTE DISCHARGE LICENSES

WE, your Memorialists, the House of Representatives and Senate of the State of Maine of the One Hundred and Tenth Legislature, now assembled, most respectfully present and petition your Honorable Body, as follows:

WHEREAS, the Maine sardine industry provides vital employment and revenue for the people of the State; and

WHEREAS, current waste discharge licenses for the sardine industry expire this April; and

WHEREAS, failure to renew these licenses with reasonable permit conditions would force some or all of the sardine processing plants to close, causing extreme economic and social hardship; and

WHEREAS, confusion concerning the interpretation of state and federal standards, particularly the categorization of wet or dry processors, may make it difficult to issue revised permits in time for this fishing season; and

WHEREAS, all sardine plants in Maine use water to transport fish within the processing plants; now, therefore, be it

RESOLVED: That We, your Memorialists, respectfully recommend and urge the United States Environmental Protection Agency to consider all sardine plants in the State of Maine to meet the criteria of the wet processing subcategory under subpart AB as promulgated in

the Federal Register, Volume 70, Number 231, December 1, 1975, for the purposes of renewing waste discharge licenses for this year while the subcategories and effluent limits are reevaluated; and be it further

RESOLVED: That a duly authenticated copy of this Memorial be immediately submitted by the Secretary of State to Mrs. Anne Gorsuch, Administrator of the United States Environmental Protection Agency. (H. P. 2182)

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

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

Senator MINKOWSKY: Thank you, Mr. President. This memorial just came to my attention and I would just like to have a brief explanation on the part of somebody. I realize that we memorialize many different people, but the Environmental Protection Agency of the United States Government who is just supposed to be doing its job on behalf of the people of the State of Maine, through our Congressional Delegation, I just do not see the rationale behind it, at least, at the present time.

I would like to pose a question through the Chair to some knowledgeable member who might be a cosponsor of this particular resolution to explain a little more fully.

If we are going to memorialize anybody I would think that it would be the Congressional Delegation from the State of Maine to Congress to resolve the problem as far as I understood from the newspaper account, but not the Environmental Protection Agency, which is the bureaucratic agency of government that is suppose to be functioning according to the wishes of our delegation in Washington.

The PRESIDENT: The Senator from Androscoggin, Senator Minkowsky, has posed a question through the Chair.

The Chair recognizes the Senator from Washington, Senator Brown.

Senator BROWN: Thank you, Mr. President. Men and Women of the Senate, the Sardine processors had considerable difficulty over recent months with the effluent discharge standards that the Department of Environmental Protection has placed on them.

The issue came to a head about, I guess, it was sometime in late December, and we thought that we had the issue fairly resolved within the State with the Department of Environmental Protection. The Governor had come out very strong along with the Commissioner of Marine Resources and DEP in support of the processors. Then we find recently after the EPA comes in to review the records and the standards of DEP we find that there is some concern as to whether we have a wet versus a dry conveying system, within the sardine plants. If we have a dry system the standards are twice as restrictive as they are with a wet system.

So, what this Resolution does is to request the EPA to please stay, at least, within the current year with the wet standards so that the license can be issued to those sardine processors so that they can continue with their packing year. Thank you.

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

Senator MINKOWSKY: Mr. President, I thank the good Senator from Washington County, Senator Brown, for his explanation, but I think a letter to the Environmental Protection Agency regarding the wet or dry process would be just as satisfactory as a memorial to these people.

Under the circumstances, I, at least, would like to move the Indefinite Postponement of this particular memorial.

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

Senator BROWN: Mr. President, I would like to impress upon this Body, the urgency at

which we are looking at this Resolution before us.

This past week the Department of Marine Resources entertained a bill which would have tied the State's standards to the federal standards. Essentially the bill would have said, that under no circumstances would we have State standards that were more restrictive than the federal standards are.

Now, this Resolution is extremely, extremely important to try to impose upon EPA the importance of sticking with the standards that these processors have had in the recent years. I would urge that we have a Division, Mr. President, in terms of Indefinite Postponement of this Resolution.

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

Senator CLARK: Thank you, Mr. President. Mr. President and Men and Women of the Senate, I rise to support the remarks of the good Senator from the County of Washington, Senator Brown, and urge that the Members of this Body do not support the pending motion before us.

A memorial is an appropriate way of communicating to a governmental agency reflecting the consensus of all of us. It is not only time saving, but cost effective. It will require one 20¢ stamp, reflecting the concern not only of coastal Legislators, but inland Legislators to the plight of a very real contributor to Maine's economic, that of the sardine industry.

It is not just the area far east of Cumberland County that is effected, but the entire coast line. I think that it is indeed appropriate that this memorial go forth today with unanimous support and I would plead with the gentleman from the County of Androscoggin to join us.

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

Senator COLLINS: Mr. President, as a rule I am not very much on memorials, but we are in a situation here where we have sort of a federal/state jurisdictional confusion and a very difficult time element.

There are a great many jobs from Bath to the Canadian Border that are affected by this problem. I will not try to give a lot of technical detail, but I attended public hearings on this and I am a cosponsor of the Bill that deals with this which we are not able to move fast enough to really do the job for us, and that is why this is sort of a interim measure to express sentiments that we hope the feds will pay a little attention to.

They get so lost in their technical distinctions between wet process and dry process, and whether something is wet that is dry, and dry that is wet it could drive you crazy trying to figure out what they mean.

I truly plead with the Senate to follow the lead of the Senator from Washington, Senator Brown, in supporting this Resolution so that these jobs will not go down the drain this spring.

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

Senator MINKOWSKY: Mr. President, I appreciate the very thorough indepth evaluation and assessment by the members of the coastal delegation. It certainly has accomplished my purpose in creating the debate which I did this morning.

I would withdraw my motion to Indefinitely Postpone.

The PRESIDENT: The Senator from Androscoggin, Senator Minkowsky, requests Leave of the Senate to Withdraw his motion to Indefinitely Postpone H. P. 2182.

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

It is a vote.

Which was Adopted, in concurrence.

HUNDRED AND EIGHTY-TWO

JOINT RESOLUTION MEMORIALIZING THE MAINE DEPARTMENT OF ENVIRONMENTAL PROTECTION CONCERNING SARDINE PROCESSING WASTE DISCHARGE LICENSES

WE, Your Memorialists, the House of Representatives and Senate of the State of Maine of the One Hundred and Tenth Legislature, now assembled, most respectfully present and petition your honorable body, as follows:

WHEREAS, the Maine sardine industry provides vital employment and revenue for the people of the State; and

WHEREAS, current waste discharge licenses for the sardine industry expire this April; and

WHEREAS, failure to renew these licenses with reasonable permit conditions would force some or all of the sardine processing plants to close, causing extreme economic and social hardship; and

WHEREAS, confusion concerning the interpretation of state and federal standards, particularly the categorization of wet or dry processors, may make it difficult to issue revised permits in time for this fishing season; and

RESOLVED: That We, the Members of the 100th Legislature now assembled, do hereby most strongly recommend the Maine Department of Environmental Protection to renew sardine processors' waste discharge licenses based on the federal standards for wet processors as promulgated in the Federal Register, Volume 70, Number 231, December 1, 1975; and be it further.

RESOLVED: That a duly authenticated copy of this resolution be immediately submitted by the Secretary of State to Mr. Henry Warren, Commissioner of the Department of Environmental Protection. (H. P. 2181)

Comes from the House, Read and Adopted. Which was Read and Adopted, in concurrence.

On motion by Senator Pierce of Kennebec, Adjourned until Monday, March 15, 1982 at 9 o'clock in the morning.