

MAINE STATE LEGISLATURE

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



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

LEGISLATIVE RECORD

OF THE

***One Hundred and Eleventh
Legislature***

OF THE

STATE OF MAINE

SECOND REGULAR SESSION

January 4, 1984 to April 25, 1984

INDEX

FOURTH CONFIRMATION SESSION

(FIRST CONFIRMATION SESSION – SECOND REGULAR SESSION)

May 31, 1984

INDEX

FIFTH CONFIRMATION SESSION

(SECOND CONFIRMATION SESSION – SECOND REGULAR SESSION)

July 11, 1984

INDEX

THIRD SPECIAL SESSION

September 4, 1984 to September 11, 1984

INDEX

STATE OF MAINE
 One Hundred and Eleventh Legislature
 Second Regular Session
 JOURNAL OF THE SENATE
 In Senate Chamber
 Monday
 April 9, 1984
 Senate called to Order by the President.

Prayer by the Reverend Lester S. Dow Jr., of the Fayette Corner Baptist Church of Fayette.
 REVEREND DOW, Jr: Shall we pray. Father in heaven thank You for the privilege of standing here this morning to acknowledge once again that You are God, that You made all things.

We Thank You for the wisdom and the majesty and the power with which You made the world and uphold it. Thank You, for making us in Your own image and likeness and putting us here to rule and develop this planet, and also to reach out into space. Thank You today for our great country and for this beautiful State of Maine. Thank You for the freedoms that we enjoy here. Thank You for our representative form of government. Thank You Father for the privilege of acknowledging You as God and that as it says in the scriptures "righteousness exalts a Nation, but sin is a reproach to any people."

So I pray for our Country and our State, for our servants in this Body today and Your servants, the Senators, that we may together seek to travel the paths of righteousness and to avoid those paths of rebellion, of hurt and of detriment to ourselves and your name. I pray this morning that our freedom maybe preserved particularly that freedom to proclaim the gospel of Jesus Christ.

I thank You for the privilege of being here to pray for these men and women who give of themselves and their time and effort for the good of all. I pray that you'll give them wisdom and direction on this day in the matters that are before them, that we may have the laws that we need but not too many either to restrict us.

So I ask today that you give wisdom and guidance and I thank You for the privilege of standing here humbly to ask Your blessing. I pray in the name of our Lord and Saviour, Jesus Christ. Amen.

Reading of the Journal of Friday, April 6, 1984

PAPERS FROM THE HOUSE

Non-concurrent Matter

Resolve, Directing the Department of Human Services to Prepare Draft Regulations on the Licensing of Birthing Centers (Emergency) H. P. 1788 L. D. 2361

In Senate March 29, 1984 PASSED TO BE ENGROSSED

Comes from the House PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "A" (H-624) in NON CONCURRENCE

THE PRESIDENT: Is it the pleasure of the Senate to RECEDE and CONCUR with the House?

It is a vote.

OFF RECORD REMARKS

Non-concurrent Matter

Bill "An Act to Clarify Responsibility Under the Maine Potato Quality Control Law" H. P. 1686 L. D. 2244

In Senate March 30, 1984 PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-614) in concurrence

Comes from the House PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-614) AS AMENDED BY HOUSE AMENDMENT "A" (H-656) thereto 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 Amending the Child and Family Services and Child Protection Act" S. P. 881 L. D. 2386

In Senate March 29, 1984 PASSED TO BE ENGROSSED

Comes from the House PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "A" (H-660) 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 Amend the Laws Concerning Commercial Whitewater Rafting" (Emergency) S. P. 873 L. D. 2367

In Senate April 6, 1984 PASSED TO BE ENGROSSED AS AMENDED BY SENATE AMENDMENT "A" (S-373)

Comes from the House PASSED TO BE ENGROSSED in NON CONCURRENCE

On motion by Senator PRAY of Penobscot, the Senate ADHERED.

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 April 6, 1984 the Minority Ought To Pass In New Draft Under New Title report READ and ACCEPTED and the Bill in New Draft PASSED TO BE ENGROSSED

Comes from the House the Majority Ought Not To Pass report READ and ACCEPTED in NON CONCURRENCE

On motion by Senator TRAFTON of Androscoggin, the Senate ADHERED.

Joint Resolution

The Following Joint Resolution: H. P. 1829
 JOINT RESOLUTION CONCERNING
 THE STATE CONTRACTING FOR MEDICAL SERVICES IN COMPETITION WITH PRIVATE ENTERPRISE

WHEREAS, the Department of Human Services has recently contracted for the purchase of large numbers of eye glasses for distribution to recipients of medical assistance programs; and

WHEREAS, this action places the Senate in direct competition with private enterprise within the State and sets a dangerous precedent of allowing state agencies to contract for medical related services without direct approval of the Legislature; and

WHEREAS, this action is a policy decision which should be made by those elected by the voters of the State and not one which should be made by an individual employed by a single department of State Government without an opportunity to be debated by the Legislature; now, therefore, be it

RESOLVED, That We, the Members of the 111th Legislature, oppose the contracting for the provision of medical related services in direct competition with private enterprise, unless the provision of those services has been specifically approved by the Legislature.

Comes from the House READ and ADOPTED. Which was READ.

On motion by Senator PRAY of Penobscot TABLED until later in today's session, pending ADOPTION.

COMMUNICATIONS

The Following Communication:
 COMMITTEE ON STATE GOVERNMENT
 April 4, 1984

The Honorable Gerard P. Conley
 President of the Senate

111th Legislature
 Dear President Conley:

We are pleased to report that all business which was before the Committee on State Government during the Second Regular session of the 111th Legislature has been completed. The breakdown of bills referred to our committee follows:

Total number of bills received	27
Unanimous reports	26
Leave to Withdraw	9
Ought to Pass	8
Ought Not to Pass	0
Ought to Pass as Amended	3
Ought to Pass in New Draft	6
Divided reports	1

Respectfully submitted,
 S/PAUL E. VIOLETTE
 Senate Chair
 S/DAN A. GWADOSKY
 House Chair

Which was READ and ORDERED PLACED ON FILE.

The Following Communication:
 EXECUTIVE DEPARTMENT
 DIVISION OF COMMUNITY SERVICES
 April 5, 1984

The Honorable Gerard P. Conley
 President of the Senate
 State House Station 3
 Augusta, Maine 04333
 Dear Mr. President:

Enclosed please find the Maine Community Action Annual Report for the period, October 1, 1982 to September 30, 1983.

I'm sure you will find the information to be of assistance to you. If you have questions or would like additional copies, please feel free to contact me.

Sincerely,
 S/NANCY BOOTHBY
 Director

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

The Following Communication:
 DEPARTMENT OF EDUCATIONAL AND CULTURAL SERVICES
 April 6, 1984

The Honorable Gerard P. Conley
 President of the Senate
 State House
 Augusta, Maine 04333
 The Honorable John L. Martin
 Speaker of the House
 State House
 Augusta, Maine 04333
 Dear Mr. President and Mr. Speaker:

In accordance with Private and Special Law, 1983, Chapter 52, I am submitting to the 111th legislature a report on state assistance and educational programs available to non-English speaking immigrants and refugees within the State of Maine.

I am available to answer any questions you may have regarding this report.

Sincerely,
 S/Robert E. Boose
 Commissioner

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

ORDERS

Joint Resolution

On motion by Senator PERKINS of Hancock, (Cosponsors: Senator GILL of Cumberland) the following Joint Resolution: S. P. 909
 JOINT RESOLUTION REQUESTING A STUDY OF COSTS TO MAINE TAXPAYERS FOR WORKERS' COMPENSATION

WHEREAS, there is a growing concern among members of the Legislature over the escalating cost of workers' compensation; and
 WHEREAS, increases have occurred at an alarming rate in workers' compensation, both in the public and private sectors; and

WHEREAS, evidence of this added expense to the taxpayer for fiscal year 1983 may be seen in: \$245,859.45 for the Department of Corrections; \$875,000 for the Department of Mental Health and Mental Retardation; \$90,754.57 for the Department of Human Services; and \$1,758,397 for the Department of Transportation; and

WHEREAS, there is an urgent need to study this problem and to address those concerns in order to uphold the law, to preserve the integrity of the system and to conserve any needless expenditure of taxpayers' dollars; now, therefore, be it

RESOLVED: That, We, the Members of the House of Representatives and the Senate of the 11th legislature, authorize and respectfully direct the Department of Labor to study the full cost of the workers' compensation system to the taxpayers of this State, including, but not limited to, full disclosure of the cost to each branch and department of municipal, county and state governments, with recommendations for curtailing these costs; and be it further

RESOLVED: That the Department of Labor report its findings and recommendations to the First Regular Session of the 112th Legislature; and be it further

RESOLVED: That a copy of this order be sent to the Commissioner of Labor, as notice of this study request.

Which was READ

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

SENATOR PERKINS: Mr. President, Members of the Senate, the good Senator from Cumberland, Senator Gill and myself offer this resolution today not as a matter of bipartisan rhetoric because Workers' Compensation as we are all aware is not a matter of partisanship.

It came to my attention and I called it to the good Senator from Cumberland's attention that even as we worked through the budget this year the State of Maine, in itself, is paying four departments almost three million dollars in Workers' Compensation. Among those would be in transportation for 1983 with 1.7 million dollars for Workers' Compensation Costs. We have for a long time worked, worried and conjectured about the business atmosphere and the affect on the private sector with regard to Workers' Compensation Cost. I think that while we are about it and while we are doing this that we should be looking into the costs of the public sector and indeed the pass through to the taxpayer of the State of Maine of monies of this magnitude under Workers' Compensation.

On motion by Senator PRAY of Penobscot TABLED until later in today's session, pending ADOPTION.

COMMITTEE REPORTS

House

Ought Not To Pass

The following OUGHT NOT TO PASS report shall be placed in the Legislative Files without further action pursuant to Rule 15 of the Joint Rules"

Bill "An Act to Create a State Funded Jobs Program" (Emergency) H. P. 1631 L. D. 2171

Leave to Withdraw

The following LEAVE TO WITHDRAW report shall be placed in the Legislative Files without further action pursuant to rule 15 of the Joint Rules"

Bill "An Act to Improve the Evaluation of Hearing Loss under the Workers' Compensation Act" H. P. 798 L. D. 1038

Bill "An Act Relating to Eligibility for Interscholastic Secondary School Athletics" (Emergency) H. P. 1573 L. D. 2083

On motion by Senator PRAY of Penobscot

the Senate voted to remove from the Table:

A Joint Resolution Concerning the State Contracting for Medical Services in Competition with Private Enterprise. H. P. 1829

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

Pending—ADOPTION.

On motion by Senator BUSTIN of Kennebec INDEFINITELY POSTPONED in NON-CONCURRENCE.

Sent down for concurrence.

Ought to Pass As Amended

The Committee on TAXATION on Bill "An Act to Exclude Social Security Benefits from Taxation" H. P. 1708 L. D. 2257

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-659).

Comes from the House, with the Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-659).

Which Report was READ

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

SENATOR COLLINS: Mr. President, I would pose a question through the Chair. I am a little bit confused by the amendment that is appended to this item and to properly understand that perhaps my question is to the Bill, itself. Is it true that this Bill is designed primarily to benefit couples who's income is in excess of fifty-two thousand dollars per year?

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

The Chair recognizes the Senator from York, Senator Wood.

SENATOR WOOD: Mr. President, Men and Women of the Senate, Senator Collins is correct to a point the bill does prohibit the taxing of Social Security benefits in those classifications: a married couple with thirty-two thousand, and I think single it is twenty-six thousand. The Federal Government began taxing these benefits because the money from those taxes were going to go into try to help the ailing Social Security program. We have no similar program at the State level we have no impact on Social Security so the purpose for which the Federal Government taxed them could not be fulfilled at the State level and we felt that it would be an inappropriate form of taxation.

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

SENATOR KANY: Mr. President and Members of the Senate, I am not that familiar with this issue, but it just seems to me that such a bill would be a step away from conformity and I've only heard people argue on the side of working towards conformity. I would ask the good Senator from York to speak to that issue.

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

SENATOR WOOD: Mr. President, I've discovered around here that conformity is a relative thing.

Which Report was ACCEPTED in concurrence

The Bill READ ONCE

Committee Amendment "A" (H-659) was READ and ADOPTED in concurrence.

THE PRESIDENT: Is it now the pleasure of the Senate that under suspension of the rules this Bill 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 JUDICIARY on Bill "An Act Relating to the Enforcement and Collection of Child Support Obligations" H. P. 1717 L.

D. 2276

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-654).

Comes from the House the Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-654) AS AMENDED BY HOUSE AMENDMENT "A" (H-666) THERETO.

Which Report was READ.

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

SENATOR BUSTIN: Thank you, Mr. President. Ladies and Gentlemen of the Senate, I just wanted to call your attention to this item simply because I had some concerns about it. I don't have concerns enough to vote against it, but I do want you to make note that what we are now doing is garnishing the retirement wages of State employees, and to make doubly sure that that Amendment H-666, that was just put on in the House, says: that all of those retirements that are refundable. So that means that if you leave the State system and you draw out your retirement funds and you owe child support benefits then those wages would be garnished to take care of that obligation.

I have no objection to parents meeting their respective obligations to raising their children. So that is why I would let this go, but I just want to draw your attention to the fact that that is going through and that, as a matter of record, I would hope that the Department would do what the Department said that they were going to do be very careful of when they institute this proceeding. Thank you.

Which Report was ACCEPTED, in concurrence.

The Bill READ ONCE.

Committee Amendment "A" (H-654) READ House Amendment "A" (H-666) to Committee Amendment "A" (H-654) was READ and ADOPTED in concurrence.

Committee Amendment "A" (H-654) as Amended by House Amendment "A" (H-666) thereto was ADOPTED in concurrence.

THE PRESIDENT: Is it now the pleasure of the Senate that under suspension of the rules that the 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 Clarify Abrogation of Privileged Communications" H. P. 1700 L. D. 2254

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-658).

Comes from the House, with the Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-658).

Which Report was READ and ACCEPTED in concurrence.

Committee Amendment "A" (H-658) was READ and ADOPTED in concurrence.

THE PRESIDENT: Is it the pleasure of the Senate that under suspension of the rules that the 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.

Divided Report

The Majority of the Committee on HEALTH AND INSTITUTIONAL SERVICES on Bill "An Act to Amend the Statute Relating to the Sale and Free Distribution of Cigarettes to Children" H. P. 1694 L. D. 2249

Reported that the same Ought To Pass as Amended by Committee Amendment "A" (H-650).

Signed:
 Senator: CARPENTER of Aroostook
 Representatives:
 MANNING of Portland
 PINES of Limestone
 CARROLL of Gray
 SEAVEY of Kennebunkport
 MAYBURY of Brewer
 RICHARD of Madison
 MELENDY of Rockland
 WEBSTER of Farmington

The Minority of the same Committee on the same subject reported that the same Ought Not To Pass.

Signed:
 Senator: BUSTIN of Kennebec
 Representatives:
 BRODEUR of Auburn
 NELSON of Portland

Comes from the House with the Majority Ought To Pass as Amended Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-650)

Which Reports were READ.

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

SENATOR BUSTIN: Mr. President, I move the Minority Ought Not to Pass Report.

THE PRESIDENT: The Senator from Kennebec, Senator Bustin moves that the Senate Accept the Minority Ought Not to Pass Report.

On motion by Senator PRAY of Penobscot TABLED until later in today's session, pending the motion by the Senator from Kennebec, Senator BUSTIN to Accept the Minority OUGHT NOT TO PASS Report.

Divided Report

The Majority of the Committee on TAXATION on Bill "An Act to Strengthen the Public Policy Against Invidious Discrimination Under the Tax Laws" H. P. 1705 L. D. 2232

Reported that the same Ought Not To Pass.

Signed:
 Senators: TEAGUE of Somerset
 TWITCHELL of Oxford

Representatives:
 CASHMAN of Old Town
 DAY of Westbrook
 INGRAHAM of Houlton
 JACKSON of Harrison
 KANE of South Portland
 KILCOYNE of Gardiner
 MASTERMAN of Milo
 MCCOLLISTER of Canton

The Minority of the same Committee on the same subject reported that the same Ought to Pass As Amended by Committee Amendment "A" (H-655).

Signed:
 Senator: WOOD of York

Representatives:
 ANDREWS of Portland
 HIGGINS of Portland

Comes from the House with the Majority Ought Not to Pass Report READ and ACCEPTED

Which Reports were READ.

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

SENATOR WOOD: Mr. President, I move the Senate Accept the Minority Ought to Pass As Amended Report.

THE PRESIDENT: The Chair recognizes the Senator from Somerset, Senator Teague.

SENATOR TEAGUE: Mr. President, Members of the Senate, what this Amendment does in the Minority Report is to remove the property tax exemption in the organizations such as the Masonic group and also the Knights of Columbus.

THE PRESIDENT: The Chair recognizes the Senator from Oxford, Senator Twitchell.

SENATOR TWITCHELL: I ask for a Division.
 THE PRESIDENT: A Division has been requested.

The Chair recognizes the Senator from York, Senator Wood.

SENATOR WOOD: Mr. President and Men and Women of the Senate, you can always count on Senator Teague to get right to the point. I would hope that you would vote for this Bill. Although I am not sure not belonging to either of those organizations, I am not sure what their policies are therefore am not privy as to whether they would be denied an exemption or not.

I would say that this bill is an attempt to place into law what the Supreme Court has ruled in the Bob Jones case and that there have been in a number of court cases across this Country have ruled, and that is that a tax exemption is in fact a subsidy, is in fact a direct contribution to an organization and as such it should not go to those organizations that violate any principles of our Constitution or of our law.

I think that all of the organizations in question, the two that have been mentioned are probably good organizations, they probably perform many worthwhile services to their community, but the question remains should the State of Maine condone an activity which at the State level we abhor and that is discrimination.

It seems to me that if the taxpayers of a town are required to pick up a burden, and whenever there is an exemption some one has to pay for that exemption, you are asking all of the taxpayers within a town to pay for the benefits that you've awarded to an organization, that if those same taxpayers can not participate in that organization then that is not a good situation. You are saying in effect that people have to pay for something that they are excluded from whether they are excluded because they happen to be of the wrong sex, or the wrong religion, or the wrong race, or because they happen to be handicapped.

I just think that it is common sense at the State level to set a policy that was set by our founding fathers that we are all created equal, it has been reinterpreted and forcefully interpreted by both the Constitution of our State and at the Federal level and that we have to bring about a certain amount of fairness to our tax policy.

An exemption is a subsidy, if it were a direct grant it couldn't be given to these organizations because they could not receive it if they discriminated. I just think that it makes good common sense to say that if an organization chooses to exclude members of a community they should not receive a tax exemption.

Not that they be allowed not to meet, I have no objection to any group meeting for any purpose, and if they want to as a group exclude people that is fine, but the State should not be condoning that activity by awarding them a tax exemption.

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

SENATOR HICHENS: Mr. President and members of the Senate, this bill is one which I commented on a couple of weeks ago when I stated that people didn't have opportunity to be heard because the session was cut to a half hour, the hearing there were no proponents to the Bill. Several opponents were there, but only four of them had opportunity to be heard before the hearing was terminated, so that they could hear another bill in that short period of time.

I believe that there were people there who represent these organizations which are going to be included in taxation because of discrimination, so-called. I don't think that they had an opportunity to express their opinions, but those who did have been excluded by this amendment, the religious organizations, but I believe that the other service clubs and charit-

able organizations should have that same recognition.

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

SENATOR WOOD: Mr. President, I would only point out to the good Senator from York, that if he looked at the report and sees how few signed it obviously they had some impact at that hearing.

I was frankly disappointed that none of the other organizations were there, but obviously the womens organizations feel that it is more important what does hang or doesn't hang in a bar.

THE PRESIDENT: A Division has been requested.

Will all those Senators in favor of the motion by the Senator from York, Senator Wood to Accept the Minority Ought to Pass as Amendment Report, please rise and remain standing until counted.

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

9 Senators having voted in the affirmative and 22 Senators having voted in the negative, the motion to ACCEPT the Minority OUGHT TO PASS as Amended Report FAILED.

The Majority OUGHT NOT TO PASS Report was ACCEPTED, in Concurrence.

Divided Report

The Majority of the Committee on JUDICIARY on Resolve, to Reimburse David James McDaniel for Damages Suffered as a Result of Wrongful Imprisonment H. P. 761 L. D. 992

Reported that the same Ought Not to Pass

Signed:
 Senators: COLLINS of Knox
 VIOLETTE of Aroostook
 TRAFTON of Androscoggin

Representatives:
 SOULE of Westport
 JOYCE of Portland
 LIVESAY of Brunswick
 DRINKWATER of Belfast
 REEVES of Newport
 HAYDEN of Durham

The Minority of the same Committee on the same subject reported that the same Ought to Pass

Signed:
 Representatives:
 FOSTER of Ellsworth
 HOBBS of Saco

Comes from the House, the Minority Ought to Pass report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "A" (H-591) AS AMENDED BY HOUSE AMENDMENT "A" (H-664) thereto.

Which Reports were READ.

The Majority OUGHT NOT TO PASS Report was ACCEPTED, in NON-CONCURRENCE Sent down for concurrence.

Divided Report

The Majority of the Committee on TAXATION on Bill "An Act to Repeal the Sales Tax on Meals and Lodging and to Establish a Meals and Lodging Tax for the Purposes of Stabilizing the Property Tax and Promoting Tourism" H. P. 1737 L. D. 2303

Reported that the same Ought Not to Pass.

Signed:
 Senators: TEAGUE of Somerset
 TWITCHELL of Oxford

Representatives:
 DAY of Westbrook
 HIGGINS of Portland
 INGRAHAM of Houlton
 JACKSON of Harrison
 KILCOYNE of Gardiner
 MASTERMAN of Milo
 MCCOLLISTER of Canton

The Minority of the same Committee on the

same subject reported that the same Ought to Pass.

Signed:

Senator:

WOOD OF York

Representatives:

ANDREWS of Portland

CASHMAN of Old Town

KANE of S. Portland

Comes from the House, the Bill and Accompanying Papers RECOMMITTED to the Committee on TAXATION

Which Reports were READ.

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

SENATOR WOOD: Mr. President, I would move that this Bill be Recommitted to the Committee on Taxation.

THE PRESIDENT: The Senator from York, Senator Wood moves that this Bill be Recommitted to the Committee on Taxation.

The Chair Recognizes the Senator from Penobscot, Senator Pearson.

SENATOR PEARSON: Mr. President, I don't rise to object to that motion, as a matter of fact I will support it, but I do want to make an observation. As a Senator from Northern Penobscot County I have been given information that tells me that certain members of the delegation to the Maine Legislature particularly from Southern Maine, and actually particularly from Cumberland County have been, at times, threatened or maybe to use a better word mistreated, to say the least, by members of municipal governments in their respective cities. I would hope that the level of their input and participation would be more proper as they recommit this bill to the Committee on Taxation because to threaten somebody into acting in a certain way is to me abhorrent and I would hope that it would cease immediately.

On motion by Senator WOOD of York RECOMMITTED to the Committee on TAXATION, in concurrence.

Divided Report

Eight Members of the Committee on AGING, RETIREMENT AND VETERANS on Bill, "An Act to Modify Early Retirement Plans for State Employees Hired After September 30, 1983" H. P. 1218 L. D. 1617

Reported in Report "A" that the same Ought to Pass in New Draft under New Title Bill "An Act to Modify Early Retirement Plans for State Employees Hired After August 31, 1984" H. P. 1832 L. D. 2426

Signed:

Senators:

MINKOWSKY of Androscoggin

TEAGUE of Somerset

Representatives:

THERIAULT of Fort Kent

HICKEY of Augusta

PERRY of Mexico

AINSWORTH of Yarmouth

PARADIS of Old Town

LeHOUEX of Biddeford

Three Members of the same Committee on the same subject matter Reported in Report "B" that the same Ought to Pass in New Draft under New Title Bill "An Act to Provide Early Retirement Plans for State Police and Wardens" H. P. 1833 L. D. 2427

Signed:

Senator:

DOW of Kennebec

Representatives:

MAYO of Thomaston

TUTTLE of Sanford

Two Members of the same Committee on the same subject matter Reported in Report "C" that the same Ought to Pass in New Draft under New Title Bill "An Act to Provide Early Retirement Plans for State Police, Wardens and Certain Maine State Prison Employees" H. P. 1834 L. D. 2428

Signed:

Representatives:

WALKER OF Skowhegan

STEVENSON of Unity

Comes from the House, Report "A" Ought to Pass in New Draft Under New Title (H. P. 1832 (L. D. 2426) READ and ACCEPTED and the Bill in New Draft under New Title PASSED TO BE ENGROSSED

Which Reports were READ.

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

SENATOR DOW: Mr. President, I move that we Accept Report "B".

THE PRESIDENT: The Senator from Kennebec, Senator Dow moves that the Senate Accept Report "B" of the Committee.

The Chair recognizes the Senator from Androscoggin, Senator Minkowsky.

SENATOR MINKOWSKY: Mr. President, and Members of the Senate, I would hope that the Senate would not Accept Report "B" but would Accept Report "A".

I believe in equity and fair play basically for all State employees, but we are speaking now of a special category of State employees. Now the Governor in his wisdom over the assessment of this particular bill has come out with what I consider a viable, practical way of addressing pensions in the State of Maine.

Report "A" I must say if you want to look at it in the long term really addresses approximately a sixty million dollar savings to the Retirement Fund and subsequently to the people of the State of Maine in the form of taxes. A sixty million dollar savings in a term of twenty-five years of employees. Now with Report "A" proposal, effective as of August 31, 1984: State Police Officers, Maine State Prison Wardens, Game Wardens, Maine Patrol Officers, Liquor Inspectors, Forest Rangers, State Pilots under that proposal we say that they will work twenty-five years, or age 55 in two categories Maine State Police and Maine State Prison employees. In the other categories we are talking of twenty-five years of service retirement at age 60.

Now going into Report "B", which the good Senator from Kennebec, Senator Dow proposes, here we are speaking of twenty years of service in the categories of Maine State Prison, the Game Wardens, the Marine Wardens. Now what we have done here is: the State Police will, now, effective August 1, 1984 retire with twenty-five years of service at age 55: the Maine State Prison employees and the guards twenty years of service at age 50: the Game Wardens twenty-five years at age 55. So in Report "B" we are speaking really of a special category, again, for the Maine State Prison guards working twenty years and retiring at age 50, where the State Troopers, the Game Wardens and the Marine Patrol Wardens work til age 55, with the exception of the Liquor Inspectors, Forest Rangers, State Pilots, they work the twenty-five years to age 60. In that particular category this represents a loss of about 8.6 million dollars.

Just if I may cover one more area Report "C" which represents a loss of 5.6 million dollars. In this particular category the Game Wardens and Marine Patrol Wardens in this particular one they now would be working twenty-five years to age 55, and the same for the Marine Wardens, also.

I strongly urge the Senate to really assess this very, very closely. Now a lot of work has gone into this and it is not based upon an imbalance or inequity amongst various State employees. It is really to address the horrendous cost that has transpired over the years, long before these people became unionized when special consideration where given to them. Now they have their collective bargaining units that they can address these things and in order to maintain a degree of fiscal responsibility in this State I think that we are really on-track with Report "A" and I would strongly urge you to reject Report "B" and allow us to accept Report "A".

THE PRESIDENT: The Chair recognizes the

Senator from Cumberland, Senator Diamond.

SENATOR DIAMOND: Mr. President, I would like to pose a question through the Chair to any Committee Member who would care to answer.

The question is: in Report "B" the report before us, it says that Prison Guards at the Maine State Prison would be qualified or exempt and would be still qualifying for the twenty year retirement.

I am wondering if that is a typo or is that a mistake since obviously then the Maine Correctional Institution in South Windham has some of the same types of inmates, if someone could answer that question I would appreciate it.

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

The Chair recognizes the Senator from Kennebec, Senator Dow.

SENATOR DOW: Mr. President, to answer the question. The difference between Report "B" and Report "C" is in fact that the Maine State Guard, the guards at the Maine State Prison in Thomaston will say the same as it is right now, at after twenty years and after age 50.

I'll give you a little history on the bill while I am up. Last session of the Legislature we had a bill in to take care of some of the corrections of this special group. The corrections weren't included in that original bill. Then we had sent our report to the second floor because there was some question that they wanted to bring corrections in and we had asked them to get the information to us by the 1st of January. I called every week from the 1st of January until a week before I set the hearing, which was about two weeks ago, and nothing was forthcoming. So at the day of the hearing then we had the new amendment, which is in fact Report "A" which eliminates all of the special plans except for the State Police and the Guards at Thomaston.

It is my feeling and the feeling of two other people on the Committee that the guards at Thomaston probably should not increase for two reasons. Their jobs are probably more hazardous than any of the other categories. No question. Probably some of the people in other corrections should, also, have got in. I had an amendment in the Committee to in fact set up a criteria which did not pass. It is my feeling that they probably should have been brought in and all been treated the same way.

The difference on Report "B" is that fact, leaving the guards at Thomaston the same as it is after twenty years and at age 50, and it includes the Game Wardens and the Marine Wardens the same as the State Police which would be twenty-five years and 55.

While I am up I would ask for a Roll Call on the Amendment.

THE PRESIDENT: A Roll Call has been requested.

The Chair recognizes the Senator from Cumberland, Senator Najarian.

SENATOR NAJARIAN: Mr. President, and Members of the Senate, I would hope that we would defeat Report "B" so that we could eventually accept Report "A" which as the good Senator from Androscoggin, Senator Minkowsky pointed out is a sixty million dollar savings in twenty-five years. I would just like to point out that, that would pay for the interest costs on about fifty million dollars worth of bonds over that period of time. We are going to be considering very shortly bond issues totaling in the range of twenty-five million or so. So for that reason I think that it would be prudent to accept Report "A". Thank you very much, Mr. President.

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

SENATOR CLARK: Thank you, Mr. President. Mr. President and men and Women of the Senate a number of years ago, six to be exact, I had the pleasure and the responsibility of serving on what was then called "The Committee on

Veterans, and Retirement". That was in my third term of service in the other Body and the reason that I requested an appointment or an assignment perhaps would be more appropriate to that committee was because I had found in my first 4 years of legislative services in the other Body that I had pretty much consistently voted against the committee reports.

I often wondered what I was doing wrong or perhaps what I was doing right and they were doing wrong. One of the mentors of my early service in the other Body was a gentleman by the name of Arthur "Red" Lynch who hailed from the town of Livermore Falls, and he served on the Committee on Retirement and Veterans and gave me on many occasions, perhaps sometimes too numerous, lessons on the Maine State Retirement System. Also, on the years that I served in that Committee the House Chair of the Committee was a gentleman from Rumford, whom I hold in fond affection, then Representative, the Honorable Albert Terrio. I know that he was alarmed, because he sat right in front of me in Seat 11 in the House, alarmed when my appointment to the Committee on Veterans and Retirement was announced. He said, Oh my goodness, Nancy. What are you doing on this Committee? I told him very candidly, I was there to learn either what I was doing right in my first 4 years of service or perhaps what I was doing wrong. It only took one term, and probably the good Senator from Knox can remember my service on that Committee for indeed he was the Senate Chair, one term on that Committee to understand what I had been doing wrong in the first 4 years, and that was ignoring the unfunded liability factor of the Maine State Retirement System.

One term of legislative service on that Committee is an educational experience that I would encourage all of us to share if at all possible.

The current retirement program for special classes of employees in the Maine State Retirement System has in fact, in years past placed the stability of the Maine State Retirement System in jeopardy. Representative Albert Terrio and Representative Arthur "Red" Lynch were right for the Legislature over the years had been acting irresponsibly.

It is my understanding that the unfunded liability of the Maine State Retirement System of July 1983 was 1.2 million dollars, and it is my pleasure this morning to support an interesting coalition of Senators in support of Report "A" hoping that this Chamber rejects the pending motion of Accepting Report "B".

Many of you might ask why? The answer is very simple it is a courageous act to introduce a particularly controversial piece of legislation that would even address the issue of early retirement programs for Maine State employees who are classified in what we call in lay language somewhat hazardous duty. It has been the reward for that service that those people so qualified could retire at the end of twenty years.

Report "A", or "B", or "C" do not jeopardize those who are currently employed, but addresses only those who will be employed as of September 1, 1984. I think that it would be almost foolhardy if not darn right irresponsible for this Maine Senate, this morning, to do other than to Accept Report "A", for the service of Maine State employees today is rewarded considerably different than it had been prior to collective bargaining. It is a courageous act on behalf of the Brennan Administration because it is political, as well as otherwise, perhaps catastrophic, negative catastrophic in a political sense to even dare address the early retirement issue, but it has been addressed.

Obviously the controversial aspects of the issue is reflected in the three committee reports, but in order to appear responsibly and act responsibly I would urge the Members of this Body, this morning, to reject the pending

motion. Accept Report "A" in order to finally and fiscally address the potential of the unfunded liability of the State Employee Retirement System, for in fact that is what we are doing, to do otherwise is to place before the citizens of this State an increasing burden which will jeopardize current state services and programs for the future. Many of us won't be around here then when that issue has to be addressed but should we be, would we be willing to curtail state programs and services in order to provide the retirement benefits that are accrued in the unfunded liability segment of our Retirement System? I would submit that at that time we wouldn't. Thank you, Mr. President.

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

SENATOR BUSTIN: Thank you, Mr. President. Ladies and Gentlemen of the Senate, I can agree with a good many things that the Senator from Cumberland, Senator Clark has said, but I just want to let you know why I am voting for Report "B". That is because I have some knowledge of what is going on in the Correctional System. The Health and Institutional Services Committee deals with it, almost on a day to day basis, because we are facing overcrowding situations, we are facing a bond issue to build new facilities, we are facing a lack of staff, we are facing all kinds of things, all that aside what you have to look at very carefully is that this is the one, these are the positions that are a day to day thing. They are on stress every hour that they are on duty, every single hour.

Now when you are a State Policemen sure you are under stress and sure it takes a little bit, it takes a lot of stamina to be out there on that road to take care of all the plastic bags that they have to take care of etc, etc. Sure it is a bit stressful to be a Liquor Enforcement Officer and you put yourself into some pretty horrendous situations, but when you are guarding prisoners you are on-line every single hour of that shift. I think that you ought to give some consideration to that, because you may be paying more money for riots there then you every are in unfunded liabilities.

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

SENATOR NAJARIAN: Mr. President and Members of the Senate my second point has returned to me, and that is the joint resolution that was on our calendar this morning sponsored by Senator Perkins would indicate that as a matter of fact that if you go by Workers' Comp. clause the greatest hazardous department to work in, in State government would be the Department of Transportation, in fact, I think that two surveyors were killed in that Department not long ago.

As a matter of fact the Workers' Comp. costs for the Department of Mental Health and corrections (Mental Health and Mental Retardation) far exceeds that of the Department of Corrections. I know that Pineland is a particularly stressful job. They are particularly prone to receive injuries from the residents there, so I mean if we are going to go by that we ought to, it is not fair that those people do not have this kind of special retirement system.

So again, I hope that you reject this and go for Report "A".

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

SENATOR DOW: Mr. President, I do not mean to prolong the debate, but just to touch a couple of things. That's one of the reasons that I thought that we should have a criteria because I know that that there is some other areas of State government that has some hazardous working conditions. Of course the reason why we have more under the Workmens' Comp. in Transportation is because there are quite a lot more people in Transportation than there are guards at Thomaston.

As far as the unfunded liability most of that, of course, is teachers that didn't contribute to

the funds up until 1947, and the payments that we are making now to the Retirement Fund that unfunded liability will all be taken care of, I can't remember the number of years, but I think that it is somewhere like thirteen.

The special retirement plans pay a higher rate or share for their pensions, so it does not contribute to the unfunded liability.

Again, it should have been a criteria, but as far as I am concerned Report "B" is the better of the three for it takes into consideration the hazards of more of the people who are working. Thank you very much.

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

SENATOR VIOLETTE: Mr. President, Ladies and Gentlemen of the Senate, I want to thank the Senator from Kennebec for making a couple of those points. I was concerned with the remarks of the good Senator from Cumberland, Senator Clark, in saying that this bill does not affect in any way the unfunded liability of the State of Maine Retirement System. In deference to her comments, as well, the good Senator's comments, the State, as the good Senator from Kennebec has pointed out is not presently paying for that unfunded liability which these special retirement programs do not affect.

I would, also, like to suggest that all three of these reports address an issue which has been before State government time and time again. I think that it is equally courageous to vote for any one of these proposals.

I do not think that the fundamental issue before the Legislature though ought to be which one saves the most money. That is not the reason for passing this kind of legislation. I hope that somebody doesn't just want Report "A" because they hope that there is going to be four or five or six million dollars over umpteen dozen years that they are going to base part of their budget on somewhere.

Is that the reason why we change the retirement programs and the benefits of our State employees who happen to be working in particularly hazardous kinds of positions? I hope that the reasons for voting for any kind of a report is certainly more fundamental than that. I hope that that argument is not going to win the day irrespective of which every of these reports you may vote for this morning.

I happen to be, I am going to vote with the Senator from Kennebec, Senator Dow and vote on Report "B".

I think that all of these reports represent a view and a changing in the focus of special retirement benefits for certain select groups of our State employees. I would hope today that when we vote for whatever report you intend to vote for the ulterior motive is not necessarily just to save more dollars when in fact all of these reports saves substantial sums of money but that we are treating fairly those individual classes of State Employees, albeit small classes of State employees, in a fair and reasonable way. Thank you.

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

SENATOR DIAMOND: Thank you, Mr. President and Ladies and Gentlemen of the Senate, I would like to make just two points. I do not necessarily disagree with Report "B" except that I am going to vote against it as it stands right now. I would like to share that with you, because I think that there are two very important points. One is that State Prison guards are involved and not the guards at the Windham facility. Now it isn't a me-tooism concern believe me, because the folks who are there now are already grandfathered. I am concerned about those who are really concerned about the prison guards at Thomaston, you know at Windham we have lifers there, all the females that are committed for life, and other lessor stringent penalties are at Windham. We have rapists, we have murderers, we have all the same categories you have at Thomaston, and now be-

cause of the overcrowding we have almost an interchange all the time. Whoever has the freest bed that is where that criminal will go male or female. If any one of you have a chance to visit the facility at Windham and seen the kinds of antics that go on and the kinds of pressures that those people are under, then they too, if you buy Thomaston, you have to buy Windham.

Not to speak for the good Senator from Cumberland, Senator Gill, if you buy Windham, you are going to have to buy South Portland because any of you who are involved or been there have seen that kind of pressure.

Now I can speak for one and that is the facility at Windham and believe me the murderers there and the rapists there and all those real tough, tough people are being watched by those guards as well. So if we are going to vote for Thomaston guards we have to extend that to the Windham ones, we just have to the logic follows the same way.

The other point that I would like to make is that last year when we did a study on corrections and we looked into the twenty years, we in the Audit Committee, one of the things that we found at Thomaston was those people under the twenty year retirement included some clerks, at least one secretary. I am wondering if those people are ferreted out so that these changes, they are saying the prison guards and it looks like the legislation is saying that all those who are currently under the twenty year plan will stay under. I am wondering if that is the case and we are going to be paying the twenty years, not just for the guard who deals directly with the inmates but also for some periphia people? I would conclude by saying that I think that I like the idea of "B", but I can't vote for it, it needs to be changed in several different ways before I would, and I would ask you to take those two points into consideration. Thank you, very much.

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

SENATOR MINKOWSKY: Mr. President, Members of the Senate, when I brought in the area of the sixty million dollar savings it was not to show that we are trying to save money at the expense of State employees. It just that money has to be raised by the taxpayers of this State and with all the other areas that we are committed in, including bonding indebtedness this adds onto the overall tax burden. A State must rely upon its ability to meet these obligations and that was the only reason that I brought out the sixty million dollars in the beginning.

THE PRESIDENT: Is the Senate ready for the question?

A Roll Call has been requested.

Under the Constitution in order for the Chair to order a Roll Call it requires the affirmative vote of at least one-fifth of the members 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 was ordered.

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

SENATOR PEARSON: Are we in First Reading?

THE PRESIDENT: The Chair would state that the pending question before the Senate is Acceptance of Report "B".

Is the Senate ready for the question?

The pending question is the motion by the Senator from Kennebec, Senator Dow to Accept report "B" Ought to Pass in New Draft under New Title (H. P. 1833) (L. D. 2427)

A Yes vote will be in favor of Acceptance of Report "B".

A No vote will be opposed.

The Doorkeepers will recure the Chamber.

The Secretary will call the roll.

ROLL CALL

YEAS—Senators, Bustin, Carpenter, Dow, Emerson, Erwin, Hichens, McBreairty, Perkins, Redmond, Usher, Violette.

NAYS—Senators, Baldacci, Brown, Charette, Clark, Collins, Danton, Diamond, Gill, Hayes, Kany, Minkowsky, Najarian, Pearson, Pray, Sewall, Shute, Teague, Trafton, Twitchell, Wood, The President—Gerard P. Conley.

ABSENT—Senator, Dutremble.

A Roll Call was had.

11 Senators having voted in the affirmative, and 21 Senators having voted in the negative, with 1 Senator being absent, the motion to ACCEPT Report "B" OUGHT TO PASS IN NEW DRAFT UNDER NEW TITLE (H. P. 1833) (L. D. 2427) FAILED.

On motion by Senator TEAGUE of Somerset Report "A" OUGHT TO PASS IN NEW DRAFT UNDER NEW TITLE (H. P. 1832) (L. D. 2426) WAS ACCEPTED in concurrence.

The Bill in NEW DRAFT UNDER NEW TITLE READ ONCE.

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

The Chair recognizes the Senator from Aroostook, Senator Violette.

SENATOR VIOLETTE: Mr. President, I have an amendment to present and it is yet to be drafted. I would appreciate that this be tabled.

On motion by Senator VIOLETTE of Aroostook, the Bill in NEW DRAFT UNDER NEW TITLE ASSIGNED FOR SECOND READING LATER IN TODAY'S SESSION.

Senate

Ought to Pass in New Draft

Senator CLARK for the Committee on BUSINESS LEGISLATION on Bill "An Act Relative to Group Legal Insurance" S. P. 784 L. D. 2110

Reported that the same Ought to Pass in New Draft under same title S. P. 906 L. D. 2437

Which Report was READ and ACCEPTED.

The Bill in NEW DRAFT READ ONCE.

THE PRESIDENT: Is it now the pleasure of the Senate that under suspension of the rules that 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.

OFF RECORD REMARKS

ENACTORS

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

Emergency Resolve

Resolve, to Establish a Select Committee Concerning Forest Practices in the State H. P. 1776 L. D. 2354 (S "A" S-343)

Comes from the House FAILING of FINAL PASSAGE

On motion by Senator CARPENTER of Aroostook TABLED until later in today's session, pending FINAL PASSAGE.

Senate at Ease

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

Senate

Divided Report

The Majority of the Committee on APPROPRIATIONS AND FINANCIAL AFFAIRS on Bill "An Act to Update, Revise, Expand and Publish Williamson's Bibliography of Maine" S. P. 781 L. D. 2107

Reported that the same Ought to Pass in New Draft Under New Title, Bill "An Act to Republish Williamson's Bibliography of Maine"

S. P. 910 L. D. 2449

Signed:

NAJARIAN of Cumberland
BROWN of Washington
PERKINS of Hancock

Representatives:

MASTERTON of Cape Elizabeth
CONNOLLY of Portland
JALBERT of Lewiston
CHONKO of Topsham
LISNIK of Presque Isle
KELLEHER of Bangor

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

Signed:

Representatives:

SMITH of Mars Hill
ARMSTRONG of Wilton
CARTER of Winslow
BELL of Paris

Which Reports were READ.

The Majority OUGHT TO PASS IN NEW DRAFT UNDER NEW TITLE Report was ACCEPTED, in concurrence.

The Bill in NEW DRAFT UNDER NEW TITLE READ ONCE.

THE PRESIDENT: Is it now the pleasure of the Senate that under suspension of the rules that 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 JUDICIARY on Bill "An Act to Provide for a Citizens Environmental Protection Act" S. P. 735 L. D. 2026

Reported that the same Ought To Pass In New Draft under same title S. P. 907 L. D. 2445

Signed:

Senators:

TRAFTON of Androscoggin
COLLINS of Knox

Representatives:

HAYDEN of Durham
SOULE of Westport
LIVESAY of Brunswick
HOBBINS of Saco
BENOIT Of South Portland

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

Signed:

Senator:

VIOLETTE of Aroostook

Representatives:

DRINKWATER of Belfast
REEVES of Newport
JOYCE of Portland
FOSTER of Ellsworth
CARRIER of Westbrook
Which Reports were READ

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

SENATOR BALDACCI: Mr. President and members of the Senate, I would pose a question through the Chair to any Member of the Judiciary Committee who would like to answer.

It is my understanding that this particular Bill allowing a citizen to bring suit in court is very unusual, and the only question that I have is: is there an alternative way of solving this particular problem?

THE PRESIDENT: The Senator from Penobscot, Senator Baldacci 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. To address the question from the good Senator from Penobscot, Senator Baldacci, this

piece of legislation in fact is not very unusual, at least twelve other states have similar legislation. To address his other question of whether or not there may be other means to address the problem aimed at by this particular Bill, in fact, there is another bill pending in the other Body at this moment which attempts to address the enforcement problem of State and local land use ordinances and laws.

This bill has been amended in Committee in such a way that it is much narrower in scope than it ever has been before. It addresses minor land use problems as opposed to major land use law violations, such as air pollution, hazardous waste law violation, water pollution and the like. The purpose of this Bill is to allow a citizen to stop the gaps where local enforcement simply can't by lack of money, or lack of resources address a minor violation within a community. In fact there have been studies of similar legislation in other states, particularly in the State of Michigan which indicate that this type of legislation is not used very frequently.

I would add that this particular bill as amended provides a sixty day notice period which requires a notice to the Attorney General's Office and the State prior to any litigation being filed in court. This sixty day notice provision gives the opportunity to the State and the municipality to take the first step. I believe that in most instances the State and the municipality will use that notice to instigate their own action to ensure compliance with the ordinance. Thank you.

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

SENATOR VIOLETTE: Mr. President and Ladies and Gentlemen of the Senate, I am not really going to argue with the comments of the good Senator from Androscoggin, Senator Trafton, I don't readily attend all of the work sessions and hearings of the Judiciary Committee, I am usually in State Government Committee, but on this bill I made it a point to attend the public hearing and attend the work sessions of the Committee, and in fact as the good Senator suggests the Bill which is basically a result of his commissions work and deliberations, he has substantially diminished the scope of his first legislation.

In answer to the Senator from Penobscot, Senator Baldacci, I guess where I have a problem mine is a basic policy issue. That is that I believe that it is the responsibility of the State to enforce the environmental laws of the State of Maine. It is for that reason when other legislation that came out of the Trafton Commission came before the Senate, last week, I voted for that legislation, and it is for that reason that I am opposed to this legislation and signed the Ought Not to Pass Report. Thank you.

THE PRESIDENT: Is the Senate ready for the question?

The Chair recognizes the Senator from Androscoggin, Senator Minkowsky.

SENATOR MINKOWSKY: Mr. President and Members of the Senate, over the past few weeks several pieces of mail have come in relevant to this particular issue, the original bill, itself. I guess that it was basically a great concern that one neighbor could bring an action against somebody else who is violating a part of the statutory law relevant to environmental laws. That brought out the fact of some frivolous suits that could be brought against residents of the State of Maine. One of the letters that I received here brings out one important aspect of it which I would like to put on the Record, "The first disturbing issue is that there are no restrictions regarding that the person who brings the action shows that he or she has been affected by the alleged violation, because of this the potential for harassment and abuse is enormous." I was wondering, possibly, if someone from the Committee on Judiciary could alleviate some of, at least, this particular concern

that number one that we would not have frivolous suits and that there is justifiable cause when a person brings an action against his neighbor insofar as environmental laws are concerned.

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

The Chair is pleased to recognize the Senator from Androscoggin, Senator Trafton.

SENATOR TRAFTON: Thank you, Mr. President. To address the question from the good Senator from Androscoggin, Senator Minkowsky, I would say that there is a provision in this particular bill which does require a person to show that he has been personally aggrieved from any injury for which he is suing for enforcement.

The bill is very narrow in scope, as I indicated before, it does not permit a suit for damages. It only permits a person to go to court for the purpose of having the court declare that the law has been violated or to request the court to order that the violation cease. That type of relief is called "equitable relief", and in order to be entitled to receive this type of equitable relief the court rules require that the person indicate and show and prove in court that there is an irreparable harm or injury resulting to him. That showing must be made before any type of relief under this particular law can be granted. So that I am confident that there will be very few frivolous suits. As I have indicated studies in other states indicate that there are not a number of frivolous suits resulting from this type of statute.

There are sanctions against both attorneys and persons who bring frivolous suits. Courts have the power currently to award sanctions against such a person, and in fact, award attorney's fees for a defendant in those cases where they must appear in court, and hire an attorney to defend such a frivolous law suit. So I am confident that this particular bill will not result in additional court time and frivolous suits and I urge your support of this bill. Thank you.

THE PRESIDENT: The pending question before the Senate is 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.

The Chair recognizes the Senator from Androscoggin, Senator Minkowsky.

SENATOR MINKOWSKY: Mr. President, I request a Division.

THE PRESIDENT: A Division has been requested.

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

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

11 Senators having voted in the affirmative, and 17 Senators having voted in the negative, the motion to ACCEPT the Majority OUGHT TO PASS IN NEW DRAFT Report FAILED.

The Minority OUGHT NOT TO PASS Report was ACCEPTED.

Sent down for concurrence.

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

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

HOUSE REPORTS— from the Committee on HEALTH AND INSTITUTIONAL SERVICES on Bill "An Act to Amend the Statute Relating to the Sale and Free Distribution of Cigarettes to Children" H. P. 1694 L. D. 2249

The Majority Report Ought To Pass as Amended by Committee Amendment "A" (H-650).

The Minority Report Ought Not To Pass.

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

Pending—the motion by the Senator from Kennebec, Senator BUSTIN to Accept the Minority OUGHT NOT TO PASS Report in NON CONCURRENCE.

(Comes from the House with the Majority Ought To Pass as Amended Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-650))

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

SENATOR CARPENTER: Mr. President and Ladies and Gentlemen of the Senate, I would rise in opposition to the pending motion.

As you can see a majority of the Committee on Health and Institutional Services felt that this Bill as amended by House Amendment 650 was a reasonable relaxation, if you will, of a law that we passed here last year.

There has been a great deal of concern expressed by some of the personnel in the Corrections Department that depriving some of the young people of their tobacco products after they have been put into incarceration adds an extra degree of punishment, it adds a great deal more stress, and it makes the job of the corrections personnel, as far as, trying to reorient these people relative to whatever it was that put them there, in the first place, it makes their job a great deal more difficult.

I am not real comfortable standing here this morning advocating this position, but I felt that I had to support my signature on the Committee. This Bill only allows two things, it allows parents or guardians to furnish cigarettes or tobacco to their children. That may sound a bit radical to you, but that is exactly the same thing that is allowed under our liquor laws in the State of Maine. It also allows for the Chief Administrative Officer of a Correctional Facilities with parental or guardians permission to receive tobacco products when the youngster is incarcerated. I know from personal experience that this does add a degree of extra punishment that a court may not have contemplated, may not have anticipated, when they assigned a young person to a correctional facility.

On top of that, I think that we have to be concerned about the concerns expressed by the personnel in the Department of Corrections that this does add an extra degree of stress, there is also, a concern and I am not waving it as a red flag, I am simply saying that it is a concern on the part of personnel who are more knowledgeable than I am, but personnel in the field of corrections who are fearful that if a young person who is incarcerated who is a smoker is deprived of their tobacco products while they are incarcerated that this may be in some way used as barter, they may be induced or coerced to do things in the facility that they would not normally do simply driven by their desire to smoke, to have a cigarette.

I don't think that any of us regardless of whether we be smokers or non-smokers can deny from either our own personal experience or from experience of family or friends that when a person is taken off nicotine there is a severe at least psychological, emotional, stress added to their lives. Therefore, I think that we really ought to give this consideration. Thank you very much.

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

SENATOR BUSTIN: Mr. President, I guess that I can't answer for the rest of the Committee having voted on the other side, except to say that maybe we were misinformed or misdirected or they bought some sob story, but I would like to make a couple of points. One is that don't forget that what you are asking us to do is to allow something to happen in prisons a privilege to happen in prison that does not happen outside lawfully, is that correct? We can

not legally let children smoke outside the prison system, and now what we are saying is but it is okay to let them smoke inside the prison system.

Secondly, I don't think that anybody who smokes in this Chamber really wants to smoke, Mr. President. I think, and my daughter is a smoker and I talk to her all the time and she gets sick of me, I am sure as you people do sometimes when I stand up here, but I say to her do you really want to be a slave to this particular drug? She says, No, but she can't give it up. Here you have an excellent opportunity for rehabilitation, I thought, that was what we talked about when we put kids in prison. That we would try to rehabilitate them. Understand that we are only talking about those people who are under eighteen. As to their being users of the barter system I heard that up in Committee but I could figure out how that was going to be done, seeings that you can only smoke at particular times, in particular places, and if you are under eighteen you are not going to be one of those particular people who can smoke. So how are you going to get a cigarette passed to you? It is not going to happen, you can't do that.

What we are asking for we have canteens set up in these facilities and what we do is we give each inmate \$15.00 per month out of the State coffers that they can buy personal items with. One of those personal items is cigarettes. Do we want to be in the business of helping children to continue or start a habit that is potentially dangerous for them? I would like to quote something from the *Mainely Maine* column by Edmond McDonald a Sun staff writer, when he says, "I heard one law enforcement officer say that kids get nervous and a cigarette helps them calm down. Horsefeathers you get a (blick) of a lot less nervous without dependence on tobacco or other narcotics." That is one thing that he said and then he goes on, to say a number of things and then at the last end he says, "young people under eighteen who are incarcerated are most frequently, but admittedly not always those who have not had the benefit of proper guidance, proposing and enacting a law of this nature which provides special privilege to one segment of society is inappropriate. This maybe a stretch of the imagination but can't you just imagine some sixteen year old now in the poky in the year 2030 taking chemotherapy for lung cancer saying, I started smoking in the county jail when I was sixteen because I was nervous."

A few other points, one in particular Aroostook County has the highest smoking rating in the State for both men and women. I am glad to see that the Senator from Aroostook County, Senator Carpenter is not that strong on his position now that he has had a chance to think it over and maybe read that statistic as I did.

Inpatient hospital claims are inflated at least 6.6 million dollars each year due to smoking. The State loses at least 4.5 million dollars both as an employer and in medicaid pay off. Federal government costs exceed \$10,000,000. for smoking related illness in Maine. I think that that is reason enough to do some rehabilitative work when we have a chance to. Not break the law inside prisons and adhere to the laws the same people have to follow outside of prison.

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

SENATOR GILL: Mr. President and members of the Senate, if you will notice the people who signed the Bill on the Senate, my name was omitted, and it was omitted because I was not present the day that the Bill was signed out.

I, too, during the hearing I was kind of in the middle, I was listening very intently to both sides. I am coming down on the side of Senator Carpenter and the Ought to Pass Report, I'll tell you why. I also want to explain to you that I was co-sponsor of a bill that was past last year that would prohibit cigarettes being distrib-

uted to minors. One of the things that we didn't consider last year was the fact that we have a unique situation in the corrections facility with the minors and at the Youth Center.

With the testimony that we heard this year, during this particular hearing it was obvious that they needed additional work and additional time before we could cut them off cold-turkey. I think that we got some satisfaction from the staff at the Youth Center that indicated that they would be willing to work with the Maine Lung Association, the Maine Cancer Association and work to get the young people at the Youth Center off cigarettes as soon as possible.

We do have a problem with staff there, we have a problem with the people who have been incarcerated there. I think that what we should do is give them a little more time, let this Report go with the Ought to Pass as Amended Bill and we will look at them again. They have promised us that they will work hard and I think that we ought to give them a little time. They are in there they are being rehabilitated. I think that we ought to look at the priorities of why they are there and rehabilitate those first before we take the cigarettes away. Then we can work on that, and I think that this Bill will give us ample opportunity to do that, so that perhaps in another year they can comply with everyone else.

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

SENATOR BUSTIN: I just wanted to clear up one point that the good Senator from Cumberland, Senator Gill said that is to give them more time to work with the Maine Lung Association and get these kids off the habit. In fact, I want you to understand that the prison system has already been breaking the law forever since they have had kids there because they have always let them smoke despite the fact that we had a sixteen year old law, and we now have an eighteen year old law. The problem just got exacerbated when it went to eighteen. So I maintain that they have the ability to get them off the tobacco, right now and they can work with the Maine Lung Association and we don't have to give a special privilege law for those people who are already in prison.

THE PRESIDENT: Is the Senate ready for the question?

The Chair will order a Division.

Will all those Senators in favor of the motion by the Senator from Kennebec, Senator Bustin, that the Senate Accept the Minority Ought Not to Pass Report of the Committee, please rise and remain standing until counted.

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

15 Senators having voted in the affirmative and 13 Senators having voted in the negative, the motion to ACCEPT the Minority OUGHT NOT TO PASS Report in NON-CONCURRENCE, PREVAILED.

Sent down for concurrence.

OFF RECORD REMARKS

ORDERS OF THE DAY

The President laid before the Senate:

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)

Tabled—April 6, 1984 by Senator PRAY of Penobscot

Pending—ENACTMENT
(In House April 6, 1984 PASSED TO BE ENACTED)

(In Senate April 3, 1984 PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENTS "E" (H-577), "F" (H-581), "H" (H-599) and "M" (H-612) in concurrence)

On motion by Senator PRAY of Penobscot RETABLED until later in today's session, pending ENACTMENT.

The President laid before the Senate:
AN ACT to Increase the Potato Tax H. P. 1645 L. D. 2179 (S "A" S-348 to C "A" H-561)

Tabled—April 6, 1984 by Senator CARPENTER of Aroostook

Pending—ENACTMENT
(In House April 6, 1984 by Senator CARPENTER of Aroostook

Pending—ENACTMENT
(In House April 6, 1984 PASSED TO BE ENACTED)

(In Senate March 29, 1984 PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-561) AS AMENDED BY SENATE AMENDMENT "A" (S-348) thereto)

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

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

The President laid before the Senate:
Bill "An Act Concerning the Maine Land Use Regulation Commission" H. P. 1837 L. D. 2430

Tabled—April 6, 1984 by Senator DIAMOND of Cumberland

Pending—PASSAGE TO BE ENGROSSED
(In House April 6, 1984 PASSED TO BE ENGROSSED)

(In Senate April 6, 1984 the 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 by Senator PRAY of Penobscot RETABLED until later in today's session, pending PASSAGE TO BE ENGROSSED.

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

SENATOR BUSTIN: I just wanted to clear up one point that the good Senator from Cumberland, Senator Gill said that is to give them more time to work with the Maine Lung Association and get these kids off the habit. In fact, I want you to understand that the prison system has already been breaking the law forever since they have had kids there because they have always let them smoke despite the fact that we had a sixteen year old law, and we now have an eighteen year old law. The problem just got exacerbated when it went to eighteen. So I maintain that they have the ability to get them off the tobacco, right now and they can work with the Maine Lung Association and we don't have to give a special privilege law for those people who are already in prison.

THE PRESIDENT: Is the Senate ready for the question?

The Chair will order a Division.

Will all those Senators in favor of the motion by the Senator from Kennebec, Senator Bustin, that the Senate Accept the Minority Ought Not to Pass Report of the Committee, please rise and remain standing until counted.

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

15 Senators having voted in the affirmative and 13 Senators having voted in the negative, the motion to ACCEPT the Minority OUGHT NOT TO PASS Report in NON-CONCURRENCE, PREVAILED.

Sent down for concurrence.

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

SENATOR BUSTIN: I just wanted to clear up one point that the good Senator from Cumberland, Senator Gill said that is to give them more time to work with the Maine Lung Association and get these kids off the habit. In fact, I want you to understand that the prison system has already been breaking the law forever since they have had kids there because they have always let them smoke despite the fact that we had a sixteen year old law, and we now have an eighteen year old law. The problem just got exacerbated when it went to eighteen. So I maintain that they have the ability to get them off the tobacco, right now and they can work with the Maine Lung Association and we don't have to give a special privilege law for those people who are already in prison.

THE PRESIDENT: Is the Senate ready for the question?

The Chair will order a Division.

Will all those Senators in favor of the motion by the Senator from Kennebec, Senator Bustin, that the Senate Accept the Minority Ought Not to Pass Report of the Committee, please rise and remain standing until counted.

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

15 Senators having voted in the affirmative and 13 Senators having voted in the negative, the motion to ACCEPT the Minority OUGHT NOT TO PASS Report in NON-CONCURRENCE, PREVAILED.

Sent down for concurrence.

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

SENATOR BUSTIN: I just wanted to clear up one point that the good Senator from Cumberland, Senator Gill said that is to give them more time to work with the Maine Lung Association and get these kids off the habit. In fact, I want you to understand that the prison system has already been breaking the law forever since they have had kids there because they have always let them smoke despite the fact that we had a sixteen year old law, and we now have an eighteen year old law. The problem just got exacerbated when it went to eighteen. So I maintain that they have the ability to get them off the tobacco, right now and they can work with the Maine Lung Association and we don't have to give a special privilege law for those people who are already in prison.

THE PRESIDENT: Is the Senate ready for the question?

The Chair will order a Division.

Will all those Senators in favor of the motion by the Senator from Kennebec, Senator Bustin, that the Senate Accept the Minority Ought Not to Pass Report of the Committee, please rise and remain standing until counted.

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

15 Senators having voted in the affirmative and 13 Senators having voted in the negative, the motion to ACCEPT the Minority OUGHT NOT TO PASS Report in NON-CONCURRENCE, PREVAILED.

Sent down for concurrence.

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

SENATOR BUSTIN: I just wanted to clear up one point that the good Senator from Cumberland, Senator Gill said that is to give them more time to work with the Maine Lung Association and get these kids off the habit. In fact, I want you to understand that the prison system has already been breaking the law forever since they have had kids there because they have always let them smoke despite the fact that we had a sixteen year old law, and we now have an eighteen year old law. The problem just got exacerbated when it went to eighteen. So I maintain that they have the ability to get them off the tobacco, right now and they can work with the Maine Lung Association and we don't have to give a special privilege law for those people who are already in prison.

THE PRESIDENT: Is the Senate ready for the question?

The Chair will order a Division.

Will all those Senators in favor of the motion by the Senator from Kennebec, Senator Bustin, that the Senate Accept the Minority Ought Not to Pass Report of the Committee, please rise and remain standing until counted.

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

15 Senators having voted in the affirmative and 13 Senators having voted in the negative, the motion to ACCEPT the Minority OUGHT NOT TO PASS Report in NON-CONCURRENCE, PREVAILED.

On motion by Senator CARPENTER of Aroostook RECESSED until 3 o'clock this afternoon.

RECESS
AFTER RECESS

The Senate called to order by the President.

Senator COLLINS of Knox was granted unanimous consent to address the Senate, Off the Record.

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

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

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 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 6, 1984 PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-363) AS AMENDED BY HOUSE AMENDMENT "A" (H-641) in concurrence

Comes from the House PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-363) AS AMENDED BY HOUSE AMENDMENTS "A" (H-641) AND "B" (H-652) thereto in NON CONCURRENCE

On motion by Senator KANY of Kennebec the Senate RECEDED and CONCURRED with the House.

Non-concurrent Matter

Bill "An Act to Clarify and Make Corrections in the Inland Fisheries and Wildlife Laws" S. P. 908 L. D. 2446

In Senate April 6, 1984 referred to the Committee on FISHERIES AND WILDLIFE and ORDERED PRINTED

Comes from the House Under Suspension of the Rules READ TWICE and PASSED TO BE ENGROSSED without reference to a committee in NON CONCURRENCE

On motion by Senator USHER of Cumberland the Senate RECEDED and CONCURRED with the House.

COMMITTEE REPORTS

Senate

Ought to Pass As Amended

Senator NAJARIAN for the Committee on APPROPRIATIONS AND FINANCIAL AFFAIRS on Bill "An Act to Require that the Aid to Families with Dependent Children Program Promote Family Unity" S. P. 652 L. D. 1842

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (S-383)

Which Report was READ and ACCEPTED.

The Bill READ ONCE.

Committee Amendment "A" (S-383) was READ and ADOPTED.

THE PRESIDENT: Is it now the pleasure of the Senate that under suspension of the rules that 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.

Divided Report

The Majority of the Committee on LABOR on Bill "An Act to Increase the Minimum Wage to

\$3.55" S. P. 835 L. D. 2236

Reported that the same Ought To Pass.

Signed:

Senators:

DUTREMBLE of York
HAYES of Penobscot

Representatives:

BEAULIEU of Portland
NORTON of Biddeford
TUTTLE of Sanford
TAMMARO of Baileyville
GAUVREAU of Lewiston
SWAZEY of Bucksport

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

Signed:

Senator:

SEWALL of Lincoln

Representatives:

ZIRNKILTON of Mt. Desert
BONNEY of Falmouth
WILLEY of Hampden
ROBINSON of Auburn

Which Reports were READ.

On motion by Senator DUTREMBLE of York the Majority OUGHT TO PASS Report was ACCEPTED.

The Bill READ ONCE.

THE PRESIDENT: Is it now the pleasure of the Senate that under suspension of the rules that 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.

SECOND READERS

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

House

Bill "An Act to Modify Early Retirement Plans for State Employees Hired After August 31, 1984" H. P. 1832 L. D. 2426

Which was READ A SECOND TIME.

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

Senate

Bill "An Act Regarding Franchising and Regulation of Cable Television Systems" S. P. 903 L. D. 2423

Which was READ A SECOND TIME

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

SENATOR CARPENTER: Mr. President, I offer Senate Amendment "A" under filing S-379 and move its Adoption.

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

Senate Amendment "A" (S-379) was READ.

THE PRESIDENT: The Senator has the floor.

SENATOR CARPENTER: Mr. President just a note of explanation. If you look at S-379, the purpose of this amendment is to keep the jurisdiction of a pole attachment with the Federal Communications Commission and that very simply stated is exactly what it does. It deletes the section of the Bill that does otherwise.

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

SENATOR BALDACCI: Mr. President, first I would request a Division of the proposed amendment and second I would like to speak to the issue.

THE PRESIDENT: The Senator has the floor. SENATOR BALDACCI: Mr. President, presently — first of all this was a unanimous report by the Committee on Public Utilities in its review of the situation as far as cable television and telecommunications in general as far as the State of Maine.

The issue of pole attachments is now relegated to the Federal Communications Com-

missions by a formula. I think that one of the more interesting things that has been brought out to day is that the cable industry seems to be so much in fear of being regulated by the Maine Public Utilities Commission that they are saying that the rate would be increased so tremendously they are admitting the fact that the electric customers and the telephone consumers and the electric consumers are subsidizing the pole attachments for the cable, for the people who are purchasing cable.

I think that if there is one thing that they made perfectly clear it is that in providing universal telephone service that if you take a chunk out of that pie you're placing more of a burden on the rest of the people that are within that regulated monopoly. So by allowing the Maine Public Utilities Commission to settle the dispute, and that is all that it is, it could be less than it is now, or it could be more, but all this Bill tries to do is allow the Maine Public Utilities Commission to settle that dispute, (it does not automatically go up) rather than relegate the authority to the Federal Communications Communications Commission by a formula.

I think that espousing universal telephone service, as we will with the second amendment that is being presented by the honorable Senator from Aroostook, is the fact that we want to maintain universal telephone service, it is very important to protect the integrity of that monopoly, because if we lose the integrity of that monopoly at the same time we are going to be hurting the ratepayers and consumers of the telephone and the electric industry. So when we are deciding this issue it is not a dollars and cents issue, this particular amendment, it is only what we are talking about in defeating this amendment is still allowing the Maine Public Utilities Commission to settle that dispute. Thank you, Mr. President.

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

SENATOR PEARSON: Mr. President, I would like to pose a question through the Chair to the Chairman of the Public Utilities Committee. That question is this, currently the cable people have to pay a certain amount of money to have their line on a pole to the telephone company, does that money that goes to the telephone company go to relieve the cost of telephone service?

THE PRESIDENT: The Senator from Penobscot, Senator Pearson has posed a question through the Chair to the Chairman of the Joint Standing Committee on Public Utilities who may respond if he so desires.

The Chair recognizes the Senator from Penobscot, Senator Baldacci.

SENATOR BALDACCI: Mr. President and members of the Senate, the question by the Senator from Penobscot in regards to whether that money that is collected for the pole attachment, now by formula is going towards relieving the burden of all the other ratepayers and consumers within that regulated monopoly, similar to the revenue from yellow papers or sale of equipment.

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

SENATOR CARPENTER: Mr. President, I am certainly a novice in this area but it is my understanding that presently space on poles is regulated by the Federal Communications Commission at a rate which they deem to be fair to the utility companies.

This is sort of like new money to the utility companies it is like found money. They don't have to put up any new poles or anything else.

There have been indications that if this goes to the PUC then in fact the pole attachment rates will be considerably higher. I think that you can understand this is just from the pressure that the PUC suffers from what with regard to telephone rates and everything else. I am not sure, quite frankly, in response to the question by Senator Pearson, I am not sure that that money does go to alleviate, this little

pot of found money that is brought in by the cable companies, it was my impression, it was my understanding that that was not the case, that that money did not flow over to then keep their next rate increase down below a certain amount. In fact, if the price of these pole attachments goes up significantly and the construction of cable line in the rural area will, or may not be economically feasible by the cable companies.

I just don't think that since this is regulated by the Federal Communications Commission that it is an appropriate thing for the PUC to be taking over.

I think that the other thing that I have is a little bit of concern about the process and the good Senator from Penobscot, can correct me, but it was my understanding that this was a five or six member of the Committee decision. A Majority of those Members, which then became of the process that that particular Committee works under then became a unanimous decision and now in fact several Members of the Committee, a number of the Members of the Committee have changed their positions. I would ask the Senator from Penobscot, Senator Baldacci to expand on that. How this came to be a unanimous Committee Report?

THE PRESIDENT: The Senator from Aroostook, Senator Carpenter has posed a question through the Chair to the good Senator from Penobscot who may respond if he so desires.

The Chair recognizes the Senator from Kennebec, Senator Kany.

SENATOR KANY: Mr. President and Members of the Senate. I rise as a member of the Public Utilities Committee wishing to point out that this is indeed a unanimous report of the Committee. A Committee which contains many unusually conservative, as well as perhaps, unusually liberal people, Democrats and Republicans all voted in favor of this measure.

Looking at the cable industry we decided to allow for municipal regulation to continue and to spell out what was appropriate there.

There are two other aspects to the Bill one which has to do with the pole attachments which is before you. It was the Committee's intent to be as fair, to treat everyone equally to have the opportunity to go before the Public Utilities Commission.

It is true that the FCC does regulate, but if it does appropriately is the question. We, in Maine, perhaps may view what is appropriately paid, that share, to be different than the FCC.

It is just recently, a week or so ago I understand, our PUC did get into this type of matter when two various groups were unable to agree.

It is appropriate legislation, we do regulate just as we should, and I certainly hope that you do not favor this Amendment, which I understand has been unusually heavily lobbied and I haven't heard any reason for voting for it.

By the way revenues are taken into consideration, of course, when any rate increase is sort and therefore is taken into consideration and certainly could by being taken into consideration reduce revenues from other sources.

THE PRESIDENT: The question before the Senate is Adoption of Senate Amendment "A".

The Chair ordered a division.

Will all those Senators in favor of the Adoption of Senate Amendment "A" (S-379), please rise and remain standing until counted.

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

The Chair recognizes the Senator from Aroostook, Senator Carpenter.

SENATOR CARPENTER: I request that when the roll be taken it be taken by the Yeas and Nays.

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 in their places until counted.

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

The pending question before the Senate is the Adoption of Senate Amendment "A" (S-379).

A Yes vote will be in favor of the Adoption of Senate Amendment "A".

A No vote will be opposed.

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEAS—Senators, Bustin, Carpenter, Clark, Danton, McBrearty, Minkowsky, Pray, Teague, Trafton, Violette, Wood.

NAYS—Senators, Baldacci, Brown, Charette, Collins, Diamond, Dow, Dutremble, Emerson, Erwin, Gill, Hayes, Hichens, Kany, Najarian, Pearson, Perkins, Sewall, Shute, Twitchell, Usher, The President—Gerard P. Conley.

ABSENT—Senator, Redmond.

11 Senators having voted in the affirmative and 21 Senators having voted in the negative with 1 Senator being absent, the motion to ADOPT Senate Amendment "A" (S-379) FAILED.

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

SENATOR CARPENTER: Mr. President, I present Senate Amendment "B" to S. P. 903, L. D. 2423 under filing number S-380 and move its Adoption.

THE PRESIDENT: The Senator from Aroostook, Senator Carpenter presents Senate Amendment "B" and moves its Adoption.

Senate Amendment "B" (S-380) was READ.

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

SENATOR KANY: Thank you, I hope that the Senate does not accept this, Mr. President, Members of the Senate and I ask for a Division.

Once again, this is just something that is appropriately regulated by the Public Utility Commission and there is no reason why if indeed someone is competing with the telephone company, why they shouldn't be subject to the same regulation. If in the long run it is desirable or it is no longer necessary to regulate because of not having a monopoly status anymore in the future then at that time I would hope that the telephone company or whomever would come out from under regulation of the PUC, but certainly the cable industry should not be allowed to have a favorite status and this amendment would allow them to do just that. I hope that you vote in opposition to the amendment before you.

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

SENATOR CARPENTER: Mr. President, Members of the Senate it is with some trepidation that I rise to defend Senate Amendment "B". There is a section in the bill which says, "that cable television companies to the extent they offer services like those of telephone companies subject to regulation by the Public Utilities Commission shall be subject to the Commission's jurisdiction. That is what this amendment would propose to delete. That paragraph.

I think that there are a number of very good reasons for deleting that. There is a new and emerging technology in this State of Maine in two-way communications and while it is true that the telephone company is regulated in most of its activities by the Public Utilities Commission, the cable people have no objection with them being unregulated.

I think that we have seen deregulation, in fact, be beneficial to the consumer, but why put something under the Public Utilities Commission if one there has been no indication that I know of, that they need this regulation to protect the consumer. Two if it is going to cost more it is going to cost the consumer more.

I, also, have a little bit of a problem with the New England Telephone Company for exam-

ple, being the triggering mechanism which says what will be regulated and what will not be regulated. If you read that statement that I just read to you, if New England Telephone decides that they are going to sell beefless hamburgers tomorrow and that is something that should be regulated and that is regulated on everything else, then everybody else who is a cable television company will have to be regulated in the same way. They are what triggers what will be regulated.

I am not sure which came first here the chicken or the egg, while the opponents of my amendment may have some valid points, I think that the language in the bill could have been worded in such a way as to be more specific. I'll read that to you again, "Cable television companies to the extent they offer services like", you know, sounds like, looks like, what is a service like the telephone company? How broadly is this going to be interrupted? Are we talking about two-way communication? What kind of two-way communication are we talking about? If that is the case, and I just received a nod from a Member of the Committee, why didn't they say that? "to the extent that they offer services like those of the telephone company."

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

SENATOR BALDACCIO: Mr. President, it is a very simple straightforward bill and especially in this particular section is very important. If a cable company wants to enter the market place with services like those offered by a regulated telephone company, then the cable company should be subject to the same regulations. I am not saying that the cable company should be barred from entering any form of the telecommunications business, they should not be. What I am saying is that if they want to offer any two-way communication then they should be treated the same as the telephone companies and fall under the jurisdiction of the PUC.

The worst case scenario is that if we allow any company to offer two-way services unchecked the consumers will lose in the long-run. For example, an unregulated company picks off the larger customers of a utility that utility loses revenue, because the utility is regulated they most approach the PUC for additional revenue. Those additional revenues can only come from the remaining utility customers in the form of higher utility rates. It is very simple if you take that out of the pie you have the same people left and they just have to pay more to shoulder the burden, you have few to shoulder the burden. Thank you, Mr. President.

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

SENATOR CARPENTER: Mr. President, I am going to quote from the good Senator from Penobscot, Senator Baldacci, just a few minutes ago that "the consumers are going to suffer in the long-run if any company is allowed to get into the two-way communication field in an unregulated fashion." I would ask somebody on the Committee if the Bill, as written, would apply to Sprint, to Wang, to MCI, to any of the microwave, that is not a cable television company, if not, if the good Senator's remarks are accurate in his mind, why did you just single out cable television companies? There are a myriad of companies out there getting into the two-way communications field. They have all been excluded from this bill except something called a cable television company. The major competitors of most cable TV companies are the ones that I just listed to you, the microwave companies, Sprint, the Wang Company. They would not be regulated, they could certainly step in, in Portland, in Waterville, in Bangor into two-way communications in direct competition not only with New England Telephone but also the cable TV companies and not be regulated. Why did the Committee decide that they should be left out of this jurisdiction if the concerns of the Committee were that any

company getting into the communications field be regulated, why didn't they say so?

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

The Chair recognizes the Senator from Kennebec, Senator Kany.

SENATOR KANY: Thank you, Mr. President. Members of the Senate in answer to the good Senator's question presently we really do not have the two-way communications systems in place. Probably within a period of a couple of years, as quickly as that, we will see these two-way communication systems in place in the State of Maine. At that time it is probably most appropriate to perhaps even totally deregulate in that area if the competition is sufficient. We can look at it then, when that occurs. Here we are dealing with cable and we have a bill which addresses cable in a variety of ways. It certainly would seem fair, just out of a question of fairness though, that if we are regulating the telephone companies like this that we would, also, have cable if we are addressing cable and where and when it is not appropriate to regulate cable. Certainly we do not want anyone to be totally regulated and others in the long-run not be regulated. It simply would not be fair. When that situation eventually occurs I am certain that we could deregulate everything, but for now the telephone company is still regulated in this area.

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

SENATOR EMERSON: Mr. President and Ladies and Gentlemen, I think that there is one very simple answer as to why we didn't try to regulate Sprint, or MCI, or those companies, those are controlled by the interstate commerce and regulated by the Federal Communications System.

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

SENATOR CARPENTER: Mr. President, the Senator from Kennebec, Senator Kany has brought up the issue of fairness and I guess that it is one of the things that I am trying to get at here in my last question which raised the issue of why these other companies were not brought under the same regulation. It doesn't make much sense to me that now one company, I don't believe that a cable company, I don't know of a cable company that has a present, existing two-way communication system. There is one that is apparently negotiating at the moment, but if you follow the logic of the good Senator from Kennebec, that as they start to get into this field we are going to regulate them so that in two years when they all get in we can unregulate them. I am not sure if that is the proper approach.

I would, also, point to you that on the 14th day of March of this year the Governor signed an executive order establishing a cabinet level committee to look at this whole area. Section 8 of that executive order says, "to investigate to what extent need technologies and businesses not now regulated by the State, I.E. cable TV, microwave radio transmission, satellite communications systems and paging services be brought within the purview of the Public Utilities Commission." He, the Governor, took into consideration all of these concerns not just cable TV companies. So, I guess, my question I go back to the issue of fairness. Why just cable TV companies? Why don't we do the rest?

The Governor has now in effect taken or attempted, at least, if this bill doesn't go through as is, to take a good look at exactly what's going on in this field and how much need there is for regulation. This is one month ago, less about 5 days that he decided to establish a cabinet level task force on this whole area.

I still don't feel like I have a good answer to why the rest of these companies are not proposed to be regulated under the present bill.

THE PRESIDENT: The Chair recognizes the

Senator from Kennebec, Senator Kany.

SENATOR KANY: Mr. President and Members of the Senate, I would like to point out to the Senate that if indeed cable television is not ready to provide the two-way communications systems then they would not fall under this bill.

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

SENATOR CARPENTER: I request that when the roll be taken it be taken by the Yeas and Nays.

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 Adoption of Senate Amendment "B" (S-380).

A Yes vote will be in favor of the Adoption of Senate Amendment "B".

A No vote will be opposed.

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEAS—Senators, Carpenter, Danton, Minkowsky, Najarian, Pearson, Pray, Violette.

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

ABSENT—Senator, Redmond.

7 Senators having voted in the affirmative and 25 Senators having voted in the negative, with 1 Senator being absent, the motion to ADOPT Senate Amendment "B" (S-380) FAILED.

The Bill was PASSED TO BE ENGROSSED.

Sent down for concurrence.

ENACTORS

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

AN ACT to Clarify the Definition of Traffic" with Respect to Growing and Cultivating Marijuana" S. P. 841 L. D. 2265

AN ACT Concerning Use of Computer Transcripts H. P. 1748 L. D. 2302

AN ACT to Standardize Time Periods for the Processing of Applications H. P. 1840 L. D. 2435

AN ACT Relative to Time of Payment Under the Maine Labor Law H. P. 1828 L. D. 2422

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

AN ACT to Promote Family Permanency H. P. 1637 L. D. 2166 (C "A" H-647)

AN ACT to Require Downstream Public Notification of Release of Water Impoundments H. P. 1808 L. D. 2390 (H "A" H-638)

AN ACT to Provide Limitations on Fishing by Weirs, Purse and Stop Seines and to Provide Notice for the Location of Weirs and their Maintenance H. P. 1516 L. D. 1991 (H "A" H-542 to C "A" H-527; H "B" H-585)

AN ACT to Amend the Restitution Provisions of the Victims' Bill of Rights H. P. 1697 L. D. 2251 (C "A" H-648)

AN ACT to Update and Clarify Certain Provisions of the Mining Excise Tax H. P. 1638 L. D. 2167 (H "A" H-651; C "A" H-633)

AN ACT to Ensure Universal Telephone Service for Maine People S. P. 778 L. D. 2097 (H "A" H-627; C "A" S-340)

AN ACT Concerning the Counting of Absentee Ballots in Towns with Voting Machines S. P. 708 L. D. 1954 (S "A" S-365)

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

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 Funding from the Blueberry Industry Tax to Promote Market Development for the Blueberry Industry H. P. 1816 L. D. 2406 (S "A" S-368)

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

AN ACT Relating to Alcohol-related Birth Defects S. P. 880 L. D. 2384 (H "B" H-644; H "D" H-661)

THE PRESIDENT: The Chair recognizes the Senator from Oxford, Senator Twitchell.

SENATOR TWITCHELL: Mr. President, I move that this bill and all accompanying papers be Indefinitely Postponed.

THE PRESIDENT: The Senator from Oxford, Senator Twitchell moves that this Bill and all accompanying papers be Indefinitely Postponed.

The Chair recognizes the Senator from Kennebec, Senator Bustin.

SENATOR BUSTIN: When the vote is taken I request a Roll Call, but further than that I would like to speak on the bill.

We finally, I think, are going to debate this bill. I do not know why the good Senator has asked for indefinite postponement seeing as some of us have had the opportunity to speak on it, but I would like to tell you a few of the facts and why this bill is in. It called your attention a while ago to a little blue covered book. If you would get that out you would find out why we should pass this bill, but the important things are contained in a statement that was given to the Committee by Marian Sandmaier who is an expert in this particular field. I want to read a little bit of that to you. She is not a medical expert and she is not a representative of any particular organization, but she is a woman who is vitally concerned about the promotion of womens health. She spent 10 years writing and speaking and organizing in many different areas of the country to try to improve health services and health education for women particularly with regard to alcohol use and drug abuse. She is now working with the city of Philadelphia to help develop legislation for a poster similar to the one that we are considering here. Some of the facts that you should know, "fully one-third of the adult population of the United States has never even heard that alcohol could have adverse affects on an unborn baby, among women of child bearing age 20 percent have never heard of fetal-alcohol affects. Not surprisingly the less education a woman has had and the lower her socioeconomic status the less likely she was to have heard about the problem. Both women and men are, also, subject to a great deal of misinformation and myths about drinking during pregnancy."

She recently helped conduct the National Fetal-Alcohol Syndrome Prevention campaign for the NIAAA and before preparing materials for the campaign she interviewed a number of pregnant women to find out their ideas and beliefs about drinking during pregnancy. Among those who had heard about fetal-alcohol affects the majority of the women and their husbands believed that these affects were only temporary, that they were reversible. This of course is not the case.

I want to refer to some material that I have that was put out when Congress designated National Fetal-Alcohol Syndrome Awareness Week and that also is in your book, an epistle from Congress. FAS is an identifiable pattern of

birth defects. There are more than fifty-one million women of child bearing age in the United States. A high percentage of women child bearing age drink at least occasionally including 69 percent of those eighteen or twenty years old, 77 percent of those twenty-one to thirty-four, and 65 percent of those thirty-five to forty-nine. Less severe alcohol related birth defects referred to as FAE amount to 36,000 per year or 1 per 100 births with a total societal cost of over 1.5 billion dollars per year.

Maybe you'd like to know what the definition of Fetal-Alcohol Syndrome is and what the series of affects that are seen in children of women who drink alcohol during and prior to, possibly, prior to pregnancy. It is because one prenatal or postnatal growth retardation, postnatal obviously is through the nursing mother, prenatal or postnatal growth retardation with weight, length and/or head circumference below the tenth percentile. Two central nervous system involvement with neurological abnormality, developmental delay or intellectual impairment, facia dysmography, birth defects with at least two or three signs, small brain, small eyes, and short fissures (that is the horizontal length of the eyes), poorly developed filtrum (that is the distance from the base of the nose to the upper lip), thin upper lip and/or flattening of neck . . . area. I could go on and on and on with all of the facts.

I'll listen to some of the other debate before I give you some more of those, but I think that what a lot of us may not recognize is that this is a totally preventable disease, all you have to do is stop drinking during pregnancy. Now I will say straight out we do not know how much you have to drink in order to affect the fetus. We do not know that. What we do know is that alcohol indeed does affect the fetus. It is the one eradicable disease in society. In fact if a child is born with Fetal-Alcohol Syndrome it costs society up to fifty thousand dollar per year in 1984 prices to support that child, and they usually last or live at least to the age of 60. That is the average mean age that they live.

So you are talking about a very very high cost. What are we asking you to pay out? Nothing! Nothing out of the General Fund, and \$4,000 out of the Alcohol Premium Fund, that the new committee will print those posters and send them out.

Why are we penalizing the establishments if they put them up? Nothing! We stripped the penalty off the bill.

I wonder why this bill should be indefinitely postponed. I wait anxiously to find out why.

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

SENATOR CHARETTE: Thank you, Mr. President. Women and Men of the Senate, I rise and speak in favor of the motion today, and I guess that I should explain my reason for that.

I want to thank my good friend Senator Bustin from Kennebec for her explanation and the support that this problem seems to have from the medical profession, however I am a little mixed because I have read other articles here that seem to contradict her arguments. I read here that "many U.S. doctors believe that the evidence against alcohol is strong enough to warrant strict warnings, but other disagree and doubt that warning signs are justified." I read here "U.S. government and other researchers estimates of the incidents of alcohol caused defects range from 1 in 500 births to 1 in 10,000." It goes on and Doctor John Larson of George Washington University even takes issue with the Surgeon General's findings, there is not evidence, he says: "that one glass of wine has any damaging affect." His concern is that: "the posting of signs will serve only to burden with guilt the well educated and sensitive without having any affect on pregnant women who are heavy drinkers." So it goes on and on.

I would believe that the best place to educate our people if doctors seem to disagree against

one another that it ought to be in the doctors office. I would hope that most pregnant women at some time and point will make a doctors visit and if at that particular instances there can not be an educational process then I don't believe that it belongs in restaurants, grocery stores on coolers of all sorts. So if we are going to educate our people, in Maine, about the affects of alcohol then let's do it the right way and let's get the support of the doctors in this State and let's make sure that that is where the education process begins. Thank you.

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

SENATOR DANTON: Mr. President and Members of the Senate, first I want to commend the good Senator from Kennebec, Senator Bustin, and the other Senators, Senator Gill and Senator Hayes and Senator Perkins for serving on this Committee. Their purpose, I believe, on this Committee is to inform and educate.

I am happy to see that from what the original bill was there is really nothing left of it. You know at one point we had fines of \$250. per day if someone didn't put a sign up. I am sure that they really didn't think that out too well, because shortly after that they were ready to amend that from \$250 a day to \$25 a day, and they didn't do that.

We amended out another section of the bill which would have allowed for liquor enforcement still to go in there and check to see if the signs were put up.

As the bill presently is, it still allows for liquor enforcement to go in to a licensee, first of all I believe that these signs should be everywhere. You know, I don't think that women go into only barrooms, or restaurants, or cocktail lounges, or take out stores. I think that they go everywhere. The other day watching television I saw a thing come on television explaining about this problem. It is a problem and we should do something about it, but let me get back to the point that I was trying to make. The point is simply this. Can you imagine a liquor enforcement officer going into a liquor licensee, and this now we have taken and put on a voluntary basis where a person wants to put the sign up and that person had not put the sign up in his establishment? What kind of a relationship is that licensee supposed to have with that liquor enforcement official? I think that what we are doing is we're pitting State government against the business community out there. I don't think that it is necessary.

I think that this Committee is doing a great job in informing and educating the public. I don't think that this bill is needed especially right now. The fines are out it has been gutted out. I think that I am going to support the Senator from Oxford, Senator Twitchell to do away with this Bill and I would hope that the Committee would continue in its efforts to take and educate and inform the public about this problem.

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

SENATOR HAYES: Mr. President, Men and Women of the Maine Senate, I speak only briefly on this Bill. I personally have been involved in Eastern Regional Council in the full county area of Penobscot, and have dealt with this particular issue, and some research that is ongoing.

What we are trying to do is to provide some additional information to people regarding FAS and FAE which are two preventable kinds of problems in our society. It isn't just the pregnant women who is a problem in this case, it is the women who is not pregnant who is in the bar drinking and who needs to have some kind of information conveyed to her of the potential danger. There is considerable danger and the evidence is unclear, in fact it is difficult to trust doctors in this case because doctors unfortunately have not been properly trained in the

dangerous impacts of alcohol upon the fetus in our society. I think that medical schools are now becoming more aware of this, but doctors who have been out of medical school for over five or ten years are not tuned in to this problem.

What we have found in the State of Maine if you follow the Medals report that has been presented to us. The impact of alcohol upon the Maine society constitutes a problem of about \$700,000,000 per year. This is not something to take lightly the cost of one preventable FAS victim is \$50,000. per year. This is truly a regrettable and unfortunate problem. It is preventable and we are taking, I think, the first step.

I agree with the good Senator from York, Senator Danton this bill has suffered more damage than my "morality bill" we now have very little left of it. We've taken out the fine, we've taken out the number of signs. The opponents to this, and they are the liquor interests of this State, have done all the damage they can do to this bill. I think what is left is still worth doing, and I hope that you support the bill.

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

SENATOR GILL: Mr. President and members of the Senate a warning sign that appears in a bar, or a grocery store, or anywhere else that sells liquor it might appear intrusive or meddlesome, or in a position where you couldn't penalize people if they didn't have it.

A recent article in *Time Magazine* on alcohol consumption in pregnancy said that, "we preferred to err on the side of caution" and that is exactly what the sponsors of this measure wanted to do. They brought it before the Committee. We want to err on the side of caution. If we can educate people as to the effects of Fetal-Alcohol Syndrome or the effects of alcohol on a fetus, that's what we want to do, in any way that we can. The good Senator from York County, Senator Danton spoke about seeing a commercial on TV indicating the same thing. There are doctors offices who have information available. We are in a position where we have taken the fine off and we are in a mode of just introducing an idea to people so that they can make up their own mind.

There are some who question the wisdom of raising this issue, but the AMA (the American Medical Association) believes that the current research raises a sufficient possibility of risk to warrant informing pregnant women. Once the pregnant woman is aware of the potential risks of the use, of even moderate use of alcohol she can make that determination and decide the appropriate course for her.

Again, this is simply a way that we can inform them and just remind them of what alcohol can do. So I would urge you to please pass this piece of legislation.

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

SENATOR CLARK: Thank you, Mr. President. Mr. President and Men and Women of the Senate, I have had some reservations about the measure that we are debating this afternoon for quite a few weeks now. I did take the time to read the booklet that was kindly provided to all members of the legislature, but I think this afternoon that perhaps we ought to focus on one issue and that issue is that we are all concerned about defective children, we are all concerned and appreciate the need to increase the awareness and the need to educate people who either currently are pregnant or potentially may be pregnant. This addresses the issue of all women of all ages for all generations who are of child bearing age.

I am relieved that the bill has been modified to the condition before we find ourselves almost enacting this bill this afternoon. I would have great problems mandating the posting of signs in establishments of business to which was attached a fine or a penalty of \$250 a day. For that is flying directly in the face of what we perceive to be an encouraging business climate

for the State of Maine.

If it is perceived by some that I stand this afternoon representing the so-called liquor interests I am not hesitant at all to share with you that, that is not my knowledge of what I am representing this afternoon, for I as I am prone to do shared this bill with one of my part-time employers and many of you know where you can find me on weekends. My employer just laughed and said, is this another one of those bills like the violation which we suggested we passed, which said that we are not to sell cigarettes to young people who are less than eighteen years of age? Even though we are very quick to support the use of those same cigarettes by young criminals who are incarcerated in our institutions? Or is this another bill, Nancy like the unfortunately the good and well meaning bill that said that we are going to erect fences around swimming pools but we didn't provide for any meaningful enforcement of same? Or is it a bill that mirrors another bill that was introduced into this session of the legislature that would have required the posting of warnings against the possible ill effects of microwave ovens in operation? A bill to which I refer was given a leave to withdraw by the Committee on which I am probably more prominently associated with than any other service of my legislative history.

I think that is one of the issues I would like to speak to this afternoon, for in fact even though as the good Senator from Cumberland has suggested this afternoon, Senator Gill, that we error on the side of prudence, if you will, for if by requiring a posting we will have saved one defective child, what in fact are we doing to those unborn, or those children who are already born who display or have any of the signs of Fetal-Alcoholic Syndrome, those tendencies toward hyperactivity, those tendencies toward physical appearance, those tendencies toward mental retardation? I even had one mother say to me, my child has a learning disability it was suggested that the child has a Fetal-Alcoholic Syndrome and that I am at fault. What about that kind of anxiety? What about the anxiety of the young woman who doesn't know that she is pregnant and consumes a seven ounce bottle of beer which contains alcohol and later delivers an abnormal child or as we call them exceptionally negative child? What about the kind of guilt trip we are laying on that woman? Do we require the posting of this kind of educational warning in the offices of our medical professionals? Do we require the education of young people and young adults in high school regarding the dangers of alcoholic consumption? REQUIRE! and the answer is No.

As a result of the Committee and as the result of the funding of the premium tax more funds are available across our State for alcoholic educational programs and I am proud to say that the outline of a pregnant female and the words that say, "pregnant women do not drink alone, or pregnant females do not drink alone" because some of the pregnant females are not yet women, abound in many educational institutions, particularly high schools and colleges in my area of the State.

We didn't have to pass a law to require that kind of intelligent educational process, and yet we are hitting this with a club today. There is no enforcement. Four thousand signs isn't going to fill the bill on this. We aren't requiring it at the point where a woman would seek medical attention. We are laying stress and anxiety and guilt, blame on thousands of women out there who not only have given birth to defective children, but in the future for one reason or another and it isn't all alcohol related, will give birth to less than perfect children.

Increasingly voluntary educational programs supported by alcoholic organizations and reform organizations and civic and serial organizations and community service organizations and substance abuse committees, and dry graduation parties and dry new years eve party

organizations, and all people of conscience are promoting an increased awareness and heightened acknowledgment and embracement, even, of the dangers of alcohol. For it is a dangerous chemical and yet we have literally hundreds, and thousands of child bearing age women, females whose intelligence is being threatened and it is by this measure and the data which has been provided for me by the good Senator from Kennebec, Senator Bustin says in part, that there are cases and infants who may still experience Fetal-Alcohol Effects and a series of poorly defined health problems that include increased irritability during the newborn period and hyperactivity, when alcohol as a matter of fact is not the genesis for those kinds of health problem.

There are many, many questions remaining regarding the illness FAE and FAS which are yet unresolved and even unanswered. Have we asked the members of the business communities, the merchants of alcohol, the sellers of this chemical for voluntary compliance? Have we tried that before, we try to mandate something legislatively? I would submit to you that the answer is no. I hope that you share my concern regarding that rather blatant omission in the communications and the education process.

The Bill doesn't do an awful lot in its present stage. It will force the posting of warnings such as is shared to you in the booklet. It is not a particularly offensive warning, people can read. Maybe in fact it will be good, but before we pass legislation, before we create anxieties, and before we promote guilt on behalf of over 50 percent of the population, who coincidentally by their sex are going to be the deliverers of these imperfect children, perhaps we should seek voluntary compliance. Voluntary compliance on behalf of the merchants of Maine.

I would submit to you Members of this Senate that responsible merchants, responsible businessmen and women will post warnings. While I can't speak for that business community I would think that that business community would resent and resist even, or blatantly defy a mandate from State government, before their voluntary compliance is sort.

Maybe in fact this kind of legislation is not needed at all, because the compliance on behalf of the business community may in fact be realized if we don't legislate it, and if we don't mandate it. Perhaps we should try that first. Thank you, Mr. President.

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

SENATOR WOOD: Mr. President and Men and Women of the Senate, I realize that the hour is late, but I do think that this is an important issue whether the bill has been gutted or not, there is still some meaning left in it and would like to briefly share some of my thoughts with the Senate today.

The last speaker talked about this hysteria as if women, it seems to play into those traditional images we have of women of being that weak and fairly defenseless hysterical person which I don't think adequately characterizes that group at all, and talks about why don't we let the stores comply on a voluntary basis.

Now if they all complied and all the signs were up there wouldn't you still have the hysteria, wouldn't you still have the guilt? So I don't see the purpose of whether they comply voluntarily or whether we tell them to comply. The argument would still be the same it would seem to me.

I have been in this legislature when we have dealt with similar health issues, this year this nation has been rocked with the discovery that EDB that pesticide that we find in a lot of our cereals may cause cancer, and the department sent out lists to consumers and lists to stores saying what contained EDB. If you followed the logic of the last speaker then those shouldn't have gone out, who wants to know whether it causes cancer or not because that will only create hysteria in people wondering if they

have eaten something or not that caused cancer. Fortunately those did go out and then consumers can make an intelligent decision on what they should buy or what they should not buy.

A few years back we had the scare about DES another thing that unfortunately hit more women than men. Would it have been right for the State not to advertise not to try to educate the public? Or would it have been better to say let's not discuss it because we might cause hysteria in people? Or agent orange would it have been better to pretend that that had never occurred and let our veterans go on wondering what was causing the problems that they were having? Or even cigarettes should that warning be on the package or not? Or should we say well maybe we shouldn't have restrictive areas in restaurants because of the argument of secondhand smoke? I don't want to feel guilty and figure that I am causing someone health problems because I choose to smoke and give secondhand smoke to people.

I think that in all of these there is one issue and that is knowledge. Knowledge causes reason and a calm decision the lack of knowledge causes hysteria. I think that it is better for the consumer whether they be male or female to have a full knowledge of what is going on and then they can make a rational decision on their behavior. I think that in all of these issues whether it be EDB or cigarettes or agent orange or this issue it is simply letting the public know the risks involved and then hoping that they will make the right decision whether it is voluntary or not.

The thing that concerns me most about this issue and it is one that I have seen in the prospective of serving on the Taxation Committee when we discussed the alcohol premium. The one difference in this issue is the alcohol industry wants us to believe that their product causes no harm, and they will go to great lengths to lobby that their product causes no harm. As if this Legislature can dismiss logic. The truth is that alcohol does cause harm, and when we passed the premium bill we passed it because there is a connection between alcohol and problems, and that connection has been proven time and time again. It is a responsible thing to make that connection, but this lobby chooses to let us believe that, Oh!, they're in favor of anything to educate people, they're in favor of alcohol programs, they would give money up on top of money, but they don't want any connection with the problem. Well, I can assure you if people did not drink, there would be no problem.

I would urge you to vote for this much watered down version, I have seen the anguish that people sponsoring this Bill have gone through, they've amended it for the very reasons that they wanted something to pass, thinking that if they kept amending it they could appease the opposition and the opposition kept buying into those amendments until the final day when the opposition said: I know you've given away everything but now we want to nail the coffin.

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

SENATOR BUSTIN: Thank you, Mr. President. Ladies and Gentlemen of the Senate, I will try to keep this brief, but I think that I would like to follow up a little from the good Senator from York's comments, Senator Wood, because he's made some very good ones.

Are we talking about making women feel guilty because they're told that something could happen to the baby they carry. I can't believe that that's what we're saying we do. I can't believe in this day and age when we're putting out to referendum an E.R.A. Bill this fall, that women cannot stand to know the truth. Women can stand to know the truth. I'll be supporting the E.R.A. because I feel, as a woman, I've earned that right, but I question the women who will be supporting the E.R.A.

and feel that they're going to be harassed and they're going to feel guilty, they don't want to know the truth, they're hiding behind what, the men's "skirts"? I mean, really, if we want to stand with men in this society then we ought to be able to face the same facts that men have to face.

The fact of the matter is, and the last time I knew, women are the only people in this society who can bear children. Women, then, must take that responsibility. There is no way you can get around that because there's nothing you can do to me, as a pregnant woman to make me eat or not eat I'm going to have to do that, make me drink or not drink I'm going to have to do that, make me exercise or not exercise I'm going to have to do that, for the welfare of that fetus.

We're not talking about what I ingest, we're talking, also, about what my baby ingests, and that's what the important thing is.

Further than that, on the information issue, everybody says why can't you get it at the doctors offices? Does everybody in this Chamber realize that most of the time you don't end up in the doctors office when you're first pregnant, that it might be three months from then that you end up at the doctors office, and that the damage may already have been done in those three months while you drank? Is it not reasonable to expect that the information should be given at the point of sale? What do we read on aspirin bottles? What do we read on any drug bottle? It tells us, at the point of sale, the contraindications for that particular drug.

Why is there so much resistance, at the point of sale, for informing me that the drug alcohol might affect my unborn baby? What is so wrong with that? What is so wrong is that women are going to see it and it is going to establish, for the alcohol industry, I imagine, that in fact it is a drug, and that in fact it does cause problems. That's something they and I fight out every session up here. The problem with alcohol is it is society's pet drug, it indeed is. And, that's why we've give it up, so we hold on to it so badly, just as we do cigarettes, cigarettes are another pet drug of society.

Further than that, the doctors don't need mandated to put up a sign, the health centers don't need to be mandated to put up a sign, nor do the hospitals, because they'll do it willingly, because they have an investment in that. I think we have an investment in informing the public when they purchase something, what it might do to them, especially when that something is going to affect a person who cannot even speak for themselves, that's what you have to think about.

There are fifty-one million women who either are pregnant, can get pregnant, will get pregnant, in this United States. How, under any public service campaign, is it more effective than the point of sale for me to inform them that Fetal-Alcohol Syndrome is around and that drinking alcoholic beverages during pregnancy can cause birth defects. Where else can I get that message more succinctly across?

You know, you might call, I know the Bill is gutted, I did it on purpose, because I believe so strongly in this issue. I believe we need, as women, and I have to include the men because they have something to do with propriation, and they have some responsibilities to tell their women that they may be causing some birth defects if they drink. So, I include the fathers and the brothers and the uncles, and the grandfathers, and everybody else, and all those people go to the stores and the grocery stores. If they see a sign that says: "Drinking Alcoholic Beverages during Pregnancy can Cause Birth Defects" and they go home and say: Did you know, dear wife, that drinking alcoholic beverages during pregnancy can cause birth defects? If she says: Oh, no I didn't. "Well, didn't your doctor tell you? No, he said I could have a glass of wine a day if I wanted.

All right, let me, as the woman, at least make

the choice of whether I drink or I don't drink, but at least give me the information that I need in order to make an intelligent choice. Fifty-one million women have to be educated, and their respective men, therefore, I think the best thing in the world we can do is put up a sign, voluntary, mandatory sign.

I'd appreciate you voting against the pending motion.

THE PRESIDENT: Is the Senate ready for the question?

The Chair recognizes the Senator from York, Senator Danton.

SENATOR DANTON: Mr. President, the hour is getting late and I don't want to belabor this debate I don't think there's too much more to be said about it, but I do have to say this. The reason I feel strongly that we do not need a bill or a law, is that liquor licensees in this State are not all bad. There are some good ones and if they were asked, on a voluntary basis, if they can put signs up, contribute to programs, whatever else was needed to take and bring this to the attention to the women that, perhaps, have to be educated, then I'm sure they would do it, but in order for us to pass a law that has absolutely no teeth in it and to have liquor enforcement people going around checking whether a six inch by a nine inch sign is up by the liquor license, I think it's totally ridiculous.

THE PRESIDENT: Is the Senate ready for the question?

A Roll Call has been requested.

Under the Constitution in order for the Chair to order a Roll Call it requires the affirmative vote of at least one-fifth of those Senators present and voting.

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

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

The pending question before the Senate is the motion by the Senator from Oxford, Senator Twitchell to Indefinitely Postpone L. D. 2384.

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, Charette, Clark, Danton, Dutremble, Erwin, Najarian, Pray, Redmond, Sewall, Shute, Teague, Twitchell, Usher, The President—Gerard P. Conley.

NAYS—Senators, Brown, Bustin, Carpenter, Collins, Diamond, Dow, Emerson, Gill, Hayes, Hichens, Kany, McBairty, Pearson, Perkins, Trafton, Violette, Wood.

ABSENT—Senators, Baldacci, Minkowsky.

14 Senators having voted in the affirmative and 17 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.

EMERGENCY

AN ACT Relating to School Funding for Washburn for 1984-85 S. P. 1835 L. D. 2429

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

EMERGENCY

AN ACT Relating to Medicaid Reimbursement Rates for Ambulance Services H. P. 1811 L. D. 2396

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

EMERGENCY RESOLVE

Resolve, Relating to Wastewater Treatment and Water Classification of Sardine Plants H. P.

1830 L. D. 2425

This being an emergency measure and having received the affirmative vote of 29 Members of the Senate, with 2 Senators having voted in the negative was FINALLY PASSED and having been signed by the President, was presented by the Secretary to the Governor for his approval.

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

Bill "An Act to Modify Early Retirement Plans for State Employees Hired After August 31, 1984" H. P. 1832 L. D. 2426

Tabled earlier in today session on the motion by Senator VIOLETTE of Aroostook
Pending PASSAGE TO BE ENGROSSED

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

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

The President then retired from the Senate Chamber.

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

SENATOR VIOLETTE: Mr. President, I offer Senate Amendment S-384 to L. D. 246 and move its adoption and I will give a brief explanation to the members as to the substance of the amendment.

THE PRESIDENT PRO-TEM: The Senator from Aroostook, Senator Violette, offers Senate Amendment "A". The Secretary will read the Amendment.

Senate Amendment "A" (S-384) was READ
THE PRESIDENT PRO-TEM: The Senator has the floor.

SENATOR VIOLETTE: Mr. President and Ladies and Gentlemen of the Senate, this amendment is very straightforward.

The purpose of the Amendment, as stated in the Statement of Fact, is to remove the fifty-five year requirement for State Police and certain Maine State Prison employees. These persons would be eligible for retirement after twenty-five years of service without regard to their age at the time of retirement. This is present law, except the change of course, as reflected in the fact that they cannot retire after twenty years, would now have to retire after twenty-five years.

To give you a brief explanation as to why I'm offering this amendment today. I'm offering this amendment this evening because of my concern about the quality of the work of our State Police Department. The tendency, under Report "A", the Report that we accepted this morning, which says that Troopers can retire after twenty-five years but they cannot begin to collect their retirement benefits until they are fifty-five, the result of that report, in my opinion, will be that Troopers will tend to stay on the force until they reach the age of fifty-five. I believe that we want to keep this force as young as we can. I believe that we if we accept Report "A" without this Amendment, as we did this morning, it will tend to create an older force.

I'd like to share with you a few statistics in this regard. One survey done in the State of Massachusetts with respect to their State Police, that the life expectancy after retirement, in 1940 and '45, was twenty years after the average Trooper there retired at age 48, about approximately 49 years of age. By 1975, the average years after retirement had decreased from twenty, to eight, to twelve.

There are approximately one hundred and eighty troopers now on retirement, as I understand it. About seven of these are under age fifty-five and at least one out of five of each of these troopers has had one heart attack. With the increase in age, I am concerned of the en-

fire force as to the results, quite frankly, of the true savings that have been suggested by this Legislation. Everyone of these troopers would, as a result of this Legislation, be on Workers' Comp. those benefits are not the fifty percent retirement benefit that that trooper would ordinarily receive once he had retired, but seventy-five percent of pay.

In addition to this, over the last number of years, ten troopers have died from heart attack while on active duty or within three years of retirement; two were under age fifty-five, eight were under age fifty. Once again, these troopers would be drawing higher benefits because they would be under Workers' Comp.

I'm not so sure that the suggestions as to the considered costs beyond those that have been included in the savings that this Bill, which have been suggested to you, will be made as the average age of the force gets older we'll have a far greater comp case, hold higher benefit levels, and as a result, higher cost to State Government.

I'm also concerned about attracting the quality of individuals that we wish to attract to the State Police, to that particular Bureau. Presently, many towns and cities and counties offer, will be offering, retirement, and are presently offering retirement, most of them do, a retirement benefit, upon retirement. An example in my own County is Presque Isle, where one who has had military service can retire there after twenty years and receive two-third's pay, or if one had not been in the military, retire after twenty-four years of service with two-third's pay. Many municipalities and counties will now be offering better incentives as far as the attraction of that pool of individuals that is interested in this occupation, and I'm concerned as to the effect of this legislation on the quality of Maine State Troopers.

So, I guess the gist of my comments in offering this amendment today, are that they ought to be our desire to keep the age of those individuals who make up this highly specialized division of State government and provide this service as young as possible. My opinion that the result of Report "A" will be but to increase the age of those presently who serve as troopers and that there will be a corresponding increase in the cost to the system. The savings have been documented but the additional costs, because of the high rate of stress and the like, I don't believe have been, or at least up to this point, have ever been documented, those have, quite frankly, been taken into consideration.

So, I would hope this evening that you would go along with me in accepting this Amendment. Thank you.

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

SENATOR NAJARIAN: Mr. President, Members of the Senate. I hope you won't accept this amendment because we're just going to begin to chop away Report "A" which we accepted this morning.

I think that the concerns that the good Senator from Aroostook, Senator Violette, has raised are all speculative. It could happen, it could not happen. Right now, though, we have currently applications for vacancies, even in 1982 there were five hundred in the State Police, there were five hundred and six applications for only twenty-five positions, seven hundred and six applications for twenty-one anticipated positions in 1984, so certainly, it seems like this position of being a State Police is a very desirable job for people to hold.

I just hope that we won't undo what we did this morning because I think this is in the future, I doubt that Workers' Comp costs are ever going to be thirty-four percent or thirty-five percent of the payroll, which is now what the retirement costs are in the State Police. So I would move for the Indefinite Postponement of this Amendment.

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

SENATOR VIOLETTE: Mr. President, I request a division on that motion and I would hope that you would vote against it.

I think that the Senator's point is very well taken, that it is because of the present system that by its very nature provides the incentive for so many people and thus provides for a large pool of individuals from which to draw those most highly qualified to serve in these positions, and as we only pass legislation such as this, we will continue to narrow the numbers of truly most highly qualified people that will be made available to what is, in fact, the most specialized police enforcement system that we have in this State, and it may not be that the costs, the additional costs, due to Workers' Comp benefits as a result of stress related injury and the like on the job will increase the savings, but on the other hand, I have, you know, I seriously question whether or not those costs have indeed been taken into consideration, when the projected savings have been made. Thank you.

So I would hope you vote against the Senator's motion to Indefinitely Postpone. Thank you.

THE PRESIDENT PRO-TEM: the Chair recognizes the Senator from Kennebec, Senator Dow.

SENATOR DOW: Mr. President and Members of the Senate, I asked that question at the hearing, whether the Work' Comp had been taken into the, and I might mention, projected savings, because the savings are so far in the future they are awful hard to see?

I urge you to support this amendment because it does two things. It keeps a younger police force and it helps the people that we're trying to help. Thank you very much.

THE PRESIDENT PRO-TEM: The Chair recognizes the Senator from Penobscot, Senator Baldacci.

SENATOR BALDACCII: Mr. President, (Mr. President) it's hard to get used to that. I'd like to pose a question through the Chair to anyone who may care to answer.

Is this Retirement Bill, is this affecting, this age limit of fifty-five, is that affecting anyone now under employment or is this with the proposal of twenty-five and fifty-five for everybody that's been hired since a particular period? If somebody would just clarify that for me, I would appreciate it.

THE PRESIDENT PRO-TEM: The Senator from Penobscot, Senator Baldacci, has posed a question through the Chair to any one who may care to answer.

The Chair recognizes the Senator from Kennebec, Senator Dow.

SENATOR DOW: You'll have to excuse me, I haven't been over here too long!

To answer the question of the good Senator, it does not affect anyone that is presently in the system, only after September first of this year, the new hires.

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

SENATOR COLLINS: Mr. President, in assessing this sort of legislation, we have to look at the past and we have to look at the future.

In looking at the past, I have known a number of State Policemen through the years, they've all been excellent servants of the State, and virtually all of those policemen that I know that have retired before the age of fifty-five, and many of them have, have then taken positions in police work, such as becoming Chiefs of Police in our towns, cities, or becoming county Sheriffs or Chief Deputy Sheriffs, or Detectives in the Sheriffs Departments and similar activities. In other words, they have continued the same type of work and with very good results for the entities that have employed them.

Looking at the future, it seems to me that the

type of work that is done by our police officers in the future is going to depend less on good muscular condition and quick knee-jerk responses than on good brains and good experience because we're going to be using more and more machinery, electronic surveillance, technical materials in police work. I submit to you, having past the age of fifty-five myself, that at least up to age fifty-five, that our officers can cope with that type of work as capably as the men in their thirties and forties.

I'm told that an average retirement age at the present time is about fifty-two years old, so, perhaps, we're talking about three years in reality of assessment.

The thing we must keep in view is that down the long road, if we do not tighten up our retirement system, it's going to cost our grandchildren a tremendous amount of money. We who have served in the Retirement Committee in the past, and I am one of those, have heard over and over again, the phrase "A ticking time bomb". In Maine, happily, we've been trying to get a handle on that ticking time bomb. We've infused new money into the system to try to fund the unfunded portion of the system, we still have quite a ways to go.

We had a massive study and report about five years ago, four years ago. I introduced a bill pursuant to that study calling for some of the changes that we have now before us, and it met sudden death very quickly because, of course, there was a very astute and powerful lobby working on it. As the years have rolled along, others have seen what the numbers mean and what it will cost if we do not act, and I applaud the Governor for taking leadership in trying to bring this into a better focus and into a position where it can be funded at reasonable cost, not only to the taxpayers but to those that earn the salaries while working for the State Police. They contribute a little more than the regular State employee at the present time. They contribute one percent more.

The State, on the other hand, has to go up into the twenty and thirty percent level to balance the need on an actuarial basis. And, what is happening? Well, every year human longevity gets a little greater, and we're going to have to look at funding the men of the future until they are a hundred years old, and when you look at that cost of people retiring at forty-nine or fifty, and so on, and you see what the cost is to project ahead, it really can be frightening.

I'm sure that if the Amendment that's now before us passes, there'll be other, every group in the system will want something that's a little more favorable to them, and we will have kicked in the head the report that we adopted by a comfortable margin this morning.

I hope you will follow the advice of the Senator from Cumberland, Senator Najarian, and Indefinitely Postpone, vote Yes, on the pending motion.

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

SENATOR VIOLETTE: Mr. President and Ladies and Gentlemen of the Senate. I'll just respond to a number of the points that the good Senator from Knox, Senator Collins, has raised.

I think that the Senator's point that numbers of these individuals, upon retiring, enter into local and county police forces. I think, quite frankly, if we all think of our own communities where this has occurred, by in large, if in fact this has occurred, these gentlemen, these individuals, tend to have positions in the administrative departments, a chief or the like, rather than as going to municipality after some twenty years of services and like, at the State as to entering into service at the local level as a trooper. They are not, in fact, carrying on in that same capacity. I think that only continues to point out the issue and that is one of age and quality. I think, irrespective of however the technological age quickens its pace upon us,

that whom ever those troopers are, they will have a great a need to have all of their reflexes at their beck and call, whether it be today or twenty years past or twenty years in the future.

We are, in fact, making some changes, whether in fact we adopt all of the changes that have been recommended by this Bill, we are making changes. I am not in opposition at all to increasing the numbers of years it takes before one can retire. Even with the points that I have raised, I feel that it is only proper that the numbers of years be raised from twenty to twenty-five. It is not as if those of us that support my position, and perhaps, other amendments that will come along are gutting this Bill or doing disservice, we are, in fact, supportive of this concept. I voted for one of the reports this morning, and so to suggest that those who will support this type of amendment or any other are doing a disservice to State government or the like, is an unfortunate suggestion.

In addition to this, it would seem that statistically speaking, the life of one who has retired as a trooper has certainly not kept pace with the increase in life expectancy. So, if we are going to speak actuarially, those costs have not been as great, within this profession as they have been, or others who retire, be it in some clerical position or the like, and so I would hope that you would oppose the motion of Indefinite Postponement. Thank you.

THE PRESIDENT PRO-TEM: The pending question is the Indefinite Postponement of Senate Amendment "A".

The Chair recognizes the Senator from Cumberland, Senator Conley.

SENATOR CONLEY: Mr. President and Members of the Senate, I speak as the Senator from District 9 with respect to the amendments that have been prepared for this Bill this afternoon.

I would like to state that I truly believe the Governor of this State has provided extremely worthy service to the taxpayers of this State by proposing the legislation that was adopted by this Body this morning.

The Bill, as it presently stands, affects no employee currently employed by the State today, and I think a good attempt has been made to take a real hard look at those individuals who have been singled out with respect to the fifty-five years and the twenty-five years of employment, and I think a good attempt has been made to fifty-five years of age. I see absolutely no problem at all by beginning anew a retirement program that affects future employees.

Several years ago we had a disaster, a total disaster, within the retirement system of this State, and it was a disaster because both members at the other end of the hall and members of this Body politicized the retirement system. People who had never contributed penny one to the retirement system were put in, through legislation, automatically covered by the State Retirement Law. People who worked as school teachers, who were under a municipal retirement plan were put into the State Retirement System, and yet, had never contributed whatsoever.

I remember several years ago when the good Senator from Knox, Senator Collins, was appointed by the Presiding Officer at that time to go down to the retirement system and see what he and they on the committee could do to try to rectify some of the errors. A great stand was taken at that time by both branches of the Legislature, and we tried to put this back on an even kilter.

I have all the compassion in the world for the State Police, the game wardens, the prison guards, but you know I often think to myself and I think of our forefathers and the many who had to be employed until they were sixty-five or even seventy before they were able to collect Social Security, before they were able to collect any type of pension.

I remember my own father, who had to work

forty-five years, and then was able to retire only on his sixty-fifth birthday, with a crew of six children, who had grown up by that time. The fact was that he was denied, because of the fact that he had to work so long, the opportunity of having more time with his children, but I don't think we can afford to be Santa Clause. I'm fifty-four years of age and I consider myself to be one of the healthiest specimens standing here in the Senate today, and I think that I'm going to probably have to work another ten more years before I'm able to collect any retirement benefits.

If anyone's paid any attention to what's gone on in Congress recently, they'll note that they've taken an increase, they've increased the age with respect to Social Security before one can draw it, and they've also increased, quote-unquote, "The Railroad Retirement Act by its age before one can also draw on that." In fact it has nothing to do with years of service once you've got the ten years in to qualify for the pension, but one must be today, under the new Congressional Act, (I believe it's even going to move more further ahead) age sixty-two. I wouldn't be a bit surprised because of the financial problems they're having that they'll raise it to sixty-five in the very near future.

I don't think we can afford to be Santa Clause, none of us. I don't think the fact that we allow someone at twenty-five years of service to retire and allow them to wait another few years until their fifty-five to start drawing their pension, half their pension, the rest and remainder of their lives, is asking too much, because we'll find that probably most of them will stay on. In fact, you know, when I was a few years younger and I know it goes back, but I remember when State Police was sixty-five and sixty-eight before they retired. I think today a man fifty-five years of age is pretty much of a healthy specimen.

I therefore, Mr. President, Members of the Senate, would urge that we try to give this new attempt of trying to put our pension program in order, at least reject these amendments that are being offered today to see if we can't start with a fresh start, and perhaps, take a look at it a little further down the road.

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

SENATOR VIOLETTE: Mr. President and Ladies and Gentlemen of the Senate, I will not belabor the issue but I only wish to express a number of concerns that the good Senator from Cumberland has raised and that is that there is nothing holy about what has been suggested in the report we adopted this morning. We are, in fact, making substantial changes in our retirement system. We are, in fact, increasing the age at which one can retire in this one piece of legislation by twenty-five percent, from twenty years of service to twenty-five years of service. To suggest that that, in and of itself, is not a substantial increase is to belittle the whole legislation.

In addition to that, I'm concerned, you know, this discussion of what went on before to who knows what year, years ago, and the like, as far as this particular retirement plan is concerned is one which has not encountered the problems that the Senator raised to simply confuse the issue. That is all that he has attempted to do, by suggesting the politicalization of the retirement system with respect to adding in teachers perhaps that had not contributed and the like. Well, that has not been the issue with respect to this retirement plan.

In addition to that, troopers pay, albeit not that much a greater percentage of their income to the retirement system. The average State employee pays 6.5 percent of his income, a trooper pays 7.5 percent of his income to the retirement system. He does, in fact, he or she does in fact, pay somewhere of approximately 12.5 percent greater premiums into the retirement system.

Although the points of the good Senator from Cumberland are well taken, they have been made simply to confuse the issue, we are, in fact, making substantial changes even with this amendment, and to suggest otherwise simply does not, is not appropriate, so I would hope that you would oppose the motion to Indefinitely Postpone.

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

SENATOR CONLEY: I request that when the vote is taken, it be taken by the Yeas and Nays.

THE PRESIDENT PRO-TEM: The Senator from Cumberland, Senator Conley, has requested a roll call. 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 to Indefinitely Postpone Senate Amendment "A" (S-384).

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

A No vote will be opposed.

The Doorkeepers will secure the Chamber.

The Secretary will call the roll.

ROLL CALL

YEAS—Senators, Baldacci, Brown, Charette, Clark, Collins, Danton, Hayes, Kany, Najarian, Pray, Sewall, Shute, Teague, Trafton, Twitchell, Wood, The President—Gerard P. Conley.

NAYS—Senators, Bustin, Carpenter, Diamond, Dow, Dutremble, Emerson, Erwin, Gill, Hichens, McBreairty, Pearson, Perkins, Redmond, Usher, Violette.

ABSENT—Senator, Minkowsky

17 Senators having voted in the affirmative and 15 Senators having voted in the negative with 1 Senator being absent, the motion to INDEFINITELY POSTPONE Senate Amendment "A" (S-384) PREVAILED

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

SENATOR DIAMOND: Mr. President, I submit Senate Amendment "B" (S-387) and move its adoption and speak to my motion.

THE PRESIDENT PRO-TEM: The Senator from Cumberland, Senator Diamond, presents Senate Amendment "B" and moves its adoption.

Senate Amendment "B" (S-387) was READ

THE PRESIDENT PRO-TEM: The Senator has the floor.

SENATOR DIAMOND: Thank you, Mr. President. Ladies and Gentlemen of the Senate, this morning when we voted on this Bill, 2426, and we turned down Report "B". I know some of at least turned that down because we felt that there were some things missing and that vote did not, at least on my part and I know a few others at least, reflect a disenchantment with the efforts, certainly, of Report "B".

This Amendment that you have before you, Filing S-387, does the things that we talked about this morning that we felt should have been fully in Report "B". One, it talks about the game wardens, exempting that group, and also the Marine Patrol Wardens, as Report "D" did this morning. And the third and most important one, speaks about the prison guards and all correctional facility guards, because, as you know, the debate this morning centered on the fact that if the State Prison in Thomaston should have those guards have this exemption, then certainly, the other guards at other facilities should also.

We also went one step further since we did find out that the people at Thomaston and other facilities that have this current twenty year exemption includes some people that

should not be included in the first place. There is a librarian, a secretary and a few culinary people, so that takes those people out as well. So, we ended up with what we felt was a very clean amendment. It talked again about the wardens, about the marine and game wardens, and then it spoke about about specifically the guards at the correctional facilities and none of the periphia people which we felt should not be included. Thank you very much, Mr. President.

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

SENATOR NAJARIAN: Mr. President, again, I would move Indefinite Postponement of this Amendment.

It looks like the cost of this would be at least an additional 3.5 million, it puts the game wardens and the marine wardens back to age fifty-five. In the Report we had this morning placed the game wardens and the marine wardens at twenty-five years and sixty years of age.

So, I hope that the Senate will not accept this amendment.

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

SENATOR DIAMOND: Mr. President I would ask when the vote is taken it be taken by the Yeas and Nays.

THE PRESIDENT PRO-TEM: 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 Kany.

SENATOR KANY: Mr. President and Members of the Senate. The longer I sit here the more I think that the Senator from Aroostook, Senator Violette, and the Senator from Cumberland, Senator Diamond, can underestimate the capabilities of older people, and every year I think that, particularly, men that fall into this category have a lot more capability.

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

SENATOR CONLEY: Mr. President and members of the Senate. Again, I speak as the little Senator from district 9 and I, honestly, take issue with the proposed amendment before us.

Although I haven't had a opportunity to really study it, I do recognize the fact that, once again, the same arguments that are being used, we're setting off with a new ball game, so to speak, an opportunity to try to put the retirement system in order.

I honestly believe with respect to marine wardens or game wardens, I think that most people who apply for those jobs would gladly pay the State for one of those positions.

With respect to those serving in the reformatory, and I'm not quite sure because I don't have a copy of this Amendment as to whether or not it addresses those employees in the reformatory, and I'd pose a question through the Chair to the good Senator from Cumberland, Senator Diamond, if it does or not? If it does, I would only suggest where do we stop? Why don't we just articulate down one additional step and address those who are presently employed at the South Windham Training Center for younger lads, or perhaps, even further down the road, those who handle them when they first come into courts.

It seems to me that, again, this type of work can be looked upon as being extremely strenuous at times, but at other times, it's not that tir-

ing. I think that those guards working at Thomaston have a very, very difficult time and perhaps even a more threat to bodily harm at that institution. I agree that the hours employed there and worked there are extremely strenuous, but again, I think that the situation being as it is, that no one is really going to be fatigued.

With respect to the amendment that's presently before us, and again, it allows them to continue on it doesn't mandate their retirement, continues on, they can stay just about as long as they want and collect a very healthy pension when they become of age.

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

SENATOR GILL: Mr. President and members of the Senate. To respond to Senator Conley's inquiry about whether it does include the people at other correctional facilities, it is my understanding that it does include South Windham facility and also, the Youth Center in South Portland.

We have at the Youth Center and at the correctional facility in Windham, rapists, murderers, and in South Portland we have young people to the age of twenty-one, and the people who are employed there are under stress and are in jeopardy. They don't know when anything can happen to them bodily. So, I would hope that they would be included in this amendment and I understand they are.

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

SENATOR CONLEY: Mr. President and Members of the Senate. I'd really pose a question to all the Members of the Senate.

When we talk about people being under stress, I wonder about those people who are working in the State institutions, such as the Bangor Mental Health Facility, or down at Pine-land, or over at the Augusta State Hospital. Who are the people that are really in stress, those who work with retarded kids day in and day out, and are we going to compare positions in State institutions such as these as being applicable or the equality of the same type of work? It seems to me that people who are working in our hospitals are the ones who are really geared for the time they punch the clock in the morning until when they punch the clock at night when they get out. And, they're dealing with a service all the time. The sad thing is about it that it is probably the poorest compensated individuals as well, within the State service. Those are the individuals that I think, maybe, we should be taking a look at.

With respect to the present amendment, I don't see any real reason why this one should be adopted, anymore than the one previous to this.

THE PRESIDENT PRO-TEM: The pending question is the motion by the Senator from Cumberland, Senator Najarian, that Senate Amendment "B" be Indefinitely Postponed.

A Roll Call has been requested.

The Chair recognizes the Senator from Cumberland, Senator Diamond.

SENATOR DIAMOND: Thank you, Mr. President and Ladies and Gentlemen of the Senate. To answer the questions from the good Senator from Cumberland, Senator Conley, yes, in fact, all correctional facilities are included, the guards at these places. You know then, one of the quotes and one of the statements that the good Senator made was the South Windham Training Center and what's indicative of that statement is still just that, a training center, and he kind of went on and said: Yea, it's okay, certainly at Thomaston they have a tough job up there with those prisoners, but the Training Center, maybe not.

Well, you know, it's not a training center anymore, and if you walk in there someday, walk down and get in through the third set of bars and see some of the things that go on in there,

and you walk by the mattresses that are on the floor, and you're the guard that's supposed to keep these guys in line, and some of the comments they make about you and your family, and that goes on day in and day out. If it were just a matter of hours I wouldn't be standing up with this amendment. It was a matter of sixteen hours a day, twenty hours a day, wouldn't be up here at all. It's a different kind of stress.

You know, a while back I used to teach school and I used to have the privilege of having at least one year teaching those children who were less advantaged, both mentally and financially, and that is, indeed, a different kind of experience. But, nothing like what you'll see if you go into one of those prisons, nothing like it at all.

I think that that's one of the things that we're trying to stress here today is, yes, we think that twenty years is not appropriate. As the good Senator from Aroostook, Senator Violette, said: certainly we have to make some changes and we agree with that but at the same time we have to make some recognitions. It's more than just long hours, we're talking about a unique situation. I would hope, truly hope, that you would go along with this amendment and as opposed as one criteria of saving money, now that's, we all want to do that, but I think we have other things to consider as well. In this case, certainly, we have some unique situations and require unique actions on our part. Thank you very much.

THE PRESIDENT PRO-TEM: The pending question is the motion by the Senator from Cumberland, Senator Najarian to Indefinitely Postpone Senate Amendment "B" (S-387).

A yes vote will be in favor of the Indefinite Postponement of Senate Amendment "B".

A No vote will be opposed.

The Doorkeepers will secure the Chamber.

The Chair recognizes the Senator from Cumberland, Senator Conley.

SENATOR CONLEY: Would the Chair please state the question.

THE PRESIDENT PRO-TEM: The question is the Indefinite Postponement of Senate Amendment "B" (S-387).

The Secretary will call the roll.

ROLL CALL

YEAS—Senators, Baldacci, Brown, Charette, Clark, Collins, Danton, Emerson, Hayes, Kany, Najarian, Sewall, Teague, Trafton, Wood, The President—Gerard P. Conley.

NAYS—Senators, Bustin, Carpenter, Diamond, Dow, Dutremble, Erwin, Gill, Hichens, McBrearty, Pearson, Perkins, Pray, Redmond, Shute, Twitchell, Usher, Violette.

ABSENT—Senator, Minkowsky.

15 Senators having voted in the affirmative and 17 Senators having voted in the negative, with 1 Senator being absent, the motion to INDEFINITELY POSTPONE Senate Amendment "B" (S-387) FAILED

THE PRESIDENT PRO-TEM: Is it now the pleasure of the Senate to Adopt Senate Amendment B?

The Chair recognizes the Senator from Knox, Senator Collins.

SENATOR COLLINS: I move this matter be Tabled 1 Legislative Day.

THE PRESIDENT PRO-TEM: The Senator from Knox, Senator Collins, has moved that this item be Tabled 1 Legislative Day.

The Chair recognizes the Senator from Cumberland, Senator Diamond.

SENATOR DIAMOND: I request a division.

THE PRESIDENT PRO-TEM: A Division has been requested.

Will all those Senators in favor of Tabling this Item for 1 Legislative Day please rise and stand until counted.

Will all those Senators opposed, please rise and stand until counted.

19 Senators having voted in the affirmative and 13 Senators having voted in the negative, the bill was TABLED for 1 Legislative Day,

pending ADOPTION OF SENATE AMENDMENT "B" (S-387)

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

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

The Sergeant-at-Arms escorted the Senator from Penobscot, Senator Pray to his seat on the Senate floor.

THE PRESIDENT: The Chair wishes to express its thanks to the good Senator from Penobscot, Senator Pray, for the outstanding job that he has done serving as President Pro-Tem. (Applause the Members rising.)

COMMITTEE REPORTS

House

Leave to Withdraw

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

Resolution, Proposing an Amendment to the Constitution of Maine to Provide for an express Statement of the Right to Bail and Authorizing the Denial of Bail in Certain Cases H. P. 1699 L. D. 2253

Ought to Pass As Amended

The Committee on ENERGY AND NATURAL RESOURCES on Bill "An Act to Clarify the Definition of Lots under the Site Location of Development Law" H. P. 1715 L. D. 2274

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-667).

Comes from the House, with the Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-667).

Which Report was READ and ACCEPTED, in concurrence.

The Bill READ ONCE.

Committee Amendment "A" (H-667) 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 Laws Relating to Criminal History Record Information" (Emergency) H. P. 1695 L. D. 2250

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-671).

Comes from the House with the report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-671)

Which Report was READ and ACCEPTED, in concurrence.

The Bill READ ONCE.

Committee Amendment "A" (H-671) 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 Under New Title

The Committee on AGRICULTURE on Bill

"An Act to Protect Agricultural Lands" H. P. 1789 L. D. 2364

Reported the same Ought to Pass in New Draft under New Title Bill "An Act to Establish a Commission to Assess the Loss of Farmland in Maine" H. P. 1842 L. D. 2438

Comes from the House with the Report READ and ACCEPTED and the Bill, in 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 Bill in NEW DRAFT under NEW TITLE TOMORROW ASSIGNED FOR SECOND READING

Divided Report

The Majority of the Committee on TRANSPORTATION on Bill "An Act Making Adjusted Allocations from the Highway Fund for the Fiscal Years Ending June 30, 1984, and June 30, 1985" (Emergency) H. P. 1599 L. D. 2121

Reported that the same Ought to Pass in New Draft under same title (Emergency) H. P. 1848 L. D. 2443

Signed:

Senators:

DIAMOND of Cumberland
EMERSON of Penobscot

Representatives:

REEVES of Pittston
STROUT of Corinth
CALLAHAN of Mechanic Falls
McPHERSON of Eliot
MOHOLLAND of Princeton
CARROLL of Limerick
MACOMBER of S. Portland
THERIAULT of Fort Kent
CAHILL of Woolwich
NADEAU of Lewiston

The Minority of the same Committee on the same subject reported that the Same Ought to Pass in New Draft under same title (Emergency) H. P. 1849 L. D. 2444

Signed:

Senator:

DANTON of York

Comes from the House, the Majority Ought to Pass in New Draft (H. P. 1848) L. D. 2443) report READ and ACCEPTED and the Bill in New Draft PASSED TO BE ENGROSSED

Which Reports were READ

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

SENATOR DANTON: Did you accept the Majority Ought to Pass Report?

THE PRESIDENT: The Chair would state that the pending question before the Senate is the acceptance of either Report.

The Majority OUGHT TO PASS IN NEW DRAFT (H. P. 1848) (L. D. 2443) Report was 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 in concurrence.

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

COMMUNICATIONS

The Following Communication:
COMMITTEE ON HEALTH AND
INSTITUTIONAL SERVICES

April 6, 1984

The Honorable Gerard P. Conley
President of the Senate
111th Legislature

Dear President Conley:

We are pleased to report that all business which was placed before the Committee on

Health and Institutional Services during the second regular session of the 111th Legislature has been completed. The breakdown of bills referred to our committee follows:

Total number of bills received	34
Unanimous reports	29
Leave to Withdraw	3
Ought to Pass	6
Ought Not to Pass	0
Ought to Pass as Amended	12
Ought to Pass in New Draft	8
Divided reports	5

Respectfully submitted,

S/BEVERLY M. BUSTIN

Senate Chair

S/MERLE NELSON

House Chair

Which was READ and ORDERED PLACED ON FILE

The Following Communication:

COMMITTEE ON MARINE RESOURCES

April 9, 1984

The Honorable Gerard P. Conley

President of the Senate

11th Legislature

Dear President Conley:

We are pleased to report that all business which was placed before the Committee on Marine Resources during the second regular session of the 11th Legislature has been completed. The breakdown of bills referred to our committee follows:

Total number of bills received	18
Unanimous reports	12
Leave to Withdraw	2
Ought to Pass	3
Ought Not to Pass	0
Ought to Pass as Amended	4
Ought to Pass in New Draft	3
Divided reports	6

Respectfully submitted,

S/CARROLL E. MINKOWSKY

Senate Chair

S/NATHANIEL J. CROWLEY

House Chair

Which was READ and ORDERED PLACED ON FILE

ENACTORS

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

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 (S "A" S-371)

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

SENATOR CARPENTER: Mr. President, it is my understanding that there is a problem with this particular piece of Legislation, therefore, I would move that the Senate Reconsider its action whereby it Passed this Bill to be Engrossed.

SENATE AT EASE

Senate called to order by the President.

On motion by Senator KANY of Kennebec, TABLED 1 Legislative Day, pending THE MOTION BY THE SENATOR FROM AROOSTOOK, SENATOR CARPENTER TO RECONSIDER PASSAGE TO BE ENGROSSED

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 Enforcement of Land Use Laws" S. P. 761 L. D. 2069

In Senate April 6, 1984 Majority Ought To Pass in New Draft under New Title (S. P. 901) (L. D. 2419) report READ and ACCEPTED and the Bill in NEW DRAFT PASSED TO BE ENGROSSED

Comes from the House the Minority Ought to Pass in New Draft under same title (S. P. 900)

(L. D. 2418) report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "A" (H-676) in NON CONCURRENCE

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

COMMUNICATION

The Following Communication:
COMMITTEE ON TRANSPORTATION
111th Legislature

April 6, 1984

The Honorable Gerard P. Conley
President of the Senate
111th Legislature
Dear President Conley:

We are pleased to report that all business which was placed before the Committee on Transportation during the second regular session of the 111th legislature has been completed. The breakdown of bills referred to our committee follows:

Total number of bills received	19
Unanimous reports	13
Leave to Withdraw	2
Ought to Pass	7
Ought Not to Pass	1
Ought to Pass as Amended	1
Ought to Pass in new Draft	2
Divided reports	6

Respectfully submitted,
S/PETER DANTON
Senate Chair
S/GEORGE A. CARROLL
House Chair

Which was READ and ORDERED PLACED ON FILE

ENACTORS

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

AN ACT Requiring Proof of Financial Responsibility for 2nd and Subsequent Offenders Under the Drunk Driving Laws S. P. 892 L. D. 2408 (S "A" S-367)

On motion by Senator DANTON of York placed on the SPECIAL HIGHWAY APPROPRIATIONS TABLE, pending ENACTMENT

AN ACT Relating to the Quality of Milk H. P. 1804 L. D. 2378

Comes from the House, Bill and accompanying papers INDEFINITELY POSTPONED

On motion by Senator ERWIN of Oxford, L. D. 2378 was INDEFINITELY POSTPONED in concurrence.

Emergency

AN ACT to Allow the Department of Transportation to Assume Responsibility for 100% of the Maintenance and Operation Costs of the Carleton Bridge Between Bath and Woolwich and to Allocate and Appropriate the Funds Necessary to Assume this Additional Responsibility S. P. 884 L. D. 2392

On motion by Senator DANTON of York 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:

COMMITTEE REPORTS
House

Ought to Pass As Amended

The Committee on EDUCATION on Bill "An Act Concerning Higher Education" H. P. 1684 L. D. 2221

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-649).

comes from the House, with the Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-649) AS AMENDED

BY HOUSE AMENDMENT "A" (H-668) thereto. Which Report was READ

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

SENATOR HAYES: I move we Accept the Committee report, in concurrence.

On motion by Senator HAYES of Penobscot, the Report was ACCEPTED, in concurrence.

The Bill READ ONCE.
Committee Amendment "A" (H-649) was READ

HOUSE AMENDMENT "A" (H-668) to Committee Amendment "A" (H-649) was READ and ADOPTED, in concurrence.

Committee Amendment "A" (H-649) as Amended by House Amendment "A" (H-668) thereto was 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 EDUCATION on Bill "An Act to Revise the Laws Governing Certification of Educational Personnel" H. P. 1669 L. D. 2209

Reported that the same Ought to Pass in New Draft under same title H. P. 1839 L. D. 2434

Comes from the House, the Report READ and ACCEPTED and the Bill in NEW DRAFT PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "B" (H-672).

Which Report was READ and ACCEPTED, in concurrence.

The Bill in NEW DRAFT READ ONCE.

House Amendment "B" (H-672) 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.

The Committee on APPROPRIATIONS AND FINANCIAL AFFAIRS on Bill "An Act to Provide Funds for an Increase in the Aid to Families with Dependent Children's Standard of Need" H. P. 1593 L. D. 2103

Reported that the same Ought to Pass in New Draft under same title H. P. 1851 L. D. 2450

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.

Divided Report

The Majority of the Committee on JUDICIARY on Bill "An Act to Ensure Statewide Uniformity in the Procedures for Body Searches and Body Cavity Searches of Arrestees by Law Enforcement Officers while Respecting the Civil Rights and Liberties of Arrestees" H. P. 1745 L. D. 2299

Reported that the same Ought Not To Pass.

Signed:

Senators:
TRAFTON of Androscoggin
COLLINS of Knox

Representatives:

REEVES OF Newport
JOYCE Of Portland
DRINKWATER of Belfast
HAYDEN of Durham
CARRIER of Westbrook

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 Ensure Statewide Uniformity in the Procedures for Strip Searches and Body Cavity Searches of Arrestees by Law Enforcement Officers while Respecting the Civil Rights and Liberties of Arrestees" H. P. 1845 L. D. 2440

Signed:

Senator:
VIOLETTE of Aroostook

Representatives:

SOULE of Westport
LIVESAY of Brunswick
BENOIT Of S. Portland
FOSTER of Ellsworth
HOBBS of Saco

Comes from the House, the Minority Ought To Pass in New Draft under New Title report READ and ACCEPTED and the Bill in New Draft Under New Title PASSED TO BE ENGROSSED

Which Reports were READ

On motion by Senator VIOLETTE Of Aroostook, the Minority OUGHT TO PASS IN NEW DRAFT UNDER NEW TITLE Report was 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.

ORDERS OF THE DAY

The President laid before the Senate:

JOINT RESOLUTION—Requesting a Study of Costs to Maine Taxpayers For Workers' Compensation S. P. 909

TABLED—April 9, 1984 by Senator PRAY of Penobscot

Pending—ADOPTION

(In Senate April 9, 1984 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, since we had this Resolution this morning I have taken the time to call several individuals in State government to ask them their reaction and the response to the proposed Resolution. I talked to the Bureau of Labor and to Charles Devoe, the Commissioner of Workers' Compensation Commission and asked them as to their opinion.

I walk away with some concerns that, while this is basically a rather applaudable resolution trying to address the problem, I think we already are doing it. We have, through the Executive Order of the Chief Executive, a group set up that is looking at the Workers' Compensation situation, we have, through a Legislative Resolve, another Workers' Comp group, which we just extended their reporting date, to look at the problem.

Basically, what this Joint Resolution asks for is that there be a disclosure of the cost to each Branch and Department of municipal, county and state governments, with recommendations for curtailing these costs. In asking for a response on that, while some of this I am familiar with, basically, on the county budget, which each of us, through our delegation, works in the county budget, we have an item, at least in my two counties, that show what the cost of Workers' Comp is to the county. I believe that

the same would be with the municipality and we, as through this Order, can quickly see there are places already that we can draw the dollar figure to the cost to the various departments. The Order itself makes mention of several departments in State Government and the cost of Workers' Comp to those various departments.

The concern that I have is if this is going to be repetitious to several actions that Government has already taken, both the Legislative Branch and the Executive Branch. The groups that I talked to told me that if these two organizations reported back with any recommendations to change the Workers' Compensation system or legislation that is now in the books, it would have an impact on State Government as well. Thus, I feel that there is no need for this Joint Resolution and would move its Indefinite Postponement.

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

SENATOR PERKINS: Mr. President and Ladies and Gentlemen of the Senate. The hour is late and I have no real delusions as to the ultimate demise of this offering of Legislative Order.

I do feel, however though, that many of this Branch today looked at a budget that was proposed by the Governor of this State and this budget was somewhat a little over sixteen million dollars.

We have, in this proposal, a counting of four separate departments in the total of these expenditures and the cost to State Government, almost three million dollars. Now, this to me relates to almost one-fifth of the cost of our annual budget for just this year. So I have no regrets in offering this and would hope that you would still consider adopting it because I feel even though, perhaps, the Department of Personnel would have been more adequate, having dealt with the Department of Personnel and knowing that they have a back-up of work already, and have sometimes difficulty in getting even employment vacancies getting out, I suspect that the Department of Personnel, with their requests, and I believe I have in memory, some requests for some computerization, that within the Department, they are perfectly capable of giving us the answers which we require.

I, therefore, would ask for a roll call and hope that, perhaps, with this message, we might impart on this that, maybe not this year, but next year there are going to be some answers to these problems.

THE PRESIDENT: A Roll Call has been requested.

The Chair recognizes the Senator from Penobscot, Senator Pray.

SENATOR PRAY: thank you, Mr. President. Mr. President and Ladies and Gentlemen of the Senate, I would not want it in any way to be interpreted that those who oppose or supported the motion that I have made to Indefinitely Postpone this, opposes the intent that the sponsors of this Joint Resolution are trying to get to. I believe that there are concerns shared by all of us in this Chamber as to the cost of Workers' Compensation and to the cost that it has on the taxpayers of this State.

We have, by our previous action, as I previously stated already, have put together a Workers' Compensation study. We also have, through the Executive Branch, an Executive Order which has formed a separate group that is looking at the Workers' Compensation Commission, the Workers' Compensation system and will be coming back making recommendations for changes.

I note with interest one of the "Whereas" in this Resolution talks about the urgent need to study the problem, we have already done that, we have two committees, as I've already mentioned, or two organizations looking at it.

It goes on to say that to address the problem and those concerns in order to uphold the law, preserve the integrity of the system and to conserve any needless expenditures of taxpayers

dollars. While we, this Legislature, has already taken actions with the study group, I would suspect that this Resolution, though it has no dollar figure attached to it, but directs a bureau to spend time which is money, to make recommendations back to this Legislature, which I'd hope they'd be doing on its own, in responding to the various organizations which have already been formed, that we will be taking care of the concern that's expressed in this Resolution and, in fact, without this Resolution will be carrying out the charge that's there.

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

SENATOR PERKINS: Not to labor this any further, Mr. President and Ladies and Gentlemen of the Senate, but I would only mention that if the supposition that the good Senator from Penobscot comes true then a year from today or next years budget will certainly reflect those multiple changes in this budgetary expense.

THE PRESIDENT: The question before the Senate is the motion of the Senator from Penobscot, Senator Pray, that the Joint Resolution Requesting the Study of Costs to Maine Taxpayers for Workers' Compensation, S. P. 909, 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 pending question before the Senate is the motion by the Senator from Penobscot, Senator Pray to Indefinitely Postpone S. P. 909.

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, Baldacci, Brown, Carpenter, Charette, Clark, Danton, Kany, Pray, Violen, Wood, The President—Gerard P. Conley.

NAYS—Senators, Bustin, Collins, Diamond, Dow, Dutremble, Emerson, Erwin, Gill, Hayes, Hichens, McBreairty, Najarian, Pearson, Perkins, Redmond, Sewall, Shute, Teague, Trafton, Twitchell, Usher.

ABSENT—Senator, Minkowsky

11 Senators having voted in the affirmative, and 21 Senators having voted in the negative, with 1 Senator being absent, the motion to INDEFINITELY POSTPONE the Resolution FAILED

Which was ADOPTED.

Sent down for concurrence.

The President laid before the Senate:

Emergency Resolve

Resolve, to Establish a Select Committee Concerning Forest Practices in the State H. P. 1776 L. D. 2354 (S "A" S-343)

Tabled—April 9, 1984 by Senator CARPENTER of Aroostook

Pending—FINAL PASSAGE

(In House April 3, 1984 FAILED OF FINAL PASSAGE)

(In Senate March 27, 1984 PASSED TO BE ENGROSSED AS AMENDED BY SENATE AMENDMENT "A" (S-343))

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

SENATOR CARPENTER: Mr. President, there was some concern expressed by some of the people around here, particularly the forest interests, I guess you'd call it, that this Select Committee to Study Forest Practices in the State of Maine was too narrowly drawn, so therefore, I got together with those foresters and we have drafted an amendment, and so, if the Senate the Senate would bear with me I'm

going to try to roll this back and take off the existing amendment and add my admendment.

Mr. President, I would move that the Senate Reconsider its action whereby it Passed this Bill to be Engrossed.

SENATE AT EASE

The Senate called to order by the President.

On motion by Senator PRAY of Penobscot, the Senate voted to SUSPEND THE RULES

On motion by Senator CARPENTER of Aroostook the Senate RECONSIDERED its action whereby the Bill was PASSED TO BE ENGROSSED

On further motion by the same Senator, the Senate voted to SUSPEND THE RULES

On further motion by the same Senator, the Senate RECONSIDERED its action where by it ADOPTED Senate Amendment "A" (S-343).

On further motion by the same Senator, the Senate voted to INDEFINITELY POSTPONE Senate Amendment "A" (S-343)

THE PRESIDENT: The Senator has the floor.

SENATOR CARPENTER: Mr. President, I now offer Senate Amendment "B" (S-381) and move its adoption.

THE PRESIDENT: The Senator from Aroostook, Senator Carpenter, now presents Senate Amendment "B" and moves its adoption.

Senate Amendment "B" (381) was READ

THE PRESIDENT: The Senator has the floor.

SENATOR CARPENTER: Mr. President, what this Amendment does is very simply it keeps the number of Legislators at six, it adds somebody, it adds: a wood cutter, somebody from the Paper Industry Information Office, a member of the University of Maine School Forestry, and a member of the American Society of, the Maine Chapter of the Society of American Foresters. Basically, it puts some professional expertise on this Commission which was not there before, so I would ask that this Item now be Passed and sent down for concurrence.

Senate Amendment "B" (S-381) was ADOPTED

The Bill was PASSED TO BE ENGROSSED as Amended in NON-CONCURRENCE
Sent down for concurrence.

The President laid before the Senate:

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)

Tabled—April 9, 1984 by Senator PRAY of Penobscot

Pending—ENACTMENT

(In House April 6, 1984 PASSED TO BE ENACTED)

(In Senate April 3, 1984 PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENTS "E" (H-577), "F" (H-581), "H" (H-599) and "M" (H-612) in concurrence)

On motion by Senator PRAY of Penobscot, TABLED UNASSIGNED, pending PASSAGE TO BE ENACTED

The President laid before the Senate:

Bill "An Act Concerning the Maine Land Use Regulation Commission" H. P. 1837 L. D. 2430

Tabled—April 9, 1984 by Senator PRAY of Penobscot

Pending—PASSAGE TO BE ENGROSSED

(In House April 6, 1984 PASSED TO BE ENGROSSED)

(In Senate April 6, 1984 the 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-386) and move its adoption.

THE PRESIDENT: The Senator from York,

Senator Wood, presents Senate Amendment "A" and moves its adoption.

Senate Amendment "A" (S-386) was READ and ADOPTED

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

Sent down for concurrence.

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" (Emergency) S. P. 899 L. D. 2417

Tabled—April 9, 1984 by Senator PRAY of Penobscot

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: Thank you, Mr. President. I submit Senate Amendment "A" (S-377) and move its adoption.

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

Senate Amendment "A" (S-377) was READ

THE PRESIDENT: The Senator has the floor.

SENATOR DIAMOND: Mr. President and Ladies and Gentlemen of the Senate, this is one of two amendments that are intended to clarify and make sure there is no misunderstanding, and they're rather minor amendments, but we still want to make sure that we explained them.

The first one that you have before you now is S-377, that's found on the L. D. on page 25, the first correction, and what that simply does is clarifies that the Director of the Bureau of Wardens' Service shall remain unclassified as it is right now. We're not changing the law, we're merely clarifying that.

The next thing this amendment does is found on page 53 of the Bill 2417, and that basically takes out this segment in there that we spoke about, it had exempted property taxation on these submerged land.

The third part simply changes a date to 1985 to 1984. Thank you, Mr. President.

Senate Amendment "A" (S-377) was ADOPTED

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

SENATOR DIAMOND: Thank you, Mr. President and ladies and Gentlemen of the Senate. I submit Senate Amendment "B" (S-382) and move its adoption.

THE PRESIDENT: The Senator from Cumberland, Senator Diamond, now presents Senate Amendment "B" (S-382) and moves its adoption. The Secretary will read the amendment.

Senate Amendment "B" (S-382) was READ

THE PRESIDENT: The Senator has the floor.

SENATOR DIAMOND: Mr. President, and Ladies and Gentlemen of the Senate. As a member of the Committee on Bills in the Second Reading, as a member, not Chairman, I submit this amendment and it simply changes on page 1, it deletes lines twenty-two and twenty-three, they were put there in error. Thank you, Mr. President.

Senate Amendment "B" (S-382) was ADOPTED

The bill was PASSED TO BE ENGROSSED as Amended

Sent down for concurrence

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 9, 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 York, Senator Danton.

SENATOR DANTON: Mr. President, I move that this Item lay on the Table 1 Legislative Day.

THE PRESIDENT: The Senator from York, Senator Danton, now moves that L. D. 2389 be Tabled 1 Legislative Day.

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

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 Amend the Statute Relating to the Sale and Free Distribution of Cigarettes to Children" H. P. 1694 L. D. 2249

In House April 6, 1984 the Majority Ought To Pass As Amended by Committee Amendment "A" (H-650) report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-650)

In Senate April 9, 1984 the Minority Ought Not to Pass report READ and ACCEPTED in NON CONCURRENCE

Comes from the House that Body ADHERED

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

SENATOR BUSTIN: I move we Insist.

THE PRESIDENT: The Senator from Kennebec, Senator Bustin, now moves that the Senate Insist.

The Chair would state that the motion is not properly before the Senate. The only motion before the Senate would be to Recede and Concur or to Adhere.

The Chair recognizes the Senator from Kennebec, Senator Bustin.

SENATOR BUSTIN: I Withdraw my motion to Insist and make a motion to Adhere.

THE PRESIDENT: The Senator from Kennebec, Senator Bustin requests Leave to Withdraw her motion to Insist.

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

It is a vote.

The Senator from Kennebec, Senator Bustin, now moves that the Senate Adhere.

The Chair recognizes the Senator from Aroostook, Senator Carpenter.

SENATOR CARPENTER: I move the Senate Recede and Concur.

THE PRESIDENT: The Senator from Aroostook, Senator Carpenter, now moves that the Senate Recede and Concur with the House.

Is this the pleasure of the Senate.

The Chair recognizes the Senator from Kennebec, Senator Bustin.

SENATOR BUSTIN: I request a Division.

THE PRESIDENT: A Division has been requested.

The Chair recognizes the Senator from Penobscot, Senator Hayes.

SENATOR HAYES: I request a Roll Call.

THE PRESIDENT: A Roll Call has been requested.

Under the Constitution, in order for the Chair to order a Roll Call it requires the affirmative vote of 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 Aroostook, Senator Carpenter.

SENATOR CARPENTER: Mr. President, I don't intend to belabor this issue at all.

You know what the issue is relative to the correctional facilities in the distribution of to-

bacco products to youngsters, but I want to point out something that may have gotten lost this morning, and that is the second part of the Amendment which would maintain a certain consistency, I think in State law that would allow parents to have the same control over their children relative to tobacco products that they presently have toward alcohol.

Under Maine law today, alcoholic beverages may be given by parents to children, we allow the parents to have that much discretion.

A second part of this Amendment simply would allow the parents the same discretion relative to tobacco products.

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

SENATOR BUSTIN: Mr. President and Ladies of the Senate, while parents can offer their children liquor in their own home, they cannot order it in a restaurant or outside, and secondly, parents can't even give cigarettes to their youngsters under the present law unless they're over eighteen.

THE PRESIDENT: Is the Senate ready for the question?

The question before the Senate is the motion of the Senator from Aroostook, Senator Carpenter that the Senate Recede and Concur with the House.

A roll call has been ordered.

A Yes vote will be in favor of Receding and Concurring with the House.

A No vote will be opposed.

The Doorkeepers will secure the Chamber.

The Secretary will call the roll.

ROLL CALL

YEAS—Senators, Baldacci, Brown, Carpenter, Charette, Dutremble, Gill, Najarian, Perkins, Sewall, Usher, Violette, Wood, The President—Gerard P. Conley.

NAYS—Senators, Bustin, Clark, Collins, Diamond, Dow, Emerson, Erwin, Hayes, Hichens, Kany, McBreairey, Pearson, Pray, Redmond, Shute, Teague, Trafton, Twitchell.

ABSENT—Senators, Danton, Minkowsky

13 Senators having voted in the affirmative and 18 Senators having voted in the negative, with 2 Senators being absent, the motion to RECEDE AND CONCUR with the House FAILED

THE PRESIDENT: Is it the pleasure of the Senate to ADHERE?

It is a vote.

Non-concurrent Matter

Bill "An Act to Clarify Certain Portions of the Reapportionment Laws" S. P. 862 L. D. 2342

In Senate March 22, 1984 under suspension of the rules the Bill READ TWICE and PASSED TO BE ENGROSSED without reference to a committee

Comes from the House PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "B" (H-670) in NON CONCURRENCE

On motion by Senator TRAFTON OF Androscoggin, the Senate voted to RECEDE and CONCUR with the House.

Non-concurrent Matter

Joint Resolution Concerning the State Contracting For Medical Services in Competition with Private Enterprise H. P. 1829

In House April 6, 1984 READ and ADOPTED

In Senate April 9, 1984 INDEFINITELY POSTPONED in NON-CONCURRENCE

Comes from the House that Body ADHERED

On motion by Senator BUSTIN of Kennebec, the Senate voted to ADHERE

House Papers

Bill "An Act to Provide for Conformity with the United States Internal Revenue Code" H. P. 1853 L. D. 2454

Committee on TAXATION suggested

Comes from the House Under Suspension of the Rules the Bill READ TWICE and PASSED TO BE ENGROSSED without reference to a Committee and ORDERED PRINTED

THE PRESIDENT: Is it the pleasure of the Senate that this Bill be given its First Reading at this time without reference to a committee?

It is a vote.

Under suspension of the rules the Bill READ ONCE without reference to committee and ORDERED PRINTED.

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?

The Chair recognizes the Senator from Aroostook, Senator Violette.

SENATOR VIOLETTE: Mr. President and Ladies and Gentlemen of the Senate. I'd just like to pose a question to the good Senator from York, Senator Wood, or any other member of that distinguished Committee on Taxation.

I've had the opportunity to review the Report of the Committee and I just, at this time, I just want to make sure that this does not provide for automatic conformity. That's my only concern.

THE PRESIDENT: the Senator from Aroostook, Senator Violette, has posed a question through the Chair to the Chairman of the Taxation Committee who may respond if he so desires.

The Chair recognizes the Senator from York, Senator Wood.

SENATOR WOOD: Mr. President and Men and Women of the Senate. In response to that question, this does not provide for automatic conformity. It does provide that we will be conforming as of 1983 so that we will not have to, every year, conform, unless there are changes in Washington.

If there are changes in Washington then we will have this debate over and over again, but as the tax code is for 1983, we will be at a level of tax conformity, barring any massive changes in Washington.

So, the answer is, in the future, if there are tax changes in Washington, this legislature will have to approve those changes. If there are no changes in Washington, we will have conformity.

On another note, while you have this Bill before you, the Presiding Officer in the other House decided that the other bill a Senate Paper was not properly before us, and since he has that authority, and since I'm not in the other Body to question that authority, I decided that I was willing to admit a mistake, although I'm not wrong, and decided that this was the best way to get around his authority.

THE PRESIDENT: Is it now 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 without reference to committee, in concurrence.

COMMUNICATION

The Following Communication:

HOUSE OF REPRESENTATIVES
AUGUSTA, MAINE

April 9, 1984

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

The House voted today to adhere to its action whereby it accepted the Majority "Ought Not to Pass" Report 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)

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

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

Pending PASSAGE TO BE ENGROSSED

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

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

On motion by Senator Carpenter of Aroostook,

ADJOURNED until 9 o'clock tomorrow morning.