

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
Wednesday
April 25, 1984

Senate called to Order by the Secretary.

THE SECRETARY: Is it now the pleasure of the Senate to appoint the Senator from Penobscot, Senator Pray, to act as President-Pro-Tem?

It is a vote.

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

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

Prayer by The Honorable Edgar E. Erwin of Oxford.

SENATOR ERWIN: Let us Pray! Our Father, be present at our Legislative meeting. May Thy spirit be upon all that is said and done here today and during this Legislative Session.

Let Thy blessings rest upon the Officers, the Committee Chairmen, and the Members of this Body, and all the loyal and dedicated staff, that in their work they may be guided by Thy spirit and the desire to plan for the good of all.

May the pursuits of common aims bind the membership together in genuine and warm companionship, let harmony and goodwill prevail. Amen.

Reading of the Journal of Yesterday.

ORDERS OF THE DAY

The President Pro-Tem laid before the Senate:

An Act Providing for Administrative Changes in Maine Tax Laws. H. P. 1871 L. D. 2473

Tabled—April 24, 1984 by Senator PRAY of Penobscot.

Pending—ENACTMENT.

(In House April 24, 1984 PASSED TO BE ENACTED)

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

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

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

SENATOR CARPENTER: Mr. President and Ladies and Gentlemen of the Senate, I've been asked to read a short passage for the benefit of all members of the Senate in appreciation.

It says "To the Members of the 111th Legislature. At the close of this Legislative Session, I wish to take a moment to thank you for your support and patronage during the past four months.

As you might have guessed, I have mixed feelings about the closing of the 50 Days. To all those who will not be returning, I hope you will drop in when you are in the Augusta area. To those who are campaigning, happy trails to you.

Have a nice summer and God bless. Sincerely, Pat Ellis" from the Coffee Stand downstairs.

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

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

On motion by Senator CARPENTER of Aroostook,

RECESSED until the sound of the Bell.

RECESS

AFTER RECESS

The Senate called to order by the President.

(OFF RECORD REMARKS)

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

ORDER

On motion by Senator WOOD of York, the following Senate Order:

ORDERED, that the Secretary of the Senate be authorized to furnish 100—20-cent postage stamps for each member of the Senate for the purpose of distributing various reports of the Department of State and other public documents such as they may desire to mail to the citizens of the State.

Which was READ and PASSED.

COMMUNICATIONS

The Following Communication: S. P. 921

OFFICE OF THE GOVERNOR

Augusta, Maine 04333

April 25, 1984

To the Honorable Members of the 111th Maine Legislature:

I am returning without my signature or approval S. P. 170, L. D. 525, An Act to Clarify the Negotiability of Pay Rates Under the State Employees Labor Relations Act.

I do so because my signature on this bill would expand negotiations into one of the most critical areas of management rights in State government. The enactment of this bill would essentially provide for the unions to share the management of the State's civil service system.

The State already negotiates over wages, hours and working conditions. In fact, the typical collective bargaining contract in State government covers more than fifty articles dealing with more than ninety issues. Passage of this legislation would put more than 1,000 different job classification issues on the bargaining table. This would mean virtually non-stop year-round bargaining in the next round of negotiations. We have neither the staff, the time, nor the money for such a process.

Further, if our classification system were to be the subject of collective bargaining, the pay range for a job could be determined by the power and influence an employee, group of employees, or their union could exert at the bargaining table, rather than by the content of the job itself. In short, pay rates based on job content, the heart of our civil service system, would go out the window.

Passage of this bill would also give the unions the power to delay or stop important personnel decisions by the State. In an organization as large and diverse as State government, management needs the flexibility to make classification decisions as program needs change. This bill would mean that management would have to obtain the unions' approval and consent before needed changes could be accomplished.

When the State Employees Labor Relations Act was initially enacted, the Legislature carefully placed those matters which are "prescribed and controlled by law" outside the scope of collective bargaining between the unions and the State of Maine. The State's classification compensation system is "prescribed and controlled by law" and, hence, not a subject for bilateral negotiations.

After three years of extensive litigation on this point, the Maine Supreme Judicial Court has affirmed that these matters are not negotiable. This legislation seeks to overturn the court's decision. I believe such an action by the Legislature would be unreasonable and irresponsible and would fly in the face of the court's decision.

This administration, and every future administration regardless of party, has the obligation and responsibility to wisely manage State government. While we do and should negotiate over many matters now, we should not give away critical management rights. I strongly believe this legislation represents imprudent and unwise public policy.

I urge you to sustain my veto.

Sincerely,

S/ JOSEPH E. BRENNAN
Governor

Which was READ and ORDERED PLACED ON FILE.

The accompanying Bill:

An Act to Clarify the Negotiability of Pay Rates Under the State Employees Labor Relations Act. S. P. 170 L. D. 525 (C. "A" S-312)

THE PRESIDENT: The question before the Senate is: Shall this Bill become law notwithstanding the objections of the Governor? According to the Constitution the vote will be taken by the Yeas and Nays.

A vote of "Yes" will be in favor of the Bill.

A vote of "No" will be in favor of sustaining the veto of the Governor.

Is the Senate ready for the question?

The Chair recognizes the Senator from York, Senator Dutremble.

SENATOR DUTREMBLE: Mr. President and Members of the Senate, I would like to address the message that the Governor sent up to the Senate and would like to clarify a few points that were made in his communication.

First of all, this Bill does not expand negotiations, it will just return pay rate classifications to the negotiated process, something that had been done for a number of years before the courts decided in 1982 that, because of a technicality that this law was improper. The courts did not suggest in any way that pay rates classification was not a part of collective bargaining, but determined that this was improper because of a technicality.

I would also like to clarify the point where the Governor says that passage of this legislation would put more than a thousand different job classification issues on a bargaining table, and would delay the negotiated process. When we worked on this Bill in our Committee, we made sure that this could not happen. What we did was put an amendment on the Bill that stated that only those job classifications that were two pay ranges out of whack with what the people who work in the private sector were getting, would be allowed to come on the table. So, this does not open up all one thousand classifications, and I think that that is a little misleading.

I guess what we have to decide here is whether or not pay rates and job classification and renegotiating of pay rates is an item that will be presented on a collective bargaining Table. I guess to do that you have to look back at what was suggested and what was determined in 1975 when this whole process started. At that time, these issues were part of the collective bargaining process and they were also part in the years that followed. I think that we here, as Senators, have to restate that purpose and overrule, not overrule but I guess the right word is reaffirm, our belief that that's what we wanted in 1975.

I would hope that you would vote to override the Governor's veto on this issue.

THE PRESIDENT: Is the Senate ready for the question?

The Chair recognizes the Senator from Kennebec, Senator Bustin.

SENATOR BUSTIN: I can only echo what the good Senator from York, Senator Dutremble, has said, and I think that we're all aware of what the issues are on this particular veto.

I was just delivered the veto at 1 o'clock when I got back from lunch, so I haven't had a really good time to digest what the Governor has said in this vetoing message, but I suspect as I have gone through this very quickly, that it

is the same argument that have been used up here before.

I just would like to say that this is a very important issue for the Maine State Employees. It is important to them in their having some kind of a say in what happens to their pay rates and their pay ranges.

To allow broad sweeping changes at just an administrative level without having the input of the employees in the form of their union representation at the bargaining table, I think is a very bad policy, and that if you and I were sitting there, we would want to be able to negotiate with our bosses as to what our position were going to be, or if they were going to be changed. The unfortunate thing with State government is that it can be a sweeping kind of a change, and therefore, they need the unions to do that. If you're working for me and I'm a, you know, one or two employee organization, it's easy enough for us to interact with each other, but you have a very, very big organization here, and so they need that representation, and they need it at the bargaining table.

I urge you to override.

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

SENATOR CLARK: Thank you, Mr. President. Mr. President, Men and Women of the Senate, it would surprise no one that I'm about to support the Governor's veto, and urge this Chamber to sustain the Governor.

Since we have been referred to the communication from the Office of the Governor, I would direct your attention to the next to the last paragraph in the veto message, and I would read: "This administration, and every future administration regardless of party, has the obligation and responsibility to wisely manage State government. While we do and should negotiate over many matters now, we should not give away critical management rights. I strongly believe this legislation represents imprudent and unwise public policy."

L. D. 525, An Act to Clarify the Negotiability of Pay Rates Under the State Employees Labor Relations Act, is not merely a Bill to clarify the State employee bargaining law. In reality, the Bill completely turns around the way the State would run its current personnel system. We would be abrogating one of the few management rights that's left in State government, and it is irresponsible to do that, it really is. The right to decide what jobs the State wants is a matter of public policy and how much each job is worth compared to others is a management prerogative, and in this instance, the very heart of the civil service system in the State of Maine.

I honestly do not believe there has been sufficient justification to sustain an override of the Governor's veto on this issue. There is really no reason for the State of Maine to be the only State in the Union with such a law on its books and I would urge the Members of this Chamber to sustain the Governor's veto this afternoon.

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

SENATOR KANY: Mr. President and Members of the Senate, no doubt each of you has already made up his or her own mind on how you will vote on this veto.

I wish to say why I am voting to override. I wish I could say that our classification system was appropriate, that it was evaluated often, but that is not the case. I did spend a couple of years, actually, looking at our personnel system very closely and as a result of the intensive study, we did make major changes in our personnel law that are appropriate and have made for a smoother system. I'm sorry to have to report that after two years, in one aspect of that major change in the personnel laws, has not even yet been adopted, has not been implemented by the Department of Personnel and that is an employee suggestion award program.

So, I would hope that this law, if it does become law over the objections of the Governor,

would force some appropriate changes.

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

SENATOR DUTREMBLE: Mr. President and Members of the Senate. Just a couple of remarks.

One clarification of something that the good Senator from Cumberland, Senator Clark said concerning the fact that Maine is the only State that had this sort of law in their books. The first I heard that it was my understanding that most states, the scope of their laws are either near or broader than the laws that we have concerning collective bargaining here in the State of Maine.

I guess what we have to do is look back in what happened after 1975 when we first had this law put in our books, and when these items were able to be negotiated, it didn't seem at the time, from 1975 to 1981 or 82, that job classification caused too much delay in the negotiating process nor did they cause any significant problems. I guess, if you're going to look at someone who's working for the State and if we're leaving this entirely up to management, and the pay scale of these people falls far below what they could earn in the private sector, who can they turn to if they cannot turn to their union to collectively bargain for them at the table. If they are only going to be at the whims of the management, I think that leaves them in a pretty undesirable position and I think for that reason, we should vote to override the Governor's veto.

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

SENATOR COLLINS: Mr. President, I am speaking only as the Senator from Knox on this matter.

This takes me back to the days of the Longley Administration, when we had an extensive discussion about the scope of collective bargaining and pay scales and grades, ranges, a lot of other things, and the thing that has impressed me about our collective bargaining system in the last few years, is that it takes an awful long time to negotiate a contract. I think the current negotiation has been running at least eighteen months, it's not settled yet.

When I received the Governor's message, I pulled out the decision of the court in 1982, which this Bill would reverse. I read that opinion again, thoughtfully, written by Justice Carter, who is now our United States District Court Judge, and it was the concurring opinion by Justice Edward Godfrey, who is now retired, and, as they discussed the purposes of our civil service law, our merit system and so on, one of the important things that struck me was the element of time. We have in our system now a process for addressing the sort of thing that this Bill talks about, and it has a time limit on it. The Court pointed out in that decision, that if we were to put all of these questions into collective bargaining, which has no time limit on it by statute, that we would prolong the process greatly. I think that's important. I think that's important not only to management but to the worker.

A lot of State employees I know, who are my friends, say to me "I just don't understand why it takes so long to negotiate a contract." I don't either. I understand it's not money that they are fighting over, it's other things than money, and part of what they fight over is the scope to which labor will take over management prerogatives, as known in the past. So, I submit that if we override the Governor on this, we're asking for longer and longer marathon sessions in collective bargaining. I don't think that's good for the workers any more than it's good for the State.

I hope you'll vote no.

(OFF RECORD REMARKS)

THE PRESIDENT: Is the Senate ready for the question? The Chair would restate the

question.

A vote of Yes will be in favor of the Bill.

A vote of No will be in favor of sustaining the veto of the Governor.

The Doorkeepers will secure the Chamber.

The Secretary will call the roll.

ROLL CALL

YEAS—Senators, Baldacci, Brown, Bustin, Carpenter, Diamond, Dutremble, Emerson, Erwin, Gill, Hayes, Kany, McBreaity, Minkowsky, Pearson, Perkins, Pray, Sewall, Shute, Twitchell, Usher, Violette, Wood.

NAYS—Senators, Charette, Clark, Collins, Danton, Hichens, Najarian, Redmond, Teague, Trafton, The President—Gerard P. Conley.

ABSENT—Senator, Dow.

22 Senators having voted in the affirmative and 10 Senators having voted in the negative, with 1 Senator being absent and 22 being more than two-thirds of the members present and voting, the veto was overridden.

Sent down for concurrence.

The Following Communication:

**STATE OF MAINE
ADMINISTRATIVE OFFICE
OF THE COURTS
Portland, Maine 04112**

April 18, 1984

Dear Mr. President:

It is my honor and personal pleasure to transmit to you and each of the other Senators of the 111th Legislature a copy of the Eighth Annual Report of the Administrative Office of the Courts, pursuant to the provisions of 4 M.R.S.A., subsection 17.10.

Sincerely,

S/ DANA R. BAGGETT

Which was READ and ORDERED PLACED ON FILE.

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

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

RECESS

AFTER RECESS

Senate called to order by the President.

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

COMMUNICATIONS

The Following Communication:

**STATE OF MAINE
EXECUTIVE DEPARTMENT
STATE PLANNING OFFICE**

April 24, 1984

President Gerard P. Conley

President of the Senate

State House, Station 3

Augusta, Maine 04333

Dear President Conley:

I am pleased to provide you with this preliminary assessment of the impact of Fundy tidal power development on the Maine coast. The report was prepared for this Office by the Bigelow Laboratory for Ocean Sciences in Boothbay Harbor, with funding from the federal Office of Ocean & Coastal Resource Management.

In late 1982, the government of Nova Scotia determined that Fundy tidal power is economically feasible, and should be pursued. While detailed planning studies have not yet begun, a number of important events have occurred in the United States. In July of 1983, Senator George Mitchell held a public hearing on the project in Augusta. In December, the New England Governors' Conference and the National Oceanic and Atmospheric Administration (NOAA) conducted a workshop in Boston to discuss the policy implications of the project. Senator Mitchell subsequently introduced S. 1739 to provide funding for detailed studies of the impacts of the project. Finally, the New England Governors' Conference will host a

meeting in Rhode Island in May to discuss the Fundy tidal power project and assess its current implications for policy makers.

Should you have any questions on these developments, please let me know. As events evolve, I shall try to keep you informed. Meanwhile, you may direct any technical questions on the report itself to the Bigelow Laboratory. With best wishes.

Sincerely,

S/ RICHARD E. BARRINGER

Which was READ and ORDERED PLACED ON FILE.

ENACTORS

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

Resolve

Resolve, Establishing a Task Force on Head Injuries. H. P. 1777 L. D. 2355 (S. "A" S-439; C. "A" H-635)

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

Emergency

An Act to Replace the Franchise Tax on Financial Institutions. H. P. 1802 L. D. 2394 (C. "A" H-733)

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 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 Clarify the Laws Relating to Private Business, Trade and Technical Schools. H. P. 1770 L. D. 2337 (S. "A" S-438)

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.

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

COMMUNICATION

The Following Communication:

HOUSE OF REPRESENTATIVES 111th Legislature

April 25, 1984

Honorable Joy J. O'Brien
Secretary of the Senate
111th Legislature
Augusta, Maine 04333
Dear Madam Secretary:

Senate Paper 170, Legislative Document 525, An Act to Clarify the Negotiability of Pay Rates Under the State Employees Labor Relations Act, having been returned by the Governor together with his objections to the same pursuant to the provisions of the Constitution of the State of Maine, after reconsideration, the House proceeded to vote on the question: "Shall this Bill become a law notwithstanding the objections of the Governor?"

Seventy-four voted in favor and sixty-four against, and accordingly it was the vote of the House that the Bill not become a law and the veto was sustained.

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

Which was READ and ORDERED PLACED ON FILE.

(OFF RECORD REMARKS)

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

SENATOR McBREAIRTY: Mr. President and Honorable Members of the Senate.

Yesterday, the 24th of April, we enacted L. D. 2458, AN ACT Relating to Municipal Cost Component for Fiscal year 1984-1985 and providing for a study of unorganized territory.

Several amendments have been added to L. D. 2458.

I want the Legislative Record to show the legislative intent of two of the amendments.

House Amendment "A" to L. D. 2458 with a filing number H-702 changes the time frame by which an organized municipality or part of an organized municipality or any plantation may get out from under LURC's jurisdiction once they have adopted planning, zoning, and subdivision controls as provided in Title 30, Section 5621, and the plan has been approved by L.U.R.C. Our present law requires a four year waiting period after adoption and approval of a land use plan before an organized municipality or plantation is out from under LURC's jurisdiction. House Amendment "A" allows towns and plantations to be out from under LURC's jurisdiction immediately upon adoption and approval of a reasonable land use plan. House Amendment "A" does not prevent, once they are out from under LURC's jurisdiction, from modifying their land use plan from time to time as long as their land use plans reasonably and effectively promote health, safety, and general welfare and insure compliance with State land use laws. House Amendment "A" does not require that towns and plantations maintain unreasonable land use plans in order to satisfy the lifestyles and personal values of those who are in a position of public trust and power.

House Amendment "B" to L. D. 2458 with a filing number (H-703) adds two more members to the study committee created by L. D. 2458.

The amendment reads in lines 20, 21, and 22 "the Executive Director of LURC and one municipal officer of the Unorganized Territory." We have no municipal officers in unorganized territories.

The intent of lines 20, 21, and 22 is to add the Executive Director of LURC and one municipal officer from a plantation under LURC's jurisdiction.

Thank you.

Senator WOOD of York was granted unanimous consent to address the Senate On the Record.

SENATOR WOOD: Mr. President and Men and Women of the Senate.

It has come to my attention that the Maine Potato Council at a recent meeting, voted to censor one of the members that serves in this State Senate, the good Senator from Aroostook, Senator Carpenter. I find that action by the Maine Potato Council to be completely uncalled for, and the height of arrogance.

I would point out that the Maine Potato Council is a creature of State government in that they receive tax dollars from the State government, they're like any other State agency in when they present a bill to a committee, they have to take their lumps in the committee.

The censor of Senator Carpenter for the audacity of proposing an amendment to a bill that they submitted to this Legislature. They're presuming arrogance when they assumed that they, only their bills, are not subject to amendment. They've gone further than that because I think when they censored Senator Carpenter, they censored all of us, because we supported his amendment, we passed that bill in amended form. I would call on the Maine Potato Council in the future to use good judgment when they come to this Legislature and come here with the understanding that the legislative process allows for us to look at their legislation and decide whether it is appropriate in that form or some other form. I would hope that they would take action and apologize, not only to Senator Carpenter, but to all of us who supported his amendment.

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

SENATOR CARPENTER: Mr. President, Ladies and Gentlemen of the Senate.

It's late in the Session, but I do appreciate the good Senator from York, Senator Wood, for getting up in my defense, I guess. This is something rather like a tempest in a teapot that has stirred up in the last few days.

There was a bill that went through this Legislature a few weeks ago which increased a particular self-imposed tax, most of that money flowing to State agencies or quasi-State agencies, to promote Maine potatoes, and to do a number of things, including pay-offs, legal fees for lawyers that fought a legal battle for the potato industry.

The potato industry is very disorganized, and I, quite frankly, don't get along with some of the various factions, and haven't gotten along. They make no bones about that, in fact, their offices were turned over to my opponent in 1980 to use as a bank of phones, and I protested at that time, but nothing was done.

I went before the Committee as neither a proponent nor an opponent of this particular bill. I did point out that this was a hundred percent increase in the tax, and I figured if that was what the Legislature was going to do, that the farmers who I represent should get something back for that. I then placed an amendment on the Bill, after talking to the Chairman of the Committee, and Senator Wood, and other Members of this Legislature, who were involved in the potato industry, including the sponsor of the bill, basically said if they don't reorganize their act within the next two years that the tax will drop back to only a penny more than it is today. They were smart enough, politically, not to criticize that action, even though they were very well aware of it, until after the bill had been passed, and signed into law by the Governor. Now they're all over the press, in fact, I talked to the good Senator from Kennebec, Senator Bustin, this morning who told me she saw a new item about it on Channel 6 Television out of Portland.

So, once again, we have managed, even though this was a noncontroversial issue, we have managed to lay out before the entire State of Maine, the divisions within the potato industry, and point out to all the people in the State of Maine that, even those of us that are involved in the potato industry, we can't agree on what's going on.

I think it smacks of a little political revenge and I just am sorry, as Senator Wood is, that it happened. I'll be making the appropriate responses in the various newspapers, and rushing around to defend my honor, I suppose, in the next few days.

Interestingly enough, one of the agencies which is not a farming agency, but is a sales agency, which is an adversarial agency to the farmers, their representative prepared an amendment to this Bill and tacked it on to the bill, with the permission of the Committee, and my permission, and the Legislature's permission. That person wasn't criticized, but I, as an elected official, I guess, don't have that same right.

As the good Senator from York, Senator Wood, points out, it would be like my standing up here and saying that because the Senator from Oxford, Senator Erwin, doesn't come from a potato producing area, or large potato producing area, he has no right to talk about potato legislation or make corrections. I think we're all here to do a job, we offer things and have them accepted or rejected. Sometimes they are in areas that were not exactly close to our particular hearts, but nevertheless, we are elected to come down here on behalf of all the people of the State of Maine. I would never, never, have the arrogance to rise on this floor and say that anyone in this Chamber doesn't have the right or the intelligence or the respon-

sibility to offer his or her comments or amendments to any piece of legislation, whether it was from their area or not. Thank you very much.

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

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.

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

PAPERS FROM THE HOUSE

Non-concurrent Matter

Bill "An Act to Authorize a General Fund Bond Issue in the Amount of \$15,735,000 to Plan, Construct and Equip Pollution Abatement Facilities and to Abate, Clean Up and Mitigate Threats to Public Health and the Environment from Uncontrolled Hazardous Substance Sites" (Emergency) H. P. 1772 L. D. 2340

In Senate April 11, 1984 PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-700).

Comes from the House PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-700) AS AMENDED BY HOUSE AMENDMENT "B" (H-739) in NON-CONCURRENCE.

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

It is a vote.

Sent forthwith to the Engrossing Department.

Non-concurrent Matter

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

In House April 6, 1984 PASSED TO BE ENACTED.

In Senate April 24, 1984 INDEFINITELY POSTPONED in NON-CONCURRENCE.

Comes from the House that Body ADHERED. THE PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Najarian.

SENATOR NAJARIAN: Mr. President, I move the Senate Recede and Concur.

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

(OFF RECORD REMARKS)

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

RECESS

AFTER RECESS

The Senate called to order by the President.

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:

Bond Issue

An Act to Authorize a Bond Issue in the Amount of \$1,500,000 for the Elimination of Asbestos Hazards in Public School Buildings. S. P. 582 L. D. 1690 (C. "A" S-413)

Comes from the House FAILING OF ENACTMENT.

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

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

SENATOR PRAY: A Parliamentary Inquiry. Does the Senate have on one of its supplements L. D. 2340, An Act to Authorize a General Fund Bond of \$15,735,000?

THE PRESIDENT: The Chair would answer in the affirmative, under Supplement #18.

Out of order and under suspension of the rules on motion by Senator PRAY of Penobscot the Senate voted to consider the following:

ENACTOR

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

Bond Issue

An Act to Authorize a General Fund Bond Issue in the Amount of \$15,735,000 to Plan, Construct and Equip Pollution Abatement Facilities and to Abate, Clean Up and Mitigate Threats to Public Health and the Environment from Uncontrolled Hazardous Substance Sites. H. P. 1772 L. D. 2340 (H. "B" H-739 to C. "A" H-700)

The President requested the Sergeant-at-Arms to escort the Senator from Androscoggin, Senator CHARETTE, to the Rostrum to assume the duties of President Pro-Tem.

The Sergeant-at-Arms escorted the Senator from Androscoggin, Senator CHARETTE, to the Rostrum, where he served as President Pro-Tem.

The President then retired from the Chamber.

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

SENATOR DIAMOND: Thank you very much, Mr. President. I rise this evening to not necessarily speak against this Bond Issue, but to lay before you what I hope will be what the position this Senate will take.

I think that we have, I know for a fact, that we have before us \$40,000,000 worth of bond issues, and every one of them are very, very valid, in my opinion, and I know many of you have many of these bond issues that you'd like to have passed. The question before us this evening, though is larger than that, and the question before us this evening is: should we be dealing with this \$40,000,000 tonight and than another X amount of million dollars in June, which we know is coming for education? I say we shouldn't. I think we have to wait and look at all the bond issues at one time. It's very, very difficult for us to prioritize and pick out if we don't want to pass \$70,000,000 or thereabouts, it's difficult to pick out any one here and say "No, we don't want this."

Now, this Bond Issue, all of them, is the one that I want the most, because this Bond Issue has about \$3,000,000 for hazardous waste clean up, and it includes seven sites. I want very badly to have those sites cleaned up, but we have to remember that as badly as we want any one of these, it's just impossible and not practical for us, as a Maine State Senate, to try to decide which one of these we're going to say okay and which ones we say we're not going to go for. Now, if that's the argument, truly, if we believe that, that we should look at all of them together, then even the best, even the best of the bond issues, the one before us right now, can't pass now. If we say any one of these has a top priority, we have to pass it tonight, then I think we have to say that other ones also may have a priority, with you, maybe not with me, but with you. so for us to say "Yes, we'll pick out one, one bond issue and pass this one" is not fair, it is not right, and does not make good sense.

I spent some time talking with the people at D.E.P. this afternoon, worried that maybe stopping at least the \$3,000,000 part of this

Bond Issue might put some real negative clamps, if you will, on clean up, and to be very honest, the people at D.E.P. say they want this one, they want this passed now. The question that I asked is, the bottom line is, will this destroy anything, is it a tremendous emergency that we do it now, tonight, versus June? And, their answer was "We want this one, we want this one now."

In all honesty and fairness, my feeling, looking at the seven sites: Baileyville, Buckfield, Augusta, Saco, Gray, Corinna and Winthrop, many of those are being funded and handled by E.P.A. anyway, the super-fund. Some of those, however, need to have some matching dollars. The money in this Bond Issue will provide those matching dollars, but I don't get a sense of urgency that says we have to do it tonight. In all fairness to you, I would not expect you to vote for one that I want tonight and then not expect you to have yours brought up as well. So, I would ask you that we might talk about a philosophy and a strategy, overall bipartisan effort to look at these things together at one time, the way we should. Thank you, Mr. President.

THE PRESIDENT PRO-TEM: 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 think that the concerns that were expressed by the previous speaker, the Senator from Cumberland, Senator Diamond, warrants some response.

I understand his sincerity and his concerns about the total financial picture of Bond indebtedness to the State. I know that he in the past, has served on the Appropriations Committee, and through his Chairmanship of the Audit and Program Review Committee, has had an opportunity to look with some detail in great depth into State Government, and view and evaluate its various operations. He's had an opportunity as Chairman of the Audit Committee to reevaluate a number of legislative programs and the expenditures of taxpayers dollars. Through that Committee, they have had the opportunity to evaluate which program should continue and which ones should be modified and changed, and addressed the concerns of the dollars available, the original intent of legislation as passed and as they then view it through that Committee.

In the past, he had the opportunity when he served on the Appropriations Committee to make those same types of value judgments, of fiscal judgments, of what do you fund and what don't you fund. I am sure that on the Appropriations Committee, he had on a number of occasions voted against some very worthwhile legislative proposals, but the fact was that a priority was established. I can't remember off the top of my head as to what the original figures of requests that went to the Governor's Office of the various bond issues.

I do know that that was pared down, the dollar amount that we're receiving at this time for consideration, a total bond package is not as great as what was requested from the various departments, and people have concerns about the various issues. There is one particular bond issue, which was tabled until later on today, which calls for \$1.5 million, and that was sponsored by the Senator from Penobscot, Senator Baldacci, the request was for \$3,000,000. To some degree, some of the concerns that he has expressed have been addressed. They have been pared down, they have been evaluated and they have been looked at, and they have gone through the hearing process and they've gone through the legislative process.

Now the question is, as we debate the various issues, two-fold. The argument that he presented, the question of a philosophical and a strategy, dealing with the bond indebtedness of this State. I think to look at the total figure of \$41 million is incorrect. I do not believe that

this Legislature, as a whole, will send out to the voters for their approval or rejection in June, anywhere near that total. I think we also have a picture of what will happen in June, as far as the educational request. The V.T.I. bond issue that we had attempted to come in the last Session was dealing with somewhere around \$4.2 million, the total request from the V.T.I. Board was somewhere in the vicinity of \$13 million. I'm not familiar with the educational request, although that figure could quickly be attainable, and we would basically know what we're looking at for a large figure in June that would be evaluated and looked at by this Legislature with the intention of the Governor calling us back.

I do think, though, that as we look at this particular issue that's now before us, and we try to establish a strategy of what we are going to send out to the people for the acceptance or rejection, and while each of us have our own priorities on these seven or ten bond issues that are coming up, to a number of people this one is the one that is felt by many to warrant the greatest attention. This is the only bond issue that came out of the Appropriations Committee with everybody supporting some form of passage. Many of the others by the Minority Party had received an Ought Not to Pass Report, not on the fact that they rejected the idea being worthwhile, but of their concerns of the total bonded indebtedness, but this one did receive favorable consideration by the entire Committee. I think as this question is now before us, that it does warrant our consideration, and it does warrant our support. I see nothing wrong with sending out this one particular issue at this time. It may not be the only one that goes out, but I do think that it will not interfere with the strategy or the philosophy of the June Session when the remaining issues come before us.

I would hope that we would Enact this.

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

SENATOR BALDACC: Mr. President and Members of the Senate, the Senator from Cumberland, Senator Diamond, has expressed a sincere philosophy question to the Members of the Senate in regards to how they should handle all the bond issues that have been presented, and I appreciate that. The only thing that I would ask the Senator from Cumberland and other Members of the Senate is if they will remember when we came down here last year for a Special Session, and we were to take up bond issues, we ended up in a fish-fry on raising the fees on Fisheries and Wildlife. We came down here for a particular purpose and because of carry-over or concern in particular areas, it clouded the concern of taking up those bond issues.

Now, the Governor, most likely, is going to be calling a Special Session on Education. We're going to be dealing with education matters. There's a lot of different facets to maintaining the quality of education and striving to increase the excellence in education. I think it's unfortunate if we, all of a sudden, turn that education session into a question of bonded indebtedness, 90%, how much should go out, what the treasurer says, what's Moody saying, what's Standard and Poor's are saying, and what's going to effect our bond rating. Because, all of a sudden, we're going to be losing our focus, as a Legislature, on the education issues.

I think the only responsible approach to take is to deal with these issues that are in front of us here tonight. I think to carry that over is going to turn that Session into something a lot more than just education matters. I submit to you, Members of the Senate, that I've been telling people throughout the State of Maine that when we come down here in June to discuss education, that we're going to be discussing education, it's a very serious issue, primary, secondary, higher education, V.T.I.'s, those are a

lot of concerns. I think that to cloud that with bond issues, we're going to be losing the focus that we wanted to have for that particular moment. I think that's the philosophy here, is to deal with these bond issues that are for hazardous waste, are for asbestos, are for court-houses, are for other things, and discuss these merits here in this session, up or down. Then when we come down here in June, deal with those education matters, because I think we're short changing the children, we're short changing the students, we're short changing the teachers, the principals and the administrators in the education fields, that we all highly regard, by putting those issues in that package.

Now, you heard today the Treasurer of the State of Maine tell you about a 90% cap, told you about holding off construction, and the increased costs there's going to be. Let me tell you, Ladies and Gentlemen of the Senate, in my dealing on the P.U.C. Committee, with Moody's, and Standard and Poor's, that the bond ratings are not going to be going up, the bond ratings, with these nuclear investments and all those sorts of things, are if anything, going to increase the bond ratings. So by holding off we may be ending up paying more in interest charges, we may be missing out in that construction period that we've already done all that preliminary design work in. That, Ladies and Gentlemen, is something that we may be for the sake of saying we'll take them all up together in June, we may be costing the taxpayers, the people who we are frugally trying to represent, we may be costing them a lot more. I ask you to think about those things, and search in your conscience to see whether that's the real philosophy in dealing with these issues tonight. Thank you, Mr. President.

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

SENATOR PEARSON: Thank you, Mr. President. Men and Women of the Senate, the good Senator from Penobscot, Senator Baldacci, indicated that he would prefer to have a special session in June to deal with just education matters, and not be clouded with other bond issues.

My problem with doing that, as a person who has taught in the public schools for fifteen years and who cares deeply about education, is that I think that if we bond too much now, there will be a reluctance later to see those issues on an equal footing with the ones that we are discussing here tonight.

I'm concerned that, with this one particular measure that we have before us which amounts to \$15.7 million, we will be spending close to 40% of all of the money that we're going to be authorizing into bonds. This is the major chunk of the bonds that we're going to be considering, some of the rest of them amount to a million and a half, or whatever but this is over \$15,000,000.

I think to be fair to the educational community, to everybody, that all of these issues should be considered at the same time, because this Senator from Penobscot, who I guess is probably fiscally conservative when it comes to bond issues, anyway, does not like the idea of increasing the bonded indebtedness of the State by 20% or 25% in any one year.

I think that all the issues that we're going to be faced with tonight are all laudable and defensible. As I said to the Senate a week ago, I would vote for anyone of these individually. I'd say yes, yes, yes, yes, and then when I totaled them all up, I'd think I should have said no, no, no. Individually, they're fine, but totally without consideration of the educational issues and giving them the priority that I think we should, and the consideration that they deserve, we're apt to be making a mistake here to the point where we will have a session in June and be unwilling to fund what we will consider to be worthy enterprises in education.

The good Senator from Aroostook, Senator

Violette, tells me that in addition to the bonding that we may have in June in education which may amount to \$30 or \$40 million, there may be some other proposals made by the Governor's Committee on Education that may call for more money being spent, that might even ask for a tax increase, "might" ask for a tax increase. I want to see all those things together in order to have a clear picture of what we are doing. I am not opposed to anything on this, I just want to see it all at once.

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

SENATOR CONLEY: Mr. President and Members of the Senate. It's always a pleasure to have someone go to the Rostrum to give me an opportunity to, once in a while, come down on the so-called Senate Floor to express a very private opinion.

I look at all these bond issues confronting us this evening, and I cannot see one bond issue that I could not support to allow the people of this State to exercise their judgment over the things that have been proposed by the Chief Executive of this State, who has had overwhelming support of the citizens of this State, and particularly in his bid for reelection. It was obvious to the citizens of this State that they had the utmost confidence, not only as him as a Chief Administrator, but in the policies that he has put forth to the Legislature over the past five and one half years.

I commend the good Senator from Penobscot, Senator Pearson, for wanting to be a wee bit conservative in making any fiscal judgment this evening, but the bond issue before us, read it, and I ask all of you, how long can we wait to clean up and mitigate threats to public health and the environment from uncontrolled hazardous substance sites? How long can we wait? Put it off another couple of years, wait and see what's going to be proposed, four years, six years, eight years from now. For God's sake, we were elected to come in here and represent the people.

This 90% cap is the most ridiculous thing I ever heard of in my life. The people have the good wisdom, the judgment to be able to determine what is right and what is wrong, and they've exercised that judgment well over the last many years. This and each of these bond issues before us tonight are extremely important to the welfare of the citizens of this State. I suggest that anyone who has a different opinion, then they should run for Governor and make their proposals before the Legislature and let us then evaluate them.

I urge the Senate this evening, whether there's problems in Perham, Maine; Kittery, Maine; Biddeford, Maine; or that grand old city, Portland, Maine, that we pass these bond issues, and allow the good citizens of this State to provide the wisdom to allow these things to go forth. Not to mention the economic impact that these bond issues will have throughout the State, not to mention the jobs, not to mention the fact that monies will be provided for families, not to mention the fact of the outstanding job, that I'm sure, the Chief Executive is going to tell this Legislature of the accomplishments that we've made in this Session, later this evening, not to mention the fact that we're going to have a great industry developed down in the City of Auburn and Lewiston, jobs are going to be taking place, economic development is again going to start thriving in that area. My God, if we can make Maine a better State to live in, then tonight is your opportunity to say "Yes" to the Governor and "Yes" to the people of this State, and allow them to exercise their judgment when these bond issues go before them.

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

SENATOR DIAMOND: Thank you very much, Mr. President. Men and Women of the Senate,

what you just heard was a grand oratory and I commend the good Senator from Cumberland, Senator Conley, for presenting his concerns and also his opinions in the grand style that he always does, but now back to the issue.

Uncontrolled sites he spoke of is really not true. In this bond issue, that's all we're talking about is this bond issue, we're talking about seven sites, and they are controlled, very controlled, we've had E.P.A. involved, the State has been involved, and we're talking about spending money, hence, to finish cleaning up. We talked about waiting a couple years and let all kinds of other things happen, negative things suggested that's what we're talking about, not true. Somebody talking about waiting a couple months to look at this whole package together, he spoke about the 90% cap, I don't even know where that came from, I didn't even mention that. The first person to mention that was the Senator from Penobscot, Senator Baldacci, and evidently that was a concern that he has and that's another issue altogether. Then of course, he suggested to run for Governor, well the only ones that have debated tonight who has bumper stickers out, is the good Senator from Cumberland, Senator Conley. I certainly don't and many of the rest of you don't.

The issue before us is simple, is very clear. Should we be voting on this bond issue or any other bond issue, knowing full well that in a few weeks we have to come back and vote on another whole bunch? Now, as I've said before, every one of these bond issues, I think, are very valid and I like every one of them, and I certainly like this one, certainly like this one, but it doesn't suggest to me that we should break tradition or break a fairness rule saying this one has more merit than the others amongst all of us. So, I would ask you to consider what's been said, and I hope that you would allow us to let this be put off only until June and we can vote on this one and the other ones that are coming up at that time. Thank you very much.

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

SENATOR PRAY: Thank you, Mr. President. Mr. President, Ladies and Gentlemen of the Senate, as the good Senator from Cumberland, Senator Diamond, commented or stated let's get back to the issue, and I think I'd like to respond to his concerns.

First of all this is not a package, we are dealing with a specific issue as I had stated earlier, I do not believe that this is a question of voting for a \$41,000,000 package, it is not a question of sending out that total dollar amount. It is my belief that the actions that this Legislature, as a whole, will take, will only end up with one or two or perhaps none, who knows at this point in the evening, being sent out to the voters.

The question the Senator from Cumberland, Senator Diamond asked, was for us to take a philosophical position as to whether or not this particular issue at this time, in conjunction with the rest of the issues, should be put off until June, and that they all then should be considered together.

I attempted the first time that I rose tonight to respond to the comments that he had made and keep it at that degree of the debate. I think that I had tried to point out earlier, that it is a concern that he presented very well, and I think one that we can take a philosophical position on in a few moments when we vote on this particular issue.

It is my opinion, and my own opinion, that I do not believe that we should put this off until June. If we are going to establish the philosophical position, if we are going to establish a strategy, then I think that the strategy should be, at this stage, that this particular issue, at this particular time, should be passed and sent out to the voters for their consideration in June. I do not believe that the \$41,000,000 should be sent out, I have various opinions on the number of other bond issues that will come

before us tonight, we'll vote accordingly to those opinions, but I believe each and every one of us in this Chamber will have that opportunity. I think we should address and evaluate the decision on the two tiers that have been presented to us. The package concept, which I do not believe exists. The second is as to whether or not, if you do not agree in the package concept, are there particular issues that should be sent out? The question is what action does this Body take, because as we all know, there are two branches, and it will require the action as you look at the Calendar, you'll see that many of them did not receive a favorable vote in the other Body?

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

SENATOR DANTON: Mr. President and Members of the Senate. I think there's another area we should get into here this evening.

First of all, I wasn't going to get involved, but thought it was all decided by the Members in Leadership that this was going to be done away with and we'd be on our way home by eight o'clock, but I can see it's nine o'clock and we're all having a good time talking. So, we might as well keep going and stay here perhaps another day.

Anyway, let's talk about the bond issue. What are we afraid of? Why not send it out, the bond issue, why not let the people vote? Do we here on the Third Floor, those of us elected, one hundred and eighty-four think that the people only know what they're voting for when they elect us and send us here? Is that what we really think? Don't kid yourself, they know what they want. They know what they're going to vote for and they know what they want to vote for.

I can remember when I first came up here to the Maine Legislature, those were the good times, we had a little bit of a surplus those years. As I go through some of these bonds and I look at: a three million; a million, five hundred thousand; four and one half million, we have to pay for those. It obvious we do not have the money, and when you don't have the money for those of you that have never been in business, and don't know what it is to go out and borrow money to do things, that's what we want to do now. Let the bonds be approved, go out and get the money and complete whatever the bond projects call for. What is the big fear about it? Whether it's June or now or to send them out in June or send them out in November. I can't understand what the big fuss is about. Whether it's forty million or a hundred million the people will decide. Just like they'll decide whether I'm here next year or whether any of us are here next year. Maybe it wouldn't be a bad idea if they cleaned out all one hundred and eighty-four of us, but that's neither here nor there. So, let's get on with the show. Never mind these party politics, Democrats holding here and Republicans holding there. Let's get these bond issues out to the people, let them decide and let them get it over with.

THE PRESIDENT PRO-TEM: Is the Senate ready for the question?

This is a Bond Authorization Act and in accordance with Section 14 of Article 9 of the Constitution, requires the affirmative vote of two-thirds of those present for passage.

Will all those Senators in favor of the passage of this Bill, please rise and stand in their places until counted.

The Chair recognizes the Senator from Cumberland, Senator Diamond.

SENATOR DIAMOND: I request a Roll Call.
THE PRESIDENT PRO-TEM: The Senator from Cumberland, Senator Diamond, has requested a Roll Call. Under the Constitution, in order for the Chair to order a Roll Call it requires the affirmative vote of at least one-fifth of those Senators present and voting.

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

counted.

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

The pending question before the Senate is Enactment of L. D. 2340.

A Yes vote will be in favor of the Enactment.

A No vote will be opposed.

The Doorkeepers will secure the Chamber.

The Secretary will call the roll.

ROLL CALL

YEAS—Senators, Baldacci, Brown, Bustin, Carpenter, Charette, Clark, Collins, Danton, Dutremble, Erwin, Hayes, McBreairty, Minkowsky, Najarian, Pray, Redmond, Trafton, Twitchell, Violette, Wood, The President—Gerard P. Conley.

NAYS—Senators, Diamond, Emerson, Gill, Hichens, Pearson, Perkins, Sewall, Shute.

ABSENT—Senators, Dow, Kany, Teague, Usher.

This being a Bond Authorization Act and having received the affirmative votes of 21 Members of the Senate, with 8 Senators having voted in the negative, and 21 being more than two-thirds of the membership present and voting 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 Pro-Tem would ask the Sergeant-at-Arms to escort the Senator from Cumberland, Senator Conley, to the Rostrum where he may resume his duties as President.

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

The Sergeant-at-Arms escorted the Senator from Androscoggin, Senator Charette, to his seat on the floor of the Senate.

THE PRESIDENT: The Chair wishes to express its thanks to the good Senator from Androscoggin, Senator Charette, for handling the Rostrum with extremely careful hands, he did an outstanding performance. (Applause the Members rising)

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

ENACTORS

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

Bond Issue

An Act to Authorize a General Fund Bond Issue in the Amount of \$6,000,000 for the Design, Construction and Furnishing of Court Facilities. S. P. 821 L. D. 2201 (C. "A" S-400)

Comes from the House FAILING OF ENACTMENT.

This being a Bond Authorization Act and having received the affirmative votes of 16 Members of the Senate, with 13 Senators having voted in the negative, and 16 being less than two-thirds of the membership present and voting FAILED PASSAGE TO BE ENACTED, in concurrence.

Bond Issue

An Act to Authorize a General Fund Bond Issue in the Amount of \$4,950,000 for Energy Conservation, Capital Improvements, Construction, Renovations, Equipment and Furnishings for Various State Departments. S. P. 838 L. D. 2267 (C. "A" S-399)

Comes from the House FAILING OF ENACTMENT.

This being a Bond Authorization Act and having received the affirmative votes of 12 Members of the Senate, with 17 Senators having voted in the negative, and 12 being less than two-thirds of the membership present and voting FAILED PASSAGE TO BE ENACTED, in concurrence.

Bond Issue

An Act to Authorize a General Fund Bond Issue in the Amount of \$1,500,000 for the Design, Construction and Equipping of a Crime Lab and Morgue. H. P. 1726 L. D. 2279 (C. "A" H-698)

Comes from the House FAILING OF ENACTMENT.

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

SENATOR PEARSON: Mr. President, a parliamentary inquiry.

THE PRESIDENT: The Senator may state his inquiry.

SENATOR PEARSON: Are we under a two-thirds present and voting or two-thirds of the total membership in the passage of this bond issue and others?

THE PRESIDENT: Two-thirds of those present and voting.

This being a Bond Authorization Act and having received the affirmative votes of 11 Members of the Senate, with 18 Senators having voted in the negative, and 11 being less than two-thirds of the membership present and voting FAILED PASSAGE TO BE ENACTED, in concurrence.

Bond Issue

An Act to Authorize a General Fund Bond Issue in the Amount of \$1,500,000 for Restoration and Preservation of Historic Structures. H. P. 1727 L. D. 2280 (C. "A" H-699)

Comes from the House FAILING OF ENACTMENT.

This being a Bond Authorization Act and having received the affirmative votes of 14 Members of the Senate, with 15 Senators having voted in the negative, and 14 being less than two-thirds of the membership present and voting FAILED PASSAGE TO BE ENACTED, in concurrence.

Bond Issue

An Act to Reallocate Unsold Bonds as Previously Authorized by Private and Special Law of 1971, Chapter 140, for the Development and Improvement of State Park Facilities. S. P. 814 L. D. 2191 (C. "A" S-402)

Comes from the House FAILING OF ENACTMENT.

This being a Bond Authorization Act and having received the affirmative votes of 11 Members of the Senate, with 16 Senators having voted in the negative, and 11 being less than two-thirds of the membership present and voting FAILED PASSAGE TO BE ENACTED, in concurrence.

Bond Issue

An Act to Authorize a General Fund Bond Issue in the Amount of \$10,035,000 for Construction and Renovation of Correctional Facilities. S. P. 827 L. D. 2213 (C. "A" S-401)

Comes from the House FAILING OF ENACTMENT.

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

SENATOR NAJARIAN: I request a Roll Call.

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

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

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

The Chair recognizes the Senator from Penobscot, Senator Pearson.

SENATOR PEARSON: Mr. President and Men and Women of the Senate, this particular Bond Issue deals with the construction and renovation of correctional facilities, and I do have one of those correctional facilities in my Senate District, and I would like to make a few remarks for the Record in the eventuality that this would pass.

And, that is, in Charleston, several years ago, there was purchased from the Federal Government, a radar facility there and has been turned into a pre-release center. The people of that community and the surrounding area were told that the people that were going to be put there would be the best risks and would be just prior to release. There was some anxiety in the community, most of that has been dealt with and most people are fairly happy with the facility there.

This does call for construction of a holding facility here in the eventuality that they have somebody who acts up. The closest other holding facility for them, if they had some difficulty, would be in Dover or in Bangor, both some distance away. I questioned for awhile that the holding facility would be just an excuse to have another prison. I have been assured that that is not the case, and that there is no intention to keep anybody in that holding facility for a long period of time. I'm reassured by that Department, they do not intend to do that in the future, because if they do, they are breaking faith with the understanding that they have with that community. Thank you.

THE PRESIDENT: This is a Bond Authorization Act and in accordance with Section 14 of Article 9 of the Constitution requires the affirmative vote of two-thirds of those present and voting.

A Roll Call has been ordered.

A Yes vote will be in favor of Enactment of L. D. 2213.

A No vote will be opposed.

The Doorkeepers will secure the Chamber.

The Secretary will call the roll.

ROLL CALL

YEAS—Senators, Baldacci, Brown, Bustin, Carpenter, Charette, Danton, Dutremble, Najarian, Pray, Redmond, Trafton, Wood, The President—Gerard P. Conley.

NAYS—Senators, Clark, Collins, Diamond, Emerson, Erwin, Gill, Hayes, Hichens, McBreairty, Minkowsky, Pearson, Perkins, Sewall, Shute, Twitchell, Violette.

ABSENT—Senators, Dow, Kany, Teague, Usher.

This being a Bond Authorization Act and having received the affirmative votes of 13 Members of the Senate, with 16 Senators having voted in the negative, and 13 being less than two-thirds of the membership present and voting FAILED PASSAGE TO BE ENACTED, in concurrence.

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

ORDER

Joint Resolution

On motion by Senator PRAY of Penobscot, (Cosponsors: Senator CARPENTER of Aroostook, Senator NAJARIAN of Cumberland) the following Joint Resolution: S. P. 920

JOINT RESOLUTION IN HONOR OF THE

HONORABLE GERARD P. CONLEY,

PRESIDENT OF THE MAINE SENATE

WHEREAS, the Honorable Gerard P. Conley has served the City of Portland in the Maine Legislature with great distinction since 1965; and

WHEREAS, Senator Conley has served faithfully the County of Cumberland in the Maine Senate since 1969; and

WHEREAS, Gerard P. Conley has served in the State of Maine Senate as Assistant Minority Leader, Minority Leader and currently as its distinguished President; and

WHEREAS, throughout these years of holding high public office, the Honorable Gerard P. Conley has never forgotten those citizens of Maine who are left behind, the unemployed, the poor, the elderly, the handicapped and those who are down on their luck; and

WHEREAS, while during all his years of service Gerard P. Conley has fought hard and well for his people, he has done it with style, wit,

grace and charm that are both a tribute to his Irish heritage and his home State of Maine; and

WHEREAS, there are, in the State, thousands of Maine people from all walks of life who proudly carry "Gerry" as their friend; and

WHEREAS, the loss of Gerard P. Conley from the Maine Legislature will leave a void that can only be filled with the fond memories and cherished triumphs that he leaves in his wake; now, therefore, be it

RESOLVED: That We, the Members of the 111th Legislature, now assembled in Second Regular Session, join at this time to honor and pay tribute to the Honorable Gerard P. Conley, of Portland, as a citizen and public servant who, through his acts and deeds, has served his State with the highest distinction; and be it further

RESOLVED: That a suitable copy of this Joint Resolution be presented to President Conley in token of our esteem.

Which Report was READ.

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

SENATOR CARPENTER: Mr. President, pending passage of the Joint Resolution, I think, in all honesty and all fairness, even though it is late in the evening, I for one would like to stand here and read the Joint Resolution to the Members of this Legislature.

I know that you can all read, but it's probably is buried somewhere underneath the pile of supplements, so—

(Read for the Record by Senator CARPENTER)

(Applause, the Members rising)

(OFF RECORD REMARKS)

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

SENATOR PRAY: Mr. President, I believe that the Chair has dispensed with the reading of the Resolution, and though the good Senator from Aroostook, Senator Carpenter has read it, there has been no action taken on it, thus, while this item is still pending before us—

THE PRESIDENT: Is it now the pleasure of the Senate—

SENATOR PRAY: Mr. President, I believe I have the floor.

(OFF RECORD REMARKS)

SENATOR PRAY: Mr. President, on behalf, I believe, of all the Members of this Body, and I believe that the response to the Resolution by the Members of this Chamber, do reflect many of the things that were said in that, and as one individual who has served here for a few years under your leadership, and as an individual who has, in my own eyes, feel that I have come a long ways from the guidance and advice that you have given me, though I have not always followed it, sometimes wisely, and many times not so wisely.

I just wanted to comment on several things. First of all, I'd like to have the Presiding Officer know that it was a former Senator from this Body who did most of the drafting, as a matter of fact, all of the drafting, and that was the other Senator from Portland when I first came down here, the former State Senator Phil Merrill, and, I think that you should know that. I believe that many of the things that he stated is something that we have all felt a number of times, that many of us hate to see the end of your public career in the Legislature come to an end. We know that you will continue in the future to serve the public, we feel that your voice will still echo through these halls, probably at some time more loudly than we will wish, as the next presiding officer may recognize you in the back of the Chamber and threaten to throw you out if you continue to raise your voice.

I believe there are a number of people in this Chamber who feel very sincerely that you have

done an outstanding and commendable job, not only for your community of Portland, but for your County of Cumberland, but for the people of the State of Maine, and as one, I'd like to just echo those words of the Resolution and wish you the best of luck after those special sessions that are coming up.

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

SENATOR WOOD: Mr. President, Members of the Senate. I would be remiss if I did not rise tonight to speak on this Resolution.

The Conley political legacy is quite simple. He has fought for those who have no voice in government, the poor, the elderly, those who have a different sexual preference, and those on the edge of society trying to make due on the minimum wage. It is not easy to fight for those people, they have little political currency, they seldom vote, they're not glamorous according to the standards of the L.L. Bean liberals, they don't contribute money to the Party and many can't even afford to come to Augusta, let alone know what is here when they get here. Yet, this did not deter Senator Conley, he knew the battle would be hard, the victory elusive at best, he knew the price would be high and yet he paid it again and again. Why? Because he knew their cause was right, was just, was fair and that their time would come.

So, those people, truly the rainbow coalition of Maine, can walk a little taller, have a little more change in their pockets, and can now feel a part of this place we call Maine, because Senator Conley was here, he fought, he worked, and most of all, he cared.

He fought the fight with class, he never lost sight of the fact that it was the issue that was important, and not himself, his agenda, his ego, or his political future. Finally, he did it never losing that Irish sense of humor, for if you don't know how to laugh, you don't know how to live.

Senator Conley rose to the presidency of this Body, not through intimidation or favoritism, but simply because we trust and respect him, something not often said of leaders.

How does one summarize twenty years of political life in this State? It will not be through the major issues, he will be remembered rather through the little gestures, the kindness, humor, the telling looks from the Rostrum on occasion. I am proud to say that I know and have served with Senator Conley, and I'm more proud to say that he is my friend and my leader.

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

SENATOR CARPENTER: Mr. President, Ladies and Gentlemen of the Senate.

I hadn't intended to speak again on this and I'm not sure that I can speak at all eloquently, certainly not as eloquently as the Senator from York, Senator Wood, since I no longer have anything written in front of me, but the object of this Resolution has become a very special one, almost a father figure to me, despite our closeness of age.

I've watched him, over the years, and I'm not sure can watch him at this moment, I've watched him over the years, and he sort of took me under his wing as a young Senator, and he has constantly counseled me to keep my temper. I can always remember the number of times when the rhetoric got hot and the voice got loud, and I would get concerned about my leader, my future President, and I would look at him and there would always be a little wink. There isn't anybody in this Chamber who hasn't, regardless of how long you've served here, been the benefactor of the little wink. I've often wondered if he ever tried to wink and take his teeth out at the same time, what exactly would happen. I've also waited for ten years to see the teeth clatter to the ground and I've never see it happen.

In all seriousness, the Senator from York, Senator Wood, said it very, very well, and very, very eloquently, that the object of this Resolu-

tion, Gerry Conley, has always spoken for those who had no voice here, for those who couldn't speak for themselves, for those causes that were just but not popular, who are honest but not politically sexy perhaps. He stood here, when he stood alone, he stood here when he stood in a vast minority, in a vast wasteland, and he still stood, knowing he didn't have five people who were going to stand with him.

He has been a great friend of mine, he's been a great leader of mine, and I, quite honestly, after having served in this Legislature for ten years, don't know what it's going to be like to come into these halls next term, if I am fortunate enough to be reelected, and not have Gerry Conley here. I'm not sure what that is going to be like.

We are going to lose something. You look around at the people in this Legislature who are not going to be coming back for one reason or another, and we are losing some truly excellent, excellent people, and you have to look no further than Sam Collins, Frank Wood, and others in this Chamber, Andy Redmond who decided not to run again.

The void that will be left by Gerry Conley is larger, deeper, and will be felt longer than anybody that I have seen since I have served here, and I, like one of the previous speakers, am extremely proud to have served with him, and hope that I can now, and always, will be able to call him my good friend.

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

SENATOR PERKINS: Mr. President and Ladies and Gentlemen of the Senate.

Speaking as one from the other side of the aisle, I can say honestly that this president has, as have his predecessors, have dealt with the minorities in fairness and justness.

I also recognize him as one of my dear friends, having served with him for many years, that I would like to join with you of the other Party this evening, in saying I, and I'm sure the members of my Party, will feel a loss with losing Gerry Conley, and yet we honor him tonight for what he's been, one of the truly great Legislators of the Maine State.

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

SENATOR GILL: Mr. President and Members of the Senate, I am really pleased to be in this Body, to be able to get up and speak on behalf of Gerry Conley and how fondly I feel about him, too.

I happen to have, probably I am the only member, in here that comes from the same neighborhood that Gerry represents, the old West End of Portland. I know that Gerry and my good husband go back a long way together and at one point in time it was not a popular thing to be an Irish Catholic and be in politics, and they both happen to be Irish Catholics, and both in politics, but, Gerry also works in the area which is my constituency, and I have to say that one of the characteristics of Gerry is his warmth and his loyalty to his friends, and Gerry is not ashamed of anybody that he ever knew, he never was too big for the job and he always has the warmth in his heart for everyone. He has a lot of love to give and he shows it all the time.

In spite of the fact that he and I are on the opposite side of the aisle and he's always saying to me every chance he gets is "Where did you go wrong?", because my parents happen to have been Democrats, and when I got married I saw the light when I married a Republican, but we still have been friends and I, also, must applaud the way that the Minority has been treated in this Body, because they have been treated very fairly, and I for one appreciate that. He has clued us in on everything and it's appreciated and God love you.

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

SENATOR COLLINS: I want the President to know that my address is so long that I've re-

duced it to writing and decided to save it for another night when we're all a bit brighter, but I do echo the sentiments.

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

SENATOR VIOLETTE: Mr. President and Ladies and Gentlemen of the Senate, first of all, I want to say that I'm sorry to see the President leaving, and I've always welcomed his guidance and sage advice during the past four years, and particularly during the past two years.

I have a little presentation for the President of the Senate, and I'd appreciate it if the Sergeant-at-Arms would come up and present this to the President. It's a little depiction of the State of Maine, and for those of us that come from other areas, it's the Map of Maine according to Senator Conley, perhaps, in that there is Greater Portland and Lesser Portland, maybe perhaps, one hill called Munjoy Hill and one street called Taylor Street. Senator Brown and myself and I'm sure the other Senators from the northern part of Maine, it's a little memento from some of us, Mr. President. Thank you.

(OFF RECORD REMARKS)

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

SENATOR DIAMOND: Thank you, Mr. President. I just received this hurried note and it's scribbled out poorly, and I'll try to read it well if I can.

If you'll all bear with me, it says "Please read this note in a hurry. Senator Conley is a tremendous individual, he is well mannered, handsome, intelligent, brave, kind to old people, smart, kind, funny, and can never be replaced. Signed Gerry Conley."

(OFF RECORD REMARKS)

Which was ADOPTED.

(Prolonged applause, the members rising)
Sent down for concurrence.

(OFF RECORD REMARKS)

Out of order and under suspension of the rules:

ORDER

On motion of Senator PRAY of Penobscot, the following Senate Order:

ORDERED, that the desk, chair and equipment in the office of the President of the Senate, together with the remainder of such supplies as were required to carry out the duties of his office, be presented to the President of the Senate and delivered to his home address.

Which was READ and PASSED.

Senator PRAY of Penobscot was granted unanimous consent to address the Senate, relative to SLS 442, A Joint Order recognizing: The entire Legislative Staff, both partisan and non-partisan, for their outstanding work and dedication during the 111th Legislature;

SENATOR PRAY: Thank you, Mr. President. Mr. President and Ladies and Gentlemen of the Senate, it seems rather appropriate at a time such as this when a Second Regular Session of a Legislature comes to an end, there seems to be a great deal of rumors going around that this is not the end of the 111th, that there's going to be a special session coming up in the summer months, but it is the last official opportunity that we are assured that we will be together.

While a great deal of legislative debate and action takes place in these Halls of which the public is well aware of, there are a number of people, as is quite common and the custom behind the scenes, who deserve a great deal of appreciation, and I've attempted to make up a list and I'm sure that I will forget someone or some group, that is not the intention, but I will

make an attempt to go through part of this legislative process, and those who should receive some recognition for the work that they do on behalf of the people of the State of Maine.

They go from the Committee Clerks who serves the Legislators in the Joint Standing Committees, the Legislative Staff Officers, the Library, the Finance Office, the Research Office, the Legislative Assistance Office, the Legislative Administrative Director, who with some of her people are here in the rear of the Chamber from the various offices, and their people and their staff officers, the Secretary of the Senate, Joy O'Brien, the Assistant Secretary, Valorie, the Senate staff from the outer office, upstairs, and those in this Chamber, and the staff of the Presiding Officer's office, the Minority Office and from Senator Carpenter's and my office. These are individuals who have, on numerous occasions, been there at our beck and call, to assure that the flow of this operation of this great Body of representation is able to complete its work every day.

The hours of some of them are long. I have come in in the morning, quite often around seven o'clock, seven-thirty, and there has always been some staff people already here. I have left many hours late in the evening, sometimes ten, eleven o'clock, before we get down to the final days of the Session and we, ourselves, are here, and there are always some of the staff people here, doing the work that we have caused during the day for them.

On behalf of all of the Members of this Chamber, I would just like to say thank you to all of those people that I have mentioned and, God forbid, anybody that I may have overlooked, but on behalf of all the Senate, we thank you.

On motion by Senator PRAY of Penobscot, the Senate removed from the Table:

An Act to Authorize a Bond Issue in the Amount of 41,500,000 for the Elimination of Asbestos Hazards in Public School Buildings. S. P. 582 L. D. 1690 (C. "A" S-413)

Tabled—April 25, 1984 by Senator PRAY of Penobscot.

Pending—PASSAGE TO BE ENACTED.

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

SENATOR BALDACCII: Mr. President and Members of the Senate, I only wish I could echo the same statements that the good President of the Senate has echoed in regards to an earlier bond issue that dealt with the cleanup of hazardous waste at different dump sites throughout the State of Maine.

This is another type of hazardous waste, this is asbestos. It's a problem, it was discovered by the school departments, the Federal Government has relegated responsibility to the local school districts, it's a problem that affects all of our children, who as a very early age, their exposure to asbestos is very serious because of the underdevelopment of their lungs, especially younger children, it's a very serious problem.

I worked with the Department of Education in a committee to develop a plan to target the schools through a survey, to set up a list of inspectors that were licensed to inspect for asbestos, to set up a list of people that were licensed to make the repairs on asbestos and it's not that easy, because you're dealing with Environmental Protection out of Boston, you're dealing with a lot of other areas that you have to have the right kind of people to deal with that. This bond issue was part of that.

This was presented to this Legislature a year ago. It wasn't part of the Governor's Package, it wasn't part of anybody's package, it was my bond issue, that along with the good Senator from Hancock, Senator Perkins, and the good Representative from Portland, Representative Beaulieu, had presented. It wasn't dealt with in that Special Session on bond issues, it was decided to deal with that later. Now we're taking

that up tonight, and we want to deal with that later on down the road, but, the schools have already made a commitment in anticipation of the bond issue being presented. They have used minor capital outlay out of their budgets to repair around the boilers and monitor around the boilers, the asbestos that was used, to remove in areas where it's on the ceilings, in anticipation that a bond issue would be presented, similar to the energy bond issue that was presented which was set up on a reimbursement type of scale.

It may sound futile to you, but in watching this bond issue travel along all by itself, and not have the part of a Governor's support, or not have part of some massive legislative package, to see this particular bond issue go through that particular channel, it is very, very educational for myself, as a freshman Senator.

I would only point out to you that I think that the legal liability with the local school districts, because of the Federal government action exempting a firm that installed the asbestos, plus the commitment that the local school districts have made, I feel that this is very imperative and cannot be put off.

The June period in which this issue, this construction and repair can be done will be while the students are out of school, and it's very important that this be presented at the June primaries, because of that time when the children won't be in those schools, that they can finish up with those repairs and get reimbursed for repairs that they have made. This affects every single school district throughout the State of Maine, every single public school building, and I think it warrants as much concern, if not more, than the hazardous sites, the dump sites, that were presented before.

Mr. President, I would request a Roll Call on this bond issue when the votes are taken from the yeas and nays.

THE PRESIDENT: A Roll Call has been requested. Under the Constitution, in order for the Chair to order a Roll Call it requires the affirmative vote of at least one-fifth of those Senator 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 Hancock, Senator Perkins.

SENATOR PERKINS: Mr. President and Ladies and Gentlemen of the Senate. I rise as a cosponsor of this legislation and if your memory is at all vivid, you will recall that even though a sponsor of this piece of legislation, I signed it out of my Committee, after sponsoring it, in the Ought Not to Pass manner, not because I treated it frivolously, and not because I viewed it as a nonentity or a nonhazard, but because I felt that, like the other hazards that faced us here in the State, that it should take its place with those. I still believe this, and though I am a cosponsor, you will find me tonight voting "No" on the motion because I do feel that this bond issue has its priorities and it will be one of my priorities, because I, like all of us here in this Body, do not take sponsorship of legislation lightly.

I do not take this lightly, but I do feel that it should, if I ask you to set off some of your priorities, it is no less fair that I do the same for mine. With this in mind tonight, I will be voting against passage of this bond issue, but you will find me later, at a later session when we are dealing with all the bond issues, fighting very hard for this because I feel this is a hazard that should be taken care of and we deserve, the people who are exposed to this hazard, deserve no less treatment than those with the other hazardous waste of the State.

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

SENATOR PRAY: Mr. President and Ladies and Gentlemen of the Senate. I rise as the Sena-

tor from Penobscot, not as a cosponsor of this proposal, nor one who has any, as far as I am aware of, direct benefit to my Senate District, of any school facility that this bond issue would apply to, but I want to give a little bit of historical perspective. There has been a great deal of debate, not only in this Chamber but in the hallways, of the bond packages, of the bond issues, and I think that this one here is a little bit of a special issue, because one, it did not initiate from the Chief Executive's office. The Senator from Penobscot, Senator Baldacci, brought this proposal in and I believe that if it had not been for the concern of the Minority Party of sending out to the voters a 90% cap, that this issue would have gone to the voters in the First Regular Session. It was held over because of the concerns of the total number of dollars being sent out to the voters.

It was established by this Legislature, kind of a priority, that it would be one of those that would wait and in the interim a number of issues came up and here we are addressing bond issues again, the concerns of the strategy that, I think, initiated because of the number of dollars that came in from the Governor's Office, and the number of concerns that, in about a month and a half, that we may have another session dealing with more bond issues. I think that this one deserves our attention, it is not similar to the other ones, and I would hope that this Chamber would Enact this proposal tonight.

THE PRESIDENT: This is a Bond Authorization Act, and in accordance with Section 14 of Article 9 of the Constitution, requires the affirmative vote of two-thirds of those present and voting.

A Roll Call has been ordered.

A Yeas vote will be in favor of Enactment of L. D. 1690.

A No vote will be opposed.

The Doorkeepers will secure the Chamber.

The Secretary will call the roll.

ROLL CALL

YEAS—Senators, Baldacci, Bustin, Carpenter, Charette, Clark, Danton, Dutremble, Erwin, Hayes, Minkowsky, Najarian, Pray, Redmond, Trafton, Twitchell, Violette, Wood, The President—Gerard P. Conley.

NAYS—Senators, Brown, Collins, Diamond, Emerson, Gill, Hichens, McBreairey, Pearson, Perkins, Sewall, Shute.

ABSENT—Senators, Dow, Kany, Teague, Usher.

Senator BROWN of Washington was granted permission to change his vote from Nay to Yea.

Senator PRAY of Penobscot was granted permission to change his vote from Yea to Nay.

This being a Bond Authorization Act and having received the affirmative votes of 18 Members of the Senate, with 11 Senators having voted in the negative, and 18 being less than two-thirds of the membership present and voting FAILED PASSAGE TO BE ENACTED, in concurrence.

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

SENATOR PRAY: Mr. President, having voted on the prevailing side, I move the Senate Reconsider its action whereby this Bill Failed of Enactment.

THE PRESIDENT: The Senator from Penobscot, Senator Pray, having voted on the prevailing side now moves that the Senate Reconsider its action whereby L. D. 1690 Failed Passage to be Enacted.

On motion by Senator PRAY of Penobscot, TABLED until later in today's session, pending the motion by the same Senator to RECONSIDER FAILURE OF PASSAGE TO BE ENACTED.

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.

On motion by Senator PRAY of Penobscot, the Senate removed from the Table:

An Act to Authorize a Bond Issue in the Amount of \$1,500,000 for the Elimination of Asbestos Hazards in Public School Buildings. S. P. 582 L. D. 1690 (C. "A" S-413)

Tabled—April 25, 1984 by Senator PRAY of Penobscot.

Pending—the motion by the same Senator to RECONSIDER FAILURE OF PASSAGE TO BE ENACTED.

On further motion by the same Senator, the Senate RECONSIDERED its action whereby L. D. 1690 FAILED OF ENACTMENT.

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

SENATOR NAJARIAN: Mr. President, Members of the Senate. We've been around here all day today and have accomplished very little.

This bond issue, the question on this bond issue that's going to the voters, is do you favor eliminating asbestos hazards in the public schools? I don't know how two-thirds of the Membership in this Body can vote against that question and send it out to the voters.

We have to have twenty-two votes, you know, we've got two bond issues facing us tonight, let's at least be that productive and send them out to the voters and let them have the final word on these two bond issues.

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

SENATOR PERKINS: I request the Yeas and Nays.

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

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

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

The pending question before the Senate is Enactment of L. D. 1690.

A Yes vote will be in favor of Enactment.

A No vote will be opposed.

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEAS—Senators, Baldacci, Brown, Bustin, Carpenter, Charette, Clark, Danton, Dutremble, Erwin, Hayes, Kany, Minkowsky, Najarian, Pray, Trafton, Twitchell, Usher, Violette, Wood, The President—Gerard P. Conley.

NAYS—Senators, Collins, Diamond, Emerson, Gill, Hichens, McBreairty, Pearson, Perkins, Redmond, Sewall, Shute, Teague.

ABSENT—Senator, Dow.

This being a Bond Authorization Act and having received the affirmative votes of 20 Members of the Senate, with 12 Senators having voted in the negative, and 20 being less than two-thirds of the membership present and voting FAILED PASSAGE TO BE ENACTED.

Senator KANY of Kennebec was granted unanimous consent to address the Senate On the Record.

SENATOR KANY: Mr. President and Members of the Senate. I just wish to voice my belief that it is really a shame that the Maine Senate is not willing to pass this bond issue.

Actually, asbestos is one of the four hazardous air pollutants that the United States Environmental Protection Agency has seen fit to regulate, it is that serious a matter and that hazardous an air pollutant and I'm certainly sorry that the Maine Senate is willing to go On Record as being opposed to paying for anything like that. Thank you.

Senator TRAFTON of Androscoggin was granted unanimous consent to address the Senate On the Record.

SENATOR TRAFTON: Thank you, Mr. President. Mr. President and Members of the Senate, there have been two issues raised in this evening's session regarding the affect of the emergency label placed on the bond issues that we have been considering tonight.

I've reviewed the various bond issues in their legislative form, I've also reviewed the Constitution and tried to examine the Constitution in every spot that it addresses the two-thirds provisions and specifically the bonding provision. I find that the bonding provision is a separate provision from the emergency enactment provision.

The bonding provision is found in Article 9, Section 14 of the Constitution, the emergency enactment procedures are found in Article 4, Section 16 of the Constitution. I find that one has no bearing on the other. Therefore, it's my opinion, that the emergency label on the various bond measures has no affect whatsoever, the label is simply surplusage and fails to have any affect on the Legislative Documents themselves.

Another issue that has been raised as to what type of majority, what type of two-thirds majority is necessary for these various bond issues to pass in both Bodies. Article 9, Section 14 of the Constitution addressing bonding provides: "that whenever two-thirds of both Houses shall deem it necessary, these bond issues shall pass." This language is identical to language found in a later section of the Constitution, Article 10, Section 4, dealing with the amendment of the Constitution, I note that both of these types of provisions require submission to the voters for final ratification.

The Attorney General's Office of this State has frequently, in the past, issued rulings that for amendment of the Constitution, a two-thirds majority of those elected and voting of both Bodies is required for amendment to the Constitution. I feel that where this language is identical in these two separate provisions, the two-thirds majority of those present and voting in both Bodies is required also for the Bonding Provision.

I hope these remarks have helped to clarify some of the issues raised tonight and I appreciate the opportunity to address these issues. Thank you.

SENATE AT EASE

The Senate called to order by the President.

Senator TRAFTON of Androscoggin was granted unanimous consent to address the Senate On the Record.

SENATOR TRAFTON: Thank you, Mr. President. My good friend the Senator from Aroostook, Senator Carpenter, points out that I have mixed terms in my most recent address.

When I indicated that the bonding provision of the Maine Constitution, Article 9, Section 14, and Article 10, Section 4, dealing with amending the Constitution required a two-thirds vote, I meant to use the term two-thirds vote of those present and voting, not elected and voting, as I perhaps may have misstated, but both provisions require, in my opinion, two-thirds of those present and voting.

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

SENATOR PEARSON: Mr. President, Men and Women of the Senate, since I was the one that originally posed the question that brought this issue up, I would like to say that I was very much impressed with the diligence and the conscientiousness of the President of the Senate in trying to resolve this issue, in a logical manner. I think that he did it as best anybody could, he wasn't flip about it, he took it very seriously, as he always does and I commend him for that.

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

SENATOR GILL: Mr. President, since I was the one that brought it to someone's attention here, also, that we didn't have the two-thirds of the Membership present on an emergency bond issue, I think that I'd like to allude to the confusion that existed, as Senator Trafton from Androscoggin County just got up and spoke on the issue.

The confusion is just a tip of the iceberg compared to the confusion that has existed tonight on whether, indeed, there was an emergency provision on the bond issue and whether it was, indeed, needed on the bond issue, but the fact remains that we do have an emergency on the bond issue, and with an emergency measure there on the bond, we have a two-thirds of the membership, and I think we should stick to that and we should get on with the vote.

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

SENATOR PRAY: Mr. President, a Parliamentary Inquiry.

THE PRESIDENT: The Senator may state his inquiry.

SENATOR PRAY: Mr. President, the concerns of my inquiry is to whether or not the remarks of the previous speaker are under unanimous consent and whether they are On the Record or Off the Record.

THE PRESIDENT: The Chair would like to state at this time, On the Record, the Presiding Officer has a great deal of concern with respect to the issue before the Body, of the bond issue that was Enacted.

It was brought to my attention, from the emergency preamble on the bond issue, I have grave concern, as every other member of this Body, I can tell you and I'm sure you are all aware, my office has been inundated with constitutional attorneys since we took our brief recess some time back. I have been in consultation with the Attorney General, the Attorney General and one of his assistants have both stipulated very, very strongly that there is no need whatsoever for the emergency preamble because of the way the Constitution is written, and the way that it deals with the bonding authority of the State. Therefore, the Chair is willing to accept the ruling of the Constitutional Officer of the State, namely, the Attorney General, that the preamble can be totally disregarded in this case.

The Chair recognizes the Senator from Kennebec, Senator Kany.

SENATOR KANY: Mr. President, I ask for permission to Suspend the Rules and to inquire through the President if his consultants gave an opinion on allowing a June vote if the emergency vote is stripped from the bond?

THE PRESIDENT: The Chair would respond that the Attorney General feels strongly that there is no need whatsoever of the emergency itself, that the bond issues can be sent out in June, and they'd be up to the ratification of the voters, as to whether or not they were accepted.

Senator GILL of Cumberland was granted unanimous consent to address the Senate On the Record.

SENATOR GILL: May I further ask that those written remarks that have been attributed to me by the Secretary might be put into the Official Remarks of the Day, so I want have to repeat them, I'll be glad to repeat them if you want me to.

THE PRESIDENT: The Chair would respond in the affirmative.

SENATOR GILL: Mr. President, may I continue on the Record?

Senator GILL of Cumberland was granted unanimous consent to address the Senate On the Record.

SENATOR GILL: Mr. President, we're getting

into whether if this is an emergency nature or not and I certainly am not an attorney, I certainly am not a Constitutional Officer, but I am an elected Legislator and I can read opinions of the Constitutional Officer.

The Constitutional Officer, namely the Attorney General, did render an opinion and stated "the Legislature, indeed, has the power and authority to fix the day upon which an election shall be held in accordance with its judgment and discretion, which may be within the 90-days after the recess of the Legislature, and that term is defined in Section 20 as Part Third of Article 4 of the Constitution."

If indeed, this holds true, there was no need to put an emergency on it, but we do have an emergency provision, and I would simply state, again, that with an emergency, whether it was intended or not to be on there, that the Legislature has the ability to call a day that they wish the election held, and if not, they put the emergency on. That's what we have on there with the emergency preamble on this Bill, we have the date of June, which they hope to hold the election. I don't at this point, it's very late and I really don't care what happens to the vote that's going on here, but I think we've got a precedent that we don't want to dispute, we have something on the books, we have emergency bond issues on the books from 1980, we had one passed dealing with the V.T.I. situation, and it simply stated, in the book, Chapter 106 of the Regular Session, from January 2, 1980 to April 3, 1980, it was L. D. 1887, and it was an emergency preamble, it was passed by two-thirds of the membership.

We also have other bond issues that we've dealt with in the Legislature which have no emergency on them, and they did not need the two-thirds of the membership, so I would put to you that with an emergency on there, that we must pass it with two-thirds.

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

SENATOR CARPENTER: Mr. President, being an aspiring, I won't say young attorney, but I'll say new attorney, I want you to know that I have argued at least three sides of this issue tonight, and I want you to know that I also came out on what I think is the winning side, so I'm doing something right.

I argued exactly the point just made by the good Senator from Cumberland, Senator Gill, in a rather heated argument at times, and I have been convinced otherwise, and I would not stand here and say this if I was not firmly convinced that we are on firm footing.

I think that the Constitution very clearly deals with bond issues in one section, it deals with other acts and resolutions of the Legislature in another section. The other section, the Attorney General's opinion says as far as bond issues are concerned we can set that time frame within the 90-days. The Legislature can do that. The Legislature cannot override the Constitution other than changing it. The Constitution very clearly says on other acts and issues of the Legislature, it has to be, if it's not going to take affect until over 90 days, that it has to be an emergency, (within the 90 days), then it has to be an emergency. There is the distinction, I think.

I argued that this was an act or a resolution of the Legislature, and I've been convinced that bond issues are dealt with separately, are dealt with separately in the Constitution for a specific reason. I think the good Senator from Androscoggin, Senator Trafton, has pointed out to you that there have been a series of rulings dealing with Constitutional Amendments. If you go through and you look at the number of places in the Constitution where it deals with when a two-thirds vote is necessary, there are two places that are very, very consistent, when you amend the Constitution, and when you pass a bond issue. There have been numerous

rulings that an amendment to the Constitution of the State of Maine requires two-thirds vote of the House being present and voting, and that is exactly the same language used in the bond section. Therefore, I think that we are on safe ground, I think that there was a mistake, perhaps, made in putting the emergency preamble on there, but I think as such it's surplusage.

Senator GILL of Cumberland was granted unanimous consent to address the Senate On the Record.

SENATOR GILL: Mr. President, it's a very late hour, I would hate to see this Legislature pass a piece of legislation as important as this in a sloppy manner, because I'm afraid that we could end up in the courts at some future point in time, and I don't think any of us want to see this.

The question is a question that we have two, well, one aspiring lawyer, and one longer-term attorney present, who have decided they have an opinion and they have rendered that opinion. I think out in the general public, there will be many people in bond companies that, also, could render various opinions, and I think there lies what we are here about. We want to make sure that whatever we do here is done in a proper manner. I question that we'd be doing that if we simply said "the emergency is on but we don't have to pay any attention to the emergency." I think we do.

Out of order and under suspension of the rules:

ORDER

On motion by Senator PRAY of Penobscot, the following Senate Order:

ORDERED, that a message be sent to the House of Representatives informing that Body that the Senate has transacted all the business which has come before it and is ready to Adjourn Without Day.

Which was READ and PASSED.

The President appointed Senator PRAY of Penobscot to convey the message to the House of Representatives, the Senator then retired to the Hall of the House.

At this point, a message was received from the House of Representatives through Representative Mitchell of Vassalboro, the Majority Floor Leader of the House, informing the Senate that the House had transacted all business before it and was ready to Adjourn, Sine Die.

Subsequently, Senator PRAY of Penobscot reported that he had delivered the message with which he was charged.

On motion by Senator CARPENTER of Aroostook, the following Senate Order:

ORDERED, that a message be sent to His Excellency, the Governor, informing him that the Senate has transacted all business which has come before it and is ready to Adjourn Without Day.

Which was READ and PASSED.

The President appointed Senator CARPENTER of Aroostook to convey the message to His Excellency, the Governor.

THE PRESIDENT: On the Record, again, in case there is another Parliamentary or Constitutional question raised, the Attorney General's opinion in 1981-58, which is, I guess his 58th opinion issued that year, it was ruled that there is authority for the position that it is for the Legislature itself to determine when the Legislative Day ends. So, in other words, we can go until we adjourn, whether it be four in the morning, or whether it be twelve midnight.

Subsequently, Senator CARPENTER of Aroostook reported that he had delivered the message with which he was charged, and informed the good Senate that the Governor will

attend forthwith.

At this time, the Honorable Joseph E. Brennan, Governor of the State of Maine entered the Senate Chamber and was escorted by the Sergeant-at-Arms to the Rostrum. (Amid prolonged applause, the Members rising.)

THE PRESIDENT: The Chair is pleased to welcome to the Senate Chamber the Honorable Governor Joseph E. Brennan.

(Applause, the members rising)

GOVERNOR BRENNAN: Mr. President, Ladies and Gentlemen of the Senate. I'd like to come here tonight to thank you for some of the successes I believe this Legislative Session has had. Certainly, I'm delighted with what was done in regard to the Retirement System, I think we've saved the taxpayers some \$60,000,000 over the next twenty-five years. I'm pleased with the support that was given to the business community when we passed tax conformity. I'm delighted with the support that was given for the Lewiston-Auburn area with the ethanol plant. I think this Legislature continued its support for our retarded citizens by passing legislation to provide for a hundred jobs and sheltered workshops. Again, we continued our support for the poor and abused kids in this State by adding additional protective workers.

So, there have been a number of successes, but like every Legislative Session, there have been some disappointments. Indeed, some failures, I know in my case, and I'll be back again with them: trying to get the liquor stores into the private sector, hopefully turning the homicides over to where they belong with the District Attorneys, and I hope we can pass a responsible bail bill for the safety of the people of the State of Maine.

I want to say that I'm very much distressed, though, that today this Legislature could not see fit to send to the voters of Maine the opportunity to address some badly needed improvements in our prisons and in our courts. I think it's clear that the need is there, and just because the Legislature votes against it the underlying need does not go away.

We'll be back, we'll be back with those bills in June, also we'll be back to try to address our concerns in education. We made a start by passing the Certification Bill. There are other things that must be done.

I want to say it's been a delight this year to work with the Senate, it has been a special delight to work with President Conley. I think Senator Conley has done an absolutely outstanding job. I've worked with him for the better part of twenty years up here, and I don't think I've had a better relationship than I have this year. I think it's his new maturity, obviously, it's not mine.

I had a chance to listen to his eloquence about three hours ago, and I think he did a great deal to salvage at least part of those bond issues, so I want to thank him for that. I know I share the view of everyone in this room, this place will be a lesser place, in fact, it won't seem like the Maine Legislature without Gerry Conley around. Again, I want to thank you for all that you've done.

Finally, I want to say even though we've had our disappointments, I think we've had some successes. I think, generally, we've acted responsibly and in the best interest of the people of this State. I hope that you have a very pleasant Spring. I trust that we can work together, the Democrats and Republicans, for this June session where we have a chance to make up for the things that we failed to do in the last couple of days. Thank you very much. (Applause, the members rising)

The Sergeant-at-Arms escorted the Honorable Joseph E. Brennan, Governor of the State of Maine from the Senate Chamber, amid prolonged applause, the Member rising.

THE PRESIDENT: The Chair recognizes the

Senator from Aroostook, Senator McBreairty.

SENATOR McBREAIRTY: Mr. President, I move that the Senate Adjourn without day.

On motion by Senator McBREAIRTY of Aroostook at 12:08 a.m. on Thursday, April 26, 1984, the Honorable Gerard P. Conley declared the Senate of the Second Regular Session of the 111th Legislature, Adjourned Sine Die.