

# MAINE STATE LEGISLATURE

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**LEGISLATIVE RECORD**

OF THE

***One Hundred and Twelfth  
Legislature***

OF THE

STATE OF MAINE

**Volume I**

**FIRST REGULAR SESSION**

**December 5, 1984 - June 20, 1985**

STATE OF MAINE  
One Hundred and Twelfth Legislature  
First Regular Session  
JOURNAL OF THE SENATE  
In Senate Chamber  
Tuesday  
March 12, 1985  
Senate called to order by the President.

Prayer by the Reverend Reginald Couture of the Union Congregational Church in Ellsworth.

REVEREND COUTURE: Quietly and contemplatively, we come to prayer, O Lord our God seeking a steadying, a refocusing and a reshaping of our lives. So much of our existence is spent in scrambling, searching, even clawing our way along the roads we walk, that we forget what quietness and contemplation are.

We even forget who You are and how you are revealed in the Man from Galilee. He too had his moments of scrambling, his hours of searching. But, somehow he manifested the steadiness that kept him from ever abandoning his commitment to life, no matter what the pressure.

We would be like Him if we could, but since we cannot, enable us to be the best we can be.

Will you give us more faith, less cockiness, more assurance, less bravado, more serenity, less boastfulness?

We have our secret fears and our hidden insecurities. We know we can make no demands but we can offer ourselves as we are with the hope that in the power of Your Spirit, we can become more trustworthy and more dependable.

If we can, by your grace, be refocused and reshaped in faith and love, then we will be more like Our Lord and most ourselves by following His example. Amen.

Reading of the Journal of Friday, March 8, 1985.

(Off Record Remarks)

#### PAPERS FROM THE HOUSE House Papers

Bill "An Act to Provide that Cost-of-Living Plans for Retired Persons under the Maine State Retirement System shall Apply to All Participating Local Districts that do not Provide Social Security Benefits for Employees" (H.P. 661) (L.D. 944)

Comes from the House referred to the Committee on AGING, RETIREMENT AND VETERANS and ORDERED PRINTED.

Which was referred to the Committee on AGING, RETIREMENT AND VETERANS and ORDERED PRINTED, in concurrence.

Bill "An Act to Support the Growth and Development of Community Child Abuse and Neglect Councils" (H.P. 662) (L.D. 945)

Comes from the House referred to the Committee on APPROPRIATIONS AND FINANCIAL AFFAIRS and ORDERED PRINTED.

Which was referred to the Committee on APPROPRIATIONS AND FINANCIAL AFFAIRS and ORDERED PRINTED, in concurrence.

Bill "An Act Relating to Requirements for Removal of Mobile Homes from Mobile Home Parks" (H.P. 663) (L.D. 946)

Bill "An Act to Protect Shareholders in Maine Corporations" (H.P. 678) (L.D. 965)

Resolve, Establishing the Commission on Limited Benefit Health Insurance (Emergency) (H.P. 679) (L.D. 966)

Comes from the House referred to the Committee on BUSINESS AND COMMERCE and ORDERED PRINTED.

Which were referred to the Committee on BUSINESS AND COMERCE and ordered printed, in concurrence

Bill "An Act to Redefine the Southern Boun-

dary to Enlarge the Moose Hunting District" (H.P. 681) (L.D. 967)

Comes from the House referred to the Committee on FISHERIES AND WILDLIFE and ORDERED PRINTED.

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

Bill "An Act Concerning Maine's Debt Collection Procedure" (H.P. 664) (L.D. 947)

Bill "An Act to Require that all Land Boundary Dispute Cases be Submitted to the Superior Court and to Create a Surveyor Panel to Which the Cases may be Referred" (H.P. 682) (L.D. 968)

Bill "An Act to Amend Calculation of Period of Imprisonment under the Maine Criminal Code" (H.P. 683) (L.D. 969)

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

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

Bill "An Act Concerning the Forfeiture of Vehicles of Persons Operating after License Suspension who are Operating under the Influence" (H.P. 684) (L.D. 970)

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

On motion by Senator VIOLETTE of Aroostook referred to the Committee on LEGAL AFFAIRS and ORDERED PRINTED, in NON-CONCURRENCE.

Sent down for concurrence.

Bill "An Act to Create a Cancer Presumption for Firefighters in the Workers' Compensation Law" (H.P. 665) (L.D. 948)

Bill "An Act to Reform the Current Spendable Earnings Program within the Workers' Compensation Laws" (H.P. 666) (L.D. 949)

Bill "An Act Concerning Average Weekly Wages under the Workers' Compensation Act" (H.P. 667) (L.D. 950)

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

Which were referred to the Committee on LABOR and ORDERED PRINTED, in concurrence.

Bill "An Act Validating the Vote to Convert Wallagrass Plantation into the Town of Wallagrass" (Emergency) (H.P. 668) (L.D. 951)

Bill "An Act to Establish a Budget Committee to Provide Local Input in the Waldo County Budget-making Process" (H.P. 685) (L.D. 971)

Comes from the House referred to the Committee on LOCAL AND COUNTY GOVERNMENT and ORDERED PRINTED.

Which were referred to the Committee on LOCAL AND COUNTY GOVERNMENT and ORDERED PRINTED, in concurrence.

Bill "An Act to Regulate the Shipment of Lobsters" (H.P. 669) (L.D. 952)

Bill "An Act to Clarify the Laws of the Department of Marine Resources" (H.P. 686) (L.D. 972)

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

Which were referred to the Committee on MARINE RESOURCES and ORDERED PRINTED, in concurrence.

Bill "An Act Relating to Disposal of Property taken by the State" (H.P. 670) (L.D. 953)

Bill "An Act to Clarify and Make Technical Changes in the Law Governing Boards and Commissions" (Emergency) (H.P. 687) (L.D. 973)

Comes from the House referred to the Committee on STATE GOVERNMENT and

ORDERED PRINTED.

Which were referred to the Committee on STATE GOVERNMENT and ORDERED PRINTED, in concurrence.

Bill "An Act Relating to Taxation of Aircraft" (Emergency) (H.P. 671) (L.D. 954)

Bill "An Act to Establish Municipal Cost Components for Services to be Rendered in Fiscal Year 1985-86" (Emergency) (H.P. 672) (L.D. 955)

Bill "An Act to Increase the Eligibility Guidelines under the Elderly Householders Tax and Rent Refund Act and the Elderly Low Cost Drug Program" (H.P. 675) (L.D. 958)

Bill "An Act to Establish a Meals and Lodging Tax for the Purposes of stabilizing the Property Tax and Promoting Tourism" (H.P. 688) (L.D. 974)

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

Which were referred to the Committee on TAXATION and ORDERED PRINTED, in concurrence.

Bill "An Act to Make Supplemental Allocations from the Highway Fund for the Fiscal years Ending June 30, 1986, and June 30, 1987" (Emergency) (H.P. 673) (L.D. 956)

Bill "An Act Concerning the Placement of Plows on Motor Vehicles" (H.P. 689) (L.D. 975)

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

Which were referred to the Committee on TRANSPORTATION and ORDERED PRINTED, in concurrence.

Bill "An Act to Provide Signs on the Maine Turnpike Indicating Exit for Oxford Plains Speedway" (H.P. 674) (L.D. 957)

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

On motion by Senator VIOLETTE of Aroostook Tabled 1 Legislative Day, pending REFERENCE.

Bill "An Act to Establish Signs on Interstate 95 in Kittery to Indicate Directions to the State Discount Liquor Store" (H.P. 690) (L.D. 976)

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

On motion by Senator VIOLETTE of Aroostook Tabled for 1 Legislative Day, pending REFERENCE.

Bill "An Act to Delay Implementation of New Telephone Systems Pending Further Study" (Emergency) (H.P. 691) (L.D. 977)

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

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

#### COMMUNICATIONS

The Following Communication:

STATE OF MAINE  
DEPARTMENT OF HUMAN SERVICES  
AUGUSTA, MAINE 04333

February 28, 1985

Honorable Charles P. Pray

President

Maine Senate

State House

Augusta, Maine 04333

Dear President Pray:

Please find enclosed a copy of the 3rd Annual Fee Review prepared by the Department's Bureau of Medical Services staff in compliance with 22 M.R.S.A., Subsection 3173. The primary objectives of the review were to consider, in consultation with providers and their representative associations, the cost of pro-

viding specific services, the effect of various economic factors on the adequacy of existing fee schedules, and the Department's obligation to ensure sufficient provider participation in the Medical Assistance Program.

As you will note in the attached summary, the major conclusions reached as a result of the *3rd Annual Fee Review* are:

1. The Department of Human Services has fulfilled its obligation under 22 M.R.S.A., Subsection 3173 — AN ACT Concerning Review of Fees for Providers Under the Medical Assistance Program.

2. The Department of Human Services has, as a result of the review, made some changes in fee schedules. Oral surgery fees have been increased with special attention given to orthognathic procedures. Durable Medical Equipment and Supplies percentage mark-up allowance have been increased and, with a special appropriation from the Legislature, the ambulance fee schedule has been increased. An increase in orthodontia fees is planned for the Spring of 1985, and the Department of Human Services is working with the Department of Mental Health and Retardation's Bureau of Mental Health toward increasing reimbursement for Mental Health Clinic services.

Medicaid coverage has also been expanded to include specific services provided in free-standing Substance Abuse Treatment Facilities.

Details of these and other Medicaid fee schedule adjustments which have been made since the enactment of P.L. 1981, C. 329 are noted in Table G of the summary.

3. The Department acknowledges the existence of certain problem areas and the necessity of addressing these areas with specific fee increases. However, the Department also recognizes that such action is not feasible within existing fiscal constraints.

As indicated in the attached document, copies of the review are also being shared with representative health care provider associations and, upon request, individual providers.

Any questions or concerns you may have regarding this matter, or which might be brought to your attention, may be directed to Donee Wyke, Director, Division of Cost Containment, Bureau of Medical Services, or to me.

Sincerely,

S/ MICHAEL R. PETIT  
Commissioner

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

The Following Communication: (S.P. 366)  
**112th MAINE LEGISLATURE**

March 8, 1985

Senator John E. Baldacci  
Representative Harry L. Vose  
Chairpersons  
Committee on Utilities  
112th Legislature  
Augusta, Maine 04333  
Dear Chairs:

Please be advised that Governor Joseph E. Brennan has nominated Cheryl Harrington of Winthrop for appointment as a Commissioner of the Public Utilities Commission.

Pursuant to Title 35 MRSA Section 1, this nomination will require review by the Joint Standing Committee on Public Utilities and confirmation by the Senate.

Sincerely,

S/ CHARLES P. PRAY  
President of the Senate  
S/ JOHN L. MARTIN  
Speaker of the House

Which was **READ** and referred to the Committee on **UTILITIES**.

Sent down for concurrence.

The Following Communication:  
**STATE OF MAINE**  
**DEPARTMENT OF EDUCATIONAL**  
**AND CULTURAL SERVICES**

**AUGUSTA, ME 04333**

March 8, 1985

To: Joy J. O'Brien  
Secretary of the Senate  
From: Robert E. Boose, Commissioner  
Department of Educational and Cultural Services  
Re: Report of Advisory Committee on Medical Education

In accordance with the provisions of 20-A MRSA, Chapter 421, it is my duty to annually report to the Legislature and to the Governor a plan which assures, to the extent practicable, that Contract students return to practice their profession within the state. It is my pleasure, therefore, to transmit herewith the *Annual Status Report* prepared by the Advisory Committee on Medical Education which summarizes the Committee's activities and recommendations for the period January, 1984 — December, 1984.

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

#### SENATE PAPERS

Bill "An Act to Amend the Social Worker Registration Act with Respect to Employment by Nursing Homes." (Emergency) (S.P. 358) Presented by Senator **BUSTIN** of Kennebec Cosponsored by: Senator **BROWN** of Washington, Representative **BOUTILIER** of Lewiston

Which was referred to the Committee on **HUMAN RESOURCES** and **ORDERED PRINTED**.

Sent down for concurrence.

Bill "An Act to Provide for Prompt Dispute Resolution under Maine's State Bargaining Law." (S.P. 359) Presented by Senator **BUSTIN** of Kennebec Cosponsored by: Representative **GREENLAW** of Standish, Representative **PRIEST** of Brunswick, Senator **WEBSTER** of Franklin

Bill "An Act Relating to Unemployment Compensation Claimants Seeking Retraining" (S.P. 364) Presented by Senator **TUTTLE** of York

Which were referred to the Committee on **LABOR** and **ORDERED PRINTED**.

Sent down for concurrence.

Bill "An Act Relating to the Selection of Counters under the Election Laws." (S.P. 360) Presented by Senator **DOW** of Kennebec

Bill "An Act to Permit Fraternal Organizations to have Game Machines on Premises when Proceeds are used for Charitable Purposes." (S.P. 361) Presented by Senator **TUTTLE** of York Cosponsored by: Representative **RIOUX** of Biddeford, Representative **JACQUES** of Waterville, Representative **PAUL** of Sanford.

Which were referred to the Committee on **LEGAL AFFAIRS** and **ORDERED PRINTED**.

Sent down for concurrence.

Bill "An Act Concerning Commercial Fishing and Maritime Activity Zones" (S.P. 365) Presented by Senator **SEWALL** of Lincoln

Which was referred to the Committee on **MARINE RESOURCES** and **ORDERED PRINTED**.

Sent down for concurrence.

Bill "An Act Concerning Property Tax Exemptions for Veterans and Widows of Certain Veterans." (S.P. 362) Presented by Senator **TUTTLE** of York Cosponsored by: Senator **DIAMOND** of Cumberland, Representative **McCOLLISTER** of Canton.

Which was referred to the Committee on **TAXATION** and **ORDERED PRINTED**.

Sent down for concurrence.

Senate at Ease

The Senate called to order by the President.

**COMMITTEE REPORTS**  
House

#### Ought Not To Pass

The following **Ought Not to Pass** reports shall be placed in the Legislative Files without further action pursuant to Rule 15 of the Joint Rules:

Bill "An Act Regulating Transportation of Nonreturnable Beverage Containers into the State" (H.P. 326) (L.D. 454)

Bill "An Act to Modify Unit Clarification in the Municipal Public Employees Labor Relations Act" (H.P. 43) (L.D. 49)

#### Leave to Withdraw

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

Bill "An Act Relating to Criminal Offenses on the Penobscot Reservation" (H.P. 238) (L.D. 279)

Bill "An Act to Regulate the Harvesting of Scallops" (H.P. 119) (L.D. 144)

Bill "An Act to Require Environmental Impact Studies Prior to the Granting of an Aquaculture Lease" (H.P. 367) (L.D. 487)

Bill "An Act to Raise the Recording Fees Received by the Register of Deeds" (H.P. 312) (L.D. 401)

Bill "An Act to Eliminate the Requirement that County Tax Estimates and Notices of Public Hearings be Sent by Certified or Registered Mail" (H.P. 192) (L.D. 226)

#### Ought to Pass

The Committee on **STATE GOVERNMENT** on Bill "An Act to Clarify the Maine Administrative Procedure Act" (H.P. 303) (L.D. 392)

Reported that the same **Ought to Pass**. Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED**.

Which Report was **READ** and **ACCEPTED**, in concurrence.

The Bill **READ ONCE**.

The Bill **TOMORROW ASSIGNED FOR SECOND READING**.

#### Ought to Pass in New Draft

The Committee on **STATE GOVERNMENT** on Bill "An Act to Establish Alcohol Awareness Week" (H.P. 232) (L.D. 273)

Reported that the same **Ought to Pass in New Draft** under same title (H.P. 676) (L.D. 936)

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

Which Report was **READ** and **ACCEPTED**, in concurrence.

The Bill in **NEW DRAFT READ ONCE**.

The Bill in **NEW DRAFT TOMORROW ASSIGNED FOR SECOND READING**.

#### Senate

#### Leave to Withdraw

The following **Leave to Withdraw** report shall be placed in the Legislative Files without further action pursuant to Rule 15 of the Joint Rules:

Resolve, Establishing a Commission to Study State and Local Property Taxes. (S.P. 96) (L.D. 294)

#### Ought Not To Pass

The following **Ought Not To Pass** reports shall be placed in the Legislative Files without further action pursuant to Rule 15 of the Joint Rules:

Bill "An Act to Remove the Fees for Selling Out-of-State Hunting Licenses" (S.P. 100) (L.D. 298)

Bill "An Act to Make the Photo Drivers License Discretionary" (S.P. 191) (L.D. 509)

#### SECOND READERS

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

**House**

Bill "An Act to Amend the Weights and Measures Law" (H.P. 233) (L.D. 274)

Which was **READ A SECOND TIME** and **PASSED TO BE ENGROSSED**, in concurrence.

**House As Amended**

Bill "An Act to Lower the Storage Temperature of Milk" (H.P. 146) (L.D. 180) (C "A" H-13)

Bill "An Act to Establish a Maine Rivers Grants Program" (H.P. 100) (L.D. 125) (C "A" H-12)

Bill "An Act to Increase the Fees of Bail Commissioners" (H.P. 9) (L.D. 7) (C "A" H-8)

Which were **READ A SECOND TIME** and **PASSED TO BE ENGROSSED, as Amended**, in concurrence.

**Senate**

Bill "An Act Concerning the Licensing of Victuallers, Innkeepers and Tavernkeepers" (S.P. 357) (L.D. 938)

Which was **READ A SECOND TIME** and **PASSED TO BE ENGROSSED**.

Sent down for concurrence.

Bill "An Act Making Appropriations from the General Fund and Changing Certain Provisions of the Law Necessary for the Proper Operation of State Government for the Fiscal Years Ending June 30, 1985 and June 30, 1986" (Emergency) (S.P. 349) (L.D. 937)

Which was **READ A SECOND TIME**.

On motion of Senator Pearson of Penobscot Senate Amendment "B" (S-13) **READ and ADOPTED**.

On further motion by same Senator, Tabled 1 Legislative Day, pending **PASSAGE TO BE ENGROSSED, as Amended**.

**Senate As Amended**

Bill "An Act Amending the Municipal Public Employees Labor Relations Act to Provide for Newly Recognized or Certified Bargaining Agent to Bargain Fiscal Matters within 120 Days of Conclusion of Current Fiscal Operating Budget" (S.P. 164) (L.D. 433) (C "A" S-11)

Which was **READ A SECOND TIME** and **PASSED TO BE ENGROSSED, as Amended**. Sent down for concurrence.

**ENACTORS**

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

An Act Clarifying the Laws Relating to Fireworks (H.P. 543) (L.D. 755)

An Act to Deputize National Marine Fisheries Service Officers, United States Coast Guard Personnel and Law Enforcement Personnel of other States as Department of Marine Resources Marine Patrol Officers and to Define Possession (H.P. 631) (L.D. 775)

An Act to Designate "Pertica quadrifaria" the Official Fossil of the State of Maine (H.P. 222) (L.D. 256)

An Act to Create a Seamen's Memorial Day (H.P. 137) (L.D. 162)

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

An Act to Permit Beano on Sundays After Noon (S.P. 259) (L.D. 669)

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

Senator **HICHENS:** Mr. President, I would request that this Bill and all of its attached papers be Indefinitely Postponed and I would like to speak on my motion.

**THE PRESIDENT:** The Senator from York, Senator Hichens moves that L.D. 669 and all accompanying papers be **INDEFINITELY POSTPONED**.

The Senator has the floor.

Senator **HICHENS:** Thank you, Mr. Presi-

dent. Although this is not an earthshaking Bill, I think that it is significant in line with other bills that you will be presented with during this Legislative Session.

This Bill allows the playing of beano on Sunday after noon. According to the Chairman of the Committee there were five people who spoke mostly in favor of it. The State Police were sort of noncommittal, commenting that the Bill could be clarified as far as holidays were concerned more than as far as Sunday playing was concerned. It was opposed by a speaker for the Diocese of the State of Maine, who said that they were going to recommend to the parishioners that they do not participate in Sunday beano.

Even though the Civic League was present at that time, the speaker for the Civic League, I have a letter which I would like to share with you: "Dear Senator Hichens: Please be advised that the Christian Civic League of Maine is strongly opposed to L.D. #669, legislation to permit the playing of Beano on Sundays.

The Christian Civic League has always held the day of Sunday in high and special regard as a day of rest, worship and family fellowship. Conversely, the League has always taken a very dim view toward gambling on any day of the week. Therefore, we oppose L.D. #669 on two important counts.

Since the League was unable to send representation we wish to share this with members of the Senate.

As I said, this is not an earthshaking Bill, but it is just another "foot in the door" to allow more liberation of Sunday. It says, that it starts at 12 noon and on, so that a lot of services wouldn't even be out and people would have to make a decisions as to whether they were going to stay for the end of the service or not even go to church in order to participate in beano.

I have not had anyone speak to me personally in favor. None of the elderly people who like to play beano and go around to the different games have said that they would like to have Sunday included. I take the position that maybe people would like to have Sunday included. I take the position that maybe people would like to have Sunday off and enjoy it at home, in the fellowship of their family, rather than some of them going off to participate in beano.

When the vote is taken I would ask for a Roll Call.

**THE PRESIDENT:** The Senator from York, Senator Hichens requests a Roll Call.

The Chair recognizes the Senator from York, Senator Danton.

Senator **DANTON:** Mr. President, would the Secretary please read the Committee Report on this L.D.?

**THE PRESIDENT:** The Senator from York, Senator Danton has requested the Secretary read the Committee Report.

The Committee Report was **READ**.

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

Senator **KANY:** Mr. President and Members of the Senate, I ask you to vote against the pending motion, I would suggest that the good Senator from York, Senator Hichens could choose to stay home or to do something else on Sunday instead of playing beano. I choose not to play beano on Sunday, also. I choose not to play beano at all to be perfectly frank, even though I sponsored this Bill.

I sponsored it on behalf of a constituent, Clifford Fortier of Oakland, who approached me last summer saying that there were hundreds of people who often go to New Hampshire to play beano on Sundays, and that he would like me to look into changing the law so that people could play beano on Sunday's in Maine also. I did look into it because I was entirely unfamiliar with beano or bingo, having never played. I did look into it and his suggestion made sense to me. By the way, he did get peti-

tions on which hundreds and hundreds of people did sign urging this change in the law.

I believe that if they wish to have this inexpensive form of entertainment, and generally elderly people do play, that I would certainly not deny them that wish, if at all possible.

I would like to point out that I think one reason that the Committee unanimously voted in favor of this Bill, which really just permits the playing of beano and bingo after noon on Sunday, was because they saw it as discriminatory in the law presently. For instance, all other games of chance can be played on Sunday. Under the law horse racing occurs on Sunday, you can play beano and bingo at Agricultural Fairs on Sunday now. So it was just beano and bingo that was being discriminated against under the law. I do believe that, that was why there was such support in Committee.

I could go on at length, as I've learned quite a bit about it, but I won't, I'll sit down. I urge you to vote against the pending motion.

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

Senator **TRAFTON:** Thank you, Mr. President. As Chair of the Joint Standing Committee on Legal Affairs, I raise to support the good Senator from Kennebec, Senator Kany, who's Bill we are debating currently.

I would like to add some information to this debate, because I think it is an interesting Bill. First, I would say that Mr. Fortier of Oakland, to whom Senator Kany referred, pointed out an interesting effect that this Bill may have. He said: "Currently many husbands and wives sit home on Sunday afternoon with nothing to do, and that if this Bill were to pass these people would have something to do and this might reduce our divorce rate in the State of Maine." This certainly had a great deal of interest from the Committee on Legal Affairs. So that certainly was one of the motives behind the Committee reporting this Bill out unanimously.

More importantly, I think, the State Police testified in favor of this particular measure. Lieutenant Colonel John Clark, who is a deputy chief in the State Police, indicated that there was some confusion in the area of enforcement. Games of chance in our State are currently issued a seven day license while beano is only issued a six day license. There are organizations in the State of Maine who are confused by the difference in time periods for these licenses. It was his recommendation that these nonprofit organizations, that are service organizations and help our State considerably, would be assisted by this particular measure.

Now the only person who testified in opposition to the Bill, in Committee, was Mr. Smaha, who represents the Roman Catholic Diocese of Portland. He indicated that although the Diocese opposed the Bill even if this Bill were to pass it would be the recommendation of the Diocese that their churches not host beano games on Sunday. Perhaps that is the best enforcement measure that the State can have. The nonprofit organizations, and churches can simply choose when to play beano and when not to.

It is interesting to note that bus load after bus load of Maine residents move to New Hampshire on Sunday afternoon to play beano. The State Police indicate that substantial revenues are lost from the State of Maine to the State of New Hampshire for this Sunday after noon beano.

So I urge you to vote against the pending motion and support the unanimous report from the Joint Standing Committee on Legal Affairs.

**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 the members present and voting.

Will those in favor of ordering a Roll Call, please rise and stand until counted.

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

The pending question before the Senate is the motion of the Senator from York, Senator Hichens to **INDEFINITELY POSTPONE** the Bill and accompanying papers.

A Yes vote will be in favor of **INDEFINITE POSTPONEMENT**.

A no vote will be opposed.

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

#### ROLL CALL

**YEAS:**—Senators, Emerson, Hichens, McBreairty, Perkins, Shute, Stover, Webster

**NAYS:**—Senators, Andrews, Baldacci, Berube, Black, Brown, Bustin, Chalmers, Clark, Danton, Diamond, Dow, Dutremble, Erwin, Gauvreau, Gill, Kany, Matthews, Maybury, Najarian, Pearson, Sewall, Trafton, Tuttle, Twitchell, Usher, Violette, The President—Charles P. Pray.

**ABSENT:**—Senator Carpenter

7 Senators having voted in the affirmative and 27 Senators having voted in the negative, with 1 Senator being absent, the motion of Senator HICHEN of York to **INDEFINITELY POSTPONE** the Bill and accompanying papers **FAILED**.

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

#### Emergency Resolve

Resolve, for Laying of the County Taxes and Authorizing Expenditures of Penoscot County for the Year 1985 (H.P. 549) (L.D. 761)

This being an emergency measure and having received the affirmative vote of 33 Members of the Senate, with No Senators having voted in the negative was **FINALLY PASSED** and 33 being more than 2/3 of the entire elected Senate and having been signed by the President, was presented by the Secretary to the Governor for his approval.

(Off Record Remarks)

#### ORDERS OF THE DAY

The President laid before the Senate the Tabled and specially assigned matter:

#### Emergency

An Act to Eliminate Volume Determined Delivery Prices of Milk (H.P. 320) (L.D. 431) (H "A" H-7)

Tabled—March 7, 1985, by Senator ERWIN of Oxford.

Pending—**ENACTMENT**

(In House, March 6, 1985, **PASSED TO BE ENACTED**.)

(In Senate, March 5, 1985, **PASSED TO BE ENGROSSED AS AMENDED**, in concurrence.)

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

Senator ERWIN: Mr. President and Ladies and Gentlemen of the Senate, I am sure each and everyone of us are fully aware that this Bill came about because of a ruling of the Maine Milk Commission concerning volume discount prices which would have hurt the small Mom and Pop stores.

The courts have taken care of this measure, however I would like to point out to you that in the Bill on page 2, line 1, and I'll read to you: "Shall not set the different minimum wholesale prices for different retail delivery volumes of milk." This will make clear-cut to the Milk Commission and to the Court the intent of the Legislature in case there are further court actions taken.

I would now like to respond to some of the comments that I am concerned about as to: "why have a study on something that has been studied to death?" Having only been here two years I asked for assistance in Research and on what studies had been made? I asked Helen Ginder, who is the Director of the Legislative Assistants; Christos Gianopoulos, who is the Legislative Assistant for the Agriculture Committee; Wayne Thurston, who is the Director

of the Maine Milk program; and Commissioner Stewart Smith, who is Commissioner of the Department of Agriculture. Helen Ginder's reply is that there has been no Legislative Study of the Maine Milk Commission.

As far as the other studies are concerned I would like to read to you a memo that I got from the Commissioner of Agriculture, Commissioner Smith, that I think will perhaps sum up what the other people have told me. It is: "To Edgar E. Erwin, from Stewart N. Smith, Commissioner of Agriculture, concerning Milk Marketing Studies.

It is important to clarify a misperception concerning L.D. 431, AN ACT to Eliminate Volume Determined Delivery Prices of Milk. It has been suggested that the milk market study proposed in that bill is unnecessary because there have been many studies relative to milk marketing in the State of Maine. Please understand that the study proposed in L.D. 431 is substantively and entirely different than any other study done on Maine milk marketing in recent years. The proposal in L.D. 431 answers the question: "What is the most appropriate role for the State in marketing of milk in Maine?" The study will be done by a panel of recognized professional experts in the areas of marketing and regulations. Minimum wholesale and retail prices currently used by the State will only be one of the options analyzed.

The panel will look at a number of other options. One will be the use of minimum producer prices only, with no authority to establish wholesale and retail minimum prices. Another option will be for the State to adopt a below cost sales statute for milk pricing, sometimes referred to as a predatory pricing statute. Many other states have replaced minimum wholesale and retail pricing with a below cost sales procedure. The third option is the use of presumptive pricing, a procedure the Commonwealth of Massachusetts is now adopting. Massachusetts has been without minimum wholesale and retail pricing for a number of years. The panel will also analyze the impact of using current Maine statutes relating to price regulations in general.

The purpose of the study in L.D. 431 is to provide the next session of the Legislature an analysis of the various procedures that could be used in marketing milk in the State of Maine.

The existing studies that are referred to do not address those issues. They are of two categories. Most of the studies are designed to determine the proper cost and related price of milk in Maine. The Milk Commission develops its price orders based upon those kinds of studies. Although there are hundreds of papers of studies to determine the cost of processing, packaging, and delivering milk in the State, none addresses, the issues delineated in L.D. 431.

The other kind of studies that have been done in the State are those that evaluate the impact of the current regulatory procedure of establishing minimum wholesale and retail pricing. Generally those studies attempt to show the impact of that procedure compared to the impact of not having that procedure. The State Planning Office under the authorship of State Economist Lloyd Irland, conducted such a study in 1982. This Department did a similar analysis in 1981. Other researchers have done similar work, but none of those studies address the questions proposed in L.D. 431.

It is quite clear, because of the extraordinary changes in the milk producing and processing industries over the past few years, that this Legislature should determine whether or not the current system of milk price regulations is the proper one to use. There are several other procedures to choose from. An analysis needs to be made of which procedure would serve the people of the State the best. The analysis proposed in L.D. 431 evaluates the impact of

these various alternatives on producers, processors and consumers.

With that information, this Legislature in the next regular session, should be able to make a rational choice as to the proper role of the State in the marketing and pricing of milk from Maine producers to Maine consumers.

I can provide to any Member that wishes a copy of the Commissioner's memo, also copies listing by category all the studies that have been made. I haven't gone to the cost of duplicating this because I don't want to waste any money on this unless there is someone who wishes it. If you do, if you contract me I will see that you are provided with this study.

Now, as to controlling the cost of this study. This has been raised and I can understand your concerns because they are mine also. I discussed this with Commissioner Smith and with the Assistant Commissioner, Dan Harlan. If I may, I'll read part of a memo that Dan Harlan, the Deputy Commissioner wrote me: "L.D. 431, as amended by House Amendment "A" (H-7), directs the Commissioner of Agriculture, Food and Rural Resources to provide for a study of milk pricing 'by a panel of recognized experts in the economics of regulation and pricing.'

In order to do this we must enter into contracts with those experts the Commissioner, after consultation with your committee, has named. Under State rules each contract must be specific as to the work to be performed, the amount to be expended and the date by which the work is to be completed. The contract must be approved by the Contract Review Committee, of the Department of Finance and Administration and by the Attorney General's Office, as to the legality and form. Upon such approval the money appropriated must be encumbered before any work begins.

The usual State process by which Departments may enter into contracts assures that the funds encumbered will be spent only as approved and that no amounts are expended beyond those authorized."

There are two sections of this: one, is a study panel which would be under contract, as I have just mentioned; the second, would be a select committee that would be sort of an overseeing committee to the study panel. This committee would be composed of: three Members of the House appointed by the Speaker of the House of Representatives, at least one member would be from each party; one shall be a member of the Republican party and at least one shall be a member of the Democratic party; in the Senate there shall be two members appointed by the President of the Senate, one must be a member of the Republican party and one must be a member of the Democratic party; three members named by the Governor, one shall be knowledgeable in the dairy processing industry, one shall be knowledgeable in milk retailing, and one milk producer who is knowledgeable in the marketing system; the Public Advocate or his designee shall also serve on the committee representing the consumer interest; the Commissioner of Agriculture, Food and Rural Resources shall serve as ex officio chairman of the committee.

I've checked with leadership and I have been assured that the Legislative Council can keep close check and reign on this special committee. Thank you.

(Off Record Remarks)

Senate at Ease

The Senate called to order by the President. **THE PRESIDENT:** The Chair recognizes the Senator from Cumberland, Senator Najarian.

Senator NAJARIAN: Mr. President, is this Bill in violation of Joint Rule 21, which requires a Fiscal Impact Statement?

**THE PRESIDENT:** The Senator from Cumberland, Senator Najarian has posed a question to the Chair.

Senate at Ease

The Senate called to order by the President.

Which was Tabled Unassigned, pending **A RULING OF THE CHAIR.**

The President laid before the Senate the Tabled and specially assigned matter:

Bill "An Act to Prohibit the Use of Chemical Insecticides in the State Budworm Suppression Program after 1985" (S.P. 350)

Tabled—March 8, 1985, by Senator **BROWN** of Washington.

Pending—**REFERENCE**

(Committee on **AGRICULTURE** suggested.)

On motion by Senator **CLARK** of Cumberland referred to the Committee on **ENERGY AND NATURAL RESOURCES** and **ORDERED PRINTED.**

Sent down for concurrence.

The President laid before the Senate the Tabled and specially assigned matter:

Bill "An Act Relating to Medicaid Reimbursement Rates for Audiology and Speech Pathology" (Emergency) (S.P. 351)

Tabled—March 8, 1985, by Senator **PEARSON** of Penobscot.

Pending—**REFERENCE**

(Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** suggested.)

On motion by Senator **PEARSON** of Penobscot Tabled 1 Legislative Day, pending **REFERENCE.**

Senate at Ease

The Senate called to order by the President.

On motion by Senator **ANDREWS** of Cumberland, **ADJOURNED** until 10 o'clock tomorrow morning.