

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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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 25, 1982

Senate called to order by the President.

Prayer by the Reverend Herbert Reid, Church of World Brotherhood, of Fairfield.

REVEREND REID: In our world of suffering, our heavenly Father, help us that we may reverently accept the lesson of the Passover, and the lesson of Gethsemane, namely that freedom itself was born in the soil of blood and sweat and tears. That Thy will may be done, on earth as it is in heaven. Amen.

Reading of the Journal of yesterday.

(Off Record Remarks)

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

Bill, "An Act to Adjust Fees for Licenses issued by the Real Estate Commission." (H. P. 1809) (L. D. 1794)

In the House, March 9, 1982, Failed of Enactment.

In the Senate, March 10, 1982, Passed to be Enacted, in non-concurrence.

Comes from the House, that Body Having Insisted and Asked for a Committee of Conference.

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

Senator SUTTON: Mr. President, I move that the Senate Insist and Joint In a Committee of Conference.

The PRESIDENT: The Senator from Oxford, Senator Sutton, moves that the Senate Insist and Joint In a Committee of Conference with the House.

Is this the pleasure of the Senate?

The motion prevailed.

**Committee Reports
House**

Leave to Withdraw

The Committee on Health and Institutional Services on, Bill, "An Act to Require Installation of Electrical Generators in Nursing Homes for Emergency Use." (H. P. 2112) (L. D. 2037)

Reported that the same be granted Leave to Withdraw.

Comes from the House, the Report Read and Accepted.

Which Report was Read and Accepted, in concurrence.

Ought to Pass—As Amended

The Committee on Aging, Retirement and Veterans on, Bill, "An Act to Revise the Military Laws of the State." (H. P. 2072) (L. D. 2020)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-678).

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

The Committee on Aging, Retirement and Veterans on, Bill, "An Act to Provide Retired Teachers, State Employees and Beneficiaries with a Cost-of-living Increase." (H. P. 1891) (L. D. 1877)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-679).

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

The Committee on Education on, Bill, "An Act to State Entitlement of Certain School Administrative Districts." (H. P. 1984) (L. D. 1956)

Reported that the same Ought to Pass as

amended by Committee Amendment "A" (H-685).

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

The Committee on Education on, Bill, "An Act to Clarify the Procedure for Budget Meetings." (Emergency) (H. P. 1730) (L. D. 1715)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-686).

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

The Committee on Marine Resources on, Bill, "An Act Relating to Emergency Closure of Contaminated Shellfish Areas." (H. P. 1734) (L. D. 1719)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-680).

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

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

Divided Report

The Majority of the Committee on Energy and Natural Resources on, Bill, "An Act to Promote Local Control of Hazardous Waste Facilities." (H. P. 2014) (L. D. 1984)

Reported that the same Ought Not to Pass.

Signed:

Sensors:

McBREAIRTY of Aroostook
REDMOND of Somerset
O'LEARY of Oxford

Representatives:

DEXTER of Kingfield
KIESMAN of Fryeburg
AUSTIN of Bingham
HUBER of Falmouth
JACQUES of Waterville

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

Signed:

Representatives:

HALL of Sangerville
MICHAUD of East Millinocket
MITCHELL of Freeport
DAVIES of Orono
MICHAEL of Auburn

Comes from the House, the Bill Passed to be Engrossed as amended by House Amendment "A" (H-677).

Which Reports were Read.

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

Senator TRAFTON: Mr. President, I would move that we Accept the Minority Ought to Pass Report, and would speak to my motion.

The PRESIDENT: The Senator has the floor. Senator TRAFTON: I have had an opportunity this morning to look over the Bill, LD 1984. I would like to call several things to your attention, essentially our actions of last Session, in the First Regular Session.

As you will remember, we had another piece of legislation before us at that time. We essentially repealed municipal authority to enact ordinances to control hazardous waste facilities. At the same time, we allowed four people to represent the municipal interests, with the Board of Environmental Protection.

This Bill takes another step in recognizing that the municipal officials will no longer have any real avenues to make their voices heard at the local level, because of that omission of their ability to use zoning ordinances.

This Bill would now allow them to have a voting privilege with the Board of Environmental Protection.

I think the point should be made that there will be ten members on the Board, so that by no means are we giving them a majority voice. They would be four voices out of fourteen. I don't think it's really fair to assume that they will be so parochial in their interests that they will all vote one way. I think that if they are going to have a meaningful, participatory role in making an important decision for their area, and that is whether a hazardous waste facility would be sited there, it is appropriate to allow them to have a vote.

So I would urge you this morning to allow that local control, and to vote for the Minority Ought to Pass Report.

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

Senator McBREAIRTY: Mr. President and Honorable Members of the Senate, I don't have any real strong feeling one way or the other on this Bill, but I would like to point out that we did, in last year's Bill, give quite a bit as far as towns taking part in the siting of hazardous waste facilities. We required that written notice to the officers of the municipality in which the proposed facility would be located. The municipality through its municipal officers shall be granted intervenor status in any proceedings for site review of a commercial hazardous waste facility. The Department shall reimburse the municipality the direct cost, not to exceed \$5,000 for participation in proceedings. The Governor may appoint a person to facilitate communication between applicant and the municipality. A public hearing within the municipality, in which the facility will be located is required. During any proceeding for site review of a commercial hazardous waste facility, the municipality, the legislative body, in which the facility is to be located may appoint four non-voting representatives to the Board. These non-voting members shall participate on the Board only for that site review until final disposition of the application, including any administrative or judicial appeals. A municipal member shall receive the same pay for each day and expenses as the regular member.

The only thing that bothers me a little bit is that if we pass this, we'll be setting a precedent, I think, and we could run into the same thing when we get ready to locate other controversial things within a town. It could weaken our State regulatory agencies.

Other than that, why, I have no problem.

I would like to point out that, that was the reason we did not go with this Bill, the Majority of us.

There has been real strong recommendations from the Trafton Commission to cut the DEP Board down to as few as three members. I don't know that this is going to happen. In another year, we're not going to recommend that this year, but another year after taking a closer look, we may cut the Board of Environmental Protection down.

If you go with this Bill as they've written it, you'll have fourteen members on this Board, four of whom will be municipal officers. They will have voting rights.

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

Senator PRAY: Mr. President, I'd like to pose a question to perhaps some member of the Energy and Natural Resources Committee. We debated an issue the other day, or last week or so, very similar to this in reference to local control. The concern at that time was in reference to oil spills or the spill of certain oils or detergents or so forth along the coastal areas. The Senate decided to give the municipalities an extra say in it.

How does this proposal, dealing with the hazardous waste facilities, differ from that of which we discussed and debated in reference to the oil spill issue?

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

Senator McBREAIRTY: Mr. President and Members of the Senate: in the oil spill, I believe we give the town itself, the people of the town, some authority in making the decision. They have to approve it. We didn't give them the authority to serve on the Board and be voting members of the Board. It's a separate deal altogether.

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

Senator PRAY: Thank you, Mr. President. (One moment, I'll find the Bill.) Ladies and Gentlemen of the Senate, in reference to the LD before us, we're now debating the issue to Accept the Ought to Pass Report. The original proposal itself allows, in Section 4, municipal zoning. My concern would be as to what the present law is in reference to that, as to whether municipalities would have the right to do any planning or zoning within their municipal boundaries in an attempt to, of course, as all zoning is, to prevent or to provide certain things in certain areas of the town. If they wanted to zone out a commercial hazardous waste facility, as to whether or not they presently have that ability, or if this law is not accepted, would they be denied that? Similar to us just a few days ago giving the municipalities the right to deal with it in reference to oil spills.

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

Senator McBREAIRTY: Mr. President and Members of the Senate: I believe this Section 4, the municipal zoning section, was taken out by an Amendment in the House, yesterday. So all we have now is, all we have to decide now is whether we have four non-voting or four voting members on that Board.

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

Senator TRAFTON: Mr. President, Men and Women of the Senate, I think the Senator from Penobscot has raised a very important point. I would call his attention to the Bill that we passed last year. In that Bill we specifically took away the municipalities' ability to use their zoning ordinances to determine whether or not hazardous waste facilities would be sited within their boundaries.

In lieu of that, at that time, we gave them four non-voting members. Albeit, we gave them opportunities to make their voices heard, but I question whether it was in a very meaningful way, particularly concerning that they have no local control now vis-a-vis their zoning ordinances.

If this Bill does not pass, the answer to the question of the good Senator from Penobscot, Senator Pray, is no, the municipalities do not have any authority under their zoning ordinances to, in any way, handle hazardous waste facilities.

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

Senator PRAY: Mr. President, a parliamentary inquiry. Am I correct that we are debating the Acceptance of the Majority Report, and are not addressing the action taken in the House in reference to the House Amendment?

The PRESIDENT: The Chair would advise the Senator that the motion is the Acceptance of the Ought to Pass Report, as amended by House Amendment "A", ultimately.

The Chair recognizes the Senator from Androscoggin, Senator Minkowsky.

Senator MINKOWSKY: Mr. President and Members of the Senate: This bill came somewhat as a surprise this morning. I had not had an opportunity to check with my own local municipal officials as to what their position would be on this particular matter.

With the past experience I've had with the Department of Environmental Protection, one thing that has become very clear, at least one project that is going on in the Town of Topsham, Maine, which is in my District at the present time, they never really assessed the

economic impact of what this will do to an area.

Greater than that, I feel it is about time that the municipal people have a direct voice in what is going on with the Department of Environmental Protection's Board. It is really somehow in the past with the experience I've had with them, that is the Department of Environmental Protection, the municipal officials who really articulate exactly what the feelings are locally, are just cast off casually as though you people are relatively unimportant. Really, they are the backbone of that municipality. I think it really has a significant value to be sure that they are included as voting members in any decision pertaining to any zoning or anything pertaining to hazardous waste in that particular municipality.

The PRESIDENT: Is the Senate ready for the question?

The Chair will order a Division.

Will all those Senators in favor of the motion by the Senator from Androscoggin, Senator Trafton, that the Senate Accept the Minority Ought to Pass Report of the Committee, please rise in their places to be counted.

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

15 Senators having voted in the affirmative, and 9 Senators having voted in the negative, the motion to Accept the Minority Ought to Pass, as amended, Report of the Committee in concurrence does prevail.

The Bill Read Once. House Amendment "A" was Read and Adopted, in concurrence. The Bill, as amended, Tomorrow Assigned for Second Reading.

Senate

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

Bill, "An Act to Remove Legislators from Membership on Educational Boards Under Multi-State Compacts." (S. P. 820) (L. D. 1917)

Second Readers

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

House

Bill, "An Act to Amend the Certification Process for Admission into Public Mental Retardation Institutions and to Clarify the Jurisdiction of the District Court." (H. P. 2228) (L. D. 2086)

RESOLVE, for Laying of the County Taxes and Authorizing Expenditures of Knox County for the Year 1982. (Emergency) (H. P. 2229) (L. D. 2087)

RESOLVE, for Laying of the County Taxes and Authorizing Expenditures of Hancock County for the Year 1982. (Emergency) (H. P. 2230) (L. D. 2088)

RESOLVE, for Laying of the County Taxes and Authorizing Expenditures of Penobscot County for the Year 1982. (Emergency) (H. P. 2231) (L. D. 2090)

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

Bill, "An Act Concerning the On-site Storage of Spent Nuclear Fuel." (H. P. 1928) (L. D. 1911)

Which was Read a Second Time.

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

Senator REDMOND: Mr. President, Members of the Senate, I am beginning to have my reservations about this Bill. It was introduced into the process as an emergency. Spent fuel being stored at Maine Yankee is not a safety problem. A bill to take care of spent fuel and radioactive waste disposal is working its way through Congress right now. This law, when enacted, would provide for a waste disposal facility funded by the utilities and operated by the federal government.

The spent fuel Bill before the Maine Legis-

lature right now is clearly unconstitutional, due to Federal pre-emption as outlined in the Atomic Energy Act, as its sponsor admits. Knowingly passing legislation which is unconstitutional makes a mockery out of the legislative process.

Congress and the federal bureaucracy already have the message that the public wants the radioactive waste disposal issues settled, and they're acting. If the Maine Legislature feels it must send a message to Washington on this issue, that message should take a form of a clear resolution, and not an unconstitutional law.

If a federal solution to the spent fuel and waste disposal problem has not been placed by the time the proposed law goes into effect, Maine Yankee could be shut down and still have the problem of having spent fuel stored at the plant. Maine Yankee would still have to store spent fuel, for lack of a place to send it.

This law is of no benefit to the people of Maine. However, it will cost Maine consumers plenty in the form of higher utility rates.

So, Mr. President, at this time, I'd like to move that this Bill and all its accompanying papers be Indefinitely Postponed.

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

Senator CONLEY: Mr. President and Members of the Senate, it's one thing, I agree with portions of the statements made by the good Senator from Somerset when he stated that this Bill is presently working itself through Congress. In fact, it's been working itself through Congress since 1948. Still, nothing has been resolved.

I think it's our job as members of this Body to protect the health and the welfare of the citizens of this State. I think it's time for us to send a message on high to the Congress of the United States, that we're serious about doing something with this nuclear spent waste, that we are concerned about the safety of the citizens of Maine.

For us to do nothing, for us to acquiesce, would again allow Congress to continue to stumble along. This is not in any way a Republican issue or a Democratic issue. It's an issue of the people. In fact, it was my privilege to join, I believe, three other members of the good Senator from Franklin, Senator Redmond's, party to co-sponsor this Bill, seeing that in the last session, one of a similar nature was defeated.

I would urge the Members of this Senate to stand up and let Washington hear that we in Maine are concerned with the problem. Let us pass this law. If we are pre-empting the Congress, let them take us to court, but let them get the message loud and clear that we want this problem resolved immediately.

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

Senator TROTZKY: Mr. President, and Members of the Senate, again we see another bill, I believe that this one is sponsored by the good Senator from Portland, Senator Conley.

If you want to send a message to Congress, let him send a resolution to Congress. We often send resolutions, but to put a bunch of unconstitutional anti-nuclear nonsense on the books of the State of Maine accomplishes absolutely nothing.

The PRESIDENT: Is the Senate ready for the question?

The Chair recognizes the Senator from Cumberland, Senator Conley.

Senator CONLEY: I request that when the vote is taken 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 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 Somerset, Senator Redmond, that LD 1911 and all its accompanying papers be Indefinitely Postponed.

A Yes vote will be in favor of Indefinite Postponement.

A No vote will be opposed.

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEA—Devoe, Hichens, Redmond, Sutton, Trotzky.

NAY—Ault, Brown, Bustin, Carpenter, Charette, Clark, Collins, Conley, Dutremble, Emerson, Gill, Huber, Kerry, McBreairey, Minkowsky, Najarian, Perkins, Pierce, Pray, Sewall, C. J. Shute, Teague, Trafton, Usher, Violette, Wood.

ABSENT—O'Leary.

A Roll Call was had.

5 Senators having voted in the affirmative, and 26 Senators having voted in the negative, with 1 Senator being absent, the motion to Indefinitely Postpone LD 1911 does not prevail.

The Bill was Passed to be Engrossed, in concurrence.

House—As Amended

Bill, "An Act to Create a State Set-aside System for Petroleum Products." (H. P. 2008) (L. D. 2022)

Bill, "An Act to Allow the Chairman to Appoint Members of the Public Utilities Commission to Serve as Hearing Examiners." (H. P. 1755) (L. D. 1745)

Bill, "An Act to Revise the Greater Portland Public Improvement Commission." (H. P. 1970) (L. D. 1945)

Bill, "An Act to Clarify and Make Corrections in the Inland Fisheries and Wildlife Laws." (H. P. 2200) (L. D. 2079)

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

Senate—As Amended

Bill, "An Act to Establish a Small Claims Court." (S. P. 743) (L. D. 1746)

Bill, "An Act to Implement the Single Trial Law." (Emergency) (S. P. 814) (L. D. 1910)

Bill, "An Act to Provide State Funding for Literacy Volunteers." (S. P. 847) (L. D. 1982)

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

Sent down for concurrence.

Bill, "An Act to Authorize Municipalities to Establish and Maintain Employment Offices." (S. P. 860) (L. D. 1993)

Which was Read a Second Time.

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

Senator MINKOWSKY: Mr. President and Members of the Senate, I find this particular Bill rather interesting, allowing the municipalities to get involved in the employment agency business with no subsidy from the State of Maine and to act as an agency for the State of Maine and to be held harmless.

It is made very clear in the Bill, itself, through its amendment that the State will not reimburse municipalities.

I am wondering where the municipality, with its endeavors at the present time to keep somewhat near a balanced budget, will get the extra money to offer this particular service.

I would certainly be very interested from somebody on the Committee on County and Local Government to give, at least, me an explanation as to what the relevance of this particular issue is.

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

Senator PERKINS: Mr. President, Ladies and Gentlemen of the Senate: Since I Chair that Committee where this Bill was heard and,

also, sponsored of the Bill, I would be happy to offer whatever information the good Senator would find.

This Bill was introduced with the co-sponsorship of the Senator from Penobscot and others with the idea that municipalities might someday in the future lose their employment offices.

Having had the experience of municipalities offering winterization and fuel assistance within their offices at no charge, it was the feeling of the Committee and of the sponsors that they could offer the print-outs from the Job Service in the same manner. Thus incurring no expense from either division and the reason the money was put in there was so that nobody would be travelling under the false pretense that it would be a reimbursable expense.

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

Senator MINKOWSKY: Mr. President and Members of the Senate: I think the intent and purpose as explained by the good Senator from Hancock, Senator Perkins, sounds very admirable as more or less a distribution center to pass out pamphlets. But the end result, I think, eventually you'll find that there will have to be municipal appropriation. That people will get used to going to a local municipal office, in which to look or seek employment.

What about our private employment agencies that are in competition with the State at the present time? I think that you are putting the municipality in a very awkward position to offer this particular service on the anticipation that local employment agencies run by the State of Maine might go under or be moved out for some particular reason.

Another, question Mr. President, I would like to pose through the chair to the good Senator, who is Chairman of that illustrious Committee, what was the position of the municipalities relative to relevant to this, larger municipalities?

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

Senator PRAY: Thank you, Mr. President. Mr. President and Ladies and Gentlemen of the Senate, to respond to the inquiries by the Senator from Androscoggin, Senator Minkowsky. One of the reasons this proposal is before you is because a number of municipalities requested it.

Last, earlier in this session when some of the federal cuts came down from the present administration, a number of job services offices were closed and a number of others were threatened to be closed prior to the action by Congress to reinstate some of that money.

Some of the rural areas of the State were concerned that they were going to be left with nothing. As a matter of fact, those of you who received lists of the Job Service Offices being closed it was clearly evident that the rural areas were going to be those areas which were being closed first, because of the one sparse population and the cost of operating the program.

In my Senatorial District, the town manager of Dover-Foxcroft called up and was talking along these lines, and as a matter of fact, has already entered into an agreement where they, the municipality, are providing the space free of charge to the present Job Services, so that they can continue operating there. That municipality is willing to make the commitment upon their own to attempt to keep the service which they have had over a number of years.

This Legislation, as amended, is only enabling legislation which would allow the municipalities the determination and decision as to whether or not they would want to enter such a program. True, the cost may be borne upon the municipalities, but the decision will be made by the town fathers of the community that wants to go that way.

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

sy.

Senator MINKOWSKY: Just one final remark. I can understand the trials and tribulations, when the Maine Job Service was in jeopardy. But that particular problem has been resolved. That's why I just don't see the necessity of continuing on with even allowing or enabling legislation to allow a municipality to go in to the Job Service business.

We have enough responsibilities at the local level without getting involved as an employment agency.

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

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

Senator PRAY: Thank you, Mr. President. To try to keep it brief this morning, there are a lot of us who feel that there is a certain amount of uncertainty of what's going to happen in Washington. It is true that this money was cut out and then Congress reacted and put the money back in. There are still attempts to balance the federal budget. We're going to be out of here, knock on wood here, in a couple of weeks. Congress will not be adjourning until after that. They can very well take that money, or a portion of that money out in those rural communities, which were cut in the past, could very well lose that service which they now have.

This legislation, as I said, would only enable those municipalities who want to make the commitment to continue on that.

I would hope we would give this Bill its Second Reading and sent it on its way.

The PRESIDENT: Is it now the pleasure of the Senate that this Bill be Passed to be Engrossed, as amended, and sent down for concurrence?

The Chair recognizes the Senator from Androscoggin, Senator Minkowsky.

Senator MINKOWSKY: Mr. President, at the end of my last statement, I requested that the Bill be Tabled for 1 Legislative Day.

The PRESIDENT: The Chair did not hear that, due to the long debate that preceded the motion.

The Bill, as amended, Passed to be Engrossed,

Sent down for concurrence.

Bill, "An Act Relating to Harness Racing at Agricultural Fairs, the State Stipend and Pari-mutuel Pools." (Emergency) (S. P. 864) (L. D. 2006)

Which was Read a Second Time.

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

Senator HICHENS: Thank you, Mr. President. I say there's always a first time for everything. I hope in the case of this, what we have before us today, is the last time, also.

If you'll notice on your calendar, we have under LD 2006, An Act Relating to Harness Racing at Agricultural Fairs, the State Stipend and Pari-mutuel Pools. This is up for its Second Reading today.

At the same time, on your hearing calendar, you have a Bill, LD 2006, which is the same Bill, to have a public hearing before the Committee on Taxation.

I have inquired everywhere that I know to inquire as to how a Committee can have a hearing on a Bill if it's already on the calendar, having come out of another Committee? I have been told that it has never happened before. We are setting a precedent by allowing this to happen today.

Back at the beginning of the Session, this Bill was referred to the Committee on Taxation. Several people out in the hall spoke to me, as Agricultural Chairman, reminding me that we had always had the horse racing bills before our Committee on Agriculture. I spoke to the Chairman of Taxation, the Senate Chairman. He said that it was alright to have it go to Agri-

culture.

It went over to the House. Apparently there was no discussion over there. And so it went to Agriculture. We had our hearing, two or three work sessions, and came out with an amended Bill, which apparently was satisfactory to all concerned.

Then the fur began to fly, because, apparently, the Co-Chairman of the Committee on Taxation was offended, because their Committee did not have a say on it. She has prevailed upon them to have a hearing this afternoon, which I think is entirely out of order.

I hope that we will pass this Bill for the Second Reading and send it down to the House. In the meantime, I can not see how they have the right to have a hearing on a Bill which is not in their possession.

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

Senator WOOD: Mr. President, Men and Women of the Senate, I'm in somewhat an awkward position, being on both Agriculture and Taxation. I will try to clarify what I think has been characterized a little unfairly to the House Chairman of that Committee, although I have my disagreements with her at times.

This Bill, last year, when we had the horse racing bill, it was in Taxation. It was not in Agriculture. We held hearings on it and we came out with the unanimous Ought Not to Pass or a Leave to Withdraw Report.

When the Bill was introduced this year, in this Body, it was referred to the Committee on Taxation. Then, after meeting with the Chairman, the House Chairman of that Committee along with the Commissioner of Agriculture and his people, it was determined that there was no taxing mechanism in this Bill at this time. It would be inappropriate for the Committee on Taxation to be referred to because it was not a taxing measure, but simply a result of the studies of the fairs.

It was my understanding, though, that if a taxing measure was added to it, it would be inappropriate for Agriculture to simply be reviewing that taxing measure. There was some discussion, although I'm not sure of any agreement, that if a taxing measure was added, it would be referred to Taxation.

Sure enough, when the Bill came before Agriculture, it had I think a very good hearing, a lot of support. I supported it. At the same time, a measure was put on. The sponsor of that measure suggested, in all fairness, that the Bill be referred to Taxation.

This is when the trouble developed. I think at that point, Taxation then assumed it was getting a Bill. This hearing was scheduled with the assumption that we would be getting the Bill re-referred to us. It was not done unilaterally by anyone. It was discussed at our Committee. It was my understanding that we were simply going to schedule the Bill, because we would get it at some time.

Yesterday it became apparent that this was not the case. I simply went along, because I think it's a good Bill. It deserves passing, but at the same time, I think that Taxation has been side-stepped.

There are taxing implications to this Bill. It should have gone to Taxation at some point and it has not. It is too late in the game to change that, but I think it's unfair to characterize anyone involved with the activity. I think we all acted in the best way that we knew how, and things just happened to get out of control.

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

Senator CONLEY: Mr. President and Members of the Senate, apparently we have a lot of loose time around here this morning.

Yesterday I thought I was a little bit confused when we had a bill before us that the sponsor of the legislation was trying to give the deep six. Then later in the day, the good Senator from York, if my retention period is staying with me, I recall that he made a motion on

the floor of the Senate to substitute the Bill and refer it to the Committee on Taxation. Apparently he collected his wits later in the day and withdrew that motion.

To make sure the record is straight on the Senate floor, the Committee on Appropriations reviews all bills that have been passed from one committee to the House or the Senate, and eventually ends up on the Appropriations Table. That grand Committee reviews all the dollars and cents that are to be expended by State government, and makes a recommendation to this Body here as to whether or not they should receive passage.

Maybe it's time for us to take a little break and get some of that spring air out there and clean out our cobwebs.

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

Senator CARPENTER: Mr. President, Ladies and Gentlemen of the Senate, being a member of neither Agriculture or Taxation, it would appear to me that we have got a real horse race going here between the two Committees as to which one of these Bills will get to the enacting stage first. It might be appropriate, for the benefit of the Retired Senator's Fund, that Senator Teague or Senator Wood should set up a little pari-mutuel pool in the back of the room as to which Committee will win the race.

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

Senator TEAGUE: I don't think I'll set up a betting pool in the Senate, but I would say that the public hearing will go on and the members of the Taxation Committee will hear the Bill this afternoon.

The Bill, as amended, Passed to be Engrossed.

Sent down for concurrence.

(Off Record Remarks)

Enactor

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

AN ACT to Provide Financial Assistance to Students of Osteopathic Medicine. (S. P. 831) (L. D. 1939)

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

Orders of the Day

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

Bill, "An Act to Establish the Cost of the Maine Forestry District in Fiscal Year 1982-83. (S. P. 842) (L. D. 1965) (Emergency)

Tabled—March 24, 1982 by Senator TEAGUE of Somerset.

Pending—Enactment.

This being an emergency measure and having received the affirmative votes of 28 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.

The President laid before the Senate the second Tabled and specially assigned matter: JOINT ORDER—relative to Taxation Committee reporting out a Bill regarding the State Tax Code. (S. P. 922)

Tabled—March 24, 1982 by Senator COLLINS of Knox.

Pending—Consideration.

On motion by Senator COLLINS of Knox, Retabled.

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

Bill, "An Act to Ensure Continuance of the Residential Conservation Services." (H. P. 1936) (L. D. 1916)

Tabled—March 24, 1982 by Senator COLLINS

of Knox.

Pending—Enactment.

On motion by Senator COLLINS of Knox, Retabled for 1 Legislative Day.

The President laid before the Senate the fourth 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) (Emergency)

Tabled—March 24, 1982 by Senator COLLINS of Knox.

Pending—Enactment.

This being an emergency measure and having received the affirmative votes of 26 Members of the Senate, with No 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.

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 Extend the Health Facilities Information Disclosure Act and to Authorize the Charging of Fees for the Dissemination of Information." (Emergency) (H. P. 2238) (L. D. 2096)

Comes from the House, referred to the Committee on Health and Institutional Services and Ordered Printed.

Which was referred to the Committee on Health and Institutional Services and Ordered Printed, in concurrence.

There being no objections all items previously acted upon with the exception of one item (L. D. 2006) previously held, were sent forthwith.

On motion by Senator Pierce of Kennebec, Recess until 3 o'clock this afternoon.

Recess

After Recess

The Senate called to order by the President.

(Off Record Remarks)

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

Enactors

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

AN ACT to Amend the Charter of the Lincoln Water District. (H. P. 2119) (L. D. 2041)

AN ACT to Revise the Charter of the Brunswick Sewer District. (H. P. 2097) (L. D. 2031)

AN ACT to Regulate the Harvest of Antlerless Deer. (H. P. 1754) (L. D. 1744)

AN ACT to Establish the Discount Rate for the Tree Growth Tax Law. (H. P. 2177) (L. D. 2069)

AN ACT Relating to the Board of Harbor Commissioners and its Powers for the Harbor of Portland. (H. P. 2198) (L. D. 2077)

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

AN ACT Excluding Wages of Certain Temporary Alien Workers from Unemployment Compensation Tax. (H. P. 1972) (L. D. 1947)

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

RESOLVE, Authorizing the Commissioner of Marine Resources to Convey an Easement over Certain State Land. (H. P. 2159) (L. D. 2059)

Which was Finally Passed and having been

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

Emergency

AN ACT Appropriating Funds for the Agent Orange Information Committee. (S. P. 945) (L. D. 2084)

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

Emergency

AN ACT to Amend the Maine Consumer Credit Code Regarding Educational Loans and Cosigner Notices. (S. P. 787) (L. D. 1852)

Emergency

AN ACT to Revise the Allocation of Funds to Provide Photographic Nonalterable Driver's Licenses and Identification Cards. (S. P. 823) (L. D. 1923)

Emergency

AN ACT to Amend the Law Establishing the Maine Self-Insurance Guarantee Association. (H. P. 2223) (L. D. 2082)

Emergency

AN ACT to Make Additional Allocations From the Regulatory Fund, Public Utilities Commission for the Fiscal Year Ending June 30, 1983. (H. P. 1908) (L. D. 1897)

Emergency

AN ACT Enabling the Department of Educational and Cultural Services to Administer the Education Block Grant Program. (H. P. 2086) (L. D. 2028)

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

Constitutional Amendment

RESOLUTION, Proposing an Amendment to the Constitution of Maine to Authorize the Credit of the State to be Loaned to Secure Funds for Loans to Parents of Maine Students Attending Institutions of Higher Education. (S. P. 920) (L. D. 2061)

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

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

Committee Reports

House

Ought to Pass

The Committee on State Government on, Bill, "An Act Creating the Housing Opportunities for Maine (HOME) Program and Governing Program Funds Appropriated by this Act to the Maine State Housing Authority. (Emergency) (H. P. 2071) (L. D. 2012)

Reported that the same Ought to Pass.

(Rep. HOLLOWAY of Edgecomb—abstained)

Comes from the House, the Bill Passed to be Engrossed, as amended by House Amendment "D" (H-683).

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

The Committee on Local and County Government on, RESOLVE, for Laying of the County Taxes and Authorizing Expenditures of Aroostook County for the Year 1982. (Emergency) (H. P. 2235) (L. D. 2093)

Reported that the same Ought to Pass pursuant to Joint Order (H. P. 1846).

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

Which Report was Read and Accepted, in concurrence, and the Resolve Read Once and

Tomorrow Assigned for Second Reading.

Ought to Pass in New Draft

The Committee on Education on, Bill, "An Act to Provide for the Direct Election of Community School District School Committees. (Emergency) (H. P. 1983) (L. D. 1955)

Reported that the same Ought to Pass in New Draft under Same Title, (H. P. 2237) (L. D. 2095)

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

The Committee on Energy and Natural Resources on, Bill, "An Act to Protect Freshwater Wetlands. (H. P. 1961) (L. D. 1934)

Reported that the same Ought to Pass in New Draft under New Title, "An Act to Identify Freshwater Wetlands." (H. P. 2236) (L. D. 2094)

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

Which Reports were Read and Accepted, in concurrence, and the Bills, in New Draft, Read Once and Tomorrow Assigned for Second Reading.

Divided Report

Eight Members of the Committee on Education on, Bill, "An Act Concerning Need Under the School Lunch Program. (H. P. 1774) (L. D. 1764)

Reported in Report "A" that the same Ought to Pass as amended by Committee Amendment "A" (H-684).

Signed:

Senator:

CLARK of Cumberland

Representatives:

MATTHEWS of Caribou

GOWEN of Standish

ROLDE of York

LOCKE of Sebec

THERIAULT of Fort Kent

MURPHY of Kennebunk

THOMPSON of South Portland

Three Members of the same Committee on the same subject matter reported in Report "B" that the same Ought Not to Pass.

Signed:

Senators:

TROTZKY of Penobscot

PIERCE of Kennebec

Representative:

CONNOLLY of Portland

Two Members of the same Committee on the same subject matter reported in Report "C" that the same Ought to Pass.

Signed:

Representatives:

BROWN of Gorham

BROWN of Livermore Falls.

Comes from the House, Report "A" Read and Accepted and the Bill Passed to be Engrossed as amended by Committee Amendment "A" (H-684).

Which Reports were Read.

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

Senator TROTZKY: We're on L. D. 1764, is that right?

The PRESIDENT: The Chair would answer in the affirmative.

Senator TROTZKY: I move the Senate Accept Report "B", the Ought Not to Pass Report of the Committee. I'd like to speak to my motion.

The PRESIDENT: The Senator has the floor.

Senator TROTZKY: Mr. President and Members of the Senate: I see this is one of the first times that Senator Pierce and myself are the same side of an issue, and with Representative Connolly, the House Chairman.

Essentially, this is a Bill that seems to come out of Millinocket every once in a while. The school lunch program, we have a provision whereby if a community, if a lack of need is shown for a school lunch program, the Committee is allowed a waiver for three years. The

State Board of Education allows them not to have the lunch program.

The original Bill came in and wanted a permanent waiver. Most of the Committee members felt that really wasn't necessary. Therefore, some of them felt they wanted to give Millinocket one more year, four years rather than three.

Well, essentially, to get a waiver, all the superintendent has to do is get his secretary to fill out a few forms, and come before the State Department of Education, the State Board. Millinocket has no problem getting the waivers, so really the three of us, Representative Connolly, myself, and Senator Pierce, felt that it really was unnecessary legislation.

I hope you wouldn't put more changes on the law books than are necessary, and Accept the Ought Not to Pass Report of the Committee.

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

Senator CLARK: Mr. President and Members of the Senate, oh, how I wish Senator Trotzky of the County of Penobscot and I were on the same side of this issue. I imagine you do, too.

I am sympathetic to the position of Senators Pierce and Trotzky, and House Chairman Connolly of Portland, in signing the Ought Not to Pass. I was convinced by the testimony at the public hearing that indeed, Millinocket, Maine is a unique city.

You see, it is the only city in the State of Maine, or the only LEA, as we call it in the Committee of Education, that has an hour and a half for lunch. Everybody goes home. In fact, school transportation is provided for those who live beyond the one quarter, one half mile perimeter. Students, teachers, and administrators, with the exception probably of one monitoring teacher, go home for lunch. It's really that simple, and it is truly that unique, for I know of no other educational unit in the entire State that mirrors that situation.

And so, because of the National School Lunch mandate which has been endorsed by this Maine Legislature in past years, the City, or Town, or whatever it is, the administrative unit, Millinocket, has to continually petition the State Department of Education and the Commissioner for a waiver. They have done so, year, after year, after year.

It is the assessment, as a result of an assessment, from the citizens of that unique municipality that they do not want a national hot lunch program, because they would rather go home, with relatives and/or parents, and have a meal within the family unit.

Obviously, that prompted a question from me, to make sure that little people, and perhaps not so little people, do have monitoring during that one and a half hour hiatus. I was assured by all the representatives of that municipality that indeed that is the case. As a matter of fact, it is even administered closely by the school administrators to make sure that particularly little people have an adult at home. That assurance was given. I guess I wasn't the only one, because the representative from the Department of Education have made similar inquiries in a monitoring capacity.

Because that is the way they would like to keep it, and I think that's really neat, I felt, with the Majority of the Committee on Education, that we should extend the waiver period from three years to four, so that by the time the waiver is granted, and probably the first ten months of the waiver has passed, that the administrators of that school and municipal officers do not have to begin the process of petitioning once again for the inevitable waiver request and the inevitable granting of that waiver request by State officials.

The officials representing both the municipality and the administrative educational unit in Millinocket agreed that they would move away from the original thrust of that Bill, which was a total waiver for ever and ever, to

accept the compromise which the Committee on Education tendered them, which would give them some relief from this petitioning process to seek the waiver. It was the relief that one year would give them that convinced the majority of the members of the Education Committee, as you can see from the Report, an obviously bi-partisan group, to support Report "A", Ought to Pass, as amended, which simply grants them an additional year and a little bit of relief from the petitioning or the waiver process.

While I agree that if we can't have Report "A", then we should have Report "B", I think Report "A" perhaps reflects more accurately the situation that is indeed unique to Millinocket.

Where I come from, our lunch period, we fondly call it the lunch hour, is twenty minutes. I didn't even know, it's not something I'm terribly proud of, but I would share it with you, that Millinocket is not the average 25 square miles like other municipalities across the State. It is contained in a teeny-weeny geographic area. Homes at the perimeter of the municipality's boundaries are accessible, not only for transportation from school, home for lunch, but transportation back to school. Since the Town provides that transportation, and encourages that continuance of nutrition within the family unit, I would urge you to defeat the pending motion, so that we may adopt the Majority Ought to Pass, as amended, Report "A".

The PRESIDENT: Is the Senate ready for the question?

The Chair will order a Division.

Will all those Senators in favor of the motion by the Senator from Penobscot, Senator Trotzky, that the Senate Accept the Ought Not to Pass Report "B" of the Committee, 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 15 Senators having voted in the negative, the motion to Accept the Ought Not to Pass Report "B" of the Committee does not prevail.

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

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

**Communication
Senate Chamber
Presidents Office**

March 25, 1982

Honorable Dana C. Devoe
Honorable Barry J. Hobbins
Chairmen
Committee on Judiciary
State House
Augusta, Maine

Dear Committee Chairmen:

Please be advised that Governor Joseph E. Brennan is nomination Earl J. Wahl of Calais for appointment to the Maine District Court, Fourth District Seat.

Pursuant to Title 4 MRSA Section 157, this nomination will require review by the Joint Standing Committee on Judiciary and confirmation by the Senate.

Sincerely,
S/JOSEPH SEWALL
President of the Senate
S/JOHN L. MARTIN
Speaker of the House
(S. P. 958)

Which was Read and referred to the Committee on Judiciary.

Sent down for concurrence.

**Committee Report
Senate**

Ought to Pass — As Amended

Senator McBreairty for the Committee on Energy and Natural Resources on, Bill, "An Act to Protect the Atlantic Salmon Fishery in the Lower Penobscot River from Veazie to the Southernmost Point of Verona Island." (S. P. 906) (L. D. 2048)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (S. 436).

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

Sent down forthwith for concurrence.

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

**Communications
Committee on State Government**

March 25, 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 Roderick E. Farnham 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:	3
	Representatives:	8
NAYS:	Senators:	0
	Representatives:	0

ABSENT: Rep. Holloway, Rep. Dillenback

Eleven 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 Roderick E. Farnham 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 Roderick E. Farnham 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, Charette, Clark, Collins, Conley, Devoe, Dutremble, Emerson, Gill, Hichens, Huber, Kerry, McBreairty, Minkowsky, Najarian, Perkins, Pray, Redmond, Sewall, C.; Shute, Sutton, Usher, Violette, Wood, The President-J. Sewall.

ABSENT—Carpenter, O'Leary, Pierce, Teague, Trafton, Trotzky.

No Senators having voted in the affirmative and 27 Senators in the negative, with 6 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 Roderick E. Farnham is confirmed.

Committee on State Government

March 25, 1982

The Honorable Joseph Sewall
President of the State 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 Annalee Z. Rosenblatt 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:	3
	Representatives:	8
NAYS:	Senators:	0
	Representatives:	1 (Rep. Patrick Paradis)

ABSENT: Re. Holloway 1

Eleven members of the Committee having voted in the affirmative and 1 in the negative, it was the vote of the Committee that the nomination of Annalee Z. Rosenblatt 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 Annalee Z. Rosenblatt 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, Charette, Clark, Collins, Conley, Devoe, Dutremble, Emerson, Gill, Hichens, Huber, Kerry, McBreairty, Minkowsky, Najarian, Perkins, Pray, Redmond, Sewall, C.; Shute, Sutton, Teague, Trafton, Usher, Violette, Wood, The President.

ABSENT—Carpenter, O'Leary, Pierce, Trotzky.

No Senators having voted in the affirmative and 29 Senators in the negative, with 4 Senators being absent, and none being two-thirds of the membership present, it is the vote of the Senate that the Committee's recommendation be accepted. The nomination of Annalee Z. Rosenblatt is confirmed.

**Committee Report
House
Divided Report**

The Majority of the Committee on Judiciary on,

Bill, "An Act to Amend the Child Support Laws to Conform with federal statutes. (H. P. 1839) (L. D. 1839)

Reported that the same Ought to Pass in New Draft under New Title, "An Act to Amend the Child Support Laws", (H. P. 2184) (L. D. 2070).
Signed:

Senators:

DEVOE of Penobscot
CONLEY of Cumberland
KERRY of York

Representatives:

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

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

Signed:

Representative:

CARRIER of Westbrook

Comes from the House, the Bill in New Draft under New Title Passed to be Engrossed as amended by House Amendment "A" (H-671).

Which Reports were Read. The Majority Ought to Pass, in New Draft under New Title, Report of the Committee Accepted, in concurrence, and the Bill, in New Draft, Read Once. House Amendment "A" was Read.

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

Senator DEVOE: Thank you, Mr. President. Mr. President and Members of the Senate, I move the Indefinite Postponement of House Amendment "A" (H-671).

What that Amendment did was put into the statutes or put onto the Bill a requirement that after there had been Departmental review of action dealing with Departmental handling of non-support obligations of parents, they had to send notice to the parent of the review of the action by the Department by registered or certified mail.

It has been the universal experience of the Department that many people refuse to accept registered or certified mail notices, although they will accept ordinary first class mail notices.

This Committee, as you can see by the report, had a 12 to 1 Report and I would like to urge the Senate to go along with the motion to Indefinitely Postpone House Amendment "A".

The PRESIDENT: The Senator from Penobscot, Senator Devoe has moved that the Senate Indefinitely Postpone House Amendment "A". Is this the pleasure of the Senate?

The Chair recognizes the Senator from Cumberland, Senator Conley.

Senator CONLEY: Mr. President, I just want to rise and concur with the good Senator from Penobscot, this Bill is probably one of the most difficult bills that we have dealt with in this session.

This issue had been discussed in Committee, and the vast majority of us felt that this Amendment was not needed to the Legislation.

House Amendment "A" (H-671) was Indefinitely Postponed in non-concurrence. The Bill was Tomorrow Assigned for Second Reading.

Orders of the Day

The President laid before the Senate:

An Act Excluding Wages of Certain Temporary Alien Workers from Unemployment Compensation Tax. (H. P. 1972) (L. D. 1947) Tabled earlier in today's session, pending Enactment.

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

Senator PRAY: Mr. President and Ladies and Gentlemen of the Senate, as I look over the Enactor of this Bill and try to fit it into the section of the Labor and Industry Laws under Title

26, the more I look at the two, I become confused as to the attempts of the issue, though I think I clearly understand them.

My concern arises over a situation which occurred in my Senate District about a year or so ago, when a number of strawberry pickers were arrested up in the Milo area, because one, they were illegal aliens in there, but doing that harvesting of a particular crop.

I notice that this one limits it to apples, but I would like to have some reassurance, or some direction from members of the Labor Committee, which heard this Bill, as to the exact problem which is trying to be addressed by this proposal. If someone from the Labor Committee could direct themselves to that.

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

Senator DUTREMBLE: Mr. President, Ladies and Gentlemen of the Senate, first of all the Bill was presented, because in the fall when it's apple season there are a lot of Jamaicans that are imported to pick apples, namely because there is no local labor supply available for apple picking.

When the Bill originally came in, it wasn't specifically stated that we were talking about apple picking, or apple pickers and this is why the amendment was passed, to stipulate that we are talking specifically about apple pickers and that it can't be used in another agricultural industry, or any other type of work in the State of Maine.

I think that the Bill is a good one, it meets the needs that have been shown to us, and the Committee Report was an 11 to 2 vote accepting the Bill and I really see no problem with it at all.

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

Senator PRAY: Mr. President, Ladies and Gentlemen of the Senate, first of all I am not going to imply that there is anything wrong with the proposal. Also, I would just point out that many times unanimous reports never make it all the way through, so 11 to 2 reports doesn't always say that the Senate hasn't seen the light of day yet, in its wisdom on particular proposals.

My concern thus becomes then, if I have a particular agricultural area which deals with the growing of strawberries and they use aliens to pick the crop there, then probably they are using them because they have already proven that there is no local force to do this. If that is true, then why are we exempting those who harvest apples, and not these other agricultural products?

The confusion that I have in trying to relate this to the Title 26, under sub-section 1043 we are amending and putting in sub-sub-section 11. When I look at the law, sub-section 11, deals with agricultural labor. When we get over into sub-section 11 we are talking about the definition for employment. Why was this not included under the agricultural section versus being put under the employment section, since clearly it says, agricultural labor in the first two words of the Bill itself?

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

Senator SEWALL: Thank you, Mr. President. In answer to the gentleman's question, we did have our staff study it and as you know it got scrutinized very closely in the House when it was brought up twice and passed by a heavy margin.

It doesn't deal at all with strawberries because the only problem that we had in the State has been with the apple pickers and the problem and there has been no problem up until this time, when suddenly there was a question of whether or not you had to pay unemployment taxes when these pickers could never collect, no matter what. The Jamaicans could not collect. That is all that we are dealing with.

The only problem that the Department saw was with the apple industry and none other.

The PRESIDENT: The Chair recognizes the

Senator from Penobscot, Senator Pray.

Senator PRAY: Thank you, Mr. President. Ladies and Gentlemen of the Senate, while I can understand perhaps that it's gone through the House, not only two readings thus far, and been through the Senate, and that the marvelous, excellent individuals up on the fourth floor have probably done their research and done the drafting of this proposal, one reason we have an Errors and Inconsistencies Bill which is always usually so long is because we, in our wisdom, do, on occasion, make mistakes.

Other than addressing the fact that I think that the law is being applied to the wrong section, or sub-section of the law, because it has been taken out of agricultural labor section and definition, and put under the employment definition, I do have some concerns and reservations as to the of attempts this proposal. My good seatmate, the Senator from Cumberland, just asked me if this would bring down the price of apples. I don't think it will, to be realistic, but it's going to cut down the cost of the harvesting of those apples.

The purpose and the intent of the Unemployment Compensation Fund is to assure and to tax individuals who are employed in this State, and their employers through those wages that they pay, that if an individual becomes unemployed, there is a fund there for him to collect. Every individual who is paying into that fund is not necessarily going to be drawing from that fund. But because he is part of the labor market, he is, in some form, contributing to that overall fund.

Several years ago, I had the distinct pleasure of serving on the Labor Committee. At that time, there was a great deal of unemployment in this State and across the country. The unemployment fund was in trouble. There was some question as to whether or not we were going to raise the tax, or borrow from the federal government. At the hearing that we had on that proposal, the Maine Merchant's Association, the Chamber of Commerce, AIM, and everybody came in and said to us, borrow the money. The reason they wanted to borrow the money, because a number of other states were in the same problem, and they borrowed the money. They borrowed the money, and even though they had gone past the time period of which they were supposed to pay it back, the federal government at that stage of the game, had never assessed a penalty on them, or demanded payment back. We, in our wisdom at that time, decided we would borrow from the federal government. That issue has been addressed several times since then. Presently the fund is slowly working its way into a more stable situation.

What we are doing here, in one segment, and I have absolutely no idea as to how many individuals we would be talking about, we are taking a group of individuals in the harvesting of apples, and we are going to exempt them. We have alien laborers that come in in other areas, and we're not going to exempt them.

Well, I think in a short time period, we're going to be exempting the strawberry pickers and we're going to be eventually exempting the loggers, and the wood harvesters, as well. As pointed out, on some occasions, the potato pickers as well.

If this continues, and we continue these exemptions, we're going to put the fund back in that same situation, where it's going to be in trouble again.

I think that if they are coming to this State, and they are taking jobs away from Maine people, though there may be an argument over whether or not there are enough people there available or not, they're clearly, clearly are being employed within this State and being paid wages by Maine employers. The purpose of that fund and that account was that any individual that is employed in this State, that their wages would be taxed for the purpose of those economic situations in which unemployment

funds have to be drawn for those individuals who, through no fault of their own, are unemployed.

I would hope that we could Indefinitely Postpone this Bill and I make that motion.

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

Senator SUTTON: Mr. President, Ladies and Gentlemen of the Senate, I find it rather interesting and nice opportunity to have the opportunity of once again debating the good Senator from Penobscot, after several years of not being on the Labor Committee together. He was wrong many times before, and he is wrong again.

The fact that the unemployment fund ran out of money back along has absolutely nothing to do with this Bill. You talk about blowing smoke at something, absolutely nothing to do with this Bill.

He talks about the fact that we have unemployment and so that people who work in this State and become unemployed or in this country, have the opportunity to draw unemployment. Not so with Jamaican workers that come here. Absolutely not so.

Right now we have a problem with the apple pickers. We are not, Ladies and Gentlemen, taking jobs away from Maine people. There are no one to pick apples. Down our way, we have many, many orchards in Oxford County. We haven't tried turning the high school kids out to pick them like they do potatoes in Aroostook County, but maybe we could do that. Although I don't think we'd get the crop in then.

The only way that our orchards can get apples is to bring Jamaicans in. It's absolutely ludicrous that they should pay unemployment compensation to people who are coming from another country who come in, do their job, and go home again, and never will have the opportunity to draw unemployment.

One further thing, the good Senator from Penobscot talks about why not do it for everybody? My answer to that is, why should we throw a net over the whole business community in the State of Maine, to solve one problem in one place? If we have problems with strawberries later, let's come back and address strawberries. If we have problems with blueberries later, let's come back and address it. Right now we've got a problem with picking apples. We've got a very sensible, straightforward, bipartisan approach to the problem. Let's solve it and not get caught up in the smoke screen.

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

Senator PRAY: Thank you, Mr. President.

The PRESIDENT: The Chair understands the Senator from Penobscot, Senator Pray, asks Leave of the Senate to speak a fourth time.

Senator PRAY: Mr. President, I believe a new motion has been made to Indefinite Postpone, thus from the first time it was pending Enactment, and I made the Indefinite Postponement the last time.

The PRESIDENT: The Chair doesn't intend to debate with the speaker. The Chair hears no objection. The Senator may proceed.

Senator PRAY: Thank you, Mr. President. Mr. President, Ladies and Gentlemen of the Senate, in reference to a smoke screen, it's clearly not an attempt for a smoke screen in discussing the issue. I'm not saying that there isn't a problem with the apple pickers, thank you very much, with the apple pickers in this State, and the fact that we need aliens to come in here and help pick them up.

What we're talking about is an unemployment tax which is, in this State, roughly, at a beginning, right now around 3.2%, if I remember correct, and some, depending on their filed and so forth, would be as high as 3.6%.

We're talking about solving the crisis which the Senator from Oxford, Senator Sutton, referred to in the apple industry by exempting on wages in which our minimum wages, 3.2% of

those wages, is that going to solve the problem? Is the price of the apples going to go down 3.2% because of this? The Senator himself is shaking his head and throwing his hands up as if he doesn't know.

The question here today is not whether or not we're going to save the apple industry and their harvesting. It is not whether or not Jamaicans coming to the State of Maine are going to be allowed to collect unemployment. It's the question of the fund and who pays into the fund and who doesn't pay into the fund. That's the question. That's the one that concerns me.

If the rest of you are concerned and see it as an apple issue, then be it that as it is. That is clearly your right. That's all you have to satisfy in this situation.

I think that it's the wrong approach to take. I think that in the long run, that it will come back to bother this place.

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

Senator CONLEY: Mr. President and Members of the Senate, I take umbrage to the good Senator from Oxford, Senator Sutton, when he starts getting into new turf and attacking my Assistant Floorleader.

You know, several years ago, I went to the hospital to have an operation on a hernia. The next thing I knew, the same surgeon took out my appendix at the same time. It made a lot of sense to me. I didn't want to go under that ether again, and I didn't want to get back to another major surgery job.

It looks to me like we're doing a real surgery job on this fund that the good Senator from Penobscot keeps referring to. If other employers around the State want to pick up the cost when this thing starts running short on revenue, I think we'll all be faced with a good, serious problem then.

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

Senator REDMOND: Mr. President and Members of the Senate, I'd like to pose a question to, I suppose, the good Senator from Penobscot. He appears to have a lot of knowledge in this area. This is a seasonal occupation, and the question is, have they verified to see if the people from Maine, when they go north of the border do some seasonal work there, is there a reciprocity whereby they're exempted, the same as what this Bill would ask for? Because sometimes they do work up reciprocities.

I would suggest that if we don't have the answer, that this is a serious enough matter. We don't want to start a war along the border. I think we should ask our Maine-Canadian office to check that out.

The PRESIDENT: The Senator from Somerset, Senator Redmond, has posed a question through the Chair to any Senator who may care to answer.

The Chair recognizes the Senator from Penobscot, Senator Pray.

Senator PRAY: Would the Senator please restate his question?

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

Senator REDMOND: Mr. President and Members of the Senate, the question is, do any reciprocities exist between our neighbors to the north with regards to unemployment charged to seasonal occupations, from aliens?

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

Senator DUTREMBLE: My understanding, Mr. President and Ladies and Gentlemen of the Senate, the purpose of the Bill, my understanding, was that there is no reciprocity with Jamaica and there is with the countries north and south of us, mainly Canada and Mexico.

I don't want anybody to get the misunderstanding that I wanted to attach the integrity of the unemployment fund. I think the good Senator from Penobscot understands that I have a great deal of respect for the unemployment fund.

But when the only purpose of the unemployment fund, in this case, is to increase the cost of harvesting apples, then I see no purpose why an employer should pay the unemployment fund, when there are absolutely no benefits to be reaped by anyone.

The only purpose, right now, for this tax to the apple harvesters, is to just increase his costs. I think that we should pass this Bill and do away with this.

The PRESIDENT: Is the Senate ready for the question?

The Chair will order a Division.

Will all those Senators in favor of the motion by the Senator from Penobscot, Senator Pray, that the Senate Indefinitely Postpone LD 1947, please rise in their places to be counted.

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

4 Senators having voted in the affirmative, and 20 Senators having voted in the negative, the motion to Indefinitely Postpone does not prevail.

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:

Bill, "An Act Related to Informed Consent and Determination of Best Interest for Those Unable to Give Informed Consent for Sterilization. (H. P. 2179) (L. D. 2065)

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 Collins of Knox, Adjourned until 9:30 o'clock tomorrow morning.