

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
April 7, 1983
Senate called to order by the President.

Prayer by Father William Bartoul of St. Joseph's Maronite Church of Waterville.

FATHER BARTOUL: Let us bow our heads in prayer! Heavenly Father, You are the creator of all things; it is from You that all good gifts come; You are the sower of the seed. Stretch forth Your right hand and touch these, Your servants gathered here today. Supply them with the rich soil that brings forth the fruit of the seed of Your wisdom that You have planted in their hearts. Kindle them with the fire of Your love which gives strength to the soldier and guidance to the leaders.

Gathered here before You are the Senators of Your People; chosen to serve and entrusted to be obedient to the needs of our communities. Within their grasp is the power to distribute: help where help is needed, consolation where suffering reigns, and peace where chaos cuts across the boundaries of friendship and understanding. Trust was their gift from the people and charity should be their return.

These Men and Women gathered here today must leave their personal goals and aspirations that do not fit their role as servants: for all too often the pledge is made, the Shakespearean dramatics are nothing more than affects that remain here in Augusta. All too often a measure is taken that leads with Philadelphia integrity while the people are left alone at home. All too often the prophecy is fulfilled, "all that glitters is not gold."

Heavenly Father, help these people present, to fulfill their noble calling and grant them the magnanimity to perpetuate the reputation of the Augusta Senate. Bless them with the fullness of Your love, so that their greatest joy will be found in serving those who put them here. For no Senator should suffer the humiliation of usury and compromise, but rather be honored as the carrier of the banners of justice and honesty and fairness.

To represent the people is truly a noble calling; for being engaged to speak for another is important and mature; a role honored since Aaron had spoken for Moses.

O Lord, our God, much care must be taken with these people present for they do not speak for an institution; they speak for Your people, local and neighborly. They must return to these same people with answers and actions befitting a caretaker, a member of the family, a trusted friend, a voice that echoes from home to Augusta and back again.

Almighty God, it is easy to become corrupted when a role is important and influential. Protect these honorable Men and Women, for when one of them gets hurt, the pain is felt by many. Continue to bless them and abide with them as the seed of Your wisdom takes root.

O Lord, I raise my hands and voice to call upon Your mercy and love, for today these Men and Women need Your grace. They implore Your help and promise their obedience to Your precepts for they are most interested in being the very best people they can be and in doing the best job they can do. These things can only be accomplished in Your presence and with Your help, for the kingdom, the power and glory are Yours, forever and ever. Amen.

Reading of the Journal of yesterday.

**Papers from the House
House Papers**

BILL, "An Act to Provide as an Emergency that the Requirement that Persons over 75 Years of Age Take Periodic Driving Tests be Eliminated" (Approved for introduction by a majority of the Legislative Council pursuant to Joint

Rule 27) (Emergency) (H. P. 1086) (L. D. 1418) Reference to the Committee on Transportation suggested.

Comes from the House under suspension of the rules Passed to be Engrossed without reference to a Committee.

The PRESIDENT: Is it the pleasure of the Senate that Under Suspension of the Rules, L.D. 1418 be given its First Reading at this time without Reference to Committee?

It is a vote.

Under Suspension of the Rules, the Bill Read Once, without Reference to a Committee, and Tomorrow Assigned for Second Reading.

The PRESIDENT: The Chair as this time is extremely pleased to recognize in the rear of the Chamber, a gentleman who first came to Augusta with me several years ago, many years ago, many fullmoons ago, he was an outstanding member of the House of Representatives in those days, and like I knew he had a bigger role to play and came up here in this Chamber. He's an outstanding gentleman, Dave Graham of Freeport. David, we would like you to rise and accept the greetings of the Senate. (Applause, the Members rising.)

The Chair might add, the only difference between David and I is that he's beginning to look younger every day as I grow older.

Communication

The Following Communication:

**State of Maine
One Hundred and Eleventh Legislature
Committee on Business Legislation**
April 6, 1983

The Honorable Gerard P. Conley
President of the Senate of Maine
State House
Augusta, Maine 04333
Dear President Conley:

In accordance with 3 M.R.S.A., Chapter 6, Section 151, and with Joint Rule 38 of the 111th Maine Legislature, the Joint Standing Committee on Business Legislation has had under consideration the nomination of Robert A. Burgess of Augusta, as Superintendent of the Bureau of Consumer Credit Protection.

After public hearing and discussion on this nomination, the Committee proceeded to vote on the motion to recommend to the Senate that this nomination be confirmed. The Committee Clerk called the roll with the following result:

YEAS: Senators 2
Representatives 10

NAYS: 0

ABSENT: 1 (Senator Sewall of Lincoln) (Sen. Sewall voted Yea in absentia)

Thirteen members of the Committee having voted in the affirmative and none in the negative, it was the vote of the Committee that the nomination of Robert A. Burgess, as Superintendent of the Bureau of Consumer Credit Protection be confirmed.

Sincerely,

S/NANCY CLARK, Senate Chair
S/JOSEPH BRANNIGAN, House Chair
Which was Read and Ordered Placed on File.

(Senate At Ease)

The Senate called to Order by the President.

The PRESIDENT: The Joint Standing Committee on Business Legislation has recommended that the nomination of Robert A. Burgess be confirmed.

The pending question before the Senate is: Shall the recommendation of the Committee on Business Legislation be overridden: In accordance with 3 M.R.S.A., Chapter 6, section 151 and with Joint Rule 38 of the 111th 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 recom-

mendation 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—Baldacci, Carpenter, Charette, Clark, Collins, Danton, Dow, Dutremble, Emerson, Erwin, Gill, Hayes, Hichens, Kany, McBreairty, Minkowsky, Najarian, Pearson, Perkins, Pray Sewall, Shute, Teague, Trafton, Twitchell, Usher, Violette, Wood, The President Gerard P. Conley.

ABSENT—Brown, Bustin, Diamond, Redmond.

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

The nomination of Robert A. Burgess is confirmed.

The Secretary was directed to inform the Speaker of the House.

Committee Reports

House

Leave to Withdraw

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

BILL, "An Act Relating to Property Disposal by the Department of Transportation." (H. P. 863) (L. D. 1112)

BILL, "An Act Concerning Zoning Variance Approval" (H. P. 390) (L. D. 473)

BILL, "An Act to Create a Land Use Hearing Examiner." (H. P. 388) (L. D. 471)

BILL, "An Act Concerning Open Burning at Municipal Solid Waste Disposal Sites (H. P. 474) (L. D. 572)

RESOLVE, Authorizing the Department of Educational and Cultural Services to Charge, Collect and Expend Fees for Public Services Not Funded by the Legislature (H. P. 493) (L. D. 590)

BILL, "An Act Relating to Transportation of Hazardous Waste." (H. P. 391) (L. D. 474)

BILL, "An Act to Establish a Uniform Maximum Per Diem Allowance for State Boards and Agencies" (H. P. 885) (L. D. 1139)

Ought to Pass

The Committee on Energy and Natural Resources on BILL, "An Act Relating to the Posting of Performance Bonds for Rezoning (H. P. 311) (L. D. 370) Reported that the same Ought to Pass.

Comes from the House with 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.

The Committee on Business Legislation on BILL, "An Act Exempting Interstate Domestic Flights from the Bottle Bill (H. P. 817) (L. D. 1057) Reported that the same Ought to Pass.

Comes from the House with 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.

The Committee on Business Legislation on BILL, "An Act to Improve the Operation of the Maine Real Estate Commission (H. P. 681) (L. D. 837) Reported that the same Ought to Pass.

Comes from the House with 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.

The Committee on Legal Affairs on BILL, "An Act to Amend the Requirements and Adjust the Fees for the Licensing, Inspection and Permitting of Fireworks Displays and the Storage and Transportation of Explosives and Flammable Liquids" (H. P. 832) (L. D. 1086) Reported that the same Ought to Pass.

Comes from the House with 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.

Ought to Pass as Amended

The Committee on Business Legislation on BILL, "An Act to Exempt Carriers of Wood Products from Cargo Insurance Requirements (H. P. 63) (L. D. 69) Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-113)

Comes from the House with the Report Read and Accepted and the Bill Passed to be Engrossed as Amended by Committee Amendment "A" (H-113)

Which Report was Read and Accepted in concurrence. The Bill Read Once. Committee Amendment "A" (H-113) was Read and Adopted, in concurrence. The Bill as amended, Tomorrow Assigned for Second Reading.

The Committee on Public Utilities on BILL, "An Act Creating the Passamaquoddy Water District." (Emergency) (H. P. 348) (L. D. 407) Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-107)

Comes from the House with the Report Read and Accepted and the Bill Passed to be Engrossed as Amended by House Amendment "A" (H-117)

Which Report was Read and Accepted in concurrence. The Bill Read Once. Committee Amendment "A" (H-107) Read.

On motion by Senator Baldacci of Penobscot Committee Amendment "A" (H-107) was Indefinitely Postponed, in concurrence.

House Amendment "A" (H-117) was Read and Adopted, in concurrence.

The Bill, as amended, Tomorrow Assigned for Second Reading.

Ought to Pass in New Draft

The Committee on Education on BILL, "An Act Concerning School Transportation Contracts (H. P. 605) (L. D. 753) Reported that the same Ought to Pass in New Draft under same title (H. P. 1062) (L. D. 1385)

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

Which Report was Read and Accepted in concurrence.

Under Suspension of Joint Rule 15, section 12, the Bill, in New Draft, Read Once and Tomorrow Assigned for Second Reading.

Divided Report

The Majority of the Committee on Labor on BILL, "An Act to Increase the Compensation Benefits for Employees Formerly Working for a Bankrupt Employer." (H. P. 762) (L. D. 993)

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-104)

Signed:

Senators:

DUTREMBLE of York
HAYES of Penobscot

Representatives:

WILLEY of Hampden
BEAULIEU of Portland
LEWIS of Auburn
NORTON of Biddeford
GAUVREAU of Lewiston
ZIRNKILTON of Mount Desert
SWAZEY of Bucksport
TAMMARO of Baileyville

TUTTLE of Sanford

The Minority of the same Committee on the same subject matter:

Reported that the same Ought Not to Pass.

Signed:

Senator:

SEWALL of Lincoln

Come from the House, the Majority Report Read and Accepted and the Bill Passed to be Engrossed as amended by Committee Amendment "A" (H-104)

Which Reports were Read.

On motion by Senator Dutremble of York, the Majority Ought to Pass, as amended, Report of the Committee was Accepted, in concurrence. The Bill Read Once.

Committee Amendment "A" (H-104) was Read and Adopted, in concurrence.

The Bill, as amended, Tomorrow Assigned for Second Reading.

Divided Report

The Majority of the Committee on Election Laws on BILL, "An Act to Allow Voter Registration and Party Enrollment on the Same Form (H. P. 309) (L. D. 368)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-109).

Signed:

Senators:

PEARSON of Penobscot
USHER of Cumberland

Representatives:

STEVENSON of Unity
MARTIN of Brunswick
NADEAU of Lewiston
ROBERTS of Buxton
MICHAUD of East Millinocket
HANDY of Lewiston
PARADIS of Augusta

The Minority of the same Committee on the same subject matter:

Reported that the same Ought Not to Pass.

Signed:

Senator:

REDMOND of Somerset

Representatives:

CAHILL of Woolwich
WENTWORTH of Wells

Come from the House, the Majority Report Read and Accepted and the bill Passed to be Engrossed as Amended by Committee Amendment "A" (H-109)

Which Reports were Read and the Majority Ought to Pass, as amended, Report of the Committee was Accepted, in concurrence.

The Bill Read Once.

Committee Amendment "A" (H-109) was Read and Adopted, in concurrence.

The Bill, as amended, Tomorrow Assigned for Second Reading.

Senate

Ought to Pass in New Draft

Senator KANY for the Committee on Energy and Natural Resources, on BILL, "An Act to Extend and Amend the Mineral and Mining Rights." (S. P. 53) (L. D. 145) Reported that the same Ought to Pass in New Draft under same title (S. P. 468) (L. D. 1414)

Which Report was Read and Accepted.

Under Suspension of Joint Rule 15, section 12, the Bill, in New Draft, Read Once and Tomorrow Assigned for Second Reading.

Divided Report

The Majority of the Committee on State Government on RESOLUTION, Proposing an Amendment to the Constitution of Maine to Provide Equality of Rights under the Law (S. P. 28) (L. D. 59)

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (S-49)

Signed:

Senators:

BALDACCI of Penobscot

VIOLETTE of Aroostook

Representatives:

LEBOWITZ of Bangor
SPROUL of Augusta
COOPER of Windham
LaPLANTE of Sabattus
GWADOSKY of Fairfield
PARADIS of Augusta
DILLENBACK of Cumberland
KETOVER of Portland
HOLLOWAY of Edgcomb
SALSBURY of Bar Harbor

The Minority of the same Committee on the same subject matter

Reported that the same Ought Not to Pass.

Signed:

Senator:

HICHENS of York

Which Reports were Read and the Majority Ought to Pass, as amended, Report of the Committee was Accepted.

The Resolve Read Once.

Committee Amendment "A" (S-49) was Read and Adopted.

The Resolve, as amended, Tomorrow Assigned for Second Reading.

The PRESIDENT: The Chair at this time, is, again, pleased to recognize in the rear of the Chamber another former Member of this Body who served here back a few years ago. We're very pleased to welcome to the Chamber, again, the former Senator from Anson, Senator Ralph Hilton. We'd ask Senator Hilton to rise and accept the greetings of the Senate. (Applause, the members rising.)

Divided Report

The Majority of the Committee on Business Legislation on BILL, "An Act to Provide for the Use of Major Credit Cards at Selected State Liquor Stores" (S. P. 160) (L. D. 448)

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (S-50).

Signed:

Senators:

CLARK of Cumberland
CHARETTE of Androscoggin
SEWALL of Lincoln

Representatives:

PERKINS of Brooksville
MURRAY of Bangor
BRANNIGAN of Portland
POULIOT of Lewiston
TELOW of Lewiston
MARTIN of Van Buren
CONARY of Oakland
STEVENS of Bangor
RACINE of Biddeford

The Minority of the same Committee on the same subject matter

Reported that the same Ought Not to Pass.

Signed:

Representative:

MacBRIDE of Presque Isle

Which Reports were Read.

On motion by Senator Clark of Cumberland, the Majority Ought to Pass, as amended, Report was Accepted.

The Bill Read Once.

Committee Amendment "A" (S-50) was Read and Adopted.

The Bill, as amended, Tomorrow Assigned for Second Reading.

The PRESIDENT: The Chair is pleased, as this time, to recognize in the rear of the Chamber the mother of our Assistant Sergeant-at-Arms, Lori, and her mother is Rena Murphy and we'd ask Rena to rise and to accept the greetings of the Maine Senate. (Applause, the Members rising.)

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

The PRESIDENT: The Chair again at this time is very pleased to recognize in the rear of the Chamber more individuals who formerly served in this body, one being Senator Ralph Hilton of Anson; the second is Senator Fred Allen of my city, who also was a distinguished member on the PUC some time back. We'd ask both of the gentlemen to rise and to accept the greetings of the Senate. (Applause, the Members rising.)

We're, also, pleased to recognize a very distinguished former member of this Body from Oxford, West Peru, served back several years ago, Senator Frank Norris. We'd ask Senator Norris to please rise and to accept the greetings of the Senate. (Applause, the Members rising.)

Second Readers House

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

BILL, "An Act Relating to the Nonliability of Physicians or Other Persons who Voluntarily Report Physical or Mental Impairments of Licensees to the Secretary of State (H. P. 367) (L. D. 598)

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

The PRESIDENT: The Chair is very pleased at this time to recognize another very distinguished member, a former Speaker of the House of Representatives, and also, served as a member of this Branch; in fact, one of my first terms I served on his Committee. It is a pleasure to recognize in the rear of the Chamber, former Senator Vinal Good. We'd ask the Senator to rise and accept the greetings of the Senate. (Applause, the Members rising.)

House — As Amended

BILL, "An Act to Remove the Requirement that Certain Municipal Water Utilities Secure Approval of the Public Utilities Commission to Issue Short-term Debt." (H. P. 747) (L. D. 959)

BILL, "An Act to Increase the Level of Compensation for Part-time Deputy Sheriffs." (H. P. 247) (L. D. 294)

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

Senate — As Amended

BILL, "An Act to Improve the Administration of Agricultural Fairs" (S. P. 298) (L. D. 912)

Which was Read a Second Time and Passed to be Engrossed as Amended.

Sent down for concurrence.

RESOLVE, Authorizing Gerald Pelletier to Bring Civil Action Against the State of Maine" (S. P. 51) (L. D. 144)

Which was Read a Second Time.

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

Senator COLLINS: I'd like to pose a question through the Chair in regards to L.D. 144.

Can anyone inform us as to what difference, if any, there is in this measure than the one that the Legislature defeated two years ago?

The PRESIDENT: The Senator from Knox, Senator Collins has posed a question through the Chair to any member of the Senate who may wish to respond.

The Chair recognizes the Senator from Senator Violette.

Senator VIOLETTE: Mr. President, I offer Senate Amendment "A" (S-43) and move its Adoption.

The PRESIDENT: The Senator from Aroostook, Senator Violette presents Senate Amendment "A" (S-43) and moves its Adoption.

Senate Amendment "A" (S-43) was Read and Adopted.

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

Senator CHARETTE: Thank you, Mr. President. I'd like to answer the good Senator from Knox, Senator Collins question. Two years ago this Report did get a unanimous Ought to Pass Report on the Committee as it did again this year. The answer to his question is what is the difference between this measure to the other one? The Committee as testimony was given it was difficult to determine by the number of witnesses that took part of this accident. There were five or so witnesses on one side, and four or five on the other side, so there were conflicting testimony given to the point that the Committee felt that there was not enough evidence, that there was negligence on the part of Mr. Pelletier, and therefore, we felt that this was a court case in the end result.

The Bill, Passed to be Engrossed.
(See Action Later Today)

The PRESIDENT: The Chair is pleased again at this time to interrupt debate to recognize in the rear of the Chamber, former Governor of the State of Maine, and former Presiding Officer of this Body, the distinguished Governor Burton Cross. We'd ask the Governor to stand and please accept the greetings of the Senate. (Applause, the Members rising.)

The President requested the Sergeant-at-Arms to escort the former Governor Cross to the rostrum to make any remarks he would care to make at this time.

The Sergeant-at-Arms escorted former Governor Cross to the rostrum amid the applause of the Chamber, the Members rising.

The PRESIDENT: The Honorable Burton M. Cross, former Governor of Maine.

FORMER GOVERNOR CROSS: It's too bad to take time from your busy session this morning because I can see the calendar is heavy, but I couldn't miss the opportunity to tell you a few facts of political life.

I did a little researching the other day, in preparation for this, and by the way I don't see any real difference here, they all look human Jerry, even though they're Democrats. I think they must be, they must be as dedicated as our Republicans.

My first term in the Legislature in the House of was forty-two years ago, point of gray hairs. At that time we received the magnificent sum of two hundred and fifty dollars for the session and mileage once each session to and from your home, that gave me ten miles. At that time there were two Democratic Senators and twenty-one Democratic House Members.

When I came into the Senate the first term in '45, there were still two Democratic Senators and only fourteen House Members, Democrats. In '49, when I presided at this rostrum, for the first time, I received the sum of eight hundred dollars. We really were going up! But there still were only two Democratic Senators and twenty-five House Members; they had done pretty well that year. In '51, when I was second term as President, there still were only two Senators, Democratic Senators, and twenty-four House Members, so they slipped a little in the House. In my term as Governor, there still were only two Democratic Senators, and twenty-four House Members. So you see, you've come a long, long way, as they say in the cigarette ads.

I congratulate you all, because there's a bad thing about Majority Parties; I know, because I was part of one for many years. They get a bit carried away with their importance, and worse than that they begin to have fighting amongst themselves.

I think perhaps I will give you a little objective advice as a Majority Party, you do bear the responsibility of all of your actions, including of course, increasing the gas tax and a few other odds and ends. You, also, have the luxury of perhaps of scuffling among yourselves, but your record has been better than ours; you have always healed the wounds a little better.

So, perhaps you don't need any advice from me, but my own back is scarred with knife wounds from political enemies, so I thought I just past it on to you.

It's a pleasure to be with you, and I won't take any more of your time, go on with the calendar and thanks for giving me the opportunity (Applause, the Members rising.)

The Sergeant-at-Arms escorted the former Governor Cross from the Rostrum to the rear of the Senate Chamber.

The PRESIDENT: The Chair would like to inform the good Governor that he's welcomed to attend any of these Democratic caucuses to offer any type of advice that might make it more constructive for us during the rest of the session, Governor.

The PRESIDENT: The Chair is pleased to recognize in the rear of the Chamber again former members of this Body; one we have former Senator Bill Jacques of Androscoggin. Bill will you please accept the greetings of the Senate. (Applause, the Members rising): and former Senator Al Elliot of Thomaston. Would you please accept the greetings of the Senate. (Applause, the Members rising.)

The PRESIDENT: Certainly we have a very distinguished young man from, now there is only one county around this State that anybody pays any attention to, Aroostook. A gentleman whom I had the pleasure of serving with here in this Branch and he's the brother of the distinguished Minority Leader of this Senate. We're very pleased to have you here, former Senator Don Collins of Caribou. (Applause, the Members rising.)

The PRESIDENT: I'm going to ask you all to sit down because the introduction of the next person is one that I want you to have to rise again to, because she is a very charming woman who has always been one of the most gracious people that I've met ever serving in Augusta. She is the former distinguished Senator from, I don't know what county Pemaquid is in; it might be Knox or Lincoln, I know it's along the coast, but certainly Peg Sproul is a great friend of mine and a pleasure to have you here with us Peg, and we'd ask you to accept the greetings of the Senate. (Applause, the Members rising.)

(Senate At Ease)

The Senate called to Order by the President.

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

Senator VIOLETTE: Is the Senate still in possession of L. D. 144?

The PRESIDENT: The Chair would answer in the affirmative.

Senator VIOLETTE: I inadvertently forgot to kill the Committee Amendment.

On motion by Senator Violette of Aroostook, the Senate voted to Reconsider its action whereby;

RESOLVE, Authorizing Gerald Pelletier to Bring Civil Action Against the State of Maine (S. P. 51) (L. D. 144) was Passed to be Engrossed.

On motion by the same Senator, the Senate voted to Reconsider its action whereby Committee Amendment "A" (S-48) was Adopted.

On further motion by the same Senator, Committee Amendment "A" was Indefinitely Postponed.

On motion by the same Senator, the Bill, was Passed to be Engrossed as amended.

Sent down for concurrence.

Enactors

The Committee on Engrossed Bills reported as truly and strictly engrossed the following:
An Act to Provide for Consideration of the

Age of the Victim in Sentencing Criminal Offenders (H. P. 1027) (L. D. 1328)

An Act to Permit Persons Under 18 Years of Age Who Pass the Test for General Educational Development to Receive a High School Equivalency Certificate at that time (H. P. 1022) (L. D. 1323)

An Act to Clarify the Definition of Child or Children and to Delete Restrictions on Death Benefits to Spouses in the Retirement System Statutes (H. P. 766) (L. D. 996)

An Act to Transfer Residual Jurisdiction of the Public Utilities Commission Over Municipal Transit Districts to the Department of Transportation (H. P. 745) (L. D. 957)

An Act to Amend the Act Restricting Rate Increase Proposals by Public Utilities (H. P. 748) (L. D. 960)

An Act to Change the Jurisdiction for Regulation of Schools of Barbering and Schools of Hairdressing and Beauty Culture (H. P. 712) (L. D. 903)

An Act to Include Water and Sewer Districts in the Local Government Energy Conservation Program (H. P. 476) (L. D. 573)

An Act Relating to Unreasonable or Unjust Rent in Mobile Home Parks (H. P. 340) (L. D. 399)

An Act to Require the Public Utilities Commission to Expediently Process Consumer Complaints (H. P. 749) (L. D. 961)

An Act to Revise the University of Maine Arbitration Procedures (S. P. 440) (L. D. 1319)

An Act to Expedite the Handling of Changes in Voter Registration (H. P. 12) (L. D. 8)

An Act Relating to Attorneys Searching and Certifying Title to Real Estate (H. P. 969) (L. D. 1225)

An Act to Create the Maine Lemon Law (H. P. 665) (L. D. 848)

An Act Limiting Positions of Trust for Prisoners in Jails to those Prisoners Sentenced or Transferred to that Particular Jail (H. P. 170) (L. D. 200)

The PRESIDENT: The Chair at this time, again, interrupts procedures to recognize in the rear of the Chamber a former member, Presiding Officer of this Body and gentleman, who many said a few years back, could have been Governor, if he wanted to be. We're certainly pleased to welcome the return of the Chamber, a very distinguished gentleman from Waterville, former Senator Bob Marden. We'd ask him to rise and accept the greetings of the Senate. (Applause, the Members rising.)

The PRESIDENT: We're, also, very pleased to recognize another former distinguished Senator from Androscoggin County, one who has served many years in both the House and the Senate. We are pleased to have Paul Couture from Lewiston with us. Paul, would you please rise and accept the greetings of the Senate. (Applause, the Members rising.)

The PRESIDENT: We're pleased, also, to have a distinguished Senator from York County, one who has served as the Mayor of his community for a few years; some people might introduce him as the brother of the distinguished man from Nobleboro, or one of those towns along the coast, Bob Remy, but he certainly was a standout in his own rights, and we are very pleased to recognize back former Senator Paul Remy. Paul, would you please rise and accept greetings of the Senate. (Applause, the Members rising.)

The PRESIDENT: Certainly, we couldn't go along with proceedings unless we recognized a very good friend of mine over the years, and one who served with great distinction in this Chamber and also in the other Body, the former Kitty Carswell. Kitty, would you please rise and accept the greetings of the Senate. (Applause, the Members rising.)

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 to Clarify the Use of Vocational-technical Institutes' Facilities by Others (H. P. 771) (L. D. 1001)

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

An Act Concerning the Guidelines for State Contract Process and Appeal of Decisions (S. P. 437) (L. D. 1316)

On motion by Senator Pray of Penobscot, Tabled for 2 Legislative Days, pending Enactment.

RESOLVE, Authorizing the State Director of Public Improvements to Convey a Right-of-Way across the Elizabeth Levinson Center in Bangor (H. P. 1018) (L. D. 1315)

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 to Provide for the Negotiation of Seniority Provisions for Teachers (H. P. 1043) (L. D. 1350)

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

Senator HAYES: Mr. President, Members of the Maine State Senate, before we vote to enact this Bill, "An Act to Provide for the Negotiation of Seniority Provisions for Teachers," I would like to briefly clarify the Legislative Intent of this measure.

When Maine enacted the Municipal Public Employees Labor Relations Act, it was intended that the law would grant to all employees, at the local level, the right to negotiate over wages, hours and working conditions. For teachers and teachers alone, there was an exception to this right; teachers were not granted the right to negotiate matters involving educational policy.

Working conditions include the rules and standards to be used in the case of a layoff or subsequent recall. For years, teachers have negotiated these matters as did other public employees. The Maine Labor Relations Board found this to be a mandatory subject of bargaining; that is to say, if either management or labor wants to talk about it, the other side is required to talk. Neither side is required to agree but they must negotiate in good faith.

Then the Maine Supreme Court had to decide a case involving a possible conflict between a statute giving Superintendents and School Boards the power to lay off teachers, and the right of teachers and management to decide these procedures collectively through bargaining, as provided in Title 26. The Court, in trying to define the legislative intent, chose to interpret the statute granting the rights to school officials as prevailing and not modified by the right to bargain collectively.

Subsequently, the Maine Labor Relations Board in interpreting the actual Supreme Court decision, felt the need to reverse itself and find that this was no longer a mandatory subject of bargaining. In other words, as a result of these rulings, if either party didn't want to talk about layoff and recall then neither side was required to do so.

This bill resolves the ambiguity between the statutes by making it clear that the legislature's intention is that the powers of school management to layoff and recall teachers is subject to and limited by collective bargaining agreements. The bill makes clear that layoff and recall procedures are a mandatory subject of bargaining and that these are not matters of educational policy.

While on this subject, I might make a few general comments. When the legislature

enacted collective bargaining for public employees, it did not go back and correct every other law to make specific reference to collective bargaining, nor do we say on a section by section basis that this or that statute is modified and limited by collective bargaining. It is our intention, that absent of clear indication of specific legislative intent to the contrary, that the laws will be interpreted to grant the same scope of collective bargaining as is customary in the private sector. When, for some reason, the laws are not so interpreted we will have to make clear our intentions on a case basis, as we are about to do here today.

In drafting this bill, we wanted to address the subject of seniority directly, because that subject had been addressed specifically by the Court. We wrote this bill to say that seniority can be put forth as a means of determining who is laid off and who is recalled. That once brought to the table it must be negotiated.

At the same time that we specifically asserted the negotiability of seniority, we wanted to make clear that other standards defined in law relating to the teacher certification requirements were not being set aside. In other words, we are not hereby modifying the legal teacher certification requirements. Thus we say, seniority can not be the only factor taken into consideration in the standards and procedures used in determining which teachers are laid off and which ones are recalled.

Beyond this it is completely up to the bargaining process to determine what shall be included in any contract provisions on layoff and recall.

In one school district, the parties may agree on a procedure which lays off and recalls teachers on the basis of seniority, subject only to state certification requirements. In another district the layoff and recall procedures may list ten factors that will be determining, and seniority may be tenth on the list. In still another district layoffs and recalls maybe solely on the basis of certification and teacher evaluations. This flexibility is at the heart of local control. It is the genius of collective bargaining. It is infinitely superior to us deciding here in Augusta.

By enacting this bill today, we are reaffirming our faith in the collective bargaining process.

The second part of this bill addresses problems that have been arising because of the legal uncertainties which have developed recently in this whole area of law. There are contracts out there right now between teachers and school districts which set recall and layoff procedures. Without this bill, there could be much confusion as to whether those procedures set in contracts are still binding on the parties to the contract. This bill makes clear that those provisions are still valid and binding. It says those provisions were and are binding until the contracts expire or until this bill becomes law, which ever event occurs last. Thus an area of uncertainty is clear up on the side of the current contracts negotiated in good faith being fully in force and enforceable.

Finally, I would like to thank and congratulate Senator Dutremble for the fine work he put into this bill as it is before you today. Everyone thought that this would be a bitter and contentious struggle, but due in large part to the Senator from York's fine work, we had a unanimous report of the Joint Labor and Education subcommittee, we had a unanimous report of the Joint Labor and Education subcommittee, we had a unanimous report of the Labor Committee and we've written a bill that is clear and will accomplish its end.

It's a fine example of our committee system doing its job.

Thank you.

The PRESIDENT: The Chair will interrupt debate at this time to recognize three other former members of this Body: we are cer-

tainly pleased to see former member of Cumberland County Senator Mary Chisholm and I am not sure what state Mary is presently living in. I know that we were able to chase her down with an invitation. We are certainly delighted to see you and have you with us today. (Applause, the members rising.)

The PRESIDENT: We are pleased, also, to have with us former Senator George Chick of Monmouth and would ask George to rise and accept our greetings. (Applause the members rising.)

The PRESIDENT: We are extremely pleased to have with us a gentleman who grows younger every day, the former Senator from York County, of Sanford, Senator Ray Letourneau. Ray we're pleased to see you. (Applause the members rising.)

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

Senator DUTREMBLE: Mr. President, and Ladies and Gentlemen of the Senate, we have had a lot of Labor this year to clarify Legislative Intent and I want to read this into the Record, to make sure that the courts have no problem at all about Legislature Intent this time.

"This act amends Title 20 of the statutes pertaining to matters which are mandatory subjects of collective bargaining in public sector education under Title 20, §965. It does not address the scope of bargaining allowed on the subjects of lay off, recall, and seniority under the Municipal Public Employees Labor Relations Act, since these topics are already considered mandatory subjects of bargaining for public employees who are not affected by the educational policy exclusions found in Title 26, §965(1)(C). This act makes clear that lay off, recall and seniority do not fall within the educational policy exclusions and therefore are subject to bargaining if either party to the negotiations wishes it."

One final thing on this Bill, here, I understand that the newspapers and the press have said that the Democrat's have done well in pushing this piece of legislation through the Senate and the Maine House. I want to make it very clear that it was a combined effort of a lot of different people Democrats and Republicans, who worked very hard on this Bill, there were members of the Labor Committee, members of the Education Committee who formed a subcommittee who worked on this Bill. All the members, there were people from school management, to the superintendent's association, the MTA and the AFT all worked in a spirit of cooperation to get this Bill passed. Subsequently because of all those cooperation we did get a unanimous report of the Committees. Again I want to emphasize that it wasn't really a Democratic bill, although, I wish that our party could take credit for it, I think that everyone shared in the goodness of this Bill. Thank you.

The PRESIDENT: The Chair would interrupt debate at this time to again, call recognition to former members of this Body. It is certainly a great privilege and honor for me to recognize in this Chamber this morning the last Democratic presiding officers of this Body, Democratic Senator, a great friend of all of us, the honorable Bud Reed and ask Bud to rise and accept the greetings of the Senate. (Applause the members rising.)

The PRESIDENT: I am also very pleased to recognize a gentleman that I used to ride back and forth from that city down the pipe somewhere, use to give him all the advise that he could take unfortunately he never followed it, but it is a pleasure to recognize former Senator Ron Kellam, presently District Court Judge Ron Kellam. (Applause the Members rising.)

The PRESIDENT: The Chair would certainly like to recognize some youngsters who have sort of grown with the job over the last number of years, they served as Senate Pages, here, Jackie Calcagni, and Jill Healey. I would like them to rise and accept the greetings of the Senate. (Applause the members rising.)

The PRESIDENT: The Chair recognizes the Senator Sewall.

Senator SEWALL: Thank you, Mr. President and Members of the Senate, this was a unanimous committee report and I would just hope for the Record in the future if we are going to have Legislative Intent put on the Record that that intent will, also, be cleared with the Committee members, even the minority ones. Thank you.

This being an emergency measure and having received the affirmative votes of 29 Members of the Senate, with No Senators having voted in the negative, was Passed to be Enacted and having been signed by the President, was by the Secretary presented to the Governor for his approval.

Emergency

An Act to Provide for Voluntary Inspection of Trailers and Semitrailers under the Motor Vehicle Laws (H. P. 911) (L. D. 1161)

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

Senator PRAY: In reference to L.D. 1161 I move the pending question.

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

The PRESIDENT: The Chair again would interrupt debate at this time to recognize two former distinguished Senators from Cumberland County, one another gentleman whom I relied on quite heavily during his years in this Body, the good Senator from Portland, Senator Phil Merrill, and I would ask Phil to rise and accept the greetings of the Senate. (Applause the Members rising.)

The PRESIDENT: Again, I am pleased to recognize the former member of this Body, that spent a number of years here, and he was from northern Cumberland, as I refer to it, certainly had a lot of fun with him through the years and I would ask former Senator Bob Moore of Casco to rise and accept the greetings of the Senate. (Applause the Members rising.)

The PRESIDENT: The Chair will once more interrupt debate to recognize another former Senator of this Body from York County, and certainly I was aware of his presence in this Body when he was here, and it is a pleasure to welcome back former Senator Dick Logan and would ask Rich to rise and accept the greetings of the Senate. (Applause the Members rising.)

Orders of the Day

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

BILL, "An Act to Conform Maine Garnishment Laws to the United States Code, Title 15, Section, 1673, the Federal Consumer Credit Protection Act (S. P. 110) (L. D. 262)

Tabled—March 31, 1983 by Senator PRAY of Penobscot.

Pending—Passage to be Engrossed (In House, March 22, 1983, Passed to be Engrossed as Amended by Committee Amendment "A" (S-26) and Senate Amendment "A" (S-32) in concurrence.)

(In House, March 31, 1983 Passed to be Enacted)

(In Senate, March 31, 1983, Reconsidered Enactment and further reconsidered En-

grossment)

On motion by Senator Carpenter of Aroostook Retabled for 2 Legislative Days.

(Senate at Ease)

The Senate called to order by the President.

The PRESIDENT: At this time the Chair is very pleased to recognize in the rear of the Chamber another former distinguished Senator from Cumberland County, it is amazing how Cumberland County has over endowed this Chamber with brilliance, now presently County Commissioner in Cumberland County the Honorable Sam Hinds, would you please rise and accept the greetings of the Senate. (Applause, the Members rising.)

The PRESIDENT: The Chair is pleased to recognize the Honorable Joseph E. Brennan, Governor of the State of Maine.

The President requested the Sergeant-at-Arms to escort the Governor the Honorable Joseph E. Brennan, to the rostrum.

The Sergeant-at-Arms escorted the Honorable Joseph E. Brennan to the rostrum, amid the applause of the Senate, the Members rising.

The PRESIDENT: The Honorable Joseph E. Brennan, Governor of the State of Maine.

GOVERNOR BRENNAN: Mr. President, Ladies and Gentlemen of the Senate, when I served in this Chamber back in 1973 there were twenty-two Republicans and eleven Democrats. Obviously, I think that it is remarkable that about a 180 degree turn has been made. In fact, I think that it is more than remarkable, I think that it is a lot of progress. That is from my point of view. I appreciate that there may be another perspective that may see it as humility, but that is a virtue so don't feel bad about it.

Four of those Senators that I served with are still here, today: the President of the Senate, Senator Conley, Senator Danton, Senator Hichens, and my good friend Senator Minkowsky.

I believe that it is interesting to note that many former members of the Legislature are serving in my administration, either as Cabinet Officers, or part of the administration: people like Dave Bustin, Rod Scribner, Glen Manuel, Stew Smith, Harvey DeVane, Dick Daves, Leighton Cooney, Spike Carey among others. Some people say that I am not really running a State Government, but rather a rest home for former Legislators. Those members who have not been able to get a job with the Administration by lack of qualifications or training, or some other reason like Ken McCloud or Severin Beliveau still have jobs around here in the lobby.

The Maine Legislature, I have to say, though is a truly remarkable institution, in four years they could not pass a penny increase in the Gas Tax, and last week in four hours they passed a nickle increase. So you just don't take them for granted, you're not sure what is going to happen.

I do want to say, though, that I do think that this annual event is a special day for the Legislature. It is a chance for all of us to renew old friendships and acquaintances and tell some stories. More than that it is truly a reminder of how fortunate, I believe, the people of the State have been over the years. Despite the high turnover in the Legislature, despite the comparatively low pay, and some of the personal sacrifices that must be made, somehow the Legislature continues to attract good members. I think that that is a tribute, and I am sure that none of you will disagree with that, to the voters for their ability to make good choices. It is a tribute to the willingness of so many capable people who have chosen to give up precious time with their families, who have decided to make personal financial sacrifices inservice to the people of our state.

I think that the Record shows over the years

that Maine has been well served by its Legislatures and the people who make up the Legislature. So I want to commend you for the service past and present. I want to say that I really enjoyed my two years in this Body, I trained down in the other Branch for about six years before I was allowed to make it, my good friend the President of the Senate did it in about two terms to show you how much faster he is than I in catching on, but it was a great experience. I am very proud to have had that experience, and I hope that it has been helpful in my present occupation.

I want to say again, I am delighted to have been invited here to Welcome Back Day and I hope that you all have a very pleasant day in Augusta those who are coming back to visit.

Thank you very much.

The Sergeant-at-Arms escorted the Honorable Joseph E. Brennan, Governor of the State of Maine, from the Senate Chamber, amid the applause of the Senate, the Members rising.

(Off Record Remarks)

The PRESIDENT: The Chair is very pleased to recognize in the rear of the Chamber, certainly a gentleman who I served with both down at the other end where he got his training and certainly for a vast number of years in this body, he certainly taught me a great lesson in tolerance, certainly one of the wittiest men that I have met in my lifetime. I am very pleased to recognize the former distinguished Majority Floor Leader of the Maine Senate, a couple of times, and would ask him to rise and accept the greetings of the Senate, former Senator Bennett Katz of Augusta. (Applause the Members rising.)

The PRESIDENT: Another former member of this Body a Senator who is from Sagadahoc County served with great distinction and I was sorry to see him leave when he decided that he was not going to run again. Again, it is great to recognize former Senator John Chapman. John would you please rise and accept the greetings of the Senate. (Applause the Members rising)

(Senate at Ease)

The Senate called to order by the President.

Order of the Day

On motion by Senator Pray of Penobscot, the Senate voted to take from the table:

BILL, "An Act Relating to Payment by an Employer when a Physician's Certification of Illness is Required" (S. P. 240) (L. D. 682)

Tabled—March 30, 1983 by Senator PRAY of Penobscot

Pending—Enactment

(In Senate, March 18, 1983 Passed to be Engrossed as amended by Senate Amendment "A" (S-31))

(In House, March 29, 1983 Bill and Accompanying Papers Indefinitely Postponed)

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

Senator DUTREMBLE: Mr. President, Ladies and Gentlemen of the Senate, in the debate on this Bill last week there was question as to whether or not the intentions of this law was already covered by existing law.

I requested an opinion from the Attorney General and I would like to read just parts of it to you, concerning the existing law.

"The clear language of this section leaves no doubt that it applies both to newly hired employees and to any other employees who may be required by the employer to undergo a medical examination. The language of the section, "...any employee or accepted applicant..." could mean nothing other than that the section applies to any employee whether newly hired or existing. The language also makes it

clear that it is the fact that the employer "ordered or required" the examination which is relevant and not the purpose for which the examination is used."

Further on the remarks of the Attorney General, the only remaining question is your concern that the word, "examination" may not encompass a physician's certificate which an employer may require. Such a distinction would fly in the face of common sense."

Considering the information from the Attorney General and the fact that it is already covered by existing law, I move that this Bill and all its accompanying papers be Indefinitely Postponed.

On motion by Senator Dutremble of York, Indefinitely Postponed, along with all accompanying papers, in concurrence.

On motion by Senator Carpenter of Aroostook, Adjourned until 1 o'clock tomorrow afternoon.