

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, May 23, 1985
Senate called to Order by the President.

Prayer by The Honorable Walter W. Hichens of York.

SENATOR HICHENS: May we unite together in prayer. Our heavenly Father, as we meet again this afternoon, we thank Thee for this beautiful day which Thou hast given to us. We thank Thee, Lord, for the opportunity of meeting in our hearings, in our work sessions, deliberating on the many bills which have been presented to us.

We pray tonight as we look into our calendar, that Thou wilt grant us divine wisdom to help us in the decisions that we make; that we may rise above our personal desires and our own egotism to do that which would be pleasing, not only to the people of our State, but pleasing to Thee. Guide and direct us, Lord, in every way. We ask in Thy Name. Amen.

Reading of the Journal of Monday, May 20, 1985.

PAPERS FROM THE HOUSE Non-concurrent Matter

Bill "An Act to Require the Use of Seat Belts in all Motor Vehicles" (S.P. 383) (L.D. 1050) (S "A" S-75)

In Senate, May 13, 1985, the Minority OUGHT TO PASS Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY SENATE AMENDMENT "B" (S-75).

Comes from the House the Majority OUGHT NOT TO PASS Report READ and ACCEPTED, in NON-CONCURRENCE.

On motion by Senator VIOLETTE of Aroostook, Tabled until Later in Today's session, pending FURTHER CONSIDERATION.

COMMUNICATIONS

The Following Communication:

STATE OF MAINE
HOUSE OF REPRESENTATIVES
AUGUSTA 04333

May 20, 1985

Honorable Joy J. O'Brien
Secretary of the Senate
112th Legislature
Augusta, Maine 04333
Dear Madam Secretary:

The Speaker appointed the following conferees to the second Committee of Conference on the disagreeing action of the two branches of the Legislature on RESOLVE, to Name the Wiscasset Bridge the Donald E. Davey Bridge (H.P. 373) (L.D. 492):

Representative ALLEN of Washington
Representative MILLS of Bethel
Representative STROUT of Corinth

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

Which was READ and ORDERED PLACED ON FILE.

The Following Communication:
COMMITTEE ON JUDICIARY
112th LEGISLATURE

May 20, 1985

The Honorable Charles P. Pray
President of the Senate of Maine
State House
Augusta, Maine 04333
Dear Mr. President:

In accordance with 3 M.R.S.A., Chapter 6, Section 151, and with Joint Rule 38 of the 112th Maine Legislature, the Joint Standing Committee on Judiciary has had under consideration the nomination of Kermit V. Lipez of South Portland, as a Superior Court Justice.

After public hearing and discussion on this nomination, the Committee proceeded to vote on the motion to recommend to the Senate that this nomination be confirmed. The Committee Clerk called the roll with the following result:

YEAS: Senators 3
Representatives 9

NAYS: 0

ABSENT: 1 (Rep. Priest of Brunswick)

Twelve members of the Committee having voted in the affirmative and none in the negative, it was the vote of the Committee that the nomination of Kermit V. Lipez of South Portland, as a Superior Court Justice be confirmed.

Sincerely,
S/ MICHAEL E. CARPENTER
Senate Chair
S/ EDWARD J. KANE
House Chair

Which was READ and ORDERED PLACED ON FILE.

THE PRESIDENT: The Joint Standing Committee on JUDICIARY has recommended that the nomination of Kermit V. Lipez be confirmed.

The pending question before the Senate is: Shall the recommendation of the Committee on JUDICIARY be overridden? In accordance with 3 M.R.S.A., Chapter 6, section 151 and with Joint Rule 38 of the 112th Legislature, the vote will be taken by the yeas and nays. A vote of Yes will be in favor of overriding the recommendation of the Committee. A vote of No will be in favor of sustaining the recommendation of the Committee.

Is the Senate ready for the question?

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

Roll Call

YEAS:—Senators, None.

NAYS:—Senators, Andrews, Berube, Black, Brown, Bustin, Carpenter, Chalmers, Clark, Danton, Diamond, Dow, Emerson, Erwin, Gill, Hichens, Kany, Matthews, Maybury, McBreairty, Najarian, Pearson, Perkins, Sewall, Shute, Stover, Trafton, Tuttle, Twitchell, Usher, Violette, Webster, The President—Charles P. Pray.

ABSENT:—Senators, Baldacci, Dutremble, Gauvreau.

No Senators having voted in the affirmative and 32 Senators having voted in the negative, with 3 Senators being absent, and None being less than two-thirds of the Membership present, it was the vote of the Senate that the Committee's recommendation be ACCEPTED and the nomination of Kermit V. Lipez was CONFIRMED.

The Secretary has so informed the Speaker of the House.

Off Record Remarks

SENATE PAPERS

Bill "An Act Concerning the Court Mediation Service and the Conduct of Mediation" (S.P. 597) (L.D. 1566) (Presented by Senator CARPENTER of Aroostook) (Cosponsored by: Senator GILL of Cumberland, Representative FOSTER of Ellsworth, Representative LISNIK of Presque Isle.) (Approved for Introduction by a Majority of the Legislative Council pursuant to Joint Rule 27)

Committee on JUDICIARY suggested and ORDERED PRINTED.

Senate at Ease

The Senate called to Order by the President.

Under suspension of the Rules, the Bill READ ONCE, without reference to Committee and ORDERED PRINTED.

The Bill TOMORROW ASSIGNED FOR SECOND READING.

Bill "An Act Concerning Liability for Injuries

Caused by Drunken Persons" (S.P. 598) (L.D.1568) (Presented by Senator CLARK of Cumberland) (Cosponsored by: Senator PERKINS of Hancock) (Approved for Introduction by a Majority of the Legislative Council pursuant to Joint Rule 27)

Which was referred to the Committee on LEGAL AFFAIRS and ORDERED PRINTED. Sent down for concurrence.

COMMITTEE REPORTS

House

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 to Compensate Associations Conducting Winter Harness Racing Meets" (H.P. 865) (L.D. 1222)

Bill "An Act to Change the Lime Law" (H.P. 307) (L.D. 396)

Bill "An Act to Amend the Maine Milk Pool Law" (H.P. 959) (L.D. 1380)

Ought to Pass As Amended

The Committee on BUSINESS AND COMMERCE on Bill "An Act to Require Full Disclosure by Financial Planners" (H.P. 793) (L.D. 1123)

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-143).

Comes from the House, with the Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-143) AND HOUSE AMENDMENT "A" (H-159).

Which Report was READ and ACCEPTED, in concurrence.

The Bill READ ONCE.

Committee Amendment "A" (H-143) READ and ADOPTED, in concurrence.

House Amendment "A" (H-159) READ and ADOPTED, in concurrence.

The Bill as AMENDED TOMORROW ASSIGNED FOR SECOND READING.

The Committee on STATE GOVERNMENT on Bill "An Act to Establish a Vehicle Rental Agency in the Department of Conservation" (H.P. 834) (L.D. 1178)

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-129).

Comes from the House, with the Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-129) AS AMENDED BY HOUSE AMENDMENT "A" (H-161) thereto.

Which Report was READ and ACCEPTED, in concurrence.

The Bill READ ONCE.

Committee Amendment "A" (H-129) READ. House Amendment "A" (H-161) to Committee Amendment "A" (H-129) READ and ADOPTED, in concurrence.

Committee Amendment "A" (H-129) as Amended by House Amendment "A" (H-161) thereto, ADOPTED, in concurrence.

The Bill as AMENDED TOMORROW ASSIGNED FOR SECOND READING.

Ought to Pass in New Draft

The Committee on TRANSPORTATION on Resolve, Concerning the Establishment of a Social Services Transportation Review Committee (H.P. 466) (L.D. 667)

Reported that the same Ought to Pass in New Draft under same title (Emergency) (H.P. 1053) (L.D. 1529)

Comes from the House, the Report READ and ACCEPTED and the Resolve in NEW DRAFT PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "A" (H-160).

Which Report was READ and ACCEPTED,

in concurrence.

The Resolve in **NEW DRAFT READ ONCE**. House Amendment "A" (H-160) **READ** and **ADOPTED**, in concurrence.

The Resolve in **NEW DRAFT as AMENDED TOMORROW ASSIGNED FOR SECOND READING**.

Divided Report

The Majority of the Committee on **ENERGY AND NATURAL RESOURCES** on Bill "An Act Concerning an Oil Booming Exemption for Oil Transfer Vessels in Searsport Harbor" (Emergency) (H.P. 898) (L.D. 1293)

Reported that the same **Ought Not to Pass**.

Signed:

Senators:

USHER of Cumberland
KANY of Kennebec

Representatives:

MICHAUD of Medway
JACQUES of Waterville
MITCHELL of Freeport
COLES of Harpswell
HOGLUND of Portland
BROWN of Livermore Falls

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

Signed:

Senator:

EMERSON of Penobscot

Representatives:

RIDLEY of Shapleigh
DEXTER of Kingfield
HOLLOWAY of Edgcomb
LAW of Dover-Foxcroft

Comes from the House with the Minority **UGHT TO PASS** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED**.

Which Reports were **READ**.

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

Senator **USHER**: I move that the Senate Accept the Majority Ought Not To Pass Report.

The Chair recognizes the Senator from Waldo, Senator Shute.

Senator **SHUTE**: Mr. President, Ladies and Gentlemen of the Senate. This is a Bill that I cosponsored for constituents in my district, namely three oil terminal handlers in the Searsport area, plus the taxpayers, I guess, of the State of Maine, also.

What this Bill does is to continue an exemption that the Searsport oil terminal operators have at the present time, as far as booming vessels when they're offloading fuel oil to tanks in the Searsport area.

These terminals are in the same market area, of course, as Bucksport, Hampden, Brewer and Bangor, and the cost of booming a ship estimated by the terminal operator's would be at least eleven cents per barrel added cost of the fuel. For the past ten years the different operators on the Penobscot River, all the way from Bangor through Searsport, have formed a Cooperative called "PROPAC." Propac is an organization where all the terminal operators have gotten together, and booming devices, and ships to boom around an oil-spilled, if there should be one to occur.

Now if the facilities in Searsport, the three docks, have to buy more booms to put around their dock and vessel every time they unload a ship, there's good indication that they will be withdrawing from the Propac Organization. Then Bucksport, Bangor and Brewer can go it on their own. They don't unload very much fuel in that area of the State, and it would be quite expensive for them, also.

The booms are flotation devices encircling a vessel at a dock when the ship is being unloaded. It's hauled out by small boats and encircles the vessel and dock.

The cost of the booms, where it would take about two thousand feet to encircle a vessel and dock is estimated at a hundred twenty-five

thousand dollars. If you have to put a boom around two vessels at the same dock that would, of course, require another five hundred feet of boom.

Waldo County, probably most of you know, is a small county and over the past couple of years, we have lost several shoe factories; we have lost a poultry processing plant, and quite a few poultry growers. Now we are blessed with the highest unemployment rate in the State sixteen percent, and one of the lowest economic per capita incomes in the State. So, I would hope the Committee or this Legislature would see fit to continue the exemption that Searsport has operated under for the past ten years. I might add while they have been operating under this exemption, there's been one spill of one barrel of oil in ten years.

I know the good Senator from Kennebec, Senator Kany, signed the Ought Not to Pass Report on this Bill. I would expect that the one hundred sixty-eight thousand dollars I voted for Keyes Fiber a month ago, would just about cover the added energy costs for that company over the next couple of years, if they stay in Waterville.

One other point I would like to bring out, and I think I should, when it was asked that this waiver be continued for the Board of Environmental Protection, the Board voted six to four not to grant the waiver. Now a six to four vote by the Board is not a mandate by any means.

It was estimated that the tides in the Searsport area the velocity of the current would make it very dangerous to boom ships in that area. For the same reason the ships on the Penobscot River will not be boomed.

Now we have a good system, Ladies and Gentlemen working in the Searsport area. I think, if we have a good system and it is not broke, why should we fix it?

I would hope you would reject the pending motion and vote for the Ought to Pass Report.

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

Senator **USHER**: Thank you, Mr. President, Members of the Senate, the proponents of this legislation stress the economic concern for the area. I, also, would like to point out that the Searsport area is very accessible area for ships. I'm sure they're not going to move out of that area. It's easy to get into because there's less traffic over there than there is in the Portland area. So, I'm sure they're going to be there. I don't think the big oil companies are going to be too concerned of a hundred twenty-five thousand dollars when they can dispose of their oil or unload their oil in that area.

The Portland area has a booming procedure. This was brought before the Board of Environmental Protection last year in August, and the extension or waiver (back in 1974 they were granted a waiver) was not passed. They are due to loose that waiver at the end of this year. The Bill is asking for an extension until 1988. The majority didn't feel that they should be granted an extension until 1988. There was much testimony given on the strong currents in the area. Some of us felt that having strong currents in the area merited booming around the ships, when they are in that area for added protection. This is why we favored not granting the extension.

THE PRESIDENT: The Chair recognizes the Senator from Waldo, Senator Shute.

Senator **SHUTE**: Mr. President, Ladies and Gentlemen of the Senate. It was brought out at the public hearing on this Bill, that Maine is the only State that requires booming; that's a State regulation.

It was pointed out that two cities in other states did require booming, but that was done at the local level; it was not a state law; it was a local ordinance.

I'd, also, like to point out the information, the DEP used in determining the Searsport could boom vessels a majority of the time, came

from the Portland Weather Station; it's quite far removed from Penobscot Bay. The two major reasons for this exemption are financial, economics and the danger of booming ships in that area. Thank you.

THE PRESIDENT: The pending question is the Acceptance of the Majority Ought Not to Pass Report.

The Chair will order a division.

Will all those Senators in favor of the motion by Senator **USHER** of Cumberland, to Accept the Majority Ought Not to Pass Report, please rise in their places to be counted.

The Chair recognizes the Senator from Waldo, Senator Shute.

Senator **SHUTE**: I request a Roll Call, please.

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 Members present and voting.

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

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

The pending question is the motion of the Senator from Cumberland, Senator Usher, that the Senate Accept the Majority Ought Not to Pass Report.

A Yes vote will be in favor of the Accepting the Majority Ought Not to Pass Report.

A No vote will be opposed.

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

Senator **BROWN** of Washington who would have voted Nay requested and received Leave of the Senate to pair his vote with Senator **DUTREMBLE** of York who would have voted Yea.

ROLL CALL

YEAS:—Senators, Andrews, Berube, Bustin, Clark, Danton, Diamond, Dow, Erwin, Gauvreau, Kany, Matthews, Najarian, Pearson, Trafton, Tuttle, Twitchell, Usher, Violette, The President—Charles P. Pray

NAYS:—Senators, Black, Chalmers, Emerson, Gill, Hichens, Maybury, McBrearty, Perkins, Sewall, Shute, Stover, Webster

ABSENT:—Senators, Baldacci, Carpenter

19 Senators having voted in the affirmative and 12 Senators in the negative, with 2 Senators having Paired their votes, and 2 Senators being absent, the motion to **ACCEPT** the Majority **UGHT NOT TO PASS** Report in **NON-CONCURRENCE, PREVAILED**.

Sent down for concurrence.

Divided Report

The Majority of the Committee on **HUMAN RESOURCES** on Bill "An Act to Provide Family Counseling and Legal Assistance in Cases of Alleged Child Abuse or Neglect" (H.P. 483) (L.D. 686)

Reported that the same **Ought Not to Pass**.

Signed:

Senators:

BUSTIN of Kennebec
BERUBE of Androscoggin
GILL of Cumberland

Representatives:

MELENDY of Rockland
PINES of Limestone
NELSON of Portland
SEAVEY of Kennebunkport
BRODEUR of Auburn
TAYLOR of Camden
KIMBALL of Buxton

The Minority of the same Committee on the same subject reported that the same **Ought To Pass**.

Signed:

Representatives:

MANING of Portland
ROLDE of York
CARROLL of Gray

Comes from the House with the Majority **UGHT NOT TO PASS** Report **READ** and

ACCEPTED.

Which Reports were **READ**.

The Majority **OUGHT NOT TO PASS** Report of the Committee was **ACCEPTED**, in concurrence.

Senator **NAJARIAN** of Cumberland moved that the Senate **RECONSIDER** its action whereby the Majority **OUGHT NOT TO PASS** Report was **ACCEPTED**.

Senator **BERUBE** of Androscoggin requested a Division.

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

Senator **NAJARIAN:** Mr. President and Members of the Senate. This is a Bill that I cosponsored and I have not been able to follow it in the work sessions, but it was my understanding the Members of the Committee who signed the Minority Report intended to have an amendment come out of the Committee as a Committee Minority Report amended to the Bill.

I just would like to ask the Senate that the same courtesy we extended to Senator Bustin the other day, when she wanted to amend a bill that was unanimously reported out of the Committee, be afforded the sponsors and people who are interested in this Bill.

You'll still have the opportunity to reject the amendment or to reject the Minority Report tomorrow. It would be out of order for me to speak on what is in the amendment today; so that's the reason why I'm asking for really to oppose the motion of Ought Not to Pass, and to Accept the Minority Report so that the amendment can be discussed at the next reading.

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

Senator **BERUBE:** I guess you'll have to walk me through this procedure now. I was unaware that there was the intent of offering an amendment. Most of the Bill has been addressed. I was going to speak on the Bill. It is proper for me at this time to speak on the reasons for the Ought Not to Pass Report?

THE PRESIDENT: The Chair would answer in the affirmative.

Senator **BERUBE:** Thank you, Mr. President and Members of the Senate. As you can see it is a ten to three Ought Not to Pass Report.

The bill is not a bad bill bear in mind, in fact, it's not a bad concept. It has two parts to the Bill: the first part is that there is a need to advise parents and children of their rights in cases of sexual abuse and things of that nature.

Many people claimed that they were unaware of their rights, as parents, if there was a social worker or rather a caseworker that walked into the house. The Department by administrative decision has prepared, at the request of the Committee, a parent's handbook which addresses all of this, and they did it by administrative decision. It is being printed now as our understanding; they are going to print ten thousand. Just to tell you what it touches upon: "Can I know who made the report about me?" That is addressed. "What are my rights? My child's rights, etc.? How can I get a lawyer?" That's addressed in this as well. Also, there is a twenty-four hour toll free number that anyone that has a concern as to their rights, they can utilize the number.

The second part of the Bill addressed the fiscal note. There was, I think, a 1.7 million dollar fiscal note to hire twenty-two caseworkers, I guess it is. They also appropriated some monies to fund for court appointed attorneys for indigent parent who might feel their rights were trampled on. What the fiscal note of 1.7 million does not do is include an additional two-hundred thousand dollars for lawyers' services for the children. We felt that the cost was rather high. In view of the fact we will need dollars to address the many problems involving the victim, we felt, as a Committee, our priority was with the vic-

tim at this time.

I just wanted you to know the reasons Ought Not to Pass Report. Not that we thought the Bill was that bad, but fifty percent of the Bill has been addressed already and without benefit of a law. Thank you.

On motion by Senator **VIOLETTE** of Aroostook, Tabled 1 Legislative Day, pending the motion of Senator **NAJARIAN** of Cumberland that the Senate **RECONSIDER** its action whereby it **ACCEPTED** the Majority **OUGHT NOT TO PASS** Report. (A division having been requested.)

Divided Report

The Majority of the Committee on **LEGAL AFFAIRS** on Bill "An Act to Repeal Requirements that Agency Liquor Stores be at Least 10 Miles Apart" (H.P. 62) (L.D. 80)

Reported that the same **Ought to Pass in New Draft under New Title** Bill "An Act Concerning the Location of Agency Liquor Stores and the Licensing of Seasonal Agency Stores" (H.P. 1047) (L.D. 1522)

Signed:

Sensors:

TRAFTON of Androscoggin
NAJARIAN of Cumberland

Representatives:

REEVES of Pittston
PERRY of Mexico
PAUL of Sanford
RIOUX of Biddeford
WARREN of Scarborough
DILLENBACK of Cumberland
MURPHY of Berwick
BOTT of Orono
NICKERSON of Turner

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

Signed:

Sensor:

STOVER of Sagadahoc
Representative:
MASTERMAN of Milo

Comes from the House with the Majority **OUGHT TO PASS IN NEW DRAFT under NEW TITLE** Report **READ** and **ACCEPTED** and the Bill in **NEW DRAFT under NEW TITLE PASSED TO BE ENGROSSED**.

Which Reports were **READ**.

The Majority **OUGHT TO PASS in NEW DRAFT under NEW TITLE** Report was **ACCEPTED**, in concurrence.

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

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

Divided Report

The Majority of the Committee on **MARINE RESOURCES** on Bill "An Act Relating to Drugging Prohibited in the Frenchboro Area" (H.P. 941) (L.D. 1351)

Reported that the same **Ought to Pass in New Draft under New Title** Bill "An Act Relating to Scalping and Drugging in the Frenchboro Area" (H.P. 1055) (L.D. 1534)

Signed:

Sensors:

CHALMERS of Knox
BROWN of Washington

Representatives:

CROWLEY of Stockton Springs
MANNING of Portland
SCARPINO of St. George
CONNERS of Franklin
SALSBURY of Bar Harbor
COLES of Harpswell
VOSE of Eastport
MITCHELL of Freeport
RUHLIN of Brewer

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

Signed:

Sensor:

SHUTE of Waldo

Representative:

RICE of Stonington

Comes from the House with the Majority **OUGHT TO PASS in NEW DRAFT under NEW TITLE** Report **READ** and **ACCEPTED** and the Bill in **NEW DRAFT under NEW TITLE PASSED TO BE ENGROSSED**.

Which Reports were **READ**.

The Majority **OUGHT TO PASS in NEW DRAFT under NEW TITLE** Report was **ACCEPTED**, in concurrence.

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

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

Divided Report

The Majority of the Committee on **TAXATION** on Bill "An Act to Repeal the Requirement that Certain Tax Information Appear on Local Property Tax Bills" (H.P. 207) (L.D. 241)

Reported that the same **Ought Not to Pass**.

Signed:

Sensors:

TWITCHELL of Oxford
DIAMOND of Cumberland

Representatives:

HIGGINS of Portland
MCCOLLISTER of Canton
CASHMAN of Old Town
MAYO of Thomaston
INGRAHAM of Houlton
NELSON of Portland

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

Signed:

Sensor:

EMERSON of Penobscot

Representatives:

JACKSON of Harrison
ZIRNKILTON of Mount Desert
SWAZEY of Bucksport
WEBSTER of Cape Elizabeth

Comes from the House with the Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**.

Which Reports were **READ**.

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

Senate**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 Provide Additional Tax Credits for Businesses Providing New Jobs on the Maine Border or in Areas of High Unemployment" (S.P. 376) (L.D. 1010)

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.S. 1266)

Bill "An Act Relating to the Legal Blood-alcohol Level under the Maine's Operating under the Influence Laws" (S.P. 153) (L.D. 420)

Bill "An Act to Provide for Mandatory Loss of Operator License for Minors Operating Under the Influence" (S.P. 248) (L.D. 643)

Bill "An Act Relating to the Suspension of Motor Vehicle Licenses for Refusal of Chemical Test" (S.P. 473) (L.D. 1276)

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 to Make Allocations from the Alcoholism Prevention, Education, Treatment and Research Fund for the Fiscal Year Ending June 30, 1986, and June 30, 1987" (Emergency) (S.P. 289) (L.D. 778)

Bill "An Act to Provide a Preference in State Employment to Officers of the Military Services" (S.P. 281) (L.D. 739)

Bill "An Act to Improve Delivery of Child Protective Services" (S.P. 506) (L.D. 1366)

Bill "An Act to Amend the Child Witness Law" (S.P. 496) (L.D. 1334)

Bill "An Act Relating to Sentencing for Persons Convicted of Repeated Criminal Violations of Operation under the Influence of Intoxicating Liquor or Drugs or with an Excessive Blood-alcohol Level" (S.P. 327) (L.D. 816)

Resolve, Authorizing a Study Concerning Extension of the Maine Turnpike (S.P. 453) (L.D. 1256)

Bill "An Act to Conform Education Laws to the Personnel Grievance Procedure" (S.P. 400) (L.S. 1110)

Ought to Pass

Senator **DOW** for the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** on Bill "An Act to Transfer and Allocate Funds to the Judicial Department for the Fiscal Year Ending June 30, 1985" (Emergency) (S.P. 546) (L.D. 1459)

Reported that the same **Ought to Pass**.

Which Report was **READ** and **ACCEPTED**.

The Bill **READ ONCE**.

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

Senator **BUSTIN** for the Committee on **BUSINESS AND COMMERCE** on Bill "An Act to Amend the Maine Insurance Guaranty Association Act" (S.P. 559) (L.D. 1488)

Reported that the same **Ought to Pass**.

Which Report was **READ** and **ACCEPTED**.

The Bill **READ ONCE**.

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

Ought to Pass As Amended

Senator **BLACK** for the Committee on **AGRICULTURE** on Bill "An Act to Encourage A Viable Agriculture for Maine" (S.P. 489) (L.D. 1316)

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-105)**

Which Report was **READ** and **ACCEPTED**.

The Bill **READ ONCE**.

Committee Amendment "A" (S-105) **READ** and **ADOPTED**.

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

Senator **BLACK** for the Committee on **LABOR** on Bill "An Act to Amend Certain Sections of the Employment Security Law" (S.P. 493) (L.D. 1319)

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-104)**

Which Report was **READ** and **ACCEPTED**.

The Bill **READ ONCE**.

Committee Amendment "A" (S-104) **READ** and **ADOPTED**.

The Bill **READ ONCE**.

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

Senator **STOVER** for the Committee on **LEGAL AFFAIRS** on Bill "An Act to Clarify the Laws Relating to Landlords and Tenants" (S.P. 308) (L.D. 797)

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-106)**

Which Report was **READ** and **ACCEPTED**.

The Bill **READ ONCE**.

Committee Amendment "A" (S-106) **READ** and **ADOPTED**.

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

Ought to Pass in New Draft

Senator **DANTON** for the Committee on

BUSINESS AND COMMERCE on Bill "An Act to Provide Greater Discretion to the Governor in Making Appointments to the Maine State Board of Nursing and to Require that this Board Contain at least 2 Representatives with Administrative and Supervisory Experience" (S.P. 183) (L.D. 501)

Reported that the same **Ought to Pass in New Draft** under same title (S.P. 599) (L.D. 1571)

Which Report was **READ** and **ACCEPTED**. The Bill in **NEW DRAFT READ ONCE**.

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

Divided Report

The Majority of the Committee on **BUSINESS AND COMMERCE** on Bill "An Act to Increase the Handling Fee for Returnable Containers" (S.P. 93) (L.S. 291)

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-103)**

Signed:

Senators:

BUSTIN of Kennebec

SEWALL of Lincoln

Representatives:

RYDELL of Brunswick

MURRAY of Bangor

TELOW of Lewiston

MARTIN of Van Buren

ARMSTRONG of Wilton

ALIBERTI of Lewiston

STEVENS of Bangor

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

Signed:

Senator:

DANTON of York

Representatives:

BAKER of Orrington

HILLOCK of Gorham

BRANNIGAN of Portland

Which Reports were **READ**.

Senator **BUSTIN** of Kennebec moved **ACCEPTANCE** of the Majority **UGHT TO PASS AS AMENDED** Report.

Senator **DANTON** of York requested a Division.

THE PRESIDENT: The Senator has the floor.

Senator **DANTON**: Mr. President, Members of the Senate. Maine first Enacted a Bottle Bill back in 1978. At that time, we put one penny as a handling charge on that Bottle Bill. Two years after we did pass the Bottle Bill, they decided the penny wasn't enough, and they came back to the Legislature, and we increased it from one penny to two pennies.

Now, I know we are not talking about a lot of money when we just merely talk about pennies, but let me go on to explain to you, and I think you will find it interesting. Although the Majority Committee Reports asks for what appears to be a modest one-quarter percent increase, the direct cost to the consumer for this one-quarter percent is only going to be over one and one-half million dollars.

Now, the purpose of this Bill was to help the redemption centers. The Maine Association of Redemption Centers has thirty-six members according to the list supplied to the Committee. These redemption centers receive less than ten percent of the containers returned across the State. These redemption centers who feel that an increase is necessary, would be receiving less than ten percent of that million and one-half dollars. Where does the rest of the money go? Well, the biggest chunk — about sixty-five to seventy percent of it would go to large chain grocery stores. These are the places where the majority of the bottles are being returned.

L.D. 291, if Enacted, would simply mean a windfall of over one million dollars to these large stores. The idea of a handling fee and redemption centers was included in the original Bottle Bill, because small stores at that

time, wanted the ability to refuse to accept bottles.

Oregon, the first state in the nation with the Bottle Bill has never had a handling fee, and has no redemption centers. Their Bottle Bill works well.

So, the idea of redemption centers was included in our Bottle Bill. The idea was that small stores, even large stores, could refuse to accept bottles so long as there was a licensed redemption center which would accept bottles in place of the store. However, stores soon learned that they could not afford to turn customers with bottles away. It was a bad business practice for the stores to refuse to take bottles back. Today, virtually every store in the State accepts bottles.

So the law just does not work the way everyone thought it would. We all thought once we had redemption stores, once you go to the big supermarket chains, you go there without bottles, after you had brought them to the redemption center. The fact that the stores take bottles back has hurt the small redemption centers, and we can easily understand that because it is more convenient in these large chains where you bring your bottles and get your money, and you go around and you do your shopping, put your groceries in your car, then you're on your way home.

Someone may have started a redemption center with the understanding that four or five stores would not compete for the returnable bottles. Today, the redemption center is not the replacement for stores, but must compete with the big stores.

This means that in a lot of cases, redemption centers simply do not have enough volume to have a financially viable business. That is why they turned to the Maine Legislature for a price increase.

Certainly we have statutes which fix prices: we argue over milk and we have the Maine Milk Commission; we also have the Public Utilities Commission. I don't really think we want to get into setting prices for the redemption centers.

There has been no investigation into the overall need for all redemption centers, and all grocery stores to receive a price increase for handling containers. I don't doubt some redemption centers are having a hard time of making a go of their business, being a small businessman, I can understand that. I would never want to do anything to hurt them but we are talking about one million and one-half dollars additional cost to our consumers.

Today, anyone who has an empty space can start a redemption center. They do not have to be licensed, and there are two or three times as many unlicensed redemption centers as there are licensed redemption centers. If the Legislature enacts this type of price increase, it would be similar to a small store who is not making a go of it to come to the legislature and ask us to set price on sugar or flour or some other product, at a high level so they can make a profit. I do not think the Legislature should be in that type of activity.

Today, redemption centers receive a forty percent markup on that five cent containers that they return. By that, I mean they pay out a nickel to get seven cents. If a forty percent markup on a product is not sufficient to create a financially viable business then there may not be a place in the marketplace for that business. So I would urge you, for the sake of consumers, and I can tell you from my own experiences in my end of the State, Southern York County, where you go for beverages, and you pay twelve dollars and some change, almost thirteen dollars, and you just cross the border into New Hampshire, and you can get the same product for eight dollars and change. So, I think somewhere along the line, and it was suggested in our Committee, that this really should have been a studied item. I am not in any way, trying to hurt small businesses, having a small

business myself, I can understand their problems. I would ask you today, to not Accept the Majority Ought to Pass Report. Thank you.

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

Senator **TWITCHELL:** Thank you Mr. President, Members of the Senate. This is my Bill, and I put this Bill in solely because my redemption center in my hometown of Norway is having a hard time making a go of it.

You know it is pretty hard for me to stand here today and try to debate my dear, dear friend from York, Senator Danton, because he is such an elegant speaker, and with his greyhair he looks like a Senator, and it is pretty hard to top him.

All he was talking about was large stores and I am talking about little stores and a small redemption center in my hometown, which is having problems. In Norway, I have had a small store for many years, and at night time, my wife and I would stay for almost two hours, and sort the bottles and cans out. They were dirty, we were tired, and it took us a long time to do it, and I only had two cents at that time. I did not think it was worth it. All I was asking for at this time, was one more penny. Then it was amended down to a quarter of a penny, which is only six cents per case. I think it is a good bill. I hope you would support the Ought to Pass motion and not go along with my dear, dear friend, Senator Danton on the Ought Not to Pass.

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

Senator **DANTON:** Mr. President, just a quick remark, I would have given anything to have any other Senator sponsor this Bill. Thank you.

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

Senator **BUSTIN:** As Chair of the Committee, and having signed onto the Majority Report, I feel that I ought to let the Members know exactly why I did that. The good Senator from York, Senator Danton, is correct it should be a studied item. I would have preferred to sign on the other Report because I think a quarter of a cent probably is not going to do anything. In fairness to the redemption centers, I felt strongly that redemption centers ought to at least have the time-space available to them, from the time of study would given, or studied then we could come up with a reasonable conclusion to this great question.

We had the float bill down in our Business and Commerce Committee Also. We've sent up with a Leave to Withdraw. I got literally creamed in that Committee on that float bill. I think both the Float Bill and the handling fee are intimately connected and ought to be handled in the study area.

I was not willing to see the redemption centers, who are faltering right on the verge, if they do not have this quarter of a cent, go under while we are considering that.

I am not assured that there would be a study, so I erred on the side of caution, and voted for the Bill, to give them that quarter cent, to keep them, (if that will keep them) in business until such time that we can deal with the issue in a more relaxed atmosphere, and find out whether in fact, we even should have redemption centers.

I am not convinced, from all that I heard down in the Committee that we should have the redemption centers or we shouldn't. I am not convinced of whether or not we are handling the float item correctly. I am not convinced of any of that. What I was convinced of, was we ought to give the time for those redemption centers to stay in business, not put them out — then do a study on it. So I would hope the Body will be voting for the Bill.

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 has been a long time since I have spent

any more than a few minutes in Room 135. Actually the duration of this the First Regular Session of the 112th Maine Legislature. When I address you on this issue this afternoon, I am addressing you with twelve years of experience on the issues surrounding returnable bottles, because the issue did surface way back over ten years ago.

When the Returnable Bottle Bill, as we call it fondly, passed the Maine Legislature, embraced in the concepts embodied in that measure, was the emergence of a new kind of business that would address the issue of returnable containers. As a result of that Bill, redemption centers were born. We must remember, however, the issue here is not so much of the handling fee, but the issue, in fact, if I would like to expand the focus of free enterprise.

Redemption centers emerged, and some have survived. Some have gone by the wayside, due to (1) Inefficiency — (2) Mismanagement — (3) Under-capitalization and (4) Not being needed in geographic areas in the state, or consumers. For you see returnable beverages and their handling fee is a major ticket item. As most of us recognize, many of the larger grocery chains in our State, now provide disposal centers for returnable containers.

We all receive the money or the credit slip back. In fact, it is a major ticket item for some of our larger stores. We are not going to address the issue of float, as has been raised by the good Senator from Kennebec, Senator Bustin. It is particularly difficult with the Sponsor of this Bill, my dear friend from Oxford, Senator Twitchell. It is very difficult to oppose the Bill that is sponsored by the Coach of that famous Senate Softball Team. (For I know, I will probably never make it out of the dug-out, let alone put on a cheerleading costume.)

However, I have stood in this position before back in 1980, when the then Senate Chair of the Committee of then Business Legislation, and I were on opposite sides of this very same issue.

The Legislature, in its' wisdom in 1980, increased by one hundred percent, the handling fee from one to two cents, and here we are with just a little wee fraction of a penny, one quarter of a cent. Does anyone know what a quarter of a cent looks like? Do you have a quarter of a cent in your pocket? If you do not have a quarter of a cent in your pocket, guess what is going to happen? Up goes the handling fee and up goes the cost of the beverages, and who is going to pay for that, Members of this Senate? The consumers of the State of Maine. Who is going to make the profit on that? Those who distribute these beverages and those who handle them.

While I am not opposed to an honest profit, I think it is just about an appropriate time that this Legislature addressed the issue of whether it is necessary for the State of Maine to indeed, assure that a certain segment of Maine's economy be given the support or subsidy to survive? Or should we let the marketplace prevail?

Now, I am not speaking just as the Senator from Senate District 26, late this afternoon, I am speaking as a former employee who for Friday, Saturday and Sunday night every weekend that I could get there and every school vacation and all during the summer, handled returnable beverage containers. That was part of my job at the infamous Exit 19, Maggies Sunoco Station and General Store in Freeport, Maine. It is a profit making item.

In addition to handling fees, we have fees for the cartons, we call them shells, but the quohog shells or the soft clam shells. The shells in which these arrive at the store. From five cents to twenty-five cents, and for some of them, one dollar. Those are all part of this process. It is a good process because we recognize, first and foremost, that not only does the returnable beverage container law operate effectively in

our State, but it has the outstanding support of the population.

But do the people who are going to pay the price want to pay one quarter of one cent, when in fact that does not exist? In fact, the profits will be enhancing the float, which is a question of considerable impact, and should be indeed be studied. Let you think it hasn't been studied, it has been, very informally and for a short duration down in that infamous room, that now has curtains, Room 135.

I think that the returnable bottle issue and the law is mature enough today, in 1985, to let the marketplace prevail. If indeed, some redemption centers fall by the wayside, for they cannot survive, than I share your concern, as individual Legislators, in that some small businesses are going, so to speak — down the drain.

So do other small businesses, not survive, but do they come to the Maine Legislature asking to be subsidized by the taxpayers of the State? I would submit to you, that in fact, they do not. If they did, our overwhelming response I hope would be that we would not support them, because in Maine we embrace a free marketplace and a free enterprise, and with that I would conclude my remarks, by hoping that the Members of this Senate, would in fact, not support the pending motion, but in fact, reject it. Thank you, Mr. President.

THE PRESIDENT: The pending question is the Acceptance of the Majority Ought to Pass As Amended Report of the Committee.

Will all those Senators in favor of the Motion by the Senator of Kennebec, Senator Bustin, to Accept the Majority Ought to Pass as Amended Report, please rise and remain standing in their places to be counted.

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

11 Senators having voted in the affirmative and 21 Senators having voted in the negative, the motion to ACCEPT the Majority OUGHT TO PASS AS AMENDED Report FAILED.

The Minority OUGHT NOT TO PASS Report was ACCEPTED.

Sent down for concurrence.

Divided Report

The Majority of the Committee on ENERGY AND NATURAL RESOURCES on Bill "An Act to Create the Advisory Commission on Radioactive Waste to Replace the Low-Level Waste Commission" (Emergency) (S.P. 247) (L.D. 642)

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (S-107).

Signed:

Senators:

USHER of Cumberland
KANY of Kennebec
EMERSON of Penobscot

Representatives:

MICHAUD of Medway
JACQUES of Waterville
MITCHELL of Freeport
COLES of Harpswell
HOGlund of Portland
HOLLOWAY of Edgecomb

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

Signed:

Representatives:

RIDLEY of Shapleigh
DEXTER of Kingfield
BROWN of Livermore Falls
LAW of Dover-Foxcroft

Which Reports were READ.

The Majority OUGHT TO PASS AS AMENDED Report was ACCEPTED.

The Bill READ ONCE.

Committee Amendment "A" (S-107) was READ and ADOPTED.

The Bill as AMENDED TOMORROW ASSIGNED FOR SECOND READING.

SECOND READERS

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

House

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)

Bill "An Act to Increase Citizen Participation in the Municipal Charter Revision Process" (H.P. 1054) (L.D. 1530)

Bill "An Act Pertaining to Municipal Licensing Fees" (H.P. 1058) (L.D. 1538)

Bill "An Act Pertaining to Polling Times" (H.P. 1061) (L.D. 1540)

Bill "An Act to Remove the Time Limit for Tabulating Election Returns and the Requirement for the Presence of the Municipal Officers" (H.P. 1062) (L.D. 1541)

Bill "An Act to Assure Appropriate Education and Treatment of People who are Deaf or Hearing Impaired" (H.P. 1064) (L.D. 15443)

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

Bill "An Act to Require Final Usage Labeling for all Surimi Products" (Emergency) (H.P. 1052) (L.D. 1528)

Which was **READ A SECOND TIME**.

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

Bill "An Act Concerning Nomination Petitions for Unenrolled Candidates" (H.P. 1063) (L.D. 1542)

Which was **READ A SECOND TIME**.

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

House As Amended

Bill "An Act Requiring Clarification of Dates Upon Which Local Property Tax Penalties Accrue" (H.P. 139) (L.D. 164) (C "A" H-139)

Bill "An Act Authorizing the Department of Inland Fisheries and Wildlife to Continue to Regulate the Harvest of Antlerless Deer" (H.P. 268) (L.D. 338) (C "A" H-151)

Bill "An Act to Amend Permit Procedures Relative to Final Disposition of Dead Human Bodies" (H.P. 422) (L.D. 602) (C "A" H-136)

Bill "An Act to Redefine the Southern Boundary to Enlarge the Moose Hunting District" (H.P. 681) (L.D. 967) (C "A" H-150)

Bill "An Act to Clarify the Agricultural Exemption in the Workers' Compensation Laws" (H.P. 883) (L.D. 1240) (C "A" H-156)

Bill "An Act to Amend the Procedures of the State Board of Arbitration and Conciliation" (H.P. 957) (L.D. 1377) (C "A" H-137)

Bill "An Act to Place the State Board of Licensure of Administrators of Medical Care Facilities other than Hospitals Within the Department of Business, Occupational and Professional Regulation" (Emergency) (H.P. 978) (L.D. 1410) (C "A" H-145)

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

Bill "An Act Pertaining to Interest on Abated Property Taxes" (H.P. 497) (L.D. 700) (C "A" H-147)

Which was **READ A SECOND TIME**.

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

Bill "An Act to Modify the Voting Procedure for the Conversion of a Mutual Financial Institution to a Stock Form of Ownership" (H.P. 972) (L.D. 1394) (C "A" H-144)

Which was **READ A SECOND TIME**.

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

On further motion by same Senator, the Senate **RECONSIDERED** its action where by it **ADOPTED** Committee Amendment "A" (H-144).

On further motion by same Senator, Committee Amendment "A" (H-144) was **INDEFINITELY POSTPONED**, in **NON-CONCURRENCE**.

On further motion by same Senator, Senate Amendment "A" (S-109) **READ**.

THE PRESIDENT: The Senator from Kennebec, Senator Bustin offers Senate Amendment "A" (S-109) and moved its Adoption.

Senate Amendment "A" (S-109) was **READ**. **THE PRESIDENT:** The Chair recognizes the Senator from Cumberland, Senator Diamond.

Senator **DIAMOND:** Mr. President, Members of the Senate. This being my Bill, I am frantically trying to find out what is going on here. I would request that the Senator from Kennebec, Senator Bustin, explain what this new amendment does and what is going on.

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

The Chair recognizes the Senator from Kennebec, Senator Bustin.

Senator **BUSTIN:** Mr. President. I will be glad to respond to the Senator from Cumberland, Senator Diamond. We had some technical words that were wrong in there, and I was asked by my Legislative Assistant if I would put this on, and I think if you have a chance to take a look at that, you will find that the words now say what we had intended, in the statement of fact.

Senate Amendment "A" (S-109) was **ADOPTED**.

Which was **PASSED TO BE ENGROSSED AS AMENDED** in **NON-CONCURRENCE**.

Sent down for concurrence.

Senate at Ease

The Senate called to Order by the President.

Out of order and under suspension of the rules, the Senate considered the following:

SENATE PAPERS

Bill "An Act Relating to the Maine-New Hampshire Interstate Bridge Authority Portsmouth-Kittery Bridge and Approaches Thereto" (S.P. 601) (L.D. 1577)

Presented by Senator **DANTON** of York. Committee on **TRANSPORTATION** suggested.

It is a vote.

Under suspension of the Rules, the Bill **READ ONCE** without reference to Committee and **ORDERED PRINTED**.

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

ORDERS**Joint Resolution**

On motion by Senator **KANY** of Kennebec, (Cosponsored by Representative **GWADOSKY** of Fairfield) (Approved for Introduction by a Majority of the Legislative Council pursuant to Joint Rule 35) the following Joint Resolution: (S.P. 600)

JOINT RESOLUTION REQUESTING LIMITATIONS ON INVESTMENTS AND DIVESTITURE OF PUBLIC FUNDS IN THE REPUBLIC OF

SOUTH AFRICA AND NAMIBIA

WHEREAS, the Republic of South Africa practices a policy of racial segregation known as apartheid, which discriminates against Blacks, persons of mixed race and persons of Asian origin, who compromise more than 80% of the population of the Republic of South Africa; and

WHEREAS, this practice results in these groups being denied South African citizenship; places severe restrictions on freedom of speech and movement; and restricts access to educa-

tion, housing and public facilities; and

WHEREAS, apartheid and the policies associated with apartheid are used to separate nonwhite family members from each other, to justify the torture and destruction of Blacks, Asians and persons of mixed races and to deprive nonwhites of a decent standard of living; and

WHEREAS, many citizens of the State of Maine have expressed concern regarding these inequities and injustices and are of the opinion that corporations in which public funds are invested should treat all of their employees in a socially responsible manner; and

WHEREAS, persons responsible for the management and investment of funds held in trust for others must exercise their duties in accordance with the "Prudent Man" Rule, of the Maine Revised Statutes, Title 18—A, section 7-302; and

WHEREAS, the Sullivan Principles, as developed by Reverend Leon H. Sullivan, attempt to provide some minimal form of employment protection and opportunity to Blacks, Asians and persons of mixed races; and

WHEREAS, most of the recent "reforms" of the government of the Republic of South Africa are not substantive reforms and are intended only to give the appearance of reform; now, therefore, be it

RESOLVED: That we, the Members of the 112th Legislature, now assembled in the First Regular Session, request the Board of Trustees of the Maine State Retirement System and all other persons who serve as trustees for public funds to divest their accounts, within 2 years and within the constraints of the "Prudent Man" Rule, of all securities issued by companies and corporations doing business in South Africa and Namibia which have not signed the Sullivan Principles; and be it further

RESOLVED: That the Maine Legislature request the board of trustees and all other persons who serve as trustees for public funds to establish a policy prohibiting further investments in companies and corporations doing business in South Africa and Namibia which have not signed the Sullivan Principles and that the trustees consider the means by which existing investments in companies and corporations doing business in South Africa and Namibia may be divested over time in the future; and be it further

RESOLVED: That the Maine Legislature requests the Treasurer of State to divest, within the constraints of the "Prudent Man" Rule, the funds and accounts of which he is the administrator and for which the Treasurer of State, by law, is responsible; and be it further

RESOLVED: That the Executive Director of the Maine State Retirement System and the Treasurer of State report the results of their divestments efforts to the Joint Standing Committee on State Government on January 1, 1986; and be it further

RESOLVED: That suitable copies of the Joint Resolution be prepared and transmitted forthwith by the Secretary of State to the Board of Trustees of the Maine State Retirement System, the Treasurer of State, Maine's Congressional Delegation to the United States Congress, the Secretary of State of the United States, the President of the United States, Prime Minister P.W. Botha of the Republic of South Africa and Ambassador Bernardus G. Fourie, Ambassador of South Africa to the United States.

Which was **READ**.

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

Senator **SEWALL:** Mr. President, I request a division of the Adoption of this Resolution.

THE PRESIDENT: A Division has been requested.

The Chair recognizes the Senator from Kennebec, Senator Kany.

Senator **KANY:** Mr. President and Members of the Senate. I would like to tell you how this

resolution happened to come before you. The State Government Committee was presented with a Bill, L.D. 488, which called for a complete divestiture from public funds of all monies invested in South Africa. Our committee debated long and hard and attempted to inform itself on this topic, and we came up with a unanimous package.

One element of that package was this Joint Resolution which was unanimously recommended by the Committee. Secondly, we sought permission and received permission to hold over a bill which would have allowed us to statutorily call for some divestiture. Thirdly, we have a letter which would accompany a resolution to be sent to the government of South Africa and other parties.

I hope that you will go along with this. It is basically an attempt to encourage the retirement system to divest itself of those investments in American companies which have not gone along with the statement of principles generally known as the "Sullivan Principles."

Some believe perhaps our resolution is a little weak because the Sullivan Principles, while they sound very good and include such items as non-segregation in eating places, etc., equal and fair employment practices; equal pay; and a number of other positive elements, that still those companies are investing in a country in which, although people may have fairness to a degree at the workplace, it is a country and a government which not only does not allow blacks and others to vote, but simply will not allow blacks and other non-white to own property, but actually as a government separates families, fathers or parents from their families.

Somehow many of us have great problems with such a government. We would like to encourage removal, certainly of the public funds of the State of Maine from involvement in a nation that allows such governmental practices.

We didn't go perhaps as far as some would wish and in fact as I probably would wish, but we did want to encourage the divestiture first of all from companies not practicing the Sullivan Principles and secondly, a divestiture of our other public funds as far as possible from all investment eventually in South Africa.

That is what it is. I urge you to go along with this Resolution while just sponsored by the co-chairs of the Committee it really was unanimously supported by the members of the State Government Committee.

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

Senator **SEWALL:** Thank you, Mr. President. Very briefly, Members of the Senate, my knowledge of Swahili is very lacking. Also, knowledge of what happened in that country before good American companies did invest there and did give some blacks as well as the whites good jobs there, makes me wonder why this Legislature with all of the problems that we have before it has now decided to take on public policy, foreign relations and investments of those types when generally we have plenty of work to do right here in the State of Maine?

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Kennebec, Senator Kany that this Resolution receive Adoption.

Will all those Senators in favor of the motion by the Senator from Kennebec, Senator Kany to Adopt this Resolution, please rise in their places to be counted.

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

The Chair recognizes the Senator from Kennebec, Senator Kany.

Senator **KANY:** Mr. President, I ask for a Roll Call.

THE PRESIDENT: A Roll Call has been requested.

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

vote of at least one-fifth of the Members present and voting.

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

Obviously, more than one-fifth having arisen a roll call is ordered.

The Chair recognizes the Senator from Cumberland, Senator Andrews.

Senator **ANDREWS:** Thank you, Mr. President. Mr. President and Men and Women of the Senate, I didn't intend to speak on this particular issue this afternoon, but I feel impelled and compelled to do so.

I was part of the State Government Committee's hearing on this Bill. It was a very, very well attended hearing by people not only from the State of Maine, but people who are from South Africa and now live in the State of Maine.

We had, as the good Senator from Kennebec, Senator Kany, has described to you, a very heated and very substantive debate that we had in the Committee about this very subject.

First of all let me just tell you exactly what we are doing through this resolve. We're putting this ball in the court of the Retirement System and the Board of the Retirement System. We are asking them to exercise their judgment on this matter, and we are going to then take a look at it again in January as a matter of State statute.

We felt that it was very important, at the very least and I was one of those Members of the Committee joining Senator Kany in feeling that perhaps we should be going further than what we are going in just this resolution. At the very least, Ladies and Gentlemen of the Senate, as we all know raging around this country and raging around the world, is the question of apartheid and the question of the policies of South Africa, that I and certainly every Member of the Committee of State Government, believes is abhorrent and should be rejected clearly and soundly.

Now there is a movement going on in this country, in States across this Country, on campuses across this Country, in Town Halls across this Country, and across this planet to recognize and to put public attention on this Country, and on a public policy that systematically discriminates on the basis of race.

Ladies and Gentlemen, in this State, we have money that we are responsible for, ultimately, that is going to that Country. Money that is supporting directly and indirectly this regime responsible for this abhorrent, immoral government practice.

We all know through diplomatic channels across this Country, we have been attempting, as a Nation, to encourage this Country, South Africa, to change this immoral policy. It has failed, and so now across the world, and across this Country, people are standing up and saying: "If we can't reason with this Government, with moral arguments, if we can't impel them to change, on the basis of moral arguments, then let's compel them to change with the only argument they appear to understand, namely the pocketbook."

That is exactly what this Resolution is directed toward. To send a clear and a direct message to the Government of South Africa, that the people of Maine, yes, we are the people of Maine, we live in a distant corner of the planet, but Ladies and Gentlemen, I, for one, want to be heard and seen as a citizen of the world, and as a citizen of this State, telling that Government, that the people of the State of Maine, feel very strongly that people of every race and every color should be judged by the content of their character, and not on the basis of the color of their skin. And we will do whatever we can to make that a universal principle, across this planet. And if we can't simply accept the Resolution that does that, Ladies and Gentlemen of the Senate, then it

is a sorry day for the Senate. Thank you very much.

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

Senator **MATTHEWS:** Mr. President, Members of the Senate, I am sorry I was absent for a minute or two. I just want to remind the good Senator from Lincoln that she does not have to speak Swahili today to vote on this Resolution. I find that remark very, very disrespectful for a Member of the Senate. I guess that is really in essence, why this Resolution is before the Maine Legislature, today. Why this Resolution is before the Legislatures from Maine to California one of the issues before the Congress of the United States, before the United Nations, before many, many enlightened democracies around the world. I hope maybe I misunderstood the remark, but if you believe very strongly in what this Country is all about: the Constitution; the Bill of Rights; the freedoms that we have fought to preserve in this country; the freedom of speech; the freedom of access to information; the freedom of enlightened reasoned compassionate societies, then I guess you will vote for this Resolution.

It surely is needed. There is surely oppression and discrimination and rights that are being violated in South Africa. I think it follows, instead, with what we believe in, in this Country to denounce this kind of action wherever it is in the world, and I hope you will support this Resolution.

THE PRESIDENT: The pending question is the Adoption of the Joint Resolution.

The pending question before the Senate is the Adoption of the Joint Resolution.

A Yes vote will be in favor of Adoption.

A No vote will be opposed.

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

Senator **CHALMERS** of Knox who would have voted Yea requested and received Leave of the Senate to pair her vote with Senator **DUTREMBLE** of York who would have voted Nay.

Senator **CLARK** of Cumberland who would have voted Nay requested and received Leave of the Senate to pair her vote with Senator **GAUVREAU** of Androscoggin who would have voted Yea.

ROLL CALL

YEAS:—Senators, Andrews, Brown, Bustin, Carpenter, Diamond, Kany, Matthews, McBreairey, Najarian, Tuttle, The President - Charles P. Pray

NAYS:—Senators, Berube, Black, Danton, Dow, Emerson, Erwin, Gill, Hichens, Maybury, Perkins, Sewall, Shute, Stover, Trafton, Twitcheil, Usher, Violette, Webster

ABSENT:—Senators, Baldacci, Pearson

11 Senators having voted in the affirmative and 18 Senators having voted in the negative, with 4 Senators having Paired their votes and 2 Senators being absent, the **ADOPTION** of the Joint Resolution **FAILED**.

Sent down for concurrence.

COMMITTEE REPORTS Senate

Ought Not To Pass

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

Bill "An Act to Reduce Acid Deposition in Maine" (S.P. 515) (L.D. 1389)

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 Relating to Privileged Communications under the Child and Family Services and Child Protection Act" (S.P. 460) (L.D. 1263)

Ought to Pass As Amended

Senator **BERUBE** for the Committee on **HUMAN RESOURCES** on Bill "An Act Concerning Programs for the Homeless" (S.P. 402) (L.D. 1112)

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-108)**

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

Committee Amendment "A" (S-108) **READ** and **ADOPTED**.

The Bill as **AMENDED TOMMORROW ASSIGNED FOR SECOND READING**.

Senator **BERUBE** for the Committee on **HUMAN RESOURCES** on Resolve, Establishing the Maine Commission on the Role of State Government, Establishing the Maine Commission on the Role of State Government in Providing Independent Living Opportunities and Services to Disabled Persons in Maine (S.P. 355) (L.D. 963)

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-110)**

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

Committee Amendment "A" (S-110) was **READ** and **ADOPTED**.

The Resolve as **AMENDED TOMORROW ASSIGNED FOR SECOND READING**.

Out of order and under suspension of the rules the President laid before the Senate:

Senator **ERWIN** for the Committee on **TRANSPORTATION** on Bill "An Act Concerning Misuse of Dealer Plates and Clarification of Dealer Plate Provisions" (S.P. 320) (L.D. 809)

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-111)**

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

Committee Amendment "A" (S-111) was **READ** and **ADOPTED**.

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

ORDERS OF THE DAY

The President laid before the Senate the Tabled and Today Specially Assigned matter:

JOINT RESOLUTION MEMORIALIZING THE PRESIDENT AND MEMBERS OF CONGRESS OF THE UNITED STATES TO STOP MARKETING ALCOHOL ON RADIO AND TELEVISION (S.P. 581)

Tabled—May 20, 1985 by Senator **VIOLETTE** of Aroostook.

Pending—Motion of Senator **BUSTIN** of Kennebec to **RECONSIDER ADOPTION**.

(In Senate May 17, 1985, **READ** and **ADOPTED**.)

On motion by Senator **VIOLETTE** of Aroostook Tabled 1 Legislative Day, pending the Motion by Senator **BUSTIN** of Kennebec to **RECONSIDER ADOPTION**.

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

An Act Relating to the Affixing of Indicia of Payment of Real Estate Tax (H.P. 764) (L.D. 1084)

Tabled—May 20, 1985, by Senator **VIOLETTE** of Aroostook.

Pending—**ENACTMENT**

(In Senate May 13, 1985, **PASSED TO BE ENGROSSED**, in concurrence.)

(In House, May 17, 1985, **PASSED TO BE ENACTED**.)

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:

Resolve, Creating the Commission to Study Emergency Medical Services in Maine (H.P.

341) (L.D. 458) (C "A" H-116)

Tabled—May 20, 1985 by Senator **PEARSON** of Penobscot.

Pending—**FINAL PASSAGE**

(In Senate, May 20, 1985, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-116)**, in concurrence.)

(In House, May 17, 1985, **FINALLY PASSED**.)

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

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

An Act to License Dietitians (S.P. 520) (L.D. 1397)

Tabled—May 20, 1985, by Senator **VIOLETTE** of Aroostook.

Pending—**CONSIDERATION**

(In Senate May 20, 1985, Veto Message from the Governor **READ** and **ORDERED PLACED ON FILE**)

(In Senate, May 3, 1985, **PASSED TO BE ENACTED**, in concurrence.)

(In House, April 30, 1985, **PASSED TO BE ENACTED**.)

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

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

Bill "An Act to License Respiratory Care Practitioners" (S.P. 591) (L.D. 1554)

Tabled—May 20, 1985, by Senator **VIOLETTE** of Aroostook.

Pending—**PASSAGE TO BE ENGROSSED**.

(In Senate May 20, 1985, **READ A SECOND TIME**.)

On motion of 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:

Bill "An Act Relating to Solicitations and Public Office Holding by State Employees" (S.P. 533) (L.D. 1434)

Tabled—May 20, 1985, by Senator **VIOLETTE** of Aroostook.

Pending—**FURTHER CONSIDERATION**

(In House, May 10, 1985, **PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "C" (H-125)**.)

(In Senate, May 17, 1985, **PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "C" (H-125) AS AMENDED BY SENATE AMENDMENT "B" (S-95)** thereto, in **NON-CONCURRENCE**.)

(In House, May 20, 1985, that Body **ADHERED**.)

* On motion by Senator **BUSTIN** of Kennebec, the Senate **ADHERED**.

On motion by Senator **VIOLETTE** of Aroostook the Senate removed from the Table and Later Today Assigned matter:

Bill "An Act to Require the Use of Seat Belts in all Motor Vehicles" (S.P. 383) (L.D. 1050)

Tabled—May 23, 1985, by Senator **VIOLETTE** of Aroostook.

Pending—**FURTHER CONSIDERATION**.

(In Senate, May 13, 1985, the Minority **UGHT TO PASS** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY SENATE AMENDMENT "B" (S-75)**.)

(In House, May 20, 1985, the Majority **UGHT NOT TO PASS** Report **READ** and **ACCEPTED**, in **NON-CONCURRENCE**.)

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

Senate, Off the Record.

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

On motion by Senator **CLARK** of Cumberland,

ADJOURNED until 12 o'clock tomorrow in loving memory of Louis F. Finemore of Bridgewater.

Off Record Remarks

Senator **DIAMOND** of Cumberland was granted unanimous consent to address the