

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

***One Hundred and Eleventh
Legislature***

OF THE

STATE OF MAINE

Volume II

FIRST REGULAR SESSION

May 16, 1983 to June 24, 1983

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STATE OF MAINE
One Hundred and Eleventh Legislature
First Regular Session
JOURNAL OF THE SENATE
Augusta, Maine
May 19, 1983
Senate called to order by the President.

Prayer by Sister R. Mildred Barker of the United Society of Shakers of New Gloucester.

SISTER BARKER: Eternal God, life giving and life sustaining Father and Mother, we thank You this morning for the gift of yet another day during which we may all grow in love, in light, and in our understanding of the work to which You are calling us in this world. Be with us here in these Halls of Government, leading us out from the darkness and narrow conceptions and prejudices into the broadest possible perception of Your love for all soughts and conditions of men.

In view all who serve here with the desires to preserve the beauty and integrity of this creative earth which You have given over to our stewardship. Lead us to a clearer understanding of how You would have us exercise our gift of free will in making right choices in the utilization of all our resources, both natural and human.

Fill all of those chosen to represent the people with such a portion of Your divine wisdom that they may be involved, not in easy but in right choices, which will make better the present and the future lives of all Your people. Let us all see more clearly that in truly serving the needs of the people made in Your image and likeness, we truly serve You. Amen.

Reading of the Journal of yesterday.

(Off Record Remarks)

Communications

The Following Communication:

State of Maine
House of Representatives
Augusta 04333

May 18, 1983

Honorable Joy J. O'Brien
Secretary of the Senate
111th Legislature
Augusta, Maine 04333

Dear Madam Secretary:

The House voted today to adhere to its action whereby it indefinitely postponed Bill "An Act to Include the Term 'Sexual or Affective Orientation' in the Maine Human Rights Act" (S. P. 237) (L. D. 679)

Sincerely,
S/EDWIN H. PERT
Clerk of the House

Which was Read and Ordered Placed on File in concurrence.

The Following Communication: (S. P. 569)

The Senate of Maine
Augusta

May 18, 1983

The Honorable Gerard P. Conley
President of the Maine Senate
111th Legislature
The Honorable John L. Martin
Speaker of the Maine House
111th Legislature

Dear President Conley and Speaker Martin:

Pleased be advised that today two bills were received by the Assistant Secretary of the Senate.

Pursuant to the provisions of Joint Rule 14, these bills were referred to the Joint Standing Committees on May 18, 1983 as follows:

Agriculture:

Bill, An Act Relating to the Branding of Potatoes. (S. P. 567) (L. D. 1642) (Presented by Senator CARPENTER of Aroostook) (Cosponsored by Representative C. B. SMITH of Island Falls and Senator VIOLETTE of Aroostook)

Energy and Natural Resources:

Bill, An Act to Include PCB's Within the Defi-

inition of Hazardous Wastes. (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27) (Emergency) (S. P. 568) (L. D. 1643) (Presented by Senator KANY of Kennebec) (Cosponsored by Representative HICKEY of Augusta, Senator BUSTIN of Kennebec, and Representative PARADIS of Augusta)

Sincerely,
S/VALERIE MITCHELL
Assistant Secretary of the Senate
S/EDWIN H. PERT
Clerk of the House

Which was Read and Ordered Placed on File. Sent down for concurrence.

Committee Reports

House

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 Allow School Districts to Raise the Maximum Equivalent of Local Leeway Specifically Designated for Major School Construction Projects" (H. P. 303) (L. D. 362)

Ought to Pass as Amended

The Committee on Marine Resources on BILL, "An Act to Permit Municipalities to Regulate Shellfish Harvesting Within State Park Limits" (H. P. 1037) (L. D. 1362) Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-246)

Comes from the House with the Report Read and Accepted and the Bill Passed to be Engrossed as Amended by Committee Amendment "A" (H-246)

Which Report was Read and Accepted in concurrence. The Bill Read Once. Committee Amendment "A" (H-246) was Read and Adopted, in concurrence. The Bill, as Amended, Tomorrow Assigned for Second Reading.

The Committee on State Government on BILL, "An Act to Provide for the 1983 Amendments to the Maine Housing Authorities Act" (H. P. 1152) (L. D. 1521) Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-250)

Comes from the House with the Report Read and Accepted and the Bill Passed to be Engrossed as Amended by Committee Amendment "A" (H-250)

Which Report was Read and Accepted in concurrence. The Bill Read Once. Committee Amendment "A" (H-250) was Read and Adopted, in concurrence. The Bill, as Amended, Tomorrow Assigned for Second Reading.

The Committee on Taxation on BILL, "An Act Relating to the Adjustment to the Penalty for Withdrawal from Current Use Tax Laws" (H. P. 676) (L. D. 859) Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-248)

Comes from the House with the Report Read and Accepted and the Bill Passed to be Engrossed as Amended by Committee Amendment "A" (H-248)

Which Report was Read and Accepted in concurrence. The Bill Read Once. Committee Amendment "A" (H-248) was Read and Adopted, in concurrence. The Bill, as Amended, Tomorrow Assigned for Second Reading.

Ought to Pass in New Draft

The Committee on Business Legislation on BILL, "An Act to Clarify Independent Contractor Status Under the Workers' Compensation Act" (H. P. 893) (L. D. 1158) Reported that the same Ought to Pass in New Draft under same title (H. P. 1231) (L. D. 1635)

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. The Bill in New Draft Read Once

and Tomorrow Assigned for Second Reading.

Ought to Pass in New Draft Under New Title

The Committee on State Government on RESOLVE, Authorizing the Bureau of Public Lands to Convey by Sale to the Maine State Advent Christian Conference the State's Interest in the Former Municipal Building of Plantation 21 (Emergency) (H. P. 1139) (L. D. 1508) Reported that the same Ought to Pass in New Draft under New Title, RESOLVE, Authorizing the State Tax Assessor to Convey Title to the Former Municipal Building of Plantation 21 to the Bureau of Public Lands and Authorizing the Bureau of Public Lands to Lease the Former Municipal Building to the Princeton Grange (Emergency) (H. P. 1232) (L. D. 1636)

Comes from the House, the Report Read and Accepted and the New Draft under New Title 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 Agriculture on BILL, "An Act Relating to the Labeling of Milk Containers" (H. P. 1132) (L. D. 1498) Reported that the same Ought to Pass.

Signed:

Senator:

ERWIN of Oxford

Representatives:

PARENT of Benton

SHERBURNE of Dexter

MICHAEL of Auburn

McCOLLISTER of Canton

LOCKE of Sebec

CROUSE of Washburn

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

Signed:

Senators:

HICHENS of York

WOOD of York

Representatives:

STOVER of West Bath

SMITH of Island Falls

ANDERSON of Stockholm

Come from the House with the Majority Report Read and Accepted and the Bill Passed to be Engrossed.

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

The Bill Read Once and Tomorrow Assigned for Second Reading.

Divided Report

The Majority of the Committee on Energy and Natural Resources on RESOLVE, Authorizing and Directing the Joint Standing Committee on Energy and Natural Resources to Contract for an Engineering Study of Maine River Sites to Determine the Feasibility of Current-Type Turbines for Hydropower Production (Emergency) (H. P. 453) (L. D. 550)

Reported that the same Ought to Pass in New Draft under New Title, BILL, "An Act Appropriating Money for Research and Development of Appropriate Turbine Technology" (H. P. 1230) (L. D. 1633)

Signed:

Senators:

KANY of Kennebec

PEARSON of Penobscot

Representatives:

MITCHELL of Freeport

JACQUES of Waterville

HALL of Sangerville

MICHAUD of E. Millinocket

MICHAEL of Auburn

RIDLEY of Shapleigh

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

Signed:

Senator:

McBREAIRTY of Aroostook

Representatives:

BROWN of Livermore Falls
McGOWAN of Pittsfield
KIESMAN of Freyburg
DEXTER of Kingfield

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

Which Reports were Read and the Majority Ought to Pass, in New Draft under New Title, Report of the Committee was Accepted, in concurrence.

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

(Off Record Remarks)**Divided Report**

The Majority of the Committee on Fisheries and Wildlife on BILL, "An Act to Regulate the Season on Coyotes" (H. P. 985) (L. D. 1290)

Reported that the same Ought to Pass in New Draft under same title (H. P. 1227) (L. D. 1621)

Signed:

Senators:

USHER of Cumberland
DOW of Kennebec
REDMOND of Somerset

Representatives:

CONNERS of Franklin
ERWIN of Rumford
MacEACHERN of Lincoln
SMITH of Island Falls
GREENLAW of Standish
RODERICK of Oxford
PAUL of Sanford

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

Signed:

Representatives:

KELLY of Camden
CLARK of Millinocket
JACQUES of Waterville

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

Which reports were Read and the Majority Ought to Pass, in New Draft Report of the Committee was Accepted, in concurrence.

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

Divided Report

The Majority of the Committee on Public Utilities on BILL, "An Act to Increase the Annual Public Utilities Commission Regulatory Fund Assessments to \$1,450,000 for Fiscal Year 1984 and \$1,500,000 for Fiscal Year 1985" (Emergency) (H. P. 1151) (L. D. 1520)

Reported that the same Ought to Pass in New Draft under New Title, BILL, "An Act to Increase the Annual Public Utilities Commission Regulatory Fund Assessment to \$1,460,000 beginning in Fiscal Year 1984" (Emergency) (H. P. 1228) (L. D. 1632)

Signed:

Senators:

BALDACCI of Penobscot
KANY of Kennebec
EMERSON of Penobscot

Representatives:

VOSE of Eastport
PARADIS of Old Town
BOST of Orono
RIDLEY of Shapleigh
RODERICK of Oxford
BAKER of Portland
MATTHEWS of Winslow
McGOWAN of Pittsfield
WEYMOUTH of West Gardiner

The Minority of the same Committee on the same subject matter Reported that the same

Ought Not to Pass.

Signed:

Representative:

LEWIS of Auburn

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

Which Reports were Read.

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

Senator BALDACCI: Mr. President, I move that the Senate accept the Majority Ought to Pass, in New Draft under New Title, and I'd like to speak to my motion.

The PRESIDENT: The Senator has the floor.

Senator BALDACCI: The New Draft increases the PUC Regulatory Fund from 1.3 million to 1.4 million sixty thousand; it increases the authorized number of employees supported by that fund from thirty-two to thirty-five. The new positions would be an electrical engineer, a telecommunications engineer and a clerk to be shared between the engineering and finance divisions.

The PUC had originally requested an increase up to 1.5 million dollars and thirty-eight positions over a two year period. The Committee preferred to fund the first year's increase including only three of the six new positions requested, but to withhold action on the remaining request and additional positions pending a review of the situation by the Second Regular Session of the One Hundred and Eleventh Legislature.

In the past few years the task of the PUC has greatly changed. Transportation has been deregulated, publicly owned water utilities have been partially deregulated, radio paging is being deregulated, major new responsibilities have been assigned in energy conservation and small power sources. The telecommunications industry is being totally reorganized as a result of technological change and governmental action.

The structure of the PUC has changed. The commissioners' terms have been shortened to six years, and placed on a fixed staggered rotation. The public advocate has been created to represent the using and consuming public before the commission. The staff has been internally reorganized into four major divisions. Its financial support now comes two-thirds from the utilities, via the regulatory fund and one-third from the General Fund. A few years ago, it was almost all General Fund.

Without implying any criticism of the Commissions decisions or operation, in view of all these changes it serves wise oversight for the Legislature to review the Commission's operations, at this time.

Under the Maine Sunset Act, the PUC will be submitting their justification report to the Legislature this October following which the Joint Standing Committee on Audit and Program Review will conduct its analysis of the agency. Our Committee has met with Senator Diamond and Representative Rolde, Chairmen of that Committee and is pleased with their openness to cooperation and their willingness to include our concerns in their investigations. In addition, the PUC has informed us that they will be holding informal meetings over the next few months with Legislators and other persons, both inside government and out, who can help improve the operations of that agency and increase the general understanding of their operations. These activities will provide the information we will need to act intelligently on the remainder of the PUC's requests next year. Thank you, Mr. President.

On motion by Senator Baldacci of Penobscot, the Majority Ought to Pass, in New Draft under New Title, Report of the Committee was Accepted, in concurrence. The Bill, in New Draft under New Title Read Once and Tomorrow Assigned for Second Reading.

Senator Hichens of York was granted un-

animous consent to address the Senate, Off the Record.

Senate**Ought Not to Pass**

The following Ought Not to Pass report shall be placed in the legislative files without further action pursuant to Rule 15 of the Joint Rules: BILL, "An Act Relating to the Municipal Recreation Fund Grants" (S. P. 340) (L. D. 1075)

Leave to Withdraw

The following Leave to Withdraw reports shall be placed in the legislative files pursuant to Rule 15 of the Joint Rules:

BILL, "An Act to Establish an Office of Foster Parent Advocate" (S. P. 445) (L. D. 1387)

BILL, "An Act to Remove Webster Plantation from the Maine Forestry District" (S. P. 118) (L. D. 296)

BILL, "An Act to Allow Plantation No. 14 and the Town of Cooper to Withdraw from the Maine Forestry District" (S. P. 260) (L. D. 805)

Ought to Pass as Amended

Senator CHARETTE for the Committee on Business Legislation on BILL, "An Act to Clarify the Authority of the Superintendent of the Bureau of Consumer Credit Protection" (S. P. 502) (L. D. 1518) Reported that the same Ought to Pass as Amended by Committee Amendment "A" (S-128)

Which Report was Read and Accepted. The Bill Read Once. Committee Amendment "A" (S-128) was Read and Adopted. The Bill, as Amended, Tomorrow Assigned for Second Reading.

Ought to Pass in New Draft

Senator USHER for the Committee on Election Laws on BILL, "An Act to Increase the Number of Voting Booths Required in Maine Elections" (S. P. 125) (L. D. 312) Reported that the same Ought to Pass in New Draft under same title (S. P. 566) (L. D. 1639)

Which Report was Read and Accepted.

(Senate At Ease)

The Senate called to Order by the President.

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

Divided Report

The Majority of the Committee on Judiciary on BILL, "An Act to Provide Equal Access to Justice" (S. P. 203) (L. D. 625)

Reported that the same Ought to Pass in New Draft under same title (S. P. 570) (L. D. 1646)

Signed:

Senator:

COLLINS of Knox

Representatives:

REEVES of Newport
DRINKWATER of Belfast
SOULE of Westport
LIVESAY of Brunswick
FOSTER of Ellsworth
BENOIT of South Portland

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

Signed:

Senators:

TRAFTON of Androscoggin
VIOLETTE of Aroostook

Representatives:

HOBBINS of Saco
JOYCE of Portland
HAYDEN of Durham
CARRIER of Westbrook

Which Reports were Read.

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

Senator COLLINS: Mr. President, I move that the Senate Accept the Ought to Pass, in New Draft, Report of the Committee.

The PRESIDENT: The Senator from Knox, Senator Collins moves that the Senate Accept the Majority Ought to Pass, in New Draft, Report of the Committee.

The Chair recognizes the Senator from Androscoggin, Senator Trafton.

Senator TRAFTON: Mr. President and Members of the Senate, L. D. 1646 is entitled, "An Act to Provide Equal Access to Justice" I suggest that this title is not accurate. This Bill has been before this Body on many other occasions. The Bill, itself, is based on a Federal law which is entitled the same. Essentially, the Bill provides special treatment for a small business to come to court and if the State's position, and we're talking now about a court action between a businessman and the State, if the State's position is not substantially justified, that businessman, that small party, may recover attorney's fees, costs and expenses. Well, that sounds all well and good, but it's not equal access.

My principal objection to this Bill is that it does not provide similar treatment for the State. In an action between the State and a private party, if the private party comes to court with a position that has no substantial justifications, the State is not entitled to cover costs, attorney's fees, and expenses. This is special treatment for private parties, especially small businesses as the Bill originally intended. This is why I rise to oppose the motion of the good Senator from Knox, Senator Collins in moving the Majority Ought to Pass Report.

I suggest that we have in Legislative process right now a Bill which addresses the same situation in a more equitable manner. Yesterday I rose to speak to a bill called "An Act to Discourage Frivolous Court Cases." This Bill, as I read into the Record yesterday from a prepared statement provided either, plaintiff or defendant, to recover costs of attorney's fees and expenses when an action was brought without substantial justification; or in fact, that action was frivolous. I suggest that that Bill which is now down the House of Representatives, the other Body, is more appropriate to address the problem that is attempted to be addressed in L. D. 1646.

Consequently, I urge you to vote against the motion of the good Senator from Knox, Senator Collins to support the Majority Ought to Pass Report.

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

Senator COLLINS: Mr. President, I hope that you will support the majority view of this matter. Let me just mention a couple of features of this Bill that should be clearly understood.

First it applies only to civil cases in which the State is a party and in which the State loses. In my experience through the years, once in awhile there comes a case where a private party, usually with very modest financial resources is involved in litigation of the State, in which the private party has to throw in the towel because he simply doesn't have the funds to present a reasonable case in the courts. Sometimes the cost of litigation is more than the fine that he might have to pay, or the privilege that he might lose in that litigation with the State.

When we debated this in our Committee, and I think we had as many as four workshops on it trying to adjust it and tailor it to suit the needs that we saw, one of the questions that arose was well, where would the State find the money to pay the attorney fees in those cases where it lost? I asked the Assistant Attorney General who was present, "how many cases have the State lost in the past year?" "While he didn't have a definite answer, the implication was that the State hadn't lost any, that they seldom did. One of the reasons that they seldom do is that small litigants with very little in the way of financial resources just can't compete in the courts of justice.

The purpose of this Bill is to provide a very mild restrainer on excessive governmental litigation action. It would typically come into play, and I want to emphasize that the final decision is with the judge. This isn't an automatic thing by any means. The only time it comes into play is when a judge finds that it's truly justified.

There's a difference in standard between this Bill and the bill discussed by my fellow Senator from Androscoggin in respect to frivolous suits. He spoke about that as being something that would solve the problem, but the standards of the judge under this litigation would be "not substantially justified." In other words, sometimes the State has to bring a piece of litigation in order to find out what a statute means, it isn't always entirely clear. Those cases when the State loses, the court might well say "well, it was really the responsibility of the State to find out what this meant and therefore, we don't feel that attorney fees can be rewarded." There would be other cases, and this is where the discipline comes into play, where perhaps a zealous young Assistant Attorney General would press the case in the courts, and end up losing it and this really is designed to make that young Assistant Attorney General and his superiors think twice before pressing too far in the courts.

I hope that as you hear the debate on this you'll keep in mind that, in general, I have been one who resisted the involvement of attorney fees in general litigation, but in litigation where the State is a party, where the State loses, where the judge finds that the State is not substantially justified in having pursued the litigation, then, isn't it fair to, at least, permit the party that's been dragged through the courts to have a modest reimbursement, not exceeding ten thousand dollars for his cost of litigation? Thank you.

On motion by Senator Pray of Penobscot, Tabled for 2 Legislative Days, pending the motion by the Senator from Knox, Senator Collins.

Second Readers House

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

RESOLVE, Authorizing the Department of Educational and Cultural Services to Conduct a Study of Self-insurance of Public School Properties (H. P. 1223) (L. D. 1619)

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

BILL, "An Act to Require Life Preservers to be Used by Canoeists" (H. P. 1220) (L. D. 1627)

Which was Read a Second Time and Passed to be Engrossed without Reference to a Committee in non-concurrence.

Sent down for concurrence.

House — as Amended

BILL, "An Act to Amend the Interception of Wire and Oral Communications Law" (H. P. 845) (L. D. 1095)

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

Enactors

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

An Act to Provide a Statement of Birth Parents' Identity for Adoptees. (H. P. 1202) (L. D. 1596)

An Act to Clarify Method of Payment of Salaries to County Commissioners. (H. P. 1109) (L. D. 1462)

An Act to Amend the Child and Family Services and Child Protection Act. (H. P. 827) (L. D. 1085)

An Act to Change the Deadline for Holding Municipal Caucuses. (S. P. 113) (L. D. 265)

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 Prohibit Harassment of Hunters, Trappers and Fishermen. (S. P. 543) (L. D. 1586)

The PRESIDENT: The Chair recognizes the Senator from Aroostook, Senator McBreairty. Senator McBREAIRTY: Mr. President, I'd like to ask for a Division on L. D. 1586 and speak briefly.

The PRESIDENT: The Senator has the floor. Senator McBREAIRTY: Mr. President, Honorable Members of the Senate, I'm deeply concerned with this Bill. The title is "to Prohibit Harassment of Hunters, Trappers and Fishermen." I'm afraid the way the Bill is drafted it could end up being a Bill that should be entitled "Harassment of People." It reads, "Interference with taking. No person may willfully interfere with a lawful hunting, fishing or trapping of a wild animal, wild bird, or fish." Two, "disturbing wild animals, wild birds or fish, no person may willfully disturb, or attempt to disturb a wild animal, a wild bird or fish with the intent of interfering with the hunting, fishing or trapping of them." A violation is a hundred dollars to five hundred dollar fine.

I don't believe there is any way to prove that if you disturb a bird or wild animal while walking in the woods or this sort of thing; there's no way to prove that you willfully did it. I'm afraid it's just going to create problems with no way to prove that a person willfully done this.

We all have a right to walk in the woods, or run a boat down the river, or this sort of thing, and I'm afraid of this Bill, so I hope we will have a Division on it. Thank you.

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

Senator USHER: Thank you, Mr. President. Mr. President and Members of the Senate, in our discussion with the Attorney General, who attended our hearing, and the legal people from the Department. The reason why we picked willfully, under their direction was it would be pertaining to a demonstration. A demonstration would be an act of willfully moving to deter anybody from hunting or disturbing any hunting and we went under their guidance.

The PRESIDENT: Is the Senate ready for the question?

A Division has been requested.

Will all those Senators in favor of the Enactment of L. D. 1586, please rise in their places to be counted.

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

14 Senators having voted in the affirmative, and 17 Senators having voted in the negative, the Bill Failed of Enactment in non-concurrence.

Sent down for concurrence.

An Act to Prohibit Residency Requirements for Municipal Employees. (S. P. 61) (L. D. 167)

On motion by Senator Collins of Knox, Tabled for 1 Legislative Day, pending, Enactment.

Emergency

An Act to Remove the Requirement that Farm Vehicles have a Fuel Use Decal. (H. P. 427) (L. D. 509)

On motion by Senator Danton of York, placed on the Special Highway Appropriations Table, pending Enactment.

Orders of the Day

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

BILL, "An Act Concerning Submerged and Intertidal Lands Owned by the State" (H. P. 952) (L. D. 1233)

Tabled—May 17, 1983 by Senator PRAY of Penobscot

Pending—Passage to be Engrossed

(In House May 12, 1983 Majority Ought Not

to Pass Report Read and Accepted)

(In Senate May 16, 1983 Minority Ought to Pass Report Read and Accepted in non-concurrence)

On motion by Senator Pray of Penobscot, Re-tabled.

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

BILL, "An Act to Require Swimming Pools to be Enclosed" (S. P. 511) (L. D. 1528)

Tabled—May 17, 1983 by Senator PRAY of Penobscot

Pending—Enactment

(In House May 9, 1983 Bill and Accompanying Papers Indefinitely Postponed)

(In Senate May 13, 1983 Passed to be Enacted in non-concurrence)

(In Senate May 16, 1983, Reconsidered Enactment)

On motion by Senator Pray of Penobscot, Re-tabled for 1 Legislative Day.

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

BILL, "An Act Concerning the Size of Exempt Lots Under the Subdivision Laws" (S. P. 462) (L. D. 1411)

Tabled—May 18, 1983 by Senator CARPENTER of Aroostook

Pending—Further Consideration

(In Senate May 16, 1983 Minority Ought Not to Pass Report Read and Accepted)

(In House May 17, 1983 Majority Ought to Pass as Amended by Committee Amendment "A" (S-122) Report Read and Accepted and the Bill Passed to be Engrossed as Amended by Committee Amendment "A" (S-122) in non-concurrence)

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

Senator REDMOND: Mr. President, Members of the Senate, L. D. 1411, "An Act Concerning the Size of Exempt Lots Under the Subdivision Laws".

I feel that I have probably not been thorough enough in telling you Senators what the intent is behind this Bill and what the implications are and, if you bear with me, I will make an effort to try and brief you, be as brief as possible in telling you what's it's all about.

This Bill came out of the Committee with a 9 to 4 Ought to Pass Report. The purpose of the Bill is to allow the average family who heats their house with wood to have their own wood lots. This Bill came about in response to many of my constituents, and believe me, Ladies and Gentlemen of the Senate, there are many people in this State who heat with wood and there are many people who would like to own their own wood lot. They cannot afford a large wood lot, however there are thousands of people who can afford a smaller wood lot.

In the Maine Forestry Facts, if you look that up you'll find that of our seventeen million acres of forested land, 50% of that is owned by people who own a hundred acres or less. These statistics were made a few years ago and as you probably know that a hundred acres or less is a smaller wood lot by our standards of ten or fifteen years ago or twenty years ago, but by today's standards, those are large wood lots and there is no way that they can get away with not having to pay the real estate taxes on it. They have to manage their lot and they just simply cannot afford it—however, if they can acquire a twenty acre wood lot, that will provide them with sufficient firewood to last them and their whole family the rest of their lives. I think that all they're asking for is part of their Constitutional Rights; look under the Declaration of Rights, Section 1, and I don't think I have to quote it, but one of the items is, the major one is, possessing and protecting property and pursuing and obtaining safety and happiness.

Ladies and Gentlemen, the people of Maine are very independent people. They're known

all over the world. They're recognized for their independence. What makes them so independent? It's all these traditional rights that they have enjoyed in this great State. Our land was owned privately. Can you imagine half of seventeen million acres! I will admit that there's many hundreds of thousands acres there that are owned by large owners but they are not paper companies. This is how the statistics described that 50% is owned by small landowners and many of those landowners probably never chop any wood. I think that the point that I'd like to make to you is that the people of Maine are independent and what makes them independent is our coastal lands; it's our inlands; it's our way of life and a person who owns a wood lot is independent whether the oil tycoons raises the prices or not, they burn their own wood. I think that they deserve to continue to be able to enjoy those rights.

Ladies and Gentlemen, in my travels, I went on a people-to-people trip. I was in the countries of Europe and the Eastern countries where (I ask you, please bear with me, it might take me a little while, but I want to make my point. I hope that you will listen to me.) The chairman of the farm, one of the farms visited in Russia, he was the chairman of a forty thousand acre farm. His responsibility was for the whole forty thousand acres; they had a community and in that community, there were no private homes, not on single family home; they were all apartments. However, the chairman explained to us that even in Communist countries where everyone had to believe that they owned everything in common, that people had inherent in them one thing, and that is that the chairman used these words, he said, "if you want to if it will please you, he said, people are all born capitalists." In other words, they like to own something. I think everyone of us here is mature enough to know that you look back and it was even said that some of the men liked to own a wife, until we passed laws and we don't give them that right. Now we have laws, also, that the wife doesn't have the right to own a husband neither.

However, in those countries, and that forty thousand acre farm, 10% of the forty thousand acres was made available for all those citizens that live on the forty thousand acres to do what they pleased with it. It was for them to use it to grow vegetables to sell on their own, besides what the Government gives them for a paycheck, to do just what they want; they were entirely free on that 10% of the forty thousand acres and the portion that they had.

Then you traveled into Moscow in their capital city, a very large city and in the outskirts of Moscow, what do you find? An area where it's remarkable for one who comes from a western country, an area where there's various kinds of fences, various kinds of little buildings, all models and you wonder what it is, that's that 10% of land that the dwellers from the city are allowed to call their own to do what they want with and it's possible for them to go there, make a garden to raise carrots; they can grow anything they want. They can even keep rabbits, if they want too.

Now, Ladies and Gentlemen, the only reason I'm stating that is to illustrate the point and the reason why I introduced this Bill. It had been introduced by somebody else in the other term, before. I wanted to make that point because sometimes in our endeavors to try and make things better, we tend to, in a lumberman's jargon, "we don't see the forest from the trees," and I just want you to think about this.

In this great State of ours, which is one where we own most land, the Government owns very, very little land, and probably one of the reasons why many of us coming from out-of-state come here, because we want to enjoy this freedom. Now we've reached a point where the small person cannot afford the traditional way of life that he inherited.

I'd just like to have you think about this. I

understand, the objections I've had are from people like me. I own nine hundred acres of land, me and the banks; it's all mortgaged. However, I like to go and walk on it once in awhile and if I don't feel like cutting it, I don't cut it, even if the trees get that big, but when I'm ready, I cut it.

However, there are some farmers and some loggers who like big things, as you all know. I like big things—I like—a logger, I think we all like big things. What are we doing here under this dome? I think this is a big job we're doing here. Those who objected to that are the ones who hate to see the land split into little twenty acre wood lots. As a logger myself, I don't like to move a piece of equipment on a twenty acre wood lot, because you just start cutting and before you know it, you're up to the property line. So, it's best if you have big wood lots.

I would like to mention that, inasmuch as I would like to have only big wood lots to work on, so I can make a lot more money as a logger, perhaps. There are several foresters, you know our State Foresters that we laid off. Those people are struggling to make a living and they're doing a terrific job in managing small wood lots for the people of this State. There are many foresters that know how to manage those lots and they know how to handle the situation.

I would, also, like to state that the Maine Forest Products Council who represents the greatest part of the wood lot owners, does not oppose this Bill. They don't mind that. The paper companies do not oppose this Bill. Why is it that they do not oppose this Bill? They don't know much about it and no pressure has been put on them or nothing, it hasn't been lobbied like some of the other Bills.

Ladies and Gentlemen of the Senate, these people do not oppose this Bill because they're big people. The large paper companies are big people. They think big! They are capitalists, they want to bring along with them the capitalists that live in this State, and they want them to enjoy living in this great State, along with their employers and with their neighbors and the farmers, and so forth. We don't want to leave behind the small working man that can't afford a big wood lot; we don't want to leave them behind to just come to the State House here and beg to get things; we want to leave them independent, the same as we found them. This is what this Bill is trying to do. There is no other way; you can bring all the arguments that you want. This Bill was lobbied two years ago and I thought for sure that it was passing, but there are a few tycoons in this State that will not let the others have their way; they want to continue to do things their way. They probably own five thousand acres of land and they control ten thousand acres around. They like to keep it that way they're afraid there might be someone who wouldn't sell them the wood on the twenty acres.

Ladies and Gentlemen, this is a peoples' bill for the people of Maine and I hope that you will vote for it. I request that this Bill passes.

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

Senator MCBREAIRTY: Mr. President and Honorable Members of the Senate, I reluctantly rise to oppose my good friend Senator Redmond and his Bill.

I think this Bill has been before us two or three times before and I guess probably if you looked at the Records, in the Record you'd find that I probably voted for it before, because at that time, I didn't realize what could happen under the provisions that this Bill would create. I do know now because we had an experience in my town of what can happen if you let people divide land in twenty acre lots.

I'm going to read a news clipping that was recently in the Bangor Daily. I have a letter on it. I won't bother you with the letter that, it says, "woman pleads guilty on land sale charges". I think this news item will explain to

you, better than I, what can and will happen if this Bill passes.

"Caribou, a Cross Lake woman has pleaded guilty in First District Court here to five counts of violating the State's Subdivision Law. Through her attorney, I'll try to be careful not naming names, "of Bridgton. She entered the plea Monday. The case involves four Subdivisions and the sale of fourteen parcels of land, ten in Perham and four in Caribou in 1981 and '82. The prosecutions were initiated by the Aroostook County District Attorney's Office after complaints by officials in the town of Perham of sale by the defendant of what are known as spaghetti or bowling alley lots. An investigation of the complaints turned up similar activity in Caribou, the District Attorney's Office said. District Attorney, John McElwee said, 'that all of the land sales were out-of-state residences, many of whom had never seen the property.' McElwee said, 'his office does not often get complaints of this nature but feels that this case was referred due to particular flagrant disregard for responsible land subdivision.'

As an example of the spaghetti or bowling alley lot McElwee said, 'that one of the lots sold in Perham was more than four thousand feet deep but had only two hundred feet of frontage on a single access road. I guess I won't go on any further, but if we allow this to happen, out-of-state people, sight unseen will pay much more for these lots than our native, local residents, believe me. These sales were at much higher price than anyone would have paid in the town of Perham or in the town of Caribou.

I would move that we would Adhere to our former action on this Bill.

The PRESIDENT: The Senator from Aroostook, Senator McBreairty moves that the Senate Adhere.

The Chair recognizes the Senator from Somerset, Senator Redmond.

Senator REDMOND: Mr. President, I'd like to make one remark to the Members of the Senate, here, with regards to the comments made by my good friend from Perham, the Honorable Jim McBreairty.

The illustration he's citing is something that was done against the law; it was a bunch of crooks that did that, it was illegal and the situation was corrected. I believe he admits it. I could cite over in Mt. Vernon, not too far from here, the Martha Washington estate, most of us are familiar with the Martha Washington estate, and that was sold when she pulled out of there. That was sold to some illegal developers that acted in the same manner and they had that like a checkerboard all mapped and they had built a nice little "A" frame in the proper place overlooking Belgrade Lake and it was very attractive and they attracted people from Boston and all over. Those who had a pocket-book that were ready to buy quick because it was only three or four thousand dollars for the lot and they had all the proposed developments. Everything was done in law; they had their subdivision; they had the map. There are crooks and there will always be crooks. I was asked to go and appraise. Someone wanted an outside person to go there and convince them there was some crooks involved in that. I went over and looked at the situation. I found lots that were of legal size, but there was only a big piece of ledge in the pile of rocks there. How was anyone and the zoning was where they had to build a cottage that would cost at least twenty-five thousand dollars. You know, I said, "this is ridiculous," that was the opinion I gave them. I said, "these guys are crooked, they're after a quick buck." Well, they were threatened. They were going to go to jail if they hadn't reimbursed about all within their realms of reality what they could reimburse. So, there will always be crooks that will break the law, and that has absolutely nothing to do with this Bill. I beg you Members of the Senate to vote for this Bill which is a peoples' bill and this is what

we're doing here. We're representing those people. Thank you.

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

Senator McBREAIRTY: Mr. President and Honorable Members of the Senate, the good Senator is correct. They did break the law, but if we pass this Bill, they won't be breaking the law. Then they can subdivide all the farms that they can find and sell them to non-residents, out-of-state for high prices, bringing up our land values in our areas, so that this poor guy who wants a wood lot never could afford it.

I'm going to read the letter here and show you just what did happen. This is from John McElwee to me. It says, "As you may or you may not have heard the land case has had its partial disposition in that (I'll leave out the names) has entered a plea of guilty to five counts of violations of the Subdivision Law, four of which are in Perham. The case has been continued for sentence for ninety days to give her an opportunity to repurchase or otherwise remedy the subdivision problems. After that time parties will present to the court their respective positions on sentence and a fine of up to five thousand dollars may be imposed."

Now, if we value our Subdivision Laws enough to have them, and take people for violation, we'd better not pass this Bill. Thank you.

The PRESIDENT: Is the Senate ready for the question. The Chair will order a Division.

Will those Senators in favor of the motion by the Senator from Aroostook, Senator McBreairty to Adhere please rise in their places to be counted.

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

19 Senators having voted in the affirmative, and 7 Senators having voted in the negative, the motion to Adhere, Prevailed.

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

HOUSE REPORTS—from the Committee on Health and Institutional Services on BILL, "An Act to Include the Poverty Tax Abatements in Net General Assistance Costs" (H. P. 242) (L. D. 289)

Majority Report Ought Not to Pass.

Minority Report Ought to Pass as Amended by Committee Amendment "A" (H-242).

Tabled—May 18, 1983 by Senator PRAY of Penobscot

Pending—Motion of Senator CARPENTER of Aroostook to Accept Minority Ought to Pass as Amended Report.

(In House May 17, 1983 Majority Report Read and Accepted)

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

Senator BUSTIN: I move that this Bill and all of its Accompanying Papers be Indefinitely Postponed and I'll speak to my motion.

The PRESIDENT: The Senator from Kennebec, Senator Bustin moves that this Bill and all Accompanying Papers be Indefinitely Postponed.

The Senator has the floor.

Senator BUSTIN: Thank you, Mr. President. Mr. President, Ladies and Gentlemen of the Senate, I spoke to you yesterday about this when I was really fired up. I'm still fired up but I'm not going to deliver that firey speech again; I'm just going to remind you of what this particular Bill does. What it does is try to tie Poverty Tax Abatements to the General Assistance Laws and when it ties it to the General Assistance Laws, it ties it to the General Assistance Funding. When you give Poverty Tax Abatements out of General Assistance Funding, you're not helping those people who have traditionally been helped. That doesn't mean that I think that there shouldn't be Poverty Tax Abatement. I just question where the funding is coming from, and I urge you to vote for the pending motion.

The PRESIDENT: The Chair recognizes the

Senator from Aroostook, Senator Violette.

Senator VIOLETTE: Mr. President, Ladies and Gentlemen of the Senate, I would hope that this morning you would not go along with the Senator from Kennebec's motion to Indefinitely Postpone this matter. I think that the proper place for of the funding of this particular piece of Legislation is, in fact, with the General Assistance Fund. This Bill, would in fact, benefit the vast majority of communities in this State. I think it is a concept which may, in fact, assist those which, in fact, the General Assistance Program has not traditionally helped. These are people who reside in their own homes. People who may, in fact, be having problems. People who do not live in subsidized housing; in low-income housing, or in public housing.

I think that the concept has a great deal of merit. I think that to suggest that the Bill be defeated because of the concept is a good one, but that it ought to be funded by some other mechanism, is a bad argument to make, quite frankly. I would hope that you would vote, today, against the motion of Indefinite Postponement. Thank you.

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

Senator CARPENTER: Mr. President, Ladies and Gentlemen of the Senate, I would just begin my remarks but once again apologizing to the Senator from Kennebec, Senator Bustin for my actions of yesterday when I got a bit wrapped up in the proceedings of the morning and neglected to go back and rediscussed with her what we wanted to do with this Bill as far as debating it or not.

Mr. President, I think that this is a good Bill. What it will do, the bottom line is that it will end up bringing money back to many, many communities in the State. When the municipal officials of the communities decide that a person is so impoverished that they cannot pay their Property Tax or a portion thereof, they may, under present Law, provide for those people some abatement of those taxes. These are the same people who are eligible, traditionally, for General Assistance, town help. The criteria is basically the same. In the General Assistance Laws we call it "need"; in this Law we call it "poverty." It's the same thing. The two issues are, if not directly interchangeable, directly connected, and that's why I think it's appropriate that once a community that qualifies under the guidelines set down in L. D. 289, that they would be reimbursed by the State. It, also, offers some encouragement to the communities. When they're looking for a person who's applying or trying to get a Poverty Tax Abatement, they're saying, the municipal fathers and mothers are saying, we can't give this, maybe we can't give up the Property Tax Revenue. we want to give this, but we've got to bleed this turnip for as much as we can get out of it. This will allow them to receive some funds back from the State.

I would urge you to defeat the pending motion and then Accept the Ought to Pass Report. Thank you.

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

Senator CLARK: Thank you, Mr. President, I would pose a question to anyone who would care to answer it particularly those on the Committee from which this Report emanated.

Taking off from the remarks of the Senator from Aroostook, Senator Carpenter where the local elected officials are faced with a decision to abate or not to abate the Property Taxes of those, usually low-income people who are unable to pay their taxes, will the decision of the local officials be made easier if those same officials know that Property Tax Abatements will be reimbursed by the State of Maine?

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

Senator BUSTIN: I would have to answer in the affirmative. Of course it would be a lot eas-

ier. The State now is going to pay for that. So that if you have a lot more tax abatements, for instance, requested from Portland or from Aroostook County or from Kennebec County, then, of course, the rest of the people of the State of Maine are going to pay for that, because where you're going to get this money, I might remind you, is from State Government, for the General Assistance Allocation. That means that because of our General Assistance Laws, and we are reviewing those in our Committee; they will be coming out of the floor, we're almost through with those. What that will mean is the State is committed to reimbursing the towns, after they reach a certain level, 90% of what they give in General Assistance. 90%! So that we will be coming in for emergency funding and we'll have to find it in State government.

I've noticed since I've been in the Legislature that there's only one way you get money for those emergency funding situations and that's through taxation in one form or another. You people will be back here to have to make a decision on raising taxes, because your local towns don't want to make the decision of raising their Property Tax. That's what's going to happen.

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

Senator VIOLETTE: Mr. President, Ladies and Gentlemen of the Senate, I certainly hope this morning that we're not going to be lead to vote for the Indefinite Postponement of this measure because of the argument, in my opinion, the extremely inappropriate argument that the Senator from Kennebec has just made.

Just this year the Legislature addressed, without having to raise taxes, some unfunded liability in the General Assistance account that was dealt with by the Appropriations Committee if this memory serves me correct. In addition to that, those communities who do not fall within the formula, those communities pay General Assistance costs. Only those who fall within the formula are those communities that are funded by the General Assistance Fund. That happens to be about 50% of the communities in the State of Maine.

I don't think that this is; a problem that is, such a major problem that is going to encourage substantial costs to the General Assistance Fund. I think, though, it is a concern that we ought to share and it was for that reason that I support this Legislation. Thank you.

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

Senator NAJARIAN: Mr. President and Members of the Senate, I support this Bill for several reasons.

One, currently if a person is in poverty and can't make their rental payments, that comes under the General Assistance. Someone who owns their home and can't make their tax payments, sort of falls into that same category. So, it seems to be discriminating against homeowner as opposed to a renter, if tax abatements wouldn't come under the General Assistance.

Secondly, if a city or a town does grant Property Tax Abatement then that's picked up by all the other Property Taxpayers in that town. We've been trying up here to do all that we can relieve the Property Tax, so I think, funding that sort of abatement out of the General Fund is a perfectly legitimate way to fund it, and that's what we should be doing. In fact, I think probably 100% General Assistance should be picked up by the General Fund, because poverty is a State responsibility, I feel, and not just where somebody happens to live.

Although, there is a good argument that the towns would be more careful if they do have to pick up that initial amount. I think that it's .003 of their Property Tax and then beyond that, the State picks up 90% of the costs. As Senator Violette pointed out not all towns reach

that level probably about 50% of it.

Another problem is if they do not grant them a Property Tax Abatement and they can't pay their taxes, then the towns can foreclose on that property and after the sale they can keep the entire amount and then the person get nothing back. I have a bill in dealing with that that's now before the Judiciary Committee to prevent that unjust enrichment, because I don't think that a town ought to keep the 100% of the money that they acquire. All they need is the money that they're legitimately due on the amount of taxes that owed or sewer charges or whatever.

So, I hope that this Bill is not Indefinitely Postponed.

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

Senator PEARSON: Mr. President, I would like to pose a question to anybody who might care to answer and that is, how does this Bill deal with communities in Maine which nobody pays any Property Tax?

The PRESIDENT: The Senator from Penobscot, Senator Pearson has posed a question through the Chair to any Member of the Senate who may respond, if they so desire.

The Chair recognizes the Senator from Kennebec, Senator Bustin.

Senator BUSTIN: I can't answer that question. It's not really my Bill. I suspect it doesn't help those towns at all. It will only help the larger towns who have reached their level and get reimbursed the 90%. That's what it does.

To answer the Senator from Cumberland, Senator Najarian. There are a few things that enter into the formula, and that is, that when poor people own homes, they can have a lien put on them and that's correct, and they can be foreclosed, but keep in mind the town doesn't have to foreclose. That's number one.

Number two, if you pass this Bill and you have the Property Tax Abatements, and that house is foreclosed for whatever reasons or is sold, the difference between renting and owning is equity, and whatever equity will revert back to the poor people. I think that's wonderful, after all, those are the people that I want to help. Of course I want them to have that, but do I want them to have it at the expense of the General Assistance account? I have stated that I probably would be in favor of a Property Tax Abatement, but not tied to General Assistance.

If we want to do that, then, let's do it out front. Just like we do on the Elderly Tax Refund programs. Its mentioned that everything to help poor people should come out of the General Assistance. I may not be familiar enough with the budget, but do Food Stamps come under General Assistance? Does Fuel Assistance come under General Assistance? Do the Disability Payments come under General Assistance? That doesn't all come out of the General Assistance Laws, out of the General Assistance Funding. That's what I'm talking about. All that I'm saying is that it's important that you look at the difference between the General Assistance Funding and whatever other programs that you have. That's the important difference.

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

Senator CARPENTER: Mr. President, Ladies and Gentlemen of the Senate, not to belabor this any longer than is necessary this morning.

In response to the question posed by the Senator from Cumberland, Senator Clark, Title 36, Section 841, gives some fairly extensive procedures under which a town must maneuver in order to give a tax abatement. I'll just very quickly tell you what the criteria are; they are death, absence, I'm going to skip one, insolvency, bankruptcy, or other inability of the person assessed to pay. That's how the tax collector in a community a municipality goes about determining who he will recommend get a tax abatement. The one I dropped out was

poverty. I think that that's one of those mushy words that sort of like need in the General Assistance Law that's pretty much a subjective reading. I think that the implication is from some of the people on the other side of this that if we pass this and if we now say that there's going to be some State funding for these abatements that we're going to be flooded down here in Augusta and everybody who comes up a little short in their paycheck on a Friday night is going to come in and apply for a Property Tax Abatement and because there's this great trough of money in Augusta. That's what is going to happen. I think that's the implication that there is here and I don't think that's so at all.

I only read a very, very small portion of the guidelines as laid out in Title 36, but the guidelines are pretty stringent, pretty strict as to how a person can apply for abatement or the assessors or collectors of the tax in the municipality can go about in their own initiative instituting a Poverty Tax Abatement.

You'll note, if you look at L. D. 289 in the Amendment, and I'm just quickly adding that the Amendment simply says that this only applies in municipalities which have adopted suitable guidelines for General Assistance. If you look, there is no price tag on this Bill. In other words, it's our feeling and the feeling of the experts in the fiscal departments around here and in the Human Services that there's not going to be such a drain on the General Assistance account that's going to require additional State funding.

I would just say that if you look at the guidelines as they are laid out in the present law, they're very, very similar to the guidelines that we have on the books today for General Assistance. We're talking about poor people, really, really poor people, elderly people, people who are in their own homes who aren't fortunate enough, and it sounds a little bit ludicrous to say this, but who aren't fortunate enough to be renters, because if they were renters, there would be some relief under existing law. These people are unfortunate in that they own their own homes. I would ask that you give this Bill some support.

Mr. President, if I might just add one quick thing. There was another implication, by I think it was the Senator from Kennebec, Senator Bustin who said that large towns, under I think it was last year's spending limits and what not, there were twenty-two towns in little Aroostook County that would have received some reimbursement for property, if they had given Property Tax Abatements. This has been tried to be made into a "Portland." It certainly is not. This affects every municipality in the State who spends enough on General Assistance to get up to the limit. Thank you.

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

Senator GILL: Mr. President, we've had brought before us this morning the fact that this was "Portland" Bill and as I recall the hearing the Bill was sponsored by a Representative from the city of Portland and I recall that there were very few people who appeared in behalf of the Bill; and namely, they were people from the city of Portland. It is ironic that Portland has already granted some abatements, locally, in the tax problem, and they have been able to do that locally. We did ask the Department of Human Services and the people who have charge of the General Assistance Program, whether this would be an increase in monies that would be needed to cover this if this Bill was indeed passed. They gave us a response dealing with the situation that we were talking about that very day that Portland had granted, I believe it was nine abatements in a period of time, and if that wasn't a significant amount of money to talk about as far as saying that it would be an increase.

I maintain that this Body in this Legislation sanctions tax abatements on the State level

and tacks it on to General Assistance Program, that every community that is involved in General Assistance Program will find it very easy to pass that right on to the State. Everyone is looking for a way to get out of doing things on a local level and it is very easy to pass that right on to someone else and say, "you take care of it." This is exactly what they're trying to do. I think that there would be a significant amount of money involved, if every community did this. I think the people who were there from General Assistance and who answered the questions that particular day that we had the hearing were talking about one city and the few abatements that had been granted in that one city and we were not talking about the State in a whole, and how many communities could come under this overall.

I would ask that this Bill be defeated, also.

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

Senator WOOD: Mr. President, Men and Women of the Senate, although this Bill was not before our Committee and since it deals with the tax issue and tax policy, I would like to add my thoughts to it.

It seems to me when we deal with taxes we have to think in terms of fairness and equity. Although the goals of this Bill are commendable and I think that we all want to see the people that are poor have some kind of outlet if they cannot pay their taxes, it seems to me that in the laws right now there is sufficient guidelines to take care of that. We all want to see Property Tax relief. I think this Bill is a poor vehicle to provide that because what the good Senator from Cumberland mentioned will occur. That towns across the State will look at this as a way of reducing their Property Tax burden and although that is a laudable measure; it seems to be an inappropriate way to do it.

I'm frankly surprised that the Appropriations Committee feels that there's sufficient funds to fund a program like this. If we want meaningful Property Tax relief, let's have it. Let's not do it in a way that will not be fair equitable to the whole State.

(Off Record Remarks)

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

Senator KANY: Mr. President and Members of the Senate, I've been giving this Bill some thought, just since yesterday, and after listening to the debate, just seems to me that this would be a much less expensive means for the State than to have to help provide public housing for these people that might, indeed, lose their homes. I would hope that the Maine State Legislature would really go on Record as opposing anything that could help people lose their homes. This is, indeed, a way for people to be able to continue to live in their own homes. I hope that we do go along with this Bill.

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

Senator VIOLETTE: Mr. President, Ladies and Gentlemen of the Senate, I happen to be a cosponsor of this Bill and just answer the comments that the Senator from York, Senator Wood made. He's not here now. I didn't put this Bill in to provide for Property Tax relief in the State of Maine. This isn't the aim of this Legislation. It really doesn't matter if we're going to have some Legislation before us at 2% tax here or 1% on the Sales Tax, dealing with Property Tax, Property Tax relief generally across the board, but that still isn't going to deal with the situations that we're addressing with this Legislation. That argument is totally irrelevant to the matter at hand. We are not talking with dealing with a problem that people are having related to specific kinds of people.

So, this is not a Property Tax Relief Bill for the State of Maine, Senator Wood; it wasn't introduced for that. There will be other Legisla-

tion, perhaps, in your Committee dealing with that area and you should address that in your own Committee at that time.

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

Senator PEARSON: Mr. President, Men and Women of the Senate, I was a member of a city council for six years and at the end of every year that I was on that city council we would bring out the list of people who had not paid taxes in the community for "X" number of years and we would begin our abatement procedure. The city solicitor would say, or somebody else would say, "it doesn't look like we're ever going to get this one. We might as well abate it," and I can't help but think that what's going to happen now is that we would try and try and try to collect taxes for two, three, four or five years and then finally abate it. I can't help but think, now, the scenario would be, somebody would say, "we haven't gotten that one, why don't we abate that on the basis of poverty and have the State pay for it?"

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

Senator WOOD: Mr. President, Men and Women of the Senate, I apologize for not being in my seat. I was speaking to Kay Rand of MMA to find out what priorities were on tax policy.

I would only point out that if something looks like a rose and smells like a rose and has a thorn, it probably is a rose and this little jewel has a thorn.

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

Senator BUSTIN: I request a Roll Call.

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 a at least one-fifth of those Senators present and voting.

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

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

The pending question before the Senate is the motion by the Senator from Kennebec, Senator Bustin that L. D. 289 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—Brown, Bustin, Clark, Diamond, Durtremble, Erwin, Gill, Hayes, Hichens, Pearson, Sewall, Teague, Trafton, Twitchell, Wood.

NAY—Baldacci, Carpenter, Charette, Dow, Kany, McBreairty, Najarian, Perkins, Pray, Redmond, Shute, Usher, Violette, The President Gerard P. Conley.

ABSENT—Collins, Danton, Emerson, Minkowsky.

A Roll Call was had.

15 Senators having voted in the affirmative and 14 Senators in the negative, with 4 Senators being absent, the motion to Indefinitely Postpone L. D. 289 non-concurrence Prevailed.

Sent down for concurrence.

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

An Act Relating to Drinking in Public (S. P. 420) (L. D. 1273)

Tabled—May 18, 1983 by Senator PRAY of Penobscot

Pending—Enactment

(In House May 17, 1983 Indefinitely Postponed)

On motion by Senator Pray of Penobscot, Retabled for 1 Legislative Day.

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

Senate Papers

BILL, "An Act to Provide Immediate Authorization and Funding to Clean Up Hazardous Waste Dump at Buckfield" (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27) (Emergency) (S. P. 571) (Presented by Senator TWITCHELL of Oxford) (Cosponsor: Representative BELL of Paris)

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

Sent down for concurrence.

The PRESIDENT: The Chair will appoint as conferees on the part of the Senate on Bill, "An Act Relating to Smoking on Public Conveyances in the State of Maine" (H. P. 829) (L. D. 1067)

Senators: Danton of York
Baldacci of Penobscot
Gill of Cumberland

(Off Record Remarks)

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

(Off Record Remarks)

On motion by Senator Pray of Penobscot, Adjourned until 12 noon tomorrow.