

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

***One Hundred and Eleventh
Legislature***

OF THE

STATE OF MAINE

SECOND REGULAR SESSION

January 4, 1984 to April 25, 1984

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FOURTH CONFIRMATION SESSION

(FIRST CONFIRMATION SESSION – SECOND REGULAR SESSION)

May 31, 1984

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THIRD SPECIAL SESSION

September 4, 1984 to September 11, 1984

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STATE OF MAINE
One Hundred and Eleventh Legislature
Second Regular Session
JOURNAL OF THE SENATE
In Senate Chamber
Tuesday
April 10, 1984
Senate called to Order by the President.

Prayer by the Honorable Peter W. Danton of York.

SENATOR DANTON: Let us pray. Father, we gather today for very important decisions, we ask You to be with us, to help us and guide us. Amen.

Reading of the Journal of Yesterday.

(OFF RECORD REMARKS)

PAPERS FROM THE HOUSE
Non-concurrent Matter

Bill "An Act to Provide Voter Information on Ballot Questions" H. P. 1588 L. D. 2095
In Senate March 27, 1984 PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-568).

Comes from the House PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-568) AND HOUSE AMENDMENT "A" (H-678) 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 Provide for Conformity with the United States Internal Revenue Code" S. P. 893 L. D. 2409

In Senate April 6, 1984 PASSED TO BE ENGROSSED.

Comes from the House the Bill and Accompanying Papers INDEFINITELY POSTPONED IN NON-CONCURRENCE.

On motion by Senator PRAY of Penobscot TABLED Unassigned, pending FURTHER CONSIDERATION.

COMMITTEE REPORTS

House

Ought to Pass

The Committee on LOCAL AND COUNTY GOVERNMENT on Bill "An Act to Revise the Salaries of Certain County Officers" (Emergency) H. P. 1841 L. D. 2436

Reported that the same Ought to Pass pursuant to Joint Order (H. P. 1572).

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

Which Report was READ and ACCEPTED, in concurrence.

The Bill READ ONCE.

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

It is a vote.

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

Divided Report

The Majority of the Committee on BUSINESS LEGISLATION on Bill "An Act to Require Maintenance of Financial Responsibility by All Motorists" H. P. 1575 L. D. 2085

Reported that the same Ought to Pass in New Draft under same title. H. P. 1843 L. D. 2447

Signed:

Senators:

CLARK of Cumberland
CHARENTE of Androscoggin

Representatives:

MURRAY of Bangor
PERKINS of Brooksville
BRANNIGAN of Portland
MacBRIDE of Presque Isle
MARTIN of Van Buren

RACINE of Biddeford
STEVENS of Bangor
CONARY of Oakland
POULIOT of Lewiston
TELOW of Lewiston

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

Signed:

Senator:

SEWALL of Lincoln

Comes from the House, the Majority Ought to Pass in New Draft under same title report READ and ACCEPTED and the Bill in NEW DRAFT PASSED TO BE ENGROSSED.

Which Reports were READ.

The Majority Ought to Pass Report was ACCEPTED, in concurrence.

The Bill, in NEW DRAFT READ ONCE.

The Bill, in NEW DRAFT ASSIGNED FOR SECOND READING LATER IN TODAY'S SESSION.

Divided Report

The Majority of the Committee on TAXATION on Bill "An Act to Amend the Forest Fire Control Laws and Change the Method of Funding Forest Fire Control Services" (Emergency) H. P. 1581 L. D. 2093

Reported that the same Ought to Pass in New Draft under same title. H. P. 1782 L. D. 2347

Signed:

Senators:

WOOD of York
TWITCHELL of Oxford
TEAGUE of Somerset

Representatives:

CASHMAN of Old Town
DAY of Westbrook
INGRAHAM of Houlton
JACKSON of Harrison
MASTERMAN of Milo

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 Amending the Forest Fire Control Laws and Change the Method of Funding Forest Fire Control Services" H. P. 1783 L. D. 2348

Signed:

Representatives:

ANDREWS of Portland
HIGGINS of Portland
KANE of South Portland
KILCOYNE of Gardiner
McCOLLISTER of Canton

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

Which Reports were READ.

On motion by Senator WOOD of York, the Majority OUGHT TO PASS IN NEW DRAFT (H. P. 1782) (L. D. 2347) Report was ACCEPTED IN NON-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.

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

SENATOR PEARSON: Mr. President, I'd like to ask for a very brief explanation of what this does.

THE PRESIDENT: The Senator from Penobscot, Senator Pearson, 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 and Men and Women of the Senate, this Bill funds the Forest Fire Suppression at one hundred percent of State funding instead of the excise tax that was placed last year or instead of the alternative of placing it all on the property tax.

The Bill in NEW DRAFT PASSED TO BE ENGROSSED IN NON-CONCURRENCE.
Sent down for concurrence.

(OFF RECORD REMARKS)

Divided Report

Seven Members of the Committee on ELECTION LAWS on Bill "An Act to Place Limitations on the Contributions which Candidates may Receive from Political Action Committees" H. P. 1785 L. D. 2351

Reported in Report "A" that the same Ought Not to Pass.

Signed:

Senators:

PEARSON of Penobscot
USHER of Cumberland
REDMOND of Somerset

Representatives:

CAHILL of Woolwich
SHERBURNE of Dexter
ROBERTS of Buxton
WENTWORTH of Wells

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 Resolve, Creating a Special Commission on Campaign Finance Reform. H. P. 1850 L. D. 2448

Signed:

Representatives:

NADEAU of Lewiston
PARADIS of Augusta
MICHAUD of E. Millinocket

Three Members of the same Committee on the same subject matter reported in Report "C" that the same Ought to Pass.

Signed:

Representatives:

MARTIN of Brunswick
HANDY of Lewiston
STEVENSON of Unity

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

Which Reports were READ.

Report "A", the Ought Not to Pass Report was ACCEPTED.

SECOND READERS

House

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

Bill "An Act to Establish a Commission to Assess the Loss of Farmland in Maine" H. P. 1842 L. D. 2438

Which was READ A SECOND TIME.

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

SENATOR ERWIN: Mr. President, I present Senate Amendment "A" and move its Adoption.

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

Senate Amendment "A" (S-389) was READ and ADOPTED.

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

Sent down for concurrence.

ENACTORS

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

AN ACT Relating to Local Voting on School Administrative District Budgets. H. P. 1814 L. D. 2399

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 Resolve

Resolve, for Laying of the County Taxes and Authorizing Expenditures of Kennebec County for the Year 1984. H. P. 1821 L. D. 2413

This being an emergency measure and having received the affirmative vote of 25 Members of the Senate, with 1 Senator 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.

Emergency Resolve

Resolve, for Laying of the County Taxes and Authorizing Expenditures for York County for the Year 1984. H. P. 1822 L. D. 2414

This being an emergency measure and having received the affirmative vote of 28 Members of the Senate, with No 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.

ORDERS OF THE DAY

The President laid before the Senate:

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

Tabled—April 9, 1984 by Senator COLLINS of Knox.

Pending—ADOPTION OF SENATE AMENDMENT "B" (S-387)

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

(In Senate April 9, 1984 Report "A" Ought to Pass in New Draft Under New Title READ and ACCEPTED in concurrence. The Bill in NEW DRAFT READ TWICE. Senate Amendment "B" (S-387) READ)

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

SENATOR COLLINS: Mr. President, I make a Parliamentary inquiry. The printed Calendar says that Amendment "B" was adopted and the Chair just stated that it was not adopted but that is the pending motion. Is this correct?

THE PRESIDENT: The pending motion before the Senate is the Adoption of Senate Amendment "B".

SENATOR COLLINS: Thank you, Mr. President. Mr. President and Members of the Senate, this matter was debated at length in another context last night. The issue is whether the Senate is going to support the Governor's initiative to tighten up our retirement system as it applies to future employees of the State.

A couple of Senators have said to me that they felt that they had to vote against this measure because they had friends in the system who had spoken to them and they felt an obligation to be supportive of those friends. This is a very understandable situation, but I would point out once again that none of those friends who are presently in the system are affected by this turn in the road of our retirement system. Those people already in the system, in effect, have a lifetime contract as to the nature of their retirement system. They stay with what we have in the books. They are not adversely affected, so if your allegiance is primarily to a friend already in the system, you should have no qualms about voting for a change in the system that affects those people coming in in the future.

The real question is what affect, if any, will this have on the quality of future hirings in service and on the soundness of our system? I think that it was well explored last night, that if we do not make changes in our system for the long future that we are going to find that we have a very expensive system. A crushing system that will live on to haunt those who come after us.

I submit to this Senate that if we are going to act responsible for the good of all our citizens and for the good of those who want to have a sound retirement system twenty, and fifty, and one hundred years from now that we ought to defeat this attack on the plan that the Governor has given us because if we let down the bars for one group, then another group, and then another, and then another, we will be here with amendments that will be very difficult to resist and this carefully thought out program to change the system will go down as a dismal failure.

So I would urge you to think carefully on that this morning and to vote against the Adoption of Senate Amendment "B" and I would request a Roll Call.

THE PRESIDENT: A Roll Call has been requested.

Is the Senate ready for the question?

The Chair recognizes the Senator from Cumberland, Senator Najarian.

SENATOR NAJARIAN: Mr. President and Members of the Senate, I would just like to add to the remarks of Senator Collins.

This is a terribly serious vote we're about to take and I would tell you that with the bond issue that's coming out for the Maine State Prison, we're adding forty new beds at Windham and presumably, many new guards will have to be hired, we have five new guards coming on in the budget for the prison. They will still be eligible for the twenty year retirement but we still haven't given Commissioner Allen as many guards as he's asked for, presumably more guards are going to be coming on.

Then, here is an opportunity to finally get this retirement system under control. We're adding into this amendment, we're covering new people that have never been covered before. I was just thinking last night, yesterday we had the smoking bill for kids under eighteen at the Youth Center and we referred to them as children who had to get their parents permission to smoke. Then suddenly the next bill that came up they were rough thugs who were going to beat up the guards and all this stuff. I mean we're just not even consistent, are they children or are they wild men over there at the Youth Center? They are under eighteen and most of them, I just can't imagine that the guards continually are under that much stress from those that are at the Youth Center.

Another thing, we mentioned yesterday that those people who work at Pineland, who work at the mental institutes are under as much stress as any of the guards and the wardens, certainly more than the Marine Patrol Wardens. I just got a letter yesterday about those that work in the Oil and Hazardous Waste Division in the Department of Environmental Protection. They work around the clock under hazardous conditions and they are ranked by the personal system gave them the maximum score in the hazardous industry. They respond to nearly five hundred spills a year and one or two spills nearly every day in addition to the uncontrolled hazardous waste sites. So, I mean there are people working in State Government under more hazardous work conditions than the people who are under this twenty-five year retirement system.

So, I really hope that you will think about all the thirty thousand other people you represent and not the one or two wardens who are your friends or the police officers who are your friends, because as Senator Collins said, they're not covered by this they'll still have their twenty year retirement, but just think about the future. The savings in this retirement system would pay for fifty million dollars of bond issues and certainly we've got the B.P.I.'s coming up facing us, which everybody wants, we've got another bond issue facing us next year to do more at the prison, we've got the University who needs, apparently, some new buildings and we're going to be presented with some bond issues for them, so in addition to the court house and all the bond issues we're going to be voting on in a day or two up here now, so please I hope that you will defeat this amendment.

(OFF RECORD REMARKS)

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

SENATOR DIAMOND: Thank you, Mr. President and Ladies and Gentlemen of the Senate, yesterday when this bill was Tabled after we passed, initially passed our amendment and

the Bill was in pretty good shape, I knew full well that the lobbying would start. Of course, we all know that's the reason, acceptable reason, why things are tabled and that's what's happened on this one. People have turned out in trying to discolor what we're really trying to do here. If you listen carefully, as I hope you did to the previous speaker the good Senator from Cumberland, Senator Najarian, you heard all her list, this list of things we need, and we can list down through, we can even add to that, I could add another ten things I'd like to have, and each of you have five or six, and we'd come up with a pretty good list which would say we can't spend any money on anything because we have this list some place that we have to pass. It's just a tad confusing to listen to that kind of reasoning.

What we do have here is a cause based on some need and on some unique situations as we discussed yesterday. This is not a matter of friends, I do not have any friends that may be in these positions, nor do you, because you don't know who they are going to be. We're talking about future people. We are not letting down the bars as the good Senator from Knox referred to us doing. We are, indeed, with the amendment even increasing and lifting up and giving money back, we're going from twenty years at some places to twenty-five. At the Windham Correctional Center, they're twenty-five years right now. We're going to stay at twenty-five.

There are people out there, however, that fall in this category who do need and deserve and must have, for all the reasons we heard yesterday, a unique retirement situation, but we're not deteriorating from the system, as they would like to have you believe, we indeed are not. I think that the forty beds that you heard mentioned, and all the needs that the Commissioner of Corrections has alluded to really have no basis for this discussion. We are talking about future retirement plans and a future retirement system, and we're talking about people who deal in an unusual stress situation not to be discolored by hazardous waste, not to be discolored by anything else. We're talking about a unique job opportunity here and we're talking about a unique retirement that needs to go with that.

It is a serious vote and I hope you will look at it carefully and remember what we've talked about in the past. We're talking about a serious situation, we're talking about people who work with murderers, we're talking about people who work with the worst type of our community today and these people need to have someone who cares, who will stay with them, and one of those attractions is a retirement system. We're not cutting it down and giving away the pie here, we're simply building it up as many of you suggest, but we're doing it gradually and carefully, and retaining some kind of uniqueness for those people.

I would hope that you would, indeed, stick with your vote that you had yesterday, resist the heavy lobbying that you're getting from everywhere and knowing full well that this Bill should be Passed to be Engrossed. Thank you, Mr. President.

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

SENATOR GILL: Mr. President and Members of the Senate, the good Senator from Cumberland, Senator Najarian, indicated that we had young people and she referred to a bill we dealt with yesterday on cigarettes.

The people who are incarcerated at the Youth Center may be of an age of eighteen to twenty-one or below, but in age of their criminal activity, I must say that they are a lot older.

We've instituted a lot of reforms around here and one of them a few years ago was intake workers, and when we did that, we insured that those people who ended up in the Youth Center were, in fact, multiple problems because they had been through the system with

their intake workers and once they reached the Youth Center they were, indeed, hard criminals whether they be young in age or whether they be twenty-one or older, and I would maintain that we have a lot of rehabilitating to do.

One of our charges in the correctional system is to rehabilitate. I think there are a lot of additional reforms we have to look at before we can put this institute, this particular one, and lower the age of retirement. I think that the fact that we are looking at a bond issue to increase and improve the situations within the whole correctional facility indicates that this is indeed premature at this time. Once we get the addition, once we get the bond issue passed and once we get the additional buildings and renovations we need, and once we start to rehabilitate so that those particular people who are incarcerated are doing something else with their time that will serve the general public, then I think we'd better keep these guards and offer them the retirement that we can offer them because you're going to lose them. God knows we need people who will watch over them while they're in there and we should be able to protect them and offer them something.

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, I rise into this debate, as the presiding officer had yesterday when he was in this chair as the Senator from his District, I rise as a Senator from my District.

I have no correctional facilities in my District, no state prisons, no wardens, prison wardens, to worry about. While I do have a rather large District and I have several game wardens my concern in rising here today as the Senator from Knox, Senator Collins pointed out since they are already grandfathered it is not in their interest that I rise, but I want to basically express a few concerns that I have over the debate that I have thus heard.

One is in reference to the integrity of the system, to the desire to do all that we can to save the most amount of money, to protect that system somewhere down the road. Let's clearly look at the three alternatives that this Committee came out with and understand exactly what over a twenty-five year period we're talking about, because we are talking in the figures that have been thrown around, a twenty-five year period.

The Report that was accepted the other day Report A, under the hammer, saves the State sixty million dollars in twenty-five years. The amendment that we now have before us, if adopted, will treat the State Police, State Prison and the game wardens and marine wardens which presently are treated the same as State Police, it will continue to treat them the same, increase the number of years to twenty-five that they have to work from twenty and that they, of course, then can get out at the age of fifty-five instead of no age limit.

The difference between that and Report A is that Report C, which this Amendment will basically take us back to, saves \$54.4 million dollars over that time period. That's nothing to scoff at, that's a step in the right direction, that is a step which provides a little bit more integrity to the retirement system, a meaningful step. We're down to the difference of \$5.6 million dollars and the question now is what do you do that's right, not only for the people of the State of Maine, but for these employees as well?

I've come to the conclusion and the consideration of what do I do right for the people who have sent me down here to represent them, and that we, as employers of this State, treat our employees correctly. I believe that we take these individuals we've had an opportunity to evaluate their job performance and as to whether or not if they should be in the system at twenty years, twenty-five year or if they should get out at the age of fifty-five or sixty. I

believe in these fields that we're now addressing that at the age of fifty-five, that they have basically or at the age where they may be a liability to the State. It was pointed out the other day that there is workers' compensation concerns that was expressed by this Chamber yesterday when it decided to send a resolution studying State costs of workers' comp, that there is concerns there. I think if you have that concern, concern for the disability retirement and so-forth, that we would take these individuals that are in a rather stressful, strenuous situation and we would give them the retirement system adjustment that we are presently proposing, which is twenty-five years or age fifty-five and out, savings—\$54.4 million over a twenty-five year period.

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

SENATOR KANY: Thank you, Mr. President. Members of the Senate, I've listened with great interest to this debate and it is my understanding that there is a considerable amount of overtime with guards and others, if the stress is, indeed, so great I would wonder why we would allow overtime? I would ask Senator Diamond of Cumberland, and/or others to describe the extent of the overtime that is allowed for these people in these stressful occupations.

THE PRESIDENT: The Senator from Kennebec, Senator Kany, has posed a question through the Chair to the Senator from Cumberland, Senator Diamond, who may respond if he so desires.

The Chair recognizes the Senator from Cumberland, Senator Diamond.

SENATOR DIAMOND: Mr. President and Ladies and Gentlemen of the Senate, I would add that when you get older you need more overtime. One of the things that we have to worry about, to be concerned about, is the fact that this, indeed, this overtime problem is one that we're dealing with right this year. The reasons why people get involved, the guards get involved in overtime is because of merely financial, and we can't ignore that either, after all, they're not paid the highest of salaries as a correctional guard, as a CO-1 or a CO-2 or whatever you'd like to do. The reason they do overtime and the reason they take that whenever they can get it is because of merely financial need.

While I am up, Mr. President, I will just take a moment, a couple of people have asked me about this amendment, does it in fact eliminate or take out people at the State Prison who are now under early retirement, and yes it does. That's why this is not one big nice amendment that's endorsed by everybody. It's a hard, thought out amendment that says, yes, the people who are now under early retirement, i.e., librarians, a secretary, maybe a few clerks, those people are very upset that they are not involved in this. We tried to look at those people who are very, very on the very inside in dealing with these prisoners all the time. So, yes, we've taken out some of those folks that we feel are on a periphia, probably shouldn't be involved and stay with just those folks who deal with the hard-core criminals. Thank you, Mr. President.

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

SENATOR NAJARIAN: Mr. President and Members of the Senate. I would just like to respond to a couple of remarks. We talk about a lot of murderers being at the prison, however, most of those murders are committed against a family member or against a wife, they are a crime of passion, and not the mass murderer who's out killing people just for the sake of killing and chances are these people would never commit another murder again in their lives. They are only violent in an emotional situation.

I have a question I'd like to pose, if the jobs in the prison are so stressful, why is it that most of them when they retire take a law-enforcement position with a municipality, or as a security

guard for a private company?

(OFF RECORD REMARKS)

THE PRESIDENT: Is the Senate ready for the question?

The Chair recognizes the Senator from Washington, Senator Brown.

SENATOR BROWN: Thank you, Mr. President and Ladies and Gentlemen. This has been a confusing issue for a number of us and it seems to me a frustrating one, because I, as many others in here, have a number of calls from friends of mine who live in Washington County who happen to be game wardens.

It seems like that the issue can be boiled down to two basic things. One is a financial aspect and that's been debated in there at length. The other deals with whether or not people at age fifty-five or sixty can still perform a job that they've been hired to do. That's the one I guess that is most frustrating, to me, in terms of what's been said in here.

Yesterday, in this Chamber, the good Senator from Knox, Senator Collins, had mentioned the fact that a youthful body may not be as important as a mature head in terms of the law enforcement of the future, because of the tools that we have at our access, the progress that's been made in apprehension and in control of people that need to be controlled. So, it seems to me that that is an issue of whether or not they can perform their jobs at fifty-five or sixty, is one that really has no merit.

It seems to me that it comes down to the fact that we've got a retirement system that cannot survive under the present stress that it's under. We want to talk about stress, we spend a lot of time talking about which jobs have the most stress and whether or not working in Pineland Center or working in the State Prison or working with different kinds of people has the most stress. There's been times its been stressful serving in this Chamber, I might add, but that retirement system is under a fair amount of stress now. Unless we do something to make some dramatic changes in it, it won't survive. That's the thing I think that we have to decide today, is number one, whether the financial aspect has merit. Then, number two, whether or not a man or a woman, at age fifty-five or sixty, when we've got our longevity up to the point of what, seventy-three for men, I guess, and seventy-eight for women, and it's going to be continuing in the years to come, whether or not this retirement system can survive that, that's the issue.

So, I would hope, Ladies and Gentlemen, that you also defeat this amendment.

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

SENATOR MINKOWSKY: Mr. President and Members of the Senate, I think one good term that has been brought to light this morning is the word "stress." I think maybe on behalf of the President and myself and a few others who've been around a few years, the stressful factor seems to get even worse, and our retirement isn't that significant at the end of ten years of service in the State of Maine, and campaigning year-round, you might say.

I guess what I'm really getting at this morning is at least when I was elected to the Maine Senate, and I'm only going to refer to the part of the Senate, we were elected regardless of party affiliation to be in a management position, and that position is incumbent upon us to weigh, to evaluate, to analyze and to disseminate every single aspect of the multitude of bills and the multitude of State employees we have working for the State of Maine. What we are looking for is equity and fair play.

When I signed that Report, Report A, I did not take that particular Report very lightly. I looked at it beyond the political ramifications as a Governor's Bill, but as a matter of interest and concern to the taxpayers of the State of Maine, and I hope I made that point very clear

yesterday. These are the people out there regardless, who are going to pay the freight in the long term. Certainly, I think I'm still hearing by at least, in getting signatures recently, that the people out there are very cognizant of what it is costing us to operate State Government, and they are still asking us to maintain a semblance of an austerity program, regardless of the friends we have who are State employees and I am very compassionate, and I'll reiterate that point to State employees. I think in this particular case we must look at our edict from the viewpoint of fiscal responsibility to the people of the State of Maine, and that is the basic reason why, and the many people I've spoken to who are State employees, who are with the Marine Warden Service, who are Inland Fisheries and Wildlife employees, that, yes, I do understand your concerns, yes, I do understand the trials and tribulations you people are subjected to, but the time is not right, we just cannot afford to continue on the present path. If we do, I will say, very shortly the entire retirement system, if it's not presently in shambles, it will be in the very, very near future.

THE PRESIDENT: Is the Senate ready for the question?

The Chair recognizes the Senator from Kennebec, Senator Dow.

SENATOR DOW: Mr. President and Members of the Senate. Just one short statement. Everybody is saying that we're doing something that we shouldn't be doing to the retirement system, but in fact, we are taking groups of people out of the special retirement that nobody has brought out yet. Those groups are the liquor inspectors, the forest rangers, the pilots, as well as increasing the special retirement from twenty years to twenty-five years, we've taken a number of people out of it.

The system will be better with the passage of this Bill. Thank you.

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

SENATOR BALDACCI: Mr. President and Members of the Senate. I had not planned to speak to this particular issue, but one common thread that is very disturbing to me, who do we think we are that we are going to determine what is stressful and what is not stressful? Who are we to be like God saying that this particular job is not stressful? Cooking is not stressful, secretarial work is not stressful. I had a number of my Committee tell me that he was running an organization with forty employees and if it wasn't for his Girl Friday, that organization would have fallen apart. That must have been a very stressful job.

I think that once you start exempting certain people from a uniform standard of retirement, that you're jeopardizing the whole system. I think it's like that Christmas tree of Social Security, once you start tagging on amendments pretty soon that tree is so heavy that it will fall over.

In Workers' Compensation, that started out as a program, everybody went along with it because it wasn't costing anybody anything at that time. These people that are here that would like to see this amendment go through, maybe today, if we vote in favor of that amendment, they'll be happy, but what happens with that unfunded liability down the road? Are we talking about short term political gains and long term financial problems? I would rather see those people that are trained and competent and skilled to be able to get their retirement when they are retiring, rather than worrying about a little game about whether there is enough money in there or whether the State has met its obligation. I think if we preserve the integrity of that system that the money will be there, the checks won't bounce. That's what concerns me, and that's what I'm worried about, because these do an excellent job, game wardens, forestry people, pilots, they all do an excellent job, and I think it's unfortunate to single out a particular class

and say that's not stressful.

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

SENATOR PRAY: Thank you, Mr. President. Mr. President and Ladies and Gentlemen of the Senate, the Senator from Penobscot, Senator Baldacci, asked a very important question when he started his comments—exactly who do we think we are to decide what jobs are stressful and which jobs aren't?

This legislation is before us as the decision-makers of this State because the existing law, the existing law, has said that all these positions are stressful and that there's a twenty year retirement system. Everyone of us is trying to improve that system, everyone of us is trying to improve the integrity of that system, we're not trying to make a Christmas tree out of it, that's been the catch term on this Bill today. Everyone of these proposals will save millions and millions of dollars. The question is do we want to save sixty million dollars? Do we want to save fifty-four million dollars?

If the question is money then maybe we ought to amend the bill to go up even further. The presiding officer of this Chamber yesterday talked about the railroad retirement system probably going to sixty-five, as a number of other systems are being changed and being upgraded. We are all, in which ever position we have on this amendment, are trying to improve the system. It falls upon us, in this Chamber, to make the decision to what's right or wrong. I respect his point of view on which version he believes to be correct, but I think it's very important for us to clearly understand.

One of the great things about this Country is that we have the right to disagree with each other. We have the opportunity to stand up and express our various positions on the various issues. We still come down to the question of what's right, not what's expedient, what do we do just because it saves the most number of dollars, but to do what's right.

I'm concerned about the fact that many of those who are opposing the amendment, their arguments have been time and time again, it's sixty million dollars! The right thing to do is save the most money. That's not necessarily correct. I think that it's a grave error to do it just on the fact that over a twenty-five year period we're going to save that instead of fifty-four million dollars.

Everyone of these proposals, I haven't heard of anybody yet that's opposed to all three of them. Everyone of those proposals are going to save this State, and the taxpayers of this State, a great deal of money. If there is such concern for the integrity of the system, then I'm surprised that somebody hasn't asked for a greater, to increase the pay-in to make the system a little bit sounder. It's those with the early retirement pay, seven and one half percent I believe, a whole percentage point more than those that do not have that early retirement.

If the retirement system is in such shambles of unfunded liability, including these people according to some then we should be addressing the pay-in provisions, not the number of years of retirement. If we have to balance the system off, then let's address that problem and that concern, but nobody wants to raise that question.

THE PRESIDENT: Is the Senate ready for the question?

The Chair recognizes the Senator from Penobscot, Senator Pearson.

SENATOR PEARSON: Mr. President and Men and Women of the Senate, for the benefit of those people who are new in the Maine Legislature, three or four years ago, I forget exactly what the date was, we had a study that was commissioned by this Legislature with a commercial firm to study the retirement system and it said we should put more money into the retirement system and we did. We did, I was on the Appropriations Committee at the time and I remember that we sat aside a lot of money,

and we have been making continual payments into the retirement system.

Senator Dow who is the Chairman of the Retirement Committee says that this Bill makes it better. Then, why is the rhetoric going around here about this retirement system and weakening it? I don't understand it.

Senator Baldacci refers to this unfunded liability. We have addressed that problem. We did that two, or three, or four years ago, whenever it was. We are, as far as I know, right on schedule on the retirement system. Where he gets his information, I don't know.

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

SENATOR CLARK: Mr. President, in order to set the Record straight with reference to the remarks of the good Senator from Penobscot, Senator Pray, it's important, Men and Women of the Senate, that you understand that those who will under Report A qualify for early retirement in the future, do indeed pay one percentage point more in their employee contribution to the Maine State Retirement System. Of particular interest with reference to that increased one percent is that for many of those who qualify, six and a half percent of the seven and a half percent employee contribution is paid by the State of Maine as a result of collective bargaining.

Of even greater interest is the time span before which these retired employees currently, and probably in the future, begin to pay State Income Taxes on their retirement benefits. Many people really don't clearly understand this. Employees who are retired and receive benefits from the State Retirement System are not subject to Maine Income Taxes until such point as they have exhausted the amount of money that has been contributed in their name under employee contributions and the extent of that time seldom exceeds eighteen months.

So following their retirement, and from the point of drawing on the system in retirement benefits there usually is only a period of eighteen months, for those who don't qualify for these kinds of increased benefits, many employees who don't have early retirement have periods that sometimes stretch to three, sometimes even four years before they must pay income taxes on their retirement benefits, but for those who qualify for this special plan currently, the usual time period is eighteen months and seldom exceeds twenty-four months, and, that is the extend of their employee contribution. From that point on they must pay income taxes on their retirement benefits, because the benefits are paid by the taxpayers of this State.

When you vote this morning I would suggest that you don't vote with reference to particular interests, whether they be guards at Thomaston, or at the Maine Youth Center, or at the Windham Correctional Center, or whether they be Inland or Marine wardens, but whether you're representing the tax-paying citizens of this State who ultimately pay the bill, and that's where the buck stops. Thank you, Mr. President.

THE PRESIDENT: Is the Senate ready for the question?

A Roll Call has been requested.

The Chair recognizes the Senator from Cumberland, Senator Diamond.

SENATOR DIAMOND: A Parliamentary inquiry, Mr. President.

THE PRESIDENT: The Senator may state his inquiry.

SENATOR DIAMOND: Just reading on the Calendar, its states that the Amendment was Read and Adopted.

THE PRESIDENT: The Calendar is in error. The pending question before the Senate, again, is the adoption of Senate Amendment "B".

A Roll Call has been requested.

Under the Constitution in order for the Chair to order a Roll Call it requires the affirma-

tive 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 have arisen a Roll Call is ordered.

The pending question before the Senate is the Adoption of Senate Amendment "B" (S-387).

A Yes vote will be in favor of the Adoption of Senate Amendment "B" (S-387).

A No vote will be opposed.

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

ROLL CALL

YEAS—Senators, Bustin, Carpenter, Diamond, Dow, Erwin, Gill, Hayes, Hichens, McBreairty, Pearson, Perkins, Pray, Shute, Usher, Violette.

NAYS—Senators, Baldacci, Brown, Charette, Clark, Collins, Danton, Emerson, Kany, Minkowsky, Najarian, Redmond, Sewall, Teague, Trafton, Twitchell, Wood, The President—Gerard P. Conley.

ABSENT—Senator, Dutremble.

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

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

SENATOR PRAY: Mr. President, having voted on the prevailing side on Senate Amendment "A", I move its Reconsideration whereby the Amendment was Indefinitely Postponed.

THE PRESIDENT: The Chair would have to state that we would have to dispose of Senate Amendment "B" prior to Reconsideration of the adoption of Committee Report "A".

Is the Senator referring to Senate Amendment "B"?

SENATOR PRAY: Senate Amendment "A".

THE PRESIDENT: The Chair would state that Senate Amendment "B" is still pending before the Body.

Is it now the pleasure of the Senate that Senate Amendment—the Chair is in error.

The Senator from Penobscot, Senator Pray, now moves that the Senate reconsider its action whereby Senate Amendment "A" (S-384) Failed of Adoption.

The Chair recognizes the Senator from Knox, Senator Collins.

SENATOR COLLINS: Mr. President, I request a Roll Call and would urge the Senate to vote No.

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 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 Violette.

SENATOR VIOLETTE: Mr. President, just a point of clarification. Ladies and Gentlemen of the Senate, there are a number of amendments on this Bill today and we've debated a number of them yesterday and today, and I just want to emphasize this is the Amendment that I offered yesterday, because there are a number of them and I hope you would vote to reconsider. Thank you.

THE PRESIDENT: The Chair, again, would like to clarify the pending motion. The pending motion before the Senate is the motion of the Senator from Penobscot, Senator Pray, having voted on the presiding side, has now moved that the Senate reconsider its action whereby it Indefinitely Postponed Senate Amendment "A" (S-384).

A Yes vote will be in favor of Reconsideration.

A No vote will be opposed.

The Chair recognizes the Senator from York, Senator Wood.

SENATOR WOOD: Mr. President, I wish permission to pair my vote with the Senator from York, Senator Dutremble. If he were here, he would be voting Yea and I would be voting Nay.

THE PRESIDENT: The Senator from York, Senator Wood, Requests Leave of the Senate to pair his vote with the Senator from York, Senator Dutremble. If he were here he would be voting Yea and the Senator from York, Senator Wood would be avoting Nay.

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

It is a vote.

Again, the Chair will restate the question. The question is the motion of the Senator from Penobscot, Senator Pray, to reconsider its action whereby it Indefinitely Postpone Senate Amendment "A" (S-384).

The Doorkeepers will secure the Chamber.

The Secretary will call the roll.

ROLL CALL

YEAS—Senators, Bustin, Carpenter, Diamond, Dow, Emerson, Erwin, Gill, Hayes, Hichens, McBreairty, Pearson, Perkins, Pray, Usher, Violette.

NAYS—Senators, Baldacci, Brown, Charette, Clark, Collins, Danton, Kany, Minkowsky, Najarian, Redmond, Sewall, Shute, Teague, Trafton, Twitchell, The President—Gerard P. Conley.

ABSENT—None.

15 Senators having voted in the affirmative and 16 Senators having voted in the negative, with 2 Senators Pairing their votes, and No Senators being absent, the motion to RECONSIDER the Indefinite Postponement of Senate Amendment "A" (S-384) FAILS.

The Bill was PASSED TO BE ENGROSSED in concurrence.

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

The President laid before the Senate:

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)

Tabled—April 9, 1984 by Senator KANY of Kennebec.

Pending—ENACTMENT.

(In House April 9, 1984 PASSED TO BE ENACTED)

(In Senate April 6, 1984 PASSED TO BE ENGROSSED AS AMENDED)

On motin by Senator CARPENTER of Aroostook, RETABLED until later in today' session, pending ENACTMENT.

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 VIOLETTE of Aroostook.

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 offer Senate Amendment "D" to L. D. 2389 and move its Adoption.

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

Senate Amendment "D" (S-390) was READ.

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

SENATOR HICHENS: Mr. President, I would ask for a division on this motion to Adopt Senate Amendment "D".

The State Government Committee did a

tremendous amount of work on this Bill to establish standards and policy for compensation for members of boards, commission, and similar organizations. After they come out with their report. There were different groups that came in crying with towels and so forth because they weren't getting paid enough for serving on these different committees or commissions, and a couple of them, the Committee agreed, had a right to probably have a little higher commission than what the Committee had decided upon. But, I don't think the Turnpike members can complain at the regular per diem salary that the Legislature gets and I think it's just opening the door for other groups to start coming in and crying because they don't think there're getting quite enough.

On a personal basis, I've served on several committees throughout the State and granted it was a privilege, or felt it was a privilege to serve on these committees for just travel expenses and meals involved in meeting at those things. I don't think that these other committees and boards should expect high compensation, although fifty dollars isn't that high, but I think the thirty-five dollars which we receive is enough for these other commissions and boards.

(OFF RECORD REMARKS)

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

SENATOR DANTON: Mr. President and Members of the Senate. First, I want to quickly tell you that the Maine Turnpike Authority didn't come here to see me with towels and crying or anything else. It's just that I noticed this in the Bill and I want to bring to your attention that the Maine Turnpike Authority members, up to two years ago, many, many, many years, perhaps since its inception was only getting twenty dollars per meeting.

Now, the four members of the Authority, I'm sure are not going to worry about the loss of that fifteen dollars per meeting. I just thought that I would offer this amendment, after all, we just brought their per diem up to fifty dollars per meeting. They meet twelve times a year, that's six hundred dollars, four members, that's twenty-four hundred dollars.

What do they turn back to the State? They turn back to the State about six million dollars. They have a big job on this Authority, and I'm just going to just quickly read off a few of the things that members of the Authority do: they acquire real estate property; make contracts with the United States, any other government, city, town, county; accept grants from corporations, public and private; they have architectural designers that they employ and sit and meet with; they borrow money all the time for the projects that they have to do on the Maine Turnpike Authority. It's really a detailed Authority. There's really a lot of work that goes on.

The reading that takes place from meeting to meeting is really enormous. Like I said, I don't think any of them are going to go through any big hardship financially if they don't have the fifteen dollars. I just thought where the Legislature, in it's wisdom just two or three years ago, I wasn't here when it happened, raised them from twenty to fifty dollars, that it's a shame now that they are turning back to the State six or seven million dollars, that you say thanks for the six or seven million bucks, but we want to take and reduce your pay from fifty to thirty-five dollars a meeting.

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

SENATOR VIOLETTE: Mr. President and Ladies and Gentlemen of the Senate. I'm going to oppose the Amendment being offered by the good Senator fom York, Senator Danton.

The Subcommittee of the Committee on State Government reviewed this area during the summertime. I was not a member of this Subcommittee Study Report, it was chaired by

a member of the other Body, Representative Gwadnosky, and I must compliment them on their fine work.

No one knew how many boards and commissions there were in State Government. There are one hundred and ninety-eight. That is aside from legislative boards, that is aside from legislative entities, and a number of gubernatorial, there are existing out there one hundred and ninety-eight boards and commissions. This legislation took all those boards and commissions and has put them all together in one section of the statute.

Further, it established a number of broad categories, such as those for professional licensing. Then we come to this category, Category Number 7, Financing and Administrative Organizations and it treats them all alike. Before this legislation was passed, there was nothing to use as a roll model if you wished to create a new board or commission, or if you wished to make some change in the structure of the board or commission, or if you wondered as to what compensation they ought to receive. The Maine Turnpike Authority is going to be treated the same way as the Maine Port Authority, the Maine Health and Higher Education Facilities Authority, the Maine School Building Authority, the Finance Authority of Maine, and the Maine State Housing Authority.

I don't think the debate should be over whether which one deserves to get a little more or a little less. The Committee felt that they should all be treated the same and they are. I really would hope that we wouldn't, well you know, it's the prerogative of the Senate to do as it wishes, but I would hope that we wouldn't start to nit-pick and to kind of tear apart what's been put together here.

There's a substantial amount of work that went in by that Subcommittee and by the full Committee, in trying to bring about a cohesive structure to the boards and commissions, and treat those boards and commissions that share similar powers and duties alike. That didn't exist when the compensation was raised two or three years ago, but it exists, hopefully, after we pass this legislation. We'll be able to use this as a bench mark, so to speak, in determining what is an appropriate level of compensation when we want to make a change or when you want to create a new entity and you're wondering what that board or commission ought to be paid, you can find where it ought to go in this structure.

In addition to that, it provides for another thing, a number of other things, such as how boards and commissions ought to operate, it provides for a central place for providing for a list of those boards and commissions and reporting on the activities of the boards and commissions. I'm sure that in other further work of the committee, quite frankly, is going to be that some of these boards and commissions ought to be done away with when some of them haven't met for in excess of three years but that was not felt to be the goal this time around. I would hope that we would oppose this good Senator's amendment, and and other amendments today being offered from the Floor to make changes in what the Committee has recommended. Thank you.

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

SENATOR DANTON: Mr. President, I agree with the good Senator from Aroostook that there are many, many boards and commissions. I'm sure we could get rid of most of them in fact maybe we'd be better off if we did, but I'm just trying to tell you very simply this that the Maine Turnpike Authority, the four members that serve on that Authority, do a lot of work, a lot of valuable work. Again I'm going to repeat myself, whether you take the fifteen dollars away from them or not, I'm sure it isn't going to put them into any financial hardship, but they worked for years and years and years for only twenty dollars a meeting, still running

the Maine Turnpike Authority, that beautiful road that we all enjoy when we have to use it. You never heard them once come up here and ask for more money, the Legislature in its own wisdom, two or three years ago raised it up to fifty dollars to be the same as some other boards and commissions.

Now we're saying to them, let's take and drop it down to thirty-five dollars, and as the good Senator from Aroostook said, if we tie it into the Legislative per diem, which I believe is now forty-five dollars a day, thirty-five dollars a day, or whatever it is, and if it gets an increase like its supposed to be increased, chances are it'll be back up to forty-five anyway. So why change it, why not let it stay at fifty? Why should they be tied to the legislative per diem? Maybe five or six years down the road, the legislative per diem may be seventy-five dollars a day. I don't think that board or any commission should get exactly what the Legislature gets.

You know, they go to Portland once a month and they meet from nine o'clock in the morning to eleven-thirty, usually that's how long the meeting takes, usually they're businessmen or retired businessmen. They either leave their business or they have the time to do it. They don't need seventy-five dollars a day. They don't need anything, I think we should leave them there, they're all qualified, capable, good, hardworking, well meaning people that want to serve their State on this Authority and through the years they've proven that they've done a nice job.

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

SENATOR VIOLETTE: Mr. President and Ladies and Gentlemen of the Senate, the issue isn't whether or not they are going to get seventy-five dollars or who knows what the future per diem cost rate is going to be for the Legislature. Currently, it is thirty-five dollars a day, that's the rate. That's the per diem compensation for Special Sessions and committee meetings outside of the Legislature, that's that per diem that we're talking about.

The Compensation Commission has recommended that that go to fifty dollars a day and the Committee in realizing the recommendations of the Compensation Committee, felt that that was only appropriate for these positions.

We are recommending that the vast majority of boards and commissions receive nothing but expenses. Nothing but expenses! We have removed vast numbers of boards and commissions that were receiving anything from salaries with retirement benefits, to hourly wages for studying, at home, the reports, when they would get information at home they would submit hourly bills to their entity and be paid and receive retirement credits for that work and fell under the Maine State Retirement System. We have removed all of those and there are only a few that we felt ought to receive some kind of compensation. People that serve in these positions serve in them because they want to contribute to State Government, and not for the level of compensation. This group ought to be treated as all the others within this grouping, and there is not lack of people who are willing to serve on the Maine Turnpike Authority.

There were rare exceptions made from the per diem rate only in a very, very limited number of cases, I think we'll be discussing that one in another minute because the good Senator from Kennebec, Senator Bustin, has an amendment, or where a member of the board had to have some high skill of which there were very, very few, the pool was very small for the number and we had to attract them, such as an actuary on the board or some special skill was needed. This is not the case with the Maine Turnpike Authority, and so I would hope we would defeat the good Senator's amendment and I would ask for a Division, Mr. President.

THE PRESIDENT: A Division has been requested.

Will all those Senators in favor of the Adoption of Senate Amendment "D" (S-390), 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.

9 Senators having voted in the affirmative and 21 Senators having voted in the negative, the motion to ADOPT Senate Amendment "D" (S-390) FAILED.

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

SENATOR BUSTIN: I present Senate Amendment "B" (S-376) and move its Adoption.

SENATE AT EASE

The Senate called to order by the President.

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

Senate Amendment "B" (S-376) was READ.

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

SENATOR VIOLETTE: Mr. President and Ladies and Gentlemen of the Senate, as I understand it, this Amendment would raise the per diem rate, the rate of compensation, for members of the Maine Health Care Finance Commission back to a hundred and fifty dollars a day.

In the original legislation last year that was passed by the Legislature, the rate for the Maine Health Care Finance Commission was set at one hundred and fifty dollars a day. The Committee felt that there are no other groups being paid a hundred and fifty dollars a day, no one else in State Government. It felt the next closest was the Maine Labor Relations Board, as well as, there is another entity, (it slips my mind) that's being paid a hundred dollars a day. There are only two others and this Board has, there is no special, within the Legislation, there is no special expertise, there is a broad class of people that fill from a pool of individuals from which potential people to serve on this board can be drawn, there is only one qualification, it says that at least one of the members must have, within the last ten years, have had five years of experience or the like, with respect to hospital administration or the like.

There has been no difficulty filling this Board. One hundred dollars a day, plus expenses, was felt to be more than adequate. I think there was a compromise made here, quite frankly, and the committee, if it really would have done what it should have, would have further decreased this compensation rate. This rate is higher than members of the Public Utilities Commission are presently paid on a weekly basis, and to suggest that individuals who are already drawing their own compensation, these are only meetings, these are rates paid when they attend meetings, this is not a full time job, to be paid that much money is inordinate. There has been no difficulty filling these positions, they fall within this classification, they remain the highest paid board in State Government and I would hope that you would defeat the Senators' amendment. A hundred a day compensation, with expenses is more than adequate, and in addition to that, the members of that group did not come before our Committee and oppose the reduction to a hundred dollars a day.

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

SENATOR BUSTIN: Thank you, Mr. President, Ladies and Gentlemen of the Senate. Nor would the Health Care Finance Commission members come before you and plead for more money, that's not what they are there for, you are absolutely correct, they probably would work for nothing, but that's not the point.

The point is a point of keeping faith. I can't believe that the Governor having pushed so

hard for a hospital cost containment bill last Session, would this Session want to say to those very same people that he, in effect appointed to that Commission at the per diem rate of one hundred and fifty dollars, can now go to them and say that he's reducing their salary by one-third after having just appointed them. That's what I'm talking about, it's a keeping faith issue with this particular Board.

We're talking about a multimillion dollar industry that we're trying to make millions of dollars of reductions in in cost savings for you and I, the third party payers, everybody who pays into hospital costs, that's the whole point of that bill.

I may agree or disagree with you about whether it should have been a hundred and fifty dollars, I had some questions about that up in the Committee, nevertheless, this Bill was passed at a hundred and fifty dollars a day per diem. We told those members there, we have lawyers on there, we have people who could get much more per day than they are getting sitting there going over that whole thing, setting up the whole structure. I can see perhaps sun-setting the hundred and fifty dollars so that when the new commission members, when they serve their term, there is a new appointment, then, sure, bring it in line, but right now you've had a very heavy push by everybody in this Legislature to have cost containment. Now you are telling those same people who agreed to serve to reduce their salary by one-third, I don't think it's right.

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

SENATOR VIOLETTE: Mr. President and Ladies and Gentlemen of the Senate, the Committee discussed in concept as a whole of leaving those who are presently getting what they have, letting them have what they have, and as new members come on letting them receive the lower rate or the higher rate in some instances, because some were raised. That simply just would not have worked out, throughout the whole Bill. We simply decided that this Bill would become effective for all these individuals whether it went up or down.

Now, this is a contribution to State Government. If these people are not willing to serve at a hundred dollars a day, there are many other people who will gladly serve on that Board. A hundred dollars a day is too much.

I spoke to two members of the five member board that I was able to speak to, and I have yet, since we've proposed this legislation, to hear one person suggest that they are going to leave their board or commission if their rate was going to be reduced. In speaking to two members of this particular Board, you know, they told me, Well, you know, a hundred or a hundred and fifty, I mean, sure, we'll take the hundred and fifty, but at a hundred, we're not going to leave the Board. I just think it's a question, this board is no more important, no more important, as far as it might be to those particular interests that this is such a high concern about, but to other people where it might have less total impact on the State, their particular interest in their Board is just as important to them and certainly more important than this board, and yet we are not paying these people and there is no objection from that board as a group, and so I see no reason why we should accept the good Senators Amendment. Thank you.

THE PRESIDENT: Is the Senate ready for the question?

The Chair recognizes the Senator from Kennebec, Senator Bustin.

SENATOR BUSTIN: Thank you, Mr. President. I don't think anybody is suggesting that these people are not going to keep working on that commission if they get reduced to a hundred dollars, I don't think anybody is even suggesting that, I haven't heard that from any Member of the Commission. I say again, it's merely a keeping faith issue.

I think that making that decision in the Committee on this Bill was an arbitrary and capricious one and we ought to rectify it with this vote.

THE PRESIDENT: Is the Senate ready for the question?

The Chair will order a Division.

Will all those Senators in favor of the Adoption of Senate Amendment "B" (S-376), 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.

5 Senators having voted in the affirmative and 26 Senators having voted in the negative, the motion to ADOPT Senate Amendment "B" (S-376) FAILED.

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

SENATOR VIOLETTE: Mr. President, I now offer Senate Amendment "C", (S-385) and move its Adoption.

Mr. President, if I might explain please.

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

Senate Amendment "C" (S-385) was READ.

THE PRESIDENT: The Senator has the floor.

SENATOR VIOLETTE: Mr. President. Mr. President, this is Senate Amendment "C", really this is a Committee Amendment. There are one hundred and ninety-eight boards and commissions and after the Bill went out of Committee, we realized that there was a few errors in our Bill.

This Bill makes four or five changes in the placements of boards, we had left out a couple that would have received no expense, such as the Library, State Court Library Committee, they were inadvertently left out, they receive only expenses.

In addition to that, we had to make a slight change, there is a fiscal note on this Bill because it saves the State money, but we had to reduce the fiscal note because we had not taken into consideration some of the rates, the per diem rates, that we had increased. There were far more decreases, but we did increase several per diem rates, and so this is what this amendment is all about. Thank you.

Senate Amendment "C" (S-385) was ADOPTED.

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

Sent down for concurrence.

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

On motion by Senator CARPENTER of Aroostook,

ADJOURNED until 3 o'clock this afternoon.

RECESS

AFTER RECESS

The Senate called to order by the President.

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

PAPERS FROM THE HOUSE

Non-concurrent Matter

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

In House April 6, 1984 PASSED TO BE ENGROSSED.

In Senate April 9, 1984 PASSED TO BE ENGROSSED AS AMENDED BY SENATE AMENDMENT "A" (S-386) IN NON-CONCURRENCE.

Comes from the House that Body ADHERED.

On motion by Senator WOOD of York, the Senate voted to ADHERE.

COMMUNICATION

The Following Communication:
COMMITTEE ON LEGAL AFFAIRS

April 9, 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 Legal Affairs 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	14
Unanimous reports	10
Leave to Withdraw	3
Ought to Pass	2
Ought Not to Pass	0
Ought to Pass as Amended	3
Ought to Pass in New Draft	2
Divided reports	4

Respectfully submitted,
S/ RICHARD R. CHARETTE

Senate Chair
S. HAROLD R. COX
House Chair

Which was READ and ORDERED PLACED ON FILE.

SECOND READERS

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

House

Bill "An Act to Require Maintenance of Financial Responsibility by All Motorists" H. P. 1843 L. D. 2447

Which was READ A SECOND TIME.

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

SENATOR DANTON: Mr. President, for the Committee on Bills in their Second Reading, I offer Senate Amendment "A" to L. D. 2447 and move its Adoption.

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

Senate Amendment "A" (S-392) was READ and ADOPTED.

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

SENATOR SEWALL: I move the Indefinite Postponement of this Bill and all its accompanying papers.

THE PRESIDENT: The Senator from Lincoln, Senator Sewall, now moves that this Bill and all its accompanying papers be Indefinitely Postponed.

On motion by Senator PRAY of Penobscot, TABLED until later in today's session, pending THE MOTION BY THE SENATOR FROM LINCOLN, SENATOR SEWALL TO INDEFINITE POSTPONE THE BILL AND ACCOMPANYING PAPERS.

ENACTORS

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

AN ACT to Clarify Responsibility Under the Maine Potato Quality Control Law. H. P. 1686 L. D. 2244 (H. "A" H-656 to C. "A" H-614)

AN ACT to Clarify Abrogation of Privileged Communications. H. P. 1700 L. D. 2254 (C. "A" H-658)

AN ACT Relating to the Enforcement and Collection of Child Support Obligations. H. P. 1717 L. D. 2276 (H. "A" H-666 to C. "A" H-654)

AN ACT to Allow Access to Financial Records of Public Assistance Recipients. S. P. 852 L. D. 2310 (C. "A" S-374)

AN ACT Amending the Child and Family Services and Child Protection Act. S. P. 881 L. D. 2386 (H. "A" H-660)

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

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

SENATOR USHER: I request that L. D. 2446 be Set Aside.

THE PRESIDENT: L. D. 2446 will be Set Aside.

AN ACT to Republish Williamson's Bibliography of Maine. S. P. 910 L. D. 2449

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

Emergency

AN ACT to Amend the Laws Concerning Commerical Whitewater Rafting. S. P. 873 L. D. 2367 (S. "A" S-373)

This being an emergency measure and having received the affirmative vote of 32 Members of the Senate, with No Senators having voted in the negative was PASSED TO BE ENACTED and having been signed by the President, was presented by the Secretary to the Governor for his approval.

The President laid before the Senate:

AN ACT to Clarify and Make Corrections in the Inland Fisheries and Wildlife Laws. S. P. 908 L. D. 2446

On motion by Senator USHER of Cumberland, TABLED for 1 Legislative Day, pending ENACTMENT.

Emergency Resolve

Resolve, Directing the Department of Human Services to Prepare Draft Regulations on the Licensing of Birthing Centers. H. P. 1788 L. D. 2361 (H. "A" H-624)

This being an emergency measure and having received the affirmative vote of 30 Members of the Senate, with No Senators having voted in the negative was FINALLY PASSED and having been signed by the President, was presented by the Secretary to the Governor for his approval.

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

Bill "An Act to Require Maintenance of Financial Responsibility by All Motorists" H. P. 1843 L. D. 2447

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

Pending THE MOTION BY THE SENATOR FROM LINCOLN, SENATOR SEWALL, TO INDEFINITELY POSTPONE THE BILL AND ACCOMPANYING PAPERS.

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 would thank the good Majority Floor Leader for Tabling this while I made a frantic dash to a room other than this Chamber, to secure my materials dealing with the Bill which is before us in New Draft.

The pending motion is one which has been offered by the good Senator from Lincoln, Senator Sewall, who serves on the Committee on Business Legislation and is reflected in the Committee Report in our printed calendar this morning.

The Committee on Business Legislation has dealt with the issue of mandatory liability insurance annually for every year of my twelve years of service on that same Committee. The issue of mandatory insurance was one, and is one, which is always a concern when members seek election to the Legislative Body here in Augusta. It's an annual event simply because there is a large sentiment out there who would require that anyone who is licensed to drive a car in the State of Maine should at least be insured and responsible for their actions. The issue has been perennially defeated and all Members of the Committee, and I feel quite secure in saying that all Members of this Legislature, are aware of the historical as well as the traditional arguments.

Citizens require or want mandatory insurance. The industry doesn't want it, for a number of reasons all of which perhaps I'll

have an opportunity to share with you later in this debate.

The Committee on Business Legislation addressed the issue in somewhat a unique fashion during the interim between the First Regular Session and the Second Regular Session of this 111th Maine Legislature. The Committee's report is contained in a blue book which I share with you and, probably some of you still have, although I only too well know what happens to these blue committee reports, it's entitled THE UNINSURED MOTORIST. It was on a particularly bleak, semi-spring winter day, you know what we mean by that here in this State, when the Committee on Business Legislation held its hearing on L. D. 2085 the original bill which reflected the Committees Study Report.

It was with great surprise that representatives, surprise to the Committee I'll tell you, that representatives of the insurance industry, headed by the President of that organization for whom many of you have association, legislatively and/or politically, or bonds of friendships or perhaps professionally, the former Chair of the Joint Standing Committee on Business Legislation, and former Senator from Sagadahoc, John D. Chapman representing the Independent Insurance Agents Association of the State, appeared before the Committee at the public hearing on this measure as a proponent. To tell you the truth, Members of the Senate, you could have knocked me over with a feather, because I've been this route so many times before in that Committee. It, perhaps, may not be the most appropriate, but I would want the Record to reflect the awe and the gratitude with which I recognized and associate the courageous leadership of that gentleman with reference to his appearance as a proponent on a measure which does not mandate insurance, but does require that automobile drives should they be stopped for any infraction in this State must provide proof of insurance.

Proof of insurance, and we may be splitting a point here, semantically, but the maintenance of insurance is a great, clear shade difference than mandatory insurance, and what is reflected in the twelve to one Report from the Committee on Business Legislation, is also reflected in the Statement of Fact on the New Draft of that measure before us, and I would in all sincerity, request that you review the Statement of Fact on that New Draft.

While I understand the sentiments which I hope will be expressed by the good Senator from Lincoln, Senator Sewall, supporting her motion of Indefinite Postponement, I would hope that you people would recognize that for the first time in the history of this State, despite all previous legislation, and despite the introduction at the beginning, well, near the beginning of the 1970's and through the middle of the 1970's, of no-fault insurance, we have before us a piece of legislation which is, indeed, unique. There isn't another piece of legislation like this in the entire country, and I'm not only proud that the Committee on Business Legislation but the representatives of the organized insurance industry in the State of Maine have come together with law enforcement and the Motor Vehicle Department of the Office of the Secretary of State, to submit before you this afternoon a piece of legislation which addresses what is reflected in the citizenry out there, meaning outside this Chamber, and that is that there is recognition that, in fact, and pervasive arguments that support, that people who drive in the State of Maine should, in fact, be insured. That they choose not to is at their own risk, and it really is as simple as that. Thank you.

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

SENATOR SEWALL: Thank you, Mr. President, Members of the Senate. I'm not speaking to you on this item dealing with just insurance. This is a matter of principle with me and one

that's very dear to my heart, one of the reasons that, actually, I would run for the Legislature and be here. It's the idea of "the Devil take the hindmost."

There is one principle in this Bill. Can you insure that everyone has anything, can you insure you're not hurt and can you insure that someone else is going to pay for it? The people, whom I'm worried for in this, with this situation of mandated insurance and let's not split hairs, if you haven't got it you're going to have your license suspended and then the State will make money, \$770,000, when you get reinstated after you find your insurance policy and get it back in on time. The people who are really going to be hurt are the people who barely have enough to get to their job in the car they have. These people, if they hit you, they're judgment proof, and you know it. So the question comes down, in my heart, to one of reality. Are you going to insist that poor people don't drive? That's the question. Because if you mandate this insurance and you make sure that those on the lowest end of the spectrum are put off the highways. What have you done? Can you say in your heart that's okay, we'll give them a little more welfare benefits, but they're not going to ever quite have enough to get a car and get to work.

So, without going into the merits of the Bill, I tell you exactly what's in my heart on this Bill and hope that some of you will feel the same way.

THE PRESIDENT: Is the Senate ready for the question?

The Chair recognizes the Senator from Kennebec, Senator Bustin.

SENATOR BUSTIN: Thank you, Mr. President. Ladies and Gentlemen of the Senate, I don't want to speak long on this Bill, but I've always had a negative feeling about compulsory auto insurance. I persist in having that feeling and I have read the Statement of Fact and I have looked at the Bill, and I still have that negative feeling.

One of the reasons that I do without, going into all that Senator Sewall has gone into, is that I just recently handled a case of an older woman in Waterville, who is having her house taken away from her by the town because she had failed to meet her taxes. All she has is a Veterans Pension check. I asked her if she had a car and she said yes, and I said "Do you have insurance on it?" and she said No, I can't even afford the car, how can I afford the insurance? Now, how is that woman going to be able to get back and forth to do her grocery shopping, attend the doctors office, get her dental work done, if in fact she can afford any of those things. It is a very vital thing to some people in this State.

I have to weigh on the other side, however, and I recognize, because I've had other people come to me and say there should be compulsory insurance and why don't we have it and why don't you advocate for it. So, I recognize that there are those people who conversely have the insurance and their insurance has to pay for the accident even though they may not be at fault.

I recognize the problem but I still am voting against this Bill and I hope all of you do. Thank you.

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

SENATOR VIOLETTE: Mr. President and Ladies and Gentlemen of the Senate, I have a number of questions I would like to pose to a Member of the Committee who might respond.

First of all, what kind of numbers are we talking about here as to the percentage of operators that are driving without having such a policy? What is the average cost of providing some minimal, whatever they would be required in this area for the various age groups? We probably tend to be talking about younger individuals primarily here. What will be the impact, the reduction if we're talking about

eight, fifteen, sixteen or seventeen percent of the people on the road that are currently driving? Are we talking about by implementing this reducing that to ten percent or just by two or three percent, or by substantial percent? I'd just like to see what the impact of this legislation would be on what is perceived to be a problem, if in fact there is a problem. Thank you.

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

The Chair recognizes the Senator from Lincoln, Senator Sewall.

SENATOR SEWALL: Thank you, Mr. President. The Secretary of State has estimated approximately fifteen percent of uninsured driving population in the State of Maine and this proposal will not substantially reduce that driving population, although there is a possibility that the percentage might be reduced from fifteen to perhaps twelve.

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

SENATOR CLARK: Thank you, Mr. President. To further expand on the questions as tended by the good Senator from Aroostook, Senator Violette, minimum insurance today is 20/40/10 and people today are finding it necessary, and I'm sure many of you are aware of this, that in order to protect themselves against uninsured motorists, they now carry uninsured motorist liability coverage. If any of you were around when the Legislature passed that legislation, you can remember that it was, in fact, passed with a negative check off, meaning you got it whether you wanted it or not unless you checked off that you didn't want it, and that was not mandatory. What those people who do not exercise their responsibility which has been granted by the State of Maine for the privilege of driving on Maine highways.

The cost for average liability insurance ranges rather dramatically, as other kinds of property and casualty for automobile coverage does range, depending on age. Those who fall, who happened to be male, who are not over the age of twenty-five, tend to pay for property and casualty larger insurance premiums than those who do not fall within that particularly casualty or accident prone age group.

Proof of liability insurance is all that's required. Probably the average policy would range anywhere between one hundred and twelve dollars, and one hundred and fifty dollars, for the average Maine driver. I realize that that, in fact, is a large number of dollars, but so are the costs to the victims, the people who are injured by those who don't exercise their responsibility to protect themselves, who are, in fact, uninsured. The victims pays, not the person who doesn't carry insurance.

I really feel it necessary to explain to you that this isn't mandatory. No one says that you must have insurance and it really works this way. You can choose or not to choose to provide yourself with insurance protection. If, for example, you're driving along the highway, as is now the case, and your left rear light is not on or not working you are subject to being stopped by a law enforcement official. That person, as we all know, usually turns on the blue light and you pull over which is the common practice for most drivers, you prepare yourself for the inevitable. One, when your stomach relaxes just a bit, you get your license and your registration ready, for you know that those are proforma questions which will be tendered by the law enforcement official. You roll down your window or you step outside, and you await the approach of the law enforcement officer and you usually exchange some pleasantries hoping that you haven't done something terribly wrong. I usually ask: Why did you stop me, Officer? Well, sometimes I know, but that's not the case we're debating here. We're pretending that my left rear light

on my car is out and I ask: Why did you stop me, Officer? and he says: Your left rear light on your car is out, may I see your license and registration, or something along that general line. In the process of verifying that, indeed, my car is registered and that, in fact, I have a valid operators license, he may also ask, which will be hopefully proforma, Do you have proof of insurance? If I am unable to provide proof of insurance, under this measure, I may secure insurance within a period of time, more precisely, seventy-two hours, and that a card, very similar to the automobile dealer defect, or automobile defect card will be given to me and the responsibility is now mine, to provide authorization from the Clerk at a local insurance agent or my agent, that I, indeed, have insurance. Should I have insurance, and I have an insurance card that frequently accompanies my policy or as the case with some people who drive, carry my insurance policy or a copy of that policy with me in the car, then I would at the same time, tender any of those and it would be accepted or not accepted, that is the purview and the responsibility of the authority vested in that law enforcement official.

My presumption, and I feel quite secure in saying this after talking with law enforcement officials at all levels of Government, local, county and state, is that that kind of tender of proof of insurance would be accepted and that would be the end of it. He would give me my automobile defect card and I would have an "X" amount of time, I forget what it is now, to return that saying that I had repaired my automobile and the left rear light is working, and that's as simple as it works. It's really all it is.

If we're talking about the issue of whether people are able to afford insurance, poor and low income people, you ought to balance that with the trust of this measure and that is, can we afford to make those people who are injured by uninsured motorists, victims, and that's the issue here, responsibility versus low income or for those who choose not to cover or act responsibly and insure themselves.

Interestingly enough, for the first time in the history of this State, all of the major printed media have editorialized in support of the Bill that we have before us, saying and editorially suggesting, that it is the responsibility of the motoring public to insure themselves so that those who are injured by uninsured motorists will no longer be victims. This is supported by a survey, this is supported, also, by one of those lovely T.V. questions, where well over seventy percent of the Maine population, in both a more formal survey and the T.V. survey, overwhelmingly indicated support that Maine drivers be insured.

We don't require that you have insurance in order to drive but should you be stopped for an infraction of the laws dealing with driving, should you be involved in an accident, you would have to have proof of insurance within seventy-two hours, there's the window of opportunity, or your license to operate would be suspended. That is not that much difference than what is currently enforced under Maine's Financial Responsibility Laws where involved in an accident, Maine drivers, once they are involved in an accident and are not insured, are required for the next three years, and this is current law, to have insurance in order to drive. This blends in very nicely with what is currently law but providing the window of opportunity for people who choose not to insure themselves, to provide proof and secure insurance should they have had that occasion to be stopped for an infraction.

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

SENATOR CHARETTE: Thank you, Mr. President. Women and Men of the Senate, it's awfully hard to follow such an eloquent speaker as Senator Clark, however, also a member of this legislation, I was not part of the Subcommittee by whose recommendation this Bill

came about.

I must say, though, that I was a cosponsor of a measure such, not like this one, but at least mandating liability insurance and that did create a lot of debate and from that Bill, which we took Leave to Withdraw, became part of this study. So I do commend the Committee for coming out with this kind of a report. I do endorse it wholeheartedly, I can't add any more than what the good Senator from Cumberland, Senator Clark, has said.

I do feel, yes, it is a privilege for us to be able to ride the roads of Maine, which ever way we choose to, and I would hope that we do vote against the pending motion to Indefinitely Postpone, and I would ask for a Roll Call when the vote is taken.

THE PRESIDENT: A Roll Call has been requested.

The Chair recognizes the Senator from Lincoln, Senator Sewall.

SENATOR SEWALL: Thank you, Mr. President. Members of the Senate, I just want you to consider this one more time, not as a financial responsibility bill but as a social bill.

Now, if we're going to mandate insurance, are we going to mandate that the poor buy health insurance? No, we have other policies that take care of them, and we do that. And, perhaps, we'll have to go to getting insurance for people, as I understand is proposed in Health and Institutions now for A.F.D.C. mothers to pay for their insurance, but to say that their, they must purchase insurance, they must have the money to purchase insurance in order to drive, flies in the face of everything that we use, a sliding scale we use, you want health services, if you can pay, you pay, and if you can't pay, you get those services for free or for a nominal cost. You're now saying that isn't a very good idea at all, that people should all pay.

It's hard for me to understand this when we go in every other policy that we have, in every other service, we don't expect people with no money to pay, they're judgment proof anyway.

We have people with suspended licenses. How are you going to go home, people driving right now with suspended licenses, and there is nothing the Secretary of State can do about it. How are you going to go home and say: I passed this Bill and everyone is going to have to have insurance, and you are all going to be allright, except you know, someone in my District got killed and the person that was driving, their license was under suspension, they didn't have insurance, and they got killed anyway. So, what did we do about it? Just exactly did we do about it when all was said and done? Can you get blood out of a turnip?

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

SENATOR PEARSON: Mr. President and Men and Women of the Senate. I have a relative who is an auto adjustor after insurance and he often makes a point to me that everybody ought to have insurance, and I think he's right. I think that everybody ought to have insurance, too, but I also recognize that there are a lot of people, particularly young men starting out in life who have jobs, who cannot afford to get insurance at the very beginning.

I don't know if you remember it or not or if any of you have any sons that are between the age of fifteen and twenty-five, but that bill very well be six, seven, eight hundred dollars in order to get insurance, and that's an awful lot of money for those people. I think they should be insured, but in some cases they can't afford to be insured.

I have in my mind a particular case that was called to me on the phone today from Enfield of a situation in dealing with an automobile license, and we got on to the subject of insurance. The boy lives at home with his parents, they both work sewing shoes, the father in the factory, and the mother at home, and the son works when he can, when he can get a job, sew-

ing shoes in the shoe shop, maybe one or two days a week. He has to have a car to go to work. He doesn't go on the same shift as the rest of the family, as his father does, and he must get there, and he cannot come up with that kind of money to buy car insurance.

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

SENATOR DANTON: Mr. President, Members of the Senate. I've been told that this Bill doesn't include motorcycles and I'd like to know why, if some member of the Committee would like to explain why they didn't include motorcycles?

THE PRESIDENT: The Senator from York, Senator Danton, 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 Cumberland, Senator Clark.

SENATOR CLARK: Thank you, Mr. President. I will attempt to respond.

The current legislation before us does not include motorcycles, it includes only automobiles. The issue of motorcycle coverage was before us in a mandatory health insurance proposal for motorcycles this year and it was not within the purview or the scope of the study before the Committee on Business Legislation between sessions to include motorists, motorcycles, excuse me. Should this Bill ultimately prevail, it is not unforeseen that in an ensuing Session of the Legislature that motorcycles would be included in this.

While I'm on my feet I would, I guess, I would like to speak a third time, which I know isn't perhaps, the most popular thing to do, but I find it particularly interesting and laudatory that the concern for poor people may be prevailing here this afternoon, when, in fact, I would submit to you that poverty and/or poor people is not this issue. The legislation that we have before us concerns responsibility, not income, and the vast majority of Maine motorists exercise their responsibilities by carrying adequate insurance.

For those young men who through their own self-inflicted driving records find the cost of insurance prohibitive, they are not required, unless they are stopped, to provide proof of insurance. That window of opportunity is there, we cannot legislate responsibility for all. If we could, we wouldn't have our corrections institutions "stuffed full to bursting," as they say at home, we wouldn't have that.

There is an analogy, and I would hope that you would listen closely. Operating a motor vehicle on Maine highways is a privilege, it isn't a right and the State requires motor vehicle operators to fulfill certain obligations to help protect the well-being of other citizens. People who drive on Maine highways must prove themselves to be competent drivers before they can obtain a license. These vehicles must be inspected only annually now, and must be repaired, if necessary, to meet the safety standards. The ability of the owner to pay for needed repairs is irrelevant, isn't it? What matters is that each vehicle be adjudged safe to operate, and so it should be with automobile insurance.

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 Senator Sewall of Lincoln to Indefinitely Postpone the Bill and all accompanying papers.

A Yes vote will be in favor of Indefinite

Postponement.

A No vote will be opposed.

The Doorkeepers will secure the roll.

ROLL CALL

YEAS—Senators, Brown, Bustin, Collins, Emerson, Gill, McBreaarty, Pearson, Perkins, Pray, Redmond, Sewall, Teague, Twitchell, Violette, The President—Gerard P. Conley.

NAYS—Senators, Baldacci, Charette, Clark, Danton, Diamond, Dow, Dutremble, Erwin, Hayes, Hichens, Kany, Minkowsky, Najarian, Trafton, Usher, Wood.

ABSENT—Senators, Carpenter, Shute.

15 Senators having voted in the affirmative and 16 Senators having voted in the negative with 2 Senators being absent, the motion to INDEFINITELY POSTPONE the Bill and all Accompanying Papers FAILED.

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

Sent down for concurrence.

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

COMMITTEE REPORTS

House

Ought to Pass in New Draft

The Committee on BUSINESS LEGISLATION on Bill "An Act to Establish a Maine Life and Health Insurance Guaranty Association" H. P. 1767 L. D. 2333

Reported that the same Ought to Pass in New Draft under same title. H. P. 1852 L. D. 2453

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

Which Report was READ and ACCEPTED, in concurrence.

The Bill in NEW DRAFT READ ONCE.

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

It is a vote.

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

The Committee on ENERGY AND NATURAL RESOURCES on Bill "An Act to Amend the Provisions of the Law Relating to the Control of Hazardous Air Pollutants" H. P. 1692 L. D. 2247

Reported that the same Ought to Pass in New Draft under same title. H. P. 1854 L. D. 2455

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 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 in NEW DRAFT READ A SECOND TIME and PASSED TO BE ENGROSSED in concurrence.

Divided Report

Seven Members of the Committee on LEGAL AFFAIRS on Bill "An Act to Establish Age 21 as the Legal Age to Purchase or Consume Alcoholic Beverages and to Deter Drinking and Driving by Minors" H. P. 1801 L. D. 2376

Reported in Report "A" that the same Ought to Pass.

Signed:

Senator:

SHUTE of Waldo

Representatives:

STOVER of W. Bath

COX of Brewer

MURPHY of Berwick

DILLENBACK of Cumberland
McSWEENEY of Old Orchard Beach
COTE of Auburn

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 same title. (Emergency) H. P. 1856 L. D. 2457

Signed:

Senators:

CHARETTE of Androscoggin
DANTON of York

Representative:

DUDLEY of Enfield

Three Members of the same Committee on the same subject matter reported in Report "C" that the same Ought Not to Pass.

Signed:

Representatives:

HANDY of Lewiston
SWAZEY of Bucksport
PERRY of Mexico

Comes from the House, Report "C" Ought Not to Pass report READ and ACCEPTED.

Which Reports were READ.

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

SENATOR TWITCHELL: I move that the Senate Accept Report "C".

THE PRESIDENT: The Senator from Oxford, Senator Twitchell, now moves that the Senate accept Report "C". Is this the pleasure of the Senate?

The Chair recognizes the Senator from Knox, Senator Collins.

SENATOR COLLINS: I request a Division.

THE PRESIDENT: A Division has been requested.

Will all those Senators in favor of the motion by Senator Twitchell of Oxford to Accept Report "C", please rise and remain standing in their places until counted.

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

The Chair recognizes the Senator from York, Senator Hichens.

SENATOR HICHENS: I ask for 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 pending question before the Senate is the motion by Senator Twitchell of Oxford to Accept Report "C".

A Yes vote will be in favor of Accepting Report "C".

A No vote will be opposed.

The Doorkeepers will secure the Chamber.

The Secretary will call the roll.

ROLL CALL

YEAS—Senators, Baldacci, Bustin, Charette, Danton, Dow, Dutremble, Erwin, Hayes, Kany, McBreaarty, Minkowsky, Pearson, Perkins, Pray, Sewall, Teague, Twitchell, Usher, Violette.

NAYS—Senators, Brown, Clark, Collins, Diamond, Emerson, Gill, Hichens, Najarian, Redmond, Trafton, Wood, The President—Gerard P. Conley.

ABSENT—Senators, Carpenter, Shute.

19 Senators having voted in the affirmative and 12 Senators having voted in the negative, with 2 Senators being absent, the motion to ACCEPT Report "C" OUGHT NOT TO PASS in concurrence PREVAILED.

Divided Report

The Majority of the Committee on BUSINESS LEGISLATION on Bill "An Act to Clarify the Extension of Consumers' Freedom of Choice Regarding Insured Mental Health Services" H. P. 1744 L. D. 2298

Reported that the same Ought to Pass in New Draft under same title. H. P. 1846 L. D. 2441

Signed:
Senators:

CLARK of Cumberland
CHARETTE of Androscoggin
SEWALL of Lincoln

Representatives:

PERKINS of Brooksville
POULIOT of Lewiston
MARTIN of Van Buren
MacBRIDE of Presque Isle
MURRAY of Bangor
BRANNIGAN of Portland
RACINE of Biddeford
CONARY of Oakland

The Minority of the same Committee on the same subject matter reported that the same Ought to Pass in New Draft Under New Title Bill "An Act Clarifying the Extension of Consumers' Freedom of Choice Regarding Insured Mental Health Services" H. P. 1847 L. D. 2442

Signed:

Representative:

STEVENS of Bangor

Comes from the House with the Minority Ought to Pass in New Draft under New Title (H. P. 1847) (L. D. 2442) report REAED and ACCEPTED.

Which Reports were READ.

The Majority OUGHT TO PASS IN NEW DRAFT (H. P. 1846) (L. D. 2441) Report ACCEPTED IN NON-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.

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

SENATE AT EASE

The Senate called to order by the President.

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.

Under suspension of the rules, the Senate voted to consider the following:

ENACTORS

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

AN ACT to Clarify the Definition of Lots under the Site Location of Development Law. H. P. 1715 L. D. 2274 (C. "A" H-667)

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

AN ACT to Require that the Aid to Families with Dependent Children Program Promote Family Unity. S. P. 652 L. D. 1842 (C. "A" S-383)

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

AN ACT to Provide Funds for an Increase in the Aid to Families with Dependent Children's Standard of Need. H. P. 1851 L. D. 2450

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

AN ACT to Provide for Conformity with the United States Internal Revenue Code. H. P. 1853 L. D. 2454

On motion by Senator NAJARIAN of Cum-

berland placed on the SPECIAL APPROPRIATIONS TABLE pending ENACTMENT.

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

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

SENATOR COLLINS: With respect to L. D. 2440, I move the Indefinite Postponement of this Bill and all accompanying papers.

THE PRESIDENT: The Senator from Knox, Senator Collins, now moves that L. D. 2440, 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, be Indefinitely Postponed.

The Chair recognizes the Senator from Kennebec, Senator Bustin.

SENATOR BUSTIN: I ask for a Division.

THE PRESIDENT: A Division has been requested.

Will all those Senators in favor of the motion by Senator Collins of Knox to Indefinitely Postpone the Bill and accompanying papers, please rise and remain standing in their places until counted.

The Chair recognizes the Senator from Kennebec, Senator Kany.

SENATOR KANY: Mr. President and Members of the Senate. I just wanted to call the Senate's attention to the contents of the legislation and really, all it does is require the Attorney General to prepare guidelines which will serve as a guide for all law enforcement officers.

Is that too much to ask? We're really providing a little personal privacy and a guideline regarding the treatment of arrestees, and I certainly hope that you will vote against the pending motion, after all we're talking about people who have not been found guilty of anything, but have purely been arrested.

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

SENATOR COLLINS: Mr. President, when this Bill came forward, I was asked to be a sponsor and I took the matter seriously and studied the Bill.

I learned the motivation for it was based on a "Sixty Minutes" television show where, I think, someone was brought in for a traffic violation, a parking ticket or something of that nature, had been strip-searched and felt quite outraged about it and I think it's quite proper that they should have felt that way.

I called the Commissioners' office because the original draft said that Commissioner Stilphen would write the regulations and they were not very interested in writing those regulations. Then, I tried the Maine Chiefs of Police Association, and they said: Well, we already have a manual about searches, and I said: Does that apply to people that have just been arrested but not convicted? and he said: Well, we use the same policy whenever we do a strip-search, which is very seldom.

I've seen that manual, it's in every Police Station, and so I declined to join this sponsorship because it seemed to me that the manual had already been done, was being observed, was widely used in the Criminal Justice Academy, where everyone has to go these days if their going to be in law enforcement. So, it seemed to me to be an unnecessary item and I think that was clearly the purport of the testimony that came before the Judiciary Committee.

There is one thing about the Bill that I think could be somewhat of a hindrance in law enforcement, because it says that no person arrested for a Class "D" or "E" crime, traffic violation or violation of a city, county or town ordinance, the minor offenses, may be subjected to a strip-search or a body-cavity search

unless there is reasonable cause to believe . . . and so-forth, and the usual things about contraband and weapons and protection, and introduction into the inmate population. Well, you obviously don't put somebody in the inmate population unless you're going beyond the arresting stage.

The point is that body-cavity searches aren't done by police officers, anyway, they call in doctors and nurses to do that, they always have and that's in the manual. So the strip-search, which is very seldom done in Maine, there is a procedure for it, any police officer these days that doesn't have the sense to follow that kind of rule ought not to be a police officer, but we don't create perfect policemen by this sort of law. I don't know that it does any great harm but I surely can't see that it does any good. The Majority Report said no, we didn't debate it when it came through, it sailed through so fast and I think the Chairman of the Committee and I were both a little bit weary and perhaps, naive, I'm not sure. He'd have to speak for himself. I was naive in thinking that it would get anywhere.

Of course, I reckon without due appreciation for the value of certain forces, and I'm sure you'll hear more from them now. Thank you, Mr. President.

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

SENATOR PEARSON: Mr. President and Men and Women of the Senate. One of the jobs that I had as I was growing up, I guess, was one summer I worked as a dispatcher at a police station and the place that I worked in was a room that was set aside from the rest of the police station, for all intents and purposes, and I would simply do the teletype work and answer the phone and dispatch the cars and one thing and another.

I also had a job of pulling out files when it was necessary and that was in another room. One night I had to go into where the files were kept and unbeknownst to me a strip-search was going on of a male who was stopped on the highway, I forget for what, but they suspected him of having drugs. And, I'll never forget it, the police officers thought it was funny, and there was a one-way mirror and on the other side of the mirror were people who were watching the strip-search go on.

I just thought it was bad at the time. I objected to the officer who was in charge of the shift, and he told me to shut my mouth. They do happen, they have happened, I've seen them happen.

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

SENATOR BUSTIN: I think I'm one of those other forces the good Senator from Knox, Senator Collins, referred to. I am one of the co-sponsors of this piece of legislation.

It really is a simple piece of legislation, I use the word advisedly, but what you should concentrate on is the word "Arrestees." There is no rule and regulation for strip-searching of arrestees. In the manual, it talks about those people who are already convicted. Those people who are going to be jailed. It is not for those people who have simply been arrested.

If your son or daughter has been arrested on a disorderly or a failure to disperse, or that really catchall one, that is the obstruction of government administration, and they happen to want to strip-search them, they could, and it's a very scary kind of situation.

All this Bill does is ask that the manual be prepared, that rules and regulations be set down, for all police departments to follow, not just the State Police, and that's what's important in this Bill. It really is a very important Bill as far as people who have been picked up and who are not going to be charged, who probably will never see the court, and so would not come under any of those rules and regulations.

I might remind the Judiciary Committee, however, that a bill that I had in, and it's got a

Leave to Withdraw, required that the law enforcement manual be available and visible to the public. I have not been down to a police station or a Sheriff's Department where that law enforcement manual is visible. So how could I know what the procedures are for strip-searching? How would I know if I went down to get one of my children, God forbid, or you went down to get one of your children, what the rules and regulations were? You wouldn't, and I doubt that you would get the manual. I hope you vote against this motion.

THE PRESIDENT: A Division has been requested.

Will all those Senators in favor of the motion by Senator Collins of Knox to Indefinitely Postpone the Bill and all accompanying papers, 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 14 Senators having voted in the negative, 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 to Amend the Laws Relating to Criminal History Record Information. H. P. 1695 L. D. 2250 (C. "A" H-671)

This being an emergency measure and having received the affirmative vote of 27 Members of the Senate, with No Senators having voted in the negative was PASSED TO BE ENACTED and having been signed by the President, was presented by the Secretary to the Governor for his approval.

Emergency

AN ACT to Require an Inventory, Permitting and Monitoring of Underground Tanks Containing Gasoline, Oil and Toxic Materials. S. P. 857 L. D. 2324 (H. "A" H-641 to C. "A" S-363; H. "B" H-652)

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

ORDERS OF THE DAY

The President laid before the Senate:

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)

Tabled—April 10, 1984 by Senator CARRIER of Aroostook.

Pending—ENACTMENT.

(In House April 9, 1984 PASSED TO BE ENACTED)

(In Senate April 6, 1984 PASSED TO BE ENGROSSED AS AMENDED)

On motion by Senator NAJARIAN of Cumberland, the Senate voted to SUSPEND ITS RULES.

On further motion by the same Senator, the Senate voted to RECONSIDER its action whereby L. D. 2383 was PASSED TO BE ENGROSSED.

On further motion by the same Senator, the Senate voted to FURTHER SUSPEND ITS RULES.

On further motion by the same Senator, the Senate voted to RECONSIDER its action whereby it ADOPTED Senate Amendment "A" (S-371).

THE PRESIDENT: The Senator has the floor. SENATOR NAJARIAN: I now offer Senate Amendment "A" to Senate Amendment "A" under filing number 393 and move its Adoption.

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

Senate Amendment "A" (S-393) to Senate Amendment "A" (S-371) was READ.

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

SENATOR NAJARIAN: Mr. President and Members of the Senate. This Amendment simply deletes one sentence in Senate Amendment "A" and the language being deleted gave the Legislature a bit more authority than the Constitution permitted.

Senate Amendment "A" (S-393) to Senate Amendment "A" (S-371) was ADOPTED.

Senate Amendment "A" (S-371) as amended by Senate Amendment "A" (S-393) thereto was ADOPTED, in NON-CONCURRENCE.

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

Sent down for concurrence.

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

PAPERS FROM THE HOUSE

Non-concurrent Matter

Bill "An Act Relative to Group Legal Insurance" S. P. 906 L. D. 2437

In Senate April 9, 1984 PASSED TO BE ENGROSSED.

Comes from the House PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "A" (H-689) 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 Raise the Annual Public Utilities Commission Regulatory Fund Assessments to \$1,635,000 and to Allocate those Funds for Fiscal Year 1985" (Emergency) H. P. 1809 L. D. 2391

In Senate April 3, 1984 PASSED TO BE ENGROSSED.

Comes from the House PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "A" (H-684) in NON-CONCURRENCE.

On motion by Senator NAJARIAN of Cumberland, the Senate voted to Recede and Concur with the House.

Non-concurrent Matter

Resolve, to Reimburse David James McDaniel for Damages Suffered as a Result of Wrongful Imprisonment. H. P. 761 L. D. 992

In House April 9, 1984 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 in NON-CONCURRENCE.

In Senate April 9, 1984 the Majority Ought Not to Pass Report READ and ACCEPTED in NON-CONCURRENCE.

Comes from the House that Body INSISTED. THE PRESIDENT: The Chair recognizes the Senator from Knox, Senator Collins.

SENATOR COLLINS: Mr. President, the title of this Resolve is much different than what is now before us because of the amendments placed in the other Body.

I was a signer of the negative report when this came out of the Committee on Judiciary. In its present posture, however, it is actually a general bill that applies to anybody in the State of Maine who is imprisoned, is pardoned, and who then goes to court and proves that they didn't do what it was they were imprisoned for, and it has a limitation of \$100,000 as any possible recovery. In that posture it is a much different animal and, I think ought to be considered, and I would therefore move that the Senate Recede and Concur with the House.

THE PRESIDENT: The Senator from Knox, Senator Collins, now moves that the Senate

Recede and Concur with the House.

The Chair recognizes the Senator from Androscoggin, Senator Trafton.

SENATOR TRAFTON: Thank you, Mr. President. Mr. President and Members of the Senate, I, too, was on the Majority Ought Not to Pass Report on this particular Bill which has a fairly lengthy legislative history.

L. D. 992 was in our First Regular Session, it was Held Over in hopes that we could come to some compromise as to the intent of the Bill, or the purpose of the Bill. The situation pertaining to this Bill resulted from a case in the Town of Ellsworth where a person was, in fact, convicted after a jury trial, served term, a term in the State Prison, and later information developed which gave question to the properness or propriety of his conviction.

The original Bill provided specifically that the State pay money to David James McDaniel for the result of that wrongful imprisonment. In fact, David James McDaniel was pardoned by the Governor but he looked for more than a pardon, he looked for money damages.

I concur with the good Senator from Knox, Senator Collins, this general approach to this rather rare circumstance is a much better approach to this problem, and I, too, support the amendment which was added in the other Body and I urge your support of that amendment.

On motion by Senator COLLINS of Knox the Senate RECEDED and CONCURRED with the House.

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

COMMITTEE REPORTS

House

Divided Report

The Majority of the Committee on JUDICIARY on Bill "An Act to Establish a Policy and Procedure for Law Enforcement Officers Engaged in the Pursuit of Fleeing or Speeding Vehicles" H. P. 1746 L. D. 2300

Reported that the same Ought Not to Pass.

Signed:

Senators:

COLLINS of Knox

VIOLETTE of Aroostook

TRAFTON of Androscoggin

Representatives:

DRINKWATER of Belfast

REEVES of Newport

BENOIT of South Portland

FOSTER of Ellsworth

CARRIER of Westbrook

HAYDEN of Durham

JOYCE of Portland

LIVESAY of Brunswick

SOULE of Westport

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

Signed:

Representatives:

HOBBINS of Saco

Comes from the House the Bill and accompanying papers INDEFINITELY POSTPONED.

Which Reports were 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, I have no intentions of opposing the existing motion, but I happened to notice in the rear of the Chamber the Commissioner of Public Safety sitting here and I want to take an opportunity to relate an event that had occurred to me just a few weeks ago when I was coming down from the hitherlands of Maine.

On Interstate 95, in the northern part of the State it's quite common to drive thirty or forty miles between exists, it's a long time seeing another car on some occasions. One morning coming down to the Session in a mild snow-storm with the roads slightly covered, traveling

my normal speed, I quickly noticed in my rear view mirror two vehicles side by side coming down the highway, which then went into single lane, passed me, and then went side by side again. I attempted to violate the law and catch them but found that my vehicle could not go that fast, but I did keep in sight all the way to Bangor, we were slightly outside of Bangor at that time, and we then pulled into the Holden Road Exit which takes you in by the Colonial House of Pancakes, where both State Trooper vehicles stopped and they proceeded to go in and have breakfast.

I would say that the speed of those vehicles on the slightly ice-covered roads exceeded seventy and seventy-five miles an hour on some occasions. I couldn't tell because it's illegal to go that fast, but, I would hope that the Commissioner would hear the concerns, not necessarily on high speed chases, but clearly, when there is absolutely no chases taking place and it isn't the first time that it's occurred to me, and relating this incident to several other people in this Chamber, that they themselves have had on numerous occasions, traveling the speed limit, to have a State Trooper appear in the rear view mirror and pass them as if they are going far less than the 55 miles an hour.

(OFF RECORD REMARKS)

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

SENATOR TRAFTON: Thank you, Mr. President. Mr. President and Members of the Senate, I urge you to support the Majority Ought Not to Pass Report for this particular L. D. 2300.

Although we all have had circumstances where we've not been pleased with the conduct of State Police officers or other law enforcement officers, there's no question that the high speed chase serves a purpose for law enforcement within the State of Maine. I think it's unfair to those law enforcement officers, the majority of whom are out in the field trying to do a service to their community.

It would be a disservice to pass legislation which would in fact tie their hands in their attempt to enforce the laws. I know that the Commissioner of Public Safety, Commissioner Stiphen, has heard much criticism, particularly of the State Police officers, both in the Judiciary Committees' hearing and downstairs in both Bodies. I'm sure he will return to his office and take heart and take necessary action as to appropriate corrective measures that should be made in order to instruct the State Police officers to avoid this type of speeding, but at the same time this type of legislation is not necessary and it would severely restrict their abilities to enforce the law, so I urge you to support the Majority Ought Not to Pass Report.

The Majority OUGHT NOT TO PASS Report was ACCEPTED.

ORDERS OF THE DAY

The President removed from the UNASIGNED TABLE:

HOUSE REPORT—from the Committee on EDUCATION on Bill "An Act to Provide a Corporate Tax Credit for Donations of Technological Equipment to Educational Institutions" H. P. 1653 L. D. 2178

Report—Ought to Pass as Amended by Committee Amendment "A" (H-592).

Tabled—March 29, 1984 by Senator PRAY of Penobscot.

Pending—RULING OF THE CHAIR.

(In House March 27, 1984, Ruled NOT PROPERLY BEFORE THE BODY pursuant to Joint Rule 37)

(In Senate March 29, 1984 Report READ)

(OFF RECORD REMARKS)

THE PRESIDENT: L. D. 2178 was introduced and rejected during the First Regular Session of the Legislature and for this reason, L. D.

2178 is in violation of Joint Rule 37.

The Chair notes of the indication on the Printed bill that it is presented pursuant to a study conducted by the Joint Standing Committee on Education relative to the New England Board of Higher Education's Report (quote) "Threat to excellence" (unquote). That study was approved by the Legislative Council on June 8, 1983.

The Joint Rule 19 imposes deadlines for submissions of study order reports and accompanying legislation. The Chair is unaware of any requests for an extension pertaining to this Bill, and accordingly, rules that this legislation fails to conform to the requirement of Rule 19, as it was not submitted within the applicable time, for that reason, and those reasons stated above, the Chair would rule that L. D. 2178 is not properly before the Body.

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

SENATOR CLARK: Thank you, Mr. President. I move that Joint Rule 37 be suspended.

THE PRESIDENT: The Senator from Cumberland, Senator Clark, now moves that Joint Rule 37 be suspended. Is this the pleasure of the Senate?

It is a vote.

Which Report was ACCEPTED, in NON-CONCURRENCE.

The Bill READ ONCE.

Committee Amendment "A" (H-592) was READ and ADOPTED in NON-CONCURRENCE.

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

Sent down for concurrence.

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

House

Divided Report

The Majority of the Committee on JUDICIARY on Bill "An Act to Amend the Laws Regarding Bail" H. P. 1655 L. D. 2185

Reported that the same Ought to Pass in New Draft under same title. H. P. 1844 L. D. 2439

Signed:

Senators:

VIOLETTE of Aroostook
TRAFTON of Androscoggin

Representatives:

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

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

Signed:

Senator:

COLLINS of Knox

Comes from the House with the Majority Ought to Pass in New Draft report READ and ACCEPTED and the Bill in NEW DRAFT PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "A" (H-686).

Which Reports were READ.

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

SENATOR COLLINS: Mr. President, obviously, one does not expect to get very far in a single person report, but I feel it a duty to explain my position.

I was disappointed that last week we saw the withdrawal of the Constitutional Amendment provision regarding bail, perhaps it will all

work out in the end with more careful scholarship, but this is the only bail bill that has survived the Session.

In many ways it's a good bill, it calls for the retrieval of all the data relating to a person who is up for bail so that the magistrate deciding the bail can see what the previous history, criminal history of the person, is. We're approaching the state of the art where that can be done, we aren't really there yet in many sections of the State, as I understand it, but, hopefully, we will be in time.

This is a bill with four or five different sections related, but quite distinct. Another section calls for the prosecutorial branch of the Government to be present when major crimes are being presented to the court. The other thing that's here, and this is the part that disturbs me, it requires the judge or the magistrate, as you know we have bail officers who are not judges who do some of the work of bailing criminals.

There are two sometimes conflicting approaches to bail. One approach is that everybody ought to be bailed on their own personal recognizance whenever it's possible, whenever there's nothing real serious around. The other theory is that you ought to be very tough on bail, particularly if the crime is one of violence.

So, the judges are required if this act passes, to on the one hand, if they don't grant personal recognizance to say why they didn't, and, on the other hand, if they do grant something less than the stringent bail to say why they did it. Well, in either case, there's an additional burden imposed upon the judge. It's not a tremendous burden, but it's more time consuming than is presently the case.

What discourages me about this whole matter is that we heard from our Chief Justice that we needed six more judges in the system to keep up with the volume of work that has grown and grown and grown upon us in these last several years. The Judiciary Committee recommended those six judges coming in, staggered along over three years so that a fiscal impact was not too great, and the Legislature denied that. First said: No, only one, and eventually said: two judges. So, we're getting two new judges when six are needed, and yet, we're turning around with the other hand and saying we're going to put more work on the judges. I think it's high time we stop piling more time consuming work on the judges without giving the system the number of judges that it needs and the support personnel it needs.

Part of the request made by the Chief Justice was to add additional court clerks and other support personnel, and, it's quite clear that we're not going to give him not even one-third of what he was asking for as the real need of the system.

So, I object to a measure which if we staffed up the system to where it ought to be it would be alright, because I think the system could handle this extra burden, it's not a tremendous burden, but it is another burden. Every term that I've been here we have added a few more assignments to the work of the Judicial Department, more laws to enforce, more regulatory apparatus to require the judges to write things down, to explain reasons and so on.

Those have a value, I don't argue with the value of many of these things that we've done but over against that is the question of how much time of judges are we going to take up with these extra procedures as against getting the business done and getting the criminals adjudicated promptly rather than putting them off for six months, or a year, or two years. We know if we study this sort of thing that justice delayed is justice denied and the public has a right to complain about slow procedures in the processing of criminals and in the processing of a lot of civil business when you can't get a case heard before the court for more than two years, we're getting to a point, obviously, where we need more people in the system, more up to

date court rooms and machinery in the system. We're really, although we're making progress, we're really an antiquated system in terms of efficiency in the Judicial Department today.

So, that's the reason for my negative report on this particular Bill. I commend the sponsors of the Bill for addressing the problem, it is a problem, it should be addressed, but it seems to me more important to get the people there to handle the problem in the first place than to throw the extra work at them before the people are there to receive it and handle it properly, and that's the basis for my Minority Report. Thank you.

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

SENATOR TRAFTON: Thank you, Mr. President. Mr. President and Members of the Senate, I do not disagree with the good Senator from Knox, Senator Collins, as to the need for updating our judicial machinery. There's no question in my mind that we need at least six new judges within the State of Maine. The facts are, though, we will not receive those additional judges, we will receive, perhaps, two if this good Legislature supports the recommendations that now lay on the Appropriations Table.

Let's look at the problem of bail. We've received some publicity upstairs on the fourth floor as to the fact that last week we gave Leave to Withdraw to the proposed Constitutional Amendment to allow bail, or the denial of bail for preventative detention of dangerous persons, or persons who constitute a threat of bodily injury to the public. Why did we do that? Well, the recommendation of the Judiciary Committee was that our bail laws are deplorable, they're out of date, they are patched and pasted, there has been no comprehensive bail statute ever in the State of Maine, in fact, we need a thorough revision of our bail laws.

Representative Brannigan took the first step towards that comprehensive revision and proposed a much needed stop-gap that may stand until we can use our resources to develop the new comprehensive bail statute. His statute, or Bill as it now is, hopefully a statute soon, will address some of the worst problems within our system.

As to the problem the good Senator from Knox points out as to the need for the judge to address why personal recognizance was permitted instead of bail, the judge can do, can state why he used personal recognizance On the Record, as the bill states. What that means is while the tape recorder is going or while the Court Reporter is punching keys, the judge can simply say: I have denied personal recognizance in this case because I find that "X." I find that that's a minimal burden upon the judge. In those instances where there's no recording or no transcriber, a simple notation on the jacket for the case is sufficient to indicate why personal recognizance has been denied.

I urge you to support the Majority Ought to Pass Report, not because I disagree with the good Senator from Knox, there is a point where the burden upon judicial mechanisms will simply break it. Our courts are overloaded, our court buildings are outdated, our judges are overworked, but we will be addressing those, hopefully, later in this Session, and I'm sure in the next Session. Let's take this small step forward as to improving the condition of bail within the State of Maine, and work toward a comprehensive bail reform bill in the next Session. Thank you very much.

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

SENATOR MINKOWSKY: Mr. President and Members of the Senate, prior to the adoption of this Majority Report a point of clarification if I am to correctly understand Supplement 6. I look at House Amendment H-680 and it doesn't correspond to what's in the book and I was wondering if somebody might give us a correct amendment for this particular Bill.

THE PRESIDENT: The Chair would respond that's it is 686.

The Chair recognizes the Senator from Knox, Senator Collins.

SENATOR COLLINS: I request a Division.

THE PRESIDENT: A Division has been requested.

Will all those Senators in favor of the motion by Senator Trafton of Androscoggin to Accept the Majority Ought to Pass in New Draft Report of the Committee, 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.

15 Senators having voted in the affirmative and 7 Senators having voted in the negative, the motion to ACCEPT the Majority OUGHT TO PASS IN NEW DRAFT Report in concurrence PREVAILED.

The Bill in NEW DRAFT READ ONCE.

House Amendment "A" (H-686) 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.

On motion by Senator PRAY of Penobscot, there being no objections all matters previously acted upon were sent forthwith.

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

SENATOR PRAY: Mr. President, I believe we have one item Tabled until later in the day waiting an amendment. I'd appreciate it if someone would move that this stay on the Table for one Legislative Day.

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.

ORDERS OF THE DAY

On motion by Senator CLARK of Cumberland, the Senate voted to remove from the Table:

Bill "An Act to Clarify the Extension of Consumers' Freedom of Choice Regarding Insured Mental Health Services" H. P. 1846 L. D. 2441

Tabled earlier in today's session on motion by Senator CLARK of Cumberland.

Pending PASSAGE TO BE ENGROSSED.

On motion by the same Senator the Senate voted to RECONSIDER its action whereby this Bill was given its SECOND READING.

On further motion by the same Senator, the Senate voted to RECONSIDER its action whereby the Bill was given its FIRST READING.

On further motion by the same Senator, the Senate voted to RECONSIDER its action whereby it ACCEPTED the Majority OUGHT TO PASS IN NEW DRAFT Report.

On further motion by the same Senator, the Minority OUGHT TO PASS IN NEW DRAFT UNDER NEW TITLE (H. P. 1847) (L. D. 2442) 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.

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

SENATOR CLARK: Thank you, Mr. President. I present Senate Amendment "A" to L. D. 2442 under Filing Number 395 and would move its adoption.

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

Senate Amendment "A" (S-395) was READ.

THE PRESIDENT: The Senator has the Floor.

SENATOR CLARK: Thank you, Sir. Mr. President and Men and Women of the Senate, in order to resolve an issue which was verging into more than a little issue, we have effectively worked it all out between all parties of interest, including Blue Cross/Blue Shield, Maine Medical Association, and everyone else who was party to this Bill, I think we all can feel comfortable and enjoy a pleasant evening. Thank you. Senate Amendment "A" (S-395) was ADOPTED.

The Bill in NEW DRAFT UNDER NEW TITLE PASSED TO BE ENGROSSED as Amended in NON-CONCURRENCE.

Sent down for concurrence.

(OFF RECORD REMARKS)

On motion by Senator PRAY of Penobscot, ADJOURNED until 10 o'clock tomorrow morning.