

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

***One Hundred and Eleventh
Legislature***

OF THE

STATE OF MAINE

Volume I

FIRST REGULAR SESSION

December 1, 1982 to May 13, 1983

STATE OF MAINE
One Hundred and Eleventh Legislature
First Regular Session
JOURNAL OF THE SENATE
Augusta, Maine
February 16, 1983
Senate called to order by the President.

Prayer by Pastor Otis Goodwin of Calvary Bible Church of North Whitefield
PASTOR GOODWIN: Let us humble ourselves before the Lord.

Dear Lord, our Heavenly Father, we just thank you this morning that we can come before You, Lord, recognizing You, Lord, as, the Lord, God Almighty, and Lord, we thank You for that.

Lord, we pray this morning that You would disperse wisdom and understanding; Lord, that You'd disperse, most of all, love. We know Lord that, that was Your greatest Commandment, Lord, that we love one another. Lord, we know that this is so important.

Lord, I pray this morning, that You'd disperse much understanding here in these great halls, this morning.

Lord, we thank You for these men. Lord, we thank You for the dedication that they have given thus far, these Senators, Lord. Lord, give them much this morning, guide and protect them, and Lord, in this time may we just for a few moments, Lord, be mindful of those, Lord, throughout the world that have so much less than we. Lord, make us mindful of the suffering that goes on. Make us mindful, Lord, of the needs, and Lord, let us help here in some small way that this might be justified.

Lord, give strength, give wisdom, and give love this morning, here, in this Senate Chamber.

We pray in the Name of our Lord and Savior, Jesus Christ. Amen.

Reading of the Journal of yesterday.

(Off Record Remarks)

**Paper from the House
House Paper**

BILL, "An Act to Adjust the Service Fee and Allocations of the Low-level Waste Siting Funding, and to Adjust the Membership of the Low-level Waste Siting Commission." (Emergency) (H. P. 568) (L. D. 663)

Comes from the House referred to the Committee to Energy and Natural Resources and Ordered Printed.

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

Communication

The Following Communication: (H. P. 618)

State of Maine
Department of State
State House Station 101
Augusta, Maine 04333

Division of Public Administration

February 14, 1983

To the Honorable 111th Legislature of the State of Maine

Attention: House of Representatives,
Clerk Pert

Info: Senate, Secretary O'Brien

I have the honor to transmit herewith an initiated bill, "AN ACT to Repeal the Law Providing an Open Season on Moose," and the results of the examination by this office of the initiative petitions relative to it.

The minimum number of valid signatures required to initiate this legislation is 37,026. On October 25, October 29 and November 1, 1982, our office received 2,049 petitions said to contain 41,090 signatures. After extensive review we have determined the number of valid signatures to be 39,942.

In view of the foregoing determination, I hereby certify that these petitions have met the

constitutional requirements of the minimum of 37,026 valid signatures. Since the petitions have previously satisfied the constitutional requirements in all other respects, under the provisions of Article IV, Part Third, Section 18, of the Constitution of Maine, I do hereby declare this initiative petition to be valid. In the event the Legislature rejects this initiative proposal, a referendum election will be called for November, 1983.

Respectfully,
/S/ JAMES S. HENDERSON
Deputy Secretary of State

Comes from the House, Read and Ordered Placed on File. The Initiated Bill, An Act to Repeal the Law Providing an Open Season on Moose (Initiated Bill No. 1) (L. D. 743).

Comes from the House, referred to the Committee on Fisheries and Wildlife.

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

The Accompanying Bill, An Act to Repeal the Law Providing an Open Season on Moose (I. B. 1) (L. D. 743) was referred to the Committee on Fisheries and Wildlife, in concurrence.

Senate Papers

BILL, "An Act to Change the Seed Potato Board." (S. P. 249) (Presented by Senator CARPENTER of Aroostook) (Cosponsor: Senator McBREAIRTY of Aroostook)

Which was referred to the Committee on Agriculture and Ordered Printed

Sent down for concurrence.

BILL, "An Act to Establish the Cost of the 1983 Spruce Budworm Suppression Project." (Emergency) (S. P. 250) (Submitted by the Department of Conservation pursuant to Joint Rule 24) (Presented by Senator PRAY of Penobscot) (Cosponsors: Senator McBREAIRTY of Aroostook, Representative MASTERMAN of Milo and Representative MICHAUD of E. Millinocket)

Which was referred to the Committee on Appropriations and Financial Affairs and Ordered Printed.

Sent down for concurrence.

BILL, "An Act to Require State Certification and Licensure for Blasters." (S. P. 253) (Presented by Senator BROWN of Washington)

Which was referred to the Committee on Business Legislation and Ordered Printed.

Sent down for concurrence.

BILL, "An Act to Clarify the Rights of Health Care Providers." (S. P. 252) (Presented by Senator PERKINS of Hancock)

Reference to the Committee on Business Legislation suggested.

On motion by Senator CARPENTER of Aroostook, Tabled for 1 Legislative Day, pending Reference.

BILL, "An Act Reducing the Experience Period for Receiving a Grade V Sewage Treatment Operator's License." (S. P. 251) (Presented by Senator TWITCHELL of Oxford)

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

Sent down for concurrence.

BILL, "An Act to Amend the Adult Protective Services Act." (S. P. 255) (Presented by Senator BUSTIN of Kennebec) (Cosponsors: Senator GILL of Cumberland, Representative NELSON of Portland and Representative BRANNIGAN of Portland)

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

Sent down for concurrence.

BILL, "An Act to Increase the Fees and Expenses for Medical Examiners." (S. P. 254) (Presented by Senator BROWN of Washington)

Reference to the Committee on Health and

Institutional Services suggested.

On motion by Senator CARPENTER of Aroostook referred to the Committee on Appropriations and Financial Affairs and Ordered Printed.

Sent down for concurrence.

BILL, "An Act Concerning the Hours during which an Agency Liquor Store may be Open." (S. P. 256) (Presented by Senator PRAY of Penobscot)

Which was referred to the Committee on Legal Affairs and Ordered Printed.

Sent down for concurrence.

BILL, "An Act Relating to the Tree Growth Tax Law." (S. P. 257) (Presented by Senator TEAGUE of Somerset)

BILL, "An Act to Partially Exempt Retirement Pay from Maine State Income Tax." (S. P. 258) (Presented by Senator BROWN of Washington)

BILL, "An Act Concerning Property Tax Exemptions for Veterans." (S. P. 259) (Presented by Senator CHARETTE of Androscoggin) (Cosponsors: Senator CARPENTER of Aroostook and Representative THERIAULT of Fort Kent)

BILL, "An Act to Allow Plantation No. 14 and the Town of Cooper to Withdraw from the Maine Forestry District." (S. P. 260) (Presented by Senator BROWN of Washington) (Cosponsor: Representative MOHOLLAND of Princeton)

BILL, "An Act to Clarify the Definition of Casual Sales under the Sales Tax Law." (S. P. 261) (Presented by Senator WOOD of York) (Cosponsor: Representative RIDLEY of Shapleigh)

Which were referred to the Committee on Taxation and Ordered Printed.

Sent down for concurrence.

BILL, "An Act to Require Baffles in any Interstate Tank Carrier of Hazardous Waste Shipments." (S. P. 262) (Presented by Senator BROWN of Washington)

BILL, "An Act to Require the Use of Seat Belts in all Motor Vehicles." (S. P. 263) (Presented by Senator BROWN of Washington) (Cosponsor: Representative BAKER of Portland)

Which were referred to the Committee on Transportation and Ordered Printed.

Sent down for concurrence.

**House Papers
Change of Reference**

The Committee on Transportation on BILL, "An Act to Exempt Carriers of Wood Products from Cargo Insurance Requirements." (H. P. 63) (L. D. 69) Reported that the same be referred to the Committee on Business Legislation.

Comes from the House the Report Read and Accepted and the bill referred to the Committee on Business Legislation.

Which Report was Read and Accepted in concurrence, and the bill referred to the Committee on Business Legislation in concurrence.

Ought to Pass

The Committee on Fisheries and Wildlife on BILL, "An Act Concerning the Marking of Wild Birds." (H. P. 156) (L. D. 181) Reported that the same Ought to Pass.

The Committee on Judiciary on BILL, "An Act to Transfer Fayette from the Northern Kennebec to the Southern Kennebec Judicial Division of the District Court." (H. P. 172) (L. D. 202) Reported that the same Ought to Pass.

The Committee on Transportation on BILL, "An Act to Repeal the Requirement for an Audible Warning When Passing in a Motor Vehicle." (H. P. 212) (L. D. 256) Reported that the same Ought to Pass.

Come from the House, the Reports Read and Accepted and the Bills Passed to be Engrossed. Which Reports were Read and Accepted, in

concurrence. The Bills Read Once and Tomorrow Assigned for Second Reading.

Ought to Pass in New Draft under New Title

The Committee on Transportation on BILL, "An Act to Establish a Directional Sign at Exit 8 of the Maine Turnpike for Southern Maine Vocational-Technical Institute." (H. P. 21) (L. D. 17) Reported that the same Ought to Pass in New Draft under New Title, BILL, "An Act to Establish Directional Signs on the Maine Turnpike, one at Exit 7 for the Southern Maine Vocational-Technical Institute, and another at Exit 4 for the University of New England." (Emergency) (H. P. 585) (L. D. 666)

The Committee on State Government on BILL, "An Act Establishing Authority for a Forms Management Function Within the Department of Finance and Administration, Bureau of Purchases." (H. P. 82) (L. D. 91) Reported that the same Ought to Pass in New Draft under New Title, BILL, "An Act Relating to the Purchasing and Printing of Forms for State Government." (H. P. 584) (L. D. 665)

The Committee on Transportation on BILL, "An Act to Exempt Certain Fire Trucks From the Motor Vehicle Inspection Laws." (H. P. 84) (L. D. 93) Reported that the same Ought to Pass in New Draft under New Title, BILL, "An Act Pertaining to Inspection of Fire Trucks." (H. P. 586) (L. D. 667)

Come from the House, the Reports Read and Accepted and the Bills, in New Draft under New Title, Passed to be Engrossed.

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

Ought to Pass in New Draft

The Committee on Transportation on BILL, "An Act Regarding Passengers on Motorcycles." (H. P. 76) (L. D. 81) Reported that the same Ought to Pass in New Draft under same title (H. P. 587) (L. D. 668)

Comes from the House, the Report Read and Accepted, and the Bill, in New Draft, Passed to be Engrossed.

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

Divided Report

The Majority of the Committee on State Government on JOINT RESOLUTION to Ratify an Amendment to the Federal Constitution to Provide for Representation of the District of Columbia in the Congress. (H. P. 257) (L. D. 307) Reported that the same Ought to Pass.

Signed:
Senators:

VIOLETTE of Aroostook
BALDACCI of Penobscot

Representatives:

SPROUL of Augusta
COOPER of Windham
LaPLANTE of Sabattus
GWADOSKY of Fairfield
KETOVER of Portland
PARADIS of Augusta

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

Signed:
Senator:

HICHENS of York

Representatives:

HOLLOWAY of Edgecomb
DILLENBACK of Cumberland
SALSBURY of Bar Harbor
LEBOWITZ of Bangor

Comes from the House, the Majority Report Read and Accepted and the Joint Resolution Adopted.

Which Reports were Read.

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

Senator HAYES: Mr. President, Men and

Women of the Maine Senate, the Bill to Ratify an Amendment to the Constitution Providing for Representation to the District of Columbia in Congress, represents another link in a historical process to make this nation one of equality and full representation.

The citizens of the District of Columbia with a population of six hundred and fifty thousand, greater than four states of the union, have for two hundred years been denied their full rights as citizens.

It is an honor to participate in this historic event providing our fellow countrymen full voting representation in the United States Congress.

In 1978 the House of Representatives and the Senate of the United States, voted by more than a two-thirds majority to approve a Constitutional Amendment to provide full representation for these citizens.

This proposal is yet another extension of the political rights of our people. This movement toward a democratic society has been slow and uneven since the ratification of our Constitution in 1789. At that time only white males with property were eligible to vote in elections. The property exclusions were the first to go. Then women received the right to vote in 1920, one hundred and thirty-one years later. Finally, in 1965, the "Voting Rights Act" under Democratic President Johnson provided for the registration, and electoral participation of blacks in America.

The present amendment to the Constitution will further provide us with a truly democratic society.

It is an honor to be in the Maine Legislature which passes the Resolution to ratify this amendment.

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

Senator COLLINS: Mr. President it is a pleasure to renew, today, a debate that started nearly two hundred years ago, perhaps more than that.

When we structured our Federal Government with respect to its Legislative Branch we made a decision, that is our forefathers made a decision that the people, as people, should be represented in a House of Representatives. We made a decision that the states, as states, should each be represented by two senators.

My principle quarrel with the "D.C. Amendment" is that in this case we are asked to give the rights of a state, to an entity which is not a state, and which does not, under this act, assume all of the powers, and all of the duties of a state. When we do that, I think, we breach an important fundamental concept.

If we were to make the District of Columbia a full state so that it had all of the powers and all of the duties of every state, every other state, then my argument would fall, but I say to you, that to give the District of Columbia two United States Senators and all of the voting power that that implies in our nation, is a step in the wrong direction if we are to continue to recognize the position of states in our Federal Government Legislative System.

There is, of course, a long debate about how to bring, "simple justice" to the people in the District of Columbia. I lived in that area for awhile, at that time that I lived there a very high percentage of the residents voted in some other state, because they felt that they were really transients there and their allegiance was primarily to some state where they voted.

Things have changed, of course, since that day and I am sure that there are many more permanent residents in the District than there were in my time.

Nonetheless, there is a proposal that appeals to me much more than the one before us. That proposal is to enfranchise the voters of the District by retroceding the territory to the State of Maryland. This, of course, would permit those people to vote for the elected officials of the

State of Maryland and to have all the rights of people in a state.

There could still be a Federal enclave in the center of the city which would be, of course, a territory not of people, but basically of buildings and federal agencies.

I think that is the gist of the argument that I would make today. I recognize that political currents have changed, that it is very likely that this may pass, today, but I think the position of some of us that we agree with the founding fathers, in terms of the role of states in our Legislative System ought to be voiced, thank you, Mr. President.

Mr. PRESIDENT: The Chair recognizes the Senator from Penobscot, Senator Pearson.

Senator PEARSON: Mr. President and Members of the Senate, one of the very few occasions that I ever had the chance to watch the United States Senate in action, I was there a couple of years ago, several years ago now, on behalf of the city of Old Town, which was applying for a development grant for the downtown, and I had about an hour to spend, and I went out into the Senate Chamber.

I didn't know what was going to come up, but they were talking about this very same situation. They were talking about sending out to the states the "D.C. Amendment", and during the course of that debate, while I was in the balcony, they were talking about retroceding that portion of the District of Columbia that was originally ceded by the State of Maryland to form that District, and that portion of the District of Columbia that was originally ceded by the State of Virginia to form the District of Columbia, allowing those people in those two sections of the District of Columbia to vote in their respective areas from whence they came.

As the debate unfolded and I sat there and listened, I was kind of intrigued by the idea, because I had really never thought about it before. The Senator from Maryland, whose name I forget now, at the time, and as I recall the Senator from Virginia, neither one of them indicated that they wanted it to happen. I think that Senator Collins' argument is historical and probably has some merit to it, but I do not think that it is a realistic solution to it, because I do not think that Virginia wants those people to vote in Virginia, and I do not think that Maryland wants those people to vote in Maryland. Given that kind of situation you are not going to be able to give them to enfranchise them with any other method than this.

My initial reaction to the "D.C. Amendment", when I was in another body, another Chamber, was to vote "No". I've thought about it a long, long time and I have come to the conclusion intellectually that it should be a vote "Yes" at this time, because there is no other way for them to be enfranchised. I don't think that anybody should exist in this country without a right to vote.

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

Senator VIOLETTE: Mr. President and Ladies and Gentlemen of the Senate, I think, that the arguments made by the Senator from Knox, Senator Collins, don't really have that much merit. The alternative to retroceding to the State of Maryland is one that the State of Maryland, itself, has voted against. It, also, has voted in favor of this particular Constitutional Amendment. So, I think that the State of Maryland has told the other states, quite frankly, where it stands on this matter. So, as an alternative to the idea of retroceding, as an alternative to this issue today, really isn't going to go anywhere at all. So, let's not confuse ourselves with that issue, here.

When the Constitution was formed there was no Federal District. The Federal District was formed after the Constitution was written. The Federal District was formed so that the Federal Government would not have to be reliant on any state for services and protection,

and that idea continues to this day.

Since the Federal District has been formed it has been treated for all purposes, whether the laws that have been enacted by Congress, or cases which have come down through the courts, the District of Columbia has always been treated as a state unto itself.

After reviewing this, the Committee on State Government simply felt that this was the only viable alternative left to the District of Columbia to allow those people, who reside there to vote for the Congress, for the U.S. Senate.

The vast majority of the people who live in Washington D.C. do not work for the Federal Government. Only one hundred thousand of them who do. There are almost seven hundred thousand people who live in the District, more than three-quarters of the people who work and live in the District do not work for the Federal Government. The vast majority of the people who work for the Federal Government, actually are more wealthy people and they live in Maryland and Virginia.

I think that this is the only viable alternative that exists to allow to enfranchise these voters. I do not think that we ought to become confused into believing that if we turn this concept down that there are going to be others coming to us from the Federal Government. The Federal Government has voted for this concept, both parties have endorsed this concept. So, I think, that it is the only real viable vehicle for us to enfranchise these voters. So, I would certainly hope that in fairness, in justice and in equity, we'd put aside the political rhetoric that we would vote for this amendment this morning. Thank you, Mr. President.

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

Senator HICHENS: Mr. President and Fellow Members of the Senate. I would refute the statements just made by the good Chairman of the State Government Committee, in which he said, the State Government Committee in their wisdom passed out this Report. I would remind him that five members of the Committee voted against the Ought to Pass Report.

It sort of amused me the other day when I heard them tell about how the states were all in favor, or the Congress was all in favor, when I recall that only ten states since 1978 have ratified this Amendment. There's only two more years to go before the time limit runs out, which means that twenty-eight more states have to ratify this amendment in order for it to become Law. I wonder why the other states are so slow in responding to this very important issue.

I was not on the State Government Committee two years ago to hear the arguments which were presented then, but I did listen to all the arguments this last week. Some six or seven people spoke in favor of the Bill, none spoke against it. These people that spoke for it, I asked the question, as to how many people in the city of Washington, D.C. were really concerned about this? One gentleman said that he had college classmates who came from other states and were very much upset because if they become citizens of Washington, D.C., they couldn't vote, unless they kept their voting rights in their own state, which most of them did, but the people of Washington, themselves, have not been heard to make any outcry.

I have had an opportunity to make several visits to Washington. I've talked with people in the hotels, people around, and not one of them have ever mentioned to me that they would like the opportunity to vote. They've mentioned other issues which have been coming up before Congress and before the states, but not one has ever mentioned that they felt discriminated against because they could not vote.

The question has been brought up as to Maryland and Virginia taking over these, well naturally, those people feel that there is going to be quite an impact, if they took over a lot of these.

I remember several years ago when the Federal Government decided to put Pease Airforce Base in Portsmouth, New Hampshire. Portsmouth and the towns around said, "no, we don't want it." Anything like that, that is different than what we've been used to, people don't want.

I feel that the State of Maryland and the State of Virginia, can very easily absorb these people, give them the opportunity to vote, and have representation, just the same as our Maine Indians have representation.

It was, also, brought up to me the other day in the hearing which hurt me personally because of my own convictions, when one of the men stated that the reason everybody was against the Washington D.C. people voting, was because that eighty-five percent of them are black. I want to assure people that why I am voting today against this Amendment, it has nothing to do with a person's color. I was brought up under strict supervision from my parents that I should have no hatred against any race or creed. I have loved the Black people as much as my own White people. When they come out with a statement like that, that we are voting against something like that because of the color, I think they're going around with a chip-on-their-own-shoulder and asking for their own problems.

I hope, today, that you will vote against this motion to Accept the Majority Report and set this thing to ease.

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

Senator KANY: Mr. President and Members of the Senate, it's a privilege to be able to stand, for the first time, and speak to this issue, and it is a privilege to be able to vote for it, today.

I remember two years ago that this measure lost by only one vote in the Senate. I am certainly hopeful that today, we can pass it. The Maine Legislature can go on Record, as not wanting to see any second-class citizens in the United States.

Actually, our Maine Indians can vote for Members of Congress, and so can just about every other person in the United States, other than those under the age of eighteen. It seems most unfortunate when adults can fight for their Country, and there are many, many veterans within the confines of Washington, D. C., who have fought for their country, and yet they cannot, today, vote for the United States Senators, which really help determine the foreign policy for our Nation and, also, ratify treaties. They cannot vote for the people who determine the very basis upon which they must live every single day and determine the laws of our country. It is indeed unfortunate, and we today, can do our share by helping to change that, just as each Member of our Congressional Delegation voted in favor of this at the time it appeared before Congress.

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

Senator CARPENTER: Mr. President, Ladies and Gentlemen of the Senate, I think first of all that it should be pointed out that this Resolution is apparently misnamed, as it's called, the so-called, "D.C. Voting Rights Amendment."

If you look at Article 1, it says, "the District constituting the seat of government of the United States shall be treated as if it were a state for purposes of representation in the Congress, election of the President and Vice-President and Article 5 of the Constitution." It would seem to me that since we had several different seats of government since our inception, two hundred years ago, this amendment would apply wherever the seat of government should happen to be.

I'd, also, just refute some of the remarks of the good Senator from Knox, Senator Collins, that we are not by this Resolution giving "States Rights", all "States Rights" to the people of the present seat of government, the District of Co-

lumbia. If you look at Section 1 of the Article, it says very explicitly, "for purposes of representation in the Congress, election of the President and Vice-President, and Article 5 of the Constitution" etc, etc, "shall be treated as though it were a state."

I, like the good Senator from Kennebec, Senator Kany, I am, also, proud that we can stand here today and look forward to the passage of this Amendment. Mr. President, when the vote is taken I would request the Yeas and Nays.

The PRESIDENT: A Roll Call has been requested.

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

Senator MINKOWSKY: Mr. President and Members of the Senate, two years ago as a Democrat based upon the assessment and evaluation I had conducted in regarding the "D.C. Amendment" I was maybe one of the Democrats, if not the only Democrat in this Maine Senate who voted against, repeat, against the "D. C. Amendment". Some people said, "you had courage to do it." I would simply say, it was a decision based upon the facts at hand at the time and nothing to do with courage.

I believe today, as I did two years ago, in state's rights, and I think those points were very well articulated by Senator Collins of Knox.

One of the things I did do is check with relatives I have who work in Washington, that live in Virginia and live in the State of Maryland. They in their capacity working for the Federal government, as well as the various school systems in that area, never looked upon this particular thing as a problem at all.

Having investigated further with various people involved in the affairs of Washington, D.C., I have come to a different conclusion, altogether. That's why I think it is of significant value this morning for me to indicate to this Senate, that I have changed my position, on this particular Bill. Not because anybody in this Body has influenced me or talked to me, to any degree about it just based on my own personal assessments, of what I have studied, what I have observed, whom I have spoken to during the past two years, to make me realize that these people should be franchised.

One thing I do hope, in the future, that when the other states do ratify the "D.C. Amendment" that this particular group of people do not take for granted their rights as citizens of the United States, as we have done in so many states in this Union. That is predicated upon the low turnout of voters in major campaigns and major issues which pertains to the welfare of this Nation. I certainly hope that with the efforts that they have put forth in gaining this particular recognition, that they do not let down the states that authorize this recognition to them in the future.

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

Senator CLARK: Thank you, Mr. President. Mr. President, Men and Women of the Senate, two years ago, I had the opportunity to share with the Members of the 110th Maine Legislature what I historically call my 'declaration of conscience.' For indeed, at that time, I spent a great deal of thought, a great deal of time, thinking about how I would vote on the resolution that was then before that Body. It was an agonizing decision, and I received lots of help, a great deal of lobbying, and I listened a great deal. Rather than sharing, I speak to that time with you today, I simply rise this morning to say, that as a cosponsor of this resolution, I welcome into the fold, the good Senator from Androscoggin, Senator Minkowsky and would urge all of us here in this Chamber to support the pending motion.

There can be no reasonable argument against approving full representation for Washington, D.C. It is time that the governed in

the Nation's Capitol be given a representative voice in the Federal Legislature. There never has been a good reason for treating them like semi-citizens of our Country, bound to obey the Laws and pay the taxes, but forbidden a vote in deciding what they should be. They are, in fact, Americans. We can do no less. Thank you, Mr. President.

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

Senator PRAY: Thank you, Mr. President. Mr. President, Ladies and Gentlemen of the Senate, I rise, only, because I've noticed that the opposition to the "D.C. Amendment" seems to be coming from the Minority Party in this Chamber. I just wish to share with them a few facts which, perhaps, may have escaped them through their research on this proposal.

First of all it is that in the 1976 National Republican Platform was a plank to ratify this Amendment, as a matter-of-fact, it was in both political parties at that time. As this proposal went through the Congress of the United States, at that time there was two Republican Representatives from the State of Maine, Representative Olympia Snowe and Representative Dave Emery, both who voted for this proposal in Congress, and, of course, on the Senate side, the United States Senator Bill Cohen voted to send this out to the States. Thus, the entire Republican Delegation from Maine in the National Capitol voted for this proposal. I would just hope that as the vote is taken that it is not drawn strictly on partisan lines, because I think the issue is far greater than that, and I would hope that the vote today would reflect that.

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

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

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

The pending question before the Senate is Acceptance of the Majority Ought to Pass Report and that the Joint Resolution to Ratify an Amendment to the Federal Constitution to Provide for Representation of the District of Columbia in the Congress be Adopted.

A Yes vote will be in favor of Adoption of LD 307.

A No vote will be opposed.

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

ROLL CALL

YEA—Baldacci, Brown, Bustin, Carpenter, Charette, Clark, Danton, Diamond, Dow, Durtremble, Erwin, Hayes, Kany, Minkowsky, Najarian, Pearson, Pray, Trafton, Twitchell, Usher, Violette, Wood, The President Gerard P. Conley.

NAY—Collins, Emerson, Gill, Hichens, McBreairty, Perkins, Redmond, Sewall, Shute, Teague.

ABSENT—None.

A Roll Call was had.

23 Senators having voted in the affirmative and 10 Senators in the negative the Majority Ought to Pass Report was Accepted, in concurrence and the Joint Resolution was Adopted, in concurrence.

Senate

Change of Reference

Senator NAJARIAN for the Committee on Appropriations and Financial Affairs on,

BILL "An Act to Establish Wage-based, Cost-of-Living Adjustments for Retired State Employees, Teachers and Beneficiaries." (S. P. 209) (L. D. 630) Reported that the same be referred to the Committee on Aging, Retirement and Veterans.

Which Report was Read and Accepted and the Bill referred to the Committee on Aging, Retirement and Veterans.

Sent down for concurrence.

Senator CLARK for the Committee on Business Legislation on,

BILL "An Act to Establish the Third-party Prescription Program Act." (S. P. 199) (L. D. 621) Reported that the same be referred to the Committee on Health and Institutional Services.

Which Report was Read and Accepted and the bill referred to the Committee on Health and Institutional Services.

Sent down for concurrence.

Leave to Withdraw

The following Leave to Withdraw report shall be placed in the legislative files without further action pursuant to Rule 15 of the Joint Rules:

BILL "An Act to Provide Funding for the Potato Blossom Festival." (S. P. 134) (L. D. 553)

Second Readers

House

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

BILL "An Act to Permit Bowling Alleys to Sell Spirituous, Vinous and Malt Liquor." (H. P. 178) (L. D. 207)

Which was Read a Second Time and Passed to be Engrossed, in non-concurrence.

Sent down for concurrence.

BILL "An Act to Provide for Identification on Dentures." (H. P. 377) (L. D. 460)

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

House — As Amended

BILL "An Act to Clarify the Time during which a Utility is Restricted from Filing a Rate Case under the Public Utility Law." (H. P. 183) (L. D. 212)

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

Enactors

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

An Act Concerning Confidentiality of Fisheries Statistics. (H. P. 32) (L. D. 37)

An Act Relating to the Annual Observance of St. Jean-Baptiste. (S. P. 21) (L. D. 22)

An Act To Create a Revolving Fund for Publications of the Department of Agriculture, Food and Rural Resources. (S. P. 26) (L. D. 27)

An Act Relating to the Regulation of Septage Disposal. (S. P. 50) (L. D. 143)

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 Authorize a New Federally-funded Telephone System at Camp Keyes. (H. P. 369) (L. D. 344)

This being an emergency measure and having received the affirmative votes of 32 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.

Orders of the Day

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

HOUSE REPORT—from the Committee on Appropriations and Financial Affairs - Bill, An Act Providing for an Additional District Court Judge Within the Judicial Division of Southern Androscoggin County. (Emergency) (H. P. 26) (L. D. 31) Ought to Pass in New Draft (H. P. 437) (L. D. 530)

Tabled—February 14, 1983 by Senator MINKOWSKY of Androscoggin.

Pending—Acceptance of Committee Report. (In the House - bill and accompanying papers Indefinitely Postponed.)

The PRESIDENT: The Chair recognizes the

Senator from Androscoggin, Senator Minkowsky.

Senator MINKOWSKY: Mr. President, and Members of the Senate, I purposely had this item, or tabled this item yesterday to have a further opportunity to research some of the arguments that were being advanced, insofar as the backlog of cases that were pending in my city of Lewiston, in District County 8.

My major concern rests with the people in my community who are being serviced by this District Court. I am a firm believer in expeditiously handling all court cases.

The reason that I tabled this yesterday was, because of an article that appeared in our local newspaper, now I realize I am not basing my argument upon newspaper accounts, but there was a couple of statements rendered in there, which I felt were worthy of consideration at the time to discuss this matter with the Chief Justice.

Unfortunately, yesterday having a very heavy workload I was not able to make contact with him, I assure you, today I will be in contact with the Chief Justice.

The article was dated, February 15, "House Rejects Second Judge for 8th District Court." Which was the action taken in the other Body. The part that was of value, at that time, was that Dana R. Baggett, told the committee in January that he knew of no backlog. While Baggett neither supported or opposed the Bill before the Committee, he said, District Court Chief Judge Benjamin M. DeVine does not believe that the situation warrants an additional position in the court.

Now, I look at the Court System in the State of Maine as designed to serve the people of the State of Maine and not the lawyers in the State of Maine. If there is a backlog in the District Court System, which apparently the Chief Justice at that particular point yesterday said, there isn't along with Mr. Baggett, then would the delays be brought about by the lawyers who have these continuances of cases, delays in cases, postponement in cases? Is this the rationale or reason behind the delays?

I really do not have the answer, because I have not had a chance to discuss this with the Chief Justice.

If I firmly believe in expeditiously handling the work of the people in the District Court System, and this is really the fault of the lawyers in the system who are delaying these particular cases, then I think that we should conduct an investigation through the Judiciary Committee to make a clear cut determination as exactly why and should these delays continue? For I do not believe in a tax free corporate home for lawyers at the expense of the taxpayers. They say they are in a profession, at the present time, as a businessman I say that they are in a trade, and their delay keeps them very busy and a lot of these delays materialize because of a particular purpose.

The inconsistencies in this article yesterday and the article appeared in the Lewiston Daily Sun this morning, state the following, a former district attorney in our county made the following comment, I think that everybody came out in agreement that a problem does exist in District Court 8. I guess that the bill would not have been before the Appropriations Committee had we not realized a problem allegedly did exist.

The interesting thing in the meeting what they had yesterday, in Lewiston, was another statement made by the Chief Justice. Here he says, "however DeVine, also, said, it is possible that a similar bill to add another resident judge to the Biddeford Court will be added to the Legislative Docket." If it became a choice of one or the other DeVine said he would support the Biddeford Bill instead of the Lewiston Bill.

Now somebody has to get their act together in making a clear cut determination, is there a serious backlog? Is the Chief Justice playing

some kind of a game at the present time with the lawyers in Androscoggin County? Or is it just a way to enhance the Judicial System with one extra judge?

My concern rests primarily with the people of my area who utilize that court, and not with the lawyers who are playing games apparently between the District Court Judge and their own particular strategies of making a living.

I think that this particular thing is of paramount importance and is extremely dangerous if we just arbitrarily go through these bills adding on judges without a clear cut determination exactly is the necessity there?

If they can show me beyond a shadow of a doubt that my people are not getting justice expeditiously as it should be done in the people's court then I think that we had better start running an investigation on the Judicial System for better performance and productivity, because it is absolutely wrong to have it done along these lines.

At the present time, I understand, we have a district court judge-at-large who circulates in and out of the system. We have a retired justice of the district court that comes in, so there is about three people, but what is creating the delay? I would like to get an answer to that today.

In the meantime if the answer doesn't come forthwith I can assure the Appropriations Committee and the sponsors of the Bill that I will set down with Judge DeVine today and make a clear cut determination so that we know where we are going on this particular issue.

Now this is a people's issue and I want to be sure my people have the correct judicial courtesy that they deserve and not have four months backlog if there is any relevancy to that particular statement.

Mr. President, I would like the Bill at the present time to be Accepted. I think, that when the Bill comes up in the Second Reading, I might have further comments to make relevant to this issue.

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

Senator NAJARIAN: Mr. President and Men and Women of the Senate, it was because the Appropriations Committee had concern for the people in Senator Minkowsky's District of Southern Androscoggin County that we reported out this Bill, unanimous Ought to Pass.

The lawyers, some lawyers did support the bill, but they were not playing any games, because it would be to their advantage to have the one judge that they currently have.

I am sure that all the district courts in Maine are not on top of their caseloads, and perhaps, York County does have a more severe problem than Androscoggin. I do not know, we only hear the bill for Southern Androscoggin District.

The problem has been that they have one resident judge, Bangor has two resident judges, Portland has two resident judges and the Androscoggin area is the second highest population area in the State.

It is true that they have a retired justice that has been filling in, but he had a heart attack a year ago, and he hasn't been able to accept the caseload that he normally had.

It is true that there is a district judge-at-large that comes in and out, as Senator Minkowsky said, but he is mostly out. Sometimes he comes once and he doesn't come again for three months and any cases that he starts another judge can't handle, so if its not solved that day, it has to wait three months or whatever until he comes back again.

Now the citizens of Androscoggin County are not getting their affairs settled. Even the priority Child Abuse and Neglect cases have to wait months and they are left in homes which are not suitable for them, until the District Judge-at-Large comes back again.

This Bill will not become effective in this moment or the next few days, it will go on the Appropriations Table, if the Senate and House chose to pass it. Then it will have to be evaluated with all the other requests on the Appropriations Table at that time.

Maybe in the meantime they can work out a better arrangement with the District Court Judges-at-Large going to that county.

I would hope ultimately that the Senate would keep this Bill alive and we will see what happens. Thank you.

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

Senator SEWALL: Thank you, Mr. President, Members of the Senate, this has been discussed as a people's issue. I would like to ask a procedural question. Does the Legislature appoint or chose where the judges should serve, or does the Judiciary make these recommendations?

The PRESIDENT: The Senator from Lincoln, Senator Sewall has posed a question to any member of the Senate who may care to answer.

The Chair recognizes the Senator from Cumberland, Senator Najarian.

Senator NAJARIAN: I am not sure if I understood the question correctly, this is only to appropriate the money for a judge. The judge has not been appointed, and any appointment would be approved by the Judiciary Committee.

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

Senator SEWALL: Is this — the question is exactly pertaining to that, is this the usual procedure which is taken in the State of Maine, or does the request usually come from the Judicial Branch of government? Is the Chief Justice the administrator of the court, or does he or his designee recommend and then we take action? Or does impetus usually come from the Legislature as to where judge should be particularly or does that usual go through the Judicial Branch?

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

Senator PRAY: Mr. President and Ladies and Gentlemen in response to the Senator from Lincoln, Senator Sewall's question, I think, that if we took the time to search historically we would find that there has been many instances where it has come from both directions, depending upon the desire of individual legislators throughout previous history in Maine.

I think that in my brief time of service here in Augusta, I think, that I can remember on occasions, although I am not absolutely sure that there have been a number of proposals in before, by Legislators to make some type of determination on where some of these courts would go and a desire to have more justices within particular geographical areas.

So, I think, in response to the question, although, I am not absolutely sure is that it has come in the past from both arenas, both from the Judicial, as well as, the Legislative.

The Ought to Pass Report of the Committee was Accepted, in non-concurrence. The Bill in New Draft, Read Once, and Tomorrow Assigned for Second Reading.

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

Senator CARPENTER: Mr. President, is the Senate in possession of H. P. 598, L. D. 744?

The PRESIDENT: The Chair would answer in the affirmative. L. D. 744, Bill, "An Act to Clarify Legislative Intent on Setting Insurance Rates for Workers' Compensation Insurance" having been held at the request of a Senator.

On motion by Senator Carpenter of Aroostook, the Senate voted to Reconsider its action whereby:

Bill, "An Act to Clarify Legislative Intent on Setting Insurance Rates for Workers' Compensation Insurance." (Emergency) (H. P. 598) (L. D. 744) (Approved for introduction by a major-

ity of the Legislative Council pursuant to Joint Rule 27.) was referred to the Committee on Business Legislation.

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

Senator COLLINS: Mr. President, I believe that I am in sympathy with the thrust of this Bill, I just have one question that perhaps relates to our procedural effort. This came to us apparently without having been referred to Committee in the other Body. As I read the Bill I was a little uncertain whether the effort was to have the Legislature act in a Judicial capacity to say what we meant on two previous enactments or whether we were trying to retroactively establish an additional rule. I would submit that one of the reasons that you have questions like this is because there is so little Legislative History and input at the time that important enactments are before us.

If there is any input that would illuminate the reason for this I think that it might be helpful. Thank you, Mr. President.

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

Senator CLARK: Thank you, Mr. President. This little jewel L. D. 744 is really a simple clarification and cross referencing of currently existing State law.

In the last session we past a bill rewriting M.R.S.A. Title 39 and Section 22 to require insurance companies to establish that profit factors are reasonable. That loss reserves are reasonable, and for the disclosure of investments and investment income.

We failed, however, to explicitly require the Superintendent of Insurance in the Department of Business Regulation to consider this information when setting Workers' Compensation Rules under Title 24 A, thus we have before us the pending Bill.

Down in the Department of Business Legislation they have the pending Workers' Compensation Rate filing, which is requesting a 27.5 rate increase, and because we failed to provide for this cross referencing, which was not our intent, the current pending Workers' Compensation Rate filing may not be held to the standard of evidence that we established last session.

Now it is unfortunate that we make these little errors, but we do have an opportunity here today, to correct that.

The deadline for the decision of the rate increase is March 6th so that is why immediate action is needed to solve the problem, and that is why we must take the action under suspension of the rules, today. Thank you, Mr. President.

Senate At Ease

The Senate called to order by the President.

On motion by Senator Carpenter of Aroostook, under suspension of the Rules, the Bill Read Once. Under further Suspension of the Rules, the Bill Read a Second Time and Passed to be Engrossed without Reference to Committee in concurrence.

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

Committee Report House Ought to Pass

The Committee on Public Utilities on Bill, "An Act to Amend the Charter of the Eagle Lake Water District to Provide for the Election of Trustees." (Emergency) (H. P. 588) (L. D. 669) reported that the same Ought to Pass.

Comes from the House, the Report Read and Accepted and the Bill Passed to be Engrossed.

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

(Off Record Remarks)

Senator Pearson of Penobscot was granted unanimous consent to address the Senate, Off the Record.

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

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

On motion by Senator Carpenter of Aroostook, Adjourned until 9 o'clock tomorrow morning.
