

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 II

FIRST REGULAR SESSION

May 16, 1983 to June 24, 1983

INDEX

FIRST CONFIRMATION SESSION

August 4, 1983

INDEX

FIRST SPECIAL SESSION

September 6 and 7, 1983

INDEX

SECOND CONFIRMATION SESSION

September 23, 1983

INDEX

THIRD CONFIRMATION SESSION

October 28, 1983

INDEX

SECOND SPECIAL SESSION

November 18, 1983

INDEX

STATE OF MAINE
 One Hundred and Eleventh Legislature
 First Regular Session
 JOURNAL OF THE SENATE
 Augusta, Maine
 May 20, 1983
 Senate called to order by the President.

Prayer by Senator Thomas Teague of Somerset.

The Senator Thomas Teague: Let us pray. Our Father on the 76th day of our Legislative Session give us the strength, courage and understanding to complete our duties in the best interest of the people of our towns, cities and the State of Maine. Amen.

Reading of the Journal of yesterday.

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

BILL, "An Act to Discourage Violation of Wildlife Laws." (S. P. 143) (L. D. 435)

(In Senate, May 17, 1983, Passed to be Engrossed as Amended by Committee Amendment "A" (S-125)).

(Comes from the House, Bill and Accompanying Papers Indefinitely Postponed in non-concurrence.)

On motion by Senator Carpenter of Aroostook, Tabled for 1 Legislative Day, pending Further Consideration.

Non-concurrent Matter

BILL, "An Act to Amend the Statutes Governing the Licensing, Approval and Registration of Adult and Child Care Programs." (H. P. 791) (L. D. 1032)

(In Senate, May 11, 1983, Passed to be Engrossed as Amended by Committee Amendment "A" (H-208) in concurrence.)

(Comes from the House, Passed to be Engrossed as Amended by Committee Amendment "A" (H-208) and House Amendment "A" (H-255) in non-concurrence.)

The PRESIDENT: Is it the pleasure of the Senate to Recede and Concur with the House? It is a vote.

(Off Record Remarks)

Communications

The Following Communication: (H. P. 1237)

**State of Maine
 House of Representatives
 Augusta 04333**

May 18, 1983

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

Dear Mr. Speaker and Mr. President:

On May 18, 1983 two Bills were received by the Clerk of the House.

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

Business Legislation

Bill "An Act to Amend the Maine Business Corporation Act to Permit Preferred Stock Redeemable with Property or Securities" (H. P. 1233) (L. D. 1640) (Presented by Representative RACINE of Biddeford) (Cosponsors: Senator CHARETTE of Androscoggin and Representative CONARY of Oakland) (Submitted by the Department of Business Regulation pursuant to Joint Rule 24)

Local and County Government

Bill "An Act to Amend the Lucerne-in-Maine Village Corporation Charter" (Emergency) (H. P. 1234) (L. D. 1641) (Presented by Representative SWAZEY of Bucksport) (Cosponsor: Senator PERKINS of Hancock) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27)

Sincerely,

S/EDWIN H. PERT
 Clerk of the House
 S/VALERIE MITCHELL
 Assistant Secretary of the Senate
 Comes from the House Read and Ordered Placed on File.
 Which was Read and Ordered Placed on File in concurrence.

The Following Communication:
Committee on Marine Resources
 May 12, 1983

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

In accordance with 3 M.R.S.A., Chapter 6, Section 151, and with Joint Rule 38 of the 111th Maine Legislature, the Joint Standing Committee on Marine Resources has had under consideration the nomination of Endicott P. Davison, Jr., of Boothbay to the Marine Resources Advisory Council.

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

YEAS: Senators 0
 Representatives 10
 0

NAYS: 0
 ABSENT: 3, Senator Minkowsky of Androscoggin, Senator Shute of Waldo and Senator Dutremble of York.

Ten members of the Committee having voted in the affirmative and none in the negative it was the vote of the Committee that the nomination of Endicott P. Davison, Jr., to the Marine Resources Advisory Council be confirmed.

Sincerely,
 S/CARROLL MINKOWSKY
 Senate Chairman/G.P.C.
 S/NATHANIEL J. CROWLEY, SR.
 House Chairman
 Which was Read and Ordered Placed on File.

The PRESIDENT: The Joint Standing Committee on Marine Resources has recommended that the nomination of Endicott P. Davison, Jr., be confirmed.

The pending question before the Senate is: Shall the recommendation of the Committee on Marine Resources be overridden: In accordance with 3 M.R.S.A., Chapter 6, section 151 and with Joint Rule 38 of the 111th Legislature, the vote will be taken by the yeas and nays. A vote of Yes will be in favor of overriding the recommendation of the Committee. A vote of No will be in favor of sustaining the recommendation of the Committee.

Is the Senate ready for the question? The Chair recognizes the Senator from Waldo, Senator Shute.

Senator SHUTE: Mr. President and Ladies and Gentlemen of the Senate, I think that I should explain the Committee Report on Mr. Davison to the Marine Resources Advisory Council.

When the Marine Resources Committee held the confirmation hearing there were two Senators, myself and Senator Minkowsky, and I am not too sure whether Senator Dutremble was there or not, at that hearing, however we did have to delay the vote for one week. The vote was taken yesterday and we were not aware that the vote was taken at that time, it was taken prior to the hearing that we had yesterday.

So that is the reason the three Senators were not on the Report, however, I and I speak for Senator Minkowsky, and I think, for Senator Dutremble that we highly recommend Mr. Davison for this job. He brings a great deal of knowledge in the area of marketing and aquaculture to that Advisory Council and that Advisory Council does need that expertise. So I

would hope that you would approve this nomination.

The PRESIDENT: Is the Senate ready for the question?

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

YEA—None.

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

ABSENT—Minkowsky, Najarian, Redmond, Usher.

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

The nomination of Endicott P. Davison, Jr. is confirmed.

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

The Following Communication: (S. P. 574)
**The Senate of Maine
 Augusta**

May 19, 1983

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

Dear Mr. President and Mr. Speaker:

On May 19, 1983 two Bills were received by the Secretary of the Senate.

Pursuant to the provisions of Joint Rule 14, these bills were referred to the Joint Standing Committees on May 19, 1983 as follows:

Health and Institutional Services:

Bill, An Act to Authorize and Fund a Medical Model of Congregate Housing (S. P. 572) (Presented by Senator BUSTIN of Kennebec) (Cosponsor: Senator GILL of Cumberland)

State Government:

Bill, An Act to Establish a Special Acquisitions Fund at the State Library (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27) (S. P. 573) (Presented by Senator WOOD of York) (Cosponsors: Representative MASTERTON of Cape Elizabeth and Senator COLLINS of Knox)

Sincerely,
 S/JOY J. O'BRIEN
 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**

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 Regarding Contributions to Political Campaigns" (H. P. 1031) (L. D. 1356)

BILL, "An Act Relating to the Promotion of Tourism in Maine" (H. P. 534) (L. D. 687)

BILL, "An Act to Assist Mediation of Consumer Complaints" (H. P. 872) (L. D. 1126)

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 to Clarify the Status of Disabled Persons under the Elderly Householders Tax and Rent Refund Act" (H. P. 677) (L. D. 860)

BILL, "An Act to Clarify the Authority of the

Commissioner of Marine Resources Regarding Fishways" (H. P. 419) (L. D. 502)

Ought to Pass

The Committee on Marine Resources on BILL, "An Act Concerning the Catching of Herring for Bait" (H. P. 1172) (L. D. 1560) 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.

The PRESIDENT: Is it the pleasure of the Senate that Under Suspension of the Rules, that L. D. 1560 be given its Second Reading by title only?

It is a vote.

Under Suspension of the Rules, the Bill Read a Second Time and Passed to be Engrossed, in concurrence.

The Committee on Public Utilities on BILL, "An Act to Amend the Charters of Various Sewer Districts Organized Under the Private and Special Laws, including Limerick and Jackman" (H. P. 1236) (L. D. 1645) Reported that the same Ought to Pass pursuant to Title 38, section 1253, subsection 3.

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.

The PRESIDENT: Is it the pleasure of the Senate that Under Suspension of the Rules, that L. D. 1645 be given its Second Reading by title only?

It is a vote.

Under Suspension of the Rules, the Bill Read a Second Time and Passed to be Engrossed, in concurrence.

The Committee on Appropriations and Financial Affairs on BILL, "An Act to Make Allocations from the Public Utilities Commission Regulatory Fund for the Fiscal Years Ending June 30, 1984, and June 30, 1985" (Emergency) (H. P. 418) (L. D. 643) 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.

The PRESIDENT: Is it the pleasure of the Senate that Under Suspension of the Rules, that L. D. 643 be given its Second Reading by title only?

It is a vote.

Under Suspension of the Rules, the Bill Read a Second Time and Passed to be Engrossed, in concurrence.

Ought to Pass as Amended

The Committee on Judiciary on BILL, "An Act Relating to Bail Commissioners" (H. P. 701) (L. D. 890) Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-252)

Comes from the House with the Report Read and Accepted and the Bill Passed to be Engrossed as Amended by Committee Amendment "A" (H-252)

Which Report was Read and Accepted in concurrence. The Bill Read Once. Committee Amendment "A" (H-252) was Read and Adopted, in concurrence.

The PRESIDENT: Is it the pleasure of the Senate that Under Suspension of the Rules, that L. D. 890 be given its Second Reading by title only?

It is a vote.

Under Suspension of the Rules, the Bill Read a Second Time and Passed to be Engrossed, as amended, in concurrence.

The Committee on Election Laws on BILL, "An Act Concerning the Posting of the Text of all Constitutional Resolutions and Statewide Referenda at the Polling Places on Election Day". (H. P. 80) (L. D. 89) Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-253)

Comes from the House with the Report Read and Accepted and the Bill Passed to be Engrossed as Amended by Committee Amendment "A" (H-253)

Which Report was Read and Accepted in concurrence. The Bill Read Once. Committee Amendment "A" (H-253) was Read and Adopted, in concurrence.

The PRESIDENT: Is it the pleasure of the Senate that Under Suspension of the Rules, that L. D. 89 be given its Second Reading by title only?

It is a vote.

Under Suspension of the Rules, the Bill Read a Second Time and Passed to be Engrossed, as amended, in concurrence.

The Committee on Agriculture on BILL, "An Act to Extend and Amend the Statute entitled Purchase of Foodstuffs from Maine Concerns." (H. P. 710) (L. D. 901) Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-254)

Comes from the House with the Report Read and Accepted and the Bill Passed to be Engrossed as Amended by Committee Amendment "A" (H-254)

Which Report was Read and Accepted in concurrence. The Bill Read Once. Committee Amendment "A" (H-254) was Read and Adopted, in concurrence.

The PRESIDENT: Is it the pleasure of the Senate that Under Suspension of the Rules, that L. D. 901 be given its Second Reading by title only?

It is a vote.

Under Suspension of the Rules, the Bill Read a Second Time and Passed to be Engrossed, as amended, in concurrence.

Ought to Pass in New Draft

The Committee on Taxation on BILL, "An Act to Authorize Tax Liens on Personal Property" (H. P. 279) (L. D. 339) Reported that the same Ought to Pass in New Draft under same title (H. P. 1235) (L. D. 1644)

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.

The PRESIDENT: Is it the pleasure of the Senate that Under Suspension of the Rules, that L. D. 1644 be given its Second Reading by title only?

It is a vote.

Under Suspension of the Rules, the Bill Read a Second Time, and Passed to be Engrossed, 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 Value Forest Land on the Basis of Current Use" (S. P. 531) (L. D. 1554)

Ought to Pass

Senator SHUTE for the Committee on Marine Resources on BILL, "An Act Concerning Volunteer Marine Patrol Officers" (Emergency) (S. P. 558) (L. D. 1624) Reported that the same Ought to Pass.

Which Report was Read and Accepted.

The Bill Read Once.

The PRESIDENT: Is it the pleasure of the Senate that Under Suspension of the Rules, the L. D. 1624 be given its Second Reading by title only?

It is a vote.

Under Suspension of the Rules, the Bill Read a Second Time and Passed to be Engrossed. Sent down for concurrence.

Ought to Pass in New Draft

Senator MINKOWSKY for the Committee on Marine Resources on BILL, "An Act to Rejuvenate the Fishing Industry in Maine" (S. P. 383) (L. D. 1175) Reported that the same Ought to Pass in New Draft under same title. (S. P. 575) (L. D. 1652)

Which Report was Read and Accepted.

The Bill, in New Draft, Read Once.

The PRESIDENT: Is it the pleasure of the Senate that Under Suspension of the Rules, that L. D. 1652 be given its Second Reading by title only?

It is a vote.

Under Suspension of the Rules, the Bill Read a Second Time and Passed to be Engrossed. Sent down for concurrence.

Second Readers

House

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

BILL, "An Act to Clarify Independent Contractor Status Under the Workers' Compensation Act" (H. P. 1231) (L. D. 1635)

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)

BILL, "An Act Relating to the Labeling of Milk Containers" (H. P. 1132) (L. D. 1498)

BILL, "An Act Appropriating Money for Research and Development of Appropriate Turbine Technology" (H. P. 1230) (L. D. 1633)

BILL, "An Act to Regulate the Season on Coyotes" (H. P. 1227) (L. D. 1621)

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

BILL, "An Act to Increase the Annual Public Utilities Commission Regulatory Fund Assessment to \$1,460,000 beginning in Fiscal Year 1983" (Emergency) (H. P. 1228) (L. D. 1632)

Which was Read a Second Time.

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

Senator DANTON: Mr. President, for the Committee on Bills in their Second Reading I offer Senate Amendment "A" to L. D. 1632 and move its Adoption.

The PRESIDENT: The Senator from York, Senator Danton offers Senate Amendment "A" to L. D. 1632 and moves its Adoption.

Senate Amendment "A" (S-132) was Read and Adopted.

The Bill Passed to be Engrossed, as amended, in non-concurrence.

Sent down for concurrence.

House as Amended

BILL, "An Act Relating to the Adjustment to the Penalty for Withdrawal from Current Use Tax Laws" (H. P. 676) (L. D. 859)

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

BILL, "An Act to Permit Municipalities to Regulate Shellfish Harvesting Within State Park Lands" (H. P. 1037) (L. D. 1362)

Which was Read a Second Time.

On motion by Senator Clark of Cumberland Tabled for 1 Legislative Day, pending Passage to be Engrossed.

BILL, "An Act to Provide for the 1983 Amendment to the Maine Housing Authorities Act" (H. P. 1152) (L. D. 1521)

Which was Read a Second Time.

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

Senator DANTON: I offer Senate Amendment to L. D. 1521 and move its Adoption.

The PRESIDENT: The Senator from York, Senator Danton offers Senate Amendment "A" L. D. 1521 and moves its Adoption.

Senate Amendment "A" (S-133) was Read.

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

Senator BALDACCI: Mr. President, just a point of inquiry if this is being done by the Committee on Bills in their Second Reading?

The PRESIDENT: The Senator from Penobscot, Senator Baldacci has posed a question through the Chair to the Senator from York, Senator Danton, who may respond if he so desires.

The Chair recognizes the Senator from York, Senator Danton.

Senator DANTON: Yes it is, Mr. President.

Senate Amendment "A" was Adopted.

The Bill. Passed to be Engrossed as amended, in non-concurrence.

Sent down for concurrence.

Senate

BILL, "An Act to Increase the Number of Voting Booths Required in Maine Elections" (S. P. 566) (L. D. 1639)

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

Sent down for concurrence.

Senate as Amended

BILL, "An Act to Clarify the Authority of the Superintendent of the Bureau of Consumer Credit Protection" (S. P. 502) (L. D. 1518)

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

Sent down for concurrence.

Enactors

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

An Act Relating to Registration and Inspection of Motor Trucks used for Fishing. (H. P. 1205) (L. D. 1600)

An Act Related to Unauthorized Taking of Agricultural Products. (H. P. 1209) (L. D. 1603)

An Act Relating to the Authority of the County Commissioners over the Operation of all County Offices. (H. P. 1101) (L. D. 1452)

An Act to Establish and Amend the Air Quality Standards and Establish a Chromium Emission Standard. (H. P. 951) (L. D. 1232)

An Act to Amend the Election Laws. (H. P. 950) (L. D. 1231)

An Act Concerning Standards for Rejection of Altered Vehicles. (H. P. 812) (L. D. 1052)

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 Amend the Maine Consumer Credit Code. (H. P. 1191) (L. D. 1577)

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

Senator PEARSON: Regards to L. D. 1577.

The PRESIDENT: The Senator has the floor.

Senator PEARSON: Mr. President and Men and Women of the Senate, this is "An Act to Amend the Maine Consumer Credit Code" and what it really is, is credit cards. What it does is it allows banks to charge money for credit cards.

This is not a new bill it has been before the Maine Legislature before. It was before the Maine Legislature when I was a member of another Body not far from here.

It brings back memories of when I was in college. When I graduated from college I received in the mail just a week, or two, or three after and before I graduated a whole slew of credit cards. They thought at the time that I was going to be a financial success not the first time that I have fooled people. I got them because the companies wanted me to use their pro-

duce, Texaco, Mobile, Shell, I can't even remember all of the credit cards that I got, but those were three of them. I have about ten or twelve of them now, and most of them came about during that period of time.

The reason that they wanted me to have that credit card was because they thought that would mean that I would use their product, and it is true that I did and I do when I need to, but I am one of those people who are very frustrating to them, because I don't use it very often, and consequently I don't have very much of a finance charge.

The people who will follow will tell you that they're in desperate shape and that they need money, income from the selling of those credit cards. Downtown Bangor the area that I live in which was one of the Nations best examples of urban renewal all most all of the older section of downtown Bangor was eliminated and the only thing that seemed to grow at first and even to this date are bank buildings.

According to the Portland Press in this year 1983 they ran a list of different banks in the State and what their profits were. According to that article and the information that I have: Depositors Corporation net income during 1982 was six million, seven hundred and twenty-five thousand, a 12% increase from the year before; the Northeast Bank Shares the net income for the first quarter one million, two hundred and fifty-three thousand dollars, Casco Northern for the first quarter 1.3 million dollars; Maine National Bank, I assume yes for 1982 their profit was five million one hundred, and fifty-one thousand dollars; Canal Corporation of Portland had a 57% increase over 1981, they had in 1982 one million, five hundred ninety-one thousand, seven hundred and twenty-six dollars.

The jest of what I am trying to tell you is that they are not poor and that they don't need that money. They are making money on people who have late payments now that hold those credit cards.

When this Bill was before the other Body, down at the other end of the hall, I remember the last time it was in the evening. I really don't like this Bill. It is one of the ones that I dislike the very most, because it is not necessary. They really don't need that money.

It is those banks that have gone out and tried to solicit people to get those credit cards. They offer them to you when you go up to the tellers window, there are advertisements in the bank windows, it is fairly easy. My nephew has one. He hasn't graduated from college yet. His income, well he doesn't have an income, really, he works summers.

I think that this is so bad a Bill that I would like to tell you what I said in that other Body on that evening when it was last killed, "I hope that we take this Bill dig a hole bury it, put it in a casket, seal the lid, put the dirt back on and plant burdocks on top of it."

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

Senator CLARK: Mr. President, L. D. 1577 is a New Draft of L. D. 1179 and indeed the Senator from Penobscot is absolutely right the Bill has been before the Legislature and previous Legislatures and has not received a similar, or the Committee Report that it received this time. I would remind the good Senators here this afternoon that that was a twelve to one Ought to Pass, in New Draft Report.

I can understand the sentiments expressed by the good Senator from Penobscot, Senator Pearson for I embraced those same sentiments for a number of Legislature Sessions prior to this the 111th Maine Legislature. As a matter of fact I guess by signing on Ought to Pass in New Draft Report I've lost my crown of the champion of Maine consumers.

The economy changes and hopefully so do we, and I guess I would include myself in that we. Way back in the early days of my Legislative experience and as the sponsor of the Maine

Consumer Credit Code we agreed, following two extensive studies on the Maine Consumer Credit Code, that in exchange for raising the usury rate on lender credit cards, by the way lender credit cards are those cards issued by a supervised financial organization essentially banks in this State, that we would forego the annual fee to consumers for those cards.

I've championed that position for ten years, however in this Legislature you find me supporting the Ought to Pass, in New Draft Report. Not because of the composition of the sponsors of which I am not one and of which the majority floor leader is a cosponsor, but because essentially the economy and the banking industry, if you will, has changed markedly. Maine banks today find themselves in the difficult position of competing with non-Maine financial institutions and so-called non-financial institutions with the distinct disadvantage of not being allowed to price card services in the same manner as these competitors for comparable services to Maine residents. It is the belief of the Majority of the Committee on Business Legislation that that is not the intent of the current Maine law, nor the will of Maine's people and feel certain that today we will correct those inequities.

At the public hearing on the Bill substantial evidence and testimony was presented to convince us that in fact the Maine financial institutions have indeed demonstrated a need for the charging of a minimal annual fee for the use of bank credit cards. That fee, my friends, is twelve dollars a year or one dollar per month. The smallest fee assessed by all states or any states and the majority of states do assess annual fees in the Nation.

We believe that we should treat the banking industry fairly, and we recognize the need for additional revenue to these institutions for we have embraced the concept that all services offered by Maine banks should indeed be self-supporting. That's essentially why some of us, mainly me, have come around one hundred and eighty degrees on this issue. It is not my favorite measure, but it is a Bill that addresses the distinct disadvantages that our Maine banks are currently experiencing.

You see there is another facet and this was a particularly convincing facet, I would like to point out to you the economic impact of bank card business in the State of Maine. There are one hundred and seven plus full-time employees working in the State of Maine on bank cards. The compensation is in excess of 1.25 million dollars plus the fringe benefits sometimes enviable fringe benefits, I might say from my perspective. However those services staffed by Maine residents in our own State under current deregulation without this Bill will undoubtedly be moved out-of-state because, you see, sixty-five percent of bank access are currently controlled today by out-of-state bank operations. Why retain the jobs of those one hundred and seven Maine citizens in Maine if in fact the services under the bank credit card system are not self supporting when they can with a quick administrative decision be moved out-of-state, Delaware, Iowa or other states, which allow an annual fee so that those services will be self-sustaining, and as a matter-of-fact it might even deprive Maine consumers of access and the convenience of bank credit cards, or plastic money as we call it.

Yes some of us have come around one hundred and eighty degrees, and as I've mentioned already I am one of those. I feel quite comfortable with the current state of the financial market in our State warrants this additional revenue. I do embrace the concept that all services offered by banks in the keenly competitive market that prevails out there today particularly with emphasis on deregulation that the twelve dollar annual fee is warranted. Thank you, and I would hope that we would vote to Enact this measure this afternoon.

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

Senator DIAMOND: Thank you, Mr. President, Ladies and Gentlemen of the Senate, I set this aside for a very serious and good reason. I am very concerned about this measure. As you've heard we did resoundly defeat this measure in the 110th, and this minimal fee which we've heard about at twelve dollars per year, per credit card, per individual comes to 18% coincidence enough as it may be, it comes to a charge of 18% on eight hundred dollars.

Now hearing the figures that Senator Pearson, the Senator from Penobscot, read which I heard, or saw for the first time heard when he did read those, I find that the banks the best of the banks are not losing money and I would beg your leave that I doubt if they will leave the State of Maine without this twelve dollar charge. I think that they are doing quite nicely here.

Back in the late 60's they were giving these credit cards out left and right, now they have the people hooked on these things in fact you can use a credit card more readily than you can use your own checks. The credit cards are used for a lot of things. Now that people, the society is bent towards these now they are going to charge those folks who are able to pay their bills in thirty days, or twenty-five days whatever the case might be. They budget themselves they can pay up their bills they are still going to charge them a fee. So that just doesn't seem right, Ladies and Gentlemen. I doubt that if they do not get that twelve dollars that they are going to leave the State or go out of business.

The term "fairly" was used, we have to treat the banks fairly. I would suggest that if the banks are being concerned about being treated fairly that they might reduce that 18% that they charge for financing maybe down to 15% or 12% or 10% the prime rate seems to be right now. Why are they staying at 18%?

Now this bothers me I don't think that the people out there that are able to pay their bills should be penalized. I don't think that the banks are losing money. I really don't. I would hope that you would do as you did two years ago, Ladies and Gentlemen of the Senate, and not pass this Bill. Thank you, Mr. President.

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

Senator SEWALL: Thank you, Mr. President. Members of the Senate, the idea of making money is exactly the problem. How would a bank pay for the services rendered to that customer who uses the credit card uses it every month and pays it in thirty days and pays no other charge? I'll tell you how they do it, they have to put the charge on those other people who use the credit. That is the problem. That is the main problem and they obviously are losing money that way and there are going to have to be some change. If there isn't they are not going to be able to afford to do it. It is a very simple problem. If the bank wants to take from those people who are less fortunate and can't pay their bills every time and cover for those who can easily pay their thousand dollars a month on their credit card that's fine. We didn't think that that was equitable.

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

Senator CHARETTE: Thank you, Mr. President. Women and Men of the Senate we are listening here to a variety of issues on this Bill and that being that banks are very very profitable. Well I'd like to offer my feelings on this and as I see it with the continuing deregulation it has been the financial institutions philosophy to price each one of their services independently. To you it doesn't seem fair that a consumer of a product that they should purchase helps us subsidize some other service of the financial institution. I feel that each service should stand on its own merit with the customer deciding whether the price is one that

they are willing to purchase. I feel very strongly that a credit card should pay its own way and the users of the credit card pay their own rather than be subsidized from other operations.

In order to do this I feel that financial institutions, as they do, that the users of a credit card should pay a fee to have the card. If the customer doesn't feel the use of the card is worth the fee then obviously he will not purchase it, the service. This method gives them the freedom that they deserve to purchase the service if the perceived value is there.

Financial institutions need the freedom to be able to do this as they are finally being freed to pay competitive rates for deposits and do not feel that the borrowers should have to pay interest rates high enough to support free services offered by any financial institution. The services being free only because the law or regulations require that they can't carry a charge. There has been a great deal of discussion in the Legislature about increasing competition and allowing banks from out-of-state to come in to increase this competition yet we have a bill here that restricts the banks and their freedom to price their products both competitively and realistically.

I believe that this twelve dollar fee is moderate, I think that it is one that will make this particular department, these service profitable. It was clear in Committee that this department for most banks was losing money. The price has increased tremendously and the operation from what services this provides to customers and that service is a computerized service and it has become a very very expensive operation. So I would hope that you Enact this Bill this morning.

The PRESIDENT: The Chair recognizes the Senator from Waldo, Senator Shute.

Senator SHUTE: Mr. President and Ladies and Gentlemen of the Senate, I don't usually get mixed up in Business Legislation bills, to say the least, but there are a couple of questions that I have concerning this. I did hear that we had a payroll of, I think, 1.2 or 1.4 million a year for the people that worked the credit cards in banks. I wonder how many credit cards there are out in the State of Maine, and how much the twelve dollars per year would bring in to the banks? I guess the other question is would joint bank card holders pay twelve dollars or twenty-four dollars?

I never had a credit card till about two months ago so this doesn't affect me too much, I can get along with or without one, but I wouldn't pay twelve dollars to keep one, I can assure you of that because what little bit that I use it it wouldn't be worth twelve dollars.

As the good Senator from Penobscot mentioned here awhile ago that he had an opportunity to have ten, or twelve, or fifteen credit cards I had that opportunity, I didn't take it, but I had that opportunity. Business went out after this credit card they went out with no charges and once as they say they get them hooked then they come in for the payments. I don't think that there are any banks going out of business if they don't get this extra 12% on credit cards, twelve dollars.

I think I don't really think that this is a people's bill either as some bills that we hear about in here. I think that this might be something that the people don't want. I know a lot of people that I represent probably won't be in favor of this if they were voting on it.

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

Senator BALDACCI: Mr. President and Members of the Senate, to interrupt the questioning of the good Senator from Waldo, Senator Shute for just a moment, I think that it is very important to point out to the Senate in my dealings down here in the very short while that I have watched this Legislature previous Legislatures always fight to create laws so that we don't lose assets in the State of Maine to out-of-

state interest, and we are always very concerned about that. We create laws so that all of a sudden we set up a situation where unless they have a reciprocal law we can't allow that to happen.

This particular situation isn't that far away from it, because I think that the most important thing here is that 65% of the assets in the State of Maine are out-of-state concerns and those banks can actually charge fees because they are out-of-state entities through their systems to people in the State of Maine where we are denying our own Maine banks that opportunity and making them less viable than those out-of-state interests.

I stand to be corrected if I am wrong but that is the way that I understand the issue, and it is a Maine issue. The issue here is to keep our Maine assets with our Maine banks and make them viable opportunities.

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

Senator CLARK: Thank you, Mr. President. I will attempt to answer the question offered by my good seat-mate the Senator from Waldo, Senator Shute and perhaps expand on them just a bit, very briefly.

Number one the service fee would not apply to other than bank credit cards, it does not apply to retail merchant cards like Porteous and J.C. Penny, does not apply to gas credit cards it applies only to bank credit cards issued by lending institutions.

Two, if a bank credit card is held jointly by a husband and wife for example the charge would be twelve dollars per year on the account so that the fee assessed would be twelve dollars regardless of the number of cards issued, and not twenty-four dollars should in fact two cards be issued, I hope that that is very clear.

I don't know the answer to the first question, that is how many cards are currently being held by Maine residents which originate with Maine lending institutions. I know that it is literally, probably in the hundreds of thousands, and I concern with the remarks that have been made this afternoon relative to the mass marketing, if you will, of bank credit cards and retail merchant cards, and gas credit cards in the early 70's and late 60's. Those were the days, men and women of the Maine Senate, when our society was being conditioned to the use of credit and encouraged, if you will, to use credit. In other words acquire now and pay later.

Well it isn't the late 60's nor is it the early 70's, and banks across the Nation have been placed at a competitive disadvantage. Those facts can not be challenged with any degree of validity. They are being faced with fierce competition from non-regulated financial institutions that are non-bank in nature, not the least among them are insurance companies.

In the past and this is reflecting testimony before the Committee on the day of the hearing the States of New York and Pennsylvania failed, two years ago, to recognize the need for banks to price their services competitively and as a consequence of that and the denial of, at that time, an assessment for an annual fee for credit cards, those two states moved their credit card operations on a wholesale basis to the States of Delaware and South Dakota, I thought originally it was Iowa, but it is South Dakota, where laws were less restrictive and where equitable pricing of services was allowed.

In testimony before the Committee actually in summary testimony these three words were shared, and the words are quality, equity, and economics." LD 1577 in New Draft would request that we give our Maine banks, and there aren't many of them left, equality with other financial and non-financial institutions. We ask through this measure that we as a Legislature assist our Maine banks in providing equity for consumers and that they should pay only for services rendered and thus eliminate that

which the good Senator from Lincoln has alluded to the subsidization of one service at the cost to another customer.

Lastly the Committee on Business Legislation in a vastly Majority Report would ask this Legislation for your understanding of the economics of a credit card department in that it is an expensive service that consumers do want, yes they have been conditioned to want and banks will provide continuing service if afforded the opportunity to price the service fairly, twelve dollars a year we perceive as fair and the potential economic loss to our State of jobs if not given the opportunity to compete.

I know of no financial institution in the State of Maine who has in fact lost a substantial amount of money for all the overall services provided by those institutions in mass with the acceptance of one in the last seven years, but there is one service that doesn't pay its own way, and that's not good business practice, and that is this credit card service that banks extend. While I hope that if we should deny this annual fee to our Maine banks that they will not in fact move their credit cards service out-of-state. I happen to be one who has, I believe, earned a reputation of being pro-consumer and in this case I am pro-consumer for that consumer happens to be a major industry in our State we can do no less than act responsibly.

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

Senator HAYES: Mr. President, Maine State Senate, Senator Shute the good Senator from Waldo, speaks with much reason this is not a bill for the people this is not a consumer bill, it is frankly a banking bill. If credit cards are not profitable then banks should get out of the business. I ask for a Roll Call.

The PRESIDENT: A Roll Call has been requested.

The Chair recognizes the Senator from York, Senator Dutremble.

Senator DUTREMBLE: Mr. President, Members of the Senate, I don't usually get up and speak on issues where I am not really directly involved, but being a former member of the Committee on Business Legislation and having concern about this I feel that I have to say a few words.

First let me say that I feel real sorry that the banks are having a hard time making large profits on those credit cards.

I guess that I do want to point out that the profits that they make on credit cards usually comes from interest. I guess that the profits that they are making aren't great enough since they want to tag on this twelve dollar fee on anybody who has credit cards. I just want to know if this is going to be some kind of a precedent that we are going to set here. I know that when you borrow money from a bank for a mortgage they make you pay not only the interest but they have something called "processing fee," that you have to pay, but they also have points now which you have to pay a certain percentage to borrow their money. Now there is a finance charge on credit cards. I am wondering if in the future we will start having more things like this on cars and home repair loans and everything that the bank does, so that the banks continue to get richer and the people who use their services continue to get poorer?

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

Senator CARPENTER: Mr. President, Ladies and Gentlemen of the Senate, just a couple of very brief points, and that is, it bothers me a little bit that we are hearing the old, and it is an old, club used over us that if we don't do something then we are going to lose Maine business and that is very clearly one of the issues involved in this piece of legislation. I guess, probably, those of us who have been around here for a few years have all used that we have to treat our people as well, or our corporations as

well as some other state does, or we are going to lose them to that some other state.

I think that that is a very dangerous track to get on, because if you start to follow that logic in this Bill and other bills then I think that you start to fall in to the trap that Delaware is normally regarded as the state in the Nation that has the best laws relative to corporate organizations in corporations and it's kinda known as the haven for corporations. I haven't seen us rushing to adopt all of Delaware's rather liberal corporate laws to lure back to the State of Maine some of the businesses we may have lost. I just think that that's a dangerous area for us to start to wander into. If there is a legitimate need for our banks to make this money, to need to have this money that's one thing, but to say that if we don't do this well they're going to pick up their marbles and go to another state, I think is a dangerous thing.

As far as the issue of credit cards subsidizing other bank operations, it seems to me that's an internal decision made by the banks, or at least the banking industry, and not one that the Legislature should be that involved in. Thank you.

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

Senator VIOLETTE: Mr. President, Ladies and Gentlemen of the Senate, I rise to echo the remarks made by the good Senator from Aroostook, Senator Carpenter. I only wish to say that just because some other state happens to be liberalizing its banking laws or its corporate laws, the State of Delaware has or the State of North Dakota did sometime, did approximately two years ago. That, in itself, is not reason for this State to feel compelled to go forth and feel that it must do something only to, sort of speak, in carbon copy of another state. I think its for this State to look at its own situation, develop its own policy not in a vacuum, but to look at its own history and to develop its own practices. I, quite frankly, fail to see the need for this Legislation. I'm not convinced of it. I do not see the whole sale massive loss of making business in this State. Other states have not been self-compelled to do the same things that we have done in this State with respect to interstate banking and the like. I do not feel that we must feel compelled to do as they do in the areas of credit cards and the like. I have not been shown the need that, quite frankly, for this Legislation and for that reason I will vote against this Legislation today, and I would hope that you would do so as well.

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

Senator DIAMOND: Thank you, Mr. President and Members of the Senate, just briefly answer a couple of questions.

One question that came out was, "how do we pay for services?" Well, I own a small business, as some of you do, and I employ a few people, and I provide a series of services, some of those services I don't make any money on and some of those services I do. Thank goodness at the moment I'm making more on some than I'm losing on others. But the fact remains that a business that's part of the risk you take and part of the overall purpose. Why do we need to guarantee a certain business, i.e. banks, that they're losing money on anything else we'll hear about it. I suspect probably this is the only one.

Equality, equity, economics, three good points. I think banks provide us with good quality and we have a good quality of citizens. I question about equity being 18% and the economics of the matter is truly, I think that the banks can survive, and I hope that if, Mr. President, if we've not asked for the Yeas and Nays, I would so do so.

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

Senator VIOLETTE: Mr. President, I'd like to pose a question and that's just for my own education. Are there not fees presently now being

charged for those businesses that use credit where if you take a certain credit card at your business, that you have to pay one or two or some percentage, and who does that money go to? Just for my own education, but who does that money go to? If I own a business and I take Master Card, a certain percentage of the sale goes to somebody, as I understand it. Does that go to the bank or whom and what is done with that money?

The PRESIDENT: The Senator from Aroostook, Senator Violette 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 Cumberland, Senator Clark.

Senator CLARK: Thank you, Mr. President. I would attempt insofar as possible to answer the question that was offered by the Senator from Aroostook, Senator Violette, who I have a feeling already knows the answer.

That answer is that the process of discounting whereby retail merchants across the State have an affiliation with the bank and forward their charge cards to the bank for reimbursement at that process. That process is called discounting and the bank would assess a small percentage, usually between 2 and 5%, that's my understanding of it and that's only based on memory because I asked the same question at the hearing, for that service, and then they would, the bank would assume the responsibility of all the accounting, record keeping, issuing the bills, and maintaining of accounts.

That, I hope, is the answer that he's seeking. I would suggest that we share with you, this afternoon, something perhaps you aren't aware of and I don't mean that in any way negative; it just is fact. That probably the Committee on Business Legislation is a little more sensitive to it than most, simply because we live with it daily, when we're faced with banking bills in legislation and all the ramification; and that is, that the Maine Bureau of Banking and the Department of Business Regulation has a superintendent and that superintendent and that bureau within that department have repeatedly stated that it is the position of the Bureau of Banking that each department within a bank should be a self-sustaining entity, profitable in its own right. Those are the premises on which we have based our Committee Report this time. Fully knowledgeable of the ramifications across the State and fully knowledgeable that, in fact, the Committee has in its Majority Report; particularly, with some of the signers reversed previous positions on a similar issue.

Most banks across the State experience no more, if that, than a 1% return on assets, which is representative of the better performing bank credit card departments. I feel quite sure that people sensitive to the needs of the business community and in line with the Governor's program for economic development will agree that there are even few of us here today that would invest our money, if we had any, given that potential for return. I have no problems subscribing to the fact that Maine banks are fully entitled to a fair and reasonable fee for their services. Certainly, twelve dollars a year will not even begin to cover the total costs of providing these services and this convenience for Maine consumers. It will not result in a windfall for Maine banks, but if you really examine the competitive nature of the highly and strictly regulated banking institutions as opposed to the non-financial institutions in their laissez faire market. You will understand that we must, by acting responsibly this afternoon, Enact this measure.

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

Senator PRAY: Thank you, Mr. President. Mr. President, Ladies and Gentlemen of the Senate, I share some of the concerns that have been raised by a number of individuals here today in reference to the Enactment of this Bill.

I expressed those concerns prior to agreeing to cosponsor the proposal and after weighing through my mind in reality what is actually taking place in the banking industry, not only in the State of Maine, but Nationally, that it was my conclusion in the end that this was a proposal that I could live with, one which I thought would assist, not only the banking industry, but the banking industry in the State of Maine most specifically.

The Senator from Penobscot, Senator Pearson when he first rose, talked about when he was a senior in college, getting ready to graduate and we all know how many years ago that was when credit cards were being distributed quite freely. I think that you'll find out today that that is not the case. That lending institutions are not wholesaling credit cards out to the vast majority of the citizens of this State. I think that if we stopped and we looked at the economic condition to the majority of the people in this State we'd find that many of them do not hold cards and probably cannot afford to hold credit cards, but they have a relationship with the banks. They either have a savings account of some meager means, or a checking account of some small amount of which the charges on those accounts are based upon the various operations of the various departments or divisions of a bank. Banks overall the bottom line is the question as to whether or not things are economical, feasible as to what type of return do they then have?

I think that most Maine banks, most stockholders in Maine banks are similar to some other advertisements we've seen are people who usually or have a tendency to be in the age of sixty or over; they are Maine citizens that saw the great depression and somehow economically survived and own a few shares. I think that that's the vast majority of stockholders in Maine banks. Sure we have a few large ones who own a great deal of shares and are economically well off, but I think the question that we address today in trying to solve the problem is not one that painting a picture of the banks being some big bad guy out there who's making millions and millions of dollars. As the Senator from Cumberland, Senator Clark pointed out the return on investments are very small. The amount of interest that individual borrowers are charged are only a few percentage points above what they, the bank, themselves are either paying to earn a return for those who have money in savings accounts, IRA's and other accounts that the banks offer to people of this State.

I think it is a good question of economics, as well as, the whole question of interstate banking has been a question of economics from Maine banks. The situation that we're addressing here today, is to give banks a competitive advantage or competitive opportunity, and in that competitive opportunity, and in that competitive opportunity the word "may" instead of "shall" is listed in the Bill. If the bank wants to charge, he would do that with the economic consequences if another bank in town says, "we'll give you the card for nothing" maybe, then, they will have more business and people who will not pay within the thirty day limit.

When I considered the ramifications of the banking industry than I feel that it is something I could agree to cosign my name into and promote this Legislation through. It is interesting, it has gone through the entire process and the first time a question has been raised is on the Enactment but many issues have been finally caught on the last day that it sits before this Body. So I don't criticize anyone for that, but I do think it goes far deeper than some of the issues and concerns that have been raised here today, because, banks are just an easy target to take pot shots at.

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

Senator PEARSON: Mr. President, Men and

Women of the Senate, the reason, as far as I'm concerned that it went this far, to final Enactment is because, the sponsors chose to call this, "An Act to Amend the Maine Consumer Credit Code", and I really had no idea that that dealt with credit cards. It seemed to me that more obvious title could have been used, and I didn't serve on that Committee, and so I wasn't aware of this until this time.

I would like to point out that Senator Pray, he is the person, not I, I know of anybody else that I recall during this debate that called the banks bad guys. I think they're good guys. He said we were describing them as bad guys making millions and millions and millions of dollars.

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

Senator SEWALL: Thank you, Mr. President and Members of the Senate, I honestly worry about my own sanity this afternoon getting up and speaking on the same side of an issue as Senator Pray. After all, I'm one of those people who's in a perfect position to take advantage of this Bill and I'm reaping the benefits of it. So I don't know why I'm fighting it, because after all, I can go out and charge up three thousand dollars every month, pay at the end of the month, pay nothing for the service. Now, if I wrote a check for those services, I'd have to pay for the checks and I might have a service charge and I might have whatever else and I'd have to pay something to keep my checking account going. If I use my American Express Card, well I pay something for that but, with my bank card I can do absolutely free. I can get away with everything and all those people who can't afford to pay their bills are going to pay for me. So, I seriously wonder, but you know, I just didn't think it was fair.

The PRESIDENT: Is the Senate ready for the question?

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 pending question before the Senate is the Enactment of L. D. 1577, "An Act to Amend the Maine Consumer Credit Code."

A Yes vote will be in favor of Enactment of L. D. 1577.

A No vote will be opposed.

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEA—Baldacci, Brown, Charette, Clark, Collins, Dow, Emerson, Gill, Perkins, Pray, Sewall, Teague, Trafton, Wood, The President—Gerard P. Conley.

NAY—Bustin, Carpenter, Danton, Diamond, Dutremble, Erwin, Hayes, Hichens, Kany, McBreairty, Pearson, Shute Twitchell, Violette.

ABSENT—Minkowsky, Najarian, Redmond, Usher.

A Roll Call was had.

15 Senators having voted in the affirmative and 14 Senators in the negative, with 4 Senators being absent, the Bill was Passed to be Enacted, and having been signed by the President, was by the Secretary presented to the Governor for his approval.

Emergency

An Act Making Allocations Related to the Alcoholism Prevention, Education, Treatment and Research Fund for the Expenditures of State Government for the Fiscal Year Ending June 30, 1984. (S. P. 555) (L. D. 1614)

This being an emergency measure and having received the affirmative votes of 29 members of the Senate, with No Senators having voted in the negative, was Passed to be

Enacted and having been signed by the President, was by the Secretary presented to the Governor for his approval.

Constitutional Amendment

RESOLUTION, Proposing an Amendment to the Constitution of Maine to Restrict the Period of Retroactivity of Taxation Legislation to no more than One Year. (H. P. 849) (L. D. 1099)

Comes from the House Failed of Enactment.

On motion by Senator Brown of Washington, placed on the Special Appropriations Table, pending Enactment.

(Senate At Ease)

The Senate called to Order by the President.

Orders of The Day

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

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

Tabled—May 19, 1983 by Senator COLLINS of Knox

Pending—Enactment

(In Senate May 11, 1983 Passed to be Engrossed as Amended by C. "A" (S-90) as Amended by S. "A" (S-107) thereto)

(In House May 17, 1983 Passed to be Enacted)

On motion by Senator Dutremble of York, the Senate voted to Suspend its Rules On further motion by the same Senator, the Senate voted to Reconsider its action whereby L. D. 167 was Passed to be Engrossed.

On motion by the same Senator, the Senate voted to Reconsider its action whereby it Adopted Committee Amendment "A" as amended by Senate Amendment "A" thereto.

On further motion by the same Senator the Senate voted to Reconsider its action whereby it Adopted Senate Amendment "A".

On further motion by the same Senator the Senate voted to Indefinitely Postpone Senate Amendment "A" in non-concurrence.

The PRESIDENT: The Senator has the floor.

Senator DUTREMBLE: Mr. President, I offer Senate Amendment "B" (S-136) and move its Adoption.

The PRESIDENT: The Senator from York, Senator Dutremble offers Senate Amendment "B" and moves its Adoption.

Senate Amendment "B" (S-136) was Read.

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

Senator COLLINS: Mr. President, I support the Adoption of this Amendment, and I want to express my appreciation to the Senator from York, Senator Dutremble and the Senator from Penobscot, Senator Pearson for extending to me the courtesy of reviewing this rather difficult area and having the time to try to make more clear what we are attempting to do.

This will continue the Legislative Policy previously Enacted in 1977 placing the primary emphasis on the collective bargaining process. The Amendment that we have just thrown out by Indefinite Postponement would have had a very broad grandfathering affect which, I believe, was somewhat in excess of the original intentions of the promoters.

I have to say that I wish I could go even further than this amendment does because I was really a bit shocked to find how far the Legislature has gone in recent years in abrogating homerule and local control with respect to who works for our municipalities.

I found that in 1977, under the guidance of a Labor Committee Co-chairman Bustin that the policy now promoted was first established. That policy continues with this Amendment. It's quite clear to me, however, since when I moved in a somewhat different direction a couple of weeks ago and found that I only had six votes that I cannot achieve what my municipality of Rockland would like for me to

achieve; namely, a homerule position and deciding who works for the city of Rockland, that is, where they live.

This makes a great deal of sense with respect, particularly, to firemen and perhaps policemen, because where collective bargaining is now the dominant force in municipal employment and there is the open door for negotiation for collective bargaining agreements which permits some kind of response time or reasonable distance where there is a reasonable job requirement. Thank you.

Senate Amendment "B" was Adopted.

Committee Amendment "A", as amended, by Senate Amendment "B" thereto was Adopted in non-concurrence.

The Bill, was Passed to be Engrossed, as amended in non-concurrence.

Sent down for concurrence.

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 19, 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 Wood of York the Senate vote to Suspend its Rules.

On motion by the same Senator the Senate voted to Reconsider its action whereby L. D. 1528 was Passed to be Engrossed.

The PRESIDENT: The Senator has the floor. Senator WOOD: Mr. President, I offer Senate Amendment "A" (S-129) and move its Adoption.

The PRESIDENT: The Senator from York, Senator Wood offers Senate Amendment "A" (S-129) and moves its Adoption.

Senate Amendment "A" (S-129) was Read and Adopted, in concurrence.

The Bill, was, Passed to be Engrossed, as amended.

Sent down for concurrence.

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

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

Tabled—May 19, 1983 by Senator PRAY of Penobscot

Pending—Enactment

(In House May 17, 1983 Bill and Accompanying Papers Indefinitely Postponed)

On motion by Senator Charette of Androscoggin the Senate voted to Insist and Join in a Committee of Conference.

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

Committee Reports

Senate

Ought Not to Pass

The following Ought Not to Pass report shall be placed in the legislative files pursuant to Rule 15 of the Joint Rules:

BILL, "An Act to Establish a Directional Sign on Interstate 95 at the End of the Piscataqua River Bridge Indicating York and Ogunquit Exit (S. P. 384) (L. D. 1176)

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 to Provide a Time for Citizen or Trustees' Meetings" (S. P. 325) (L. D. 970)

BILL, "An Act Appropriating Funds for Petitioning Against Damage Due to Foreign Imports" (Emergency) (S. P. 369) (L. D. 1143)

Ought to Pass as Amended

Senator NAJARIAN for the Committee on Appropriations and Financial Affairs on BILL, "An Act to Allocate Moneys for the Administrative Expenses of the Bureau of Alcoholic Beverages, Department of Finance and Administration, and the State Liquor Commission for the Fiscal Years Ending June 30, 1984, and June 30, 1985" (Emergency) (S. P. 218) (L. D. 655) Reported that the same Ought to Pass as Amended by Committee Amendment "A" (S-134)

Which Report was Read and Accepted.

The Bill Read Once.

Committee Amendment "A" (S-134) was Read and Adopted.

The PRESIDENT: Is it the pleasure of the Senate that Under Suspension of the Rules, that L. D. 655 being given its Second Reading by title only?

It is a vote.

Under Suspension of the Rules the Bill Read a Second Time and Passed to be Engrossed, as amended.

Sent down for concurrence.

Senator CHARETTE for the Committee on Business Legislation on BILL, "An Act Providing Uniformity, Conformity with the ME Administrative Procedure Act and Compliance with Court Decisions of the Statutes of Licensing Boards within the Department of Business Regulation" (S. P. 495) (L. D. 1502) reported that the same Ought to Pass as Amended by Committee Amendment "A" (S-131)

Which Report was Read and Accepted.

The Bill Read Once.

Committee Amendment "A" (S-131) was Read and Adopted.

The PRESIDENT: Is it the pleasure of the Senate that Under Suspension of the Rules, that L. D. 1502 be given its Second Reading by title only?

It is a vote.

Under Suspension of the Rules, the Bill Read a Second Time and Passed to be Engrossed, as amended.

Sent down for concurrence.

Senator SHUTE for the Committee on Marine Resources on BILL, "An Act Concerning Fishways in Dams and Other Artificial Obstructions in Coastal Waters" (S. P. 359) (L. D. 1080) Reported that the same Ought to Pass as Amended by Committee Amendment "A" (S-135)

Which Report was Read and Accepted.

The Bill Read Once.

Committee Amendment "A" (S-135) was Read and Adopted.

The PRESIDENT: Is it the pleasure of the Senate that Under Suspension of the Rules, that L. D. 1080 be given its Second Reading by title only?

It is a vote.

Under Suspension of the Rules, the Bill was Read a Second Time and Passed to be Engrossed, as amended.

Sent down for concurrence.

Senator WOOD for the Committee on Taxation on BILL, "An Act to Clarify the Tax Status of Time-sharing Condominiums" (S. P. 292) (L. D. 880) Reported that the same Ought to Pass as Amended by Committee Amendment "A" (S-130)

Which Report was Read and Accepted.

The Bill Read Once.

Committee Amendment "A" (S-130) was Read and Adopted.

The PRESIDENT: Is it the pleasure of the Senate that Under Suspension of the Rules, that L. D. 880 be given its Second Reading by title only?

It is a vote.

Under Suspension of the Rules, the Bill Read a Second Time and Passed to be Engrossed, as amended.

Sent down for concurrence.

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

Committee Reports

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 Increase the Percentage of State Municipal Revenue Sharing from 4% to 6%" (Emergency) (S. P. 135) (L. D. 427)

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

Papers from the House

Joint Orders

The Following Joint Order (H. P. 1249)

Ordered, the Senate concurring, that "AN ACT to Limit the Storage of Spent Fuel at Nuclear Reactor Facilities," H. P. 314, L. D. 373, be recalled from the Governor's desk to the House.

Comes from the House Read and Passed.

Which was Read and Passed, in concurrence.

Orders of the Day

The PRESIDENT: The Chair recognizes the Senator from Washington, Senator Brown.

Senator BROWN: Mr. President, is the Senate in possession of L. D. 1586?

The PRESIDENT: The Chair would answer in the affirmative.

An Act to Prohibit Harassment of Hunters, Trappers and Fishermen (S. P. 543) (L. D. 1586) having been held at the request of the Senator.

The Senator has the floor.

Senator BROWN: Mr. President, I move Reconsideration whereby this Bill Failed to be Enacted.

The PRESIDENT: The Senator from Washington, Senator Brown moves that the Senate Reconsider its action whereby L. D. 1586 Failed of Enactment.

On motion by Senator Pray of Penobscot, Tabled for 1 Legislative Day, pending the motion by the Senator from Washington, Senator Brown.

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

Senator CARPENTER: Mr. President, calling the Senate's attention to L. D. 1273, "An Act Relating to Drinking in Public". I would move that the Senate Reconsider its action whereby it voted to Insist and ask for a Committee of Conference.

The PRESIDENT: The Senator from Aroostook, Senator Carpenter moves that the Senate reconsider its action whereby, "An Act Relating to Drinking in Public" (S. P. 420) (L. D. 1273) the Senate moved to Insist and Ask for a Committee of Conference.

The Chair recognizes the Senator from Aroostook, Senator McBreairty.

Senator McBREAIRTY: Mr. President, Honorable Members of the Senate, I would hope that you wouldn't reconsider your action, so that we can have a Committee of Conference on this Bill.

This Bill definitely clears up many unclear problems that we have with our present drinking bill, and there's been a lot of work put in this Bill. It is not more stringent than the other, in fact, it's less and I hope you don't reconsider.

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

Senator CARPENTER: Mr. President, Ladies and Gentlemen of the Senate, just to respond to the comments of the Senator from Aroostook, Senator McBreairty.

We have a parliamentary snaggle as far as Insisting and Asking for a Committee of Conference, I'm told. That's the reason I'm backing up. I have no problem with the issue but motion,

we've got to get it in the right form and I now ask somebody to Table it, pending unsnagging of the snaggle.

On motion by Senator Pray of Penobscot, Tabled for 1 Legislative Day, pending the motion by the Senator from Aroostook, Senator Carpenter.

On motion by Senator Pray of Penobscot, the Senate voted to remove from the Table:

Resolution, Proposing an Amendment to the Constitution of Maine to Provide that Senators shall Serve Four Year Terms Commencing in 1986. (S. P. 62) (L. D. 168)

Tabled—February 17, 1983 by Senator PRAY of Penobscot.

Pending—Further Consideration.

(In the Senate, February 14, the Minority Ought to Pass in New Draft under New Title, RESOLUTION, Proposing an Amendment to the Constitution of Maine to Provide for Staggered Four Year Terms for Senators (S. P. 242) (L. D. 731) Report of the Committee on State Government Read and Accepted and the New Draft Passed to be Engrossed.)

(In the House, February 16, 1983 the Majority Ought Not to Pass Report of the Committee on State Government Read and Accepted in non-concurrence.)

On motion by Senator Pray of Penobscot, the Senate voted to Insist and Ask for a Committee of Conference.

On motion by Senator Pray of Penobscot, the Senate voted to remove from the Table:

BILL, "An Act Relating to the Appointment of County Officials" (H. P. 1200) (L. D. 1594)

Tabled—May 17, 1983 by Senator CARPENTER of Aroostook

Pending—Passage to be Engrossed (In House May 12, 1983 Passed to be Engrossed)

On motion by Senator Pray of Penobscot, the Bill and all Accompanying Papers Indefinitely Postponed in non-concurrence.

Sent down for concurrence.

On motion by Senator Pray of Penobscot, the Senate voted to remove from the Table:

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

Tabled—May 19, 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)

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

Senator TRAFTON: Mr. President, I would move that this Bill and all its Accompanying Papers be Indefinitely Postponed.

The PRESIDENT: The Senator from Androscoggin, Senator Trafton moves that L. D. 1233 be Indefinitely Postponed.

The Chair would state that the motion is in error we are in non-concurrence with the other body.

The Chair recognizes the Senator from Penobscot, Senator Pray.

Senator PRAY: Mr. President I move the Senate Recede and Concur with the House.

(Off Record Remarks)

Senate At Ease

The Senate called to order by the President.

The PRESIDENT: The Chair was in error the motion of the Senator from Androscoggin is a correct motion, the motion to Indefinitely Postpone is in order.

The Chair recognizes the Senator from Hancock, Senator Perkins.

Senator PERKINS: Mr. President, Ladies and Gentlemen of the Senate, this Bill is a single purpose Bill for a single constituent who found himself on a downhill side of the bureaucracy. This piece of Legislation, was for one Basil Heanssler, who lives in Deer Isle, Maine where the population of fourteen hundred and ninety-two. He found himself paying more than 10% of the Submerged Lands Tax. He, also, found himself unable to get the listing from the Bureau of Submerged Lands of what other people were paying for taxes under the Submerged Lands Tax.

So, after I was able through several letters to get this lists of fees, it then became apparent that there was some problem with regard to the fees being charged to Mr. Heanssler. If you recall, the other day I showed you some figures where Mr. Heanssler was paying more than Maine Yankee, was paying more than a famous pier in Old Orchard Beach, was paying more than Bath Iron Works.

I don't think any of us, while none of us like taxes or fees, can really object when these taxes and fees are productive and give us a Government with which we can be proud. This is the problem that Mr. Heanssler finds himself facing, is that, not only is he paying a fee, but he's paying a fee which is substantially higher than that of some of the larger industries within the State. One of them which received some sixteen to eighteen million dollars subsidy from the State within the last twelve months. The substantiation for this was given that this was an error and an oversight on the part of the Department. I guess I would be willing to accept that at face value were I not aware that when errors of this nature are made then Legislation is soon to follow to correct the oversight. No Legislation has followed nor is any Legislation insight.

I am, also, aware that there has been great explanations given to many within this Body and I think that is proper, also. I only wish that I had many more people within the Department with which Mr. Heanssler could have brought his case down and presented it' also. This not being the case, I suspect Mr. Heanssler, again today, finds himself on the downhill side.

I called Mr. Heanssler and made him aware of this situation, and he thanked me and he asked me to pass this on to you that he thanks you for the time it took for one person to bring his case to the State Senate, and that regardless of how the results come today, he appreciates the opportunity to bring this matter to the public. He hopes, of course, that you will bear with him and see the matter through because when one person is paying more than 10% of a fee that is one-sixth, that he's paying six times more than another large corporation. Of course, he still feels there is an inequity, and I guess I do too. I, also, know that we've taken up enough time for this matter. I would hope that you'd bear with me and with my one constituent, though you may not, I feel that we have aired the matter and hope that the Senate, in its wisdom, would not vote to Indefinitely Postpone this Bill, but to see it through and see that perhaps, show the people of Maine, at least one person in the State of Maine, that he does have entrance to this Body and equity within the State.

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

Senator TRAFTON: Mr. President and Members of the Senate, we debated this Bill quite extensively a couple days ago. I will try not to repeat the arguments that I made in opposition to the Bill at that time. However, in summary, this Bill affects three persons in the State of Maine, two marina owners and one lobster pound owner and is of limited consequence, except to those three people.

As you know, the Submerged Lands Acts protects the public's interest to access to our shorelines and this particular use that is owned by Mr. Heanssler referred to by the good

Senator from Hancock, Senator Perkins, is a lobster pound which, in fact, bars access to a good size cove in the Blue Hill area.

I indicated several days ago that the Bureau of Public Lands is currently reviewing its policy as to submerged lands, particularly, in the area that affects marinas and lobster pounds.

Mr. Heanssler's lease is up for review and rate-setting this October. I, personally, have had the assurances and the Joint Standing Committee on Judiciary have had assurances that the Bureau of Public Lands will examine Mr. Heanssler's situation, and the situation affecting marinas and lobster pounds generally. Prior to the renegotiation of the rate of Mr. Heanssler's lease.

I'm, personally, satisfied that the Bureau will treat Mr. Heanssler in a fair manner. I think that it, also, must be clearly understood by the Members of this Body that Mr. Heanssler pays approximately 10% of the current fees generated from rents of submerged lands because Mr. Heanssler currently uses or prevents access to apparently 10% of those submerged lands.

Now, I think it is inequitable for Mr. Heanssler pay a rate some six times higher than that which Bath Iron Works is paying. I don't disagree with that. Unfortunately, the Bureau of Public Lands made a clerical error in not sending out a proper notice, and consequently, the notice was untimely and not within the sixty days prescribed by statute, I think, it points out a situation that should be raised here and I will attempt to raise it and that is, should Bath Iron Works have taken advantage of a clerical error within the Bureau of Public Lands? Should a corporation the size of Bath Iron Works which has received the support of this Legislature and the support of many people in the State of Maine had stuck to its guns in saying, "because of the sixty day notice was not complied with due, to clerical error, we, a major corporation of the State of Maine, that's had major public subsidy will take advantage of that clerical error and pay a rate some six times less than the rate paid by all other renters of submerged lands?"

I raise this point because I think it is inequitable on the part of Bath Iron Works to raise this kind of argument to the Bureau of Public Lands. I'm disappointed, frankly very disappointed in Bath Iron Works for not following the suggesting of the Bureau of Public Lands. The Bureau of Public Lands was very, they were very adamant in insisting that the Bath Iron Works pay the increase rate. In fact, Bath Iron Works took advantage of this statute which was overlooked due to a clerical error, and they are not paying that higher rate. So that is an inequity in the situation, but it is not an inequity that may be addressed by corrective statutes as suggested by the good Senator from Hancock, Senator Perkins. So, consequently, no Legislation is following in this Legislation to address that particular problem. However, I think it would be an improper action for this Body to adopt this statute, simply to indicate our disapproval of Bath Iron Works actions in the recent past.

I urge you to support the motion for Indefinite Postponement. Thank you.

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

Senator PERKINS: Mr. President, Ladies and Gentlemen of the Senate, only one response if I may, and that the good Senator from Androscoggin made reference to the Public Lands Act and the Public Lands Act protecting the public access. I would ask your thoughts, perhaps, on the public access and how much of the public is disenfranchised by access, or lack of access, in Conary's Cove in Deer Isle, Maine with a population of fourteen hundred and ninety-two as compared to access to Portland Harbor or the harbor in Bath and the population in the city of Portland and I've heard the praises of some famous hill there and there's some other

areas that have quite well population and in the city of Bath, also. I believe the population is a fair amount of differential, but the differential is in the opposite area of the pay schedule. This was the reason for the Bill.

The PRESIDENT: The Chair recognizes the Senator from Washington, Senator Brown.

Senator BROWN: Thank you, Mr. President, Ladies and Gentlemen, I intend to support the motion that's been made by the good Senator from Androscoggin to Indefinite Postpone this issue, because I don't believe that the two wrongs make a right to further compound the wrong.

I think it ought to be pointed out, however, very forcefully, as the good Senator from Androscoggin had, that this issue concerning Bath Iron Works and the fact they've taken advantage of a technical error that was made by the Bureau of Public Lands after all that the citizens of this State have done for that organization and have failed to pay the measly sum that was involved in terms of paying that lease payment. I think it is a shame upon that company. I think that it ought to be forcefully made in this place that they would stupe to that level in terms of taking advantage of technical error.

A second thing, I asked a question the other day about the fish weirs and why they were not included on that. Fish weirs were exempted on the original Legislation of submerged lands, so that's why they're not included. I mentioned all the new ones in Washington County.

The good Senator from Hancock, Senator Perkins has made forceful arguments here, and again, the two wrongs don't make a right. I hope that you'll Indefinitely Postpone this issue. Thank you, Mr. President.

The PRESIDENT: Is the Senate ready for the question?

The Chair will Order a Division.

Will all those Senators in favor of the motion by the Senator from Androscoggin, Senator Trafton to Indefinite Postpone L. D. 1233, please rise in their places to be counted.

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

12 Senators having voted in the affirmative, and 12 Senators having voted in the negative, the motion to Indefinitely Postpone, Failed.

On motion by Senator Carpenter of Aroostook, Tabled for 1 Legislative Day, pending Passage to be Engrossed.

Senator Violette of Aroostook was granted unanimous consent to address the Senate, Off the Record.

Senator Gill of Cumberland was granted unanimous consent to address the Senate, Off the Record.

On motion by Senator Carpenter of Aroostook, Adjourned until Monday, May 23, 1983 at 9 o'clock in the morning.