

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

***One Hundred and Twelfth
Legislature***

OF THE

STATE OF MAINE

Volume II

FIRST REGULAR SESSION

December 5, 1984 - June 20, 1985

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STATE OF MAINE
One Hundred and Twelfth Legislature
First Regular Session
JOURNAL OF THE SENATE
In Senate Chamber
Thursday
May 30, 1985
Senate called to Order by the President.

Prayer by the Honorable Zachary E. Matthews of Kennebec.

SENATOR MATTHEWS: Members of the Senate, I would first like to call to your attention a reading from Romans, Chapter 8, Verse, 28. It says:

We know that in everything, God works for good to those who love him, and who are called according to his purpose.

Verse, 38 and 39: For I am sure that neither death nor life nor angels nor principalities nor things present nor things to come nor powers nor height nor depth, nor anything else in all creation will be able to separate us from the love of God, in Christ Jesus our Lord.

May we pray: Dear Father, give us the strength to remember the things that are important in life to remember again those who have not the voice of power nor the voice of the collective wealth of this Country. Dear Lord, remember those who are in other Nations that strive for freedom. In the communist countries of this world, the Soviet Union and the black countries. Those who yearn for justice and equality and freedom. In those countries, Dear Father, in the Third World. In the Republic of South Africa, those who have been striving for freedom, justice and equality also. Dear Father, make us remember that there are injustices in many countries of the world and we should not forget those in any country — even in our own country today, who strive to enjoy the fulfillment of the Constitution and the freedoms that we enjoy.

Make us remember, Dear Father, that no country or no laws are perfect. That only you are perfect. To you we look for guidance and wisdom. Amen.

Reading of the Journal of Yesterday.

Off Record Remarks

PAPERS FROM THE HOUSE

Non-concurrent Matter

Resolve, 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) (C "A" S-110)

In Senate May 24, 1985, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-110).**

Comes from the House **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-110) AS AMENDED BY HOUSE AMENDMENT "A" (H-232)**, thereto in **NON-CONCURRENCE.**

The Senate **RECEDED** and **CONCURRED.**

Non-concurrent Matter

Bill "An Act to Implement the Recommendations of the Maine Land and Water Resources Council Ground Water Review Policy Committee" (S.P. 353) (L.D. 961) (C "A" S-132)

In Senate May 29, 1985, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-132).**

Comes from the House **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-132) AS AMENDED BY HOUSE AMENDMENT "A" (H-244)**, thereto in **NON-CONCURRENCE.**

The Senate **RECEDED** and **CONCURRED.**

Non-concurrent Matter

Bill "An Act Relating to Cumberland County Budget Process" (S.P. 618) (L.D. 1629)

Reference to the Committee on **LOCAL AND**

COUNTY GOVERNMENT suggested.

In Senate May 29, 1985, under suspension of the Rules, **READ TWICE** and **PASSED TO BE ENGROSSED**, without reference to a Committee and **ORDERED PRINTED.**

Comes from the House referred to the Committee on **LOCAL AND COUNTY GOVERNMENT** in **NON-CONCURRENCE.**

The Senate **RECEDED** and **CONCURRED.**

Non-concurrent Matter

Bill "An Act Concerning the Licensing of Small Maine Breweries" (S.P. 603) (L.D. 1579)

In Senate May 28, 1985, **PASSED TO BE ENGROSSED.**

Comes from the House **PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "A" (H-241)** in **NON-CONCURRENCE.**

The Senate **RECEDED** and **CONCURRED.**

Non-concurrent Matter

Bill "An Act to Amend the Law Relating to Deputy Sheriffs, Appointments and Removal" (S.P. 312) (L.D. 801) (C "A" S-93)

In House May 28, 1985, **FAILED OF PASSAGE TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-93)** in **NON-CONCURRENCE.**

In Senate May 29, 1985, **INSISTED TO PASS TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-93)** in **NON-CONCURRENCE.**

Comes from the House that Body **INSISTED AND ASKED FOR A COMMITTEE OF CONFERENCE** in **NON-CONCURRENCE.**

The Senate **INSISTED AND JOINED IN A COMMITTEE OF CONFERENCE.**

Non-concurrent Matter

Bill "An Act to Reduce the Hours Required for Master and Journeymen Electricians" (H.P. 419) (L.D. 599)

In House May 28, 1985, the Majority **OUGHT TO PASS IN NEW DRAFT UNDER NEW TITLE (H.P. 1109) (L.D. 1612) Report READ** and **ACCEPTED** and the **NEW DRAFT UNDER NEW TITLE PASSED TO BE ENGROSSED.**

In Senate May 29, 1985, the Minority **OUGHT NOT TO PASS Report READ** and **ACCEPTED** in **NON-CONCURRENCE.**

Comes from the House, that Body **INSISTED.**

The Senate **INSISTED AND ASKED FOR A COMMITTEE OF CONFERENCE** in **NON-CONCURRENCE.**

Sent down for concurrence.

Non-concurrent Matter

Bill "An Act to Change the Way the Maximum Rate of Interest on Delinquent Taxes is Calculated" (H.P. 244) (L.D. 285)

In House May 28, 1985, the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-197) Report READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-197).**

In Senate May 29, 1985, the Minority **OUGHT NOT TO PASS Report READ** and **ACCEPTED** in **NON-CONCURRENCE.**

Comes from the House, that Body **INSISTED** in **NON-CONCURRENCE.**

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

Senator **DIAMOND:** I move that we Recede and Concur.

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

Senator **BALDACCI:** Mr. President, I request a Division.

THE PRESIDENT: The Senator from Penobscot, Senator **Baldacci** has requested a Division. Would all those Senators in favor of the motion to **Recede and Concur** please rise in their places to be counted.

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

The Chair recognizes the Senator from Cumberland, Senator Diamond.

Senator **DIAMOND:** Mr. President, I request a Roll Call.

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

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

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

The Chair recognizes the Senator from Cumberland, Senator Diamond.

Senator **DIAMOND:** Mr. President, Members of the Senate. I am going to be very brief. I am not going to repeat everything that was said yesterday. This is that issue we talked about regarding local control and allowing local municipalities to set their own rate for those delinquent taxes, and I think this is one that we should consider very seriously before we reject.

I think a lot of things we talked about yesterday are still true today and I would ask that you would go along with the Recede and Concur.

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

Senator **BALDACCI:** Mr. President and Members of the Senate. Just to refresh the arguments in regards to this particular issue. I have talked with the State Treasurers Office this morning. They set the rate now. It is based upon polling the banks in the State — North — South — Central and West banks. Their highest conventional rate of unsecured loans in the State is the percentage — the maximum percentage that municipalities can charge on delinquent taxes. I think that is enough, and to put it at the credit card rate of eighteen percent, which municipalities can charge up to, is just increasing it from fifteen to eighteen percent, right now.

They can charge us local control right now. Municipalities can charge up to fifteen percent on delinquent taxes — it is up to them. They cannot charge anymore than fifteen percent. Now, if this law were passed, they would be allowed to charge up to eighteen percent. That is what is changing here. The local control is still at the same level in the present law as it would be if this Bill was passed. So, I would ask you to vote along with the good Senator from Oxford, Senator Twitchell.

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

Senator **McBREAIRTY:** Mr. President and Honorable Members of the Senate. If this Bill were passed and increased the interest rate to eighteen percent, it could be disastrous for the poorest of the poor in the State of Maine.

I just happen to have one of my own Town Reports here. We have a whole page of people who have liens on. They don't have liens because they have invested the money somewhere else. They have liens because they didn't have the money to pay their taxes. I have a page and one half of people who have the next year delinquent. Not because they have invested the money the money somewhere else, but because they couldn't pay it.

Some of these people will shortly have the third bill on their house. Not because they have money to invest, because they have not the money to pay. If we allow towns to increase the interest rate on these taxes to eighteen percent, two years' taxes, then add the lien charges, the notification charges, what could we be doing to the poorest of the poor in our State that we have tried to protect over the past years?

That is what we could do with this Bill. And so I would hope that you would not Recede and Concur. Thank you.

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

Senator **PEARSON:** Mr. President, Men and Women of the Senate. If Senator McBreaity's Town Report is identical to all the town reports which I have, there would be an article preceding the page which listed those people who had not paid their taxes. An article in the warrant that says to see what amount of interest charge the town will charge for delinquent taxes — or some phrase like that. At a town meeting, in all of those towns that have town meeting forms of government, the people there decide what the charges will be. It does not have to be eighteen percent, it doesn't have to be twelve percent. As a matter of fact, I cannot think of any of my towns — right off the top of my head — that twelve percent or fifteen percent. I think they are all ten percent or below.

I will agree with Senator McBreaity, that in cases of almost every one of the towns that I represent, the people who are listed for delinquent taxes are not investing their money somewhere else. They are poor. There is no question about it. They have had hard luck, they are unable, and they are good decent people.

This does not prevent the town meetings from doing whatever they want, about the interest rates and the taxes.

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

Senator **DIAMOND:** Mr. President, Members of the Senate. I am compelled to answer the good Senator from Aroostook, Senator McBreaity, who is concerned about those people who are poor and cannot pay their taxes. He does not stand alone on that step. I think everybody in this Chamber stands with him. All of us are concerned about the poor and I did not co-sponsor this Bill because I wasn't. The fact of the matter is, as the good Senator from Penobscot, Senator Pearson, has just stated, is that is a decision that can be handled locally.

I can tell you, as most of you all know, when you attend one of the three hundred and fifty town meetings around this State, that the abatement for those people is very prevalent. This will not make one iota of difference if someone cannot afford to pay their taxes today, they are not going to be able to pay them whether the interest maximum is eighteen or whether it is thirteen and a half, or fifteen. So that is really not a concern of mine because I believe those folks who cannot afford to pay their taxes are being dealt with, with your local citizens and mine.

The issue is, and in fact, it is a fact, that our taxpayers dollars — your constituents and mine — their tax money is being used, the town is being used, the city is being used, to borrow money to do other kinds of things. We are picking up that tab. Also, I would remind you, as I said yesterday, those people who do pay their taxes, who obey the laws every day, who do these things, those folks are going to carry that burden.

They already carry the burden for the extremely rich, and those who cannot afford to pay. My concern is that I think they have carried that burden long enough in this one area. Let the local people control — let them decide locally. Let your local officials and let your local people attend town meetings and decide. That is all this Bill is asking. Thank you.

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

Senator **BALDACCI:** Mr. President, Members of the Senate. I would like to point out to the Members of the Senate, that as I pointed out earlier, that the present law, as it is now, allows the municipalities to charge up to a certain figure. It is up to those municipalities. You have heard the good Senator from Penobscot, Senator Pearson, talk about what the percentage was in some of the towns in his District

were charging. Twelve — ten percent. Bangor charges fifteen percent which is the maximum.

It is up to the communities right now. You are changing that to go with the credit card — or eighteen percent. The people in the State Treasurers Office said that there was a very small percentage of non-payers who were people who were working, who were not paying their taxes. A very small percentage. Those could be dealt with by having the Treasurers of the city people going to meet with those people. But, he said a lot of those people were people who had hard luck, or bad luck. One hardship after another. They said that by going up from twelve or fifteen percent to eighteen or nineteen percent, is not going to help them out any. And it is not going to help the town out any more and it isn't going to help those people that the good Senator from Windham, Senator Diamond, was talking about, because there is going to be even more people who are delinquent in their taxes, which is an exasperating problem that exists.

I think we have to look at this for what it really is. It is an opportunity for the towns to be able to set a higher rate on delinquent taxes and to have the Legislature do the work that they should be doing in their local communities.

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

Senator **TWITCHELL:** Thank you, Mr. President, Members of the Senate. I think this is a bad Bill. I have people out in my way, in Norway, South Paris, who do not have much money — they are on hard times — and they are having a hard time paying their taxes. I think it is too bad that the Town Fathers borrow money at six percent interest and then stick them with an eighteen percent interest. I do not think that is fair. It is not right and I would hope you would support me on this Bill.

THE PRESIDENT: The pending question is the motion by the Senator from Cumberland, Senator Diamond, that the Senate **Recede and Concur.** A Roll Call has been ordered. Is the Senate ready for the question?

The Doorkeepers will secure the Chamber.

Senator **KANY** of Kennebec who would have voted Nay requested and received permission to pair her vote with Senator **NAJARIAN** of Cumberland who would have voted Yea.

The Secretary will call the Roll.

ROLL CALL

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

ABSENT: Senators, Dutremble, Hichens
Senator **BERUBE** of Androscoggin, was granted permission to change her vote from Yea to Nay.

Senator **DIAMOND** of Cumberland was granted permission to change his vote from Yea to Nay.

13 Senators having voted in the affirmative and 18 Senators having voted in the negative, with 2 Senators having Paired their votes and 2 Senators being Absent, the motion to **RECEDE and CONCUR FAILED.**

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

Senator **DIAMOND:** Mr. President, having voted on the prevailing side, I now move reconsideration and I would urge you to vote against my motion.

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

Senator **TWITCHELL:** Mr. President, I request a Division.

THE PRESIDENT: A Division has been requested.

Will all those Senators in favor of the motion of the Senator from Cumberland, Senator DIA-

MOND to RECONSIDER FAILING to RECEDE and CONCUR, please rise in their places to be counted.

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

The Chair recognizes the Senator from Cumberland, Senator Diamond.

Senator **DIAMOND:** I request a Roll Call.

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

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

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

On motion by Senator **DIAMOND** of Cumberland, Tabled until Later in Today's session pending the motion of same Senator to **RECONSIDER FAILING to RECEDE and CONCUR.** (ROLL CALL ORDERED.)

Non-concurrent Matter

Bill "An Act to Establish Confidential Communications Between Certified Public Accountants and their Clients Concerning Tax Matter" (S.P. 620)

In Senate May 29, 1985, referred to the Committee on **JUDICIARY** and **ORDERED PRINTED.**

Comes from the House referred to the Committee on **TAXATION** and **ORDERED PRINTED in NON-CONCURRENCE**

The Senate **ADHERED in NON-CONCURRENCE.**

Sent down for concurrence.

COMMITTEE REPORTS

House

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 Increase the Agent's Fee for Collection of Excise Tax in Unorganized Places" (H.P. 218) (L.D. 252)

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 Assure the Future of Maine's Forest Resources" (H.P. 984) (L.D. 1414)

Bill "An Act to Limit Pari-mutuel Wagering to Agricultural Fairs" (Emergency) (H.P. 1068) (L.D. 1557)

Resolution, Proposing an Amendment to the Constitution of Maine to Authorize the Expenditure of Highway Fund Money for Public Transportation that is Dependent upon Highways and Bridges for Operation (H.P. 627) (L.D. 913)

Bill "An Act to Strengthen the Laws Relating to Operating Under the Influence" (H.P. 75) (L.D. 100)

Ought to Pass

The Committee on **AGRICULTURE** on Bill "An Act to Allow the Use of Botanical Pesticides in the Production of Foods Labeled or Advertised as Organic" (Emergency) (H.P. 1074) (L.D. 1563)

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

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

The Bill **READ ONCE.**

The Bill **ASSIGNED FOR SECOND READING LATER IN TODAY'S SESSION.**

Ought to Pass As Amended

The Committee on **BUSINESS AND COMMERCE** on Bill "An Act to Require Recogni-

tion of Nursing Licenses Granted in other Jurisdictions" (H.P. 1003) (L.D. 1445)

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-227)**.

Comes from the House, with the Report **READ and ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-227)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-227) **READ and ADOPTED**, in concurrence.

The Bill as Amended **ASSIGNED FOR SECOND READING LATER IN TODAY'S SESSION**.

The Committee on **BUSINESS AND COMMERCE** on Bill "An Act Relating to Requirements for Removal of Mobile Homes from Mobile Home Parks" (H.P. 663) (L.D. 946)

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-228)**.

Comes from the House, with the Report **READ and ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-228)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-228) **READ and ADOPTED**, in concurrence.

The Bill as Amended **ASSIGNED FOR SECOND READING LATER IN TODAY'S SESSION**.

The Committee on **BUSINESS AND COMMERCE** on Bill "An Act Concerning the Payment of Interest on Mortgage Escrow Accounts" (H.P. 945) (L.D. 1354)

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-229)**.

Comes from the House, with the Report **READ and ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-229)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-229) **READ and ADOPTED**, in concurrence.

The Bill as Amended **ASSIGNED FOR SECOND READING LATER IN TODAY'S SESSION**.

The Committee on **BUSINESS AND COMMERCE** on Bill "An Act to Permit the Incorporation of Subsidiary Trust Companies" (Emergency) (H.P. 1056) (L.D. 1536)

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-238)**.

Comes from the House, with the Report **READ and ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-238)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-238) **READ and ADOPTED**, in concurrence.

The Bill as Amended **ASSIGNED FOR SECOND READING LATER IN TODAY'S SESSION**.

The Committee on **FISHERIES AND WILDLIFE** on Bill "An Act Making Unified Appropriations and Allocation for the Expenditures of State Government, Department of Inland Fisheries and Wildlife Funds, and Changing Certain Provisions of the Law Necessary for the Proper Operations of State Government for the Fiscal Years Ending June 30, 1986, and June 30, 1987" (Emergency) (H.P. 632) (L.D. 900)

Reported that the same **Ought to Pass as Amended by Committee Amendment "A"**

(H-226).

Comes from the House, with the Report **READ and ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-226)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-226) **READ and ADOPTED**, in concurrence.

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

The Committee on **HUMAN RESOURCES** on Bill "An Act to Authorize an Elderly Housing Project at Pineland Center" (H.P. 582) (L.D. 852)

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-245)**.

Comes from the House, with the Report **READ and ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-245)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-245) **READ and ADOPTED**, in concurrence.

The Bill as Amended **ASSIGNED FOR SECOND READING LATER IN TODAY'S SESSION**.

The Committee on **HUMAN RESOURCES** on Bill "An Act to Revise the Maine Certificate of Need Act for Hospitals" (H.P. 578) (L.D. 849)

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-246)**.

Comes from the House, with the Report **READ and ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-246)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-246) **READ and ADOPTED**, in concurrence.

The Bill as Amended **ASSIGNED FOR SECOND READING LATER IN TODAY'S SESSION**.

The Committee on **HUMAN RESOURCES** on Bill "An Act to Create the Bureau of Children with Special Needs in the Department of Mental Health and Mental Retardation" (H.P. 1045) (L.D. 1523)

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-247)**.

Comes from the House, with the Report **READ and ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-247)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-247) **READ and ADOPTED**, in concurrence.

The Bill as Amended **LATER TODAY ASSIGNED FOR SECOND READING**.

The Committee on **JUDICIARY** on Bill "An Act to Amend the Statute of Limitations in Cases Involving Incest" (H.P. 427) (L.D. 607).

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-233)**.

Comes from the House, with the Report **READ and ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-233)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-233) **READ and ADOPTED** in concurrence.

The Bill as Amended **LATER TODAY**

ASSIGNED FOR SECOND READING.

The Committee on **STATE GOVERNMENT** on Bill "An Act Providing for the 1985 Amendments to the Finance Authority of Maine Act" (H.P. 785) (L.D. 1118)

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-231)**.

Comes from the House, with the Report **READ and ACCEPTED**, and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-231)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-231) **READ and ADOPTED**, in concurrence.

The Bill as Amended **LATER TODAY ASSIGNED FOR SECOND READING**.

The Committee on **STATE GOVERNMENT** on Bill "An Act Relating to Disposition of State-owned Real Estate" (H.P. 884) (L.D. 1241)

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-243)**.

Comes from the House, with the Report **READ and ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-243)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-243) **READ and ADOPTED**, in concurrence.

The Bill as Amended **LATER TODAY ASSIGNED FOR SECOND READING**.

The Committee on **TRANSPORTATION** on Bill "An Act to Provide for Motor Vehicle Registration and Inspection at the Same Time" (H.P. 765) (L.D. 1085)

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-230)**.

Comes from the House, with the Report **READ and ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-230)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-230) **READ and ADOPTED**, in concurrence.

The Bill as Amended **LATER TODAY ASSIGNED FOR SECOND READING**.

The Committee on **TRANSPORTATION** on Bill "An Act to Prohibit the Tampering of Automobile Emission Controls" (H.P. 225) (L.D. 259)

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-242)**.

Comes from the House, with the Report **READ and ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-242)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-242) **READ and ADOPTED**, in concurrence.

The Bill as Amended **LATER TODAY ASSIGNED FOR SECOND READING**.

The Committee on **UTILITIES** on Bill "An Act to Provide Adequate Facilities for the Public Utilities Commission" (Emergency) (H.P. 921) (L.D. 1336)

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-234)**.

Comes from the House, with the Report **READ and ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-234)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-234) **READ** and **ADOPTED**, in concurrence.

The Bill as Amended **LATER TODAY ASSIGNED FOR SECOND READING**.

The Committee on **UTILITIES** on Bill "An Act Defining the Right of Employees of Public Utilities to Testify before Legislative Committees and the Public Utilities Commission" (H.P. 514) (L.D. 719)

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-235)**.

Comes from the House, with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-235)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-235) **READ** and **ADOPTED**, in concurrence.

The Bill as Amended **LATER TODAY ASSIGNED FOR SECOND READING**.

Divided Report

The Majority of the Committee on **FISHERIES AND WILDLIFE** on Bill "An Act to Authorize an Award System to Aid in Coyote Control" (H.P. 858) (L.D. 1217)

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-224)**.

Signed:

Senator:

WEBSTER of Franklin

Representatives:

GREENLAW of Standish

ERWIN of Rumford

SMITH of Island Falls

WALKER of Norway

CLARK of Millinocket

DUFFY of Bangor

ROTONDI of Athens

CONNERS of Franklin

WEYMOUTH of West Gardiner

JACQUES of Waterville

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

Signed:

Senators:

MATTHEWS of Kennebec

USHER of Cumberland

Comes from the House with the Majority **UGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-224)** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-224)**.

Which Reports were **READ**.

The Minority **UGHT NOT TO PASS** Report was **ACCEPTED** in **NON-CONCURRENCE**.

Sent down for concurrence.

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

Senator **PERKINS** of Hancock was granted unanimous consent to address the Senate off the Record.

On motion by Senator **CLARK** of Cumberland, **RECESSED** until the sound of the bell.

After Recess

Senate called to Order by the President.

Off Record Remarks

Divided Report

The Majority of the Committee on **JUDICIARY** on Bill "An Act Concerning Reduction of Damages for Persons not Wear-

ing Safety Belts or Helmets" (H.P. 586) (L.D. 856)

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

Signed:

Senators:

CHALMERS of Knox

CARPENTER of Aroostook

Representatives:

PARADIS of Augusta

ALLEN of Washington

COOPER of Windham

PRIEST of Brunswick

KANE of South Portland

CARRIER of Westbrook

The Minority of the same Committee on the same subject reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-239)**.

Signed:

Senator:

SEWALL of Lincoln

Representatives:

MacBRIDE of Presque Isle

STETSON of Damariscotta

LEBOWITZ of Bangor

DRINKWATER of Belfast

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

Which Reports were **READ**.

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

(See Action Later Today)

Divided Report

The Majority of the Committee on **MARINE RESOURCES** on Bill "An Act to Enhance the Marine Fisheries Resources of the State" (H.P. 942) (L.D. 1352)

Reported that the same **Ought to Pass in New Draft under New Title** Bill "An Act to Examine the Lobster Resources of the State" (H.P. 1124) (L.D. 1620)

Signed:

Senators:

CHALMERS of Knox

BROWN of Washington

SHUTE of Waldo

Representatives:

CONNERS of Franklin

RICE of Stonington

CROWLEY of Stockton Springs

SALSBURY of Bar Harbor

SCARPINO of St. George

VOSE of Eastport

RUHLIN of Brewer

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

Signed:

Representatives:

MANNING of Portland

MITCHELL of Freeport

COLES of Harpswell

Comes from the House with the Majority **UGHT 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 **UGHT 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** **LATER TODAY ASSIGNED FOR SECOND READING**.

Divided Report

The Majority of the Committee on **TRANSPORTATION** on Bill "An Act Concerning Handicapped Motor Vehicle Registration Plates or Placards" (H.P. 778) (L.D. 1099)

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-225)**.

Signed:

Senators:

DANTON of York

ERWIN of Oxford

SHUTE of Waldo

Representatives:

THERIAULT of Fort Kent

MACOMBER of South Portland

McPHERSON of Eliot

MILLS of Bethel

CAHILL of Woolwich

POULIOT of Lewiston

STROUT of Corinth

CALLAHAN of Mechanic Falls

SOUCY of Kittery

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

Signed:

Representative:

MOHOLLAND of Princeton

Comes from the House with the Majority **UGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-225)** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-225)**.

Which Reports were **READ**.

The Majority **UGHT TO PASS AS AMENDED** Report was **ACCEPTED**, in concurrence.

The Bill **READ ONCE**.

Committee Amendment "A" (H-225) **READ** and **ADOPTED** in **CONCURRENCE**.

The Bill as Amended **LATER TODAY ASSIGNED FOR SECOND READING**.

Senate

Ought to Pass As Amended

Senator **DANTON** for the Committee on **BUSINESS AND COMMERCE** on Bill "An Act Relating to Financial Regulations of Insurance Companies" (S.P. 585) (L.D. 1535)

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-155)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (S-155) **READ** and **ADOPTED**.

The Bill as Amended **LATER TODAY ASSIGNED FOR SECOND READING**.

Senator **BERUBE** for the Committee on **HUMAN RESOURCES** on Bill "An Act to Prevent the Hospital Cost Containment Law from Substituting for the Collective Bargaining Process" (S.P. 529) (L.D. 1424)

Reports that the same **Ought to Pass as Amended by Committee Amendment "A" (S-156)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (S-156) **READ** and **ADOPTED**.

The Bill as Amended **LATER TODAY ASSIGNED FOR SECOND READING**.

Senator **BERUBE** for the Committee on **HUMAN RESOURCES** on Bill "An Act to Amend the Maine Certificate of Need Act to Define More Clearly the Legal Requirements for Ex Parte Contacts During the Certificate of Need Process, Consistent with the Maine Administrative Procedure Act" (S.P. 108) (L.D. 323)

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-157)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (S-157) **READ** and **ADOPTED**.

The Bill as Amended **LATER TODAY ASSIGNED FOR SECOND READING**.

Divided Report

The Majority of the Committee on **LOCAL AND COUNTY GOVERNMENT** on Bill "An Act to Authorize a Self-liquidating Bond Issue

for the County of Cumberland to Raise Funds for the Construction of a Courthouse Addition, Capital Improvements to the Existing Structure and a Related Parking Facility" (S.P. 547) (L.D. 1460)

Reported that the same **Ought to Pass as Amended by Committee "A" (S-160)**.

Signed:

Senators:

TUTTLE of York
STOVER of Sagadahoc

Representatives:

McHENRY of Madawaska
NICKERSON of Turner
ROTONDI of Athens
HALE of Sanford
DAGGETT of Manchester
MASTERMAN of Milo
MURPHY of Berwick
WENTWORTH of Wells

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

Signed:

Senator:

BALDACCI of Penobscot

Representatives:

SALSBURY of Bar Harbor
SMITH of Island Falls

Which Reports were **READ**.

THE PRESIDENT: The Chair recognizes the Senator from York Senator Tuttle.

Senator **TUTTLE:** Mr. President, I would move Acceptance of the Majority Ought to Pass as Amended Report.

THE PRESIDENT: The Senator from York, Senator Tuttle moves that the Senate **Accept** the Majority **Ought to Pass as Amended** Report of the Committee.

Is this the pleasure of the Senate?

The Chair recognizes the Senator from Cumberland, Senator Black.

Senator **BLACK:** Mr. President, I request a Division.

THE PRESIDENT: The Senator from Cumberland, Senator Black has requested a Division. The pending question is the motion by the Senator from York, Senator Tuttle that the Senate **Accept** the Majority **Ought to Pass as Amended Report** of the Committee.

Senator **BLACK:** Thank you, Mr. President. It is my purpose to bring before you some of the facts on this issue, representing the rural areas of Cumberland County. For years we have realized the rural structure in Cumberland County is such that rural areas do not always have the choice in what we wish to happen.

We have a court house that has been in Cumberland County for a good many years. As things progress, buildings are built, streets are cut off, and now it is in an inaccessible position. There isn't parking area enough there and they do need a new court house. We do not object to having a new court house, but we think is not a good financial investment to put it in the present position. We think it should be out where it is accessible. Rainbow Mall, South Portland, wherever in Portland. I don't think they care. They have asked for a parking garage—part of it will be on city property—part of it on the parking lot. Part of the parking facilities will have to be given to the City of Portland. By the time they get the sheriff's cars and the police cars and the people working in the court house, they will be full, and there will not be much more room—if any—for the people who come to the court house.

On top of that, when they do this and get it done, they'll ask for additional money to go into the jail. All of this money put down there and you the outside people still can't get to it. The rural people want accessibility to their court house. It is just another Portland bill, and we oppose it—strongly! I dare say, there will be more towns asked to get out of Cumberland County. It is gone beyond acceptability. I thank you.

THE PRESIDENT: The Chair recognizes the

Senator from York, Senator Tuttle.

Senator **TUTTLE:** Mr. President, Members of the Senate. I will reply on this issue. I understand some of the concerns of Senator Black, but I think the ultimate decision on this issue, will be determined by the voters of Cumberland County, those people from Senator Black's District as well as other people from other areas of Cumberland County

Essentially a brief review of the Bill. This Bill would essentially authorize a Cumberland County Bond Issue for a Portland court house. For an addition in capital improvements, in a request for an issue six point six million dollars. The intent of the Bill is to authorize the Commissioners of Cumberland County to obtain permission of the voters of Cumberland County, by Referendum, in the areas of Bond Issues, as I have explained before.

It's dealing with the Ninth District Court serving Southern Cumberland County. It was brought up at the public hearing, the tremendous need for improvement in Cumberland County, which has been long overdue for a number of years.

I cut an editorial from the Portland Press Herald. It was dated May 11th, 1985, and with your permission, I would like to read it to you. It says "Cumberland County is being forced to go along a long way round to obtain badly needed new court facilities. But if the long way's the only way available, so be it.

"The Legislature's Local and County Government Committee had a public hearing and heard public comment on a bill to authorize Cumberland County voters to decide whether \$6.6 million worth of self-liquidating bonds should be issued for court construction.

"The money would pay for a new facility for the District Court and Maine Administrative Court as well as renovations for Cumberland County Superior Court and public parking facility.

"No wonder. Anyone who has set foot in the district courthouse knows the need for new facilities is beyond dispute. Clients, witnesses and observers jam cheek by jowl into noisy corridors and courtrooms, waiting for a particular court proceeding. Defendants sometimes must wait two hours for arraignment.

"Surely, the quality of justice is more than strained in these conditions. And a bond issue to be paid for by a 20 year lease to the judiciary is more than justified. The counties financing costs would be charged in the form of rent to the courts. Chief Justice Vincent L. McKusick is willing to pay. As he's said, 'Cumberland Counties critical need for courtroom space doesn't go away just because the people of the rest of the state didn't support it.'

The municipal's in Cumberland County have supported this issue. I think Senator Black's comments are important to the people in his area and I respect those, but I think the ultimate decision before us today, is to allow the people of Cumberland County to make that decision in a Referendum. Thank you, I hope you will support the Majority **Ought to Pass Report**.

THE PRESIDENT: A Division has been requested.

Will all those Senators in favor of the **Acceptance of Majority Ought to Pass as Amended Report** of the Committee, please rise and remain in their places to be counted

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

14 Senators having voted in the affirmative, and 9 Senators having voted in the negative, the motion to **Accept** the Majority **Ought to Pass as Amended Report** of the Committee **PREVAILS**.

The Bill **READ ONCE**.

Committee Amendment "A" (S-160) **READ** and **ADOPTED**.

The Bill as Amended **LATER ASSIGNED FOR SECOND READING IN TODAY'S SESSION**.

There being no objections all matters previously acted upon, with the exception of those items previously held, were sent forthwith.

Senator **BROWN** of Washington, moved the Senate **RECONSIDER** its action of earlier in today's session whereby the Senate **ACCEPTED** the Majority **OULD NOT TO PASS Report** from the Committee on **JUDICIARY** on:

Bill "An Act Concerning Reduction of Damages for Persons, not wearing Safety Belts or Helmet" (H.P. 586) (L.D. 856)

Majority Report **Ought Not to Pass**

Minority Report **Ought to Pass as Amended by Committee Amendment "A" (H-239)**.

(In Senate May 30, 1985, the Majority **OULD NOT TO PASS Report READ** and **ACCEPTED**, in concurrence.)

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

Senator **CARPENTER:** Mr. President, I would oppose the motion to Reconsider the Acceptance of the Ought Not to Pass Report, and very briefly explain to the Body what this Bill does and then we can make our decisions whether or not this is something we want to go further with.

This Bill, L.D. 856, is being held as an alternative to Governor Brennan's mandatory seat belt bill. What the Bill would do, and I would point out to the Body, it has to do with seat belts and helmets. What the Bill would do, it would say that if you were in an accident, suffered damage and in fact, went to court, proved the damage was done, sued the other person for one hundred thousand dollars—after that was all over with—the liability had already been established—then there would be an arbitrary—but mandatory—reduction of damages by twenty percent. Without any showing whatsoever that non-use of the seat belt, or non-use of a helmet would have prevented the damages.

It is arbitrary. The theory is that when you get into your car and in the morning you will think I may be in an accident today and consequently I may lose twenty percent of what I have coming to me, therefore I had better buckle up. I agree with the use of an economic incentive if it is properly constructed, to encourage people to use their seat belts. I think this is the wrong way to go about it—this is an after-the-fact mechanism.

We inquired of several insurance companies as to whether or not there was any mechanism whereby they would guarantee a reduction in premiums to persons wearing seat belts on a regular basis, as they do now with smokers. We got no positive response from the insurance industry that this was something they would consider.

So what this Bill would do, if passed, in all but two instances, and those two instances are when your child is thrown through the windshield, and you are the one who had the responsibility for bucking them up, we are not going to punish the child. And also in wrongful death actions, the theory being the same that you would be punishing the widow or the widower and the children. But in all other damage actions, once liability has been established, after you have gone through the entire legal process, you had shown to the court that you were entitled to one hundred thousand dollars damages (and I am just using that as a figure because it is easy to deduct twenty percent of it), then you would automatically have those damages reduced by twenty percent or twenty thousand dollars simply because you were not wearing a seat belt—or simply because you were not wearing a helmet.

Again, and I emphasize this—without any requirement that there be a casual connection shown. For example: If I am in my car—I do not have my seat belts fastened—I am struck

from the side—my head strikes the post—which it would have whether I had the seat belt on or not. I suffer severe brain damage to the tune of one hundred thousand dollars. If the insurance then shows that I did not have my seat belt fastened, regardless if it would have made a difference, I lose twenty percent. I think it is bad policy and I ask you not to support the pending motion to Reconsider.

Off Record Remarks

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

Senator **BERUBE:** Thank you, Mr. President and Members of the Senate. My colleague from the County of Aroostook, Senator Carpenter, is quite right in everything he said, because what he is talking to is the original L.D. The Committee Amendment to the Minority Report Ought to Pass as Amended by Committee Amendment "A," does substantially change the initial wording of the Committee of the L.D. It would affect only the adults and their adult passengers. If the child went through the windshield, that would not affect the child—the child could still recover one hundred percent damages, so it excludes them.

It also, and I am reading now from a statement of fact of the Minority Report Ought to Pass. It exempts also, the wrongful death actions from the application of this reduction and damages. It removes the ceiling when we've heard of a one hundred thousand dollars. It has no ceiling in the Majority Report.

Also, you have heard that the insurance companies have been ambivalent, have not said whether or not it would affect premium rates. It is my understanding from speaking to some insurance people, that perhaps the actual present premium rates might not be reduced. However, because they would be paying out less money, it would stem the tide of this increase—continual increase—of premium rates.

Those are the reasons why I supported the Bill and more so the Report—the Minority Ought to Pass Report as Amended. Thank you.

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

Senator **CARPENTER:** Mr. President, Ladies and Gentlemen. I want to make it very clear—I don't want anybody to think that I mislead the Senate. I thought that I had said—and I believe that I did say—that except for this twenty percent reduction—would apply except in two cases. One where there was a child involved and two, where there was a death involved, because what you are doing there would be punishing those left after the death, i.e., the family in most instances. So those are the two exceptions where you would not get the twenty percent reduction. I don't want anybody to think that I have misled them. It is exactly right—in those instances the twenty percent reduction would not be taken into consideration. In all other instances though, the twenty percent reduction would be taken into consideration. I understand the Senator from Androscoggin, Senator Berube's concern. I agree with the thrust of what we are trying to do here, to provide an economic incentive to have people to wear their seat belts.

I would simply say that the insurance companies, if they believe that they are going to pay out less money on claims if more people wear seatbelts, they should do as the insurance industry has done in the case of cigarettes and smokers—they should simply add that incentive up front when they offer the insurance policy. When you go in to insure your car, if in fact, this is the way the statistics hold—and I believe it is—there are less accidents with severe damage where the seat belts are used—then offer it up front and say 'If you will sign an affidavit or something, that you regularly wear your seat belts, we will give you a dis-

count on your policy.' That is the way to go. Not after the fact. And not in all situation where there has to be no showing of causation what-so-ever, where I could clearly show in my case the hypothetical that I just gave you—that the use of a seat belt would have made no difference. My head would have struck the door post, if I had the seat belt on. I can bring in ten witnesses—ten experts—to say that there would have been no difference, most likely would have been no difference—never the less I would still lose the twenty percent.

Again, I would not want anybody to believe I am misleading them. I did not say there was one hundred thousand dollar limit on this. I simply used a figure of one hundred thousand dollars because it was simple in my mind to calculate a reduction of twenty percent, instead of being entitled to one hundred thousand dollars, you would automatically be cut back to eighty thousand.

There is no limit on this Bill, what-so-ever, on the damages issue. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Washington, Senator Brown.

Senator **BROWN:** Thank you, Mr. President. Men and Women of the Senate. I am pleased that we have the opportunity to debate this issue, at least if it is just for Reconsideration. You know we had in this Chamber, in this Legislature, this year, the issue of dealing with seat belts. It was a Governor's Bill, it was worked hard and it went down resoundingly in defeat. I was very supportive of those efforts and would continue to be supportive of mandatory seat belt bills as long as they come before this Chamber. Never-the-less, the majority did not feel that way—a vast majority I might add.

Last week I purchased an automobile, a General Motors automobile. What came with that was a ten thousand dollar policy that if anything happened to an occupant while riding in that car, then this would automatically be in effect. I understand what the good Senator from Aroostook, Senator Carpenter says in regard to the after the fact versus the beginning when the insurance might be initially written—an individual could be given a discount if he were a seat belt user—if he or she were a seat belt user. You know the fact is that we in this State have decided that mandatory seat belt laws are not the way to go.

Presently we do not have any insurance companies to my knowledge that have offered those kinds, other than the free insurance that I got with the car last week, insurance that offer any kind of a reduction in rates as a result of wearing seat belts regularly. It seems to me if we believe, and if we believe strongly, that it is important to leave the issue in the individuals hands, and that was the big argument in here. Individuals ought to have the chance to decide for themselves whether or not they are going to wear seat belts. Don't force it upon people. Let them make their own minds up. Don't force them to wear seat belts. All this Amendment says is that is exactly the way it ought to be. Let them go ahead and make their own minds up as to whether or not they are going to wear seat belts—but—if they don't—and you can't tell me because insurance companies have not responded to the good Senator's letters earlier, that we're not eventually going to get some reductions in rates. It is just as automatic as anything in the world. If there is lesser charges being paid out, eventually it is going to mean lesser rates that you and I are going to have to pay out for insurance coverage.

Those of us who wear seat belts now, on a regular basis, let us have, in the event of an accident, let us have that break. The individuals that do not, let them go ahead and pay that additional twenty-percent that they would not receive when the determination is made. So I would urge that, in the name of individual rights, for people to make their own mind up,

let's Reconsider this and pass the Amended version. Thank you, Mr. President.

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

Senator **CHALMERS:** Thank you, Mr. President. Ladies and Gentlemen of the Senate. This Bill is not a substitute bill on the Bill to have mandatory seat belts. This Bill will not lower insurance costs for all of us. This Bill would allow someone who is not at fault, to lose twenty percent of the damages that somebody else caused him. Only because he or she didn't happen to have a seat belt on. How can you say that if I pay the premium, that I am not allowed to get one hundred percent of what I am insuring for, just because I don't happen to have put on the seat belt when I get in the car right now at the curb? I get in the car—I have not had time to put on the seat belt—some idiot rear-ends me—and I can't collect what I pay the premium for. I would ask you to defeat the motion. Thank you.

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

Senator **KANY:** Mr. President, I wish to pose a question through the Chair, to anyone who may answer it. That is that I am wondering why an insurance company could not contract with an individual policy holder that automobile insurance or medical insurance portion, would not be paid if someone were not wearing a seat belt. Is that not possible under the current law?

THE PRESIDENT: The Senator from Kennebec, Senator Kany posed a question through the Chair to any Senator who would care to respond.

The Chair recognizes the Senator from Aroostook, Senator Carpenter.

Senator **CARPENTER:** Mr. President. In my humble opinion, it would be possible, under existing law that again, if the insurance companies wanted to offer incentives to people, lower rates for wearing of seat belts, they certainly could do that. They have taken that initiative in other areas that I have already mentioned, smoking, for example.

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

Senator **McBREAIRTY:** Mr. President, Men and Women of the Senate. I would like to pose a question to anyone who may wish to answer. If I had an accident and wanted to get out of the car, in case it might blow up or catch on fire, would I have to sit there with my seat belt on to prove that I had it on, or would they take my word for it?

THE PRESIDENT: The Senator from Aroostook, Senator McBreaity posed a question to the Chair to any Senator who may care to respond.

The Chair recognizes the Senator from Aroostook, Senator Carpenter.

Senator **CARPENTER:** Mr. President, Ladies and Gentlemen of the Senate. In the case of A Senator from Aroostook, I think you word would be sufficient.

THE PRESIDENT: The pending question is the motion by the Senator from Washington, Senator **Brown**, that the Senate **Reconsider** its Action whereby it **Accepted** the Majority **Ought Not to Pass** Report of the Committee. Is this the pleasure of the Senate?

The Chair recognizes the Senator from Aroostook, Senator Carpenter.

Senator **CARPENTER:** Mr. President, I request a Division.

THE PRESIDENT: The Senator from Aroostook, Senator Carpenter has requested a Division.

Will all those Senators in favor of the motion of the Senator from Washington, Senator **Brown**, that the Senate **Reconsider** its Action whereby it **Accepted** the Majority **Ought Not to Pass** Report of the Committee, please rise and remain standing in their places to be counted.

Will all those Senators opposed, please rise

in their places to be counted.

4 Senators having voted in the affirmative and 26 Senators having voted in the negative, the motion to **RECONSIDER FAILS**.

Divided Report

The Majority of the Committee on **LOCAL AND COUNTY GOVERNMENT** on Bill "An Act to Annex the Towns of Brunswick and Harpswell to Sagadahoc County" (S.P. 374) (L.D. 1008)

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-161)**.

Signed:

Senators:

BALDACCI of Penobscot
TUTTLE of York
STOVER of Sagadahoc

Representatives:

SALSBUURY of Bar Harbor
DAGGETT of Manchester
MASTERMAN of Milo
MURPHY of Berwick
WENTWORTH of Wells
NICKERSON of Turner

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

Signed:

Representatives:

McHENRY of Madawaska
SMITH of Island Falls
ROTONDI of Athens
HALE of Sanford

Which Reports were **READ**.

The Majority **OUGHT TO PASS AS AMENDED** Report was **ACCEPTED**.

The Bill **READ ONCE**.

Committee Amendment "A" (S-161) **READ** and **ADOPTED**.

The Bill as **Amended ASSIGNED FOR SECOND READING LATER IN TODAY'S SESSION**.

SECOND READERS

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

House As Amended

Bill "An Act to Protect Freshwater Wet Lands" (H.P. 567) (L.D. 838) (C "A" H-191)

Bill "An Act Relating to the Regulations and Distribution of Funds for All-terrain Vehicles" (H.P. 723) (L.D. 1032) (C "A" H-222)

Bill "An Act to Clarify the Discretionary Authority of the Harness Racing Commission to License Pari-mutuel meets and Assign Racing Dates" (H.P. 790) (L.D. 1120) (C "A" H-162)

Bill "An Act to Amend the Liquor Laws" (H.P. 852) (L.D. 1208) (C "A" H-213)

Resolve, Relating to the Development of an Interdepartmental Plan to Identify Needed Resources for a Statewide Network of Out-of-home Placements and Aftercare, Follow-up and Transitional Services (Emergency) (H.P. 936) (L.D. 1342) (C "A" H-216)

Bill "An Act to Reauthorize the Forest Resource Assessment and Marketing Program" (Emergency) (H.P. 1026) (L.D. 1478) (C "A" H-217)

Bill "An Act to Establish a 5-day Special Muzzle-loading Hunting Season" (H.P. 1027) (L.D. 1479) (C "A" H-221)

Bill "An Act Concerning Unemployment Compensation Contributions by Home Knitting Businesses" (H.P. 1037) (L.D. 1511) (C "A" H-215)

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

Bill "An Act to Update and Improve the Education Laws of Maine" (H.P. 801) (L.D. 1135) (C "B" H-201)

On motion by Senator **Brown** of Washington, Senate Amendment "A" (S-147) was **READ**.

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

Gauvreau.

Senator **GAUVREAU:** Thank you, Mr. President. At this time, I would move for the Indefinite Postponement of Senate Amendment "A", and would speak briefly to my motion.

Mr. President, Men and Women of the Senate. As I understand it, the Amendment that is being offered by the good Senator from Washington, Senator Brown, would require persons using the Teacher Placement Office to pay a registration fee—a filing fee of some thirty-five dollars, which would amount to an increase of seven hundred percent over the current filing fee of five dollars. I am a bit bemused as far as to why the amendment is being offered.

The monies which would be generated from that level would go into the general fund. We have a problem which we discussed yesterday, dealing with the Teacher Placement Office. Once again, the Department that came into the Committee on Education this year, proposed abolition on the Teacher Placement Office and that the staff be transferred to the Certification Unit in the Department to gear up for the Teacher Certification requirements which will be going into effect in 1988.

There is no question that we need to beef up the staff in the Department so they can properly attend to their certification responsibilities. It strikes me that adopting a seven hundred percent increase in the Teacher Placement filing fee, will not accomplish that end, in fact, the money will go into the General Fund. It will have no effect at all as far as the problem which the Department faces.

I might also point out that the Teacher Placement Office is providing a valuable service, not only for potential teachers, but also for our communities, and they rely to a great extent upon that office to determine the available pool of perspective teachers when positions become open in the various communities.

It seems to me we ought not to discourage people from utilizing that office, because it does perform a valuable service, there is no question that we are subsidizing the service now, the cost of that operation of that office are not being defrayed by the five dollar filing fee. The important purpose here is that we are making available throughout the State a current list of all perspective teachers, so that vacancies may be promptly filled.

I would suggest, and urge the Body to defeat the prevailing motion. Certainly we are going to have to come back next year and take a good hard look at the Department and see how we can deal with certification responsibilities the Department must face. But I do suggest that this Amendment will do absolutely nothing toward assisting the Department and for that reason I would ask that you join me and vote for Indefinite Postponement of the Amendment. Thank you.

Senator **Gauvreau** of Androscoggin moved the **Indefinite Postponement** of Senate Amendment "A" (S-147).

(Off Record Remarks)

THE PRESIDENT: The Chair recognizes the Senator from Washington, Senator Brown.

Senator **BROWN:** Thank you, Mr. President, Men and Women of the Senate. It is always interesting to me, how we have such a difficult time when it comes time to in any way rearranging or changing a department—or even the budget. How we have such a difficult time turning loose something once it is established.

We had the Department of Education come in this year with a proposal, which was included in several other ideas, (by the way this Amendment that is being offered is an Amendment to one of the Ought to Pass versions of the Bill), suggesting that because of the fact that they do not have adequate personnel this year, that they needed to reallocate some of those people to deal with certification—to

process the applications for certification. They requested that. Not often do we have a department that comes in and says it is a valuable service, but we need to make some priorities. We don't have the people that we've requested. We have requested through the Governor's Office position, we didn't get all the positions, we requested through the Commissioner. He makes cuts—the Governor's Office makes cuts—the Appropriations Committee only has a certain amount of money. We have a problem then, of reallocating resources.

We always have to do that in our families. We have to do it in State Government. The Placement Office within the Department of Education—the cost per person is ninety-two dollars. About ninety-two dollars to operate—there is some-over five hundred people who utilize the service. The proposal that I am suggesting is that we increase that five dollar registration fee to thirty-five dollars for registration.

Now, that doesn't seem—the good Senator from Androscoggin, Senator Gauvreau, said a seven hundred percent increase—which sounds kind of dramatic. We've had that five dollars on the books for many, many years and it was just a—I guess—an amount that was chosen at some point to say that there is a fee attached to register.

The fact is that with the Federal regulations that exist and the amount of advertising that is being done in the newspapers, every single branch of the University system has a placement office—it costs you thirty to forty dollars to register at any one of those offices. Thirty to forty dollars to register at any University office. If you were to go to a private placement bureau, an unemployment bureau, to be placed as a teacher, an administrator, or an educator somewhere, you would pay between seven hundred and fifty to eight hundred dollars. That is what you would pay in a private place.

All I am saying is that we ought to increase that to a reasonable fee. Now, the question has been brought up here, is that the money is going to go into the General fund, anyway, we are going to lose it. Ladies and Gentlemen, whose money is that? We have a pool of money that the appropriations Committee has to carefully look at. If that money—between fifteen and twenty thousand dollars more is brought in and it is allocated to shelters for abused women, or whatever we decided to use that money for in the Appropriations Committee, it is still State dollars that we have to account for in some way.

And all I am saying is that if, in fact, we want to keep the Placement Office, and I for one want to keep it too, I think it is doing us a service—I think, however, if I had to make some priorities as to whether or not to have these positions or that position, I will probably go ahead and say "I may not care to keep that position right now, that office." All I am saying, is if we are going to keep that office, let's make it partially pay for itself by charging those that register thirty-five dollars rather than five dollars.

That doesn't seem too much to ask. Thank you, Mr. President.

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

Senator **PEARSON:** Mr. President, Men and Women of the Senate. We have had from time to time, as we have gotten on the issue of education in the Appropriations Committee, quite a few dilemmas that we have been faced with. We have mandated an arts program in the school, but we have no arts consultant. We have been talking about the necessity of having that, and we have been trying to figure out how we are going to pay for it.

So it is because of that and because I believe that a person who is in a placement office is also important, that I would support Senator Brown's Amendment.

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

Senator **CLARK:** Thank you, Mr. President. I don't support the attachment of the Senate Amendment to this issue because the placement service provides more of a service to local school units, we utilize the service free of charge, than it does, for those who place their names on lists with their credentials for scrutinization by the local school units for potential hiring units.

Teachers, under law, are the only class of employees—I would really like to say profession—class of employees, Members of the Senate, that are required by law, to be certified under State Law, mandated by State Law, and not by their peers, their profession, their trade or occupation.

A measure similar to this has been introduced in a number of previous Sessions, and has always been rejected by members of the Maine Legislature, in which every Chamber the measure was introduced.

While I am sensitive to the concerns, as the prime Sponsor of the Arts Consultant Bill, as articulated by the good Senator from Penobscot, Senator Pearson, and I am sensitive to the needs of financing, as articulated by the good Senator from Washington, Senator Brown, I would suggest that those two same Senators, yesterday, voted against a measure that would generate a one million revenue enhancement—namely the Seasonal Agency Stores.

And their position on this particular Amendment with the basis of financial need, and pay as you go, while having merit, is negated by their non-support of a revenue generator that this Chamber Adopted yesterday.

If, in fact, we are to assess candidates for employment, the fee of thirty-five dollars—then in fact, we perhaps should assess those local school units or your municipalities a corresponding fee for utilizing the services of the Placement Office.

And while that may seem a wee bit facetious, it is the basis for my opposition to this Amendment, and I would hope that we would reject the same. Thank you.

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

Senator **PENOBSCOT:** Mr. President, Men and Women of the Senate. With regard to my vote on other matters in this Senate, I am trying as best as I know how to actively reflect the constituency which elected me.

THE PRESIDENT: The Chair recognizes the Senator from Washington, Senator Brown.

Senator **BROWN:** Thank you, Mr. President, Men and Women of the Senate. Just a thought or two concerning the comments that were made by the good Senator from Cumberland, Senator Clark, who certainly understands the function of the office extremely well, being a teacher. And I know she understands too, the different functions that office performs in terms of local services.

There is one area though, there seems to be some concern about in her comments, dealing with the only profession that's required to be certified. We're not talking about doing away with the Certification Bureau, or even saying that the people have to register, for that matter.

All we're saying is for the placement portion, Senator Clark. I just wanted to be sure that that was not misunderstood. The Certification Bureau would still stay completely in place to take care of processing those applications from different individuals. Thank you, Mr. President.

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

Senator **GAUVREAU:** Thank you, Mr. President, Men and Women of the Senate. Just briefly. I want to underscore that this whole issue has arisen due to the legitimate need to fund a staff properly for the teacher certifica-

tion unit in the Department of Education.

We have some time, we don't have to act today, we do not have to act this year on that matter. The certification requirements will become into effect three years hence. I would suggest, strongly, that rather than tack on an amendment today, we don't really know the consequences of that amendment, that we let this Bill die, or let this issue die for this Session. The Committee on Education can come back during the second regular Session, and thoroughly review the matter. We're certainly sensitive to the problem that the Department has raised. I think though, that adopting an amendment such as this, with very little consideration, is inappropriate and premature.

It may well be this is the way we have to go. We don't know that yet and we don't have to act now and I suggest that we do not act now, and accordingly would urge you to vote with me in seeking an Indefinite Postponement of the Amendment.

THE PRESIDENT: The pending question is the motion of the Senator from Androscoggin, Senator **Gauvreau**, to **Indefinitely Postpone** Senate Amendment "A" (S-147).

The Chair recognizes the Senator from Washington, Senator Brown.

Senator **BROWN:** Mr. President, I request a Division.

THE PRESIDENT: A Division has been requested.

Will all those Senators in favor of the motion of the Senator from Androscoggin, Senator **Gauvreau** to **Indefinitely Postpone** Senate Amendment "A" (S-147), please rise in their placed to be counted.

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

15 Senators having voted in the affirmative, and 14 Senators having voted in the negative, the motion to **INDEFINITELY POSTPONE** Senate Amendment "A" (S-147) does **PREVAIL**.

Now is the pleasure of the Senate that this Bill be **PASSED TO BE ENGROSSED AS AMENDED**, in concurrence?

It is a vote.

Senate As Amended

Bill "An Act to Clarify and Make Corrections in the Fisheries and Wildlife Laws" (S.P. 50) (L.D. 68) (C "A" S-152)

Bill "An Act to Clarify Municipal Authority over Automobile Graveyards and Junkyards" (S.P. 136) (L.D. 375) (C "A" S-149)

Bill "An Act to Amend the Law Relating to Employment and Dismissal of County Employees" (S.P. 530) (L.D. 1425) (C "A" S-150)

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

Sent down for concurrence.

Off Record Remarks

ENACTORS

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

An Act to Make Certain Housekeeping Changes to the Maine Criminal Code (S.P. 219) (L.D. 578) (C "A" S-99)

An Act to Clarify the Laws Relating to Landlords and Tenants (S.P. 308) (L.D. 797) (C "A" S-106)

An Act to Authorize Sagadahoc County to Raise Funds to Renovate and Expand the Present Court Facilities at Bath (S.P. 375) (L.D. 1009) (S "A" S-101 to C "A" S-94)

An Act Concerning Commercial Fishing and Maritime Activity Zones (S.P. 365) (L.D. 985) (C "A" S-90)

An Act Concerning Programs for the Homeless (S.P. 402) (L.D. 1112) (C "A" S-108)

An Act to Provide a Class A Lounge Liquor License (S.P. 578) (L.D. 1520)

An Act Relating to County Extension Work in Maine (S.P. 584) (L.D. 1533)

An Act Concerning Unauthorized Transfer

and Use of Fuel Obtained through Fuel Assistance (S.P. 590) (L.D. 1553)

An Act to Establish a Medicaid Report (S.P. 592) (L.D. 1555)

An Act to Repeal an Outdated Provision of the Highway Law (H.P. 124) (L.D. 149)

An Act to Amend Calculation of Period of Imprisonment under the Maine Criminal Code (H.P. 683) (L.D. 969) (C "A" H-158)

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) (S "A" S-109)

An Act to Grant Authority to the Maine State Ferry Advisory Board to Name Ferries and Ferry Terminals (H.P. 1034) (L.D. 1508) (H "A" H-182)

An Act Concerning Snowmobile Registration Fund Distribution (H.P. 1071) (L.D. 1558)

An Act Authorizing a Bond Issue for Penobscot County to Raise Funds to Renovate or Expand the Penobscot County Jail (H.P. 1102) (L.D. 1610)

An Act to Clarify the Maine State Retirement System's Board of Trustees' Relationship with the System's Investment Managers (S.P. 242) (L.D. 637) (C "A" S-92)

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

An Act Appropriating Funds for Technical Assistance under the Community Development Block Grant Program (S.P. 363) (L.D. 1000) (S "A" S-100)

On motion by Senator **PEARSON** of Penobscot, placed on the **SPECIAL APPROPRIATIONS TABLE** pending **ENACTMENT**.

An Act to Expand the Number of Elder Volunteers in the Retired Senior Volunteer Programs, Foster Grandparent Programs and the Senior Companion Program (S.P. 387) (L.D. 1066) (C "A" S-97)

On motion by Senator **PEARSON** of Penobscot, placed on the **SPECIAL APPROPRIATIONS TABLE** pending **ENACTMENT**.

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

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

Resolve

Resolve, to Name the Wiscasset Bridge the Donald E. Davey Bridge (H.P. 373) (L.D. 492) (C "B" H-187)

Resolve, to Authorize Granting a Sewer Line Easement on State Land to the Town of Thomaston (H.P. 948) (L.D. 1357) (C "A" H-171)

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

Resolve, Creating the Commission to Study Emergency Medical Services in Maine (H.P. 341) (L.D. 458) (S "A" S-112 to C "A" H-116)

On motion by Senator **PEARSON** of Penobscot, placed on the **SPECIAL APPROPRIATIONS TABLE** pending **FINAL PASSAGE**.

Under Suspension of the Rules, the Senate voted to take up the following items inclusively.

Emergency

An Act to Require Final Usage Labeling for all Surimi Products (H.P. 1052) (L.D. 1528) (S "A" S-116)

Emergency

An Act to Make Allocations from the Maine Hazardous Waste and Low-level Waste Siting Funds for the Fiscal Year Ending June 30, 1986 (S.P. 582) (L.D. 1531)

Emergency

An Act to Allow the Use of Lobster Fund Money to Provide for Lobster Hatcheries (S.P. 589) (L.D. 1552)

These being an Emergency Measure and having received the affirmative vote of 28 Members of the Senate, with No Senators having voted in the negative, and 28 being more than two-thirds of the entire elected membership of the Senate were **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

Emergency Resolve

Resolve, Concerning Reauthorization of the \$30,000,000 Bond Issue for the Planning, Construction and Equipment of the Water Pollution Abatement Facilities (H.P. 1101) (L.D. 1609)

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

Senator **PEARSON:** Mr. President. I would like to explain this because a lot of people seem to be in a quandary about it. What this is, is a Bond Issue that has already floated. We passed a law a year ago, or two years ago, that said that if they didn't issue the Bond within five years, it had to come back and be re-authorized, and this is simply re-authorization of a Bond Issue that has already been issued.

This being an Emergency Measure and having received the affirmative vote of 28 Members of the Senate, with 0 Senators having voted in negative was **FINALLY PASSED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

ORDERS OF THE DAY

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

Bill "An Act to Revise Rules Governing Certification of Seed Potatoes" (H.P. 1080) (L.D. 1572)

Tabled—May 29, 1985, by Senator **VIOLETTE** of Aroostook.

Pending—**PASSAGE TO BE ENGROSSED** (In Senate May 29, 1985, the Minority **UGHT TO PASS IN NEW DRAFT** under same title Report **READ** and **ACCEPTED IN NON-CONCURRENCE** and the Bill **READ A SECOND TIME**.)

(In House May 28, 1985, the Majority **UGHT NOT TO PASS** Report **READ** and **ACCEPTED**.)

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 **HUMAN RESOURCES** on Bill "An Act to Require the Proceedings of Boards of Directors of Nonprofit Hospitals to be Open to the Public" (H.P. 878) (L.D. 1235)

Report "A"—**Ought Not to Pass**

Report "B"—**Ought to Pass in New Draft** under same title (H.P. 1122) (L.D. 1618)

Report "C"—**Ought to Pass in New Draft under New Title** Bill "An Act to Require the Proceedings of Boards of Directors of Nonprofit Organizations to be Open to the Public" (H.P. 1123) (L.D. 1619)

Tabled—May 29, 1985, by Senator **VIOLETTE** of Aroostook

Pending—**ACCEPTANCE** of Report "A" **Ought Not to Pass**

(In Senate May 29, 1985, Reports **READ**. **RECONSIDERED** Acceptance of Report "A" **UGHT NOT TO PASS**.)

(In House May 28, 1985, Bill and Accompanying papers **INDEFINITELY POSTPONED**.)

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

Senator **CARPENTER:** Mr. President, Ladies and Gentlemen of the Senate. The pending mo-

tion on this bill is to Accept the Ought Not To Pass Report and so I felt that I had to make my fight here if I were to make it at all.

This Bill is very straight forward, it does exactly what the title says it would do, however, there does not seem to be much support in the Legislature for that, and, what I'm asking for today is that we defeat the pending motion, get this Bill into a posture where it can be amended, so that I may offer an amendment at Second Reader to drastically modify the bill to require a public meeting and I underline the word A.

The Bill, as it stands now, would require non-profit hospitals to conduct their meeting around in the sunshine, something that I find fairly common around these halls and most places around the State. And, I guess, the theory is, or I know the theory is, that hospitals have a public function. They function also, in the large part, with public dollars. However, for some reason, and I have yet to identify what that reason is, the hospital lobby has mounted an absolutely overwhelming campaign against this bill or any version thereof. They've talked about "Well, why don't we open up Bath Iron Works because they have a lot of public money." I would submit to you that is a masking of the true issue.

The true issue is should the functioning of hospitals which are expending our tax dollars and which have a defined and definite public policy, be opened to the public. It is the same as this Body is opened to the public, the same as our committee meetings are opened to the public, the same as town meetings are opened to the public, why should they be exempted and what is it that they are so fearful of?

I have heard all sorts of arguments that this bill is going to infringe upon the rights of people and there are issues that are too sensitive to be discussed out in the public, and, I would simply say that under the Right to Know Laws, where this would be proposed to go, that there are very adequate safeguards that have never failed us to my knowledge yet, to protect the rights of individuals when personalities are being discussed, when labor issues are being discussed. What we are talking about in this Bill is simply opening up the rest of the process.

The same arguments you are going to hear against this bill were put forth, have been put forth, before on the Floor of this Body. I would submit to you that the arguments are exactly the same as came forth against the Right to Know Law at its inception. Days when probably no one in the Senate, presently, were members of this Senate, but in the old days when the idea of opening up town meetings, opening up of all meeting where public monies and public policies are being discussed, should be opened up. Those were the times when we thought this was going to destroy democratic society as we saw it.

We all have, or almost all of us, have non-profit hospital in our districts, and, I would submit to you there is nothing wrong with them operating in the sunshine. That is what this bill would do. However, if we would defeat the pending motion, I will modify that bill or attempt to modify that Bill, in even a more drastic fashion and simply ask that they hold one meeting a year in the sunshine.

As you can see as you go out for your lunch today, the sunshine makes things grow and makes things beautiful, and I would submit to you that that might be a possibility if some version of this Bill were to pass.

Mr. President, I would ask that when the vote is taken that there be a Division.

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

Senator **BERUBE:** May I pose a question to the Chair, please?

What is the motion before us at this time?

THE PRESIDENT: The pending motion is the **ACCEPTANCE** of Report "A" **Ought Not to Pass**.

The Chair recognizes the Senator from Androscoggin, Senator Berube.

Senator **BERUBE:** I would ask you all to vote for the motion, absolutely.

Mr. President, you know, it is true, there is sunshine today, but sometimes it's followed by rain, as we may have tomorrow, and, I don't think that would auger well for the board meetings, but, save time by following me, I hope I'm going to vote the right way on this thing, Mr. President.

I missed the lights from the other Body, you know Sir.

THE PRESIDENT: The Chair would respond that reference to the other Body is inappropriate.

Senator **BERUBE:** I would apologize.

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

Senator **CHALMERS:** Thank you, Mr. President. Mr. President and Ladies and Gentlemen of the Senate.

I would ask you to vote against this motion. I think the Right to Know Law protects executive sessions, it would protect the meetings of the hospital.

I would just like to ask a question to this. What are they afraid of? They're operating with our money, with public money. We have a problem with health costs, care costs going out of sight. We need to get a handle of it. I'd like to ask the question what are the hospitals afraid of. Thank you.

THE PRESIDENT: The Senator from Knox, Senator Chalmers, has posed a question through the Chair which any Senator may respond to as they so desire.

The Chair recognizes the Senator from Androscoggin, Senator Berube.

Senator **BERUBE:** Thank you. I don't think hospitals are afraid of anything, not any more than other non-profit organizations, that if we all wanted to be very fair, should be included in this. United Fund, Blue Cross/Blue Shield, service organizations or churches, your favorite lodge. I think you should extend it to everyone. I might even extend it further since the aim is to go after an organization which receives most of its money from the public till, so we're told, why not go after Bath Iron Works, granted, it's for a profit, but they receive in excess of 90% of their monies from you and I and everybody else out there.

I didn't want to debate the Bill right now but I suspect I'm in the position where I have to defend this. I see nods, good.

I'm concerned that this singles out non-profit hospitals. You're treating them differently from for-profit hospitals. Why should they be treated differently first of all? Which raises, and I'm not a lawyer, but which raises a valid question of Constitutionality. There is a violation in this Bill, violation of a crime, Class E crime. That means \$500 fine plus six months in jail. Six months in jail — who is going to go to jail? The whole board of directors which are made up of your friends and your neighbors and your relatives and people from all walks of life in your respective community. Who is going to go to jail?

We will need a fiscal note on this bill because, obviously, there's got to be a State agency that is going to oversee this.

The hospitals, we'll stress non-profit hospitals, already are under the scrutiny of the public. They come under municipal rules, State agencies which certainly make their annual visits for licensing and inspections, public information. They come under the scrutiny, certainly they come under the scrutiny, of the Health Care Finance Commission, the cost containment board, all of those people have got the records of non-profit hospitals. I won't go back into saying how about all the other non-profit organizations. How about the non-profit skilled nursing home facilities? Anyone who comes under certificate of need!

Now, the esteemed colleague from Aroostook

County, Senator Carpenter, saying that the public, what are they scared of, they should know everything. Who is going to be there to speak for the public? If this passes, they're only going to be there as a spectator. How is that going to improve good patient care for the people of our State and our communities? Unless, of course, unless that next session there's another bill that says a member of a particular organization must sit on the board of hospitals. Now, which organization will be mandated to send a member of their board to make policy decisions for a hospital?

I think it is unfair because it singles out non-profit hospitals. Passage of this Bill will add, as I've said before, nothing to patient care. Passage of this Bill will be disastrous. Thank you.

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

Senator **CARPENTER:** Mr. President, Ladies and Gentlemen of the Senate. I certainly wouldn't stand here and hope to make the argument that this might add something to patient care.

What I would argue is that conducting business with public dollars in the open adds something, perhaps, to the expenditure of public funds. I think that is the issue that we're talking about here, not in attempting in any way to impede or hinder the progress or the deliberation of any board of directors.

The argument is made that these kinds of meetings, for some reason, are so unique that they cannot be held where they are accessible to the public and I would say to you that do you think that good government is served when we have opened our halls in this Body and in the other Body at the other end of the hall, when we've opened our meetings, we've allowed for the free flow of discussion. Has that hindered anybody's discussion of anything? We don't even have, under our rules, the ability to go into Executive Session which hospitals would have if this bill were to pass.

Why are they being treated differently? I'm not sure what the far-ranging policy behind that is but don't think for a second that we don't treat hospitals differently. We've heard Bath Iron Works, we've heard the United Way thrown out as a cloud over this Bill. I would ask you if this most recent Legislature made the policy decision that the budgets of BIW and the United Way be put under something called the Health Care Finance Commission, one of the most major pieces of legislation I've seen through this Body in the eleven years that I've served here, we made the decision right then that hospitals were unique. A good part of the basis of that decision was because they were operating on large amounts of public dollars. That plus the fact that there's a public policy issue involved in hospitals which is not involved in Bath Iron Works, which is not involved in the United Way, the public policy decisions.

I still fail to understand why, after several years, hospitals have not voluntarily agreed to hold their meetings in the open and we bring this Bill back, this Bill is brought back time and time again, and every time I have seen an effort mounted against this Bill very similar to the effort that was mounted against the Health Care Finance Commission. Very similar, absolute paranoia on the part of the hospitals, that any member of the public should be allowed to go and sit and listen, not to participate, but to go and sit and listen, the same as they're allowed to do in the rear of this Chamber, the same as they're allowed to do in your municipal offices and other places where the entity is operating largely on public dollars. That is the issue here.

Thank you.

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

Senator **GILL:** Mr. President and Members of the Senate. The good Senator from Aroostook,

Senator Carpenter, asked a couple of questions — why is this bill before us and I would maintain that there is no good reason for this bill to be before us.

We have had no documented need or purpose brought to our attention within the Committee structure that people are being denied access. I know that in the Portland area where I come from, there are three hospitals - nobody has called me, I have not received one call from one individual asking to be invited to a meeting or asking that the meeting be opened to the public because I think most hospitals throughout this State have boards of directors and boards of trustees who are, in fact, part of the public membership. They represent the public, they represent them from a business point of view, they know what the needs are in the community and they represent their constituents well, serving on a particular board.

Senator Carpenter raised a point about us treating hospitals differently and I maintain that we certainly do treat hospitals differently. They are the most regulated industry in the State of Maine. We have the Certificate of Need, health planning people looking at hospitals, they have public meetings when a hospital decides that they have a piece of equipment that they want to buy, those meetings are open to the public.

We have the Health Cost Commission which we instituted that looks at the budgets, looks at the goings-on within the hospital framework. Yes, they are unique, but they are over regulated in the State of Maine, in spite of the fact that we have instituted the Cost Commission and we have the Certificate of Need process, it still encourages hospitals to become competitive and to be price-sensitive for their consumers. Open board meetings would only inhibit that, if not kill that competitive edge that a hospital might have over another one in the same locale.

I maintain that there are certain things that hospitals, as they're building new services and as they're discussing those within their framework, they don't want a neighborhood hospital to know just what they are doing.

So I think that there's plenty of sunshine right now and I would urge you to pass the Ought Not To Pass Report.

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

Senator **SEWALL:** Thank you, Mr. President, Members of the Senate. I would like to address one small legal problem that I think that this bill has, and that is in a business-competitive form.

If there are two kinds of corporations that are not for profit, 5013-C's and the for-profits and they compete in the same field, two hospitals, both offering, perhaps, the same services, both competing for the same market in a situation, and one must have its board open, what would keep the people who don't have to have their board open from coming and listening and finding out the strategy of that business, because it is a business, it is a competitive business, and if I were on the board of a private hospital, and by the way, we do have one in the State, and I wanted to see what my competition was doing and they happened to be not for profit, I'd certainly have some-one sitting in and just listening to see what their plans are.

All those things do not come under the Executive Session. Those are not matters of personal anything, those are not matters of corporate decisions and the direction that the hospital is going. So, for that reason, and I have no emotional reason about the meeting being open, but for that technical reason, I don't see how this could possibly work without putting the not-for-profits in a less than competitive field with those for-profit corporations.

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

Senator **KANY:** Mr. President, Thank you.

I've been listening to the debate and I really haven't decided yet how I'm going to vote.

I would like to know, I've read the bill and it still isn't clear to me, if the boards could go into Executive Session for personnel matters and to discuss particular cases and I guess I can envision, let's say, a hospital board discussing certain psychiatric cases so that they will, perhaps, attempt to create certain policy regarding the psychiatric ward or something like that or their alcohol treatment floor. I am wondering if they would be allowed to go into Executive Session for such purposes?

THE PRESIDENT: The Senator from Kennebec, Senator Kany, has posed a question through the Chair to any Senator who may respond if they so desire.

The Chair recognizes the Senator from Knox, Senator Chalmers.

Senators **CHALMERS:** I can respond, yes, of course they would be able to go into Executive Session.

Let me just correct, if I may, I am not a member of that Committee, but I do know that at that Committee an issue was brought before it, there were, in one hospital in this State, that insists on holding secret meetings. There was a major issue that the citizens of Knox County and Rockland tried very hard to bring before the hospital. It was the issue of closing down one of the nursing homes, the old hospital in Rockland and trying to get the public support in trying to get Penn-Bay to change their mind or at least open up their board meetings so that we could know what was going on and they refused to do that.

Let me just also correct another allegation. There would be no fiscal note on this Bill. There is no State agency that would supervise this, this merely puts, and you talk about scrutiny, all this does is put a spectator in the board meetings. We have them all the time. The press is there, God bless them, to report to us what goes on.

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

Senator **MATTHEWS:** Mr. President and Members of the Senate. I'll be very, very brief.

I just want to say that, first of all, that whether this bill and this attempted change is read in the light of the sunshine outside or in the haze in the Senate Chamber, it is still a bad bill.

Ladies and Gentlemen, I hope that you will support the Majority members of the Committee and the people that have spoke in favor of the Ought Not To Pass Report today. I know of, personally having seen that Committee work, that they have worked diligently and hard, and, this issue has been discussed in an open forum before that outstanding committee and the amendment that is attempting to be put on this bill is still discriminatory. There are still Constitutional problems with this idea and I hope that you will support the Ought Not To Pass Report. That is the true light at the end of the tunnel.

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

Senator **GILL:** Mr. President and Members of the Senate. The Freedom of Access Law does, indeed, allow Executive Sessions, but only under certain circumstances. Those circumstances are narrow circumstances.

First of all, the public body involved must initially meet in public and must announce the purpose of the Executive Session. The Body cannot take any final action in the Executive Session, it must return to a public meeting and it is only allowed to deliberate within that confines of the Executive Session, so their decision-making must take place in the public meeting. It can happen with promotions or demotions and compensations. Those are items that necessarily a hospital board would not want someone in the public to know about. The compensation issue, labor negotiations, things like that.

So, the narrow confines of that Freedom of Access Law are narrow.

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

Senator **CARPENTER:** Mr. President, Ladies and Gentlemen of the Senate. Just to respond to what the good Senator from Cumberland, Senator Gill, just said. Aren't those terrible requirements?!!? That there would have to be, first, a public meeting and then an announcement that they wish to go to Executive Session for the purpose of discussing a personal-ity, and then an open vote to go to Executive Session, and then, when they come back an open vote on any final action. I mean, whoever thought of those rules? Aren't they terrible, and we certainly should keep them out of the law.

Those are the existing rules — that public entities live under now! The deliberations would not have to be in the public, not at all, any more than your school board when they decide whether or not to rehire the basketball coach because they don't like him or her. They go into Executive Session, they discuss that and they come back out.

The good Senator from Cumberland, Senator Gill, said "Compensation" — this is certainly something we would not want discussed in the public!

THE PRESIDENT: The pending question is the **ACCEPTANCE** of Report "A" **Ought Not to Pass**. A Division has been requested.

Will all those Senators in favor of Acceptance of Report "A" **Ought Not to Pass**, please rise in their places to be counted.

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

22 Senators having voted in the affirmative, and 7 Senators having voted in the negative, the motion to **ACCEPT** Report "A" **OUGHT NOT TO PASS PREVAILS**.

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

Bill "An Act to Provide Financing for Rail Transportation" (H.P. 1112) (L.D. 1622)

Tabled — May 29, 1985, by Senator **VIOLETTE** of Aroostook.

Pending — **REFERENCE**

(In House May 28, 1985, referred to the Committee on **TRANSPORTATION** and **ORDERED PRINTED**.)

On motion by Senator **VIOLETTE** of Aroostook, referred to the Committee on **TRANSPORTATION** and **ORDERED PRINTED**, in concurrence.

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

SENATE REPORTS — from the Committee on **LEGAL AFFAIRS** on Bill "An Act Concerning the Return of Security Deposits Paid by Tenants" (S.P. 156) (L.D. 423)

Majority Report — **Ought Not to Pass**

Minority Report — **Ought to Pass as Amended by Committee Amendment "A"** (S-117)

Tabled — May 29, 1985, by Senator **VIOLETTE** of Aroostook.

Pending — Motion of Senator **CARPENTER** of Aroostook to **RECONSIDER** Acceptance of the Majority **OUGHT NOT TO PASS** Report.

(In Senate May 28, 1985, Reports **READ**, **RECONSIDERED** Acceptance of the Minority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A"** (S-117) Report. Subsequently, Majority **OUGHT NOT TO PASS** Report **ACCEPTED**.)

On motion by Senator **VIOLETTE** of Aroostook Tabled until Later in Today's session, pending the motion of Senator **CARPENTER** of Aroostook to **RECONSIDER** Acceptance of the Majority **OUGHT NOT TO PASS** Report.

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

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

Tabled — May 29, 1985, by Senator

VIOLETTE of Aroostook.

Pending — Motion of Senator **PEARSON** of Penobscot to **INDEFINITELY POSTPONE** Bill and Accompanying papers.

(In House May 24, 1985, **PASSED TO BE ENACTED**.)

(In Senate May 23, 1985, **PASSED TO BE ENGROSSED**, in concurrence.)

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

Senator **PEARSON:** Mr. President, I ask Leave of the Senate to withdraw my motion to Indefinitely Postpone.

THE PRESIDENT: Senator Pearson of Penobscot now requests Leave of the Senate to Withdraw his Motion to Indefinitely Postpone.

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

It is a vote.

On motion by Senator **TRAFTON** of Androscoggin, the Senate **SUSPENDED THE RULES**.

On further motion by same Senator, the Senate **RECONSIDER PASSAGE TO BE ENGROSSED**.

On further motion by same Senator, Senate Amendment "A" (S-162) **READ**.

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

Senator **GAUVREAU:** Mr. President, Men and Women of the Senate. I wasn't involved in the earlier debate on this Bill and I hesitate to rise but I feel I really must. I understand the intentions of the good Senator from Androscoggin, Senator Trafton, that his Committee has worked on this Bill, and the Amendment does in fact represent a compromise formulating the legitimate concerns articulated by Senator Pearson and his co-patriots earlier in the debate.

I must express my opposition to the Amendment. As I understand it, the Amendment would delete municipalities with populations with less than one hundred from their requirement of the Act to maintain uniform polling times throughout the State. It strikes me that what we are talking about here is the core rights inherent in any democratic society — that is the franchise. Although I sympathize with the concerns of small towns that it might, in fact, appear irrational — even a nuisance to have to maintain the polls until 8:00 P.M. or whatever time we decide the polls should be closed.

I really — in comparing the concerns for administrative convenience against the seminal right in a democratic society to vote franchise, in my perspective there is no comparison. I would simply have to allow the franchise paramount consideration. And because this Bill would discriminate, it would diminish the rights of those who happen to reside in a town of one hundred or less — in comparison to their fellow citizens who reside in larger communities.

I can't, in good conscience, support the Amendment and for that reason I would urge opposition to the Amendment and would ask for a Division.

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

Senator **PEARSON:** Mr. President, Men and Women of the Senate. Nobody is going to be disenfranchised. Nobody! If you have a plantation like Lakeview Plantation — I get confused because there is a Lakeville and a Lakeview — Lakeview is the smaller one. But it could be true in Lakeville, for that matter. If you have a town that small and you say to everybody "We will meet you at 1:00 o'clock in the morning where we cast our ballots," and they all have an agreement that they are going to do that, and every single solitary soul in the town shows up, and they all cast their ballots — everybody is covered and nobody is disenfranchised.

I am willing to wager that between 1:00 o'clock in the morning and 8:00 o'clock in the evening, nobody is moving into town. So nobody is disenfranchised! If you have a town — go from Lakeview to Lakeville — which is in my District — Lakeville Plantation has probably got at the most, thirty voters. If they decide — we would like to do the same thing but not everyone shows up, then they have to keep the polls open until everybody has had a chance to show up until 8:00 o'clock that evening.

This is one of those unique little Maine things — and New Hampshire has one too, I think it is Crockett's Notch, or something like that — Nicksville Notch — that gathers a little publicity for that area. Gathers a little publicity for the whole State. I just think it is worth saving. I really regret Governor Muskie's proposal in the Legislature at that time — when they changed the Maine election from September to November. I wish we had kept it there, but we didn't. But this is one little item that we can keep. You know, it is just worth doing.

So those of you who come from the large cities, maybe you won't understand, but every once in a while you give us the vote.

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

Senator **TRAFTON:** Thank you, Mr. President. Men and Women of the Senate. I rise here to express my appreciation to the good Senator from Androscoggin, Senator Gauvreau, for his undying support to the original Bill, however I think he is aware as we all are, that sometimes compromise is necessary to achieve an overall positive result.

I suggest that the good that this Bill, as Amended out-weigh the continuing negative results that we deal with when there are no uniform election laws throughout the State. So urge to support the Amendment, and the Bill will receive the support of this Legislature. Thank you.

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

Senator **CHALMERS:** Mr. President. I have just one quick question. How many towns or plantations are we talking about? Obviously there is one in Aroostook County, but how many others?

THE PRESIDENT: The Senator from Knox, Senator Chalmers has posed a question to the Chair that any Senator may respond to, if they so desire.

The Chair recognizes the Senator from Penobscot, Senator Pearson.

Senator **PEARSON:** Mr. President. There would probably be Lakeville and that is the only one I can think of besides the one in Aroostook County.

THE PRESIDENT: The pending question is the motion of the Senator from Androscoggin, Senator **TRAFTON** to **ADOPT** Senate Amendment "A" (S-162).

Would all those Senators in favor of the motion of Senator **Trafton** of Androscoggin to **Adopt** Senate Amendment "A" (S-162) please rise in their places and remain standing until counted.

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

26 Senators having voted in the affirmative, and 3 Senators having voted in the negative, the motion of the Senator from Androscoggin, Senator **TRAFTON** to **ADOPT** Senate Amendment "A" (S-162) **PREVAILS**.

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

Sent down for concurrence.

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

Bill "An Act Relating to Payment of Back Contributions and Withdrawn Contributions by Members of the Maine State Retirement System" (S.P. 241) (L.D. 636) (C "A" S-122)

Tabled — May 29, 1985, by Senator **CLARK**

of Cumberland.

Pending — **PASSAGE TO BE ENGROSSED AS AMENDED.**

(In Senate May 28, 1985, **READ A SECOND TIME.**)

On motion by Senator **VIOLETTE** Tabled until Later in Today's session, pending **PASSAGE TO BE ENGROSSED AS AMENDED.**

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

Bill "An Act to Amend Certain Sections of the Employment Security Law" (S.P. 493) (L.D. 1319) (C "A" S-104; S "C" S-151)

Tabled — May 29, 1985, by Senator **CLARK** of Cumberland.

Pending — Motion of Senator **DANTON** of York to **ADOPT** Senate Amendment "B" (S-127)

(In Senate May 29, 1985, **RECONSIDERED PASSAGE TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-104) AND SENATE AMENDMENT "C" (S-151).** Senate Amendment "B" (S-127) **READ.**)

Senate Amendment "B" (S-127) **ADOPTED.** Which was **PASSED TO BE ENGROSSED AS AMENDED.**

Sent down for concurrence.

Under Suspension of the Rules, the Senate voted to consider the following:

PAPERS FROM THE HOUSE

Non-concurrent Matter

Bill "An Act to Increase Consumers' Remedies under the Unfair Trade Practices Laws" (H.P. 715) (L.D. 1025)

In House May 24, 1985, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-167).**

In Senate May 29, 1985, Bill and Accompanying Papers **INDEFINITELY POSTPONED IN NON-CONCURRENCE.**

Comes from the House that Body **ADHERED IN NON-CONCURRENCE.**

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

Senator **BUSTIN:** Mr. President, I move the Senate **Recede and Concur.**

THE PRESIDENT: The Senator from Kennebec, Senator **Bustin** moves that the Senate **Recede and Concur.**

The Chair recognizes the Senator from Hancock, Senator **Perkins.**

Senator **PERKINS:** Mr. President, I request a Division.

THE PRESIDENT: A Division has been requested.

Will all those Senators in favor of the motion by the Senator from Kennebec, Senator **Bustin** to **Recede and Concur**, please rise in their places and remain standing until counted.

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

6 Senators having voted in the affirmative and 21 Senators having voted in the negative, the motion of the Senator from Kennebec, Senator **BUSTIN** to **RECEDE and CONCUR FAILS.**

The Senate **ADHERED.**

Senate at Ease

Senate called to Order by the President.

There being no objections all matters previously acted upon, with the exception of those items previously held, were sent forthwith.

Off Record Remarks

On motion by Senator **DANTON** of York, **RECESSED** until 4:00 today.

After Recess

Senate called to Order by the President.

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

SECOND READERS

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

House

Bill "An Act to Allow the Use of Botanical Pesticides in the Production of Foods Labeled or Advertised as Organic" (Emergency) (H.P. 1074) (L.D. 1563)

Bill "An Act to Examine the Lobster Resources of the State" (H.P. 1124) (L.D. 1620)

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

House As Amended

Bill "An Act to Require Recognition of Nursing Licenses Granted in other Jurisdictions" (H.P. 1003) (L.D. 1445) (C "A" H-227)

(See Action Later Today)

Bill "An Act Relating to Requirements for Removal of Mobile Homes from Mobile Home Parks" (H.P. 663) (L.D. 946) (C "A" H-228)

Bill "An Act Concerning the Payment of Interest on Mortgage Escrow Accounts" (H.P. 945) (L.D. 1354) (C "A" H-229)

Bill "An Act to Permit the Incorporation of Subsidiary Trust Companies" (Emergency) (H.P. 1056) (L.D. 1536) (C "A" H-238)

Bill "An Act Making Unified Appropriations and Allocations for the Expenditures of State Government, Department of Inland Fisheries and Wildlife Funds, and Changing Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 1986, and June 30, 1987" (Emergency) (H.P. 632) (L.D. 900) (C "A" H-226)

Bill "An Act to Authorize an Elderly Housing Project at Pineland Center" (H.P. 582) (L.D. 852) (C "A" H-245)

Bill "An Act to Revise the Maine Certificate of Need Act for Hospitals" (H.P. 578) (L.D. 849) (C "A" H-246)

Bill "An Act to Create the Bureau of Children with Special Needs in the Department of Mental Health and Mental Retardation" (H.P. 1045) (L.D. 1523) (C "A" H-247)

Bill "An Act to Amend the Statute of Limitations in Cases Involving Incest" (H.P. 427) (L.D. 607) (C "A" H-233)

Bill "An Act Providing for the 1985 Amendments to the Finance Authority of Maine Act" (H.P. 785) (L.D. 1118) (C "A" H-231)

Bill "An Act Relating to Disposition of State-owned Real Estate" (H.P. 884) (L.D. 1241) (C "A" H-243)

Bill "An Act to Provide for Motor Vehicle Registration and Inspection at the Same Time" (H.P. 765) (L.D. 1085) (C "A" H-230)

Bill "An Act to Prohibit the Tampering of Automobile Emission Controls" (H.P. 225) (L.D. 259) (C "A" H-242)

Bill "An Act to Provide Adequate Facilities for the Public Utilities Commission" (Emergency) (H.P. 921) (L.D. 1336) (C "A" H-234)

Bill "An Act Defining the Right of Employees of Public Utilities to Testify before Legislative Committees and the Public Utilities Commission" (H.P. 514) (L.D. 719) (C "A" H-235)

Bill "An Act Concerning Handicapped Motor Vehicle Registration Plates or Placards" (H.P. 778) (L.D. 1099) (C "A" H-225)

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

Senate As Amended

Bill "An Act Relating to Financial Regulation of Insurance Companies" (S.P. 585) (L.D. 1535) (C "A" S-155)

Bill "An Act to Prevent the Hospital Cost Containment Law from Substituting for the Collective Bargaining Process" (S.P. 529) (L.D. 1424) (C "A" S-156)

Bill "An Act to Amend the Maine Certificate of Need Act to Define More Clearly the Legal Requirements for Ex Parte Contacts During the Certificate of Need Process, Consistent with

the Maine Administrative Procedure Act" (S.P. 108) (L.D. 323) (C "A" S-157)

Bill "An Act to Annex the Towns of Brunswick and Harpswell to Sagadahoc County" (S.P. 374) (L.D. 1008) (C "A" S-161)

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

Bill "An Act to Authorize a Self-liquidating Bond Issue for the County of Cumberland to Raise Funds for the Construction of a Court-house Addition, Capital Improvements to the Existing Structure and a Related Parking Facility" (S.P. 547) (L.D. 1460) (C "A" S-160)

On motion by Senator **BLACK** Cumberland the Senate **SUSPENDED THE RULES.**

On further motion by same Senator, the Senate **RECONSIDER ADOPTION** of Committee Amendment "A" (S-160).

On further motion by same Senator, Senate Amendment "A" (S-165) to Committee Amendment "A" (S-160) was **READ.**

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

Senator **NAJARIAN:** Mr. President. I rise to oppose the adoption of Senate Amendment "A". It is my understanding that the purpose of this Amendment is to separate the parking garage portion of the Bond Issue from the courthouse renovation and addition.

The reason why I oppose that is because — well, for several reasons. One is that the City of Portland planning board has said that as part of the sight plan review of the court house, that the parking project is essential. Without the parking garage provision in the Bond Issue, if that should go down, then the court house Bond Issue would essentially — it just couldn't be undertaken.

I would like to say, additionally, that there has been some (and I am sorry that I was not here this morning — I am not aware of the fall of this that has been debated). Okay, I understand that it has not been. There is some perception out there that the City is taking advantage of this Bond Issue in order to have additional parking spaces built. And I would just like — for your information — to tell you that Portland has provided — as this has been a provision in all the major developments in the City in recent years — that they provide adequate parking. It was true with the development of the Golden Triangle where the City has demanded that they provide space for six hundred parking spaces. It was true for the Harvard Place building that was a residential building proposed on Cumberland Avenue, that they provide a three hundred car parking space.

In addition to that, the City is already involved and provides for Fore Street parking garage at three hundred and fifty spaces. The Spring Street parking garage next to the Civic Center has six hundred parking spaces. The Congress Square parking garage has six hundred and fifty and four hundred parking spaces at the Temple Street garage.

In addition, they are negotiating — or they expect to have built at the beginning of the fall, another four hundred space garage at the Casco Bay ferry terminal and are negotiating another parking garage at the site which is presently a flat parking lot owned by the Federal Government next to Parker Riedy's Restaurant - if any of you are familiar with that Exchange Street area.

So, for a total, the City has been responsible currently for two thousand nine hundred parking places and negotiating four hundred — plus more in the near future.

The court house addition will displace currently one hundred parking spaces on that parking space between the court house and the county jail. In a situation where the parking is already very critical, if you drive down there any morning, you can see cars pulled up on the sidewalk and every which way trying to find

a place to park in a reasonable proximity to the court house.

So, without the parking garage, we would lose one hundred parking places. The parking garage will be used entirely — it is contemplated — used entirely by those who benefit from the use of the court house facility. That includes jurors, the employees, spectators and so forth, at the Cumberland County court house.

In addition, you should know, that this parking garage — it will only be a loss to the County for the first seven years. At the thirteenth year, it will break even and all the losses will be wiped back, and the following seven years of the twenty year Bond Issue, the County will realize a profit of eight hundred thousand dollars which they can reuse to reduce county taxes or to pay for county services.

For this reason, I urge your support of my motion, which I am presently going to make to Indefinitely Postpone this Amendment. Thank you.

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

Senator **BLACK:** Thank you, Mr. President and Fellow Senators. I debated the first motion this morning and this Amendment is to remove the parking garage from the Bond Issue. My feelings are well known, that I feel the City of Portland is taking advantage of the rural areas. They don't want to go into down-town Portland. It is a very poor financial investment. It would be better to move the court house and to not have any parking, and the jail is going to have to be added to. There is no end to it.

If I had to run my business the way the thinking is on this, I would go bankrupt. This is a State problem. They are going to pay for the use of the court house. The Supreme Court should be out where it belongs and we have just been run over too long. I ask for a Roll Call. Thank you.

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

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

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

The Chair recognizes the Senator from York, Senator Tuttle.

Senator **TUTTLE:** Mr. President. Members of the Senate. I will be brief on this issue. As I said this morning, I empathize and understand with the good Senator from Cumberland, Senator Black. But having been involved with the Committee process and working on this issue to the extent that we did, I really — I am going to vote to Indefinitely Postpone this Amendment.

We worked on this Bill considerable, in Committee, and we offered a Senate Amendment that a number of the Members of the Committee as well as a number of the people of Cumberland County asked us to. I think that passing the Legislation as is, is probably the best vehicle we are going to have to the voters of Cumberland County to have a fair idea of what this issue is.

Again, I understand where the good Senator from Cumberland, Senator Black, is coming from. I would hope they would benefit, and I think this Legislation should be passed, and that we would Indefinitely Postpone this Amendment.

THE PRESIDENT: The Senator from York, Senator Tuttle moves that Senate Amendment "A" (S-165) to Committee Amendment "A" (S-160) be Indefinitely Postponed.

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

Senator **SHUTE:** Mr. President. Has a Roll Call been ordered?

THE PRESIDENT: The Chair would inform

the Senator that the Roll Call was on the motion to Adopt Senate Amendment "A" (S-165) to Committee Amendment "A" (S-160).

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

Senator **BLACK:** I request a Roll Call on the motion to Indefinitely Postpone Senate Amendment "A" (S-165) to Committee Amendment "A" (S-160).

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

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

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

The Chair recognizes the Senator from Cumberland, Senator Clark.

Senator **CLARK:** Thank you, Mr. President. Mr. President and Men and Women of the Senate. Senate District #26 encompasses the north-eastern end of Cumberland County. Only one tiny town in my Senate District is in Androscoggin County and that town is Gorham. Pownal, Yarmouth, Freeport and Brunswick, the north-east end of Cumberland County has some reservations — at least some citizens do — about the coupling, if you will, of the court house facility and the parking garage.

It is recognized by the users of that facility or that future facility — or current facility such as it is, that indeed, parking is as important to the issue of the court house renovation and expansion as is the court house itself. From our end of the County, which is rural, we find access to the City of Portland very easy. We can travel I-95, Route 9 and a number of Route 100 in a number of other ways into the city. To transverse the Franklin Arterial and have a direct access to the location of the Shire-Cumberland County buildings.

I think it is important that we Indefinitely Postpone the proposed Amendment because it is important to let the voters of the County decide. The voters of Cumberland County are fully capable of making their own decisions. We have to remember that the parking facility — and I have been reasonable educated on this issue, representing the Town of Brunswick — is required by the City of Portland, in order to conform to zoning laws. The parking garage will displace and the court house addition, as Senator Najarian from Cumberland and the good Senator from York, Senator Tuttle have emphasized in debate this day — the displacement of a number of current parking places. Yes, there are some retail parking edifices currently being used, and there are in the planning stages, and those in the construction stages.

Still the demand is for a parking facility. Separate and distinct from those are offered for retail purposes. For those who use the court. And the people who use the court in Cumberland County, all twenty-five towns of Cumberland County are the citizens regardless of their role. And while I am sensitive to the need of those brothers and sisters in the law for parking space, I am much more responsive to the need of parking space accessible and safe parking space, by the citizen, the victims and those charged, and their families. Registrars of voters, paralegals, and people interested in genealogy access our county buildings. They need a place to park. They cannot park in Lincoln Park. Many of them today, honestly, spend as much time walking from where they park to the court house facilities, as they do the time they spend using the facility.

It is 1985. People do not walk from Brunswick and Pownal, Freeport and Yarmouth to Portland. They drive! And they need a place to park. Thank you, Mr. President.

THE PRESIDENT: The pending question is the motion of the Senator from York, Senator

TUTTLE to INDEFINITELY POSTPONE Senate Amendment "A" (S-165) to Committee Amendment "A" (S-160). A Roll Call has been ordered.

A Yes vote will be in favor of Indefinite Postponement.

A No vote will be opposed.

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

ROLL CALL

YEAS:—Senators, Berube, Brown, Bustin, Carpenter, Chalmers, Clark, Danton, Diamond, Dow, Dutremble, Gauvreau, Kany, Matthews, Najarian, Stover, Trafton, Tuttle, Twitchell, Usher, Violette, The President — Charles P. Pray

NAYS:—Senators, Black, Emerson, Erwin, Gill, Maybury, McBreairty, Pearson, Perkins, Shute, Webster

ABSENT:—Senators, Andrews, Baldacci, Hichens, Sewall

21 Senators having voted in the affirmative and 10 Senators in the negative, with 4 Senators being absent, the motion by the Senator from York, Senator Tuttle to **INDEFINITELY POSTPONE** Senate Amendment "A" (S-165) to Committee Amendment "A" (S-160) **PREVAILS.**

Committee Amendment "C" (S-160) **ADOPTED.**

Which was **PASSED TO BE ENGROSSED AS AMENDED.**

Sent down for concurrence.

Senator **BUSTIN** of Kennebec, moved that the Senate **RECONSIDER** its action of earlier in today's session whereby it **PASSED TO BE ENGROSSED AS AMENDED.**

Bill, "Act to Require Recognition of Nursing Licenses Granted in other Jurisdictions" (H.P. 1003) (L.D. 1445) (C "A" H-227)

(In House May 3, 1985, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-227).**)

On motion by Senator **VIOLETTE** of Aroostook, Tabled 1 Legislative Day, pending the motion of the Senator from Kennebec, Senator **BUSTIN** to **RECONSIDER PASSAGE TO BE ENGROSSED AS AMENDED.**

Senate at Ease

Senate called to Order by the President.

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

ENACTORS

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

An Act Concerning Misuse of Dealer Plates and Clarification of Dealer Plate Provisions (S.P. 320) (L.D. 809) (C "A" S-111)

An Act to Amend the Maine Insurance Guaranty Association Act (S.P. 559) (L.D. 1488)

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

An Act Relating to Collective Bargaining over the Compensation System for State Employees (S.P. 594) (L.D. 1559) (H "A" H-208)

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. 599) (L.D. 1571)

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

An Act to Establish Pilot Indigency Screening Units for Court Appointed Counsel (S.P. 336) (L.D. 899) (C "A" S-91)

On motion by Senator **PEARSON** of Penobscot, placed on the **SPECIAL APPROPRIATIONS TABLE** pending **ENACTMENT.**

An Act to Amend the Law Pertaining to

Postgraduate Education in the field of Medicine (S.P. 369) (L.D. 1003) (C "A" S-84)

On motion by Senator **PEARSON** of Penobscot, placed on the **SPECIAL APPROPRIATIONS TABLE**, pending **ENACTMENT**.

An Act to Encourage A Viable Agriculture for Maine (S.P. 489) (L.D. 1316) (S "A" S-114 to C "A" S-105)

On motion by Senator **PEARSON** of Penobscot, placed on the **SPECIAL APPROPRIATIONS TABLE**, pending **ENACTMENT**.

Resolves

Resolve, Authorizing the Sale of State-owned Land to the Crisis and Counseling Center (H.P. 538) (L.D. 765) (C "A" H-178)

Resolve, Authorizing the Town of Fort Kent to Convey its Interest in Certain Public Lands in Fort Kent, Aroostook County (H.P. 606) (L.D. 876) (C "A" H-198)

Resolve, to Create a Greenbelt on the East Bank of the Kennebec in Augusta (H.P. 1017) (L.D. 1468) (H "B" H-168)

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

Emergency

An Act to Transfer and Allocate Funds to the Judicial Department for the Fiscal Year Ending June 30, 1985 (S.P. 546) (L.D. 1459)

This being an Emergency Measure and having received the affirmative votes of 30 Members of the Senate, with No Senators having voted in the negative, and 30 being more than two-thirds of the entire elected Membership of the Senate, was **PASSED TO BE ENACTED** and having been signed by the President, was by the Secretary presented to the Governor for his approval.

Constitutional Amendment

Resolution, Proposing an Amendment to the Constitution of Maine to Correct Certain Inconsistencies Relating to Civil Offices (H.P. 943) (L.D. 1353) (C "A" H-169)

On motion by Senator **PEARSON** of Penobscot, placed on the **SPECIAL APPROPRIATIONS TABLE** pending **FINAL PASSAGE**.

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

ENACTORS

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

An Act to Provide County Commissioner Districts in Washington County (H.P. 194) (L.D. 228) (C "A" H-186)

An Act to Allow Sheriffs' Deputies to Hold Nonpartisan Local Office (H.P. 366) (L.D. 486) (H "A" H-148)

An Act Relating to the Interdepartmental Committee and Children's Residential Treatment Centers (H.P. 425) (L.D. 605) (C "A" H-205)

An Act to Extend the National School Breakfast Program Availability to Maine School Children (H.P. 563) (L.D. 834) (C "B" H-170)

An Act to Require Disclosures by Transient Sellers (H.P. 708) (L.D. 1018)

An Act to Improve the Laws on School Health Programs (H.P. 718) (L.D. 1028) (C "A" H-172)

An Act Concerning Abandoned or Unclaimed Property and Security Deposits in a Landlord and Tenant Agreement (H.P. 732) (L.D. 1041) (C "A" H-177)

An Act to Expand the Inspection of Used Car Dealers Conducted by the Division of Motor Vehicles (H.P. 737) (L.D. 1046) (H "A" H-190 to C "A" H-184)

An Act to Provide Legislative Committees with Copies of Rules Proposed by State Agencies (H.P. 784) (L.D. 1117) (C "A" H-196)

An Act to Expand the Victim's Rights Laws (H.P. 808) (L.D. 1154) (C "A" H-175)

An Act to Provide for State Certification of School Administrators (H.P. 871) (L.D. 1228) (H "A" H-181 to C "A" H-173)

An Act to Strengthen the Law Relating to Purchase of Foodstuffs from Maine Concerns (H.P. 920) (L.D. 1325) (C "A" H-189)

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

An Act to Create the Commission on Farmland Loss (H.P. 434) (L.D. 635)

On motion by Senator **PEARSON** of Penobscot, placed on the **SPECIAL APPROPRIATIONS TABLE** pending **ENACTMENT**.

An Act to Restrict certain Agencies with Respect to Purchases of Real Property (H.P. 630) (L.D. 774) (S "A" S-125)

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

An Act Relating to Coyote Control (H.P. 634) (L.D. 902) (C "A" H-174)

On motion by Senator **PEARSON** of Penobscot, placed on the **SPECIAL APPROPRIATIONS TABLE** pending **ENACTMENT**.

An Act to Improve the Functioning of the Maine Milk Commission (H.P. 918) (L.D. 1324)

Senate at Ease

The Senate called to Order by the President.

On motion by Senator **PEARSON** of Penobscot, placed on the **SPECIAL APPROPRIATIONS TABLE**, pending **ENACTMENT**, pursuant to Section 8, Part 1, Article 5 of the Constitution.

ORDERS OF THE DAY

On motion by Senator **VIOLETTE** of Aroostook, the Senate removed from the Unassigned Table the following:

An Act to Provide that Cost-of-Living Plans for Retired Persons under the Maine State Retirement System shall Apply to All Participating Local Districts that do not Provide Social Security Benefits for Employees (H.P. 661) (L.D. 944) (S "A" S-68; C "A" H-89)

Tabled — May 13, 1985, by Senator **VIOLETTE** of Aroostook.

Pending — **ENACTMENT**
(In House May 6, 1985, **PASSED TO BE ENACTED**.)

(In Senate May 2, 1985, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-89) AND SENATE AMENDMENT "A" (S-68)**.)

On motion by Senator **GAUVREAU** of Androscoggin, the Senate **SUSPENDED THE RULES**.

On further motion by same Senator, the Senate **RECONSIDERED PASSAGE TO BE ENGROSSED AS AMENDED**.

On further motion by same Senator, Senate Amendment "B" (S-168) **READ**.

THE PRESIDENT: The Senator has the floor.

Senator **GAUVREAU:** Thank you, Mr. President. L.D. 944 pertains to the mandatory imposition of cost of living adjustment requirements to all members of all districts that participate in the Maine State Retirement System. Currently of the two hundred and sixty districts in the system, twenty three do not offer any form of cost of living adjustment - or COLA. L.D. 944 will require that all districts add these COLA's. The committee felt that we should postpone the effective date of this Bill or the effective date of the requirement, pro-

viding COLA's until June 30, 1987. Consequently all districts which choose not to provide COLA's, have until that date to withdraw from the Maine State Retirement System.

A question also arose, as to those districts which had, in fact, engaged in collective bargaining and as a trade off — labor did not seek cost of living adjustments in return for higher compensation or fringe benefits.

The Committee felt that in those districts which had collective bargaining — or which would have collective bargaining on or before June 30, 1987, those districts also should be exempted from the mandate of providing COLA's for their members.

Senate Amendment "B" to L.D. 944 accomplishes this objective. Thank you.

Senate Amendment "B" (S-168) **ADOPTED**. Which was **PASSED TO BE ENGROSSED AS AMENDED IN NON-CONCURRENCE**. Sent down for concurrence.

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

ENACTORS

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

An Act to Amend the Procedures of the State Board of Arbitration and Conciliation (H.P. 957) (L.D. 1377) (H "A" H-212; C "A" H-137)

An Act Relating to Municipal Regulation of Hazardous Waste and Chemical Substances (H.P. 961) (L.D. 1382) (H "A" H-157; C "A" H-138)

An Act Concerning Notice of Legal Obligations of Marriage on a Marriage Certificate (H.P. 995) (L.D. 1432) (C "A" H-195)

An Act Concerning Service Requirements for Medical Students (H.P. 1025) (L.D. 1477)

An Act to Clarify the Law Regarding the Taking of Soft-shell Clams (H.P. 1065) (L.D. 1547)

An Act to Guarantee Equitable Access to Soft-shell Clam Resources (H.P. 1067) (L.D. 1549)

An Act to Change the Sales Tax Treatment of Property Used in the Production of Tangible Personal Property (H.P. 1085) (L.D. 1576)

An Act Concerning Retail Sales of Beer and Wine (H.P. 1093) (L.D. 1586)

An Act to Provide for a Setup Period Prior to Opening of the Polls (H.P. 1094) (L.D. 1587)

An Act to Clarify and Standardize Enrollment Status on Voting Lists (H.P. 1095) (L.D. 1588)

An Act to Allow the Town of York to Repair Private Roads Within Subdivisions (H.P. 1098) (L.D. 1592)

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

An Act to Require Refuse Receptacles to Comply with Federal Safety Standards (H.P. 1014) (L.D. 1463) (C "A" H-199)

On motion by Senator **PEARSON** of Penobscot, placed on the **SPECIAL APPROPRIATIONS TABLE**, pending **ENACTMENT**.

An Act Providing Funding for Repair, Maintenance, Operation and Study of the Dead River Dam (H.P. 1079) (L.D. 1570)

On motion by Senator **PEARSON** of Penobscot, placed on the **SPECIAL APPROPRIATIONS TABLE**, pending **ENACTMENT**.

An Act to Establish a Directory of Licenses and Permits Required of New and Expanding Businesses (H.P. 1082) (L.D. 1574)

On motion by Senator **PEARSON** of Penobscot, placed on the **SPECIAL APPROPRIATIONS TABLE**, pending **ENACTMENT**.

An Act Relating to One-way Rental Vehicles

(H.P. 1091) (L.D. 1584)

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

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

COMMITTEE REPORTS

Senate

Ought to Pass As Amended

Senator **MAYBURY** for the Committee on **AGING, RETIREMENT AND VETERANS** on Bill "An Act to End Subsidized Early Retirement Payments Under the Maine State Retirement System Laws" (S.P. 471) (L.D. 1274)

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-164)**

Which Report was **READ**.

On motion by Senator **VIOLETTE** of Aroostook, Tabled 1 Legislative Day, pending **ACCEPTANCE OF THE COMMITTEE REPORT**.

Divided Report

The Majority of the Committee on **JUDICIARY** on Bill "An Act Relating to Night Court Sessions for Small Claims Court" (S.P. 324) (L.D. 813)

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-163)**.

Signed:

Senators:

CARPENTER of Aroostook
CHALMERS of Knox

Representatives:

COOPER of Windham
CARRIER of Westbrook
PARADIS of Augusta
DRINKWATER of Belfast
MacBRIDE of Presque Isle
LEBOWITZ of Bangor

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

Signed:

Senator:

SEWALL of Lincoln

Representatives:

PRIEST of Brunswick
ALLEN of Washington
KANE of South Portland
STETSON of Damariscotta

Which Reports were **READ**.

The Majority **UGHT TO PASS AS AMENDED** Report was **ACCEPTED**.

The Bill **READ ONCE**.

Committee Amendment "A" (S-163) **READ** and **ADOPTED**.

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

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

COMMITTEE REPORTS

House

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 Reform the Maine Workers' Compensation System" (H.P. 757) (L.D. 1062)

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 State Civil Rights Act" (H.P. 882) (L.D. 1239)

Bill "An Act to Increase the Classification of the Crime of Gross Sexual Misconduct under the Maine Criminal Code" (H.P. 890) (L.D. 1279)

Bill "An Act to Require that all Land Bound-

ary Dispute Cases be Submitted to the Superior Court and to Create a Surveyor Panel to Which the Cases may be Referred" (H.P. 682) (L.D. 968)

Bill "An Act to Make Small Claims Courts More Effective" (H.P. 966) (L.D. 1401)

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

Divided Report

The Majority of the Committee on **HUMAN RESOURCES** on Bill "An Act to Repeal Home Day Care Registration Requirements" (H.P. 324) (L.D. 439)

Reported that the same **Ought to Pass in New Draft under New Title** Bill "An Act Renaming Registered Day Care Providers as Home Baby-sitting Service Providers" (H.P. 1120) (L.D. 1616)

Signed:

Senators:

BUSTIN of Kennebec
BERUBE of Androscoggin

Representatives:

KIMBALL of Buxton
MELENDY of Rockland
CARROLL of Gray
MANNING of Portland
NELSON of Portland
BRODEUR of Auburn

The Minority of the same Committee on the same subject reported that the same **Ought to Pass in New Draft under New Title** Bill "An Act to Rename Registered Day Care Providers as Home Baby-sitting Service Providers" (H.P. 1121) (L.D. 1617)

Signed:

Senator:

GILL of Cumberland

Representatives:

PINES of Limestone
SEAVEY of Kennebunkport
ROLDE of York
TAYLOR of Camden

Comes from the House with the Majority **UGHT 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 PRESIDENT: The Chair recognizes the Senator from Kennebec, Senator Bustin.

Senator **BUSTIN**: Mr. President, I move the Acceptance of the Majority Ought to Pass in New Draft under New Title Report of the Committee.

THE PRESIDENT: The Senator from Kennebec, Senator **Bustin**, moves the Senate Accept the Majority Ought to Pass in New Draft under New Title Report of the Committee.

The Chair recognizes the Senator from Cumberland, Senator Gill.

Senator **GILL**: Mr. President, I would request a Division.

THE PRESIDENT: The Senator from Cumberland, Senator Gill, requests a Division. Will all those Senators in favor of the motion by Senator Bustin of Kennebec, that the Senate Accept the Majority Ought to Pass in New Draft under New Title Report of the Committee, please rise and remain standing in their places until counted.

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

The Chair recognizes the Senator from Cumberland, Senator Gill.

Senator **GILL**: Mr. President, I would request a Roll Call.

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

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

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

The Chair recognizes the Senator from Cumberland, Senator Gill.

Senator **GILL**: Mr. President, I would like to speak on this.

THE PRESIDENT: The Senator has the floor.

Senator **GILL**: The Committee on Health and Human Resources had two bills before us. The one that is pending, the Roll Call vote at this point in time, was the Majority Report. I would ask you to vote against the Majority Report. We have worked with child care for a few sessions in this Legislature, and we instituted a policy a couple of years ago that would license child care and register child care. We attempted in this session, to call it babysitting. What we had hoped to do and the intent of the Committee two years ago, was to, in fact, to have a license day care established and also have the baby sitting service that would be registered with the Department of Human Services, established.

The Department, as they promulgated many, many pages of rules and regulations, made the rules and regulations available so they would work with both entities, the licensed day care and the registration of day care.

It has been difficult to comply with for all the licensed and the registered homes. The Department, itself, came in several times and said they didn't have the personnel, they didn't have the where-with-all to go in and to investigate the licensed homes to see that they were, in fact, meeting all the requirements that were set up in the rules and regulations.

As we attempted to work through the Bill in the Committee this year, we indicated that there were to be licensed homes and there were also to be baby sitting services and we differentiated between the two.

The baby sitting services, we would leave up to the parents to decide whether the homes were, indeed, places where they would leave their children. It was the responsibility of the parents to do that, we felt. Members of the Committee that signed the Minority Report thought just the baby sitting services. Some of the same things were covered as far as the fees in both services, both licensing and registration, the people had to pay a fee. The registered homes there were no inspection required and in the other homes there were inspections required.

They had to have annual water tests done. They had to have annual fire inspections and we talked about who the care-givers should be. It still came back to the fact that even though we had a two-tiered system, the Department of Human Services could not deal with it. They couldn't look at the licensed homes and say, yes, they met all of the requirements. They just didn't have the personnel. So the Members of the Committee that signed the Minority Report, felt that they had offered a position where parents would be responsible to go in and look at the person who was, indeed, going to baby sit their child, and make that decision for themselves without the State getting involved in it. That is why I would ask you to vote against the Majority Ought to Pass Report and Adopt the Minority Ought to Pass Report.

THE PRESIDENT: The Chair recognizes the Senator from Androscoggin, Senator Berube. Senator **BERUBE**: Thank you, Mr. President and Fellow Senators. I would ask you to support the Majority Report, L.D. 1616 as opposed to the Minority Report which is L.D. 1617.

Senator Gill has explained to you the changes that have been made to the law relative to day care centers. There is really only a basic difference between our two reports — mainly that in the Majority Report — and that was determined after much discussion and a lot of input from the general public — the parents — the basic difference is that in the Majority Report, the Department is allowed one annual visit, unannounced. I think that we know now that in our State, the Department can go into

any business in this State to inspect, whether it be their elevator or their food processing department or whatever has need of inspection.

When we entrust children to a day care center or baby sitting service center, I think we want to make sure that things are right. We have heard examples of parents walking in unannounced to few places, that they were surprised to see what they saw. One case, in point, was that there was a gun rack with guns in it and ammunition on the counter.

So what I am saying is that I think that is not too much to ask that we allow the Department one annual visit. And that is the basic difference between the Majority Ought to Pass Report and the Minority Report, which my esteemed colleague from Cumberland, is asking you to support. I would ask you to come with the Majority Ought to Pass Report. Thank you.

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

Senator **PEARSON:** Mr. President. I would like to pose a question to whomever would like to answer it.

Are we talking about the lady that lives down the street that takes care of two kids? Or is this a certain level of children — a number of children that they have? Because you see, you are dealing with a bill that you are very familiar with but I am not.

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

Senator **BUSTIN:** Mr. President, Ladies and Gentlemen of the Senate. I would be glad to answer the good Senator's question. If you look at the Statement of Fact on both L.D. 1616 and L.D. 1617, yes, we probably are talking about the lady down the street baby sitting the children. The only difference between the two bills is that on one, we allow the Department to respond to complaints without a search warrant or without requiring permission of the owner—that is L.D. 1616, the Majority Report. It also authorizes but does not require the Department to make one annual inspection to insure compliance with the law.

This other one, the L.D. 1617, it also authorizes the Department to respond to complaints, but the important difference is that you are able to go into the facility to check it out, and you can do one annual inspection without a complaint.

If we are talking about the child abuse that is rampant, especially in Kennebec County, because that is one of the higher incidences in the State, and I think that all of us are aware of what is happening there, I think it is terribly important that we are able to do that. Obviously the people who object to that, are those people who object to just being able to come into your home, even though it is a business, because baby sitting is a business, and inspect.

I think the fact of the child abuse and the fact that we have to take some consideration of what is happening to these children into account, overrides any other fact that we might have before us.

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

Senator **GILL:** Mr. President. The good Senator from Kennebec, Senator Bustin, raised some good questions on things that we all think about in this era of child abuse—that we are hearing so much about. But it occurs to me that some of the instances of child abuse that have been in the newspapers—note worthy in the State, have, indeed, been in licensed homes, not registered homes.

You know that when we look at licensing, licensing kind of puts a stamp of approval on the facility and it says, that yes, the Department of Human Services in the State of Maine has looked at this facility and says, yes, you are licensed and meet the requirements to be licensed and you can tell everyone out in the world that you are, indeed, licensed.

It came to us in the Committee, and we have heard complaints before the Committee that in fact, the Department does not have the personnel to go into each of these licensed facilities. I heard about a lady who owns a licensed facility and has never seen anyone from the Department in there.

So there are all kinds of stories around about which is the right way to be. I think if we don't have the personnel to deal with licensed homes, we certainly do not have enough people to go into every home that takes care of three children or more in the State of Maine. There is a responsibility that parents do have in some regards, as far as their children.

I personally, and I have worked all of my life, and I have four children, and I would never leave those kids with anyone that I didn't know about and that I didn't trust to take good care of them. It is not as though you are going to go up and knock upon somebody's door and say "here, would you take care of my child—I am working this week," and then walk away, you don't know anything about. The good Senator from Androscoggin, Senator Berube, mentioned the gun rack and the ammunition. Well, whether that place were licensed or unlicensed, how would any one know that the gun rack was there? The licensed homes are not being looked at every single day. Someone would have to be there at the time to observe that, and we heard and I repeat again, that there are not enough State personnel to go into those homes to look at them. So I would ask you to vote against the Majority Report.

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

Senator **BUSTIN:** Thank you, Mr. President and Ladies and Gentlemen of the Senate. Just a couple of observations. I had a constituent of mine from China, who had worked in a baby sitting establishment, a licensed baby sitting facility in Bangor, and who had moved down to the China area, had put her four year old into a facility that is now under investigation by the Department and it is important that we have the right to do that. She kind of—in the back of her head—knew something was wrong, but not enough to take her child out until the wrong happened. Now, I only make that point because the good Senator from Cumberland, Senator Gill, mentioned that she had the ability to approach homes, she had the ability to determine whether that baby sitter was good or not.

This mother had already worked in a child care facility, and should have known all the signs to see, chastises herself for not seeing those, and still put that child in that facility that she feels, did some damage to her child. That is not always what it looks like.

The other thing is that as a teacher, one of the things you learn is that your supervisor, your principal, your superintendent or whatever, comes into your room and checks to see how good your teaching is. When I first became a teacher, everybody was up in arms because they shouldn't be able to walk in whenever they wanted to. So, I say, if you are good enough and you are confident enough in what you are doing, you ought not to care who walks into that room. And if you are a baby sitter and you are taking on the responsibility of other people's children, you ought not to care who walks into that room to check on you, or into that home, because you are good enough and you know you are doing the right thing. It is only those people who are concerned about perhaps, that they are not meeting what they should be meeting in that business, that would be concerned about somebody walking in there.

Anybody should be able to walk in there. The human cry you hear from the baby sitters is "Oh, they come in and they upset all of the children and you have to take care of all of that problem when they go back out."

Well, I am one of sixteen, as you all know.

I tell you now, you are not going to have that problem. If you are a good enough baby sitter and you know what you are doing with children, you are not going to have that problem.

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

Senator **SHUTE:** Mr. President. I do not know very much about this bill, but somebody did mention that your home could be entered without a search warrant. I wondered if somebody on the Committee could tell me if the whole home is licensed or just the area, such as the kitchen and play area are licensed. Or whether they can go in and search your garage, cellar, attic and bedrooms or what?

THE PRESIDENT: The Senator from Waldo, Senator Shute, poses a question through the Chair which any Senator may respond to if they so desire.

Senator **BERUBE:** Mr. President. In response to the question. Only that area that is used for baby sitting would be inspected. And while I am on my feet, they wouldn't go up into the master bedroom. Okay? They would go if there were some room that was used to take care of the kids, or they would inspect just those premises. While I am on my feet, I will once reiterate what was said before. That the basic difference is simply one inspection, and I do not think that is too much to ask if we are entrusting the most precious possession we own—our children. Thank you.

THE PRESIDENT: The pending question before the Senate is the motion of the Senator from Kennebec, Senator **BUSTIN**, to **ACCEPT** the Majority Ought to Pass in New Draft under New Title Report of the Committee. A Roll Call has been ordered. Is the Senate ready for the question?

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

ROLL CALL

YEAS:—Senators, Berube, Bustin, Carpenter, Chalmers, Clark, Danton, Dow, Dutremble, Erwin, Gauvreau, Kany, Matthews, Najarian, Tuttle, Usher, Violette, The President—Charles P. Pray

NAYS:—Senators, Black, Brown, Diamond, Emerson, Gill, Maybury, McBreairty, Pearson, Perkins, Shute, Stover, Twitchell

ABSENT:—Senators, Andrews, Baldacci, Hichens, Sewall, Trafton, Webster

17 Senators having voted in the affirmative and 12 Senators in the negative, with 6 Senators being absent, the Motion by Senator **BUSTIN** of Kennebec to **ACCEPT** the Majority OUGHT TO PASS IN NEW DRAFT UNDER NEW TITLE Report of the Committee, **PREVAILS**, 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 **LEGAL AFFAIRS** on Bill "An Act Relating to Forcible Entry and Detainer Actions" (H.P. 409) (L.D. 562)

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

Senators:

TRAFTON of Androscoggin
STOVER of Sagadahoc

Representatives:

PERRY of Mexico
PAUL of Sanford
RIOUX of Biddeford
MURPHY of Berwick
MASTERMAN of Milo
BOTT of Orono
NICKERSON of Turner
DILLENBACK of Cumberland

The Minority of the same Committee on the same subject reported that the same **Ought to Pass** as Amended by Committee Amend-

ment "A" (H-204).

Signed:

Senator:

NAJARIAN of Cumberland

Representatives:

REEVES of Pittston

WARREN of Scarborough

Comes from the House with the Bill and Accompanying Papers **INDEFINITELY POSTPONED**.

Which Reports were **READ**.

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

Senator **TRAFTON:** Mr. President. I move the Senate Accept the Majority Ought Not to Pass Report of the Committee.

THE PRESIDENT: The Senator from Androscoggin, Senator **Trafton**, moves that the Senate Accept the Majority **Ought Not to Pass** Report of the Committee. Is this the pleasure of the Senate?

The Chair recognizes the Senator from Androscoggin, Senator Gauvreau.

Senator **GAUVREAU:** Thank you, Mr. President. Men and Women of the Senate. I would urge you to vote against the prevailing motion so we can go on and accept the Minority Ought to Pass as Amended Report.

L.D. 562 deals with the troublesome area of landlord-tenant relations. It suggests that we adopt in our Maine statutes the practice that has been adopted with some success in other jurisdictions, notably Maryland, Washington, D.C. and some other States. That is providing a good cause, or requiring good cause for most evictions. What the Minority Report proposes to do would be to require that or allow a landlord for whatever reason, and without cause to terminate a tenancy-at-will, absent a written lease, upon sixty days written notice. The current practice is thirty days, so that would, in fact, double the period for a cause for eviction for any reason what-so-ever.

In my view, the more substantive and significant portion of the bill pertains to the requirement on good cause evictions, that a landlord could evict tenant for good cause shown and provide forty days notice to that eviction.

The L.D. sets forth specifically what the good cause shall be, that will justify an eviction. There is a fairly comprehensive list that deals with non-payment of rent, or utility charges, that the tenants comply with municipal or local ordinance or State or Federal statutes. Damage to the property by the tenant, or by the tenants invites, repeated conduct of the tenants of such that would disturb the peace and quiet of the neighborhood or adjoining tenants. So your tenant would comply with reasonable rules of the landlord regarding the residency or the tenancy. Also for similar good cause provisions.

Now mind you that if for any reason the good cause was not shown, the tenant still would be subject to eviction for any reason what-so-ever, but it would have to be on a sixty day basis. We're mindful of the concerns that the small landlord and for that reason, we basically exempt the small landlord from the curfew of the statute or the bill and for the small landlord having far fewer rental units, that landlord would only have to furnish thirty days notice. There would be no change as far as the small landlord.

The main feature of the Minority Report would be to provide certainty and specificity to a tenant, so that the tenant would not be subject to arbitrary or pretentious action and eviction, and with all the true moral of that pretense. At the same time, the Minority Report does strike a reasonable balance with the rights—the legitimate rights of the landlords so that upon good cause shown, the tenants can still be removed in the ordinary course.

I would also point out that we do have certain features under Maine law where expedited eviction is appropriate and allowed. That is where tenants are substantially in arrears of

more than fourteen days of their rent, or causing damage to the promises and the current features of Maine law provide expedited eviction remain in effect. So I think what the Minority Report does, is to codify the existing law so that tenants are put on notice as were landlords on what type of behavior would trigger a thirty day notice of eviction and would still allow large landlords, those landlords having more than five tenancies, to evict for whatever reason on sixty day notice. They would not disturb rights of small landlords to still evict tenants on the thirty day notice.

So for these reasons, the Minority Report does, in fact, strike a reasonable balance in this troublesome area of our law, I would urge the prevailing motion, so we can go on and Accept the Minority Ought to Pass as Amended Report. Thank you.

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

Senator **TRAFTON:** Thank you, Mr. President. Mr. President, Members of the Senate. If you accept the Minority Report as suggested by the good Senator from Androscoggin, Senator Gauvreau, in this particular matter, you are upsetting the current balance between landlords and tenants under the laws of the State of Maine.

Currently a landlord that gives notice to the tenant for no cause, must give at least thirty days notice. I will tell you, from personal experience as an attorney, that usually after you give thirty days notice, it is very difficult to collect that last month's rent. Most landlords simply have to write it off. They do not pursue it.

This bill would jeopardize the landlord's second month's rent. You're exposing the landlord to losing one additional month of rent. I don't think that is fair to the landlords throughout the State of Maine. I suggest that does upset the balance that we currently have under our laws. I ask you to accept the Majority Ought Not to Pass Report.

THE PRESIDENT: The Chair recognizes the Senator from Sagadahoc, Senator Stover.

Senator **STOVER:** I would not want to foul up what the good Senator from Androscoggin has said, Senator Trafton. But in my experience, you wouldn't lose two months rent, you would lose three! You always have the opportunity to take it to court and the judge says "Okay, you can have an extra month," so you really lose three months rent before you get through.

As he says, it does upset the narrow line between tenant and landlord relations we have had in the State of Maine for a long time, and it has seemed to work real well.

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

Senator **GAUVREAU:** Thank you, Mr. President. Just briefly I should add here, it is with some trepidation that I take on my esteemed colleague, the good Senator from Androscoggin, Senator Trafton, having been tromped so soundly earlier in this Legislative day, on another bill. I just wanted to clarify one point. That is the vast majority of cases, if the Minority Report was accepted, there would be no change in the notice periods to lodge for a forcible entry on the tenant action, because in fact, in the ordinary course of events, the landlords will not terminate a tenancy unless, in fact, there is damage to the property, the tenant is causing a substantial problem with adjoining neighbors, non-payment of rent or whatever. And in those instances, the Minority Report very carefully articulates specific good cause and it does allow for the thirty day notice provision to terminate tenancy. That is the current law now.

What we are dealing with here, is a minority of cases, when tenants might, in fact, be arbitrarily or facetiously subject to termination for no appropriate cause. And it is more concern for those tenants rights because of the

right to have a tranquil residence is paramount that the Minority Report does require that good cause be shown, so a tenant would not be subject to unfair termination of their tenancy.

So I would point out here that this would not produce the substantial mischief or turmoil that is suggested by the good Senator from Androscoggin, Senator Trafton. For these reasons, I would request that you vote against the pending motion and I would also request, once again, that when the vote is taken, a Division is allowed.

THE PRESIDENT: The pending motion is by the Senator from Androscoggin, Senator **TRAFTON** to **ACCEPT** the Majority **Ought Not to Pass** Report. A Division has been requested.

Will all those Senators in favor of the Acceptance of the Majority Ought Not to Pass Report, please rise and remain in their places until counted.

Will all those Senators opposed please rise and remain standing in their places until counted.

20 Senators having voted in the affirmative, with 7 Senators having voted in the negative, the motion of Senator **TRAFTON** of Androscoggin, to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report **PREVAILS**.

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

PAPERS FROM THE HOUSE

Non-concurrent Matter

Bill "An Act to Restructure the Duties and Funding of the Maine Land Use Regulation Commission" (S.P. 606) (L.D. 1600)

In Senate May 28, 1985, **PASSED TO BE ENGROSSED AS AMENDED BY SENATE AMENDMENT "A" (S-136)**.

Comes from the House **PASSED TO BE ENGROSSED IN NON-CONCURRENCE**.

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

Non-concurrent Matter

Bill "An Act to Authorize an Award System to Aid in Coyote Control" (H.P. 858) (L.D. 1217)

In House May 29, 1985, the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-224)** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-224)**.

In Senate May 30, 1985, the Minority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**, in **NON-CONCURRENCE**.

Comes from the House that Body **INSISTED AND ASKED FOR A COMMITTEE OF CONFERENCE**.

On motion by Senator **MATTHEWS** of Kennebec, the Senate **INSISTED** and **JOIN IN A COMMITTEE OF CONFERENCE**.

THE PRESIDENT: In reference to the Action of the Senate May 30, 1985, whereby it Insisted and Joined in a Committee of Conference on Bill "An Act to Authorize an Award System to Aid in Coyote Control" (H.P. 858) (L.D. 1217)

The Chair will appoint as Conferees on the Part of the Senate:

Senator **MATTHEWS** of Kennebec
Senator **USHER** of Cumberland
Senator **PRAY** of Penobscot

THE PRESIDENT: In reference to the Action of the Senate May 30, 1985, whereby it Insisted and Joined in a Committee of Conference on Bill "An Act to Amend the Law Relating to Deputy Sheriffs, Appointments and Removal" (S.P. 312) (L.D. 801)

The Chair will appoint as Conferees on the Part of the Senate:

Senator **TUTTLE** of York
Senator **BALDACCI** of Penobscot
Senator **STOVER** of Sagadahoc

COMMUNICATIONS

The Following Communication:

**STATE OF MAINE
HOUSE OF REPRESENTATIVES
AUGUSTA 04333**

May 30, 1985

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

The House voted today to adhere to its former action whereby it accepted the Majority "Ought Not to Pass" Report of the Committee on Education on Bill "An Act to Mandate a Course in Cardiopulmonary Resuscitation in High Schools" (H.P. 257) (L.D. 311)

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

Which was **READ** and **ORDERED PLACED ON FILE**.

The Following Communication:

**STATE OF MAINE
HOUSE OF REPRESENTATIVES
AUGUSTA 04333**

May 30, 1985

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

The House voted today to adhere to its former action whereby it accepted the Majority "Ought Not to Pass" Report of the Committee on Education on Bill "An Act to Amend the Nuclear Issues Clearinghouse Law" (S.P. 561) (L.D. 1490)

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

Which was **READ** and **ORDERED PLACED ON FILE**.

The Following Communication:

**STATE OF MAINE
HOUSE OF REPRESENTATIVES
AUGUSTA 04333**

May 30, 1985

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

The House voted today to Insist and Join in a Committee of Conference on Bill "An Act to Reduce the Hours Required for Master and Journeymen Electricians" (H.P. 419) (L.D. 599)

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

Which was **READ** and **ORDERED PLACED ON FILE**.

The Following Communication: S. P. 624
112th LEGISLATURE

May 30, 1985

Senator Edgar E. Erwin
Representative John M. Michael
Chairpersons
Committee on Agriculture
112th Legislature
Augusta, Maine 04333
Dear Chairs:

Please be advised that Governor Joseph E. Brennan has nominated Cheryl Kelly of St. Francis, Jesse Harriman of Richmond, and Russell Pinfold of Brunswick for reappointments to the Animal Welfare Board.

Pursuant to Title 17 MRSA Section 1051, this nomination will require review by the Joint Standing Committee on Agriculture and confirmation by the Senate.

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

Which was **READ** and referred to the Committee on **AGRICULTURE**.
Sent down for concurrence.

The Following Communication:

**COMMITTEE ON AGRICULTURE
112th LEGISLATURE**

May 30, 1985

The Honorable Charles P. Pray
President of the Senate
112th Legislature
Dear President Pray:

We are pleased to report that all business which was placed before the Committee on Agriculture during the first regular session of the 112th Legislature has been completed. The breakdown of bills referred to our committee follows:

Total number of bills received	30
Unanimous reports	25
Leave to Withdraw	9
Ought to Pass	7
Ought Not to Pass	0
Ought to Pass as Amended	7
Ought to Pass in New Draft	2
Divided reports	4
Carry Over Bills	

(Approved by the Legislative Council) 1
Respectfully submitted,

S/ EDGAR E. ERWIN S/ JOHN M. MICHAEL
Senate Chair House Chair

Which was **READ** and **ORDERED PLACED ON FILE**.

THE PRESIDENT: The Chair wishes to congratulate the Senator from Oxford, Senator Erwin, for his diligent work over the past few months in completing the hard task that was before him, dealing with complicated issues and getting those Bills out before other Committees.

Off Record Remarks

Senate at Ease

The Senate called to Order by the President.

ENACTORS

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

Resolve

Resolve, Directing County Officials to Manage and Invest County Funds in Accordance with Sound and Prudent Financial Principles. (H.P. 1078) (L.D. 1569)

Comes from the House with the Bill and Accompanying Papers **INDEFINITELY POSTPONED**.

On motion by Senator **TUTTLE** of York, **INDEFINITELY POSTPONED**, in concurrence.

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

COMMITTEE REPORTS**Senate****Ought to Pass As Amended**

Senator **DANTON** for the Committee on **BUSINESS AND COMMERCE** on Bill "An Act to Amend the Maine Consumer Credit Code" (S.P. 558) (L.D. 1487)

Reported that the same **Ought to Pass as Amended by Committee Amendment "A"** (S-166).

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

Committee Amendment "A" (S-166) **READ** and **ADOPTED**.

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

Senator **BALDACCI** for the Committee on **UTILITIES** on Bill "An Act Relating to Source of Supply of the Camden and Rockland Water Company" (S.P. 87) (L.D. 268)

Reported that the same **Ought to Pass as Amended by Committee Amendment "A"** (S-167).

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

The Bill **READ ONCE**.

Committee Amendment "A" (S-167) was **READ** and **ADOPTED**.

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

Senate at Ease

Senate called to Order by the President.

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

ORDERS**Joint Order**

On motion of Senator **VIOLETTE** of Aroostook the following Joint Order: S. P. 623 **ORDERED**, the House concurring that An Act Authorizing State Employees to Purchase State Property Upon Retirement or Leaving Office (H.P. 1036) (L.D. 1510), be recalled from the Governor's Desk to the Senate.

Which was **READ** and **PASSED**.

Under suspension of the Rules, ordered sent down forthwith for concurrence.

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

COMMITTEE REPORTS**Senate****Ought to Pass As Amended**

Senator **BERUBE** for the Committee on **HUMAN RESOURCES** on Resolve, Creating a Commission to Study Nursing Home Cost Containment in the State. (S.P. 528) (L.D. 1423)

Reported that the same **Ought to Pass as Amended by Committee Amendment "A"** (S-169)

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

Committee Amendment "A" (S-169) **READ** and **ADOPTED**.

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

Senator **BERUBE** for the Committee on **HUMAN RESOURCES** on Bill "An Act to Help Improve the Quality of Child Care in Maine" (S.P. 516) (L.D. 1390)

Reported that the same **Ought to Pass as Amended by Committee Amendment "A"** (S-170).

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

Committee Amendment "A" (S-170) **READ** and **ADOPTED**.

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

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

ENACTORS

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

An Act to Encourage Retraction of Defamatory Statements. (H.P. 782) (L.D. 1115) (C. "A" H-202)

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

An Act Concerning "Beano" or "Bingo" on Indian Reservations. (H.P. 376) (L.D. 517) (C. "A" H-193)

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

Senator **SHUTE**: I move Indefinite Postponement of L.D. 517, and request a Roll Call.

THE PRESIDENT: The pending question is the motion of Senator **Shute** of Waldo, to **Indefinitely Postpone** this Bill and all accompanying papers. A Roll Call has been requested. Under the Constitution, in order for the Chair to order a Roll Call it requires the affirmative vote of at least one-fifth of those Senators present and voting.

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

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

A Yes vote will be in favor of Indefinite Postponement.

A No vote will be opposed.

The Secretary will call the Roll.

ROLL CALL

YEAS:—Senators, Emerson, Gill, Perkins, Shute

NAYS:—Senators, Berube, Black, Brown, Bustin, Carpenter, Chalmers, Clark, Danton, Diamond, Dow, Erwin, Gauvreau, Kany, Matthews, Maybury, McBreairey, Najarian, Pearson, Stover, Trafton, Twitchell, Usher, Violette, The President—Charles P. Pray

ABSENT:—Senators, Andrews, Baldacci, Dutremble, Hichens, Sewall, Tuttle, Webster

4 Senators having voted in the affirmative and 24 Senators having voted in the negative, with 7 Senators being absent, the Motion of the Senator from Waldo, Senator SHUTE, to **INDEFINITELY POSTPONE** this Bill and all accompanying papers **FAILS**.

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

An Act Concerning Reports to the Federal Government Relating to Missing Children. (H.P. 854) (L.D. 1210) (H. "A" H-211 to C. "A" H-203)

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

An Act Concerning Education Programs for Gifted and Talented Children. (H.P. 1092) (L.D. 1585)

On motion by Senator PEARSON of Penobscot, placed on **SPECIAL APPROPRIATIONS TABLE**, pending **ENACTMENT**.

Emergency

An Act to Clarify and Make Technical Changes in the Law Governing Boards and Commissions. (H.P. 1072) (L.D. 1560)

This being an Emergency Measure and having received the affirmative vote of 26 Members of the Senate, with No Senators having voted in the negative, and 26 being more than two-thirds of the entire elected membership of the Senate was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

Emergency

An Act to Clarify and Correct Certain Laws Relating to Marine Resources Laws. (H.P. 1066) (L.D. 1548) (H. "A" H-188)

This being an Emergency Measure and having received the affirmative vote of 27 Members of the Senate, with No Senators having voted in the negative, and 27 being more than two-thirds of the entire elected membership of the Senate was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

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

PAPERS FROM THE HOUSE

House Papers

Bill "An Act to Adjust Bridge Capital and Maintenance Responsibilities. (H.P. 1128)

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

On motion by Senator VIOLETTE of Aroostook, referred to the Committee on **TRANSPORTATION** and **ORDERED PRINTED**, in concurrence.

COMMITTEE REPORTS

House

Divided Report

The Majority of the Committee on **BUSINESS AND COMMERCE** on Bill "An Act to Provide for the Sale of Savings Bank Life Insurance" (H.P. 1046) (L.D. 1524)

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

Signed:

Senators:

DANTON of York
BUSTIN of Kennebec
SEWALL of Lincoln

Representatives:

MARTIN of Van Buren
HILLOCK of Gorham
BAKER of Orrington
STEVENS of Bangor
ARMSTRONG of Wilton
TELOW of Lewiston

The Minority of the same Committee on the same subject reported that the same **Ought to Pass as Amended by Committee Amendment "A"** (H-264).

Signed:

Representatives:

ALIBERTI of Lewiston
MURRAY of Bangor
RYDELL of Brunswick
BRANNIGAN of South Portland

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.

ORDERS OF THE DAY

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

Bill "An Act to Change the Way the Maximum Rate of Interest on Delinquent Taxes is Calculated" (H.P. 244) (L.D. 285)

Tabled—May 30, 1985, by Senator DIAMOND of Cumberland.

Pending—Motion of same Senator to **RECONSIDER FAILING TO RECEDE AND CONCUR** (Roll Call Ordered).

(In House May 28, 1985, the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A"** (H-197) Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A"** (H-197).)

(In Senate May 29, 1985, the Minority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED** in **NON-CONCURRENCE**.)

(In House May 29, 1985, that Body **INSISTED**.)

(In Senate May 30, 1985, **FAILED TO RECEDE AND CONCUR**.)

On motion by Senator VIOLETTE Tabled 1 Legislative Day, pending the motion of Senator DIAMOND of Cumberland to **RECONSIDER FAILING TO RECEDE AND CONCUR** (Roll Call Ordered).

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

SENATE REPORTS—from the Committee on **LEGAL AFFAIRS** on Bill "An Act Concerning the Return of Security Deposits Paid by Tenants" (S.P. 156) (L.D. 423)

Majority Report—**Ought Not to Pass**.

Minority Report—**Ought to Pass as Amended by Committee Amendment "A"** (S-117). Tabled—May 29, 1985, by Senator VIOLETTE of Aroostook.

Pending—Motion of Senator CARPENTER of Aroostook to **RECONSIDER ACCEPTANCE** of the Majority **OUGHT NOT TO PASS** Report.

(In Senate May 28, 1985, Reports **READ**. **RECONSIDERED ACCEPTANCE** of the Minority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A"** (S-117) Report. Subsequently, Majority **OUGHT NOT TO PASS** Report **ACCEPTED**.)

THE PRESIDENT: The Chair recognizes the Senator from Androscoggin, Senator Trafton. Senator TRAFTON: Mr. President, I request a Division.

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

Senator NAJARIAN: Mr. President, Members of the Senate. I would ask you to oppose the motion to accept the Majority Ought Not to Pass Report. I have had an Amendment prepared and distributed which I obviously cannot offer for your consideration unless the Minority Ought to Pass Report is Accepted. Thank you.

THE PRESIDENT: A Division has been requested. The pending question is the motion of the Senator from Aroostook, Senator Carpenter to **Reconsider Acceptance** of the Majority **Ought Not to Pass** Report.

Will all those Senators in favor of Reconsideration of the Ought Not to Pass Report, please rise and remaining standing in their places to be counted.

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

11 Senators having voted in the affirmative, and 12 Senators having voted in the negative, the motion of the Senator from Aroostook, Senator CARPENTER, to **RECONSIDER ACCEPTANCE** of the Majority **OUGHT NOT TO PASS** Report **FAILS**.

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

Bill "An Act Relating to Payment of Back Contributions and Withdrawn Contributions by Members of the Maine State Retirement System" (S.P. 241) (L.D. 636) (C. "A" S-122)

Tabled—May 29, 1985, by Senator CLARK of Cumberland.

Pending—**PASSAGE TO BE ENGROSSED AS AMENDED**.

(In Senate May 28, 1985, **READ A SECOND TIME**.)

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

Senate at Ease

The Senate called to Order by the President.

The Senator from Aroostook, Senator CARPENTER was granted unanimous consent to address the Senate Off the Record.

On motion by Senator TWITCHELL of Oxford,

ADJOURNED until 11 o'clock tomorrow morning.