

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

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 12, 1983

Senate called to order by the President.

Prayer by the Reverend Arthur J. V. Durbin, retired from Greeley Presbyterian Church of St. Louis, Missouri, now residing in Waterville.

REVEREND DURBIN: Let us pray! We come to Thee before the opening of this session to give Thee thanks for all Thy many gifts to us, both physical and spiritual, and for the opportunity to come to Thee to deliberate and to guide with Thee the things that are before us. May we be willing to accept Thee to guide us in all of our deliberations.

May what we say and do, today and days which are ahead, be done to Thy honor and to Thy glory. This we ask in Jesus' name. Amen.

Reading of the Journal of yesterday.

The President requested the Sergeant-at-Arms to escort the Senator from Knox, Senator Collins to the rostrum to assume the duties of President Pro-Tem.

The Sergeant-at-Arms escorted the Senator from Knox, Senator Collins to the rostrum, where he served as President Pro-Tem.

The President then retired from the Senate Chamber.

**Papers from the House
House Papers**

BILL, "An Act to Provide a Veteran's Bonus to Viet Nam Veterans" (H. P. 1076) (L. D. 1423)

Comes from the House referred to the Committee on Aging, Retirement and Veterans and Ordered Printed.

Which was referred to the Committee on Aging, Retirement and Veterans and Ordered Printed in concurrence.

BILL, "An Act Relating to Issuance of Absentee Ballots by Municipal Clerks" (By Request) (H. P. 1078) (L. D. 1424)

Comes from the House referred to the Committee on Election Laws and Ordered Printed.

Which was referred to the Committee on Election Laws and Ordered Printed in concurrence.

BILL, "An Act to Authorize Easements for the Purpose of Sewage Disposal and to Eliminate Undersized Rights-of-way on Certain Leased Lots Owned by the Town of Bridgton." (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27) (H. P. 1079) (L. D. 1425)

BILL, "An Act to Control Hazardous Air Pollutants" (H. P. 1080) (L. D. 1426)

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

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

BILL, "An Act to Insure Fairness in the Administration of the United States Social Security Act by the State Disability Determination Services" (Emergency) (H. P. 1081) (L. D. 1427)

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

On motion by Senator Carpenter of Aroostook referred to the Committee on State Government and Ordered Printed, in non-concurrence.

Sent down for concurrence.

BILL, "An Act to Create a Board of Review for the Judiciary." (H. P. 1082) (L. D. 1428)

Comes from the House, referred to the Committee on Judiciary and Ordered Printed.

Which was referred to the Committee on Judiciary and Ordered Printed in concurrence.

BILL, "An Act to Establish a State Standard for Funding Certain Workers under the Workers' Compensation Commission" (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27) (H. P. 1083) (L. D. 1429)

Comes from the House, referred to the Committee on Labor and Ordered Printed.

Which was referred to the Committee on Labor and Ordered Printed in concurrence.

BILL, "An Act to Revise the Markup Percentage of Maine Produced Products Under the Liquor Law" (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27) (H. P. 1084) (L. D. 1432)

Comes from the House, referred to the Committee on Legal Affairs and Ordered Printed.

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

RESOLUTION, Proposing an Amendment to the Constitution of Maine to Undedicate the Highway Fund. (H. P. 1087) (L. D. 1430)

Comes from the House, referred to the Committee on Transportation and Ordered Printed.

On motion by Senator Pray of Penobscot referred to the Committee on Taxation and Ordered Printed, in non-concurrence.

Sent down for concurrence.

Senate Papers

BILL, "An Act to Revise Laws Concerning Commercial Whitewater Rafting" (Submitted pursuant to Resolves, 1982, Chapter 67 and presented by the President of the Senate on behalf of the Whitewater Rafting Study Commission) (S. P. 478) (Presented by President CONLEY of Cumberland)

BILL, "An Act to Regulate Commercial Whitewater Rafting" (Submitted pursuant to Resolves, 1982 Chapter 67 and presented by the President of the Senate on behalf of the Whitewater Rafting Study Commission) (Emergency) (S. P. 479) (Presented by President CONLEY of Cumberland)

Reference to the Committee on Fisheries and Wildlife suggested.

On motion by Senator Pray of Penobscot referred to the Committee on Energy and Natural Resources and Ordered Printed.

Sent down for concurrence.

**Committee Reports
House**

Ought Not to Pass

The following Ought Not to Pass reports shall be placed in the legislative files without further action pursuant to Rule 15 of the Joint Rules:

BILL, "An Act Relating to Private Security Guards" (H. P. 960) (L. D. 1241)

BILL, "An Act Concerning the Date of Celebration of Independence Day" (H. P. 959) (L. D. 1240)

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 Concerning Advertising by Chiropractors" (H. P. 875) (L. D. 1129)

BILL, "An Act to Clarify Utility Financing of Energy Conservation" (H. P. 202) (L. D. 246)

BILL, "An Act to Increase the Premium on Liquor for Alcoholism Prevention, Education, Treatment and Research" (H. P. 35) (L. D. 40)

BILL, "An Act to Establish a State Standard for the Taxation of Boats" (H. P. 646) (L. D. 810)

BILL, "An Act Concerning the Value of Prizes

that may be Awarded on Beano" (H. P. 774) (L. D. 1004)

Ought to Pass

The Committee on Judiciary on BILL, "An Act to Exempt Clustered Single Family Subdivisions from the Maine Condominium Act" (H. P. 603) (L. D. 751) 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 Judiciary on BILL, "An Act to Amend the Procedure for Assessing Surveying Costs in Court Cases" (H. P. 700) (L. D. 889) 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 State Government on BILL, "An Act Eliminating the Responsibility of the State Planning Office to Prepare an Annual Housing Report" (H. P. 847) (L. D. 1097) 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 State Government on BILL, "An Act to Amend the Competitive Bidding Procedure to Allow Negotiation for Petroleum Product Procurement" (Emergency) (H. P. 862) (L. D. 1111) 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 Public Utilities on BILL, "An Act Relating to the Maine Municipal and Rural Electrification Cooperative Agency" (H. P. 804) (L. D. 1044) Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-122)

Comes from the House with the Report Read and Accepted and the Bill Passed to be Engrossed as Amended by Committee Amendment "A" (H-122)

Which Report was Read and Accepted in concurrence. The Bill Read Once. Committee Amendment "A" (H-122) was Read and Adopted, in concurrence. The Bill, as Amended, Tomorrow Assigned for Second Reading.

Ought to Pass in New Draft under New Title

The Committee on Judiciary on BILL, "An Act to Establish Grandparents' Visitation Rights" (H. P. 245) (L. D. 292) Reported that the same Ought to Pass in New Draft under New Title. BILL, "An Act Concerning Visitation Rights for Parents and 3rd Persons with Children Involved in Divorce or Custody Proceedings" (H. P. 1091) (L. D. 1433).

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

Which Report was Read and Accepted in concurrence.

The Bill, in New Draft under New Title, Read Once and Tomorrow Assigned for Second Reading.

The Committee on State Government on

BILL, "An Act Creating a "Maine-owned Business" Logo" (H. P. 425) (L.D. 507) Reported that the same Ought to Pass in New Draft under New Title, RESOLVE, Providing for a Study of a Maine Product Marketing Strategy and a Maine Business Product Logo (Emergency) (H. P. 1095) (L. D. 1437).

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

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

Divided Report

The Majority of the Committee on Health and Institutional Services on BILL, "An Act to Amend the Annual Review of Fees Laws" (H. P. 219) (L. D. 267)

Reported that the same Ought Not to Pass. Signed:

Senators:

BUSTIN of Kennebec
CARPENTER of Aroostook
GILL of Cumberland

Representatives:

BRODEUR of Auburn
RICHARD of Madison
NELSON of Portland
MELENDY of Rockland

The Minority of the same Committee on the same subject matter

Reported that the same Ought to Pass.

Signed:

Representatives:

CARROLL of Gray
PINES of Limestone
WEBSTER of Farmington
SEAVEY of Kennebunkport
MAYBURY of Brewer
MANNING of Portland

Come from the House, the Majority Report Read and Accepted.

Which Reports were Read and the Majority Ought Not to Pass Report of the Committee was Accepted, in concurrence.

Senate

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 Prohibit Unsafe Above-ground Electric Utility Wiring" (S. P. 308) (L. D. 922)

Ought to Pass as Amended

Senator BALDACCI for the Committee on Public Utilities on BILL, "An Act to Permit the Public Utilities Commission to Authorize a Management Audit of a Public Utility" (S. P. 345) (L. D. 1019) Reported that the same Ought to Pass as Amended by Committee Amendment "A" (S-56)

Which Report was Read and Accepted. The Bill Read Once. Committee Amendment "A" (S-56) was Read and Adopted. The Bill, as amended, Tomorrow Assigned for Second Reading.

Ought to Pass in New Draft

Senator BALDACCI for the Committee on Public Utilities on BILL, "An Act to Improve and Clarify the Rate-setting Procedures for Municipal and Quasi-Municipal Water Companies" (S. P. 321) (L. D. 964) Reported that the same Ought to Pass in New Draft under same title. (S. P. 480) (L. D. 1446)

Which Report was Read and Accepted.

The Bill, in New Draft, Read Once and Tomorrow Assigned for Second Reading.

Senator DOW for the Committee on Aging, Retirement and Veterans on BILL, "An Act to Give the Maine Association of Retirees Proper Representation on the Board of Trustees for

the Maine State Retirement System" (S. P. 208) (L. D. 629) Reported that the same Ought to Pass in New Draft under same title (S. P. 481) (L. D. 1447)

Which Report was Read and Accepted.

The Bill, in New Draft, Read Once and Tomorrow Assigned for Second Reading.

Second Readers House

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

BILL, "An Act to Promote Early Permanency for Children Subject to a Protection Order" (H. P. 892) (L. D. 1157)

BILL, "An Act to Improve the Child and Family Services and Child Protection Act" (H. P. 891) (L. D. 1156)

BILL, "An Act to Establish Clearer Guidelines for Guardians Ad Litem Appointed under the Child and Family Services and Child Protection Act" (H. P. 889) (L. D. 1154)

BILL, "An Act to Amend the Waiting Period After Promulgation of a Rule by the Bureau of Banking" (H. P. 814) (L. D. 1054)

BILL, "An Act to Protect Unemployed Workers from the Loss of Unemployment Benefits Without the Opportunity for a Fair Hearing" (H. P. 1089) (L. D. 1416)

BILL, "An Act Concerning the Hiring of "Clerk-of-the-works" for the Inspection of Public Improvement" (H. P. 1090) (L. D. 1417)

BILL, "An Act Concerning Registration of Deer in Unorganized Territories" (H. P. 1074) (L. D. 1406)

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

House as Amended

BILL, "An Act Regarding the Motor Vehicle Offenses of Eluding a Police Officer and Passing a Roadblock" (H. P. 688) (L. D. 868)

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

Senate

BILL, "An Act to Increase Licensing Fees of Agencies Within the Department of Business Regulation" (S. P. 355) (L. D. 1076)

Which was Read a Second Time and Passed to be Engrossed.
Sent down for concurrence.

Senate — As Amended

BILL, "An Act to Provide Necessary Statutory Changes as a Result of Certain Laws Relating to Juries" (S. P. 148) (L. D. 439)

BILL, "An Act to Improve the Identification of Persons Prescribing Medicines on Hospitals Prescription Blanks" (S. P. 307) (L. D. 921)

Which were Read a Second Time and Passed to be Engrossed as Amended.
Sent down for concurrence.

The President Pro-Tem would ask the Sergeant-at-Arms to escort the Senator from Cumberland, Senator Conley to the Rostrum where he may assume his duties as President.

The Sergeant-at-Arms escorted the Senator from Cumberland, Senator Conley to the Rostrum where he assumed his duties as President.

The Sergeant-at-Arms escorted the Senator from Knox, Senator Collins to his seat on the floor of the Senate.

The PRESIDENT: The Chair wishes to thank the distinguished Senator from Knox, Senator Collins for the outstanding job he has done presiding. (Applause the Members rising.)

Enactors

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

An Act Relating to Hunting and Fishing by Disabled Persons (H. P. 266) (L. D. 326)

Which was Passed to be Enacted and having been signed by the President, was by the

Secretary presented to the Governor for his approval.

An Act to Prohibit Shooting within 100 Yards of any Dwelling During Hunting Season. (H. P. 167) (L. D. 198)

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, the Bill that we now have before us pending Enactment is one that we have discussed on a prior occasion. Some of us expressed some concerns and fears at that time as to whether or not the Bill as written would allow the discharging of firearms within, for example, a municipal boundary in a town or the communities, as long as the individual was the owner of that property.

In pulling out the Enactor, and what I would like to share with the Members of the Chamber before we Enact this Bill, or if we Enact this Bill, is the fact that it deals with the discharging of firearms near dwellings. It goes on to say that a person is guilty of discharging a firearm near dwellings, if he discharges the firearm within one hundred yards of a residential dwelling without the permission of the owner, or in his absence of an adult occupant of that dwelling. The last sentence which is what this Bill is, "This subsection shall not apply to a person, or his guest discharging a rifle or a handgun on property owned by that person."

I guess what I'd like to ask some of our learned colleagues in this chamber who practice law, their interpretation of this statutory language that we are now considering, as to whether or not, that would excuse them from municipal ordinances which disallow firearms, discharge of firearms within municipal limits?

The PRESIDENT: The Senator from Penobscot, Senator Pray has posed a question through the Chair to any Member of the Senate who may wish to respond.

The Chair recognizes the Senator from Androscoggin, Senator Trafton.

Senator TRAFTON: The Senator from Penobscot, Senator Pray caught me cold this morning, not telling me in advance that he was to ask me this weighty legal question. I will do my best without any prior preparation.

It is my opinion that this amendment, House Amendment (H-90) would set a State standard, and it would preempt local ordinances setting a statewide, uniform standard throughout the State. Frankly, I think that is why I support the Bill, providing some uniformity to all our hunters throughout the State, so that they are not required to go to each town hall or city hall to check what that local standard may be. Thank you.

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

Senator BALDACCI: Mr. President and Members of the Senate, as a former member of a town council which deliberated very long, spent many hours going over where the line would be in the community for discharge of firearms. I sort of take question with the Senator from Androscoggin, Senator Trafton's point as far as a statewide standard to cover hunters that roam statewide. I think that this issue is better left to the local communities in deciding where they want to draw the line for the discharge of firearms. I would hate to see that the State supersede the local communities in setting that standard, because a lot of time and effort and people getting together to meet to decide where the line would be drawn in a particular community. It is better done at the local level than just to broad-brush across the State.

Mr. President, I'd like to move that this Bill, if it is in order, Mr. President, that the Bill be indefinitely Postponed and all its accompanying papers.

The PRESIDENT: The Senator from Penob-

scot, Senator Baldacci moves that "An Act to Prohibit Shooting within 100 Yards of any Dwelling During Hunting Season" be Indefinitely Postponed.

The Chair recognizes the Senator from Kennebec, Senator Kany.

Senator KANY: Mr. President and Members of the Senate, if indeed, that is the case as described by Senator Trafton, and there are a number of us who probably support the Bill in its present form, and yet would like communities, such as the City of Waterville, which prohibits the firing of any firearms within the city limits, to do so.

I personally would like to see the Bill amended that the Bill would then read that there would be no firearms within such and such a distance from an individual's home, unless it were on that individual's property or guest or that the law could be more restrictive within a community.

I would hope that if there is interest in amending this Bill to do just that someone would be willing to Table this item so that an amendment could be drafted.

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

Senator DOW: Just to answer the good Senator from Kennebec, Senator Kany, if she votes to go along with the amendment then the people in her town will have local control and they won't have to bother with amending the Bill.

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

Senator PRAY: Mr. President, Ladies and Gentlemen of the Senate, the reason that I rise today as well as last week is not in an attempt to kill the Bill as the Senator from Penobscot, Senator Pearson whispers rather loudly, but it is to express a concern that we are giving landowners permission to discharge a firearm in any municipality in this State, as long as he's on his own property. I think my house lot, back home, runs about 120' x 60' does that mean that I can go out in my backyard and set a target up on one side of my backyard, stand on the other end of my property and shoot at that target? Because the State law says here that I'm allowed to discharge firearms, as long as I'm on my property.

My concern is what does this do to the neighbor when I miss the target? Very seldom of course! That's my concern, and that was the point that I attempted to raise the other day when this Bill was in a stage where it could be amended. I raised my objections early enough so that if anybody had an amendment or wanted to try to address the problem, then we could do it.

The question today is not whether or not it is in an amendable stage. It is in Enactment. That's why I raised the question today, not objections to the Bill, but the question, because I want to make sure that we pass exactly what those who support this Bill want, and I don't know if the language there does it.

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

Senator VIOLETTE: Mr. President, Ladies and Gentlemen of the Senate, I would hope, today, that we would go along with the Senator from Penobscot's motion to Indefinitely Postpone this matter.

This Bill, as far as I'm concerned is very poorly worded and drafted, it does not at all address the concern, I believe, of those that have sponsored this Legislation. I think the Senator from Penobscot, Senator Pray has addressed a number of concerns, concerns that he addressed when this Bill was before us on First and Second Reader, technical problems with this Legislation.

I quite frankly feel that if a community is having difficulty in this area that that community ought to pass its own local ordinance. If this is not a problem in the area that I come from, or the rural communities, then why should those communities that I represent

have this forced upon them, if in fact, this is a problem in the more urban areas of this State? If it is a problem in your community, get your local town council to address the problem. If it isn't, and if it is, don't force it upon those in our communities where it isn't a problem.

I think that that is the issue underlying this Legislation today. I think the motion to Indefinitely Postpone is definitely proper, and I would hope that the Senate, today, would go along with this motion. Thank you.

On motion by Senator Kany of Kennebec, Tabled for 1 Legislative Day, pending the motion by the Senator from Penobscot, Senator Baldacci.

Orders of the Day

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

SENATE REPORTS — from the Committee on Judiciary on BILL, "An Act to Prohibit the Dissemination of Obscene Material" (S. P. 112) (L. D. 264)

Six members reported in Report "A" that the same Ought to Pass in New Draft under New Title, BILL, "An Act to Amend the Obscenity Laws" (S. P. 477) (L. D. 1438).

Four members of the same committee on the same subject matter in Report "B" Reported that the same Ought to Pass.

Three members of the same committee on the same subject matter reported in Report "C" that the same Ought Not to Pass.

Tabled—April 11, 1983 by Senator PRAY of Penobscot.

Pending—Motion of Senator TRAFTON of Androscoggin to Accept Report "A".

On motion by Senator Pray of Penobscot, Retabled until Tuesday, April 19, 1983.

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

BILL, "An Act to Amend the Authorization for the Community Development Block Grant Program to Include the Development Opportunity Fund" (S. P. 476)

Tabled—April 11, 1983 by Senator CARPENTER of Aroostook.

Pending—Reference.

On motion by Senator Pray of Penobscot referred to the Committee on State Government and Ordered Printed.

Sent down for concurrence.

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

BILL, "An Act to Reassign Responsibilities Within the Department of Environmental Protection" (S. P. 470) (L. D. 1434)

Tabled—April 11, 1983 by Senator PRAY of Penobscot

Pending—Engrossment

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

Senator PRAY: Mr. President, I present Senate Amendment "A" (S-55) and move its Adoption.

The PRESIDENT: The Senator from Penobscot, Senator Pray presents Senate Amendment "A" (S-55) and moves its Adoption.

Senate Amendment "A" (S-55) was Read.

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, presently, the Board of Environmental Protection has as its Chair the Commissioner of the Department. This Bill, as presently written will remove the Commissioner from serving on the Board as its Chairman. This will in turn allow the Governor, who of course, has the ultimate responsibility of the administration of those boards to which he appoints, this would allow him to appoint that member that he so chooses to be its chairman.

The PRESIDENT: Is it the pleasure of the Senate to Adopt Senate Amendment "A"?

The Chair recognizes the Senator from Pe-

nobscot, Senator Pearson.

Senator PEARSON: Mr. President, Ladies Gentlemen of the Senate, the Committee on Energy and Natural Resources considered this Bill to deal with the Department of Bureau of Environmental Protection and there were a number of different proposals that were made within the Bill that we were considering.

We worked on it and we worked on it and some people compromised, and other people compromised and we finally came out with a unanimous Committee Report. In that unanimous Committee Report we said that we thought that the Chairman of the Board of Environmental Protection should be chosen from within the group itself. Much the same as Pesticide Control and Land Use Regulation Commission now operates.

We felt, the majority on that Committee and everybody agreed to sign out the report unanimously, that if you were to choose a chairman from within the membership, have them choose them, themselves that they would have probably a better working relationship with each other.

The present situation in the Board of Environmental Protection is this, the Commissioner serves as chairman. This Bill removes the Commissioner from the chairmanship, he now becomes a participant in the meetings and as an advocate for the administration.

We felt that the chairman should be a person who runs a meeting more than being an advocate, and consequently we wanted the chairman to be chosen from within the membership.

Senator Pray has introduced an amendment that would change that back to another opinion that the chairman should be chosen by the Governor. That is a matter of philosophy. If you think that the Governor should choose the chairman, you would vote for his amendment. If you think that it would work better to have the Committee, itself, decide the Commission, itself, choose the chairman you should vote against this amendment.

Now I want to point out one more thing before I sit down and that is this. Remember that the Governor appoints all the members of the board, anyway. That during a process of eight years, he would have appointed almost, I think all of the members of that Board. So, it is not a situation that it is crucial that he has somebody who is the chairman that doesn't believe in any of his philosophies anyway. That is not likely to happen.

So I would move for Indefinite Postponement of this Amendment.

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

Senator PRAY: Mr. President and Ladies and Gentlemen of the Senate, the good Senator from Penobscot, Senator Pearson made some rather valid points, but I think that they are valid only to a certain degree. I would like to talk about some of the degrees which I do not believe that he was completely correct on.

First of all as much as we would like to think that the chairman of the board, any board, or any commission, is just an individual who serves as the presiding officer at meetings, it is not in reality true. On many occasions it is the chairman of the board that is sorted out and his opinion is asked what the board, commission under the direction of the Commissioner, and of course, the office of the Governor himself, what they are going to be doing on specific issues. That is point number one.

Point number two is the fact that the Senator from Penobscot Senator Pearson said that the Governor gets to appoint all of the members of the board. Well, if you have a Governor that is in for eight years, that is true. If you have a Governor that is in for a full term that is, also, true. But the fact is that board member terms overlap the term of the Governor and you could have a situation where there is nobody up for several months on the board, and you could have a new Governor and

the question as to whether or not the Governor should have the right to choose whom he feels should represent him on that board.

Under the existing situation under present law the Commissioner is the chairman of the board, of course, that man is chosen by the Governor to serve as his commissioner. By removing the commissioner as chairman of that board, removes that opportunity for the Governor's office naming whom they want to head up that agency or board even in the instance where he appoints all of them, he may have a higher preference to have one particular individual to be the chairman over another this would allow him to have that opportunity.

I would request a Division on the motion.

The PRESIDENT: A Division has been requested.

The Chair recognizes the Senator from Penobscot, Senator Pearson.

Senator PEARSON: Mr. President and Ladies and Gentlemen of the Senate, I just want you to understand that I don't think that the chairman should be chosen by the Governor would be as good a person functioning with the rest of the Committee, as a chairman would be if he were chosen from within that group, because a chairman chosen by the Governor would be considered as a constant advocate or a direct line taking orders only from one source, and I do not think that that is healthy.

I, also, if you was listening very carefully the other guy who is speaking to the Senate agrees with my point, also.

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

Senator TRAFTON: Mr. President, and Members of the Senate, I rise to support the good Senator from Penobscot's motion, Senator Pearson, his motion to Indefinitely Postpone this amendment.

I hesitate to oppose an amendment that was proposed by the Governor's office, however, I think that this is an important question that should be considered very carefully by the Senate.

There was a commission, it was called, "The Trafton Commission" not after me, but it was a commission that was headed by the previous Senator from Androscoggin, my wife. That Commission was formed by many different representatives, from different areas concerned with the Department of Environmental Protection. It recommended that the Chairman of the Board of Environmental Protection be chosen by the members of that board.

I think that it is important to consider that the Board of Environmental Protection is a quasi-judicial board it acts sometimes with the authority of the court. The chairman can wheedle a great deal of influence.

A chairman position is often political. I have complete faith that our current Governor would appoint a person who would exemplify leadership within the Board of Environmental Protection and would move the environmental policy of this State in the proper direction. However we do not know who the next Governor will be. We are not sure whether his environmental policy will be as sound as those of our current Governor.

I think that there is a great deal of merit to the chairman of the Board of Environmental Protection being chosen from within the ranks of the Board of Environmental Protection supported by all the members of that Board to properly reflect their views and able to lead them in the right direction. Thank you.

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

Senator BALDACCI: Mr. President and Members of the Senate, I hate to get up here in a fashion to talk on different points made by different State Senators, but there were two points: one that bothered me tremendously was that this was a quasi-judicial body and that the membership was better able to select its chairman.

I would just remind the good Senator that the Public Utilities Commission is a quasi-judicial body. They have an exparte administrative ruling that they have to operate under, and the Governor of the State of Maine selects the chairman of that particular Commission.

I think that the Governor wants to appoint the chairman of this particular Board and it is a quasi-judicial Board, and he is a Governor that was elected by the people of the State of Maine, and responsible to them then he ought to be able to do it. Thank you, Mr. President.

The PRESIDENT: The Chair recognizes the Senator from Aroostook, Senator McBrearity, Senator McBREAIRTY: Mr. President, I strongly support Senator Pearson's motion to Indefinitely Postpone this amendment.

Not only did the Natural Resource Committee spend a lot of time this year in making our decision to have the chairman appointed by the committee themselves, but we spent a lot of time last year on this same subject, and came out with the same decision.

Now this Bill definitely would not have come out unanimous if we hadn't made the decision to let the Board choose their own chairman.

This is a citizens Board and we think that they should have free rein to do their own thing. So I would hope that you would vote to Indefinitely Postpone this amendment. Thank you.

The PRESIDENT: Is the Senate ready for the question?

Will all those Senators in favor of the motion by the Senator from Penobscot, Senator Pearson that Senate Amendment "A" be Indefinitely Postponed, please rise in their places to be counted.

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

23 Senators having voted in the affirmative, and 6 Senators in the negative, the motion to Indefinitely Postpone Senate Amendment "A" Prevailed.

The Bill, was Passed to be Engrossed.
Sent down for concurrence.

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

Senator CLARK: Mr. President is the Senate in possession of L. D. 262?

The PRESIDENT: The Chair would answer in the affirmative, the Bill being held at the request of the Senator.

On motion by Senator Clark of Cumberland the Senate voted to Reconsider its action whereby:

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) was Recommitted to the Committee on Judiciary.

The PRESIDENT: The Senator has the floor.

Senator CLARK: Mr. President I understand that the pending motion before us now is the motion to commit the Bill to Judiciary and I urge that the Members vote against that motion.

The PRESIDENT: The Chair would state that the Senate has just Reconsidered its action whereby this Bill was referred to the Committee on Judiciary. The pending motion before the Senate is Engrossment.

The Senator has the floor.

Senator CLARK: Mr. President, I move that L. D. 262 as amended be Passed to be Engrossed.

On motion by Senator Clark of Cumberland L. D. 262 was Passed to be Engrossed.

The PRESIDENT: The Chair would state that the Senator from Cumberland, Senator Clark has the floor.

Senator CLARK: Mr. President, I move that L. D. 262 as Amended be Passed to be Enacted, in concurrence, and would speak to my motion.

The PRESIDENT: The Senator has the floor.
Senator CLARK: Thank you, Mr. President. L.

D. 262, Mr. President, and Members of this Senate, is a Bill which was reported out with a unanimous Committee Report from the Joint Standing Committee on Business Legislation.

L. D. 262 has as its basic thrust the addition of an exemption of the Federal Garnishment Laws to the State Garnishment Law and it is also intended to specify limits on garnishment and enforcement of support orders. The three federal exceptions pertain to support orders, payment of state or federal taxes, and bankruptcy proceedings.

In a traditional manner I would say to all of you present here this morning that L. D. 262 had what we use to call a really good hearing. As a matter of fact there was only one opponent to the Bill.

The condition of that Bill, L. D. 262, in its present state is as follows: L. D. 262 has been amended with Committee Amendment "A" under filing number S-26 at the request of the former superintendent of the Bureau of Consumer Credit Protection and that amendment clarifies the fact that the limits of garnishment in Title 14 do not apply to transactions governed by the Consumer Credit Code.

That Code in Title 9-A, Section 5-105 contains similar but distinct limitations on garnishment, and it was the position of the Committee on Business Legislation that in fact support orders were considerably different than consumer debt.

In response to some concerns that were shared with me by the counsel to the President of this Body another amendment was attached to the Bill here in this Chamber, and that is Senate Amendment "A" under filing S-32 and that was offered by the good Senator from Androscoggin, Senator Trafton. That amendment keeps the floor of earnings which can't be garnished intact, but allows greater flexibility for garnishment in support cases than in other situations. And in fact Senate Amendment "A" to the Bill reflects the sole concern expressed by the single person appearing in opposition to the Bill at the public hearing.

Now needless to say this Bill has been somewhat stalled, we might suggest, in this Chamber, and while I respect those that perhaps have reservations about it, and hesitate to squabble with them, if you will, I would have to focus my remarks this morning on a fact sheet regarding L. D. 262 that I would submit most of the Members of this Chamber have received having been tendered them by the counsel who sits in the outer office of our President.

I would refer you specifically to this fact sheet so that I may have an opportunity to respond to it. Parenthetically I am glad that I do not have to debate the echo, the Representative from Westbrook, from the other Chamber, end of parenthetical statement.

L. D. 262 fact sheet number one: Maine Garnishment laws are not required to conform to the Consumer Credit Code. The probable reference is to the Federal Consumer Credit Protection Act referred to in the Bills title. It is true that Maine is not required to conform to the Federal Act in this case.

Indeed the Business Legislation Committee has been asked repeatedly to reduce protection to consumers with regard to banks and other creditors a number of times, and I can personally attest to that. That Committee has generally recommended greater protections than those provided in the Federal Law. However in L. D. 262 the Committee felt unanimously that support of dependents was a different situation and I would hope that the Members of this Body would concur.

Point number two: in the fact sheet on this measure, this garnishment proceeding could be used to collect for support of 'any person', Yes that is the language, however, the Bill does not create any new support obligations. Rather it affects only the manner in which a

person can collect on a judgment, once it has been rendered and the person owing that money refuses to pay. Emphasis, a judgment has been rendered by a court.

If someone has a problem with the kinds of support which are required by statute to be paid, then those provisions should be changed which require the support.

On the other hand it is small consolation to tell someone that they are entitled to such support, but they have no adequate way to enforce that right.

Point number three: this garnishment procedure can be used on non-court, administrative orders. This reference relates to the enforcement of child, emphasis on child, support orders by the Department of Human Services by its "alternative method" contained in Title 19. Under that method, the debtor has the right to a hearing and there is a litany of criteria for the department hearing officer to use in establishing the amount of the order. Proceedings must comply with the Administrative Procedure Act and there is appeal to the courts.

As was pointed out at the hearing, the Department of Human Services has no particular interest in creating more AFDC cases by collecting these sums.

Point number four: the term 'supporting' and 'dependent child' are used in this bill are not defined. That is true they are reasonably left to the courts and the affect of not defining them is probably favorable to debtors. For example, there is no arbitrary threshold in determining dependency.

Point number five: the earnings subject to garnishment include all pension and retirement benefits. That is true, both in the Bill and under current State and Federal law. As we heard at the hearing, one gentlemen had difficulty collecting child support from his ex-wife who had a healthy military pension.

The Bill would not affect those primary benefits, excuse me, the bill would not affect these benefits with regard to regular creditors' rights, but primarily with respect to support obligations.

Point number six: there exists possible confinement to jail as a remedy for failure to make support payments, a remedy that does not exist for other creditors. Of course, if the parent owing child support is in jail, it's very little help to the child who needs the support.

Despite this added enforcement mechanism, the failure to provide support still occurs.

Point number seven: since most actions to collect past due support deals with support due more than 12 weeks past, due to delays in the legal process, the 55% and 65% limits will apply.

The garnishment order is only issued if a judge determines that the debtor can afford to pay it. So the question arises, WHY HASNT THE DEBTOR BEEN MAKING THE PAYMENTS WITHOUT A GARNISHMENT ORDER? There is no requirement anywhere that a debtor wait for 12 weeks after having been told by the court that he/she owes support for the court to then tell the debtor's employer to make the payments. The 12-week delay isn't a factor of the "delays in the legal process"—it's the debtor's choice.

Point number eight: the maximum seizure limitations (50% 60%) do not apply to orders of the Bankruptcy Court or to the collection of federal or state taxes. Everything over the \$100.50 floor can be seized in these instances.

The Bill provides an exception for cases in bankruptcy Chapter 13, there are two reasons for such an exception:

(a) Chapter 13 is the so-called "wage earner" provisions of the Federal Bankruptcy Law. Under this part, a wage earner comes into court and establishes a "plan" to pay off his/her debts, to the extent it is deemed possible. A major element of the plan is the use of his or

her wages. In these cases, the total financial condition of the debtor is carefully assessed, and all debts taken into account. Therefore, broader latitude should be given to the court, and (b) perhaps even more importantly, a Chapter 13 proceeding is governed by and held under Federal Law. Any proceedings in State courts are automatically stayed pending this federal proceeding. In effect, then, the feds take control of the debtors wages and assets, as well as his or her debts. In this respect, the exception in the bill only clarifies this preemption of the State's power.

Besides the preemption issue, it might be fair to note that nothing says the maximum amounts will be sought or awarded.

Number nine: the Federal government has recently indicated that it is going to interpret federal regulations as requiring states to enforce laws which require adult children to contribute to their parents' Medicaid expenses. Since "earnings" subject to garnishment include pension benefits, the ramifications of this bill are clear."

—This bill doesn't create any new duties of support; that is a separate issue entirely.

—Regardless of the garnishment laws, such a federal requirement would still mean the State must get the money—would it be better for the Department of Human Services to take their homes, cars, or anything like that?

I would submit, Members of the Senate, and Mr. President that the case for support and Enactment of this Bill has been made. Thank you, Mr. President.

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

Senator HAYES: Members of the Maine State Senate, I rise in opposition to L. D. 262. My concern about this Bill arises from contact with the good Senator from Cumberland, Senator Clark, who initially was pointing out to me certain things about the Bill. I began to examine this Bill, and in all honesty the more I looked at it the more I realized that this Bill has severe limitations.

The Bill, "An Act to Conform Maine Garnishment Laws to the United States Code," which was introduced by the good Senator from York, Senator Hichens has several flaws. It is not a good Bill for it opens up the possibility of bureaucratic abuse and harassment of low income wage earners.

The purpose of this Bill is to provide legislation to harass low income people. The garnishment of wages is often class legislation.

I ask why does this Bill permit garnishment of more than 25% of a person's wages? It hits the low income person most directly. If severity of attaching over 25% of net wages could result in a person, who is being garnished to either quit their employment, to leave the State, or possibly in this case go to jail.

It could, also, cause disruption of newly constituted families, for it would hit hard in terms of providing food and shelter for the new family system.

Garnishing a persons wages is a most severe legal action. It must not be used to destroy the ability of a person to meet the obligations of a family and to provide food and shelter for themselves and their new families.

This is not a good bill. It will hurt those that are making every effort to meet their commitment of child support.

In fact if we had not passed the amendment in this Senate which maintained the floor of one hundred dollars in net wages this would be a most severe kind of legislation.

Consider the implications of this Bill, there is no cap on the degree to which the Internal Revenue can pursue an individual for taxes, there is no cap on bankruptcy orders, there is, also, possible imprisonment for failure to comply.

So I say to you that it is clearly a class legislation. It should not pass. I urge you to vote against L. D. 262. Mr. President, I move that L.

D. 262 and all accompanying papers be Indefinitely Postponed.

The PRESIDENT: The Senator from Penobscot, Senator Hayes, now moves the Indefinite Postponement of this Bill and all its accompanying papers.

The Chair recognizes the Senator from Penobscot, Senator Pray.

Senator PRAY: Mr. President and Ladies and Gentlemen of the Senate, usually when we consider Legislation there is an outcry from some area of the State that is claiming that the existing law isn't working, that there is something wrong with the limitations or the statutory language that we now have.

In listening to the debate this morning of the good Senator from Cumberland, Senator Clark, I have not heard the comments, the reasons of why we should take this Bill and we should Enact it.

She mentioned the number of people who testified in opposition to the Bill at the hearing, but also, at the same time there was a lack of promotion of the Bill by a number of individuals coming to the hearing stating that the existing law causes an undue financial hardship because of the limitations of the garnishment.

I think that each and everyone of us can understand that. I am sure the amount of dollars presently that are allowed to be garnished does in some ways restrict those individuals who receive the assistance, be it child support, or what have you.

There is another situation we addressed in this Bill and that is the hardship that is going to be caused by the increase of a sizable sibilicity of the income that can be now garnished under the proposal that we have before us.

In most instances if you follow a chart you'll see that the new law almost doubles right up the spectrum the amount that can be garnished out of an individuals income. For example, an individual who earns two hundred dollars could have a hundred dollars garnished.

The question there is, do we then place two individuals, two families, two persons into an economic hardship? I think that that is the underlying question that we should decide today when we vote on this Bill.

I will be supporting the motion from the Senator from Penobscot, Senator Hayes to Indefinitely Postpone this Bill at this time. I see no legitimate need for this Legislation at this time because of the concerns and problems that I have raised, to me, outweigh the other concerns that have been expressed by the Senator from Cumberland. Thank you.

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

Senator KANY: Mr. President and Members of the Senate, I am not that familiar with this portion of the law and do have a couple of questions.

I would be sympathetic to garnishment of a large percentage of wages, if the garnishment is for child support. If it is for other than child support, I'm not sympathetic.

I hope that someone would go into more detail regarding that.

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

Senator CLARK: Thank you, Mr. President. Mr. President, first I would request a Roll Call on the pending motion of Indefinite Postponement.

Senator Hayes from Penobscot has included in his remarks the issue of taxes and the tax exception. Similar to bankruptcy, the exception for Federal Taxes merely reflects the fact that Federal Law controls in this area. The exception of State Taxes is indeed, another matter. Perhaps the best argument, here, is that the State is not like many other types of creditors, and thus, should not be treated alike. Remember, however, that the State Court has a great deal of discretion in the area of garnishment orders; including, deciding whether or

not to order them. They consider a number of factors, particularly those listed in subsection 3128, in determining the amount of that order.

There was some concern expressed by others who were speaking in opposition to this measure and in support of the pending motion, relative to the hue and cry in support of this measure.

It's interesting that this is one of the Bills before the Committee on Business Legislation that did not generate a room full, literally, but it did generate those people who came specifically, as in the cases of all bills, to testify in support or against. There was only one person in opposition and that person testified that indeed L. D. 262 would discriminate against second families. I would suggest to you, the Members of this Body, that there is some responsibility for first families, which in too many instances, the State now assumes at the expense of the taxpayers of this State.

Secondly, the current garnishment ceiling is 25%, and thirteen members of that Committee agree that 25%, which is the cap relative to consumer debt, only, is appropriate to consumer debt. The child support is another issue, and indeed, the cap for the child support is that which is contained in L. D. 262 with the limitation, as amended, under Senate Amendment "A".

Furthermore, the purpose of this Bill is to setup a different set of limits on garnishment for support cases. The present law provides general limitations on garnishment which apply to all creditors, Senator Kany, except those specifically covered by other laws, such as, Federal Bankruptcy Law and the Maine Consumer Credit Code. There is no distinction in the present law between a person seeking garnishment to enforce a child support order, and a creditor seeking garnishment for any other debt, such as breach of contract. Thank you.

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

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

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

The President requested the Sergeant-at-Arms to escort the Senator from Penobscot, Senator Pray to the rostrum to assume the duties of President Pro-Tem.

The Sergeant-at-Arms escorted the Senator from Penobscot, Senator Pray to the rostrum, where he served as President Pro-Tem.

The President took a seat on the floor of the Senate.

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

Senator CONLEY: Mr. President and Members of the Senate, I hesitated for many weeks on this particular Bill to get down off the rostrum to show just how strongly I feel with this particular piece of Legislation, and I've had, under my order, the Counsel to the President research this Bill very thoroughly.

There's a lot, I'm sure, everyone in this Body feels, people who owe money, who are denying their children, should be brought to court, should be prosecuted, should be persecuted, should be thrown out in a barrel and shipped out to sea, and no one in this Body has supported the rights of children over the years that I have been here, than I.

I think there's a sense of fair play that must exist, and I think the good Senator from Penobscot, Senator Hayes put his thumb right on it. It's a question of whether or not we're going to divide family against family. Whether we're going to drive some father away from his

second family and out-of-state, and make both families now wards or recipients of the State.

You know, I've always believed that when we put legislation in there has got to be a crying need. I believe there has got to be a strong demand, that the public is infuriated at what is taking place throughout this State.

I didn't come down off this rostrum this morning, because I'm trying to play a little theatrics, I am down here, because this is how deeply I feel about this Bill.

Now it is my understanding the good Senator from York, Senator Hichens presented this Bill, because there was wide acclaim by him to bring this Bill forward. I don't know how many people showed up in the Business Legislation Committee for this Bill, but it's my understanding there were extremely a very few. The good Senator from Cumberland, Senator Clark remarked of it, that there was there to support this Bill, but aside from the Senator from York, Senator Hichens and perhaps one or two of his constituents, I'd like to know how many there were.

Why I'm primarily down speaking on this Bill today is because two years ago, the good Senator from Kennebec, Senator Bustin, brought a bill before the Judiciary Committee, cosponsored by several other members of both the other Body and this Body. We had several bills and we dealt very fairly and very squarely, very honestly and very openly with that whole segment of garnishment and child support. The Department of Human Services worked with us. Senator Bustin and numerous other people, including low income people, including Pine Tree Legal Services, all groups who were interested, not just interested that children be provided for, but that in the sense of trying to mandate some legislation, we did not destroy other families.

Now, those people who are making five hundred dollars a week under the present law, are going to be caught by the courts and are going to pay. If you feel that this Bill before us today merits the Enactment to divide and to split other families, fine. I question really what is at stake here today, whether it was the unanimous Committee Report that came from Business Legislation. If it was such a great report, let's be reminded of the fact that the amendment that the good Senator from Androscoggin, Senator Trafton incorporated into this Bill, finally put at least you know we left the family a hundred dollars to live on. The Committee had nothing. They could have taken every dime, every red cent away from them, but at least there's a hundred dollar that has been restored to the Bill.

I question, really, how openly, how honestly, how thoroughly this Bill was researched before it was sent out. Or is it looked upon really as a woman's issue, and no one has protected woman over the years in this Chamber, as much as I?

I would encourage the Senate to support the motion of the good Senator from Penobscot, Senator Hayes that this Bill, and all its accompanying papers, be Indefinitely Postponed, because I think there has to be a need shown where people are being denied, and I think, this Bill if Enacted is going to deny many people.

The PRESIDENT PRO-TEM: The Chair recognizes the Senator from Kennebec, Senator Bustin.

Senator BUSTIN: Thank you, Mr. President. Mr. President and Members of the Senate, I am Senator Bustin that has been referred to from the previous speaker, and I was very pleased with the action that the Judiciary Committee took on that bill that was mentioned a couple of years ago. It was a good bill we worked extremely hard on that. This is an emotional issue, let's not fool ourselves about that. I'm looking around the Chamber and I don't know all of the personal lives of everybody sitting here, but I can say to you that I'm probably one

of those women who have been most affected. I want to state here, I want it matter of the Record that I, personally and my children personally, have not been affected by child support laws. I have not been, nor have they, been adversely affected by them. We had very good support they had very good support from both of their parents. So this is not an emotional issue with me, personally. I have nothing to gain or lose by it.

I am concerned about those women and children and men out there, because believe it or not, there are some women who earn more money than the fathers do and perhaps it would affect them, also, but, I am concerned about them. I haven't convinced myself one way or another on this Bill.

I will be supporting Senator Clark's position on the bill, simply because I want to make a statement—I want to make a statement that there are parents to those children. That it takes two people to produce a child and those two people are its original parents, and in every instance, and in every time we have a chance to put that responsibility on those two original parents, we ought to be doing it. I think this is a statement for that. I think this is why I will be supporting that Bill. I think it is an important statement to make. I don't think it's a women's issue; I don't think it's a men's issue. I think it's a child's issue. Thank you.

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

Senator CLARK: Mr. President, Men and Women of the Senate, it's with great reluctance that I do battle here this morning with my good leader, the Senator from Cumberland, Senator Conley. I understand the depth of his commitment, to his position, I just wish that we were in tune on this issue.

I would submit to you, Ladies and Gentlemen of this Chamber, that it is not only the poor who fail to provide child support. As a matter of fact, it is almost too frequently not the poor, but those who are well able to pay.

The bottom line on this issue is that it's up to the courts to decide whether they are going to allow garnishment and the fact is that they will use under current statutes in determining what that amount of garnishment will be. This Bill does not affect garnishment in other areas this Bill affects garnishment only involving support orders. The current limits would be retained in all other areas.

This Bill, as amended, would increase again the maximum amount which the court could order, depending on the judgment of that court and the individual case before it. The only amount that the court and the individual case before it. The only amount that the court could order withheld from a debtors' disposable earnings to pay support—child support. Thank you, Mr. President.

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

Senator SEWALL: Thank you, Mr. President and Members of the Senate, I would only like to make a few remarks about how much support this Bill had. I would like you to keep in mind that this was not the only garnishment bill presented to the Legislature. The Judiciary Committee, in fact, has another garnishment bill sponsored by two other House Members from my District, Representative Soule, and Representative Holloway.

The reason is there has been a problem, at least in our area. These are not low-income people, as a matter of fact, they happen to be, in two of the cases that I worked on, as the Senator from the District, they happened to be military people. I know them they are not poor but the children have been in and out of school, college, working because the father, who makes quite a bit more than the five hundred dollars that the good Senate President referred to in his remarks, doesn't pay. Then they have

to wait; the child drops out of school; they wait and wait and wait. Finally, there's enough judgment, enough money built up that the mother can afford, or the child himself, now that he is getting a little bit older, can afford to go back to court and get the money; it's then collected. He then re-enrolls in school, and he then goes after it. These are not poor people. The court is not going to, in my estimation, devastate them. The problem that we've had, and there's a whole organization of these women, and they don't know what to do, and they say, in most states, we have other opportunities, but Maine's different. Why is that so?

That's the reason, as a member of the Committee, I feel quite strongly about it, too. I feel it's a fair and reasonable piece of legislation, and seeing it's already been Enacted before in this Body and in the other; I hope you will Enact it again today.

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

Senator CONLEY: Mr. President and Members of the Senate, again, I have no problem at all with orders coming down from the court with respect to garnishment for people who are making a living wage. What happens is that anyone who is on general assistance, or they are collecting food stamps, or other things, they're making, or even possibly making, perhaps one member of the family is making some money. Does anyone know what it is to have the SS Troops of the Department of Human Services, coming in through the backdoor night after night, looking for you? The problem is that low-income people are not treated equal. They are not treated equal! They're not in the courts until the Department of Human Services drags them literally into the courts.

One of the real concerns we had in dealing with this legislation in the Judiciary Committee, and dealing with the Department itself; we won't harrass people, but we had other people there who represented these groups from outside and saying there has been a continuing feel of harrassment. So, when we rewrote that law last year, we did it in good faith with everyone, with everyone that we would be able to put some balance within the law.

Like I say, the Bill that came in this year that was reported out, not only took away, leaving the individual with some money to survive on it just took everything away from them. They left, in other words, a true vampire bill where they could go in and extract every ounce of blood within the party. I say, the good Senator from Androscoggin, Senator Trafton, at least got that floor put back into this thing.

I ask you, if you want to see families divided, because of the fact a person who had a family over here at one time, now has another family with three or four children. Because of the fact there's a tremendous economic strain on the individual, we're talking about minimum income, but because of this family over here has been forced to go on to general assistance, and recall, this lady or this person here could remarry again, the husband not adopt the children, he's still then responsible to his original father, who is now bringing up and this is going to lead, I believe to be, the total demise of both families.

I wish that I had enough faith in bureaucracy that this wouldn't happen, but I've been around and I know what goes on, and I see this is a very threat to the survival of someone who is trying to make a go the second time. I want the person who has the money to pay. I want them to pay, and they can always be taken into the court under the present law, everyone knows that.

This Bill is going to give far more, far more opportunities of harrassment than I think any of us would want to see.

The PRESIDENT PRO-TEM: The pending question before the Senate is the motion by the Senator from Penobscot, Senator Hayes that

this Bill be Indefinitely Postponed.

A Yes vote will be in favor of Indefinite Postponement.

A No vote will be opposed.

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEA—Baldacci, Carpenter, Danton, Dow, Erwin, Hayes, Najarian, Pray, Violette, Wood, The President Gerard P. Conley.

NAY—Bustin, Clark, Collins, Diamond, Duretremble, Emerson, Gill, Hichens, Kany, McBreairty, Minkowsky, Pearson, Perkins, Sewall, Shute, Teague, Trafton, Twitchell, Usher,

ABSENT—Brown, Charette, Redmond.

A Roll Call was had.

11 Senators having voted in the affirmative and 19 Senators in the negative, with 3 Senators being absent, the motion to Indefinitely Postpone L. D. 262, Failed.

The Bill was Passed to be Enacted, in concurrence.

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

Senator CLARK: Mr. President with regard to L. D. 262, I move that the Senate Reconsider its action whereby, this Bill was Enacted and hope that you all vote against me.

The PRESIDENT PRO-TEM: The pending question before the Senate is the motion by the Senator from Cumberland, Senator Clark that the Senate Reconsider its action whereby L. D. 262 was Passed to be Enacted.

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

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

A Viva Voce Vote being had, the motion to Reconsider Failed.

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

Senator Minkowsky of Androscoggin was granted unanimous consent to address the Senate. On the Record.

Senator MINKOWSKY: Thank you very much, Mr. President, and Members of the Senate, since we're talking about equity and fair play in the two previous bills we discussed this morning; and since last Friday, we sang the praises of Senator Carpenter, rightfully so, for his great accomplishments as becoming an attorney, during the same segment of time there was another episode going on in the Department of Safety.

My purpose this morning in rising before this Body is to register a protest against the Commissioner Arthur Stilphen in the Department of Public Safety, in his arbitrary way of handling personnel. I'm specifically referring to a man that I have known at least in the past seventeen years, who has had State service for twenty-nine years, and because of difference in philosophical areas that he basically is going to be terminated without, in my estimation, a justifiable cause. I'm referring to Lt. Col. Albert Jamison, whom I have worked with very closely when I was a member of the Transportation Committee. I think, in my estimation as a member of this Body, that equity and fair play should prevail; especially, when you take a person who has been fair, honest, objective and dedicated to his position the past twenty-nine years. I think, in my estimation also, this is really one of the most serious gimmicks ever perpetrated by Arthur Stilphen, who comes under the Governor of the State of Maine in trying to administer this Department.

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