

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

***One Hundred and Eleventh
Legislature***

OF THE

STATE OF MAINE

SECOND REGULAR SESSION

January 4, 1984 to April 25, 1984

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FOURTH CONFIRMATION SESSION

(FIRST CONFIRMATION SESSION – SECOND REGULAR SESSION)

May 31, 1984

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FIFTH CONFIRMATION SESSION

(SECOND CONFIRMATION SESSION – SECOND REGULAR SESSION)

July 11, 1984

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THIRD SPECIAL SESSION

September 4, 1984 to September 11, 1984

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STATE OF MAINE
 One Hundred and Eleventh Legislature
 Second Regular Session
 JOURNAL OF THE SENATE
 In Senate Chamber
 Friday
 April 6, 1984
 Senate called to Order by the President.

Prayer by Dr. Peter Misner of the Winthrop United Methodist Church.

DR. MISNER: Let us pray! Almighty God at the opening of this days work we give thanks for the privilege and responsibility which is laid upon this Body. Grant we pray that those who serve here may exercise clear vision and good judgment as they consider the needs all across our State.

We recognize before you, O'God, that the task of decision is a treasure held in earthen vessels. In and of ourselves we have neither great wisdom nor great power, therefore we ask that Your guidance may enlighten the places where shadows dark hour cloud our understanding. Grant the Members of this Senate to walk with inner light among shades of gray and to dare to stand for those causes they believe to be ultimately right.

Let the deliberations of this day move so that a climate of justice and peace may prevail, that we may receive at days end the satisfaction of work well done. Amen.

Reading of the Journal of Tuesday, April 3, 1984.

PAPERS FROM THE HOUSE

Non-concurrent Matter

Bill "An Act to Encourage the Use of Wood and Solid Waste as a Source of Energy in State-owned Buildings" S. P. 879 L. D. 2383
 In Senate March 29, 1984 PASSED TO BE ENGROSSED.

Comes from the House PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "A" (H-631) in NON-CONCURRENCE.

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

SENATOR KANY: I move we Recede and Concur.

THE PRESIDENT: The Senator from Kennebec, Senator Kany, moves that the Senate Recede and Concur with the House.

On motion by Senator PRAY of Penobscot, TABLED until later in today's session, pending the motion by Senator KANY of Kennebec to RECEDE and CONCUR with the House.

Non-concurrent Matter

Bill "An Act to Require an Inventory, Permitting and Monitoring of Underground Tanks Containing Gasoline, Oil and Toxic Materials" (Emergency) S. P. 857 L. D. 2324

In Senate April 3, 1984 PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-363).

Comes from the House PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-363) AS AMENDED BY HOUSE AMENDMENT "A" (H-641) thereto in NON-CONCURRENCE.

On motion by Senator KANY of Kennebec, the Senate voted to RECEDE and CONCUR with the House.

Non-concurrent Matter

Bill "An Act to Ensure Universal Telephone Service for Maine People" S. P. 778 L. D. 2097

In Senate March 29, 1984 PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-340).

Comes from the House PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-340) AND HOUSE AMENDMENT "A" (H-627) in NON-CONCURRENCE.

On motion by Senator BALDACCI of Penobscot, the Senate voted to RECEDE and CONCUR with the House.

House Papers

Bill "An Act to Amend the Law Concerning Suspensions of Drivers' Licenses on Administrative Determination of Blood-alcohol Content" (Emergency) H. P. 1838 L. D. 2431

Comes from the House referred to the Committee on JUDICIARY and ORDERED PRINTED.

Which was referred to the Committee on JUDICIARY and ORDERED PRINTED, in concurrence.

COMMUNICATIONS

The Following Communication:

OFFICE OF THE TREASURER

To: Gerard P. Conley, President of the Senate

From: Samuel Shapiro, Treasurer
 Re: L. D. #561—Unorganized Territory

As required under Chapter 561 the Treasurer submits an estimate of the percentage of the Local Government Fund that would be paid to the Unorganized Territory if it were treated in the same manner as a municipality under Title 30, Section 5055.

Unorganized Territory distribution for the calendar year 1983 would have been:

Estimated \$69,871.74
 Formula derived from date base sources:

	Commitment or
Population	Valuation
6964	732,257,676
	Assessment
	6,239,527

Which was READ and with accompanying papers ORDERED PLACED ON FILE.

The Following Communication:
COMMITTEE ON AUDIT AND PROGRAM REVIEW

April 5, 1984

The Honorable Gerard P. Conley
 President of the Senate

State House
 Augusta, Maine 04333

Dear Senator Conley:

We are pleased to report that the Joint Standing committee on Audit and Program Review has reported out all the legislation before us this session. Now that we have completed these items we are planning for the agencies coming up for review which include the Public Utilities Commission, the Department of Marine Resources, the Department of Environmental Protection, the State Planning Office, Office of Energy Resources and the Maine Development Foundation.

We want to thank you for your assistance and thank the many legislators who provided input this year. We feel that this has been a productive review.

Sincerely,
 S/ G. WILLIAM DIAMOND

Senate Chair
 S/ NEIL ROLDE

House Chairman

Which was READ and ORDERED PLACED ON FILE.

The Following Communication:
OFFICE OF ENERGY RESOURCES

April 3, 1984

The Honorable Gerard P. Conley
 President of the Senate

State House
 Augusta, Maine 04333

Dear Senator Conley:

As required by Joint Resolution S. P. 722 (February 22, 1984) Calling for an Investigation of Heating Oil Prices, I am pleased to transmit to you the report of the Office of Energy Resources on Heating Oil Prices. The report contains an analysis of the reasons for the price increases and finds no evidence of price-fixing or any other illegal activity on the part of the major oil companies.

Sincerely,
 S/ JOHN M. KERRY

Which was READ and with accompanying papers ORDERED PLACED ON FILE.

The Following Communication:

**STATE OF MAINE
 HOUSE OF REPRESENTATIVES**

April 3, 1984

Honorable Joy J. O'Brien
 Secretary of the Senate

111th Legislature
 Augusta, Maine 04333

Dear Madam Secretary:

The Speaker appointed the following conferees to the Committee of Conference on the disagreeing action of the two branches of the Legislature on Bill "An Act to Permit Public Service in Lieu of Fines for Indigent Offenders Under the Drunk Driving Law" (H. P. 1427) (L. D. 1872)

Representative CARRIER of Westbrook
 Representative JACQUES of Waterville
 Representative REEVES of Newport

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

Which was READ and ORDERED PLACED ON FILE.

The Following Communication:

**STATE OF MAINE
 HOUSE OF REPRESENTATIVES**

April 3, 1984

Honorable Joy J. O'Brien
 Secretary of the Senate

111th Legislature
 Augusta, Maine 04333

Dear Madam Secretary:

The Speaker appointed the following conferees to the Committee of Conference on the disagreeing action of the two branches of the Legislature on Bill "An Act to Allow the State, Counties and Municipalities to Buy Employee Deferred Compensation Plans from Financial Institutions" (H. P. 1412) (L. D. 1834)

Representative GWADOSKY of Fairfield
 Representative COOPER of Windham
 Representative DILLENBACK of

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

Which was READ and ORDERED PLACED ON FILE.

The Following Communication:

COMMITTEE ON MARINE RESOURCES

April 4, 1984

The Honorable Gerard P. Conley
 President of the Senate of Maine

State House
 Augusta, Maine 04333

Dear President Conley:

In accordance with 3 M.R.S.A., Chapter 6, Section 151, and with Joint Rule 38 of the 111th Maine Legislature, the Joint Standing Committee on Marine Resources has had under consideration the nomination of Louis J. Zglobicki, O.D. of Falmouth, as a member of the Marine Resources Advisory Council.

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

YEAS:	Senators	1
	Representatives	10
NAYS:		0
ABSENT:	2 (Sen. Dutremble of York and Sen. Shute of Waldo)	

Eleven 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 Louis J. Zglobicki, O.D. of Falmouth, as a member of the Marine Resources Advisory Council be confirmed.

Sincerely,
 S/ CARROLL E. MINKOWSKY
 Senate Chair
 S/ NATHANIEL J. CROWLEY, SR.
 House Chair

Which was READ and ORDERED PLACED ON FILE.

THE PRESIDENT: The Joint Standing Committee on Marine Resources has recommended that the nomination of Louis J. Zglobicki, O.D. of Falmouth, be confirmed.

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

Is the Senate ready for the question?

The Doorkeepers will secure the Chamber. The Secretary will call the roll.

ROLL CALL

YEAS—None.

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

ABSENT—Senators: Danton, Dutremble, Pray, Redmond, Usher.

No Senators having voted in the affirmative and 28 Senators having voted in the negative, with 5 Senators being absent and None being less than two-third's of the membership present, it is the vote of the Senate that the Committee's recommendation be ACCEPTED.

The nomination of Louis J. Zglobicki was CONFIRMED.

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

The Following Communication: COMMITTEE ON MARINE RESOURCES April 4, 1984

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

In accordance with 3 M.R.S.A., Chapter 6, Section 151, and with Joint Rule 38 of the 111th Maine Legislature, the Joint Standing Committee on Marine Resources has had under consideration the nomination of Donald Wotton of Boothbay, as a member of the Marine Resources Advisory Council.

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

YEAS:	Senators	1
	Representatives	10
NAYS:		0
ABSENT:	2 (Sen. Dutremble of York and Sen. Shute of Waldo)	

Eleven 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 Donald Wotton of Boothbay, as a member of the Marine Resources Advisory Council be confirmed.

Sincerely,
S/ CARROLL E. MINKOWSKY
Senate Chair
S/ NATHANIEL J. CROWLEY, SR.
House Chair

Which was READ and ORDERED PLACED ON FILE.

THE PRESIDENT: The Joint Standing Committee on Marine Resources has recommended that the nomination of Donald Wotton of Boothbay be confirmed.

The pending question before the Senate is: Shall the recommendation of the Committee on Marine Resources be overridden? In accordance with 3 M.R.S.A., Chapter 6, section 151

and with Joint Rule 38 of the 111th Legislature, the vote will be taken by the yeas and nays. A vote of Yes will be in favor of overriding the recommendation of the Committee. A vote of No will be in favor of sustaining the recommendation of the Committee.

Is the Senate ready for the question?

The Doorkeepers will secure the Chamber. The Secretary will call the roll.

ROLL CALL

YEAS—None.

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

ABSENT—Senators: Dutremble, Perkins, Redmond, Usher.

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

The nomination of Donald Wotton is CONFIRMED.

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

The Following Communication: COMMITTEE ON MARINE RESOURCES April 4, 1984

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

In accordance with 3 M.R.S.A., Chapter 6, Section 151, and with Joint Rule 38 of the 111th Maine Legislature, the Joint Standing Committee on Marine Resources has had under consideration the nomination of Peter Inniss of Kennebunk, as a member of the Marine Resources Advisory Council.

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

YEAS:	Senators	1
	Representatives	10
NAYS:		0
ABSENT:	2 (Sen. Dutremble of York and Sen. Shute of Waldo)	

Eleven 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 Peter Inniss of Kennebunk, as a member of the Marine Resources Advisory Council be confirmed.

Sincerely,
S/ CARROLL E. MINKOWSKY
Senate Chair
S/ NATHANIEL J. CROWLEY, SR.
House Chair

Which was READ and ORDERED PLACED ON FILE.

THE PRESIDENT: The Joint Standing Committee on Marine Resources has recommended that the nomination of Peter Inniss of Kennebunk be confirmed.

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

Is the Senate ready for the question?

The Doorkeepers will secure the Chamber. The Secretary will call the roll.

ROLL CALL

YEAS—None.

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

ABSENT—Senators: Dutremble, Redmond, Usher.

No Senators having voted in the affirmative and 30 Senators having voted in the negative, with 3 Senators being absent and None being less than two-third's of the membership present, it is the vote of the Senate that the Committee's recommendation be ACCEPTED.

The nomination of Peter Inniss is CONFIRMED.

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

COMMITTEE REPORTS

House

Leave to Withdraw

The following LEAVE TO WITHDRAW reports shall be placed in the Legislative Files without further action pursuant to Rule 15 of the Joint Rules:

Bill "An Act to Revise the Laws Pertaining to Bail in Criminal Cases" H. P. 1467 L. D. 1919

Bill "An Act Concerning Interviews of Accused Persons by Bail Commissioners or Judges" H. P. 1429 L. D. 1874

Ought to Pass

The Committee on JUDICIARY on Bill "An Act Concerning Use of Computer Transcripts" H. P. 1748 L. D. 2302

Reported that the same Ought to Pass.

Comes from the House with the Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED.

Which Report was READ and ACCEPTED, in concurrence.

The Bill READ ONCE.

THE PRESIDENT: Is it the pleasure of the Senate that under suspension of the rules this Bill be given its Second Reading at this time by Title Only?

It is a vote.

Under suspension of the rules the Bill READ A SECOND TIME and PASSED TO BE ENGROSSED, in concurrence.

Ought to Pass As Amended

The Committee on JUDICIARY on Bill "An Act to Promote Family Permanency" H. P. 1637 L. D. 2166

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-647).

Comes from the House, with the Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-647).

Which Report was READ and ACCEPTED, in concurrence.

The Bill READ ONCE.

Committee Amendment "A" (H-647) was READ and ADOPTED, in concurrence.

THE PRESIDENT: Is it the pleasure of the Senate that under suspension of the rules this Bill be given its Second Reading at this time 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 JUDICIARY on Bill "An Act to Amend the Restitution Provisions of the Victims' Bill of Rights" H. P. 1697 L. D. 2251

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-648).

Comes from the House, with the Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE

TEE AMENDMENT "A" (H-648).

Which Report was READ and ACCEPTED, in concurrence.

The Bill READ ONCE.

Committee Amendment "A" (H-648) was READ and ADOPTED, in concurrence.

THE PRESIDENT: Is it the pleasure of the Senate that under suspension of the rules this Bill be given its Second Reading at this time by Title Only?

It is a vote.

Under suspension of the rules the Bill READ A SECOND TIME and PASSED TO BE ENGROSSED as Amended in concurrence.

Ought to Pass in New Draft

The Committee on PUBLIC UTILITIES on Bill "An Act to Require Downstream Public Notification of Release of Water Impoundments" H. P. 1613 L. D. 2135

Reported that the same Ought to Pass in New Draft under same title. H. P. 1808 L. D. 2390

Comes from the House, the Report READ and ACCEPTED and the Bill in NEW DRAFT PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "A" (H-638).

Which Report was READ and ACCEPTED, in concurrence.

The Bill in NEW DRAFT READ ONCE.

House Amendment "A" (H-638) was READ and ADOPTED in concurrence.

THE PRESIDENT: Is it the pleasure of the Senate that under suspension of the rules this Bill be given its Second Reading at this time by Title Only?

It is a vote.

Under suspension of the rules the Bill in NEW DRAFT READ A SECOND TIME and PASSED TO BE ENGROSSED as Amended in concurrence.

Senate

Ought to Pass in New Draft

Senator EMERSON for the Committee on PUBLIC UTILITIES on Bill "An Act Regarding Franchising and Regulation of Cable Television Systems" S. P. 745 L. D. 2048

Reported that the same Ought to Pass in New Draft under same title. S. P. 903 L. D. 2423

Which Report was READ.

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

SENATOR CARPENTER: I move this Item lay on the Table 1 Legislative Day, pending the acceptance of the Committee Report.

THE PRESIDENT: The Senator from Penobscot, Senator Carpenter, now moves that this Item be Tabled 1 Legislative Day, pending the Acceptance of the Unanimous Ought to Pass in New Draft Report of the Committee.

On motion by Senator BALDACCI of Penobscot, TABLED until later in today's session, pending ACCEPTANCE OF THE COMMITTEE REPORT.

Senator DIAMOND for the Committee on AUDIT AND PROGRAM REVIEW on Bill "An Act Relating to Periodic Justification of Departments and Agencies of State Government under the Maine Sunset Laws" S. P. 770 L. D. 2077

Reported that the same Ought to Pass in New Draft under same title (S. P. 899) (L. D. 2417) pursuant to the Revised Statutes, Title 3, Chapter 23.

Which Report was READ and ACCEPTED.

The Bill in NEW DRAFT READ ONCE.

THE PRESIDENT: Is it the pleasure of the Senate that under suspension of the rules this Bill be given its Second Reading at this time by Title Only?

It is a vote.

Under suspension of the rules the Bill in NEW DRAFT READ A SECOND TIME.

On motion by Senator CARPENTER of Aroostook, TABLED until later in today's ses-

sion, pending PASSAGE TO BE ENGROSSED.

Divided Report

The Majority of the Committee on PUBLIC UTILITIES on Bill "An Act to Limit the Authority of the Public Utilities Commission to Award Compensation to Intervenor" (Emergency) S. P. 763 L. D. 2071

Reported that the same Ought to Pass in New Draft under same title. (Emergency) S. P. 904 L. D. 2424

Signed:

Sensors:

BALDACCI of Penobscot
KANY of Kennebec
EMERSON of Penobscot

Representatives:

MATTHEWS of Winslow
VOSE of Eastport
BAKER of Portland
BOST of Orono
McGOWAN of Pittsfield

The Minority of the same Committee on the same subject reported that the same Ought to Pass as Amended by Committee Amendment "A" (S-370).

Signed:

Representatives:

RIDLEY of Shapleigh
WEYMOUTH of West Gardiner
ROBINSON of Auburn
RODERICK of Oxford
PARADIS of Old Town

Which Reports were READ.

The Majority OUGHT TO PASS IN NEW DRAFT Report ACCEPTED.

The Bill in NEW DRAFT READ ONCE.

THE PRESIDENT: Is it the pleasure of the Senate that under suspension of the rules this Bill be given its Second Reading at this time by Title Only?

It is a vote.

Under suspension of the rules the Bill in NEW DRAFT READ A SECOND TIME and PASSED TO BE ENGROSSED.

Sent down for concurrence.

Divided Report

The Majority of the Committee on JUDICIARY on Bill "An Act to Prevent Unjust Enrichment by Retention of Surplus upon Foreclosure of Municipalities and Sewer Districts" S. P. 597 L. D. 1719

Reported that the same Ought Not to Pass.

Signed:

Sensor:

COLLINS of Knox

Representatives:

BENOIT of South Portland
REEVES of Newport
DRINKWATER of Belfast
LIVESAY of Brunswick
HAYDEN of Durham
CARRIER of Westbrook
JOYCE of Portland
HOBBINS of Saco
SOULE of Westport
FOSTER of Ellsworth

The Minority of the same Committee on the same subject reported that the same Ought to Pass in New Draft Under New Title Bill "An Act to Provide Guidelines for Sale of Tax-acquired Property" S. P. 905 L. D. 2433

Signed:

Sensors:

VIOLETTE of Aroostook
TRAFTON of Androscoggin

Which Reports were READ.

THE PRESIDENT: The Chair recognizes the Senator from Androscoggin, Senator Trafton. SENATOR TRAFTON: Thank you, Mr. President. I move that the Senate Accept the Minority Ought to Pass in New Draft Report of the Committee.

THE PRESIDENT: The Senator from Androscoggin, Senator Trafton, now moves that the Senate Accept the Minority Ought to Pass in New Draft Report of the Committee.

The Chair recognizes the Senator from Knox, Senator Collins.

SENATOR COLLINS: I request a Division.

THE PRESIDENT: A Division has been requested.

Will all those Senators in favor of the motion by Senator Trafton of Androscoggin to Accept the Minority Ought to Pass in New Draft Report of the Committee, please rise in their places and remain standing until counted.

Will all those Senators opposed, please rise in their places and remain standing until counted.

17 Senators having voted in the affirmative, and 13 Senators having voted in the negative, the motion to ACCEPT the Minority OUGHT TO PASS IN NEW DRAFT Under New Title Report PREVAILED.

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 this Bill be given its Second Reading at this time by Title Only?

It is a vote.

Under suspension of the rules the Bill in NEW DRAFT Under New Title READ A SECOND TIME and PASSED TO BE ENGROSSED.

Sent down for concurrence.

Divided Report

The Majority of the Committee on ENERGY AND NATURAL RESOURCES on Bill "An Act Relating to Enforcement of Land Use Laws" S. P. 761 L. D. 2069

Reported that the same Ought to Pass in New Draft Under New Title Bill "An Act Concerning Enforcement of Land Use Laws" S. P. 901 L. D. 2419

Signed:

Sensors:

KANY of Kennebec
PEARSON of Penobscot

Representatives:

MICHAEL of Auburn
MITCHELL of Freeport
McGOWAN of Pittsfield
HALL of Sangerville
JACQUES of Waterville

The Minority of the same Committee on the same subject reported that the same Ought to Pass in New Draft under same title. S. P. 900 L. D. 2418

Signed:

Sensor:

McBREAIRTY of Aroostook

Representatives:

MICHAUD of East Millinocket
KIESMAN of Fryeburg
BROWN of Livermore Falls
RIDLEY of Shapleigh
DEXTER of Kingfield

Which Reports were READ.

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

SENATOR McBREAIRTY: Mr. President, I move we Accept the Minority Report.

THE PRESIDENT: The Senator from Aroostook, Senator McBreairty, now moves that the Senate Accept the Minority Ought to Pass in New Draft (S. P. 900) (L. D. 2418) Report of the Committee.

The Chair recognizes the Senator from Kennebec, Senator Kany.

SENATOR KANY: Mr. President, and Members of the Senate, I assumed that, that would go under the hammer, but I guess I should never assume anything in the Maine Senate.

I hope that you do vote against this motion and instead go with the Majority Report, I certainly would hope that you would. There are just two major differences between the two Reports.

First, and perhaps most importantly, the Majority Report would allow, would make certain that municipalities would recover their costs of taking violators to court, if indeed the municipality wins. It has been a significant prob-

lem from the municipalities we've heard from throughout the State. Certainly, the Maine Municipal Association and others have urged us to include this provision more than any other. I certainly hope that you vote against the pending motion and in favor of the Majority Ought to Pass Report.

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

SENATOR MCBREAIRTY: Mr. President and Honorable Members of the Senate, adopting the Majority Report is similar to going after a sledge hammer to kill a mosquito.

The "Trafton Report" indicated that most land use violations were minor violations and most land use violations were due to ignorance of the law.

Now, the Minority Report does nearly everything that the Majority Report does with the exception of creating five new positions in DEP and one new position in the Attorney General's Office. The Minority Report does allow municipalities to recover attorneys' fees, it does allow code enforcement officers to act for the town in district court and it, I believe, is sufficient to take care of the problem as it exists today. I would hope that you would adopt this Report. I ask for a division on it.

THE PRESIDENT: A Division has been requested.

The Chair recognizes the Senator from Androscoggin, Senator Trafton.

SENATOR TRAFTON: Thank you, Mr. President. Mr. President and Members of the Senate, the good Senator from Aroostook, Senator McBreairty referred to the "Trafton Report," this is not the old "Trafton Report" under the former Senator from Androscoggin, but the NEW "Trafton Report" that I was involved in regarding the Local Land Use Violation Commission which was the Commission that was created under the Rivers Bill which the Legislature passed in its First Session.

This Commission met many times throughout the fall into the beginning of January. On it were representatives of the Realtors, the Maine Bar Association, local officials, regional planning officials and environmental interests and we looked at the problem of whether or not our local land use laws and State land use law were being adequately enforced. We held public hearings throughout the State and it became very clear and very evident that at least twenty percent of the building and development activity within the State of Maine was being done in violation of local ordinance and State law. Beyond that what the Commission heard was that we in Augusta, we Members of the Legislature, and former Legislators have passed laws in Augusta mandating municipalities to pass laws as to land use and then enforce these laws on their own. Little has been done in Augusta to assist the towns in their efforts to enforce these State mandated land use laws.

The goal of the Committee in its developing legislation to submit to this Session of the Legislature was to extend a helping hand to the municipalities, to assist them in enforcing their local land use ordinances most of which has been mandated by State law.

I point out as an example shore land zoning. Several years ago the Legislature said that every municipality in the State of Maine must zone the areas within two hundred and fifty feet of any waterway. It simply said "You pass these ordinances and you take care of them." It appointed within the State Planning Office one person to assist the municipalities in developing these ordinances, but as to enforcement very little if anything was done to assist the municipalities.

This particular legislation is the result of many Commission meetings, the input of many people, and the work of a very dedicated Committee, the Committee on Energy and Natural Resources. There has been a fair amount of debate and shifting within the Committee, but the result of that Committee

work is two separate reports.

The motion pending now is whether to accept the Minority Report, that is not the Committee Report which was recommended by the Commission on Local Land Use Violations. The Commission of Local Land Use Violations recommended a particular piece of legislation that is much more similar to the Majority Report. The difference, and the principle difference, is that the Majority Report does extend the helping hand, does assist the municipalities in meeting their enforcement obligations. It provides a unit within DEP to answer the questions that municipalities have, to assist code enforcement officers at the local level in their problems with enforcing local and state laws.

So I urge you, accept the product of the Local Land Use Violations Commission, accept the product of the Majority of the Committee on Energy and Natural Resources and support your own towns, support your own local code enforcement officers and give them the helping hand that they need. I urge you not to vote for the pending motion but to Accept the Majority Ought to Pass Report of the Committee on Energy and Natural Resources.

(OFF RECORD REMAKRS)

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

SENATOR COLLINS: Mr. President, this Bill is one of the important environmental items of our session. I have a lot of sympathy with both reports and in trying to reach my own decision about which one to support, I come down on the side of the Minority Report for this reason. The Majority Report has in it six new positions in State Government. We all know that six new positions do not come cheaply and this means the Bill would go on the Appropriations Table. As we see the usual end of the session budget crunch coming I have great concerns as to whether this Bill would survive the Table, because I think the good in it is important even without the extra positions I'm going to vote in favor of the Minority Report because I think that will establish important principles, at least it will help the municipalities to some degree. Then maybe if we need more people in State Government to help it along at a later time, we'll be able to find the money after the law is in place.

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

SENATOR KANY: Mr. President and Members of the Maine Senate, I hope that you do vote against the pending motion and vote in favor of the Majority Report just because we may be limited in funds is no reason, at this point, to not vote for something which could definitely help the municipalities of the State of Maine. Not only help the municipalities, themselves, but help the citizens acquire better drinking water. I'd like to point out that what we're talking about is just not aesthetic things at all, but things that have to do definitely with the quality of the water bodies of the State of Maine. We have heard from many of our towns that they are having problems with the quality of their drinking water, we are talking about plumbing codes and so on.

I urge you to vote against the pending motion, to vote in favor of a little bit stronger measure, still it's all local control and to allow those municipalities to do their job as they wish to do.

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

SENATOR PRAY: Thank you, Mr. President. Mr. President, I'd like to pose a question through the Chair to any member of the Energy and Natural Resources Committee that may care to answer.

After the remarks of the Senator from Knox, Senator Collins, and his concerns for the Appropriations Table and the budgetary crunch, I

come down with a concern as to whether or not which Bill would be better, no bill as all or the Minority Report, if the dollars are not there? If we do now vote against the Minority Report in favor of the Majority Report which does establish six positions, it may be an exercise in futility to the fact that the dollars are not there and we end up with absolutely nothing on the books. My concerns is that we do strengthen the laws to some degree. I know we won't know if the money is there until the end, but in my own mind I'd be a little bit more at ease if I knew if it was better to have at least the Minority Report to no report at all.

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 Kennebec, Senator Kany.

SENATOR KANY: Mr. President, Members of the Senate, even if the Appropriations is cut, in the end there are other provisions within the Majority Report that certainly should be kept. The first one that I had mentioned has nothing to do with an appropriation and it is the most significant part of the bill, as far as the municipalities are concerned, and that is the one that states that the municipalities shall recover their costs from violators.

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

SENATOR TRAFTON: Thank you, Mr. President. Mr. President and Members of the Senate, Senator Collins of Knox raises a very legitimate question. I certainly would not want the product of the Local Land Use Violation Commission to be lost for a lack of dollars, however, like us all, I have a contingency plan. If the Bill in the Majority Report goes to the Appropriations Table and it is unable to gather the dollars that are necessary to fund it I have an amendment, that is in my desk drawer, which would accept those portions of the Bill which would require money, however, that amendment would preserve the substantive differences which Senator Kany from Kennebec, refers to.

There are two principle substantive differences. One the mechanism, which the good Senator from Kennebec refers to, that which allows the municipality to recover its costs, including legal fees, in the event it brings a violator to court and wins.

The second substantive provision is one which is more technical and I won't get into the specific merits but it deals with the restoration of a particular area once a development activity is gone on in violation of the law.

So that I believe that we can amend the Bill if funds are not found at the Appropriations Table and I urge you to support the Majority Report in order to preserve those two substantive differences in the Bill. Thank you.

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

SENATOR MINKOWSKY: Mr. President and Members of the Senate, those so-called land violators are basically citizens of the State of Maine, people who are our constituents. If I understand what I'm reading from what's now being referred to as the "Lerman Report" in this particular document here, I don't truly believe many of our Maine citizens, even though it refers to this report as being "ignorant" and that's a horrible term to use for our Maine citizens, should be put into a situation where this really becomes another area for our legal profession to have more cases in which to process with the over-loaded court system at the present time.

In part of this report it stated in 1982, two hundred and forty municipalities reported 17,724 permits were issued for various types of building. If ten or twenty percent of these are in violation of existing law, that means seventeen hundred to three thousand, five hundred buildings per year are constructed in violation of the law. Do you really, sincerely, believe our

Maine citizens who are property owners are deliberately out there trying to break the law, trying to have a deleterious effect on our water supply? That was one of the major issues raised by Senator Kany earlier. I don't look upon the individual property owners along Maine's shoreline in the State of Maine as being this type of a culprit.

I look upon the industrial pollution that's getting into our ground water as maybe the major contributing factor to the problems we are having in the State of Maine, plus another report recently brought out eleven million gallons of gasoline getting into our ground water. Here the onus is being placed upon the people who, in good conscious, are trying to improve their property, to be proud of their property, and yet, here we are, Legislators, regulating, over-legislating the rights of the citizens of the State of Maine that we truly, and allegedly truly, we are representing in this particular Body.

I am, also, concerned with the proliferation of DEP (the Department of Environmental Protection). This is not a very, very inexpensive operation to maintain. If we are talking in the area of seventeen hundred violations per year to thirty-five hundred violations, does that additional cost to the taxpayers, as well as on the court docket, justify what we are doing in this piece of legislation?

I just became aware of this particular legislation this morning, and of course I'm very new at trying to evaluate very quickly what the true intent and purpose of this legislation is, but from what I understand so far, insofar as creating additional jobs for the Department of Environmental Protection, as well as another factor that makes our code enforcement officers process servers, they will have now police powers in which to go out and serve a landowner for violation. I really think we're going a little too far too quickly without a good, thorough, in-depth evaluation and especially debate on the Floor of this Senate.

THE PRESIDENT: The Chair recognizes the Senator from Androskoggin, Senator Trafton.

SENATOR TRAFTON: Thank you, Mr. President. Mr. President and Members of the Senate, as the good Senator from Androskoggin, Senator Minkowsky, indicates he has just received some notice of this Bill this morning, I suggest that this Bill is much more complicated than to deserve only a half an hour review.

The Commission on Local Land Use Violation met extensively, its report went into detail, its report was distributed among Members of this Body, as well as, the other Body and throughout the State. The report does a great deal to reduce the effect of litigation stemming from land use violations on the courts. It proposes to move all, or the majority, at least, of the land use violations to district court.

The recommendation of the Commission, also, is to create a fast-track system within the District Court to reduce the amount of judge time and attorney time and enforcement time necessary for municipalities and the State. The net effect of this Legislation will be to cut the costs of enforcement throughout the State.

I suggest that nobody is going to get rich on this particular legislation, there won't be attorneys seeking to bring this type of action to court because in fact the Legislation, and the Commission Report encourages towns to go to court without an attorney and that was the specific intent of the Commission.

Towns have cried out for help, that was the recurring theme throughout the public hearing which we held. Towns are asking for assistance which they simply haven't received. I think it's hypercritical for the Legislature, this Legislature and past Legislatures to pass laws such as shore-land zoning, mandating the municipalities to pass their own ordinances and enforce those ordinances and not have the State provide the assistance necessary for those towns. We know that our property tax

burden is great back home and yet, we sit here in Augusta, often, and pass laws which have a direct effect on our general government costs which include code enforcement.

So I encourage you to take the responsibility on your shoulders today and say, that if we're going to pass laws which are all passed, which exist on the books today, then we have a obligation to provide assistance to our municipalities to help them enforce it. The Majority Report of the Committee on Energy and Natural Resources provides that assistance. It's not a lot of assistance, the cost is a hundred thousand dollars. As I say if that hundred thousand dollars isn't found on the Appropriations Committee then we can amend the Bill and salvage what is left of that report. It still will be a good measure and assist municipalities, but I urge you to defeat the pending motion, vote against the pending motion and come back to accept the Majority Ought to Pass Report of the Committee.

(OFF RECORD REMARKS)

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

SENATOR KANY: I ask for a Roll Call please.

THE PRESIDENT: A Roll Call has been requested.

The Chair recognizes the Senator from Aroostook, Senator McBreaity.

SENATOR MCBREAIRTY: Mr. President and Honorable Members of the Senate, the Majority Report reads: "if the municipality is the prevailing party, it shall be awarded reasonable attorneys' fees, expert witness fees and costs. If the defendant is the prevailing party, he may be awarded reasonable attorneys' fees, expert witness fees and costs as provided by the Court." Now, the Minority Report treats both the town and the defendant the same, and I don't know why it shouldn't.

As I stated before, the report indicated that many, many of these violations were minor, very minor, due to ignorance of the law. Now, I think the Minority Report, plus a little education, maybe in the town report and this sort of thing, will take care of the problem without creating another bureau over here in the Department of DEP.

As far as ground water is concerned, many of our ground water problems have come from solid waste sites, cited by DEP, and now they find that they made a mistake. So I don't think creating five more positions over here will guarantee that our ground water will clear up at all. 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 Aroostook, Senator McBreaity to Accept the Minority Ought to Pass in New Draft (S. P. 900) (L. D. 2418) Report of the Committee.

A Yes vote will be in favor of Accepting the Minority Ought to Pass in New Draft Report.

A No vote will be opposed.

The Doorkeepers will secure the Chamber.

The Secretary will call the roll.

ROLL CALL

YEAS: Senators, Collins, Emerson, Gill, Hichens, McBreaity, Minkowsky, Perkins, Redmond, Sewall, Shute, Teague, Twitchell.
NAYS: Senators, Baldacci, Brown, Bustin, Carpenter, Charette, Clark, Danton, Diamond, Dow, Erwin, Hayes, Kany, Najarian, Pearson, Pray, Trafton, Usher, Violette, Wood, The President—Gerard P. Conley.

ABSENT—Senator, Dutremble.

12 Senators having voted in the affirmative and 20 Senators having voted in the negative, with 1 Senator being absent, the motion to ACCEPT the Minority OUGHT TO PASS IN NEW DRAFT (S. P. 900) (L. D. 2418) Report FAILED.

The Majority OUGHT TO PASS IN NEW DRAFT UNDER NEW TITLE (S. P. 901) (L. D. 2419) Report was 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 this Bill be given its Second Reading at this time by Title Only?

It is a vote.

Under suspension of the rules the Bill in NEW DRAFT UNDER NEW TITLE READ A SECOND TIME and PASSED TO BE ENGROSSED.

Sent down for concurrence.

SECOND READERS

The Committee on BILLS IN THE SECOND READING reported the following:

House

Bill "An Act to Establish Standards and a Policy for the Compensation of Members of Boards, Commissions and Similar Organizations" H. P. 1807 L. D. 2389

Which was READ A SECOND TIME and PASSED TO BE ENGROSSED, in concurrence. (See action later today)

ENACTOR

The Committee on ENGROSSED BILLS reported as truly and strictly engrossed the following:

AN ACT to Create the Maine Uniform Accounting and Auditing Practices Act for Community Agencies. H. P. 1798 L. D. 2375

Which was PASSED TO BE ENACTED and having been signed by the President, was presented by the Secretary to the Governor for his approval.

On motion by Senator PRAY of Penobscot, the Senate RECONSIDERED its action of earlier in today's session whereby it PASSED TO BE ENGROSSED:

Bill "An Act to Establish Standards and a Policy for the Compensation of Members of Boards, Commissions and Similar Organizations" H. P. 1807 L. D. 2389

On motion by Senator PRAY of Penobscot, TABLED until later in today's session, pending PASSAGE TO BE ENGROSSED.

ORDERS OF THE DAY

The President laid before the Senate:

Resolve, Authorizing the Exchange of Certain Public Reserved Lands. S. P. 810 L. D. 2168

Tabled—March 30, 1984 by Senator PRAY of Penobscot.

Pending—The motion of Senator KANY of Kennebec to RECEDE AND CONCUR.

(In Senate March 27, 1984 PASSED TO BE ENGROSSED)

(In House March 29, 1984 PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "A" (H-619) in NON-CONCURRENCE.

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

SENATOR KANY: I wish to Withdraw my Motion to Recede and Concur and I move to Adhere.

THE PRESIDENT: The Senator from Kennebec, Senator Kany, now requests Leave of the Senate to Withdraw her motion to Recede and Concur.

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

It is a vote.

The Chair now understands that the Senator from Kennebec, Senator Kany, moves that the Senate Adhere.

Is this the pleasure of the Senate?

The Chair recognizes the Senator from Ken-

nebec, Senator Kany.

SENATOR KANY: Mr. President and Members of the Senate, I wish to offer an explanation.

An amendment which had been put on in the other Body would have precluded the Bureau of Public Lands from building a permanent causeway to Gero Island. Since then the Bureau of Public Lands has decided not to apply, has actually removed its application from such a permanent causeway. Therefore, the amendment is not needed if we wish to preclude them from taking such action, therefore, I move to Adhere.

On motion by Senator KANY of Kennebec the Senate ADHERED.

The President laid before the Senate:

Bill "An Act to Provide a Transition Period for Certain Educational Equivalence Provisions in the Psychologists License Law" H. P. 1786 L. D. 2362

Tabled—April 3, 1984 by Senator CARPENTER of Aroostook.

Pending—The motion of Senator PRAY of Penobscot to RECEDE AND CONCUR.

(In House March 27, 1984 referred to the Committee on BUSINESS LEGISLATION and ORDERED PRINTED)

(In Senate March 27, 1984 Bill and accompanying papers INDEFINITELY POSTPONED in NON-CONCURRENCE.

(In House March 29, 1984 that Body ADHERED)

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

The President laid before the Senate:

Bill "An Act to Revise the Wood Measurement Law" S. P. 889 L. D. 2404

Tabled—April 3, 1984 by Senator CARPENTER of Aroostook.

Pending—PASSAGE TO BE ENGROSSED.

(In Senate April 3, 1984 the Majority Ought to Pass in New Draft under same title report READ and ACCEPTED and under suspension of the Rules the Bill READ TWICE)

On motion of Senator PRAY of Penobscot, RETABLED until later in today's session, pending PASSAGE TO BE ENGROSSED.

The President laid before the Senate:

Bill "An Act to Amend the Laws Concerning Commerical Whitewater Rafting" (Emergency) S. P. 873 L. D. 2367

Tabled—April 3, 1984 by Senator PEARSON of Penobscot.

Pending—PASSAGE TO BE ENGROSSED.

(In Senate March 29, 1984 RECONSIDERED ENGROSSMENT)

On motion by Senator PRAY of Penobscot, RETABLED until later in today's session, pending PASSAGE TO BE ENGROSSED.

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

Bill "An Act to Encourage the Use of Wood and Solid Waste as a Source of Energy in State-owned Buildings" S. P. 879 L. D. 2383

Tabled earlier in today's session, on motion by Senator PRAY of Penobscot.

Pending THE MOTION BY SENATOR KANY OF KENNEBEC TO RECEDE AND CONCUR.

(In Senate March 29, 1984 PASSED TO BE ENGROSSED)

(In House PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "A" (H-631) in NON-CONCURRENCE)

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

SENATOR KANY: Mr. President, I wish to Withdraw my motion to Recede and Concur.

THE PRESIDENT: The Senator from Kennebec, Senator Kany, now requests Leave of the Senate to Withdraw her motion to Recede and Concur.

Is it the pleasure of the Senate to Grant this

Leave?

It is a vote.

On motion by Senator NAJARIAN of Cumberland, the Senate voted to RECEDE.

House Amendment "A" (H-631) was READ.

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

SENATOR NAJARIAN: I now move that House Amendment "A" be Indefinitely Postponed.

THE PRESIDENT: The Senator from Cumberland, Senator Najarian now moves that House Amendment "A" be Indefinitely Postponed.

The Chair recognizes the Senator from Penobscot, Senator Pearson.

SENATOR PEARSON: Mr. President, I'd like to have an explanation.

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

The Chair recognizes the Senator from Cumberland, Senator Najarian.

SENATOR NAJARIAN: Mr. President and Members of the Senate, what is covered in the House Amendment will be covered in the Senate Amendment I propose to offer. The Senate Amendment which I'm proposing to offer would simply require Legislative oversight if the Bureau of Public Improvements intends to enter into some type of long term agreement with a private party regarding the production of energy with biomass or solid fuels in the State buildings.

On motion by Senator NAJARIAN of Cumberland House Amendment "A" (H-631) was INDEFINITELY POSTPONED, in NON-CONCURRENCE.

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

SENATOR NAJARIAN: Mr. President, I now present Senate Amendment "A" to L. D. 2383 under filing number S-371 and move its adoption.

THE PRESIDENT: The Senator from Cumberland, Senator Najarian, presents Senate Amendment "A" and moves its Adoption.

Senate Amendment "A" (S-371) was READ and ADOPTED.

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:

Bill "An Act to Amend the Laws Concerning Commerical Whitewater Rafting" (Emergency) S. P. 873 L. D. 2367

Retabled earlier in today's session on motion by Senator PRAY of Penobscot.

Pending—PASSAGE TO BE ENGROSSED.

(In Senate March 29, 1984 RECONSIDERED ENGROSSMENT)

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

SENATOR PRAY: Mr. President, I'd like to present Senate Amendment "A" (S-373) and move its adoption and speak to my motion.

THE PRESIDENT: The Senator from Penobscot, Senator Pray, presents Senate Amendment "A" and moves its Adoption.

Senate Amendment "A" (S-373) was READ.

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

SENATOR PRAY: Thank you, Mr. President. Mr. President and Ladies and Gentlemen of the Senate, the Amendment that is now pending adoption is an amendment which I hope clarifies some concerns that I had, had about the Bill which was drafted by the State Development Office and its concerns which had been basically staffing and following this legislation through the system.

The language that is presented to you at this time will state: if a rafting company (which the Bill will allow a three year license under an allotment system) should change hands, should

change ownerships that they would have to be reevaluated for their allocation. Under the existing law there were some concerns expressed that an individual company could receive its maximum allocation of 80 slots on either the Penobscot or the Kennebec River, that they could then after receiving that three year allocation of 80 slots, would then turn around and could sell their company and the 80 slots that they had been given.

The language in this Bill would require that if it does go through an exchange of ownership that they would have to go back in for their reevaluation which includes several factors. One of which is the experience of the company and the staff that works for that company. It was my belief that while there are other companies in the system that could possibly have been working for several years building up experience, did not have the capital outlay to purchase this company because it was a larger company and it had already put onto the financial table all of its obligations and debts, the existing company, it would not have an opportunity to increase its allocation. This amendment has been run by several individuals in the rafting business who feel that the language is acceptable to them. That includes the Whitewater Rafting Association which usually raises its eyebrows anytime I stand up to talk about this issue. It was reviewed by their council and has been agreeable to them.

I would hope that we would adopt it, it would, I think, provide a better allocation system and would provide some safeguards for those companies that have been in the business for a number of years.

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

SENATOR PEARSON: Mr. President and Men and Women of the Senate, as a Chairman of Whitewater Rafting, Special Committee on Whitewater Rafting, I would like to make this point, that I consider this to be an acceptable and friendly amendment, but I do want to say for the Record that it does not preclude the possibility of passing on an 80 allocation to a new owner because there are several other factors that have to be taken into consideration when allocations are given to any company.

Senate Amendment "A" (S-373) was ADOPTED.

The Bill was PASSED TO BE ENGROSSED as Amended.

Sent down for concurrence.

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

Bill "An Act to Revise the Wood Measurement Law" S. P. 889 L. D. 2404

Retabled earlier in today's session, on motion by Senator PRAY of Penobscot.

Pending—PASSAGE TO BE ENGROSSED.

(In Senate April 3, 1984 the Majority Ought to Pass in New Draft under same title report READ and ACCEPTED and under suspension of the Rules the Bill READ TWICE)

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

SENATOR WOOD: Mr. President, I offer Senate Amendment "A" (S-372) and move its Adoption.

THE PRESIDENT: The Senator from York, Senator Wood, presents Senate Amendment "A" and moves its Adoption.

Senate Amendment "A" (S-372) was READ and ADOPTED.

The Bill was PASSED TO BE ENGROSSED as Amended.

Sent down for concurrence.

There being no objections all matters previously acted upon were sent forthwith.

(OFF RECORD REMARKS)

On motion by Senator PRAY of Penobscot, RECESSED until the sound of the Bell.

**RECESS
AFTER RECESS**

The Senate called to order by the President.

At this point, there being no objection, the President appointed the following Conferees to the Committee of Conference between the two branches of the Legislature on:

Bill "An Act to Permit Public Service in Lieu of Fines for Indigent Offenders Under the Drunk Driving Law" H. P. 1427 L. D. 1872

Senators:

TRAFTON of Androscoggin
VIOLETTE of Aroostook
COLLINS of Knox

Out of order and under suspension of the rules the Senate voted to consider the following:

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 Authorize a Bond Issue in the Amount of \$25,000,000 to Rehabilitate and Provide an Access Causeway at Portsmouth Naval Prison at Kittery and Establish a Regional Jail Facility for the Northeastern States" H. P. 1103 L. D. 1457

Bill "An Act Concerning Access to Medical Care for Persons Without Adequate Health Insurance" (Emergency) H. P. 1630 L. D. 2170

Bill "An Act Relating to Agricultural Marketing and Bargaining" (Emergency) H. P. 1596 L. D. 2118

Resolution, Proposing an Amendment to the Constitution of Maine to Provide that Municipalities May Choose to Tax Certain Property Which has been Exempt at a Percentage of Just Value. H. P. 1750 L. D. 2311

Resolution, Proposing an Amendment to the Constitution of Maine to Relieve Municipalities from the Loss of Tax Base Caused by Property Tax Exemptions by Requiring that the State Pay at Least 50% of the Cost of any New State Mandated Programs. H. P. 1728 L. D. 2281

**Senate
Ought to Pass**

Senator TWITCHELL for the Committee on TAXATION on Bill "An Act to Provide for Conformity with the United States Internal Revenue Code" S. P. 893 L. D. 2409

Reported that the same Ought to Pass.

Which Report was READ and ACCEPTED.

The Bill READ ONCE.

THE PRESIDENT: Is it the pleasure of the Senate that under suspension of the rules this Bill be given its Second Reading at this time 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.

SENATE AT EASE

The Senate called to order by the President.

Ought to Pass As Amended

Senator TRAFTON for the Committee on JUDICIARY on Bill "An Act to Allow Access to Financial Records of Public Assistance Recipients" S. P. 852 L. D. 2310

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (S-374).

Which Report was READ and ACCEPTED.

The Bill READ ONCE.

Committee Amendment "A" (S-374) was READ and ADOPTED.

THE PRESIDENT: Is it the pleasure of the Senate that under suspension of the rules this Bill be given its Second Reading at this time by Title Only?

It is a vote.

Under suspension of the rules the Bill READ A SECOND TIME and PASSED TO BE ENGROSSED as Amended.

Sent down for concurrence.

ENACTORS

The Committee on ENGROSSED BILLS reported as truly and strictly engrossed the following:

Emergency

AN ACT to Reimburse the Department of Inland Fisheries and Wildlife for Duties Performed which are Mandatory Nonfish and Nongame Related. H. P. 1758 L. D. 2320 (C. "B" H-606)

Comes from the House, Bill and Accompanying Papers INDEFINITELY POSTPONED.

On motion of Senator CARPENTER of Aroostook, the Bill INDEFINITELY POSTPONED, in concurrence.

Emergency

AN ACT to Allow State Party Committees to Establish the Time for Electing their Officers. H. P. 1784 L. D. 2350 (H. "A" H-625)

This being an emergency measure and having received the affirmative vote of 29 Members of the Senate, with No Senators having voted in the negative was PASSED TO BE ENACTED and having been signed by the President, was presented by the Secretary to the Governor for his approval.

Emergency

AN ACT to Extend the Reporting Date for the Select Workers' Compensation Study Commission. H. P. 1702 L. D. 2240

This being an emergency measure and having received the affirmative vote of 27 Members of the Senate, with 2 Senators having voted in the negative was PASSED TO BE ENACTED and having been signed by the President, was presented by the Secretary to the Governor for his approval.

Emergency

AN ACT to Amend the Act to Protect the Public from Unsafe Pesticide Use. S. P. 848 L. D. 2306 (C. "A" S-364)

This being an emergency measure and having received the affirmative vote of 31 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 presented by the Secretary to the Governor for his approval.

Emergency

AN ACT to Amend the Charter of the Winthrop Water District. H. P. 1753 L. D. 2317 (C. "A" H-634)

This being an emergency measure and having received the affirmative vote of 30 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 presented by the Secretary to the Governor for his approval.

Emergency

AN ACT Concerning the Funding of the Department of Inland Fisheries and Wildlife. H. P. 1769 L. D. 2336 (H. "E" H-577; H. "F" H-581; H. "H" H-599; H. "M" H-612)

On motion by Senator PRAY of Penobscot, TABLED for 1 Legislative Day, pending ENACTMENT.

Emergency

AN ACT to Amend the Judicial Commitment Statute. H. P. 1800 L. D. 2393

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

SENATOR NAJARIAN: Mr. President, I move that this be placed on the Special Appropriations Table.

THE PRESIDENT: The Senator from Cum-

berland, Senator Najarian, now moves that L. D. 2393, An Act to Amend the Judicial Commitment Statute, be placed on the Special Appropriations Table.

The Chair recognizes the Senator from Cumberland, Senator Najarian.

SENATOR NAJARIAN: Mr. President, I Withdraw the motion to place this on the Special Appropriations Table.

THE PRESIDENT: Senator Najarian of Cumberland now requests Leave to Withdraw her motion to place L. D. 2393 on the Special Appropriations Table.

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

It is a vote.

This being an emergency measure and having received the affirmative vote of 30 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 presented by the Secretary to the Governor for his approval.

Constitutional Amendment

Resolution, Proposing an Amendment to the Constitution of Maine to Enable the Legislature to Establish the Extent of Insurance of Loans to Veterans. H. P. 1703 L. D. 2256 (H. "A" H-622)

On motion of Senator NAJARIAN of Cumberland, placed on the SPECIAL APPROPRIATIONS TABLE pending FINAL PASSAGE.

Out of order and under suspension of the rules the Senate voted to consider the following:

ENACTORS

The Committee on ENGROSSED BILLS reported as truly and strictly engrossed the following:

AN ACT to Clarify the Disciplinary Procedure of the Nurse Practice Laws. S. P. 839 L. D. 2263 (C. "A" S-361)

AN ACT to Amend the Investment Provisions and Certain Related Sections of the Maine Insurance Code. S. P. 887 L. D. 2395

AN ACT to Amend the Air Emission License Law. H. P. 1818 L. D. 2410

AN ACT to Authorize Hospital Administrative District No. 1 and Hospital Administrative District No. 4 to Engage in a Joint Venture for the Purpose of Owning and Operating a Regional Mobile Computerized Axial Tomography Scan Unit. H. P. 1778 L. D. 2356

AN ACT to Allow for a Uniform Citation Form to be Used for Fish and Wildlife Violations. H. P. 1716 L. D. 2275 (C. "A" H-636)

AN ACT to Protect Tenants from Lack of Heat. H. P. 1683 L. D. 2228 (C. "A" H-628)

AN ACT Concerning the Teaching of Certain Subjects. S. P. 869 L. D. 2359

AN ACT to Change the Titles of 3 Policy-influencing Positions and to Establish New Policy-influencing Positions within the Department of Corrections and the Department of Mental Health and Mental Retardation. S. P. 898 L. D. 2415

AN ACT Regarding the Administration of Seven Boards Affiliated with the Department of Business, Occupational and Professional Regulation. H. P. 1813 L. D. 2398 (H. "A" H-623)

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

SENATOR COLLINS: Mr. President, a question through the Chair with respect to L. D. 2415. Does this measure require additional positions that will require additions to the budget?

THE PRESIDENT: The Senator from Knox, Senator Collins, has posed a question to any Member of the Senate who may respond if they so desire.

The Chair recognizes the Senator from Cumberland, Senator Najarian.

SENATOR NAJARIAN: Mr. President, Mem-

bers of the Senate, there is no fiscal note on that Bill, so I assume there is no new positions or any cost to the General Fund.

Which were PASSED TO BE ENACTED and having been signed by the President, were presented by the Secretary to the Governor for his approval.

AN ACT to Provide for Testing of Private Water Supplies for Chemical Contaminants where Chemical Contaminants are Suspected by State Agencies. H. P. 1815 L. D. 2400

On motion by Senator NAJARIAN of Cumberland, placed on the SPECIAL APPROPRIATIONS TABLE, pending ENACTMENT.

AN ACT to Provide a Sales Tax Exemption for Certain Residential Facilities. H. P. 1817 L. D. 2407

On motion by Senator NAJARIAN of Cumberland, placed on the SPECIAL APPROPRIATIONS TABLE, pending ENACTMENT.

AN ACT to Amend the Statutes Relating to Handicapping Conditions Under the Human Services Law. H. P. 1589 L. D. 2099 (C. "A" H-565; H. "A" H-576; H. "B" H-629)

On motion by Senator NAJARIAN of Cumberland, placed on the SPECIAL APPROPRIATIONS TABLE, pending ENACTMENT.

AN ACT to Amend the Law Related to Tax Increment Financing. H. P. 1039 L. D. 1364 (C. "A" H-643)

On motion by Senator NAJARIAN of Cumberland, placed on the SPECIAL APPROPRIATIONS TABLE, pending ENACTMENT.

AN ACT to Increase the Potato Tax. H. P. 1645 L. D. 2179 (C. "A" S-348 to C. "A" H-561)

On motion by Senator CARPENTER of Aroostook, TABLED for 1 Legislative Day, Pending ENACTMENT.

AN ACT Requiring Proof of Financial Responsibility for 2nd and Subsequent Offenders Under the Drunk Driving Laws. S. P. 892 L. D. 2408

On motion of Senator TRAFTON of Androscoggin, the Senate SUSPENDED ITS RULES.

On further motion by the same Senator, the Senate RECONSIDERED its action whereby the Bill was PASSED TO BE ENGROSSED.

THE PRESIDENT: The Senator has the floor. SENATOR TRAFTON: I present Senate Amendment "A" to L. D. 2408, Filing Number S-367, and move its Adoption.

THE PRESIDENT: The Senator from Androscoggin, Senator Trafton, presents Senate Amendment "A" (S-367) and moves its Adoption.

Senate Amendment "A" (S-367) was READ and ADOPTED.

The Bill was PASSED TO BE ENGROSSED as Amended in NON-CONCURRENCE.

Sent down for concurrence.

AN ACT Concerning the Tri-state Lotto Compact. S. P. 823 L. D. 2203 (C. "A" S-353)

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

SENATOR HICHENS: Mr. President, referring to L. D. 2203, I move that this Bill and all its accompanying papers be Indefinitely Postponed, and I ask for a Roll Call.

THE PRESIDENT: The Senator from York, Senator Hichens, now moves that An Act Concerning the Tri-state Lotto Compact, S. P. 823, L. D. 2203, be Indefinitely Postponed.

The Chair recognizes the Senator from Androscoggin, Senator Charette.

SENATOR CHARETTE: Thank you, Mr. President. Women and Men of the Senate, I would hope you would vote against the pending motion. We have in place in this State a lottery that's working very well under its director. It is providing some important dollars to our Gen-

eral Revenue Account, and I believe this Tri-state Lotto Compact can even far surpass our own in-house lottery.

I think the Bill has been written whereby all three states have agreed upon a Bill that is equally right for all three states. We've made a few amendments to this Bill, we've put a sunset provision that it be reviewed in two years and thereafter every five years.

I think it would be wise for us, as we are looking always forward for more revenues, I think that it's important that we vote against the pending motion. We're talking here of, perhaps, two and five million dollars of revenue a year once this is in place. It, also, provides if two states with over two million in population could also get into the Lotto Compact, so I would urge you to vote against the pending motion and pass this Bill.

THE PRESIDENT: The question before the Senate is the motion of the Senator from York, Senator Hichens, that L. D. 2203 be Indefinitely Postponed.

A Roll Call has been requested.

The Chair recognizes the Senator from Penobscot, Senator Pearson.

SENATOR PEARSON: Mr. President, Men and Women of the Senate, Senator Hichens from York has moved to Indefinitely Postpone this and I would like to hear what his objections are to the Bill.

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

SENATOR HICHENS: I don't really think that the information is necessary. I question how much of a profit the State is actually getting from our own State Lottery when you consider all the ramifications about people on welfare and spending their money which is tax money, more or less, to go into a Tri-state Compact and as the good Senator from Androscoggin said, the possibility of other states coming in and I think that we do not have to go into the gambling industry in order to make the money that we need to run the State of Maine.

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

SENATOR VIOLETTE: Mr. President and Ladies and Gentlemen of the Senate, just a comment with respect to the good point raised by the Senator from York, Senator Hichens, statistically, for those of us who have always been concerned about the kinds of people that tend to purchase and take part in lottery type activities, statistically, on a national basis, not necessarily within our own state though the point made by the Senator from York, statistics do not bear the Senator out on that point.

Quite frankly, the proportions of people who decide on their own to purchase any kind of game of chance, and in this case, a lottery or a lotto or the like do not overwhelmingly or disproportionately come from the income group that the Senator has just pointed out. I have always been concerned about that point, but it has been shown to me time and time again that that is an erroneous suggestion, and that statistics simply do not point it out.

I think we can just look to the case in point as to the State of Massachusetts where the majority of the winners in that Megabucks winning where there were eight, where the majority of those people, as a matter of fact seven of the eight I believe, were all very gainfully employed and doing very well on their own. I think, I just make that point to refute the statement to the good Senator from York, Senator Hichens. 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 of Senator Hichens of York to Indefinitely Postpone L. D. 2203 and all its accompanying papers.

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

YEAS—Senators, Emerson, Hichens, McBreaury, Sewall.

NAYS—Senators, Baldacci, Brown, Bustin, Carpenter, Charette, Clark, Collins, Danton, Diamond, Dow, Erwin, Gill, Hayes, Kany, Minkowsky, Najarian, Pearson, Perkins, Pray, Shute, Teague, Trafton, Twitchell, Usher, Violette, Wood, The President—Gerard P. Conley.

ABSENT—Senators, Dutremble, Redmond.

4 Senators having voted in the affirmative and 27 Senators having voted in the negative, with 2 Senators being absent, the motion to INDEFINITELY POSTPONE the Bill and Accompanying Papers FAILED.

Which was PASSED TO BE ENACTED and having been signed by the President, was presented by the Secretary to the Governor for his approval.

Resolve

Resolve, Establishing a Task Force on Head Injuries. H. P. 1777 L. D. 2355 (C. "A" H-635)

On motion by Senator NAJARIAN of Cumberland, placed on the SPECIAL APPROPRIATIONS TABLE, pending FINAL PASSAGE.

Out of order and under suspension of the rules the Senate voted to consider the following:

COMMITTEE REPORTS

House Ought to Pass

The Committee on MARINE RESOURCES on Resolve, Relating to Wastewater Treatment and Water Classification of Sardine Plants. (Emergency) H. P. 1830 L. D. 2425

Reported that the same Ought to Pass pursuant to P.L. 1983, C. 592, section 1.

Comes from the House with the Report READ and ACCEPTED and the Resolve PASSED TO BE ENGROSSED.

Which Report was READ and ACCEPTED, in concurrence.

The Resolve READ ONCE.

THE PRESIDENT: Is it the pleasure of the Senate that under suspension of the rules, this Resolve be given its Second Reading at this time by Title Only?

It is a vote.

Under suspension of the rules the Resolve READ A SECOND TIME and PASSED TO BE ENGROSSED in concurrence.

The Committee on TAXATION on Bill "An Act to Revise the Procedure Relating to the Review of Property Tax Exemptions and to Amend Certain Laws Relating to Property Tax Exemptions" H. P. 1729 L. D. 2282

Reported that the same Ought to Pass.

Comes from the House with the Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED.

Which Report was READ and ACCEPTED, in concurrence.

The Bill READ ONCE.

THE PRESIDENT: Is it the pleasure of the Senate that under suspension of the rules, this Bill be given its Second Reading at this time by Title Only?

It is a vote.

Under suspension of the rules the Bill READ A SECOND TIME and PASSED TO BE ENGROSSED in concurrence.

Ought to Pass in New Draft

The Committee on LABOR on Bill "An Act Relating to Time of Payment under the Maine

Labor Law" H. P. 1719 L. D. 2278

Reported that the same Ought to Pass in New Draft under same title. H. P. 1828 L. D. 2422

Comes from the House, the Report READ and ACCEPTED and the Bill in NEW DRAFT PASSED TO BE ENGROSSED.

Which Report was READ and ACCEPTED, in concurrence.

The Bill in NEW DRAFT READ ONCE.

THE PRESIDENT: Is it the pleasure of the Senate that under suspension of the rules, this Bill be given its Second Reading at this time by Title Only?

It is a vote.

Under suspension of the rules the Bill in NEW DRAFT READ A SECOND TIME and PASSED TO BE ENGROSSED in concurrence.

The Committee on AUDIT AND PROGRAM REVIEW on Bill "An Act Concerning the Maine Land Use Regulation Commission" H. P. 1810 L. D. 2401

Reported that the same Ought to Pass in New Draft under same title. H. P. 1837 L. D. 2430

Comes from the House, the Report READ and ACCEPTED and the Bill in NEW DRAFT PASSED TO BE ENGROSSED.

Which Report was READ and ACCEPTED, in concurrence.

The Bill in NEW DRAFT READ ONCE.

THE PRESIDENT: Is it the pleasure of the Senate that under suspension of the rules, this Bill be given its Second Reading at this time by Title Only?

It is a vote.

Under suspension of the rules the Bill READ A SECOND TIME.

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

SENATOR WOOD: Mr. President, Men and Women of the Senate, this Bill has some implications for the cost component which we are presently working on in the Taxation Committee and I've not had a chance to review this Bill in full and I might want to be offering an amendment later on, and I would hope that I would have that opportunity.

On motion by Senator DIAMOND of Cumberland, TABLED for 1 Legislative Day, pending PASSAGE TO BE ENGROSSED.

The Committee on ENERGY AND NATURAL RESOURCES on Bill "An Act to Standardize Time Periods for the Processing of Applications" H. P. 1714 L. D. 2273

Reported that the same Ought to Pass in New Draft under same title. H. P. 1840 L. D. 2435

Comes from the House, the Report READ and ACCEPTED and the Bill in NEW DRAFT PASSED TO BE ENGROSSED.

Which Report was READ and ACCEPTED, in concurrence.

The Bill in NEW DRAFT READ ONCE.

THE PRESIDENT: Is it the pleasure of the Senate that under suspension of the rules, this Bill be given its Second Reading at this time by Title Only?

It is a vote.

Under suspension of the rules the Bill in NEW DRAFT READ A SECOND TIME and PASSED TO BE ENGROSSED in concurrence.

Ought to Pass in New Draft under New Title

The Committee on TAXATION on Bill "An Act Relating to the State Valuation of the Town of Washburn" (Emergency) H. P. 1650 L. D. 2183

Reported the same Ought to Pass in New Draft under New Title Bill "An Act Relating to School Funding for Washburn for 1984-85" (Emergency) H. P. 1835 L. D. 2429

Comes from the House, the Report READ and ACCEPTED and the Bill in NEW DRAFT 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, this Bill be given its Second Reading at this time by Title Only?

It is a vote.

Under suspension of the rules the Bill, in NEW DRAFT UNDER NEW TITLE, READ A SECOND TIME and PASSED TO BE ENGROSSED in 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 Relating to Medicaid Reimbursement Rates for Ambulance Services" (Emergency) H. P. 1811 L. D. 2396

In Senate April 3, 1984 PASSED TO BE ENGROSSED.

Comes from the House PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "A" (H-632) in NON-CONCURRENCE.

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 Update and Clarify Certain Provisions of the Mining Excise Tax" H. P. 1638 L. D. 2167

In Senate PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-633).

Comes from the House PASSED TO BE ENGROSSED BY COMMITTEE AMENDMENT "A" (H-633) AND HOUSE AMENDMENT "A" (H-651) in NON-CONCURRENCE.

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 Relating to Alcohol-related Birth Defects" S. P. 880 L. D. 2384

In Senate March 30, 1984 PASSED TO BE ENGROSSED AS AMENDED BY SENATE AMENDMENT "B" (S-362).

Comes from the House PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENTS "A" (H-661) AND "B" (H-644) in NON-CONCURRENCE.

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

(See action later today)

SENATE PAPERS

Bill "An Act to Clarify and Make Corrections in the Inland Fisheries and Wildlife Laws" S. P. 908

Presented by Senator USHER of Cumberland. Cosponsors: Representative MacEACHERN of Lincoln.

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27.

Committee on FISHERIES AND WILDLIFE suggested.

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

SENATOR PRAY: Mr. President, I move that the Rules be Suspended and the Bill be given its First Reading at this time without Reference to Committee.

THE PRESIDENT: The Senator from Penobscot, Senator Pray, now moves under suspension of the rules that S. P. 908 be given its First Reading at this time Without Reference to Committee.

Is this the pleasure of the Senate?

The Chair recognizes the Senator from Aroostook, Senator Violette.

SENATOR VIOLETTE: Mr. President, Ladies and Gentlemen of the Senate, I just want to

make sure; I pose a question through the Chair to any member of the Committee, that the Committee has in fact looked at this Bill and as long as I'm assured that the Committee has reviewed all the appropriate sections of the Bill then I won't object, but I have a problem with sending bills without having a public hearing. Thank you.

THE PRESIDENT: The Senator from Aroostook, Senator Violette, has posed a question through the Chair to any member of the Joint Standing Committee on Fisheries and Wildlife who may respond if they so desire.

The Chair recognizes the Senator from Cumberland, Senator Usher.

SENATOR USHER: Thank you, Mr. President. Members of the Senate, the Committee did meet last week with the rough form of the Errors Bill and there were about twenty-three proposals in it, we deleted a good dozen of them and accepted the ones that were very minor to the Errors Bill and it was accepted as a Committee as a whole last week.

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

SENATOR PEARSON: Mr. President, I pose a question to the Chair as to what the L. D. number is on this Bill.

THE PRESIDENT: The Chair would respond that the Bill has not been printed yet, therefore, it does not have an L. D.

SENATOR PEARSON: Thank you, Mr. President, then I would hope that it would be Tabled until the Fisheries and Wildlife Chairman has a chance to see the final draft of the Bill.

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

SENATOR PRAY: Thank you, Mr. President. Mr. President and Ladies and Gentlemen of the Senate, there is some concerns that there may be something devious in this Bill that the Committee on Fisheries and Wildlife has drafted and sent to the Printers. Then we can hold off on the Second Reading until next week when this Session comes back in, but I believe in the concern of time at this particular point that it would be advantageous to give the Bill its First Reading Without Reference to Committee.

All members of the Committee have seen the Bill, they are aware of what's in the Bill, and those of you in this Chamber will have an opportunity to see the Bill next Monday when it returns from the Printers.

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

SENATOR VIOLETTE: Mr. President, Ladies and Gentlemen of the Senate, there is nothing, there is no intention on the part of this Senator to imply that there is something devious in an Errors Bill and the Department of Fisheries and Wildlife, or before that Committee. It is just the concern of this Senator and perhaps the concern of other Senators that when such legislation comes before us at the very end and I am unaware that the appropriate committee has really had the opportunity to look at the legislation, and I'm only using as a reason for this is a bill that was to have gone to my Committee only last week, which was given First and Second Reading in the Senate and then referred to our Committee in the House, then upon having a public hearing in my Committee last week was given unanimous Leave to Withdraw or Ought Not to Pass.

Those are the kinds of things that can happen at the last minute when you don't have the Bill to look at, it's given First and Second Reading and/or else you don't know who's looked at it. I know this is only First Reading, but I'm only making the point that it is the final hours of the Session, but that should also not be used as an excuse to pump legislation through the process. Thank you.

THE PRESIDENT: The Chair would state that the debate that is presently going on right now is out of order.

The motion before the Senate is a motion

from the Senator from Penobscot, Senator Pray, that the rules be suspended.

Is this the pleasure of the Senate?

SENATOR WOOD: Mr. President, I object.

THE PRESIDENT: There is an objection.

Which was referred to the Committee on FISHERIES AND WILDLIFE and ORDERED PRINTED.

Sent down for concurrence.

ORDERS OF THE DAY

The President laid before the Senate:

SENATE REPORT—from the Committee on PUBLIC UTILITIES on Bill "An Act Regarding Franchising and Regulation of Cable Television Systems" S. P. 745 L. D. 2048

Report—Ought to Pass in New Draft under same title. S. P. 903 L. D. 2423

Tabled—April 6, 1984 by Senator BALDACCI of Penobscot.

Pending—ACCEPTANCE OF COMMITTEE REPORT.

(In Senate April 6, 1984 report READ)

On motion by Senator PRAY of Penobscot, RETABLED for 1 Legislative Day, pending ACCEPTANCE OF COMMITTEE REPORT.

The President laid before the Senate:

Bill "An Act Relating to Periodic Justification of Departments and Agencies of State Government under the Maine Sunset Laws" S. P. 899 L. D. 2417

Tabled—April 6, 1984 by Senator CARPENTER of Aroostook.

Pending—PASSAGE TO BE ENGROSSED.

(In Senate April 6, 1984 the Ought to Pass in New Draft report READ and ACCEPTED and Under Suspension of the Rules the New Draft READ TWICE)

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

SENATOR DIAMOND: Mr. President and Ladies and Gentlemen of the Senate, we have a technical amendment that has to be put on this for a date change and a couple other typos and I would ask that someone might Table it for 1 Legislative Day.

On motion by Senator CARPENTER of Aroostook, RETABLED for 1 Legislative Day, pending PASSAGE TO BE ENGROSSED.

The President laid before the Senate:

Bill "An Act to Establish Standards and a Policy for the Compensation of Members of Boards, Commissions and Similar Organizations" H. P. 1807 L. D. 2389

Tabled—April 6, 1984 by Senator PRAY of Penobscot.

Pending—PASSAGE TO BE ENGROSSED.

(In House April 3, 1984 PASSED TO BE ENGROSSED)

(In Senate April 6, 1984 RECONSIDERED ENGROSSMENT)

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

SENATOR PRAY: Mr. President, it is my understanding we're waiting for a couple of amendments on this Bill and where the Presiding Officer has mentioned that this Session would not last too late into the afternoon, I would request that somebody Table this until later in today's session, pending the arrival of those amendments.

On motion by Senator VIOLETTE of Aroostook, RETABLED until later in today's session, pending PASSAGE TO BE ENGROSSED.

SENATE AT EASE

The Senate called to order by the President.

Senator CLARK of Cumberland moved the Senate RECONSIDER its action of earlier in today's session whereby it RECEDED and CONCURRED with the House on:

Bill "An Act Relating to Alcohol-related Birth Defects" S. P. 880 L. D. 2384

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

SENATOR BUSTIN: I ask for a Division.

THE PRESIDENT: A Division has been requested.

Will all those Senators in favor of the motion by Senator CLARK of Cumberland that the Senate Reconsider its action whereby it RECEDED and Concurred with the House, please rise and remain standing in their places to be counted.

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

11 Senators having voted in the affirmative and 17 Senators having voted in the negative, the motion to RECONSIDER FAILED.

Senator McBREAIRTY of Aroostook was granted unanimous consent to address the Senate On the Record.

SENATOR McBREAIRTY: Mr. President and Honorable Members of the Senate. I recently got a call from a forest ranger out in the field who was quite concerned with the Department of Conservations' policy letter that was delivered to management points, dated March 31, 1982.

I have put a copy of this on your desk and I'd hoped you would read it very carefully because it appears to me that they are going beyond, much beyond, what point that they should be going on requiring people, or taking away people's rights to communicate with their Legislators.

This gentleman told me that they were all banned from communicating with their Legislators without permission from the Department heads. This letter was signed by Richard Anderson. I think it's actually taking away their Constitutional Rights. Thank you.

Senator PEARSON of Penobscot was granted unanimous consent to address the Senate On the Record.

SENATOR PEARSON: Thank you, Mr. President and Men and Women of the Senate. Senator McBreaarty of Aroostook shared with me this memo from the Department of Conservation yesterday and in it, it says in part, "Written or oral communications regarding legislation that relates to the Department of Conservation with a Legislator or with staff to the Legislature, will only be initiated with the advanced approval of the Director of Planning, Program Services, or the Commissioner."

When I first got elected to the Maine Legislature, there was at that time a Department of Indian Affairs. The Department of Indian Affairs was located down near where the Public Utilities Commission office is now. They were not allowed to speak to me, they were not allowed beyond the third floor. Of course they did speak to me, because I have an Indian constituency and I insisted upon them speaking to me but they never would come on the third floor for fear of loss of their jobs. Other people have been told similar things during that administration of that governor. I would hope that, that was not the case in this Administration, but I think that this particular memo, especially if you are on a Committee that's dealing with it, Audit or Energy and Natural Resources with Conservation, tells them that a gag-order is in effect, that they don't want them talking with us unless they report it, tell exactly what they said and get previous permission to do so, and I think that's bad for democracy and bad for the State of Maine.

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

SENATOR CARPENTER: I pose a question. Do we still have an Item Tabled until later in today's session?

THE PRESIDENT: Yes.

SENATOR CARPENTER: By this Senator?

THE PRESIDENT: I believe it was. The Chair is in error.

On motion by Senator VIOLETTE of Aroostook, the Senate voted to remove from the

Table:

Bill "An Act to Establish Standards and a Policy for the Compensation of Members of Boards, Commissions and Similar Organizations" H. P. 1807 L. D. 2389

Tabled earlier in today's session on motion by Senator VIOLETTE of Aroostook.

Pending—PASSAGE TO BE ENGROSSED.

(In House April 3, 1984 PASSED TO BE ENGROSSED)

(In Senate April 6, 1984 RECONSIDERED ENGROSSMENT)

On motion by Senator CARPENTER of Aroostook, RETABLED for 1 Legislative Day, pending PASSAGE TO BE ENGROSSED.

On motion by Senator CARPENTER of Aroostook,

ADJOURNED until Monday, April 9, 1984, at 9 o'clock in the morning.