

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

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
 June 15, 1983
 Senate called to order by the President.

Prayer by Rabbi Krinsky of the Beth Israel Congregation of Waterville.

RABBI KRINSKY: Almighty God we ask Your blessing upon these Senators as they proceed to complete the work of this Session of the Legislature.

Give them the strength and resolve to meet the demands of the principals to which they are committed. Give them, also, the power of compromise to fulfill their commitment to all of us.

May their representation of our interests be filled with utmost compassion. May their promulgation of laws reflect justice at its best. May they be secure in our confidence in them. May they remain certain of the ultimate rightness of their decisions.

Let us all pray for the success of our common enterprise, citizens and law-makers joined together in the pursuit of successful opportunities to secure the welfare of our State and its people. Amen.

Reading of the Journal of yesterday.

**Papers From the House
 Non-Concurrent Matter**

Bill, "An Act to Create a Maine Commission on Excellence in Education" (Emergency) (H. P. 1279) (L. D. 1696)

(In Senate, June 9, 1983, Passed to be Engrossed as Amended by Committee Amendment "A" (H-375) in concurrence.)

(Comes from the House, Passed to be Engrossed as Amended by Committee Amendment "A" (H-375) and House Amendment "B" (H-391) in non-concurrence.)

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

Communications

The Following Communication:

**State of Maine
 One Hundred and Eleventh Legislature
 Committee on Judiciary**

June 14, 1983

The Honorable Gerard P. Conley
 President of the Senate
 State House

Augusta, Maine 04333

Dear President Conley:

The Committee on Judiciary is pleased to report that it has completed all business placed before it by the first regular session of the 11th Legislature.

Total Number of bills received: 182

Total Unanimous Reports — 154

Leave to Withdraw — 59

Ought Not to Pass — 14

Ought to Pass — 41

Ought to Pass/Amended — 14

Ought to Pass in New

Draft and/or New Title — 26

Divided Reports — 25

Carryover bills — 3

Respectfully submitted,

S RICHARD L. TRAFTON

Senate Chairman

Which was Read and Ordered Placed on File.

(Off Record Remarks)

The Following Communication:

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

June 14, 1983

The Honorable Joy J. O'Brien
 Secretary of the Senate

11th Legislature
 Augusta, Maine 04333
 Dear Madam Secretary:

House Paper 1263, Legislative Document 1673, AN ACT to Amend the State Employees Labor Relations Act, having been returned by the Governor together with his objections to the same pursuant to the provisions of the Constitution of the State of Maine, after reconsideration the House proceeded to vote on the question: 'Shall this Bill become a law notwithstanding the objections of the Governor?'

Eighteen voted in favor and one hundred twenty-two against, and accordingly it was the vote of the House that the Bill not become a law and the veto was sustained.

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

Which was Read and Ordered Placed on File.

(Off Record Remarks)

Committee Reports

House

Leave to Withdraw

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

BILL, "An Act to Provide a Sales Tax, Trade-in Credit for Loaders and Chain Saws Used to Harvest Lumber" (H. P. 103) (L. D. 110)

BILL, "An Act to Amend the Formula on Transfer Tax Payments on Real Estate" (H. P. 131) (L. D. 139)

BILL, "An Act to Amend the Sales Tax Law to Allow Credit to be Given on Any Sales Tax Due on New or Rebuilt Parts When Used Parts are Traded in for Credit" (H. P. 229) (L. D. 277)

BILL, "An Act to Equalize the Tax Burden of Dental Health Centers" (H. P. 639) (L. D. 790)

BILL, "An Act to Exempt Nursery Schools under the Sales Tax Laws" (H. P. 837) (L. D. 1073)

BILL, "An Act to Provide a Sales Tax Rebate on Materials Used in the Construction of Fish Passage Facilities" (H. P. 1283) (L. D. 1700)

BILL, "An Act to Establish a Program of Emergency Assistance to Needy Families with Children" (H. P. 880) (L. D. 1134)

BILL, "An Act to Provide Sales Tax Equity for Lessees of Depreciable Machinery and Equipment" (H. P. 205) (L. D. 249)

BILL, "An Act Concerning Sales Tax on the Rental of Camps and Cottages" (H. P. 739) (L. D. 948)

Ought to Pass as Amended

The Committee on Appropriations and Financial Affairs on BILL, "An Act to Make Allocations from the Maine Coastal Protection Fund for the Fiscal Years Ending June 30, 1984, and June 30, 1985" (Emergency) (H. P. 514) (L. D. 639) Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-387)

Comes from the House with the Report Read and Accepted and the Bill Passed to be Engrossed as Amended by Committee Amendment "A" (H-387)

Which Report was Read and Accepted in concurrence. The Bill Read Once. Committee Amendment "A" (H-387) was Read and Adopted, in concurrence.

The PRESIDENT: Is it the pleasure of the Senate that Under Suspension of the Rules, that LD 639 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 Health and Institutional Services on RESOLVE, to Establish a Maine Commission to Examine the Availability, Quality and Delivery of Mental Health Services for

Children (Emergency) (H. P. 1251) (L. D. 1664) Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-388)

Comes from the House with the Report Read and Accepted and the Resolve Passed to be Engrossed as Amended by Committee Amendment "A" (H-388)

Which Report was Read and Accepted in concurrence. The Resolve Read Once. Committee Amendment "A" (H-388) was Read and Adopted, in concurrence.

The PRESIDENT: Is it the pleasure of the Senate that Under Suspension of the Rules, that L.D. 1664 be given its Second Reading by Title Only?

It is a vote.

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

The Committee on Health and Institutional Services on BILL, "An Act to Establish the Medical Radiation Health and Safety Act" (H. P. 904) (L. D. 1183) Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-389)

Comes from the House with the Report Read and Accepted and the Bill Passed to be Engrossed as Amended by Committee Amendment "A" (H-389)

Which Report was Read and Accepted in concurrence. The Bill Read Once. Committee Amendment "A" (H-389) was Read.

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

Senator BUSTIN: Mr. President, I present an amendment and move its Adoption, Senate Amendment "A" to Committee Amendment "A" under filing number S-207.

The PRESIDENT: The Senator from Kennebec, Senator Bustin offers Senate Amendment "A" to Committee Amendment "A" and moves its Adoption.

Senate Amendment "A" (S-207) to Committee Amendment "A" was Read and Adopted.

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

The PRESIDENT: Is it the pleasure of the Senate that Under Suspension of the Rules, that L.D. 1183 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 non-concurrence.

Sent down for concurrence.

Ought to Pass in New Draft

The Committee on Judiciary on BILL, "An Act to Deter Drinking and Driving by Teenagers" (Emergency) (H. P. 1280) (L. D. 1697) Reported that the same Ought to Pass in New Draft under same title (Emergency) (H. P. 1326) (L. D. 1761)

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

Which Report was Read.

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

Senator USHER: Thank you, Mr. President. Mr. President I see that this is under New Draft and I would like to pose a question through the Chair for anyone on the Committee to briefly describe the Bill?

The PRESIDENT: The Senator from Cumberland, Senator Usher has posed a question through the Chair to any Member of the Judiciary Committee who may respond if they so desire.

The Chair recognizes the Senator from Androscoggin, Senator Trafton.

Senator TRAFTON: Thank you, Mr. President. Mr. President, and Members of the Senate, I thank the good Senator from Cumber-

land, Senator Usher for giving me the opportunity to briefly describe this Bill which came with a unanimous Ought to Pass Report from the Joint Standing Committee on Judiciary.

We on the Judiciary Committee feel that this is a major Bill addressing a severe problem in the State of Maine and that is teenage driving and alcohol.

This Bill expands the concept of the provisional license currently used for new drivers in the State of Maine and this expansion applies to all drivers younger than twenty years of age if they are found driving with a blood test or a breath test showing that they have consumed alcohol, their license "shall" be suspended for a period of one year. This is a mandatory suspension of license for one year, if the breath or blood test shows a positive result.

There is an opportunity for a hearing before the Secretary of State's Office solely on the issue of whether or not this particular juvenile was operating under the influence, and again this determination is made on the breath or blood test furnished to the Secretary of State.

I urge your support of this piece of legislation hopefully this will discourage young drivers from consuming alcohol and going out on the road. We all know of problems in our own community where death or injury has occurred due to situations arising from teenage drinking, and hopefully this is a major step in the direction to curb that problem. Thank you.

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

Senator CARPENTER: Mr. President, I would pose a further question through the Chair to the Senator from Androscoggin or any Member of the Committee who would care to answer about this Bill.

I just looked at the New Draft and I am curious as to why the Committee chose a blood alcohol level of .20? It is my understanding from quickly glancing at the Bill that if a teenager, or a 19 year old were convicted, or in fact even before they are convicted if they had a test result sent in that was .19 that this Bill wouldn't kick in, in other words until it is .20, that is my first question.

My second question is, this revocation will take effect before there is any court adjudication of guilt or innocence, am I not correct and in fact it is just a showing that there is a blood test of that sort or magnitude.

The PRESIDENT: The Senator from Aroostook, Senator Carpenter has posed a question through the Chair to the Senator from Androscoggin, Senator Trafton or any other Member of the Judiciary Committee who may respond if they so desire.

The Chair recognizes the Senator from Androscoggin, Senator Trafton.

Senator TRAFTON: Thank you, Mr. President. To answer the good Senator from Aroostook, Senator Carpenter's, question I think that I would like to refer to the Bill and say that the only blood alcohol content listed in the Bill on page 4 is .02 and not .2 as indicated by the good Senator from Aroostook.

This .02 test level is to eliminate the question as to whether or not juveniles or any person has some residual alcohol content in their blood. So that if a test is taken and the test result of less than .02 this would not be deemed a sufficient test to mandate the revocation of the license. Any test over .02 would be prima facie evidence that this person had been driving or attempting to drive after consuming alcohol.

As to the good Senator's other question he is absolutely correct that this mandatory suspension of license for one year is prior to an adjudication, this is done on an administrative level. This has been done in other states throughout the country. One of the problems that the State of Maine has, and other states as well for that matter, is that once somebody is charged with driving under the influence allegation that person may have his case continued for months and months, meanwhile he

is still out on the roads and driving and it is the intent of the Judiciary Committee and the sponsors of this Bill that this suspension take effect immediately.

There is due process provided to the juvenile by the hearing before the Secretary of State on the issue of whether or not he or she was driving after consuming alcohol. Thank you.

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

Senator CARPENTER: Mr. President, I thank the Senator from Androscoggin, I apologize, I guess I got one of two questions right. I got the question correctly once out of two attempts.

It bothers me a little bit that .10, 1% of alcohol in your blood in the State of Maine is considered under the influence of intoxicating liquor we now lower the standard not a little bit, but we are saying that one-fifth of that .02 is sufficient, a blood test of that, not an adjudication of that, but a blood test of that is sufficient to put a young person, and I'll grant you that there are problems among young people with drinking and driving, but you do have young people who could very well lose jobs and could mess up their careers by that.

I guess that I am not going to fight this Bill this morning it seems to be sliding along its merry way, but I just want you to be aware that you are talking about taking a license away from somebody who is nineteen years old who has one-fifth of the alcohol level which the State, this Legislature has decided is sufficient to put somebody off the roads. One-fifth of that is now going to be sufficient to put somebody off the roads who is nineteen and it is not an adjudication of that, it is simply the results of a test sent to the Secretary of State. Thank you.

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

Senator PEARSON: Mr. President and Men and Women of the Senate, to follow along the ideas of Senator Carpenter and I thought that he was going to say it, I am a little troubled by the fact at nineteen after having a license for three or four years you are given one standard and then at twenty you are given another.

I am not sure that that is all that fair.

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

Senator MINKOWSKY: Mr. President and Members of the Senate, I really appreciate the explanation it has clarified in my mind quite a bit relevant to this issue.

I have basically some of the same concerns, I think, that maybe Senator Usher had in the beginning. If a person can have their license removed for one year without going to court, I think that this is a very serious injustice.

Also, it has come to my attention that the police officers including our illustrious Maine State Police have some kind of a hangup relevant to arresting or picking up teenagers. I wish that there was some provision that we could address in this Legislature that they do not misuse and mishandle these teenagers when they do arrest them. One of the most recent examples was a teenager age seventeen, six foot three who did not resist arrest but was misused by both the Maine State Police as well as a local police department. I can see very severe abuse and very severe threats by police officers against teenagers that they might have something out against or to get them.

I think we, as I have said in previous debates, we are going too far insofar as mandation, and to quote Governor Brennan to a degree not on this issue but on something else, "enough is enough."

Which Report was Accepted, in concurrence.

The Bill Read Once.

The PRESIDENT: Is it now the pleasure of the Senate that Under Suspension of the Rules, that LD 1761 be given its Second Reading by Title Only?

On motion by Senator Pray of Penobscot, As-

signed for Second Reading later in today's session.

The Committee on Business Legislation on BILL, "An Act to Clarify the Rate Filing Procedures and Standards for Workers' Compensation Insurance" (H. P. 1239) (L. D. 1648) Reported that the same Ought to Pass in New Draft under same title (H. P. 1325) (L. D. 1758)

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 Assigned for Second Reading later in today's session.

Divided Report

The Majority of the Committee on Energy and Natural Resources on BILL, "An Act to Establish the Maine Environmental Protection Fund" (H. P. 1278) (L. D. 1695)

Reported that the same Ought to Pass in New Draft under same title (H. P. 1327) (L. D. 1762)

Signed:

Senators:

KANY of Kennebec
PEARSON of Penobscot
McBREAIRTY of Aroostook

Representatives:

JACQUES of Waterville
KIESMAN of Fryeburg
McGOWAN of Pittsfield
MITCHELL of Freeport
HALL of Sangerville
DEXTER of Kingfield
RIDLEY of Shapleigh
MICHAEL of Auburn
MICHAUD of East Millinocket

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

Signed:

Representative:

BROWN of Livermore Falls

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

Which Reports were Read.

On motion by Senator Kany of Kennebec, the Majority Ought to Pass Report was 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 LD 1762 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.

Second Readers Senate

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

BILL, "An Act to Regulate Commercial Whitewater Rafting" (Emergency) (S. P. 625) (L. D. 1763)

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

Sent down for concurrence.

BILL, "An Act to Revise the General Assistance Laws" (S. P. 626) (L. D. 1764)

Which was Read a Second Time.

On motion by Senator Pray of Penobscot, Tabled until later in today's session, pending Passage to be Engrossed.

Enactors

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

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

An Act to Require Legislative Approval of

Low-Level Radioactive Waste Facilities (S. P. 609) (L. D. 1738)

An Act to Improve the Identification of Persons Trying to Evade State Taxes. (H. P. 1318) (L. D. 1745)

An Act Amending and Expanding the Home Winterization Program Statute (H. P. 1281) (L. D. 1698)

An Act to Debar from State Contracts Employers Guilty of Serious, Willful and Repeated Violations of Safety Standards (H. P. 1313) (L. D. 1742)

An Act to Recodify the Statutes Relating to Corrections and Mental Health and Mental Retardation (H. P. 583) (L. D. 832)

An Act to Make Voting Places more Accessible to the Elderly and Handicapped (H. P. 728) (L. D. 937)

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 Relating to Ethanol Production in the State (H. P. 1282) (L. D. 1699)

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

Senator MINKOWSKY: Mr. President and Members of the Senate, this was bad legislation when it first came in here, and in its Enactment stage prior to going onto the Appropriations Table it is still bad legislation. It is not in the interest of the people of the State of Maine and in fact if the state of the economy is as serious as I understand it to be from our Democratic caucuses, as well as, reports from Ron Scribner then I would not think there would be any hesitation in which to kill this particular additional thirty thousand dollar study.

It is absolutely ludicrous to demand a thirty thousand dollar study to be paid by the taxpayers of the State of Maine to allegedly give a tax credit write-off to a company or a series of companies that is already working with ninety million dollars of Federal and State funds.

If we are in such serious straights at the present time I would think that this Legislature would never honor this particular request. Furthermore, Mr. President and Members of the Senate it is entirely wrong to even contemplate our allowing this study to deprive the citizens of Maine of 1.75 million dollars of due revenue, if this plant is as feasible as the proponents say that it is.

It is absolutely unwarranted to move ahead with this particular project prior to the report that will be studied by the Department of Environmental Protection.

I brought to light last week a concern I had and that was with the utilization of Benzene in the ethanol process. This particular concern is not new this was raised by the Department of Environmental Protection earlier, but when we brought it up there was a letter written by New England Ethanol, first a verbal request and then a written request, I think the verbal request was about June 6th and the written request was June 10, 1983 by New England Ethanol to the Department of Environmental Protection which states the following, and I think that it is important to get it on Record so that there is no horsing around, shall we say, in the future.

Their request went along this line, "in response to questions raised by the staff members at the Department of Environmental Protection and others over the proposed use of Benzene at the New England Ethanol facility we instructed our process designers to analyze and to evaluate the use of alternative chemicals. Although there are a number of benefits associated with the use of Benzene including a low energy requirement and lower capitol cost for processing equipment we want to be responsive to the questions raised and have decided to substitute Cyclohexane for Benzene in the process. While we feel that there is no

cause for environmental concern associated with the proposal to use Benzene we hope that you will concur with our decision to substitute Cyclohexane in the process."

Here is a classic example of an iffy situation, after they get that plant underway and find that it is not feasible and practical to use Cyclohexane then comes the pressure to the Administrative Branch of this State of Maine as well as the Legislative Branch again to go back to a more feasible practical approach by using Benzene.

I just can't emphasize any more clearly than I have this morning the great concern that I have. If we are that concerned for the environment of the State of Maine and its people, the health of these people, we should not proceed any further in funding this particular study for thirty thousand dollars.

Mr. President and Members of the Senate, I realize that this will ultimately, if it should prevail, end up on the Appropriations Table, but for my own satisfaction, my own piece of mind, on this particular issue, I would simply ask for a Division on this particular LD prior to ... Mr. President, I move we Indefinitely Postpone the Bill.

The PRESIDENT: The Senator from Androscoggin, Senator Minkowsky moves that LD 1699 be Indefinitely Postponed.

The Chair recognizes the Senator from Androscoggin, Senator Trafton.

Senator TRAFTON: Mr. President and Members of the Senate, I'm sure we'll all recall that we have voted on this particular Legislative Document at least twice before. I have risen from my seat at least three or four times to clarify some of the misstatements of the good Senator from Androscoggin, Senator Minkowsky. Apparently, my message isn't getting through. The good Senator from Androscoggin, Senator Minkowsky repeats for a fifth time, I think, today that the Ethanol Project slated for Auburn has already received ninety million dollars of Federal and State monies. I will repeat that this is a misstatement. The monies that are being slated for this project are private funds for which Federal and State guarantees had been promised. There's no State dollar in that project as of this moment.

Again, I will try to focus the Senate's attention as to just what this Bill does. This Bill, coming from the Joint Standing Committee on Taxation with a unanimous report tries to address some of the questions that have arisen within that Committee as to whether or not a tax exemption is appropriate for ethanol production within the State of Maine.

Legitimate questions did arise during the hearing and work sessions on this Bill. The Joint Standing Committee on Taxation and the Governor's Office put this Bill together in an attempt to better educate Members of the House and Senate as to whether or not we do need to, or whether we should enact any kind of tax exemption. As you know and I know, tax exemptions are a serious matter especially when we have revenue shortfalls predicted as we do now. I think in order to intelligently vote on an issue of this size, and to intelligently support economic development within the State of Maine which, in fact, this ethanol project with a possible creation of over two hundred to three hundred jobs over the next few years. We must have some legitimate questions answered. This study will address those questions. To fund this study with private monies would risk the credibility of this study, so that it is most appropriate for State money to be used to answer these questions.

I have faith in the Joint Standing Committee on Appropriations to fund this study in the appropriate amount, if at all. I trust our Senate Members of that Committee to make a wise decision and I urge you to vote against the motion for Indefinite Postponement, send this Bill down to the Appropriations Committee.

Let its merits be compared with the merits of the other bills that currently rest on the Appropriations Table and vote against the good Senator from Androscoggin, Senator Minkowsky's motion for Indefinite Postponement. Thank you.

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

Senator HAYES: Members of the Maine State Senate, I wish to go on Record as opposed to the future State encouragement of the proposed ethanol plant. I cannot accept the premise that the private sector ask for public funds to evaluate the tax breaks that the private sector will get from the public trough. This is surely a poor idea and unfortunate public policy.

(Off Record Remarks)

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

Senator MINKOWSKY: Mr. President, the first request I'm going to make is I'm going to ask for a Roll Call on the Indefinite Postponement of this Bill; and secondly, if you look at the questions that are before us in this LD; they should have been answered long before the application was made with the Federal Government and long before the application was made with the Maine Guarantee Authority.

Number one would the New England Ethanol Project be economically feasible without an excise tax exemption? Common sense tells you in the private sector of business if it's not feasible they'll never endeavor to go into it.

The third question (I have to laugh at this one to a degree and I can see where the State is really sticking its nose into a lot of affairs which it should not be because it can't keep its own house in order) is an exemption unfair to competition? Who are we to make a judgement if this is unfair to competition? Doesn't the idea of the free enterprise system still prevail in the State of Maine as well as throughout the United States? This is not well thought out.

Another thing that disturbs me and it is only hearsay that I picked up around these halls. That their own feasibility study, their own engineering study will be skimmed off the top of the money that they will have guaranteed both of the Federal and the State. Somebody mentioned the area of 9 to 10%. That's interesting. They can have this money to utilize before they produce one single gallon of ethanol.

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

Senator TRAFTON: Thank you, Mr. President. Mr. President and Members of the Senate, I can't leave unanswered the allegations of the good Senator from Androscoggin, Senator Minkowsky about the New England Ethanol Products own feasibility study being funded by this particular appropriation if, this Bill ever is to receive an appropriation.

I think if the good Senator from Androscoggin, Senator Minkowsky sat in the Joint Standing Committee on Taxation's work session regarding this Bill, he would have heard that the Bill was amended within the Committee to provide that this commission which has representatives from various interest groups decides where all the money that is appropriated to that Committee goes. In other words, there's no external control saying the money goes one direction or another. I have faith that a public committee of this nature can control its funds and I urge that you vote against the good Senator from Androscoggin's motion for Indefinite Postponement. Thank you.

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

Senator WOOD: Mr. President and Members of the Senate, we have debated this issue a number of times and I don't think there's much more that I can add. I would only like to clarify

a statement that was raised relative to the merits. The question of using State funds to review tax exemptions that benefit a certain business. The argument was made that this was without precedent. I would say that it is with precedent this very Legislature a number of years ago passed Legislation mandating the Committee on Taxation to periodically review Sales Tax exemptions and Property Tax exemptions to see if they're still in the public good. Those funds with which we produce that study are all taxpayers' dollars and it is refreshing from my point of view as Chairman of the Taxation Committee to see that we are now not so willing to grant exemptions willy-nilly, that we want to study them and grant them only when merit requires.

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

Senator MINKOWSKY: Mr. President and Members of the Senate, the difference being when we did that previously, setting our precedent, we had valid statistics to go by from the previous business experiences, of those businesses. Here is a brand new venture that has no foundation and no actual experience and we're still willing to risk taxpayers' dollars.

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

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

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

The pending question before the Senate is the motion by the Senator from Androscoggin, Senator Minkowsky that L.D. 1699 be Indefinitely Postponed.

A Yes vote will be in favor of the Indefinite Postponement.

A No vote will be opposed.

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEA—Bustin, Hayes, Hichens, Minkowsky, Najarian, Sewall, Shute, Usher, Violette.

NAY—Carpenter, Charette, Clark, Collins, Danton, Diamond, Dow, Dutremble, Emerson, Erwin, Gill, Kany, McBreairty, Pearson, Perkins, Pray, Teague, Trafton, Twitchell, Wood, The President-Gerard P. Conley.

ABSENT—Baldacci, Brown, Redmond.

A Roll Call was had.

9 Senators having voted in the affirmative and 21 Senators in the negative, with 3 Senators being absent, the motion to Indefinitely Postpone L.D. 1699 Failed.

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

An Act Relating to the Financing of Services in the Unorganized Territory (S. P. 611) (L. D. 1743)

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

An Act to Provide for an Analysis of the Future of Maine's Forest Resources (H. P. 460) (L. D. 562)

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

An Act to Encourage Competition in Workers' Compensation Insurance Rates (H. P. 1238) (L. D. 1647)

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

An Act Relating to Major Policy-influencing

Positions in Various State Agencies (H. P. 1311) (L. D. 1740)

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

Senator HICHENS: Mr. President, referring to L.D. 1740, I signed the Majority Ought to Pass Report, I was not present when the Bill was presented (or two bills) and I was, also, not present when the sub-committee met to discuss the Bills, but I was convinced when I came back that they had cut down from over a hundred suggested appointed positions to thirty-one and it sounded fairly reasonable to me. Since that time, I've had several objections raised both from outside sources and from members of the other Branch and I'm very much concerned as to whether we're going in the right direction. There are even positions which will be appointed that aren't even filled at the present time which I think is setting a dangerous precedent in our economy minded atmosphere that we're in right now.

So, reversing my position as a signer of the Majority Ought to Pass Report I now ask that this Bill and all its Accompanying Papers be Indefinitely Postponed and I would ask for a Roll Call.

The PRESIDENT: The Senator from York, Senator Hichens moved the Indefinite Postponement of L.D. 1740.

The Chair recognizes the Senator from Aroostook, Senator Violette.

Senator VIOLETTE: Mr. President, Ladies and Gentlemen of the Senate, I think we raised most of the concerns of the Senator from York, Senator Hichens has raised this morning. Last week when we debated Senator Hayes' amendment and answered the concerns that Senator Minkowsky had. It is unfortunate, in my opinion, that Senator Hichens has decided to alter his position with respect to the Majority Report which was a 12 to 1 Ought to Pass Report.

Since that time I think it's somewhat interesting to note that the two major newspapers in this State have (if my memory serves me correctly) endorsed this concept of allowing the Chief Executive of this State and those people who he appoints to allow them further appointments in order to establish a policy that the general public at-large, has favored in the course of the elections by making their selection. I will agree with the Senator that there were numerous positions, the Committee felt obliged to reduce that number to one-third and felt that those that were kept within the Bill were, in fact, major policy-influencing positions. The Senator has expressed no concern with respect to any particular position. If he would, I would be more than happy to answer any questions he would have.

I would hope that, today, that this Senate would vote the same way it did last week, and would vote against the motion to Indefinitely Postpone this Legislation. Thank you.

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

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

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

The pending question before the Senate is the motion by the Senator from York, Senator Hichens that this Bill and all its Accompanying Papers 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—Dow, Hayes, Hichens, McBreairty, Minkowsky.

NAY—Bustin, Carpenter, Charette, Clark,

Collins, Danton, Diamond, Dutremble, Emerson, Erwin, Gill, Kany, Najarian, Pearson, Perkins, Pray, Sewall, Shute, Teague, Trafton, Twitchell, Usher, Violette, Wood, The President-Gerard P. Conley.

ABSENT—Baldacci, Brown, Redmond.

A Roll Call was had.

5 Senators having voted in the affirmative and 25 Senators in the negative, with 3 Senators being absent, the motion to Indefinitely Postpone L.D. 1740, Failed.

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

An Act to Provide for Local Option Voting on Bottle Clubs (S. P. 584) (L. D. 1694)

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

An Act Relating to Training Penobscot Law Enforcement Officers (S. P. 81) (L. D. 192)

On motion by Senator Pray of Penobscot, Tabled until later in today's session, pending Enactment.

An Act to Stabilize Maine Potato Prices (H. P. 1271) (L. D. 1685)

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

Senator McBREAIRTY: Mr. President, in regard to L.D. 1685, I would like to ask for a Roll Call and speak briefly.

The PRESIDENT: The Senator has the floor.

Senator McBREAIRTY: Mr. President, Honorable Members of the Senate, as a former potato grower and shipper, I have serious concerns with this Bill.

This Bill creates a five member board that will set the price of potatoes everyday. There will be a real penalty for any handler that sells under that price. It, also, licenses the handlers of potatoes what I consider will be a real high license fee because it only deals with round whites and the people who ship their own and it's going to bring it down to a pretty, not too big an acreage so the fees will be high.

I'm sure the sponsors—with the serious problems that we have with our potato industry today, I'm sure the sponsors feel strongly maybe this is the answer, but I can't agree. We presently have a potato report, Maine potato report that comes out every day. The information says on it it changes daily; comes out 11 a.m. and 4:30 p.m. It gives the shipments, the price FOB in every potato producing state in the Nation, I believe. Any farmer who wishes this report—this report is put together by the Division of Marketing and Developments, Stewart N. Smith, Commissioner, in cooperation with the U.S. Department of Agriculture. Any farmer who wishes this report may have it and base his sales on this report, if he wishes.

Even though I don't expect to turn this Bill around, I want to be listed as in opposition to it. I don't believe it will work. I think it could create serious problems for many farmers. Thank you.

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

Senator CARPENTER: Mr. President, I would just make a point; it's my understanding that if this Bill does survive, it's going to the Appropriations Table, so I would ask a question through the Chair to the Senator from Aroostook, Senator McBreairty as to if he would want to make a motion to Indefinitely Postpone, or something to that effect, or I believe that he has asked for a Roll Call but I don't think there's a pending motion before the Senate.

The PRESIDENT: The motion before the Senate would be Enactment.

On motion by Senator Pray of Penobscot, Tabled pending Enactment.

Emergency

An Act to Strengthen the Maine Milk Indus-

try (H. P. 1260) (L. D. 1681)

Emergency

An Act to Clarify the Education Laws (H. P. 1310) (L. D. 1739)

Emergency

An Act Making Allocations from the Department of Inland Fisheries and Wildlife for the Fiscal Years Ending June 30, 1984, and June 30, 1985 (S. P. 246) (L. D. 767)

Emergency

An Act to Adopt Federal Options in the Un-Employment Compensation Extended Benefit Program (S. P. 615) (L. D. 1752)

Emergency

An Act to Amend the Lucerne-in-Maine Village Corporation Charter (H. P. 1234) (L. D. 1641)

These being emergency measures and having received the affirmative votes of 27 members of the Senate, with No Senators having voted in the negative, were Passed to be Enacted and having been signed by the President, were by the Secretary presented to the Governor for his approval.

Emergency

An Act to Create the Maine Conservation Corps (S. P. 496) (L. D. 1510)

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

Emergency

An Act to Appropriate Funds for the Removal of Certain Hazardous Waste from the McKin Site in Gray, Maine (S. P. 614) (L. D. 1750)

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

Emergency

RESOLVE, Authorizing the Streamlining of Information Processing by Income Supplementation and Social Service Programs (S. P. 613) (L. D. 1748)

This being an emergency measure and having received the affirmative votes of 27 members of the Senate, with No Senators having voted in the negative, was Finally Passed and having been signed by the President, was by the Secretary presented to the Governor for his approval.

Under Suspension of the Rules, on motion by Senator Pray of Penobscot, there being no objections, all items previously acted upon were sent forthwith.

On motion by Senator Pray of Penobscot, Recessed until 11:30 a.m.

Recess

After Recess

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:

BILL, "An Act to Revise the Wood Measurement Law" (S. P. 623)

Tabled—June 14, 1983 by Senator PRAY of Penobscot.

Pending—Reference.

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

Senator MINKOWSKY: Mr. President and Members of the Senate, on yesterday's advance Journal and Calender the first item was a Joint Order relevant to the Wood Measurement Law and the final paragraph of the Joint Order said the following: "Order that the Joint Select Committee shall submit a written report to the next Regular Session of the 111th Legislature of its findings and recommendations including

any recommended Legislation it deems appropriate."

Now yesterday, also, on supplement number 4, we had another Bill under item 3-1, Senate Paper 623, "An Act to Revise the Wood Measurement Law" and my question to Senator Carpenter or anybody else who would care to answer as to why do we have two pieces of legislation before us dealing with the very very same subject matter, especially when we already passed the Joint Order the previous day, that would have taken care of the study?

The PRESIDENT: The Senator from Androscoggin, Senator Minkowsky, has posed a question through the Chair to any Senator who may respond.

The Chair recognizes the Senator from Penobscot, Senator Pray.

Senator PRAY: Thank you, Mr. President. Mr. President and Members of the Senate, I have to commend the Senator from Androscoggin, Senator Minkowsky on his sharp eyes on reading the Joint Order which stated that the Committee could report out any bill relating to that matter.

I feel that though it does say that in the Joint Order, we'll find that it won't be necessary, because the Bill that is now before us has been approved for a carry-over by the Legislative Council. This will be the vehicle that they will use and it is a Bill that has been agreed to by all parties involved during the debate this year on the Wood Measurement Bill.

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

Senator MINKOWSKY: Mr. President and Members of the Senate, I think that if this point of view had been expressed clearly yesterday this Bill would not be before us today. I thank the Senator for his explanation.

Which was referred to the Committee on Wood Measurement Law and Ordered Printed. Sent down for concurrence.

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

**Committee Reports
Senate**

Ought to Pass in New Draft Under New Title

Senator TWITCHELL for the Committee on Taxation on BILL, "An Act to Clarify the Definition of Casual Sales under the Sales Tax Law" (S. P. 261) (L. D. 806) Reported that the same Ought to Pass in New Draft under New Title, BILL, "An Act to Change the Treatment of Certain Sales under the Sales Tax Law" (S. P. 627) (L. D. 1766)

Which was Read and Accepted.

The Bill, in New Draft under New Title Read Once.

The PRESIDENT: Is it the pleasure of the Senate that Under Suspension of the Rules, that LD 1766 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 Deter Drinking and Driving by Teenagers" (Emergency) (H. P. 1326) (L. D. 1761)

Which was Read a Second Time.

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

Senator CARPENTER: Mr. President and Ladies and Gentlemen of the Senate, we discussed this Bill a little bit earlier and somebody raised a concern to me though that I don't know that it has been addressed and I'm looking for the Chairman of the Judiciary Committee, but perhaps the good Minority Leader

could respond.

Will this not in fact encourage young people to refuse to take the test? If they refuse to take the test when they are stopped, after having as one knowledgeable person said to me this morning merely popped the top on a beer can .02 and they refuse to take the test they lose their license for ninety days, if they take the test after having popped the top at .02, .02! and the test comes back over .02 they are gone for a year.

I don't think that this Legislature should be in the business of encouraging people to refuse the test. The implied consent law says they'll lose it for ninety days for refusing the test. The kids are going to look at this and say, I've had a beer, had half a beer or whatever, I'm not going to take that test because I may be .02. Again I emphasize that that is one-fifth of the level that we have set as the level at which you should not be driving in the State of Maine.

I would like to have, if somebody could from the Committee, respond to that concern.

The PRESIDENT: The Senator from Aroostook, Senator Carpenter has posed a question through the Chair to any member of the Committee on Judiciary who may respond if they so desire.

The Chair recognizes the Senator from Knox, Senator Collins.

Senator COLLINS: Mr. President, Ladies and Gentlemen of the Senate. I guess maybe I am just in the position of treading water until the Senator from Androscoggin has a chance to get his feet braced here, because I acknowledge him as the real authority in this Bill, but while I am here I do want to say that I support this Bill.

The teenager under Maine law is not supposed to be drinking alcohol at all, and the provisional license aspects of this Bill I think are quite different than the due process arguments that I have been hearing in other bodies about a companion bill which deals with adults.

We have to make some choices in society about how we regulate people and sometimes we choose to make distinctions according to age, on both age spectrums.

If we're going to have a truly effective control over the most dangerous segment of the population with respect to driving under the influence we need, I think, unusual tools. We need to recognize that the driving right is a privilege and not the right, the sort of thing that every citizen is entitled to. A citizen has to pass a test to get a license in the first place and has to have certain knowledge, certain eye sight, certain response mechanisms. If we have the right to deny that license in the first place, because a person isn't able to move their arms rapidly enough to make a turn at the proper time, then I think that we certainly have the right to suspend that license when anyone imbibes enough alcohol to have any influence whatsoever on that response mechanism. I think that this especially applies to the young driver fifteen, sixteen, seventeen, eighteen, nineteen. This is where our biggest problem is.

The question that has been posed by the Senator from Aroostook, Senator Carpenter, about whether there is a discrepancy here that allows a teenager to refuse a test and only get ninety days whereas he'd get a full year of suspension is one that I will happily leave to the Senator from Androscoggin the Chairman of our Committee to answer.

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

Senator TRAFTON: Mr. President, Members of the Senate, I want to thank the good Senator from Knox, Senator Collins, for buying me time so that I could get to my seat and research the particular question that was addressed by the good Senator from Aroostook, Senator Carpenter.

I think that if Senator Carpenter looks on page 4 of the Bill, line 20 he will see that if a

juvenile fails to comply with the requirement of taking a breath or blood test the period of suspension for that failure to comply with the requirement is one year. So that in fact it is the same suspension period as being found having been driving, having driven with a blood test over .02. So that I do not see that there is a problem as to a conflict between these two areas.

If I may I will stand up a little bit longer. I have some written testimony that is being hand delivered at the door right now which I would like to read into the Record in support of this particular Legislative Document.

(Thank you.) "As the Governor said in his state of the State message despite the success of our tough drunk driving law recent tragedies involving teenagers on our highways remind us that our job is not yet finished. The National statistics are truly discouraging. Teenagers die in automobile crashes at a rate more than double that of another age group.

Each year more than eight thousand teenagers are killed and another forty thousand injured in accidents involving alcohol, in fact such accidents are the leading cause of death in this age group.

These kinds of statistics have to be put into prospective according to the National Institute on Alcohol Abuse and Alcoholism Fact the planning series dealing with drinking and driving among youths, which was done in the year 1982, only about 5% of the nations teenagers regularly drive after having consumed substantial amounts of alcohol. Most teenagers are good drivers and responsible citizens, but as this report, also, pointed out teenagers are especially vulnerable to the affects of driving after drinking, or as NIAA stated young people appear to be at greater risk of death in motor vehicle accidents than do older drivers because of combined inexperience in both drinking and driving.

In Maine our experience parallels the National trend. In 1982 there were twenty-two alcohol related fatalities among teenagers fifteen through nineteen years old; in 1981 there had been thirteen; in 1980 there were forty-one; in 1979, thirty-nine. So while teenagers have, also, benefited from Maine's recent reduction in alcohol related fatalities generally, there are still too many lives being lost.

Let me also note that in Maine in 1982 just under one thousand teenagers were arrested for OUI with an average blood alcohol level of .143, both the death and arrest figures compare unfavorably with the Maine society as a whole in terms of the frequency of the occurrence.

According to the Bureau of Highway Safety the statewide average for death per thousand licensed drivers was .22 but for teenagers it was .13 for sixteen year olds; .33 for seventeen year olds; .64 for eighteen year olds; and .40 for nineteen year olds. Likewise the statewide average for arrests was 13.83 per thousand drivers, for teenagers it ran below average for fifteen, sixteen, and seventeen year olds, but shot up to 17.63 for eighteen year olds and 28.65 for nineteen year olds. With statistics like these even now it is hardly surprising that the Legislature raised the drinking age to twenty years of age, and prohibited teenagers from purchasing or publicly consuming alcohol.

Nor is it surprising that looking at these statistics nationally, President Reagan's commission on drunk driving specifically addressed this issue in its interim report to the Nation published in December. The Commission's recommendation number 5.4 is entitled, "Provisional License for Young Drivers" it provides that states should adopt laws providing a provisional license for young novice drivers which would be withdrawn for driving under the influence conviction or an implied consent refusal. In the discussion of these recommendations the Presidential Commission said, young drivers are particularly overly re-

presented in alcohol related highway crashes. Statistics indicate that alcohol related highway deaths are the leading cause of death for sixteen to nineteen year old Americans.

Specific penalties for violation of OUI laws by young drivers could include denial of full licensure until eighteen years of age, or an extended period of license suspension, or license restriction longer than adult offenders are subject to.

Again in recommendation of number 10.3 the Presidential Commission noted young drivers are at high risk of involvement in motor vehicle crashes. Education and rehabilitation programs are particularly important for young offenders to prevent future dangerous driving.

This proposal, this Legislative Document, recognizes the special status of teenagers as new inexperienced drivers and the special problems that are associated with teenage drinking and driving. It follows and really improves upon the Presidential Commission's recommendation that for licensing purposes that juveniles should be treated separately from adults. It recognizes that teenagers can be much more dangerous to themselves and others after consuming a little alcohol because of their inexperience.

I noted before that one juvenile statistic that is in a sense better than its adult counterpart that the average blood alcohol content at arrest is .143 for juveniles, while it is .18 generally.

Experts believe, and this is the answer to Senator Carpenter's question, experts believe that it is because juveniles betray themselves as operating under the influence with lower alcohol levels by conspicuously poorer driving behavior. I should, also, note that while we regard blood alcohol content of .10 as conclusive evidence of OUI, lower levels can certainly be dangerous as well. In fact Idaho, Montana, and the entire Nation of Canada use .08 as the per se standard. Even at .106 one is twice as likely to have an accident as a sober driver.

So it seems very little to me to ask that those who are not even legally permitted to buy alcohol and who are new at driving and who constitute statistically a special danger on the road, be asked to meet a demanding standard in their operation on our highways. Simply that they drive sober.

I think that this Bill will encourage meeting that standard. I believe that teenagers assign a particular value to their newly won licenses and will be reluctant to risk losing them for a year. I believe that the risk of losing a license will be a good excuse for teenagers who do not want to succumb to peer pressure to drink and drive. I believe that the non-criminal nature of the license suspension process will be a quick, affective deterrent to teenage drinking and driving. I believe the incentive of taking the DEP course (this is the Educational Defensive Driving Course) to half the suspension period will focus the attention of teenagers who have experienced problems as well as anything our society can provide.

I urge you to support this piece of Legislation. I think that it is important to address a major problem on our roads today. I hope that this has answered the good Senator from Aroostook's questions.

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

Senator CARPENTER: Mr. President, I thank the good Senators from Knox, and Androscoggin for answering that question, they were exactly right. I still have some problems with the bill though. I guess I have some problems with the nature of the Bill and the good Senator from Androscoggin quoted some levels of blood alcohol that would perhaps make this Bill more palatable.

I would point out to you though that there is a real, this is a real lawyers bill at the risk of getting into a whole new area, but if your license is suspended as a nineteen year old be-

cause of a test of .02 there is, also, probable cause factor that has to be in there. If you notify the Secretary of State within 10 days after the effective date of suspension, you can get a hearing. The hearing is not on whether or not you were drunk, the hearing is not on whether or not you had a .02, the hearing is whether or not the officer had probable cause to stop you. I'll tell you if this isn't going to open up a can of worms on full blown probable cause hearings. Nothing to do with their alcohol level, could have been stone drunk, could have been .20 but was driving straight down the road, the officer is going to be forced to lie, or going to be forced to go through a full blown probable cause hearing complete with attorney. I just don't think, I agree with the concept 100% of trying to get people be they nineteen, or eighteen, or forty-eight for drinking and driving off the road, I just don't think that this is an appropriate vehicle.

Mr. President, I would request a Division on Engrossment.

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

Senator TRAFTON: Thank you, Mr. President. Mr. President and Members of the Senate not to belabor this any further, but I would point out on page 5 of the redrafted Bill the scope of hearing is restricted to whether or not there was probable cause that this person operated or attempted to operate a motor vehicle with a blood alcohol content of .02 or higher. This is the only purpose of the hearing. I personally do not see it as a lawyers bill, or a lawyers field day, in fact this is an administrative hearing designed for an individual to go without representation to the Secretary of States Office to address this matter, so in fact I think it may reduce the number of Operating Under the Influence cases that are heard in our district and superior courts and would urge your support. Thank you.

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

Senator MINKOWSKY: Mr. President and Members of the Senate, it was refreshing to hear the remarks of both lawyers in this Body at least from the prepared text of Senator Trafton that the youngsters were good drivers and responsible citizens. To show you how inconsistent we are recently we passed a law and we then came back and put an emergency preamble on it to have it go into effect immediately to say that our senior citizens seventy-five years of age or older would not be required to take an examination. They represent a substantial number of people out there also, who's reflexes maybe are not quite as good as a teenager, who maybe, I shouldn't say maybe, who has better control of that vehicle than some of those people who actually abide by the law and the speed limit and really don't contribute that much to accidents, and I am talking about teenagers.

When we lump together all the fatalities I think that it is fair to point out from the helmet law that we discussed previously that all those deaths were not directly attributable to automobile accidents. Some were attributed to high speed, I think that 57% was the figure projected at that time. Alcohol related and drug related.

I want to make sure that the Record is very very clear when we say that twenty-eight were killed in 1982, or 1981 that we are not just simply saying that in that one category of driving an automobile, it was both categories.

I have the same reservations, the same concerns as raised by other members of this Body and I would hope that you would give this very very serious consideration before you pass it to be Engrossed.

The PRESIDENT: A Division has been requested.

Will all those Senators in favor of Passage to be Engrossed, please rise in their places to be

counted.

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

20 Senators having voted in the affirmative, and 6 Senators having voted in the negative, the Bill was Passed to be Engrossed, in concurrence.

BILL, "An Act to Clarify the Rate Filing Procedures and Standards for Workers' Compensation Insurance" (H. P. 1325) (L. D. 1758) Which was Read a Second Time.

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

Senator SEWALL: I move that L.D. 1758 be Tabled until later in today's session.

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

Senator PRAY: I request a Division.

The PRESIDENT: A Division has been requested.

Will all those Senators in favor of the motion by the Senator from Lincoln, Senator Sewall to Table LD 1758 until later in today's session, please rise in their places to be counted.

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

7 Senators having voted in the affirmative, and 20 Senators having voted in the negative, the motion to Table LD 1758 until later in today's session, Failed.

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

Senator SEWALL: Mr. President and Members of the Senate, this was a unanimous Committee Report, I thought of dividing the report on this but I was assured that there would be an opportunity to add some amendments, another Member of this Body was to add these amendments, I was to help with the defense of them, something has gone astray in that practice. I see that now they are not to be presented. So I would move the Indefinite Postponement of this Bill and all its accompanying papers, and request a Roll Call when the vote is taken.

The point which, I think, must be made here is on the Speakers Bill, LD 1322 now on the Appropriations Table after Enactment in the Senate provides in Section 32 for a study commission to be established by the Governor. This study commission will be empowered to employ an actuary and each Commissioner will receive a per diem of one hundred and fifty dollars per day.

The actual language of Section 32 of L.D. 1322 states that "the commission shall evaluate the impact of reserving practices, return on investments and profitability on workers' compensation rate making". This is the exact substance of the Bill before you and as was well pointed out by the opponents of this Legislature if we are going to pay commissioners a hundred and fifty dollars per day, set aside a special appropriation of one hundred thousand dollars for this effort and seriously consider the options reviewed by this study commission. Why in the space of one week was this Legislation introduced, debated and rushed out of committee?

The blatant truth is this Bill intentionally establishes standards that simply can not be met. I call it the manner of deferring maintenance on a problem we have. I have spent a great deal of time dealing with the problems of workers' compensation and I can tell you the whole fault is not with the insurance company. I can tell you that in making it more difficult for insurance companies, when it is nearly impossible now in Maine, but to make it more difficult for them to get their rate increase is merely deferring this problem and sooner or later it is going to come true.

Another thing that happened with this Bill that irritated me, I've got to say even more, when the Bill was passed out of Committee there was no provision for a pass through as we call it, in other words the insurance companies picking

up the four hundred thousand dollars, which Ted Briggs estimated this change would cost. There was no provision like that on the Bill when the Bill went out of Committee. At that time perhaps it would have had to have an appropriation or something else to handle this extra expense for this new rate making. However after the Bill was out of Committee the Speaker, I guess, talked with somebody in Research and got this provision on there. This was not made known to Members of the Committee, and although I discussed it with the Chair of the Committee and she said that she was informed no other Members were, and quite frankly my signature would never have been on this report knowing that.

So in essence we're asking the insurance companies not only to defer maintenance which is going to be very costly to employers in the State of Maine but we are asking them to hang themselves and buy their own rope.

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

Senator CLARK: Thank you, Mr. President. Mr. President, Men and Women of the Senate, I would extend my appreciation to the good Senator from Lincoln, Senator Sewall, for raising those issues which are of particular concern to her.

Relative to the issue of pass through which I feel should be addressed I would say that we all recognize the pressure that we have experienced particularly in recent days relative particularly to the printing of bills in their final form from committee.

This issue of funding this particular measure was brought before the Committee and the Speaker from the other Body did apprise me of the difficulty of adding a fiscal note, or the necessity of adding a fiscal note to this redraft of the original bill. Sometimes we must take action and have little opportunity to discuss the ramifications of that particular action and I gave what I considered to be my approval of incorporating a pass through provision in the redraft of the Bill rather than adding a fiscal note, because the Bureau of Insurance which is located within the Department of Business Regulation is already funded by dedicated revenues and those dedicated revenues my friends take the form of a premium tax. Because the insurance industry would in and of itself have ultimately funded this bill and the administration thereof by an increase in premium taxes I had no reservations about including a pass through provision whereby the insurance industry would be funding this Bill because that is in fact the way that that Department operates currently. So the ultimate affect is the same as it currently exists.

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

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

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

The pending question before the Senate is the motion by the Senator from Lincoln, Senator Sewall that this Bill be Indefinitely Postponed.

A Yes vote will be in favor of Indefinite Postponement.

A No vote will be opposed.

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEA—Brown, Emerson, Hichens, Perkins, Sewall, Twitchell.

NAY—Baldacci, Bustin, Carpenter, Charette, Clark, Collins, Danton, Diamond, Dow, Dutremble, Erwin, Gill, Hayes, Kany, McBreairey, Minkowsky, Najarian, Pearson, Pray, Shute, Teague, Trafton, Usher, Violette, Wood, The President—Gerard P. Conley.

ABSENT—Redmond.

6 Senators having voted in the affirmative and 26 Senators in the negative with 1 Senator being absent, the motion to Indefinitely Postpone L.D. 1758, Failed.

The Bill was Passed to be Engrossed, in concurrence.

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

Communication

The Following Communication:

State of Maine

One Hundred and Eleventh Legislature Committee on Business Legislation

June 14, 1983

The Honorable Gerard Conley
President of the Senate
State House
Augusta ME

Dear President Conley:

The Committee on Business Legislation is pleased to report that it has completed all business placed before it by the first regular Session of the 111th Legislature.

Total No. of Bills Received — 147

Unanimous Reports — 134

Leave to Withdraw — 37

Ought Not to Pass — 23

Ought to Pass — 17

Ought to Pass as Amended — 44

Ought to Pass in New Draft — 13

Divided Reports — 10

Carried Over to 2nd Session — 3

Respectfully submitted,

S/NANCY RANDALL CLARK

Senate Chair

Which was Read and Ordered Placed on File.

Orders of the Day

The President laid before the Senate:

BILL, "An Act to Revise the General Assistance Laws" (S. P. 626) (L. D. 1764)

Tabled—June 15, 1983 by Senator PRAY of Penobscot.

Pending—Passage to be Engrossed.

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

Senator CARPENTER: Mr. President, I offer Senate Amendment "A" (S-212) and move its Adoption.

The PRESIDENT: The Senator from Aroostook, Senator Carpenter offers Senate Amendment "A" (S-212) and moves its Adoption.

Senate Amendment "A" (S-212) was Read and Adopted.

The Bill was Passed to be Engrossed, as amended.

Sent down for concurrence.

The President laid before the Senate:

An Act Relating to Training Penobscot Law Enforcement Officers (S. P. 81) (L. D. 192)

Tabled—June 15, 1983 by Senator PRAY of Penobscot.

Pending—Enactment.

(In House June 14, 1983 Passed to be Enacted.)

On motion by Senator Trafton of Androscoggin, the Senate voted to Suspend its Rules.

On further motion by Senator Trafton of Androscoggin, the Senate voted to Reconsider its action whereby L.D. 192 was Passed to be Engrossed.

On further motion by the same Senator, the Senate voted to Reconsider its action whereby Senate Amendment "A" (S-186) was Adopted.

The PRESIDENT: The Senator has the floor. Senator TRAFTON: I offer Senate Amendment "A" (S-211) to Senate Amendment "A" (S-186) and moves its Adoption.

Senate Amendment "A" (S-211) to Senate Amendment "A" (S-186) was Read and Adopted.

Senate Amendment "A" (S-186), as amended by Senate Amendment "A" (S-211) thereto was

Adopted, in non-concurrence.

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

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

An Act to Amend the Habitual Offender Law (H. P. 956) (L. D. 1237)

Tabled—May 12, 1983 by Senator PRAY of Penobscot.

Pending—Further Consideration.

(In Senate April 29, 1983 Passed to be Enacted in concurrence.)

(Recalled from the Governor's Desk May 11, 1983 pursuant to Joint Order (H. P. 1194).)

(In House May 11, 1983 Bill and Papers Re-committed to the Committee on Judiciary in non-concurrence.)

On motion by Senator Trafton of Androscoggin the Senate voted to Recede from its action whereby LD 1237 was Passed to be Enacted.

On further motion by the same Senator, the Senate voted to Recede from its action whereby L.D. 1237 was Passed to be Engrossed.

The PRESIDENT: The Senator has the floor. Senator TRAFTON: I offer Senate Amendment "A" (S-209) and move its Adoption.

The PRESIDENT: The Senator from Androscoggin, Senator Trafton offers Senate Amendment "A" (S-209) and moves its Adoption.

Senate Amendment "A" (S-209) was Read and Adopted.

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

Sent down for concurrence.

Under Suspension of the Rules, on motion by Senator Pray of Penobscot, there being no objections, all items previously acted upon were sent forthwith.

On motion by Senator Carpenter of Aroostook, Recessed until 2:30 this afternoon.

Recess

After Recess

The Senate called to Order by the President.

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

Committee Reports House

Ought to Pass in New Draft Under New Title

The Committee on Appropriations and Financial Affairs on BILL, "An Act Making Authorizations and Allocations Relating to Federal Block Grants for the Expenditures of State Government for the Fiscal Years Ending June 30, 1984, and June 30, 1985" (Emergency) (H. P. 601) (L. D. 749) Reported that the same Ought to Pass in New Draft under New Title, BILL, "An Act Making Authorizations and Allocations Relating to Federal Block Grants for the Expenditures of State Government for the Fiscal Years Ending June 30, 1983, June 30, 1984, and June 30, 1985" (Emergency) (H. P. 1329) (L. D. 1767)

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 Bill, in New Draft, under New Title, Read Once.

The PRESIDENT: Is it the pleasure of the Senate that Under Suspension of the Rules, that L.D. 1767 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.

Divided Report

The Majority of the Committee on Agriculture on BILL, "An Act Creating a Maine Milk Pool" (H. P. 1099) (L. D. 1450)

Reported that the same Ought Not to Pass.

Signed:

HICHENS of York

Representatives:

SMITH of Island Falls

SHERBURNE of Dexter

CROUSE of Washburn

LOCKE of Sebec

PARENT of Benton

ANDERSON of Stockholm

STOVER of West Bath

The Minority of the same Committee on the same subject matter Reported that the same Ought to Pass in New Draft under same title (H. P. 1323) (L. D. 1754)

Signed:

Senators:

ERWIN of Oxford

WOOD of York

Representatives:

McCOLLISTER of Canton

MICHAEL of Auburn

Comes from the House, Bill and accompanying papers Indefinitely Postponed.

Which Reports were Read.

The PRESIDENT: The Chair recognizes the Senator from Oxford, Senator Erwin.

Senator ERWIN: Mr. President, I move the Minority Ought to Pass Report, in New Draft, and request permission to speak.

The PRESIDENT: The Senator has the floor.

Senator ERWIN: Mr. President, Ladies and Gentlemen of the Senate, the Bill which we're considering today, "An Act Creating a Maine Milk Pool" is, without question, one of the most significant pieces of agricultural legislation which we've had before us this session. It is one which has involved more work sessions and has invoked more discussion than any other bill the Agricultural Committee has had to consider. As Chairman of that Committee, I can tell you that what you're considering today is a major change in a complexed and highly regulated system of milk pricing. The cause of the complexity of the existing milk price controls, the Legislature, is also necessary and complexed; yet, the basic issue on which this Bill must be decided is quite simple. It's an issue of fairness.

Right now about half of Maine dairy farmers sell milk to dealers who market that milk out-of-state on the Boston Market and are subject to a system of Federally administered price controls. The other half sells to Maine dealers and are paid accordingly to regulations imposed by the Maine Milk Commission. The Maine Market is considerably higher, primarily because there are two systems of regulations that allow and even encourage this price difference to occur. Both markets establish the price paid to dairy farmers based on the amount of milk sold as Fluid Class I milk, the amount of milk used in manufacturing cheese, yogurt, ice cream and other products as Class II milk.

Consistent with a system of milk pricing established through the Federal Agricultural Marketing Agreement Act of 1937, Class I milk prices of both Maine and the Boston Market are higher than Class II milk prices. As a result the higher the percentage of Class I milk used in the market area the higher the blend price paid to the farmer.

The Maine Market is in a particularly advantageous situation because it can maintain a high utilization rate, and therefore, a higher price for its Maine Market farmers by using the Boston Market for balancing. That is, the dealers who rely on the Boston Market to

supply the extra milk that is needed during the peaked seasonal demand in order to minimize the amount of excess milk they handle during other times of the year. Excess milk becomes Class II milk and reduces the blend price paid to the farmer. The Maine market, incidentally, does not manufacture milk products to any extent, and so the Maine dealers do not make any money from handling Class II milk; in fact, it may cost them money to handle it. The Boston market, on the other hand, has an average Class I utilization rate which is much lower than the Maine market, partly because there's more demand for Class II milk. The blend price paid to the Boston market farmer is, therefore, correspondingly lower. What is important to understand is that the current price differences among the Maine dairy farmers is a product of the price difference between Class I and Class II milk. The price difference was established arbitrarily by the Federal Government to maximize total returns to dairy farmers. In order to make sure that the farmers shared equally in those higher returns and in order to prevent destructive competition among milk producers for higher priced markets, milk pools were established in other areas similar in concept to the pool being proposed here today. Since 1937 milk pools have been utilized to regulate, produce prices for over 80%, I repeat, over 80% of the milk marketed in the United States.

Very simply put, milk pools, including the one you're considering today, are designed to reduce price differences paid to milk producers in order to more fairly distribute the benefits created by the regulations. This act creating a Maine Milk Pool is an act to bring fairness to milk producers prices in the State of Maine. State statutes and regulations are responsible for higher prices paid to the Maine market farmer and we, as Legislators will have an obligation to correct what is become an inequitable and destabilizing situation.

I urge you to consider this most basic issue. Should the Government be responsible for maintaining a system of price control that creates two classes of farmers, or should the Legislature take steps to reduce this inequity. The principal of fairness is what is the central issue to this Bill. I strongly urge your support.

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

Senator HICHENS: Mr. President and Members of the Senate, I certainly appreciate the detailed explanation given to us by the good Senator from Oxford, Senator Erwin, the Chairman of the Agricultural Committee, but I think in his explanation he has shown some of the problems which came before the Committee, and which are coming before the dairy industry at the present time. I sat in on most of the work sessions of the Committee and was there for the final vote and when we came up with that final vote in the last week of the Committee workshops, there were so many amendments thrown at us that we didn't know what direction they were coming from, whether the people who were giving them to us really knew what they were doing.

I have several dairy farmers in my area, most of them on the Boston Market, and after this Bill came out I sent them the enclosed letter which I'd like to read to you.

It says, "Dear so and so, enclosed is the final draft of L.D. 1450 which has been under discussion by the Agricultural Committee. With so many amendments being thrown at us at the last minute, and the resulting consternation throughout the dairy industry, eight members of the Committee, including myself, voted Ought Not to Pass. This action does not mean that we do not think that there should be a more equal distribution of payments to all milk producers throughout the State. We do not think that this Bill properly addresses the problems or presents the right solution. I am sure a similar bill will be introduced in the next

session of the Legislature, and hopefully, with ample time to get proper input from all sources, a bill palatable to the great majority will be enacted. I appreciate your concerns and will keep you notified about future developments. Sincerely."

With those thoughts in mind and not to continue the debate any longer, I may get up later on after other speakers have given their opinions, but at the present time I'd like to make a motion to Indefinitely Postpone this Bill and all its Accompanying Papers and would ask for a Roll Call.

The PRESIDENT: The Senator from York, Senator Hichens has moved that this Bill and all its Accompanying Papers be Indefinitely Postponed.

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 Chair recognizes the Senator from Kennebec, Senator Bustin.

Senator BUSTIN: Before that Roll Call is taken, I would urge the Senate to vote against that motion and perhaps give some other people a chance to debate the Bill a little bit further and perhaps offer some amendments to it. I just want to let you know that I am the Senate sponsor of this Bill and rather than to go into a long speech because it's a hot afternoon and I don't think that we really need to, I'm always aware that when bills like this come up the votes are pretty well either there or they aren't there. So I'm going to let this go through and just let you know that the reason that I am sponsor of this Bill is because if you remember, those people who were in this Body a couple of years ago, a year ago, when the Milk Commission vote came up, I was one of those votes who voted to keep the Milk Commission. I did that for some specific reasons; one of those reasons being that I believed very firmly in the agricultural base in Maine and I felt that that would slip away if we did away with the Maine Milk Commission, but at that time, I made a commitment to myself and to other people interested in the issue that I would work on that issue throughout the year and come to the Legislature with something constructive in this session. That's what I think this Milk Repooling Bill is doing. I had assumed all during the referendum question that all of the farmers were going to get together after that referendum and come up with something constructive. That hasn't happened. I'm sorry that it hasn't happened but this is an important issue; it needs to be dealt with now and I hope it is. I urge you to vote against the pending motion.

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

Senator CARPENTER: Mr. President, Ladies and Gentlemen of the Senate, there probably is no issue of this entire session, including Tax Indexing, that has been worked and lobbied any harder by any better more hard working group of people than the issue of whether or not to repool, not Maine milk, I think it's misnamed, but Maine milk money. I had a question earlier whether or not this pool had to have a fence around it, but we got rid of that issue a couple of weeks ago.

I stand up here today as somebody who's honestly and sincerely been having a very difficult time with this issue, because I have worked with many of the people who were lining the back of the Chamber this afternoon who are, today, opposed to my position on this. I've worked with them on Milk Commission issues, on other agricultural issues and I'm not very comfortable being here today.

In concept I think the idea, even though phi-

losophically I don't like it, I think in concept the idea of bringing together the two different milk utilization figures is something that needs to be done. It needs to be something done to reblend this money, if you will. This is not the vehicle. I don't believe it; I don't believe it with all my heart. I was to be the co-chair with the son of a former Governor, of the save Maine Milk Committee last year. Because of school commitments I couldn't do that, but I was a very active member of the Committee. It's been said around here that well, you promised the Maine milk farmers, they promised that if the non-Maine farmers stayed out of the commission referendum last year, they promised that they would come up with a pool. I want to state it on the Record and here and categorically that never once did I promise that; never once was I ever at a meeting where that was promised. I can't speak for individual farmers who may have said, "yeah, if you'll help us out then we'll help you out next year." That may have happened, but the only entity that I know of that was speaking to the milk issue at that time was the save Maine milk group and not one time anywhere where I was did that issue ever come up. So I'll make that very clear at the outset.

Then I started to hear rumors about a bill being brought into repool or reblend the money from milk and I did some inquiring and found out there was, in fact, a committee put together. A committee put together with people from the Boston Market and the Commissioner of Agriculture and some other people, and I happened to wander into one of those meetings one day as a favor of the Senator from Kennebec, Senator Bustin. I took some of her constituents over to the meeting; walked in. It was obvious that I was about as welcome there as a skunk at a lawn party. It was obvious that, in my opinion, that the Maine milk side of this question, the concerns and the fears and they're real legitimate fears of the Maine dairy farmer were not adequately taken into consideration.

What you're asking here today, is you're asking a bunch of Maine farmers to take money out of their hip pocket, nobody's sure how much, to take a significant amount of money out of their hip pocket and put into a pool from which other people are going to draw, some of whom don't pay into a pool, some of whom do. That's what this Bill is all about.

We start out with a Bill. I raised concerns with the people on the other side, the people who drafted the Bill. I raised concerns about some of the unique problems created by distance and things like that; for Aroostook, Washington and Northern Penobscot. That wasn't a concern; well it was a concern but it wasn't a big enough concern to alter the Bill. Then I think somebody counted noses and said, we've got to pick out a few votes, so then we've got a subpool put into the Bill, Aroostook, Washington, and Northern Penobscot Counties taken into a mini-pool. Then we had an issue come up about transportation charges. Nae, it's not that big a deal. Finally, a week later, it's a big deal and the Bill has been amended to take care of that.

I'm not sure right now whether Hancock County Creamer is in or out. I'm not sure; there was concern about taking them out, leaving them in; I'm not sure; perhaps the good Senator from Hancock can tell me whether they're in or out.

The definition of plant price was changed because the original drafters didn't know how West Lynn Creamery bought its milk. I'm bringing up these points to tell you that there are problems with this Bill. I think there are technical problems with this Bill. I think there are potentially going to be equal protection arguments brought against this Bill because of what has been done in some areas of the State. I just don't think that this is the proper way to proceed. I will stand here and tell you that I

think it's in the best interest of the Maine farmer, the Maine milk farmer, the person who ships on the Maine Market to work for a pooling idea. I think that it is in their best interest, but I don't think that this is the vehicle. I really like this somewhat now, at this point, to the Wood Measurement Bill. The sides are so polarized that no one is talking to anyone else. No one is really being very rational about what to do with this.

Two weeks ago I tried very hard to get one vote of the Legislative Council to hold it over. When I did that, I did it with a commitment that if that were done, I would come back to this Legislature in January, after taking this vehicle and cleaning it up, and I would try to sell it. That may come as a big surprise to some of you, but there is no one here, regardless of whether you're on my side or the other side, that doesn't know that in concept I agree with this Bill or with this issue in concept because I think the Bill has some flaws — some real serious flaws that have not been addressed.

I would hope that you would today vote, which is the pending motion, to Indefinitely Postpone this Bill. Thank you.

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

Senator MINKOWSKY: Mr. President and Members of the Senate, I have had an opportunity to speak to several dairy farmers in my Senatorial District, primarily in the towns of Richmond, Bowdoinham, Sabattus and Lisbon and these people are in full concurrence that this Bill is not in the interest of the Maine dairy farmer at all. They emphasize three different points:

Number one, the only way it makes sense to create uniform prices is to create a uniform market.

Number two, there's no more reason to shift income from one group of Maine dairy farmers to a second group of Maine dairy farmers. I think that that was expanded on a little more fully by Senator Carpenter.

Number three, proponents say the State shall require Maine Market farmers to relinquish income to those selling under the Federal order. They don't agree and they've convinced me and I don't agree that we should do it that way.

The point that they stressed primarily is this, if this Legislature wants to subsidize Boston Market farmers, then a bill should be drafted to accomplish that and nothing more. I would hope that the motion this afternoon would prevail insofar as the Indefinite Postponement of this Bill and all its Accompanying Papers.

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

Senator BUSTIN: Mr. President, Men and Women of the Senate, I would just like to clear up some of the charges that have been given here.

One thing, the theme of taking out of one man's pocket and putting into another one. I'd like to give you a little bit of history and that is in the 1930's was when this milk stabilization prices were set. This is a very complicated thing so I'm going to try to avoid a lot of the technicalities but there's a difference between, as everyone knows, the Federal Market Order and the Maine Market Order.

The Federal Market Order really establishes those prices and that's one of the reasons I went for the Maine Milk Commission last time because I felt that if you're going to take away one price support then you ought to take away all of them; in fact, we couldn't take away the Federal price order, so that was another reason for me to go with the Maine Milk Commission.

What happened in Maine was that we did set up the Maine Milk Commission so that we could keep the fluid milk for the Class I milk in Maine, with Maine producers, with Maine dealers. That's exactly why we did it, but in

doing that, we avoided doing the blending price for all of Maine's farmers only those farmers who shipped on the Boston Market got that Boston blend price. What we ended up doing was paying a higher price to Maine farmers that produced Maine produced fluid milk for Maine markets. That's an important difference for you to realize because since the 1930's, in fact, we have been taking from one man's pocket and putting it into another. If you added up all those dollars that those Boston market producers have not, and I repeat, not been able to put into their own pocket, you would have a much larger amount of money in the aggregate than you have right now for the two hundred and fifty Maine farmers; and yes, there are two hundred and fifty Maine farmers who will be hurt by this Bill keep in mind there are over seven hundred and fifty farmers who will benefit from this Bill.

We have to make hard decisions in this Legislature. This is a hard decision, because an inequity has existed for a number of years does not mean that we should continue that inequity. We are here now to try to address that issue. I have been dealing with this issue since 1975 when I worked with Senator Muskie when those Boston producers came to Senator Muskie's office in Waterville, Maine and asked for help in getting a Federal Market Order for Maine. What a Federal Market Order from Maine would mean is that every farmer would get a lower price than any farmer gets right now, because you would have to share the production with all of the northeastern region, including eastern New York. Everybody can tell when you have to spread the money out it gets thinner and thinner. That's exactly what we're talking about. We're trying to control it, but we can no longer go along with an inequity that exists for that many farmers in Maine that has existed for so long.

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

Senator WOOD: Mr. President and Members of the Senate, I'll be extremely brief today. I, too, am a member of the Committee on Agriculture and I, too, have agonized over this issue. In the past I have not been a supporter of the Maine Milk Commission, and so it probably would have been very easy for me to support the Pooling Bill because the assumption is if you're against the Maine Milk Commission this is the way to do it, by supporting the pooling Bill; but in my instance, that's simply not the case. I probably was the one that voted last on this issue and had many of the doubts. I agree with the good Senator from Aroostook that when the Bill was presented there were many areas that were flawed, and I think the fact that, one side was willing to give and offered amendments to clear up some of those flaws says something, and I would be less than honest if I said that this Bill in its present stage is in concrete and perfect, (the Taxation Committee only reports out perfect bills not Agriculture) but this Bill is not perfect and there might be some changes that would come down the road, but I voted for it and signed that Minority Report because like the good Senator from Oxford, I think it's a question of fairness.

This Legislature has created a regulatory system that has subsidized Maine farmers, Maine Market farmers for well over forty years. We created that system; we created that subsidy to those people. So it's not a subsidy to the Boston Markets; it's reversing that subsidy or sharing that subsidy that we, as a Legislature created. It would be nice if we could have uniform prices and a uniform market, but I don't think the Maine people or the Maine Market would want a uniform market. The Maine Market simply could not withstand all farmers in Maine being on one market. If they were, the price would be so low that you'd have a lot of people doing other things than farming. One of the reasons the price is high is because we have a dual system and we have these two markets.

If you could convince me that all people could be on the same market, if the Maine people wanted everyone that were on the Boston Market shipping on the Maine Market that would be fine. In reality, that is not the case; that is not in the best interest of either market in order to keep the prices the way they are. So, there never could be a uniform Maine Market for all Maine farmers.

I would point out finally, that when the voters last November voted to keep the Maine Milk Commission alive, they did it and we can all read into the Record why we think they did it, but the advertising was to preserve Maine farms. Nowhere was there a subtitle that said, Maine Market farmers as opposed to Boston shippers, it was to preserve Maine farms. I think if we're interested in preserving Maine farms we have to find a vehicle to share that pool, to share that subsidy that we as a Legislature have created over the years. I think this is one vehicle. There might be other ways of doing it and I would agree with the good Senator, this is a hard issue the people in the back of the hall have worked hard on this issue, but I would point out to you that farmers on both sides work just as hard. They have the same costs; they're located all over this State and there is no rational reason why they should be treated differently when it comes to this issue. I think it is time that we treated them the same.

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

Senator CARPENTER: Mr. President, Ladies and Gentlemen of the Senate, it is a hot afternoon and I won't belabor the issue a great deal.

I think you all understand what the Maine Milk Commission does. In fact, this Legislature over the years has been pretty darn good in assuring that whenever the Milk Commission Law was changed that any protections that were passed along were passed along to the farmers. The farmers were the ones that we were concerned about. Dairy farmers, folks who milk cows are darn hard working people, and I don't know of any of them be they shipping on the Boston Market or the Maine Market, I don't know any of them who are getting wealthy. What you have, you have a differential like this. We have Maine Market people who do get more money for their product. There's no question about it. You have Boston Market people who get less money.

What this Bill will do will not be to raise the standard of living of one to the other, but to bring one down to balance with the other. I'm not sure that's something the Legislature should be doing. We talk about, well, the reason that that's the way it is, and the reason we're doing this is because we are the ones who set up this artificial distinction. I would ask you to look through State Government and look at bills on your desks and the bills in these books and see the other artificial distinctions that we set up, that require things to be different; require Property Taxes to be different, and unorganized territories and organized towns, in the city of Brunswick as opposed to the town of Houlton. The municipal workers in Houlton get more or less money than the municipal workers in the city of Portland, and they get less money, perhaps, probably than the State employees, because we have a State Collective Bargaining Law, something else the State has done, the State has all this largesse it has to hand out. There are all kinds of those inequities and all kinds of those distinctions throughout our Government, throughout our structure. So let's not use that as this issue is the only place where there is some sort of an artificiality put into the law by the Legislature.

There are problems with this Bill. The good Senator from York, Senator Wood who's opinion I respect a great deal, I know agonized long and hard over this Bill.

But, I'll tell you what, if you want to talk about that referendum last November, it was the Maine milk farmer, the Maine milk market

producer who was out there trying to save the milk commission; it wasn't the rest of the folks. It happened to survive and now, we want some of that largesse, if you want to call it that.

I want to ask a question, to pose a question through the Chair, I think, to the Senator from Oxford or the Senator from York, either one, and that has to do with the folks, the so-called Hood Portland Bill, who are included in the Bill, who are Maine market producers, who pay nothing in under the present Bill, but who stand to receive a full share back from the pool, is this an oversight on the part of the bill drafters and redrafters? Or is this something you intended to leave in the Bill? Are these people who are Maine producers, who pay nothing in, going to be allowed to take out a full payment from the pool?

The PRESIDENT: Is the Senate ready for the question?

The pending question before the Senate is the motion by the Senator from York, Senator Hichens that this Bill and all of its Accompanying Papers 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.

The Chair recognizes the Senator from Androscoggin, Senator Minkowsky.

Senator MINKOWSKY: Mr. President, I would like to have permission to pair my vote with Senator Usher of Cumberland, if Senator Usher were here he would be voting against the Indefinite Postponement of this Bill and I would be voting for the Indefinite Postponement of this Bill.

The PRESIDENT: The Senator from Androscoggin, Senator Minkowsky, requests leave of the Senate to pair his vote with the Senator from Cumberland, Senator Usher, who if he were here would be voting no and the Senator from Androscoggin, Senator Minkowsky, would be voting yes.

Is it the pleasure of the Senate to grant this leave?

It is a vote.

The Secretary will call the Roll.

ROLL CALL

YEA—Baldacci, Carpenter, Diamond, Dow, Hayes, Hichens, McBreairty, Perkins, Sewall, Trafton.

NAY—Brown, Bustin, Charette, Clark, Collins, Dutremble, Emerson, Erwin, Gill, Kany, Najarian, Pearson, Pray, Redmond, Shute, Teague, Twitchell, Violette, Wood, The President-Gerard P. Conley.

ABSENT—Danton.

A Roll Call was had.

10 Senators having voted in the affirmative and 20 Senators in the negative with 2 Senators having paired their votes, and 1 Senator being absent, the motion to Indefinitely Postpone L.D. 1450, Failed.

The Minority Ought to Pass Report was Accepted, in non-concurrence.

The Bill, in New Draft, Read Once and Assigned for Second Reading later in today's session.

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

Papers From the House Non-concurrent Matter

BILL, "An Act to Increase the Minimum Wage." (H. P. 884) (L. D. 1138)

(In House, June 1, 1983, the Minority Ought to Pass as Amended Report Read and Accepted and the Bill Passed to be Engrossed as Amended by Committee Amendment "A" (H-262).)

(In Senate, June 6, 1983, Majority Ought Not to Pass Report Read and Accepted in non-concurrence.)

(Comes from the House, that Body Insisted.)

The PRESIDENT: Is it the pleasure of the Senate to Recede and Concur with the House?

The Chair recognizes the Senator from York, Senator Dutremble.

Senator DUTREMBLE: Mr. President, I move the Senate Adhere.

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

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

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

Senator KANY: Mr. President, a Roll Call, please.

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

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

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

The Chair recognizes the Senator from Washington, Senator Brown.

Senator BROWN: Thank you, Mr. President. Men and Women of the Senate we have before us this afternoon the minimum wage bill again, this is a very difficult issue for a lot of us and has been the different times that we have had to deal with it. It is not a matter of dividing us between the good guys and the bad guys, or the good democrats and the bad democrats or the good republicans or the bad republicans as to whether or not they vote for this issue or not, because we can very adequately justify a position whichever direction we take on this particular Bill.

The good Senator from York who is absent this afternoon, Senator Danton, has made some very pertinent comments concerning this issue and the fact that one doesn't lose respect regardless of what direction they take on this.

I would like to just briefly this afternoon, just review a few of the issues that have been brought up concerning the minimum wage and then to just tell you the direction that I am going to go.

One of the arguments, that we have heard presented in this Chamber and in the other Body, was that if we passed the minimum wage we are going to drive business from the State, and I remember even relating to my own caucus the fact that having bought furniture in the south from an organization or company that used to do business in Massachusetts and had moved south because of right-to-work laws and because the gentleman that I was talking to in that particular company said that the average cost per hour of work down there was four dollars and seventy-five cents per hour, whereas in Massachusetts it was averaging eight dollars and seven cents an hour. So consequently he moved south.

I was thinking in connection with that about the number of people who are hired into positions and kept at the minimum wage. I didn't realize, Mr. President, Ladies and Gentlemen the number was as high as it is, those people who are hired into a position and are kept at that wage for ten, twelve, fifteen, maybe even twenty years. The person that came to mind when I thought about that was my own uncle who has worked for a number of years sweeping the street, as a matter of fact, in a small town in Kentucky and still works at the minimum wage. He's a good worker, he's a good worker, didn't have a lot of education but he's always been kept and paid at that minimum wage.

So one said that this bill is going to hurt the small mom and pop operations the fact that they can't afford to keep operating. Well I'm not so sure and it was well put by a representative of the womens lobby recently that, I'm not

so sure that those businesses hing upon the fifteen cents an hour that we're talking about in this particular issue, now.

Another argument that has been made in this Chamber is the fact that we are in conservative times, we have a conservative President, and some of the success of that President is because of the conservative politics. We just recently had a lesson in conservative politics in Britain this past week when Margerite Thatcher was re-elected by the majority.

We are, also, told and we have heard this argument that we are out of touch and especially this is aimed at the Democrats that we are out of touch with our roots if we vote against this minimum wage. You know the Democratic party and those of us that are a member of that party take a lot of pride in the fact that the Democratic party has always represented the poor and the immigrant, and the disenfranchised. That is the party that they found a home. The question, I guess, that we each have to ask ourselves to do we still represent that party that those people found home, or have we lost touch with our roots. I don't know there are times, maybe there are times when I have, Mr. President, with some of those things that we value so highly.

You know another thought that I have had concerning the minimum wage is that the hallways have not been packed outside with the poor people, or the minimum wage people who have been in here lobbying you to increase their wages. It has not been filled with those people in the hallways. You think about the people who have pushed so hard not to increase the minimum wage. Who are they? Not the poor people, those are not the ones that have been in touch with me concerning this issue. As a matter of fact most of those people don't even vote if you came right down to it. They don't spend a lot of time dealing with politics at all.

So on the one hand we are, or at least I am, I am drawn in trying to use my head in this issue and on the other hand there is an issue of heart.

The question comes whether or not we are going to send a message out. This is another big argument that has been made in here, is are we sending a message out to the rest of the country that Maine is only the third state in the United States, Hawaii, and Alaska being the other two, that will increase their minimum wage beyond the Federal. What kind of a message is that going to send to the rest of the industry of this country? I guess that I've come to the conclusion that the kind of a message that is going to be sent out by this Chamber and I think that this is going to be passed today, the kind of message that is going to be sent out is that Maine is a place that still cares about those people at the very lowest rung of the ladder.

If those companies want to move to the south and take advantage of those people in the south like they have for years, and years, and years, and then move to Taiwan, or Hong Kong or another place the State of Maine, and this Body, and this Legislature is not going to go ahead and toss those people off for the sake of using that argument that has been used for years and years.

So, Mr. President when the vote is taken I intend to vote for this measure, and again I think that arguments can be presented in a reasonable fashion by every single person in this Body. Thank you, Mr. President.

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

Senator KANY: Mr. President and Members of the Senate, I had not intended to get up but after hearing of the people on the lowest rung of the ladder, and that perhaps this particular Bill would help them. I felt the need to get up and to say that I do not believe that this is going to help the people who I believe are at the very lowest rung of the ladder and that is the unemployed. More and more everyday I hear it

from more and more unemployed, perhaps because the young people are seeking work in the summer and as I have continuing contact with workers from our area who were employed in a closed plant and still have not found jobs, I do not believe that this will help them at all.

I do believe that Governor Brennan has done a superb job in the last several years providing leadership and improving our economy within the Nations economy and I do not believe that this measure will help his efforts.

I am really sorry I would like to personally grant an increase to our working people and particularly our low income working people but in the long run I do not believe that this will help those particular people.

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

Senator PEARSON: Mr. President and Mem and Women of the Senate, the argument that was just advanced by the Senator from Kennebec, Senator Kany is one that I have heard a long long time. When I was in high school I used to work at a bakery in Old Town on weekends and after school when they needed me. The minimum wage then if I recall correctly was sixty-five cents an hour. There are a lot of people in here that can remember working for a lot less than that. The argument that was always used every time that the minimum wage went up was that it wasn't going to help anybody really. That it was going to hurt the unemployed because you wouldn't be able to hire them. If that argument was followed through to its logical conclusion it seems to me those people that are working there today would still be working at sixty-five cents an hour.

I just don't think that that is a logical thing to say, because the world moves on and the rich get richer and the poor get poorer and the only people it seems to me that we are concerned about today are those that are poor. They don't have any lobbyist. The Senator from Washington pointed out, they probably don't vote and most of them are not interested in politics, but one thing that I know for sure, I feel it very deeply that everyone of those people if they get a raise of, I guess, it is going to amount to four dollars and some odd cents an hour net, that those people aren't going to save any of that money. They can't afford to save any of that money because they would be making one hundred and forty dollar gross a week and nobody can live and save money on that kind of a salary. So what will they do, they'll buy, they'll consume and when they consume they'll be consuming products that are made here in Maine and all around the Nation. I can't help but think that that will stimulate the economy and probably in effect cause more people to go to work, maybe not a great deal.

Now there is a little bit of resentment in me that we're using up all of our bullets on fifteen cents an hour. I think that the point that was made by the opposition is a good point. A good point well taken. I really don't like to have this debate on fifteen cents an hour. We have had bills in here that were more than that, and I wish that it were more, in many respects because I think that it would do an awful lot more. I think that even a small increase, and lord knows this is small, it is so small it is unbelievable, maybe it will have some kind of stimulating affect to the economy. It certainly will have some kind of stimulating affect for the people who are receiving it. Most people who work on minimum wage, I would suspect if they are married, probably both of the spouses have to work in order to make ends meet, and then they probably still don't do it.

I do want to tell you that I respect deeply Senator Dutremble and those people that do have the position that they hold, I know that they respect our position and I would urge you to vote for the fifteen cents more an hour.

The PRESIDENT: Is the Senate ready for the question?

The Chair recognizes the Senator from An-

droscoggin, Senator Minkowsky.

Senator MINKOWSKY: Mr. President and Members of the Senate, over the years there is one particular phrase that has been made very clear by the President of our Senate when he was amongst the rank and file of people out there and to almost quote him verbatim the President did say at that time, "I have been a Democrat all my life and chances are the day that I die I'll still be a Democrat." That psychological phrase impressed me a great deal to the point that I have maintained basically the very very same philosophy as Senator Conley, maybe from a different perspective, but basically as a Democrat the same feeling.

Regardless of how we vote on this issue today I don't think that that makes us any less a Democrat. I think that it makes us a responsible person who has really assessed the total economic conditions of our state and our total high unemployment.

Maine has an excellent history of providing people who are very diligent, hard and dedicated workers and in many areas over the years these people have not been fully rewarded to their full potential.

The question was brought up earlier this afternoon where a gentleman asked me, since I do work for an unionized company, you people represent about fourteen percent of Maine's total work force, meaning the union people, why are you so concerned in regulating the rest of the people who are rank and file workers? I guess in certain companies there are certain skills needed to make that particular operation profitable, but there are people out there who can not: possibly because of the lack of education, possible because of lack of opportunity, or possibly because they have no particular goals and objectives in life, to work for anything more than the minimum wage. Yet interestingly enough I was in a store in the city of Auburn and three of the employees; one with three years service and the other seven years service and a third with ten years of service all work for the same amount of money the minimum wage at three dollars and thirty-five cents per hour. I asked the lady who has ten years of service why she continued. Her husband is retired, the job hours were more suitable for her and she felt comfortable in that particular employment, but above all her dedication to her employer who is having a difficult time in keeping his business above water. What were some of the reasons behind it? Purchasing the building, high interest on his loan, taxes were very very high, unemployment compensation—the payment of, insurance, these were all built-in operating expenses that she was aware of and was willing to work that length of time for the minimum wage.

Many people don't have that kind of dedication I can assure you. But let's look at the overall small business in the State of Maine other than those that are unionized. Speak to any one of them and they will tell you the trials and tribulations that they are going through at the present time in which to stay alive, even which to work themselves sixty or eighty hours a week and possibly supplement somebody else on a part-time basis in order to stay in business. The basic reason that they give you, the Federal government and the State government is strangling them to death.

My concern as a Democrat are for all those small businesses that are operated by Democrats in the State of Maine. My concern is that interest rates will go down, that they will be able to prosper.

Another thing of significant value was brought out in debate previously was one simple equation that this would mean approximately four dollars and forty cents net to the average worker if they received the fifteen cent increase in their salary per hour. That was broken down to about four dollars and forty cents, or in laymens terminology two gallons of milk. In many families that two gallons of milk

is of paramount importance that is the difference between living and having some very difficult times.

When I look at it from that prospective I look at our State government the demands that State government is placing upon every single worker whether they be unionized or non-union. I am saying at this particular point if this were to materialize that we did give them the extra fifteen cents per hour or net four dollars and forty cents a week in their paycheck, how long would it be before we, the representatives of the people, will come up with another tax increase, whether it be the sales tax, the income tax, the cigarette tax or a multitude of the nuisance taxes that we actually have, and deprive that person of maybe one gallon of milk a week?

I have agonized, and I don't use that word lightly, over this Bill because I have come from a very humble background, nobody in my family were professionals, we are all rank and file people and we came up the hard way. So I have no particular ties with any elite group insofar as having a great deal of equity and can be very independently happy without worrying about my fellow man.

An issue that keeps coming up is the area where ladies are employed by manufacturers of Maine. I am very concerned about that because sometimes these people are taken for granted. They work for the minimum wage, and sometimes a little bit above the minimum wage, but they are not fully rewarded for their full potential. This particular point is reinforced this morning when three ladies, who live in my Senatorial District, visited various members of the Senate and I was very concerned for their welfare. Overall based on the economic conditions in Maine based upon the unknown factor of where we are going as a State and how much more we are going to tax our citizens out there, and as a Democratic, and I'll emphasize that point, as the communities put it you're strangling us now, how much more do you expect out of us?

I want the Record to show very clearly, Mr. President and Members of the Senate, that I am very very compassionate and very much in tune with the needs of those who work for minimum wage, but this afternoon I will have to vote against this particular issue.

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

Senator HAYES: Mr. President and Members of the State Senate, the change in the minimum wage is a responsibility of the Maine State Legislature, highly paid lobbyists do not represent these people who constitute nearly twenty percent of the Maine work force. The lobbyists represent business, labor, agriculture, education and even the government itself, but not these people.

This is a Bill for the working poor, the young, the old and the women of Maine. The minimum wage is for many of our people the maximum wage. It is not enough to live on, to support a family, or to bring up children.

If we do not vote for this increase these people will not have their income adjusted for at least another year, and it has been three years since the level has been set. We all note that the Reagan Administration is not worrying about Maine's poor, it is up to you.

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

Senator DUTREMBLE: Mr. President and Ladies and Gentlemen of the Senate, speaking of the Democrats, I guess I have to say that I come from a family of Democrats that have done as much for the Democratic Party as anybody else and am proud of it. I dare say that the members of my family, including myself who have always belonged to the Democratic Party have cared as much for the poor people of the State as anybody else and that is exactly why I am opposed to this Bill.

We are talking about a Bill here that the Le-

gislatore did not want. It has been here long enough, however that apparently enough votes have been switched that at least in one body anyway, that they are showing us that they do want it, quite reluctantly.

If we pass this Bill we are going into something blind we don't know what the affect is going to be on the Maine economy. People have gotten up here and tried to explain to us their own thoughts on what is going to happen. None of us here, none of us are experts on this issue.

The last time that we voted on this here in the Maine Senate there appeared an article in one of the local newspapers concerning minimum wage from an expert professor Charles Brone of the University of Maryland who clearly stated in here that to pass the minimum wage would definitely hurt the working poor. That is an expert.

I am very concerned about this and I believe that the good Senator from Penobscot, Senator Hayes has mentioned it. That he says that only twenty percent of the people of this State are unionized and that is correct. The people who would be affected by this Bill are not unionized and when it comes time for layoffs or less working hours because we pass this Bill, who is going to be there protecting them? Not the unions because these people are not unionized. That is the great concern that I have on this Bill. There is not a person in here that can tell me or anybody else that if we pass this Bill nobody will be harmed by it. Nobody can say that. We do not know how big the affect will be. We do not know how many people will be laid-off.

We are talking about a ninety-eight million dollar bill here. That is the figure that has been used over and over again. Where is that money going to come from? Is the business community of this State going to eat it up? Are they going to say, we're good guys we'll take the loss. They are not going to do it. They are going to cut back on hours. They are going to lay off, or they are going to raise prices.

Who do you think is going to be hurt the most by that? Not the people that we've heard mentioned time and time again who lobby in the hallways. No they make enough money to take care of that. No, the people that will be hurt the most are the people that are at the minimum wage and below.

You know, I guess, that it is sort of a hit or miss situation people on one side say that this will not hurt and people on the other side say yes this will hurt. I do not think that I am willing to play Russian roulette with the people of the State of Maine, especially the people that we're talking about, the poor people.

Now we mentioned here, the last time that we talked that where are the Democrats on this issue? That the Democratic platform said that four dollars and fifty cents an hour. I hold the Democratic platform right here. I have gone through the Democratic platform because I feel that I am as great a Democrat as anybody in this Body, and I have gone through all of the issues; every one of them and the Democratic platform splits up the issue into two sections. State issues and National issues, and I would dare say that I looked at all the State issues all eleven of them, and do you know what? I supported every one of them at one time or another including this year. Then I looked at the National issues and what do you think I find there, that we support a minimum wage of at least four dollars and fifty cents an hour. National issue, because even the Democratic Party of this State realizes that the State of Maine can't put our business community at a disadvantage by being one of the first states in the union to pass a minimum wage above the Federal level. Thereby putting our business at a disadvantage, and what are they going to do, lay off the people.

These are the people that I am trying to protect here today. I hope that you'll try to protect

them with me. Thank you.

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

Senator HICHENS: Mr. President and Members of the Senate, speaking neither as a Republican, or a Democrat this afternoon I would like to give you a very practical application to the affects of this Bill if it is passed today. Many of you have been asking how soon the strawberries are coming? I'm afraid they're going to come too fast regarding the adjournment of our Legislature this year, because they are starting to show some red blush on them as I left yesterday. I feel that probably next week I'll be very busy and have others very busy, picking berries as other farms throughout the State will be doing.

When I first came to Maine I worked for a farmer next door picking strawberries at twenty-five cents an hour. I picked about eight or ten quarts an hour, so that was about a cent and a half a box that I received for picking those strawberries. He in return on the first crop got about twenty-five cents a quart for those berries. You multiply that wage by twenty-three times now to get the three-fifty an hour which you're proposing this afternoon. If I multiply that at the price of the strawberries at what he got, and what I get now, I'd have to charge about five dollars and seventy-five cents a quart to equalize the labor costs. The labor is a very important cost in raising strawberries and as you well know, you plant the plants one year and then go through the entire year and don't harvest til the next and there's a lot of care between planting those plants, hoeing them, and cultivating them through the year, taking the chance through the winter and perhaps the frost, that you're going to harvest that crop.

They claim that you can get farm help cheaper than you can anywhere else, but I don't really think you can, because youngsters aren't going to come out and work in that field, other people aren't going to come out and work in that strawberry field under a hot sun like we have today when they can get other jobs in the shade or inside where it's air conditioned at a minimal wage, three-fifty an hour. Even at three-fifty an hour at ten quart an hour, when I paid thirty-five cents a quart just to get them picked which is a very minute part of the whole production of cost.

I hope you'll take that into mind this afternoon that as these costs go up the cost of your product goes up. So the consumer isn't going to save that much because all the store owners are going to have to go up on their prices in order to pay the extra labor costs. All along the line you're going to pay higher costs and you're not going to result in any better profit.

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

Senator DIAMOND: Thank you, Mr. President and Men and Women of the Senate, I think the comments from the gentleman from York, Senator Dutremble were probably touching most of us, at least on the "D" side of the aisle that are concerned about this Bill; concerned about the impact it is going to have. We heard from the gentleman from Washington, Senator Brown; and he's right probably the business won't move out; and he's correct probably smaller stores probably won't be hurt that bad; and probably the message is going to be sent out in the business community can be overcome because we're only talking fifteen cents. Only talking fifteen cents! As the good Senator from Penobscot, Senator Pearson said the world will move on. The world won't crush, the State of Maine won't crumble; we're still going to be right here after this vote.

It has to be known that the concern boils down to one thing, and that's those of us who are on one side and those of you on the other still are concerned about one person or group of people and those are the people who are now receiving minimum wage.

The Senator from Penobscot, Senator Hayes said they will not have their salaries adjusted, income adjusted, unless we do it. I can say that's true. We can adjust some of their incomes by unemploying them. We can adjust some of the other incomes to compensate for that and the question is, is it enough? Is four dollars and thirty-eight cents enough? Do we take that risk? The four thirty-eight is what they're going to be receiving extra as a result of an entire week's worth with fifteen cents. Now the question has come up in the last ten days, Democrat roots and do you care about people? I want to focus this and boil it down and take all the water away and give us back the substance that we had before us, which the Committee had with a 11-2 vote, Ought Not to Pass. That substance is the people we're concerned about, those people and I, for one, think know of two cases, I guess, where there will be some hurt. Someone said to me out in the hall, they're better off unemployed. They were sincere when they said that, because they were saying they're better off, they get some welfare and a chance to find a better job and maybe this will show people that the minimum wage isn't enough, but, unless you see the demoralization in your own family because the breadwinner is unemployed, then you know the statement doesn't, just doesn't make it. No one is better unemployed. So I would stress strongly and remind all of you that when we're voting on this issue, we're voting for the people that we care about and it's not good guys, bad guys; both sides do care about these people. The only difference is that those of us on this side think the damage, the risks, the Russian roulette, if you will, is not worth the fifteen cents. Thank you Mr. President.

The PRESIDENT: Is the Senate ready for the question?

The pending question before the Senate is the motion by the Senator from Penobscot, Senator Pray that the Senate Recede and Concur with the House.

The Chair recognizes the Senator from Kennebec, Senator Kany.

Senator KANY: Mr. President, I wish permission to pair my vote with the gentleman from Androscoggin, Senator Charette. If he were here, he would be voting Yea and I would be voting Nay.

The PRESIDENT: The Senator from Kennebec, Senator Kany, Requests Leave of the Senate to pair her vote with the gentleman from Androscoggin, Senator Charette. If he were here, he would be voting Yea and the Senator from Kennebec, Senator Kany would be voting Nay.

Is it the pleasure of the Senate to grant this Leave?

It is a vote.

The Chair recognizes the Senator from Kennebec, Senator Dow.

Senator DOW: Mr. President, I wish permission to pair my vote with the gentleman from Cumberland, Senator Usher. If he were here, he would be voting Nay and I would be voting Yea.

The PRESIDENT: The Senator from Kennebec, Senator Dow, Requests Leave of the Senate to pair his vote with the gentleman from Cumberland, Senator Usher. If he were here, he would be voting Nay and the Senator from Kennebec, Senator Dow would be voting Yea.

Is it the pleasure of the Senate to grant this Leave?

It is a vote.

Is the Senate ready for the question?

The pending question before the Senate is the motion by the Senator from Penobscot, Senator Pray that the Senate Recede and Concur with the House.

A Yes vote will be in favor of the motion to Recede and Concur with the House.

A No vote will be opposed.

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEA—Brown, Bustin, Carpenter, Erwin, Hayes, Najarian, Pearson, Pray, Shute, Wood, The President-Gerard P. Conley.

NAY—Baldacci, Clark, Collins, Danton, Diamond, Dutremble, Emerson, Gill, Hichens, McBreairty, Minkowsky, Perkins, Redmond, Sewall, Teague, Trafton, Twitchell, Violette.

ABSENT—None.

A Roll Call was had.

11 Senators having voted in the affirmative and 18 Senators in the negative, and 4 Senators having paired their votes with No Senators being absent, the motion to Recede and Concur with the House, Failed.

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

Senator PRAY: I move the Senate Insist and Ask for a Committee of Conference.

The PRESIDENT: The Senator from Penobscot; Senator Pray moves that the Senate Insist and ask for a Committee of Conference.

The Chair recognizes the Senator from York, Senator Dutremble.

Senator DUTREMBLE: I would request a Roll Call and hope the Senate would vote against the motion.

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

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

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

The pending question before the Senate is the motion by the Senator from Penobscot, Senator Pray that the Senate Insist and Join in a Committee of Conference.

A Yes vote will be in favor of the motion to Insist and Join in a Committee of Conference.

A No vote will be opposed.

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

The Chair recognizes the Senator from Kennebec, Senator Kany.

Senator KANY: Mr. President, I wish permission to pair my vote with the gentleman from Androscoggin, Senator Charette. If he were here, he would be voting Yea and I would be voting Nay.

The PRESIDENT: The Senator from Kennebec, Senator Kany, Requests Leave of the Senate to pair her vote with the gentleman from Androscoggin, Senator Charette. If he were here, he would be voting Yea and the Senator from Kennebec, Senator Kany would be voting Nay.

Is it the pleasure of the Senate to grant this Leave?

It is a vote.

ROLL CALL

YEA—Baldacci, Brown, Bustin, Carpenter, Clark, Dow, Erwin, Hayes, Najarian, Pray, Shute, Violette, Wood, The President, Gerard P. Conley.

NAY—Collins, Danton, Diamond, Dutremble, Emerson, Gill, Hichens, McBreairty, Minkowsky, Pearson, Perkins, Redmond, Sewall, Teague, Trafton, Twitchell.

ABSENT—Usher.

A Roll Call was had.

14 Senators having voted in the affirmative and 16 Senators in the negative and 2 Senators having paired their votes with 1 Senator being absent, the motion by the Senator from Penobscot, Senator Pray that the Senate Insist and Join in a Committee of Conference, Failed.

The PRESIDENT: Is it now the pleasure of the Senate that the Senate Adhere?

It is a vote.

(See Action Later Today)

Non-concurrent Matter

BILL, "An Act Relating to Involuntary Admission" (H. P. 1321) (L. D. 1756)

(In Senate, June 10, 1983, Passed to be En-

grossed without reference to a Committee in concurrence.)

(Comes from the House, Passed to be Engrossed as Amended by House Amendment "A" (H-398) in non-concurrence.)

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

Senator GILL: Mr. President, this Bill has been going through here and I'd just like to put something into the Record in regard to it.

We have a recent case employing and involving a person who is charged with sexually molesting a six year-old child. This person could not be committed to the institution under the Department of Time and Voluntary Commitments statutes because the psychologist involved in evaluating this person could not certify that the person presented a likelihood of serious harm due to mental retardation; although, all the psychologists found that the person was mentally retarded and considered him to be dangerous. Judicial certification was pursued; however, the judge, also, was not able to judicially certify this person. Consequently, this person was ordered by the judge to be returned to the community.

Last Friday, within seven weeks of being placed in the community, this person was arrested for assaulting two people and was taken by the police to the mental retardation facility. This department has no way under current statute to commit this person, although, he is dangerous and mentally retarded. So, once again, he will be unable to stay at the institution and will have to be returned to the community. He is in jail at the present time and he will be able to walk at any point so it's necessary that we deal with this as an emergency measure right now.

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

Senator KANY: Mr. President and Members of the Senate, I'm not familiar with the issue but Senator Gill's statements perturb me. I would like to make it absolutely clear to those of you who have not had the opportunity to work with mentally retarded people that very few mentally retarded people are dangerous and there certainly is a huge difference between emotional illness and mental retardation.

I just felt the need to rise and to put that on the Record.

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

Senator BUSTIN: Mr. President, Men and Women of the Senate, I just want to make a statement, also, we're not talking about the general population of the mentally retarded. As everyone knows, I have a retarded sister who, incidentally, I'd like to put on the Record has won a bronze medal at the special olympics in Waterville on Saturday, so I'm very proud of her and I certainly would not support any bill that would be adverse to her or anyone like her.

This Bill is for that very special class of population that is dangerous to themselves, and to society and cannot voluntarily commit themselves and we need to involuntarily commit these people.

The PRESIDENT: Is it the pleasure of the Senate to Recede and Concur with the House?

It is a vote.

Non-concurrent Matter

BILL, "An Act to Prevent Unjust Enrichment by Retention of Surplus Upon Foreclosure of Municipalities and Sewer Districts" (S. P. 597) (L. D. 1719)

(In Senate, June 8, 1983, Passed to be Engrossed as Amended by Senate Amendment "A" (S-183).)

(In House, June 9, 1983, the Majority Ought Not to Pass Report Read and Accepted in non-concurrence.)

(In Senate, June 9, 1983, the Senate Insisted.)

(Comes from the House, Failing of Passage to be Engrossed in non-concurrence.)

On motion by Senator Pray of Penobscot, Tabled pending Further Consideration.

House Paper

BILL, "An Act Creating the Wiscasset Water District" (H. P. 1328) (L. D. 1765) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27)

Comes from the House referred to the Committee on Public Utilities and Ordered Printed.

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

Senator PRAY: I move that this item be given its First Reading at this time without reference to committee.

The PRESIDENT: The Senator from Penobscot, Senator Pray moves that Under Suspension of the Rules that LD 1765 be given its First Reading at this time without reference to Committee?

The Chair recognizes the Senator from Penobscot, Senator Baldacci.

Senator BALDACCI: Mr. President, I was going to speak on the previous motion.

The PRESIDENT: The Senator has the floor. Senator BALDACCI: Mr. President, I'd like LD 1765 Tabled until later in the session.

On motion by Senator Pray of Penobscot, Tabled until later in today's session, pending Reference.

Enactors

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

An Act to Require Interdepartmental Coordination of Social Services Planning (H. P. 1255) (L. D. 1668)

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

An Act to Create the Finance Authority of Maine (S. P. 612) (L. D. 1747)

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

An Act to Establish New Selection Procedures for the Maine Indian Tribal-state Commission Chairmanship (S. P. 342) (L. D. 1016)

On motion by Senator Pray of Penobscot, Tabled until later in today's session, pending Enactment.

An Act Relating to Penobscot Nation Trust Land Designation (S. P. 593) (L. D. 1713)

On motion by Senator Pray of Penobscot, Tabled until later in today's session, pending Enactment.

An Act to Extend the Time for Acquiring those Areas which have been Designated Potential Passamaquoddy Indian Territory (H. P. 1291) (L. D. 1712)

On motion by Senator Pray of Penobscot, Tabled until later in today's session, pending Enactment.

An Act to Revise the Truancy Laws (H. P. 877) (L. D. 1131)

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

Senator NAJARIAN: Mr. President, Men and Women of the Senate, this Bill has been before us several times and I've been disturbed by it, off and on, and I hesitated, I didn't want to have to speak on it because of the dedication of the good sponsor of the Bill and some of the Members of the Educational Committee. The amendment that was offered here in the Senate seemed to improve the Bill and I thought that my conscience would let me, you know get by with that, but that amendment has been defeated and now, I believe, we're back to the Bill in its original form.

My concern with this Bill, "An Act to Revise the Truancy Laws" I know there is a problem with young people not attending school and that they should be in school. I'm sure that most of the children who are not in school are children of low income parents and this Bill requires the superintendent to ask the parents to attend a series of meetings about this child that is not in their school. I know in my community I had in my district three low income housing projects. I have a lot of low income people and I have heard many low income people come before the Appropriations Committee and particularly on one bill this year and talk about the hardship they had of coming up with a dollar twenty a day to send their kids to high school because that's what the bus service cost. The school department in Portland does not pay for transit for high school, transportation for high school students. It is a real hardship on them and to require them to attend a series of meetings is going to be a dollar twenty a day and to us that's not much money but when you haven't got much money to work with that can really add up. I think the amendment we had before that was killed, required one meeting.

Secondly, there is a penalty for this. I believe it is now back up to two hundred and fifty dollars or some public service. These people could be handicapped; they could be on a job, you know, already working forty hours a week trying to get by. I just think this Bill is very harsh; it could result in harsh treatment of some underserving parents. I do know that thirteen, fourteen year-old kids can be very hard to handle, especially, if you're a single mother and no man around the house to straighten them out. I just think it could be many times when it is no fault of the parent. I'd like to see the teachers or the school going out to their homes more often, but I really hate to see this required in the law. For that reason, I guess, I move to Indefinitely Postpone this Bill.

The PRESIDENT: The Senator from Cumberland, Senator Najarian moves that LD 1131 be Indefinitely Postponed.

The Chair recognizes the Senator from Cumberland, Senator Clark.

Senator CLARK: Thank you, Mr. President, Mr. President, Men and Women of the Senate, I rise this afternoon to oppose the pending motion of Indefinite Postponement and would explain to you very briefly that the Senator from Cumberland, Senator Najarian is right in that the penalty has been raised in the other Body, back to its original amount, that is indeed the case. That action transpired at the end of last week. The reason for that, as I understand, is that the current penalty or the current fine is already two hundred dollars and that was an effort to restore the current law as it currently exists.

I would take great issue with the remarks of the good gentlewoman, the Senator from Cumberland, Senator Najarian, that in fact, truancy is more prevalent in those ranks that we call low income. I think it's been a long time since some of you people have been in a public school. For, indeed, truancy is not exclusively the domain of low income nor low middle income people, in fact, it's increasingly prevalent in those income levels that are not associated with those kinds of actions.

Remember that these penalties that would be assessed are assessed only after an adjudicatory proceeding where the parents have been held primarily responsible for the truancy of their children. I would simply urge you to reject the pending motion. Thank you, Mr. President.

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

Senator BALDACCI: Mr. President and Members of the Senate, I addressed this issue a couple of weeks ago in regards to how I felt that we were setting up some sort of Gestapo tactics as far as the truant children were concerned.

I noticed an editorial in the newspaper in regards to this particular issue stating that they, also, felt the tougher penalties weren't going to solve the problem. Just because judges having slapped very excessive penalties on parents, doesn't mean that by slapping those penalties on those parents that all of a sudden the situation is going to turn around. What they were suggesting is that maybe counseling may produce better results. Perhaps the real problem is that the truant and his parents have not been told about helpful programs. Perhaps the school is actually aggravating the problem by doling out harsh disciplinary measures when it should be providing educational alternatives. Just as truancy laws can not be expected to solve social problems, schools cannot be expected to provide programs that get all children to learn. Lawmakers need to reexamine the State's Compulsory Education Laws. It is unfortunate that we're making a law to deal with the small minority in our school system and that maybe by having these programs available to those school children, we may be able to work with those parents and families and show them that there are programs that they can get involved with. A lot of times as a person that's in a small business with my family, there are a lot of State programs that we aren't even aware of that are going on that we could get involved with, but we're not even aware of them. This may be the case with this particular problem. I wasn't aware of it until I came down to the Legislature. I think that we ought to work with the families and the truant children before we start slapping these heavy fines and fifty hours of community services. Thank you.

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

Senator PEARSON: Mr. President, Men and Women of the Senate, you will recall that I offered an amendment that failed in here on this particular Bill, and when my amendment failed I urged you to continue to support the Bill because it was too important to lose.

The remarks of Senator Baldacci intrigued me, I guess, that's the best word I can come up with because he seems to be saying that we, could work with the parents in order to get these truants in. I hope that everybody in here realizes and I hope that he will after I conclude that teachers and principals and school officials are simply tired, bone tired of trying to work with parents to get their kids to go to school. It's come to the point, even though there are parts of this Bill I don't particularly like, it's come to the point where you have to put some kind of an incentive for them to send their children to school. I would like to, also, while I am on my feet because I feel fairly strong about this, echo the remarks of Senator Clark, and that is, poor people are not the exclusive owners of truant children. As a matter of fact, I think it's just the opposite and those people that are wealthy and well-to-do are often times more inclined to pull their kids out of school and take them off to New York or go to Bermuda or whatever for a week or two at a time with utter neglect of their children.

The PRESIDENT: The Chair would remind the Senate, when one Senator is naming another Senator, he will name the Senator and the county from which he/she comes.

Is the Senate ready for the question?

The Chair recognizes the Senator from Cumberland, Senator Najarian.

Senator NAJARIAN: Mr. President, Men and Women of the Senate, although probably not all of the truant children come from low income homes, I'm certain that some of them do and this particular law would be very harsh on those people, two hundred dollars is a week's wages, and I understand that the court can, but why drag them through all that! I just think that calling them to a meeting with the superintendent, teachers; I've been to these meetings with people who go to State agencies when

they're in problems and their surrounded by fifteen or twenty, or four or five people and it's very intimidating. I just think the whole set up here is very unpleasant.

I would ask for a Roll Call.

The PRESIDENT: A Roll Call has been requested.

The Chair recognizes the Senator from York, Senator Hichens.

Senator HICHENS: Mr. President and Members of the Senate, as a member of the Educational Committee who signed in favor of this Bill, I feel that I have to speak, especially where the Chairman is not present this afternoon.

It bothers me when the comments are made about involving the parents. On my own, I sent a questionnaire to several hundred people in my district with many questions involving education on that questionnaire and one of the questions was, do you think parents are involved enough in the school and in the school system and the education of their children? Seventy-eight percent of those with response to that questionnaire said, "no, they're not involved enough." I think this is a good answer to the good Senator from Portland has brought up, that we should get these parents involved. If they can't pay these fines, they should make their youngsters go to school. I think that's a great responsibility that they have and I think we're taking away that responsibility when we lifted the fine. Cotton down to them because they have to travel a little distance and maybe pay a cost, maybe it makes them much more aware of the responsibility they have for keeping their youngsters in school.

I think it is unfair to the children of our State to have a lenient truancy law where they do not feel they are required to have to go and attend classes.

The PRESIDENT: Is the Senate ready for the question?

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 motion by the Senator from Cumberland, Senator Najarian that this Bill be Indefinitely Postponed.

A Yes vote will be in favor of the motion to Indefinitely Postpone.

A No vote will be opposed.

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEA—Baldacci, Brown, Minkowsky, Najarian, Pray, Twitchell, Violette, Wood, The President-Gerard P. Conley.

NAY—Bustin, Carpenter, Clark, Collins, Danton, Diamond, Dow, Dutremble, Emerson, Erwin, Gill, Hichens, Kany, McBreairty, Pearson, Perkins, Redmond, Sewall, Shute, Teague, Trafton.

ABSENT: Charette, Hayes, Usher.

Senator Kany of Kennebec was granted permission to change her vote from Nay to Yea.

Senator Redmond from Somerset was granted permission to change his vote from Nay to Yea.

A Roll Call was had.

11 Senators having voted in the affirmative and 19 Senators in the negative, with 3 Senators being absent, the motion to Indefinitely Postpone L.D. 1131 Failed.

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

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

Senator DUTREMBLE: Mr. President with

regard to LD 1138, I move that the Senate Reconsider its action whereby it voted to Adhere, and hope that you all vote against me.

The PRESIDENT: The pending question before the Senate is the motion by the Senator from York, Senator Dutremble that the Senate Reconsider its action whereby on Bill, "An Act to Increase the Minimum Wage" (H. P. 884) (L. D. 1138) the Senate Adhered.

Is this the pleasure of the Senate?

The Chair recognizes the Senator from Kennebec, Senator Kany.

Senator KANY: A Division, please.

The PRESIDENT: A Division has been requested.

Will all those Senators in favor of Reconsideration, please rise in their places to be counted.

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

11 Senators having voted in the affirmative, and 18 Senators having voted in the negative, the motion to Reconsider, Failed.

An Act to Create Boothbay Region Waterfowl Sanctuary (H. P. 713) (L. D. 904)

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

Senator PRAY: In reference to L.D. 904, "An Act to Create Boothbay Region Waterfowl Sanctuary," I'd like to pose a question through the Chair, if I may, to any Senator who would care to answer.

The PRESIDENT: The Senator may pose the question.

Senator PRAY: Thank you, Mr. President. Mr. President, Ladies and Gentlemen of the Senate, as I read the Bill that is now pending before us for Enactment and it is my understanding that there isn't anything that is going to derail this little piece of Legislation, but I just find it rather interesting to read that in the Boothbay Region Waterfowl Sanctuary hunting will be prohibited from the first day of April to the 30th day of September. Now, I'm not a duck hunter, but I always thought the duck season was in the fall of the year.

Is it not true that this Bill does not prevent duck hunting during the duck season in the waterfowl sanctuary that we will now be establishing?

The PRESIDENT: The Senator from Penobscot, Senator Pray poses a question through the Chair to any member of the Senate who may respond if they so desire.

The Chair recognizes the Senator from Lincoln, Senator Sewall.

Senator SEWALL: Thank you, Mr. President. In answer to the question, the Senator is absolutely correct. We are merely trying to protect the very small ducklings in the spring of the year and that's all we ever tried to do from the beginning.

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 appreciate the concerns for the little ducklings in the spring of the year, but I'm curious as to what we're protecting them from since the duck seasons established by Federal Law and there's no season in the spring of the year.

The PRESIDENT: The Senator from Penobscot, Senator Pray 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 Lincoln, Senator Sewall.

Senator SEWALL: The answer to the question is, from people.

Which was Passed to be Enacted.

An Act to Establish County Budget Committees (S. P. 592) (L. D. 1710)

Comes from the House, Indefinitely Postponed.

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

Senator DOW: I have an amendment that's being drafted for this and I was hoping that somebody would Table it one day or until later in today's session.

On motion by Senator Pray of Penobscot, Tabled until later in today's session, pending Enactment.

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

Senator SEWALL: Mr. President with regard to L.D. 904, I move that the Senate Reconsider its action whereby it voted to Enact and hope that you all vote against me.

The PRESIDENT: The pending question before the Senate is the motion by the Senator from Lincoln, Senator Sewall that the Senate Reconsider its action whereby on Bill, "An Act to Create Boothbay Region Waterfowl Sanctuary" (H. P. 713) (L. D. 904) was Passed to be Enacted.

(Senate at Ease)

The Senate called to Order by the President.

On motion by Senator Pray of Penobscot, Tabled until later in today's session, pending the motion by the Senator from Lincoln, Senator Sewall.

Orders of the Day

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

BILL, "An Act Creating the Wiscasset Water District" (H. P. 1328) (L. D. 1765), Tabled earlier in today's session on motion by Senator Pray of Penobscot, pending Reference.

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

Senator PRAY: Mr. President, I understand from the Chairman of the Public Utilities Committee that they will be requesting that this Bill be held over until the next session due to the lateness of the hour that it has arrived.

I, also, understand that there is going to be a meeting of the Committee later in the well of the House to discuss this Bill. So until that action actually takes place, I would urge that we proceed with this piece of Legislation through the Legislative process until the carry over has been approved or the Committee has taken other action.

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

Senator BALDACCI: Mr. President and Members of the Senate, I'm new at this and sometimes I don't understand all of the parliamentary maneuvers here, but on discussing this with the House Chair, they suggested that this be referred to the Committee on Public Utilities because there's major changes and it is not something that we can do in a day or so. In talking to him, after I talked with the Majority Leader and it is my understanding we'd like to be able to not act on it now because there's going to have to be some changes in the language.

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

Senator PRAY: Mr. President, I believe that the procedure for amending a bill is when the bill is in the Second Reading and the pending motion is to give the Bill its First Reading at this time without Reference to Committee. The Committee will still have the opportunity to evaluate the changes that it may want to put to this L.D. and if they need the time, the proper time to amend the Bill would be tomorrow, and I'm sure that tomorrow is going to be as long a day as today is.

The Bill Read Once and Tomorrow Assigned for Second Reading.

Emergency

An Act to Increase Funding Allocation for the Bureau of Oil and Hazardous Materials Control for Fiscal Year 1983 (H. P. 1317) (L. D.

1746)

On motion by Senator Pray of Penobscot, Tabled pending Enactment.

Emergency

An Act to Establish a Program to Abate, Clean up and Mitigate Threats to Public Health and the Environment from Uncontrolled Hazardous Substances Sites (S. P. 617) (L. D. 1751)

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

Emergency

An Act Making Adjusted Allocations from the Highway Fund for the Fiscal Years Ending June 30, 1983, June 30, 1984, and June 30, 1985, and Placing Limitations on the Use of the Unallocated Highway Fund Surplus (H. P. 810) (L. D. 1050)

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

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

Communication

The Following Communication:

State of Maine

One Hundred and Eleventh Legislature Committee on Judiciary

June 15, 1983

The Honorable Gerard P. Conley

President of the Senate

State House

Augusta, ME 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 Judiciary has had under consideration the nomination of David J. Soucy as a Commissioner of the Workers' Compensation Commission.

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 3

Representatives 6

NAYS: 0

ABSENT: 4

Nine 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 David J. Soucy, as a Commissioner of the Workers' Compensation Commission be confirmed.

Sincerely,

S/RICHARD L. TRAFTON

Senate Chairman

S/BARRY J. HOBBS

House Chairman

Which was Read and Ordered Placed on File.

(Senate at Ease)

The Senate called to Order by the President.

On motion by Senator Pray of Penobscot, Re-cessed until the sound of the bell.

Recess

After Recess

The Senate called to Order by the President.

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

The PRESIDENT: The Joint Standing Committee on Judiciary has recommended that the

nomination of David J. Soucy be confirmed.

The pending question before the Senate is: Shall the recommendation of the Committee on Judiciary 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 Committee 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, Clark, Collins, Danton, Diamond, Dow, Duttremble, Emerson, Erwin, Gill, Hichens, Kany, McBreairty, Minkowsky, Najarian, Pearson, Perkins, Pray, Redmond, Sewall, Shute, Teague, Trafton, Twitchell, Violette, Wood, The President—Gerard P. Conley.

ABSENT—Charette, Hayes, Usher.

No Senators having voted in the affirmative and 30 Senators in the negative, with 3 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 David J. Soucy is confirmed.

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

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

Paper From the House Non-concurrent Matter

RESOLUTION, Proposing an Amendment to the Constitution of Maine to Provide that the State may Enact Property Tax Exemptions Relating to Watercraft not Subject to Fifty Percent Reimbursement (H. P. 1042) (L. D. 1349) (In Senate March 30, 1983 Passed to be Engrossed in concurrence.)

Comes from the House Passed to be Engrossed as Amended by House Amendment "A" (H-241.)

The PRESIDENT: Is it the pleasure of the Senate to Recede and Concur with the House?

It is a vote.

Committee Reports House

Divided Report

The Majority of the Committee on Judiciary on BILL, "An Act to Provide for Swifter Disposition of Drunk Driving Cases" (H. P. 830) (L. D. 1068)

Reported that the same Ought to Pass in New Draft under same title (H. P. 1319) (L. D. 1749)

Signed:

Senators:

TRAFTON of Androscoggin

VIOLETTE of Aroostook

COLLINS of Knox

Representatives:

DRINKWATER of Belfast

JOYCE of Portland

LIVESAY of Brunswick

SOULE of Westport

HAYDEN of Durham

FOSTER of Ellsworth

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

Signed:

Representatives:

HOBBS of Saco

REEVES of Newport

CARRIER of Westbrook

BENOIT of South Portland

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

Amendment "A" (H-393) and House Amendment "C" (H-396).

Which Reports were Read.

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

Senator TRAFTON: Mr. President, I move that the Senate Accept the Majority Ought to Pass Report.

The PRESIDENT: The Senator from Androscoggin, Senator Trafton moves that the Senate Accept the Majority Ought to Pass Report of the Committee.

The Chair recognizes the Senator from Aroostook, Senator Carpenter.

Senator CARPENTER: Mr. President, heaven knows, this late hour I don't want to debate anything, let alone drunk driving issues, but I would like to have the good Senator from Androscoggin or anyone from the Judiciary Committee explain exactly what this Bill does. The Bill has been widely reported in the press of late, and I have not had a chance to read it in any detail and I would like to know the answer to a couple of questions.

I guess, specifically, as I understand it this Bill says that once a person has been stopped and a breath test or blood test result of over .10 has been recorded, that person will then give up their right to operate a motor vehicle, pending court adjudication.

Secondly, any time that they may spend without a license before court would not count off any suspension time that they get after court.

I guess those are the two major concerns that I have. Also, the question of whether or not a person has any kind of an appeal right or a hearing right after the blood test results go to Augusta?

The PRESIDENT: The Senator from Aroostook, Senator Carpenter has posed a question through the Chair to any member of the Judiciary who may respond if they so desire.

The Chair recognizes the Senator from Androscoggin, Senator Trafton.

Senator TRAFTON: Mr. President and Members of the Senate, in answer of the good Senator from Aroostook, Senator Carpenter's questions. This Bill, which is a redraft of L. D. 1068, provides protection on our roads and highways from that person who may be a chronic driver under the influence of alcohol.

Currently, we have a situation where a person once stopped for operating under the influence may be brought to court; he may plead not guilty; he may be out on the road that very same day. In fact, there have been instances throughout this State where that same person has been involved in other operating under the influence charges and, in fact, accidents resulting in injury and death, pending hearing of that original charge for operating under the influence.

What the redraft of L. D. 1068 does is exactly what the good Senator from Aroostook, Senator Carpenter suggested, and that is pending adjudication, one's license is suspended if either a blood or a breath test shows a blood alcohol content of .10 or above. I point out that there has been an amendment in the other Body for this particular Legislative Document which provides for a work release license in the event a person whose license is suspended petitions the Secretary of State's Office and there is a need found for this work restrictive license. There is due process built into this particular Bill. It does withstand constitutional challenge. The due process provided for is a hearing, an administrative hearing before the Secretary of State; and in fact, the Bill, also, provides for additional hearing examiners. The hearing examiners are paid for by a particular provision of the Bill which would increase the restoration of license fees so, in fact, the costs of the Bill are self-amortizing.

There was a recommendation of the majority of the Joint Standing Committee on Judiciary that the current problem we have with

recurrent drunk drivers is severe enough to address this period between arrest and actual adjudication. This type of Bill has been supported in the past in other states. I am aware of, I believe six or seven other states who have passed similar Legislation. The United States Supreme Court has heard arguments as to whether or not this type of suspension before an adjudication is constitutional; and in fact, the United States Supreme Court held that this type of suspension is constitutional.

I urge your support of the Majority Ought to Pass Report of this Bill.

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

Senator CARPENTER: Mr. President, I think that the Senator from Androscoggin, Senator Trafton has done an excellent job of explaining the Bill. I think that we all know now exactly what the issue is. I'm still troubled by this sort of proforma suspension based on a blood alcohol test.

I know there was an attempt, this morning earlier elsewhere on this third floor to give an aggrieved person a right a specific right to sue the State if there was a mistake. I want to address that question because there are mistakes and there are OUI cases that don't make it through the adjudication system for whatever reason. We have a specific process set up whereby a blood test has to be taken; the chain of custody has to be followed, or a person giving the breath test has to be able and certified as being competent to run the breath test and these sorts of things.

My question is what if, Joe Jone's constable-at-large administers a breath test, and this is not far fetched; this happens in a lot of your rural areas, people who are not qualified to operate these machines give them. Based on that result the person's license is suspended and gets to court the case gets thrown out of court. Now here's a person who could not be found guilty for whatever reason in a court of law of the crime of operating under the influence, yet this person has been off the road with in effect no right of appeal, because if you look at the hearing again, it's basically, a probable cause hearing as we talked about this morning with the nineteen year olds. I'm just troubled by this kind of, almost double punishment, that we're giving these people.

I hate to stand here and argue these cases or these issues because I do believe in getting people who are drunk off the road. I just think we're going too far, and I think that there's a real question of a person's rights. I realize that the driving of a motor vehicle on the highways of the State is a privilege; it's not a right. That's the way you get around the due process argument. You're not taking away something that's a right of somebody; driving a motor vehicle is a privilege. It just seems to me that that privilege is one with which a lot of people, which is intertwined with a lot of peoples' lives, jobs, careers, livelihood, families and to take this kind of drastic action just based on an officer's statement and a blood alcohol content test is really going a bit too far.

Mr. President, I would ask for a Division on the motion to Accept the Report.

The PRESIDENT: A Division has been requested.

The Chair recognizes the Senator from Cumberland, Senator Diamond.

Senator DIAMOND: Thank you, Mr. President and Members of the Senate, as a cosponsor of this Bill, I feel very strongly about what was done earlier in this Senate and I congratulate everyone for that and, also, what this Bill will do.

The good Senator from Aroostook, Senator Carpenter has brought out a few concerns. I suppose they certainly are sincere and very legitimate except that when he talks about lives and jobs and careers and families, that's the very reason this Bill is here, because lives, jobs, careers and families have been many

times destroyed. If you stop for a second, those of you who have licenses now with pictures on them and turn that license over and you see a little chart on the back, what makes you be a person who has .10? I've looked at that and I don't dare to drink that much. If I drank as much as they say that I could at being at a hundred and sixty-one pounds, then I would be in no condition to drive; probably no condition to stand up or even be anywhere near cognizant of what's around me. I think what we're trying to do, and I was pleased that all three Senators signed this out, Ought to Pass, what we're trying to do simply is to get these people off the road who are injuring and killing our friends, our families and the citizens of Maine. That's exactly what this Bill is all about and I hope you will vote with us to pass it.

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

Senator TRAFTON: Mr. President and Members of the Senate, if this Bill were to have appeared and I were to have been in the Senate some ten years ago, I probably would have voted against it.

One of the reasons why I feel that this type of Bill should be passed and one of the protections against discretionary decisions about revocation of a license when it's just not proper is the fact that blood alcohol tests, breath tests and actual blood tests are much more accurate than they ever have been. The black boxes that you find in the sheriffs' offices and your local police departments are very accurate. They're much more refined machines than the ones that had been used in the past. There is virtually no discretion used by the operator in running these tests. I am convinced that a blood test or a breath test is an accurate representation as to whether a person should or should not be on the road.

The officers' report to the Secretary of State is not a discretionary report so that we will not have the problem of a particular police officer abusing his discretion and making reports to the Secretary, recommending suspension of a license. A test is required. The results of that test must be sent to the Secretary of State and a hearing is offered or afforded at the Secretary of State, if it is requested. So that I feel that the safeguards are built in to this particular proposal. I feel comfortable that it will withstand constitutional mustard. I think it is very much needed to keep the inebriated driver off our roads.

I give you one fact before I sit down and that is, that as you're driving along the road on a Friday night through Sunday afternoon, one out of every ten drivers that passes you is driving under the influence, I don't feel very comfortable driving during that period of time, and I think this is a measure to reduce that number. Thank you.

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

Senator CARPENTER: Mr. President, I have a question and a comment and then I'll sit down and be quiet.

The question is, the same question I asked this morning as far as the nineteen year old and I'm looking quickly through the Bill and I don't see it, and that is, will this Bill discourage people from taking the test, in that, if they refuse the test, they follow the implied consent law, ninety days suspension, whereas if they take the test, they're going to be out probably three months, going to court and then whatever time after court. I don't think that's the case. I may be wrong it may be in the Bill.

But I think that I've just discovered the way that we can get out of here by Saturday. I think that I've just discovered a way to fund the Part II Budget. The good Senator from Androscoggin, Senator Trafton says that the black box, or whatever it's called is accurate now. I think if we closed the court houses, abolished judges, abolished prosecuting attorneys, we probably could save enough money. I'm being facetious

but that's what we're saying here, that's exactly what we're saying. This is conclusive! That's the end right there — bang! Oh, we'll give you a court, you can go to court. You can go ahead and go to court but we believe that this breath test is a hundred percent accurate, a hundred percent of the time. Ah, we may make a mistake once in awhile, but sorry about that, if we make a mistake. I believe that the breath test and the blood alcohol test is pretty good, working pretty well, pretty good stuff. I don't think it's conclusive. If it were conclusive, why do we have courts? Why do we bother having trials?

I would hope somebody could respond to my question about the implied consent problem.

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

Senator TRAFTON: Thank you, Mr. President, Mr. President and Members of the Senate, this Bill as it relates to other statutes currently on the book does not create the type of situation as suggested by the good Senator from Aroostook, Senator Carpenter. There is no bias for one who takes the test over one who does not take the test. In fact, the suspension periods are the same in either of those cases, so as I replied to the good Senator from Aroostook, Senator Carpenter this morning, these bills have been worked on at great length by the Committee on Judiciary and others and this type of inequity simply is not in the Bill and the two are treated equally. Thank you.

The PRESIDENT: Is the Senate ready for the question?

A Division has been requested.

Will all those Senators in favor of the motion by the Senator from Androscoggin, Senator Trafton that the Senate Accept the Majority Ought to Pass, in New Draft, Report of the Committee, please rise in their places to be counted.

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

17 Senators having voted in the affirmative, and 9 Senators having voted in the negative, the motion to Accept the Majority Ought to Pass, in New Draft, Report of the Committee, Prevailed.

The Bill in New Draft Read Once.

House Amendment "A" (H-393) was Read and Adopted, in concurrence.

House Amendment "C" (H-396) was Read and Adopted, in concurrence.

The PRESIDENT: Is it the pleasure of the Senate that Under Suspension of the Rules, that L. D. 1749 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.

Orders of the Day

On motion by Senator Danton of York, the Senate voted to remove from the Table:

"An Act Making Adjusted Allocations from the Highway Fund for the Fiscal Years Ending June 30, 1983, June 30, 1984, and June 30, 1985, and Placing Limitations on the Use of the Unallocated Highway Fund Surplus" (H. P. 810) (L. D. 1050) Tabled earlier in today's session on motion by Senator Diamond of York, pending Enactment.

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

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

An Act to Establish County Budget Committees (S. P. 592) (L. D. 1710)

Tabled — June 15, 1983 by Senator PRAY of Penobscot

Pending — Enactment

(In Senate June 9, 1983 Passed to be Engrossed as Amended by House Amendment "A" (H-329) as Amended by House Amendment "A" (H-352) thereto and House Amendment "B" (H-330) in concurrence)

(In House June 15, 1983 Bill and Accompanying Papers 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 considered the following:

Second Readers

House

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

BILL "An Act Creating a Maine Milk Pool" (H. P. 1323 (L. D. 1754))

Which was Read a Second Time.

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

Senator PRAY: Mr. President, I offer Senate Amendment "A" (S-210) and move its Adoption.

The PRESIDENT: The Senator from Penobscot, Senator Pray offers Senate Amendment "A" (S-210) and moves its Adoption.

Senate Amendment "A" (S-210) was Read.

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

Senator PRAY: Thank you, Mr. President, Mr. President and Members of the Senate, this amendment that I now offer to L. D. 1754 addresses the unique problem faced by dairy farmers in Aroostook, Washington and Northern Penobscot Counties. The producers in these counties face a unique set of circumstances because of their geographical location. They have a higher transportation cost, higher cost for grain and higher costs for the other inputs to farming. Because of these higher costs, most of these farmers are barely able to survive at the prices which they currently receive for their milk.

In the Committee redraft, the unique problems faced by these farmers were addressed by creating a separate pool for the producers located in these regions which I have just mentioned. The separate Northern Maine pool, however, does not fully address the problems facing these farmers because it would still require them to pay into a pool when they're still facing survival problems because of the higher cost and insufficient current prices. My amendment addresses the unique costs which these farmers face in a more effective manner.

The Northern Milk Pool would be removed from the Bill and the Northern Milk Producers would not lose the income. These producers would continue to pay their share of promotion costs and the Milk Commission Fees. This amendment will not significantly affect the balance of the Milk Pool Legislation. It will not affect the amount paid into the milk pool in the rest of the State; it will not significantly affect the amounts which are paid out from the pool. This amendment is needed to address the facts that these producers have significantly higher prices and I would hope that we would adopt this amendment.

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

Senator CARPENTER: Mr. President, it's been a long day and not particularly a good day for me, but I feel that I have to try to maintain some integrity on this issue and I have to rise to oppose the amendment.

It doesn't make much sense when you stop and look at it because it exempts Aroostook County; it exempts my district; it exempts Washington County and Northern Penobscot County which if I were to run again and were to win, would be my new district. It exempts them; it takes them right out, so they're all taken care of.

Again, I don't think this piecemeal approach is the proper way to address this issue. I have

worked with the milk industry, the farming end of the milk industry for years and I'd like to see a unified industry. I think that this Bill and this Bill as amended is going to splinter and keep them splintered and that just really bothers me. Therefore, in order to maintain my integrity, I would have to ask for a Division on the Adoption of this amendment.

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

Senator TRAFTON: Mr. President, I request permission to pose a question through the Chair to anyone who may care to answer it.

The PRESIDENT: The Senator may pose the question.

Senator TRAFTON: Mr. President, I have a question as to whether or not this amendment as proposed by the good Senator from Penobscot, Senator Pray would meet the Constitutional test under the Equal Protection Clause? I guess I am concerned that we're drawing a line across part of the State of Maine. Some farmers on one side of the line are within a pool; some are outside of the pool. I understand that there's a situation in the northern part of the State, in the northern dairy where that dairy, may in fact, be paying two different prices, depending on whether that farmer or producer is in, or outside the pool area.

I would specifically ask whether or not this amendment has been reviewed for its Constitutional merits. I would suggest, if it hasn't been reviewed perhaps by the Attorney General as to its Constitutionality, that the amendment be Tabled until such a review is taken.

The PRESIDENT: The Senator from Androscoggin, Senator Trafton has posed a question through the Chair to any Senator who may respond if they so desire.

The Chair recognizes the Senator from Penobscot, Senator Pearson.

Senator PEARSON: Mr. President, Men and Women of the Senate, I am glad that the Senator from Androscoggin has posed the question for some legal advise and I am going to give him some.

It would be Constitutional, I believe, because we have drawn lines all over the State on numerous occasions. You can hunt in one part of the State, you can't hunt in another part of the State. You've got lines that draw counties and towns and we have different — all kinds of different sewer and water districts and they are affected differently by Legislation, and I assure him that it is Constitutional.

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

Senator PERKINS: Mr. President and Ladies and Gentlemen of the Senate, I rise, also, with kind of a question, because I fear that these new lines that have been drawn have made cities out of my country, and that because my farmers now find themselves within the cities will city zoning laws not put them out. Because I fear that because we have now been deemed not rural and not far enough removed from the market that, them being within the city the hazards of the city, and the other benefits, that while the pollution and other factors which affect the urban areas as opposed to the country may pollute my milk, so therefore, Mr. President, I too would like to oppose this amendment because I am not sure what it would do to my poor little country.

The PRESIDENT: Is the Senate ready for the question?

A Division has been requested.

Will all those Senators in favor of the Adoption of Senate Amendment "A", please rise in their places to be counted.

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

16 Senators having voted in the affirmative, and 14 Senators having voted in the negative, the motion to Adopt Senate Amendment "A" Prevailed.

The Chair recognizes the Senator from York,

Senator Hichens.

Senator HICHENS: Mr. President, I present Senate Amendment "B" under filing number S-213 and move its Adoption.

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

Senate Amendment "B" (S-213) was Read.

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

Senator BUSTIN: Mr. President, I ask for a Division, I would, also, like to pose a question to the good Senator from York, Senator Hichens, would he explain to me what this amendment does?

The PRESIDENT: The Senator from Kennebec, Senator Bustin has posed a question through the Chair to the good Senator from York, Senator Hichens who may respond if he so desires.

The Chair recognizes the Senator from York, Senator Hichens.

Senator HICHENS: Mr. President, through the note method I did try to explain what the amendment did, but apparently the good Senator from Kennebec, Senator Bustin, wants it on the Record. I would be glad to do that.

This Amendment provides that all payments received by Maine farmers above the minimum and initial payment level would be pooled. We have had a lot of discussion today on the fairness of this milk pooling idea and I think that this fairness goes both ways. I have here the Agri-mart Monthly, published monthly for the cooperative members of Agri-mart. In April of 1983 in which they said that in March the Agri-mart pay price on base milk was sixteen cents per hundred weight over the Federal Order blend. This was a bonus to these producers of Agri-mart. I think that in all fairness that when they receive these bonuses that it should be put into the pool so that everybody may profit from it.

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

Senator BUSTIN: Thank you, Mr. President. Men and Women of the Senate, I hope that when the vote is taken that you'll vote against this amendment. One of the reasons is because this problem is already taken care of in the Bill. Any excess is dedicated before it goes into the pool and the Bill as now written the Boston Market direct shippers can't receive more than the Maine Market shippers do.

Secondly, if you pass this amendment it will be in direct contradiction to the Federal statutes and therefore would be unconstitutional.

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

Senator HICHENS: Mr. President, I would object to those or argue against the comments made by the good Senator from Kennebec, Senator Bustin. This would not go against the Federal Market regulations, and there is no danger of the Boston producers being paid more than the Maine producers. That is what the whole argument is about in this. But when they do get a bonus it should go into the pool and make it fair in that way.

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

Senator PRAY: Mr. President, I move that this amendment be Indefinitely Postponed.

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

Senator HICHENS: I would ask for a Division on that motion.

The PRESIDENT: A Division has been requested.

Will all those Senators in favor of the motion by the Senator from Penobscot, Senator Pray that Senate Amendment "B" be Indefinitely Postponed, 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 11 Senators having voted in the negative,

the motion to Indefinitely Postpone Senate Amendment "B" Prevailed.

The Bill was Passed to be Engrossed, as Amended, in non-concurrence.
Sent down for concurrence.

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

Papers from the House Non-concurrent Matter

BILL, "An Act Pertaining to the Political Rights of State Employees." (S. P. 439) (L. D. 1318)

(In Senate, March 30, 1983, Passed to be Engrossed as Amended by Senate Amendment "A" (S-42))

(Comes from the House, Passed to be Engrossed as Amended by House Amendment "D" (H-392) in non-concurrence.)

On motion by Senator Pray of Penobscot, Tabled for 1 Legislative Day, pending Further Consideration.

Orders of the Day

The President laid before the Senate:

An Act to Establish New Selection Procedures for the Maine Indian Tribal-State Commission Chairmanship (S. P. 342) (L. D. 1016)

Tabled — June 15, 1983 by Senator PRAY of Penobscot

Pending — Enactment

(In Senate June 10, 1983 Passed to be Engrossed as Amended by Committee Amendment "A" (S-76) as Amended by Senate Amendment "A" (S-187) thereto)

(In House June 15, 1983 Passed to be Enacted.)

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

The President laid before the Senate:

An Act Relating to Penobscot Nation Trust Land Designation (S. P. 593) (L. D. 1713)

Tabled — June 15, 1983 by Senator PRAY of Penobscot

Pending — Enactment

(In Senate June 10, 1983 Passed to be Engrossed as Amended by Senate Amendment "A" (S-189))

(In House June 15, 1983 Passed to be Enacted)

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

The President laid before the Senate:

An Act to Extend the Time for Acquiring those Areas which have been Designated Potential Passamaquoddy Indian Territory (H. P. 1291) (L. D. 1712)

Tabled — June 15, 1983 by Senator PRAY of Penobscot

Pending — Enactment

(In Senate June 10, 1983 Passed to be Engrossed as Amended by Senate Amendment "A" (S-188))

(In House June 15, 1983 Passed to be Enacted)

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

The President laid before the Senate:

An Act to Create Boothbay Region Waterfowl Sanctuary (H. P. 713) (L. D. 904)

Tabled — June 15, 1983 by Senator PRAY of Penobscot

Pending — The Motion of Senator SEWALL of Lincoln to Reconsider Enactment

(In House June 15, 1983 Passed to be Enacted)

(In Senate June 15, 1983 Passed to be Enacted)

The PRESIDENT: The pending question before the Senate is the motion by the Senator from Lincoln, Senator Sewall that the Senate Reconsider its action whereby L. D. 904 was Passed to be Enacted.

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

The Chair recognizes the Senator from Aroostook, Senator Carpenter.

Senator CARPENTER: I request a Division.

The PRESIDENT: A Division has been requested.

Will all those Senators in favor of the motion by the Senator from Lincoln, Senator Sewall to Reconsider its action whereby L. D. 904 was Passed to be Enacted, please rise in their places to be counted.

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

3 Senators having voted in the affirmative, and 25 Senators having voted in the negative, the motion to Reconsider Failed.

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

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