

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
Thursday
April 11, 1985
Senate called to Order by the President.

Prayer by Reverend Walter R. Brown of the Readfield United Methodist Church in Readfield.

REVEREND BROWN: Let us pray. Almighty God and creator of all things, You have created us for a purpose and placed us in this space of time that we might serve each other and You.

We ask You first to bless this Senate as it begins its work this day in this place. Before You we are all equal and You have placed upon us responsibility to govern ourselves and to provide laws to undergird the equality of all Your people.

Help us to act wisely and with fair and honest intentions that we, Your people, may prosper, and that which we do this day may be for us a legacy; an account of our time well-spent, talents and resources well used, and challenges met, challenges that You've placed before us, our Father.

Thank you for the freedom to choose. Yet our Father, we ask You to guide us diligently in all that we do and say, that these things in our life may be a testimony to each other as well as to You. Amen.

Reading of the Journal of Yesterday.

Off Record Remarks

PAPERS FROM THE HOUSE

Non-concurrent Matter

Bill "An Act to Require that all Checks Issued to a Recipient of State Aid to Pay Local Real Estate Taxes be Issued Jointly in the Name of the Municipality and the Name of the Recipient" (S.P. 463) (L.D. 1266)

In Senate, April 10, 1985, **INSISTED** to reference to the Committee on **HUMAN RESOURCES** in **NON-CONCURRENCE**.

Comes from the House, that Body **ADHERED** to reference to the Committee on **TAXATION** in **NON-CONCURRENCE**.

The Senate **ADHERED**.

(See Action Later Today.)

House Papers

Bill "An Act to Establish Registers for Maine Veterans Exposed to Herbicides and Nuclear Radiation" (H.P. 892) (L.D. 1287)

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 Provide an Office of Advocate in Cases of Child Abuse and Selection of and Operation of Children in Foster Homes" (H.P. 893) (L.D. 1288)

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.

Off Record Remarks

Bill "An Act to Require Medical Practitioners to Warn Patients of Possible Side Effects for Prescription Drugs" (H.P. 894) (L.D. 1289)

Bill "An Act Concerning Conversion of Mutual Financial Institutions" (H.P. 895) (L.D. 1290)

Come from the House referred to the Committee on **BUSINESS AND COMMERCE** and

ORDERED PRINTED.

Which were referred to the Committee on **BUSINESS AND COMMERCE** and **ORDERED PRINTED**, in concurrence.

Bill "An Act to Provide for Identification and Application to Appropriate Accounts of School Reimbursement Funds" (H.P. 896) (L.D. 1291)

Bill "An Act to Strengthen Education in Maine" (H.P. 897) (L.D. 1292)

Come from the House referred to the Committee on **EDUCATION** and **ORDERED PRINTED**.

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

THE PRESIDENT: The Chair at this time is pleased to recognize in the rear of the Chamber several former Members of the Senate who are here today on "Welcome Back Day". The Chair would ask these individuals to rise as I recognize them: Margaret Sproul, Norman Ferguson, former Senator Richard Charette, and Frank Norris. The Chair would ask all of them to please rise and accept the greetings of the Senate. (Applause the Members rising)

Bill "An Act Concerning an Oil Booming Exception for Oil Transfer Vessels in Searsport Harbor" (Emergency) (H.P. 898) (L.D. 1293)

Comes from the House referred to the Committee on **ENERGY AND NATURAL RESOURCES** and **ORDERED PRINTED**.

Which was referred to the Committee on **ENERGY AND NATURAL RESOURCES** and **ORDERED PRINTED**, in concurrence.

Resolution, Proposing an Amendment to the Constitution of Maine Relating to Salaries Received by Judges Who have been Relieved of Their Duties (H.P. 899) (L.D. 1294)

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

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

Bill "An Act Concerning Blood Tests for Certain Drivers Involved in Motor Vehicle Accidents" (H.P. 900) (L.D. 1295)

Comes from the House referred to the Committee on **LEGAL AFFAIRS** and **ORDERED PRINTED**.

Which was referred to the Committee on **LEGAL AFFAIRS** and **ORDERED PRINTED**, in concurrence.

THE PRESIDENT: The Chair is pleased to recognize a few more former Members of this Chamber who have come in since the last announcement: Jim Cahill and former State Senator Elmer Violette, who of course is now on the Supreme Court. The Chair would ask the two gentlemen to please rise and accept the greetings of the Senate. (Applause the Members rising.)

Bill "An Act Concerning Appeals to the Governmental Ethics Commission" (H.P. 901) (L.D. 1296)

Comes from the House referred to the Committee on **STATE GOVERNMENT** and **ORDERED PRINTED**.

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

Bill "An Act Concerning the Property Tax Lien Process" (H.P. 902) (L.D. 1297)

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

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

Bill "An Act Relating to the Reporting of

Highway Statistics" (H.P. 903) (L.D. 1298)

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

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

THE PRESIDENT: The Chair is pleased to recognize in the rear of the Chamber, a former Member of this Chamber and Governor of the State of Maine, Governor Burton Cross.

The Chair would ask the Sergeant-at-Arms to escort the Governor to the Rostrum.

FORMER GOVERNOR CROSS: He little knows what he does when he asks a former politician—well I guess I'll say a current politician, to speak. I do appreciate it, Mr. President, and fellow Republicans in the Senate and friendly Democrats I hope.

I would like just a minute of your time to engage in a bit of nostalgia: I wandered into my old office, now occupied by the Majority Leader, to find that he had two assistants there, and it took me back many years when I was Majority Leader, my office was right under my hat, but we did all right.

Last December I thought I would come in and look at the newly decorated Senate that John Martin had allowed you to redo. I found my old seat occupied by a very lovely Democrat, Senator Bustin.

I wandered into my old office and I stood in astonishment to see it was stripped to the bare walls, and those walls suddenly began to talk to me. There was a confusion of speech at the time. I finally began to get their voices. They were saying; "two billion, four billion, two billion, two billion, four billion." I finally got the message. Some of the voices came through quite clearly: Governor Baxter — ridiculous!; Governor Barrows, I can't believe it.; Governor Brann — well we were pikers and so on and on.

Governor Curtis came on briefly, and he said, "why did I start all those programs?" Then Governor Muskie came on and said, "what is happened to my sunset law? What is happened to it?! Two billion, two billion, two billion."

Well, I couldn't stand it and I covered my ears and rushed into the corridor, my footsteps echoing in the silence. If you care to hear the rest of this nostalgia, join me in the House a little later where I expect to reveal as the soap opera says, "all that John Martin is ambitious for, and to reveal the truth about the real Joe Brennan. Thank you very much. (Applause the Members rising.)

The Sergeant-at-Arms escorted former Governor Cross to the rear of the Chamber. (Amid the applause of the Senate the Members rising.)

THE PRESIDENT: The Chair thanks Governor Cross for those comments.

THE PRESIDENT: The Chair is pleased to recognize in the rear of the Chamber, again, some former Members who have come back to "Welcome Back Day": Paul Remy of Saco and former Senator Frank Wood. The Chair would ask these two gentlemen to please rise and accept the greetings of the Senate. (Applause the Members rising.)

THE PRESIDENT: The Chair, is pleased to recognize in the rear of the Chamber, again, some former Members who have come back: Senator Carroll Minkowsky, Senator Richard Hughes and Senator Albert Elliot. The Chair would ask three gentlemen to rise and accept the greetings of the Senate. (Applause the Members rising.)

THE PRESIDENT: The Chair, also, notes in the rear of the Chamber a former presiding officer of this Chamber. A man who has started, contrary to I believe what former Governor Cross would appreciate, a string of Democratic presiding officers.

The Chair recognizes the former Senator from Portland, Cumberland County, and former presiding officer, Senator Gerard P. Conley. The Chair would ask the Sergeant at Arms to escort the Senator to the Rostrum where he may share a few words of his wisdom.

FORMER SENATE PRESIDENT CONLEY: Mr. President, Members of this very distinguished Body. Obviously, I haven't just left the Senate Chamber unnoticed by anyone; it is not uncommon to pick up the daily newspaper and see that I'm still pretty much in the forefront of the minds of a lot of the people throughout the State.

I want you to know that I came back here today, having sat in this Chamber for sixteen years and four years down at the other end of the Hall, wondering what it was like or what it would be like to return to this Body. I can assure you that I am extremely pleased to have this opportunity and the generosity given by the presiding officer, Senate President Pray. I know what you people are all going through this early in the session, but I just wanted, in this very brief moment, to wish you all the best of luck because I know there are many, many tedious hours ahead of you. When I'm on the road going from one community to the other in my present occupation, I'll be thinking of you. Again, I want to extend my sincere thanks for allowing me these very few brief moments. Thank you. (Applause, the Members rising.)

The Sergeant-at-Arms escorted former Senate President Conley to the rear of the Chamber. (Amid applause the Members rising.)

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 to Increase Contributions from the General Fund for Support of Education" (H.P. 252) (L.D. 306)

Bill "An Act Relating to Increases of Salaries for District Attorneys and Assistant District Attorneys" (Emergency) (H.P. 265) (L.D. 361)

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 Concerning the Deer Hunting Season for Cumberland County" (H.P. 33) (L.D. 35)

Bill "An Act Concerning Public Access to Rest Facilities on Interstate Route 95" (H.P. 542) (L.D. 769)

Bill "An Act to Establish a Children's Emergency Shelter in the Rockland Area" (H.P. 214) (L.D. 248)

Bill "An Act to Require the State to Administer and Finance a General Assistance Program for Migrant Workers" (H.P. 292) (L.D. 381)

Divided Report

The Majority of the Committee on **MARINE RESOURCES** on Bill "An Act Concerning the Distribution of Atlantic Salmon Smolts and the Conservation of Atlantic Salmon" (H.P. 30) (L.D. 31)

Reported that the same **Ought to Pass in New Draft** under same title (Emergency). (H.P. 836) (L.D. 1180)

Signed:

Senators:

CHALMERS of Knox
SHUTE of Waldo
BROWN of Washington

Representatives:

COLES of Harpswell
CROWLEY of Stockton Springs
MITCHELL of Freeport
VOSE of Eastport
SCARPINO of St. George

SALSBURY of Bar Harbor

MANNING of Portland

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

Signed:

Representatives:

RICE of Stonington
CONNERS of Franklin
RUHLIN of Brewer

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

Which Reports were **READ**.

On motion by Senator **BROWN** of Washington the Bill and accompanying papers **INDEFINITELY POSTPONED**, in concurrence.

THE PRESIDENT: The Chair is pleased to recognize in the rear of the Chamber Richard (Dick) Morrell a former member of the Chamber, and Leon Williams. The Chair would ask the two former Senators to please rise and accept the greetings of the Senate. (Applause the Members rising.)

(Off Record Remarks)

THE PRESIDENT: The Chair also notes in the rear of the Chamber those individuals who are sometimes really more important than those of us who are elected to serve here. Those who do the work, the tedious work for each one of us and a couple of employees who have come back to "Welcome Back Day" Mary Porter, who was the former Assistant Secretary of the Senate and Christine Patrick, who was the former secretary to the Republican leadership. The Chair would ask the two ladies to please rise and accept the greetings of the Senate. (Applause the Members rising.)

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:

Bill "An Act to Permit Fraternal Organizations to have Game Machines on Premises when Proceeds are used for Charitable Purposes" (S.P. 361) (L.D. 982)

Ought to Pass As Amended

Senator **DOW** for the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** on Bill "An Act to Make Allocations from the Public Utilities Commission Regulatory Fund for the Fiscal Years Ending June 30, 1986, and June 30, 1987" (Emergency) (S.P. 170) (L.D. 493)

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-42)**

Which Report was **READ** and **ACCEPTED**. The Bill **READ ONCE**.

Committee Amendment "A" (S-42) **READ** and **ADOPTED**.

The Bill as Amended **TOMORROW FOR SECOND READING**.

SECOND READERS

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

House As Amended

Bill "An Act to Increase the Limit on New School Bus Purchases" (H.P. 390) (L.D. 539) (C "A" H-62; H "A" H-66)

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

ENACTORS

The Committee on **Engrossed Bills** reported as truly and strictly engrossed the following: An Act Concerning Eligibility to Hunt Moose (H.P. 52) (L.D. 65) (C "A" H-36)

On motion by Senator **CLARK** of

Cumberland, Tabled until Later in Today's Session, pending **ENACTMENT**.

Senate at Ease

The Senate called to order by the President.

On motion by Senator **VIOLETTE** of Aroostook the Senate **RECONSIDERED** its action whereby it **ADHERED** on:

Bill "An Act to Require that all Checks Issued to a Recipient of State Aid to Pay Local Real Estate Taxes be Issued Jointly in the Name of the Municipality and the Name of the Recipient" (S.P. 463) (L.D. 1266)

(In Senate, April 10, 1985, **INSISTED** to reference to the Committee on **HUMAN RESOURCES** in **NON-CONCURRENCE**.)

(In House, April 10, 1985, that Body **ADHERED** to reference to the Committee on **TAXATION** in **NON-CONCURRENCE**.)

On further motion by the same Senator, the Senate **RECEDED** and **CONCURRED**.

THE PRESIDENT: The Chair is pleased to recognize in the rear of the Chamber a former Senator from Orono, Senator Dana Devoe. The Chair would ask Dana to please rise and accept the greetings of the Senate. (Applause, the Members rising.)

THE PRESIDENT: The Chair also notes in the rear of the Chamber another former member and a presiding officer, the Senator from Penobscot, former Senate President Ken MacLeod. The Chair would be pleased to extend to the former presiding officer an opportunity to come to the Rostrum and share a few words, as long as he doesn't talk about any bills that he is lobbying or working on.

The Sergeant-at-Arms escorted former Senate President Ken MacLeod to the Rostrum, amid applause of the Senate, the Members rising.

FORMER SENATE PRESIDENT

MACLEOD: (He even took my Seat Belt pin off.) Mr. President and Members of the Senate, I never expected to have the opportunity to be at the Rostrum again and speaking to the Senate, particularly as a hired gun I am not suppose to be doing this. I do appreciate it Charlie, I wish that you'd given me a warning, I would have worn a different suit, one that had been pressed in the last two or three months, instead of the one that I am wearing.

I do appreciate the opportunity and I am going to wish you well, and say: (I am at a loss for words Charlie, this is unfair.) I was proud to have been a Member of the Maine House in 1963-64 and I was proud to have been a Member of the Maine Senate from 1967-74.

You should be proud, I know a lot of you have served in the other Branch, you should be proud to be Members of this Legislature and a Member of this Senate. It has a long and proud tradition. A tradition of fairness and equality, of giving everyone their opportunity to speak their mind and to state their case, regardless of political party or regardless of the feelings of leadership in either Branch. I guess that is one of the things that makes this Body a great legislative part of this country, and I think the House is the same. Thank you very much. (Applause the Members rising.)

The Sergeant-at-Arms escorted former Senate President Ken MacLeod to his seat in the rear of the Chamber, amid the applause of the Senate, the Members rising.

THE PRESIDENT: The Chair would like to thank the former presiding officer for his kind remarks, and also, state that on a number of occasions we were fortunate that Ken was still around the Halls to assist us on the procedures and the matters that come to hand, particularly a couple of years ago, three years ago. Of course, even on some occasions at this time, it is nice to have the expertise and experience that he had built up in the four terms he served as presiding officer. Thank you, Ken.

ORDERS OF THE DAY

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

An Act to Remove the Small Business Exception Regarding Medical Benefits because of Pregnancy under the Maine Human Rights Act (S.P. 51) (L.D. 69)

Tabled—April 9, 1985, by Senator **VIOLETTE** of Aroostook.

Pending—**ENACTMENT**

(In House, April 4, 1985, **PASSED TO BE ENACTED.**)

(In Senate, March 27, 1985, **PASSED TO BE ENGROSSED.**)

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

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

Bill "An Act to Establish Policies Governing Smoking in Places of Work" (H.P. 235) (L.D. 276)

Tabled—April 9, 1985, by Senator **VIOLETTE** of Aroostook.

Pending — **PASSAGE TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-53).**

(In House, April 4, 1985, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-53).**)

(In Senate, April 9, 1985, **READ A SECOND TIME.**)

On motion by Senator **VIOLETTE** of Aroostook Tabled until Later in Today's Session, pending **PASSAGE TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-53).**

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

Bill "An Act Concerning Access to Birth Records of Adopted Persons" (S.P. 462) (L.D. 1265)

Tabled—April 10, 1985, by Senator **VIOLETTE** of Aroostook

Pending—**FURTHER CONSIDERATION**

(In Senate, April 9, 1985, referred to the Committee on **HUMAN RESOURCES** and **ORDERED PRINTED.**)

(In House, April 9, 1985, referred to the Committee on **JUDICIARY** and **ORDERED PRINTED** in **NON-CONCURRENCE.**)

On motion by Senator **VIOLETTE** of Aroostook, the Senate **ADHERED.**

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

Bill "An Act Concerning Persons on Partial Release from a Mental Health Institution" (Emergency) (H.P. 856) (L.D. 1213)

Tabled — April 10, 1985, by Senator **VIOLETTE** of Aroostook.

Pending — **PASSAGE TO BE ENGROSSED**

(In House, April 9, 1985, **PASSED TO BE ENGROSSED.**)

(In Senate, April 10, 1985, **READ A SECOND TIME.**)

On motion by Senator **VIOLETTE** of Aroostook, Tabled 1 Legislative Day, pending **PASSAGE TO BE ENGROSSED.**

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

HOUSE REPORTS — from the Committee on **LABOR** on Bill "An Act to Provide for the Negotiability of Transfers, Reassignments and Promotions for Teachers" (H.P. 530) (L.D. 750)

Majority Report — **Ought to Pass as Amended by Committee Amendment "A" (H-61)**

Minority Report — **Ought Not to Pass**

Tabled — April 10, 1985, by Senator **VIOLETTE** of Aroostook.

Pending — **ACCEPTANCE OF EITHER REPORT**

(In House, April 9, 1985, Bill and accompanying papers **INDEFINITELY POSTPONED.**)

(In Senate, April 10, 1985, Reports **READ.**)

On motion by Senator **DUTREMBLE** of York the Majority **OUGHT TO PASS AS AMENDED** Reported was **ACCEPTED**, in **NON-CONCURRENCE.**

The Bill **READ ONCE.**

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

Senator **BLACK:** Mr. President and Fellow Senators, being on the minority report I have very little to say except: "Eloquence floweth not from my lips, and the orators aren't unknown", but if we pass all of this legislation coming from the Teachers' Association there is really very little need to have superintendents and school boards. I thank you.

Committee Amendment "A" (H-61) **READ** and **ADOPTED**, in **NON-CONCURRENCE.**

The Bill as Amended **TOMORROW AS SIGNED FOR SECOND READING.**

THE PRESIDENT: The Chair is pleased to recognize in the rear of the Chamber, again, a former Member who has come back to "Welcome Back Day": John Chapman from Bath. The Chair would ask John to please rise and accept the greetings of the Senate. (Applause the Members rising.)

The Chair is also pleased to recognize in the rear of the Chamber former Member, George Chick from Monmouth, and the Chair also has a note that in 1916, George was a Page in the Senate. The Chair would ask George to please rise and accept the greetings of the Senate. (Applause the Members rising.)

In addition, other former Members are still coming in and the Chair would like to recognize them. The Chair would like to introduce former Members: Senator Roger Snowe, and former Senator Lynn Palmer. The Chair would ask the two gentlemen to please rise and accept the greetings of the Senate. (Applause the Members rising.)

THE PRESIDENT: The Chair appreciates the fact that so many former Members have come back. We hope that you enjoy the Chamber. There has been a fair amount of work that has gone into the Chamber in the last year. I would like to say, after the end of the session, we would like to have you spend some time in the Chamber and look around. The presiding officer would also like to have you come into the President of the Senate Chamber. The Chair understands from noting some of the legislatures that you served in, many of you were here when that was the Governors' Office. The Chair would like to have you have the opportunity to come in, and see how we have, at least, improved the position of the presiding officer for office space around here. After you think that that is rather elaborate, then we would like to have you look at the minority and majority leaders, and see who really got the best part of the deal.

THE PRESIDENT: The Chair is, also, pleased to recognize in the rear of the Chamber, former Senator Neil Bishop. The Chair would ask Senator Bishop to please rise and accept the greetings of the Senate. (Applause the Members rising.)

Senate at Ease

The Senate called to order by the President.

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

"Birthdays come and birthdays go — and I stand here to say that an important one for sure is observed today.

One of the fairer sex has reached another milestone and though her voting record sometimes I don't condone I must admit she's quite a gal — her presence is felt here amongst us, one cannot deny — and oft we

lend an ear to what she has to say when she gets upon her feet and the few foes she faces — find she's hard to beat.

She's been around for quite some time in the Senate and the House, and when she browbeats me at times — I feel like a louse.

A learned pharmacist is she, and with Human Service, wise.

That she's a legislative leader — is really no surprise.

She's prone to stick her neck out on issues now and then like recently she sponsored a Commission for all Men.

When she gets her mind set — she's as stubborn as can be in fact it gets embarrassing — she acts so much like me.

Of two sons, two daughters, she's as proud as she can be and stresses the importance of a close-knit family.

I've liked her since I met her — and know I always will, so join me wishing Happy Birthday to Sweet Barbara Gill."

THE PRESIDENT: The Chair is pleased to recognize in the rear of the Chamber several former Members who have come in during the break that we had. The Chair would like to ask the following gentlemen to please rise and accept the greetings of the Senate: former Senator Carlton Mendell, former Senator Don O'Leary and his wife Marilyn. The Chair would ask them to rise and please accept the greetings of the Senate. (Applause, the Members rising.)

The Chair, also, notes in the rear of the Chamber a former Member, Emile Jacques of Lewiston. The Chair would ask Emile to rise and accept the greetings of the Senate. (Applause the Members rising.)

In addition, the Chair notes the presence of a good friend of the Presiding Officer for a number of years, as a matter of fact, we have known each other longer than a number of people in this Chamber, going back to 1959 when I was just a young student at MCI, a former Member Alton (Chuck) Cianchette. The Chair would ask Senator Cianchette to please rise and accept the greetings of the Senate. (Applause the Members rising.)

Out of Order and under Suspension of the Rules, the Senate considered the following:

COMMITTEE REPORTS**House****Ought to Pass**

The Committee on **STATE GOVERNMENT** on Bill "An Act Related to the Observance of Memorial Day" (Emergency) (H.P. 777) (L.D. 1098)

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.**

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

ORDERS OF THE DAY

The President laid before the Senate the Tabled and Later Assigned matter:

An Act Concerning Eligibility to Hunt Moose (H.P. 52) (L.D. 65) (C "A" H-36)

Tabled—April 11, 1985, by Senator **CLARK** of Cumberland

Pending—**ENACTMENT**

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

Senate at Ease

The Senate called to order by the President.

THE PRESIDENT: The Chair is pleased to recognize in the rear of the Chamber a former staff member of the Secretary of the Senate's

Office, Marie Brotherton. The Chair would ask Mrs. Brotherton to please rise and accept the greetings of the Senate. (Applause the Members rising.)

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

After Recess

The Senate called to order by the President.

ORDERS OF THE DAY

The President laid before the Senate the Tabled and Specially Assigned Matter:

Bill "An Act to Establish Policies Governing Smoking in Places of Work" (H.P. 235) (L.D. 276)

Tabled—April 9, 1985, by Senator **VIOLETTE** of Aroostook.

Pending—**PASSAGE TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-53).**

(In House, April 4, 1985, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-53).**)

(In Senate, April 9, 1985, **READ A SECOND TIME.**)

On motion by Senator **VIOLETTE** of Aroostook Tabled until later in today's session, pending **PASSAGE TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-53).**

On motion by Senator **BUSTIN** of Kennebec the Senator **SUSPENDED THE RULES.**

On further motion by same Senator, the Senate **RECONSIDERED** its action whereby it **ADOPTED** Committee Amendment "A" (H-53).

On motion by Senator **BUSTIN** of Kennebec, Senate Amendment "B" (S-44) to Committee Amendment "A" (H-53) **READ.**

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

Senator **BUSTIN:** Mr. President, Men and Women of the Senate, while most of us are undoubtedly in agreement that smoking in the workplace is an issue which must be addressed by this Legislature, and ultimately by businesses throughout this State, I find I am unable to support the Bill in its present form.

L.D. 276 as Amended by Committee Amendment "A" contains several provisions which impose unnecessary and oppressive regulations on businesses. It is for this reason that I offer Senate Amendment "B" to Committee Amendment "A".

One of the most important distinctions between Committee Amendment "A" and the one which I offer now, is that my amendment eliminates the penalties to employers for violations of the law. Our experience with smoking prohibition in public proceedings has been that the law has worked very well without sanctions. You might remember, if you were here then, that what we did with that public meetings-place law was before, you had to have a majority of the people to vote for "no smoking" in public meetings; we switched that around and said, "if one person objected, then you couldn't have smoking"; and we did not put a penalty on it.

I think that you will agree that most businessmen in this State are responsible, well intentioned people, who will make every effort to comply with the law. Penalizing them for failure to fulfill the letter of the law when they are committed to the spirit of it would be unfair and unreasonable.

Again, we have past experience on which we can rely, which attests to the fact the lack of a need for penalty provisions. I would also add that L.D. 133 "An Act to Prohibit Smoking in Certain Retail Stores" also contains no sanctions.

The second most important feature of Senate Amendment "B" is, it eliminates the provision which allows employers to ban smoking in the workplace entirely. Instead, Senate Amend-

ment "B" permits the employer to adopt a policy designating "smoking" and "non-smoking" areas in the workplace, which I think is appropriate and fair. This is a far more reasonable and practical approach than that suggested by Committee Amendment "A".

Finally, Senate Amendment "B" eliminates the language contained in Committee Amendment "A", which suggests a conclusive correlation between exposure to side-stream smoke and risks of impairment to one's health. While I would love to see statistics that would absolutely pin side-stream smoke to the impairment of one's health, we do not have that inclusive evidence yet; in the future, hopefully, we will, but we don't at the moment.

This language not only misrepresents the conclusions of many medical experts, but also provides an additional cause of action by employees, the failure on the part of the employer to comply completely with the provisions of the law.

Again, enacting intrusive legislation is not the way to solve a problem. Dictating restrictive policies could well create more serious problems for employees and employers than the problem it seeks to correct. Policy-decisions are best made by the individuals who are directly affected by them. Respect, tolerance and accommodation are and must remain the business of people — not government. Accordingly, I urge you to vote "yes" on the pending motion to adopt Senate Amendment "B".

I would like to allay some fears or some allegations that I've heard privately, that I have been bought by the tobacco lobby. I don't think, and I would hope that nobody in their right minds in this Senate Chamber or in the other Body would think, that I could be bought by any lobby, let alone the tobacco lobby.

I have been in the forefront of pushing for control of smoking. If I had my way, and if I had thought of it early enough, and if the coalition that put together this Bill had come to me, I would have suggested then, as we had suggested before when we wanted the indoor smoking act, that what we do in the future, seeing there are so many bills in this Legislature about smoking is that we have a ban on smoking in the entire State of Maine; and only have smoking in designated areas, and then fine the people who light up in non-designated areas. That seems to make some sense to me. The way this Bill is presently written does not.

I am happy with the amendment, and I think that it will work. I know that from statistics I have read, that throughout the country, (it is sweeping the county) to have "smoking" and non-smoking policies in the workplace. The businesses are doing this, they really, truly are doing this. Do we need to fine them to make sure that they do it? I don't think so. Thank you.

THE PRESIDENT: The Chair is pleased to interrupt proceedings to recognize in the rear of the Chamber a couple more former Members who have come in: Former Senator Frank Harding of Rockland and Senator Ed Greeley. The Chair would ask the Gentlemen to please rise and accept the greetings of the Senate. (Applause, the Members rising)

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

Senator **BERUBE:** Members of the Senate, my colleague down the other way, has said that her amendment will work. It sure will. It's going to kill a perfectly good Bill.

I'll tell you about the Bill. I would say, at this point, that the Committee Bill, by the way, is a report of 12 to 1, with one unenlightened colleague. This Bill is an amended version of the original bill. It requires an employer to establish, to post like a sign and to supervise a written policy concerning smoking in the working place. It designates a smoking area —

the employer designates. The employer selects the smoking area and basically, that's all there is to it.

Further, the Bureau of Health will assist the employer in developing a policy. Yes, there is a penalty which could be up to one hundred dollars if there is no sign that can be seen or written policy that can be inspected. Now, those businesses which presently have a smoking policy, which has been mutually agreed upon between both employer and employee, they are exempt.

Let's talk about the amendment now. I would say, also, that our Bill, the Committee Bill has addressed all the concerns and some certainly were valid, concerns from the industry, from the employers of our State. The Maine Merchants Association is supportive of this Bill. The Chamber of Commerce is supportive of this Bill, and if they don't know, then who does? Because they're the ones who are the employers.

The Bill assures the right, which is not a privilege, but a right, a right to a clean air working environment for everybody — management, employers, employees.

Now, I want to talk about the amendment. It does three things. It deletes the safety clause for the employees while retaining the protection against liability for the employer. Now why do we take out one and leave the other in? The Bill clearly states that the employer would not be liable for any illness or whatever which might be caused that might have a detrimental effect from smoking. So, the liability aspect of the Bill has been addressed. There's no concern with that now.

The Committee Bill allows for a policy to protect the non-smoker. Mutual determination regarding a designated "smoking" area. This amendment would allow the designation to be, perhaps, one chair; that's all they'd need, if you accept this amendment. Some one could say, "one chair out in the 'boonies' would be a smoking area or non-smoking area."

Senator Bustin's amendment deletes the section where the Bureau of Health would oversee, would help to write a policy enforcing, for example, the posting of a sign. Now, some one reminded me that we've heard that enforcement is not a good thing. Strange that we can hear it in the Senate today, when in the other Body, two years ago, there was a bill being debated on banning smoking in retail establishments, and at that time, the representatives of the group that my colleague here mentioned a minute ago, helped defeat that bill on the basis, that there was indeed, no enforcement clause. So, two years they turn around say "that's a bad clause."

Now, my astute and very intelligent, however, naive colleague knows better; she knows this is a good Bill — deep down in her heart she knows it.

I asks that you reject the amendment which is presently being offered to you. Thank you very much.

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

Senator **BUSTIN:** I usually do not like to rise two and three times on a bill, but there's been some allegations of my naivete and my unenlightenment. Somebody speaking for me, I assure you, my colleagues, that I can speak very well for myself; and what I have said is what I mean, and I've never considered an honest disagreement and difference of opinion to be unenlightenment.

I would also mention that I am not aware, and if it is it's unintentional, I am pretty sure that I have not, I don't have time right now to double check it, but I would almost assure you that my amendment, still allows the Bureau of Health to go in and assist at the request of the employer or employee, to help them to write a policy. That is not the problem.

I leave you with the Bureau of Health already has, I think it is like nine sanitarians who can-

not now cover all of the restaurants they have to inspect. I can't figure out how they are going to inspect all of these businesses to make sure they have a smoking sign.

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

Senator **GILL:** Mr. President and Members of the Senate, the amendment offers the Committee nothing new. The Human Resources Committee really dealt with this issue long and hard. We had a large hearing on this; we had on the wall in Room 113 in the State Office Building a large poster with all of the groups who were supportive of this legislation. There were many who worked long and hard to come up with some legislation that they felt they could support. There were diverse groups among them but they got together on this legislation.

The Committee worked with all the information they had at hand with all the testimony that was given, and they came up with an almost unanimous report.

You know we have to realize that seventy percent of the people do not smoke, and people who don't care about smoking or being made ill by smoking, will usually avoid those smoky bars and will usually avoid the smoky restaurants that do not have non-smoking areas. However, there is one place that they can't remove themselves from and that is the workplace, and that's what we are dealing with here today.

This is a reasonable approach. The Committee, as I said, worked hard on this Bill with the help from a whole coalition of groups of people. This proposal is a simple proposal that will protect the people who cannot tolerate smoke while they are at their place of work.

As I said, the issues in the amendment that was offered today were discussed; and they were discarded along the way, and we came out with that near unanimous report of the Committee.

I received a letter (among many of the letters that I received on this issue) from some one that I respect a great deal. He said "we hear so much about acid rain and we hear so much about pollution on such a grand scale, that we shake to think of the changes necessary in our society to alter them.

Let's not back away from doing something where the action is double. Not only smoking what it does to you, but the side-stream effect of it." I think he states it very succinctly, and I think we should discard the amendment that has been offered today and go with the Committee Report.

THE PRESIDENT: The Chair is pleased to interrupt the debate to recognize in the rear of the Chamber a former Member, Clair Lewis. The Chair would ask Senator Lewis to please rise and accept the greetings of the Senate. (Applause, the Members rising)

The Chair, also, notes in the rear of the Chamber a former Member who had stood up on the floor a number of times to discuss this very issue, dealing with smoking. The Chair is pleased to recognize the former Senator from Knox, Senator Collins and his wife, Dorothy. The Chair would ask them to rise and please accept the greetings of the Senate. (Applause, the Members rising)

THE PRESIDENT: The pending question is the **ADOPTION** of Senate Amendment "B" to Committee Amendment "A".

The Chair will order a Division.

Will all those Senators in favor of the motion to Adopt Senate Amendment "B" to Committee Amendment "A", please rise in their places to be counted.

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

13 Senators having voted in the affirmative, and 17 Senators in the negative, the motion to **ADOPT** Senate Amendment "B" (S-44)

to Committee Amendment "A" (H-53) **FAILED**. Committee Amendment "A" (H-53) was **ADOPTED**, in concurrence.

Which was **PASSED TO BE ENGROSSED, AS AMENDED**, in concurrence.

(Off Record Remarks)

THE PRESIDENT: The Chair is pleased to recognize in the rear of the Chamber another former Member, Richard Olfene, Auburn. The Chair would ask the Senator to please rise and accept the greetings of the Senate. (Applause, the Members rising)

On motion by Senator **TRAFTON** of Androscoggin, **ADJOURNED** until 12 o'clock tomorrow.