

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
Wednesday
June 12, 1985
Senate called to Order by the President.

Prayer by Honorable Edgar E. Erwin of Oxford.

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

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

May the pursuits of common aims bind membership together in genuine and warm commonship. Let harmony and good will prevail. Amen.

Reading of the Journal of Yesterday.

PAPERS FROM THE HOUSE

Non-concurrent Matter

Bill "An Act to Amend Certain Provisions of the Laws Pertaining to Child Support" (S.P. 385) (L.D. 1065) (C "A" S-253)

In Senate June 11, 1985, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A"** (S-253).

Comes from the House **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A"** (S-253) **AS AMENDED BY HOUSE AMENDMENT "A"** (H-376), thereto in **NON-CONCURRENCE**.

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

Non-concurrent Matter

Bill "An Act to Amend Certain Motor Vehicle Laws" (Emergency) (S.P. 605) (L.D. 1599) (S "A" S-200)

In House June 4, 1985, **PASSED TO BE ENGROSSED AS AMENDED BY SENATE AMENDMENT "A"** (S-200), in concurrence.

In Senate June 11, 1985, **PASSED TO BE ENGROSSED AS AMENDED BY SENATE AMENDMENTS "A" (S-200) AND "B" (S-259)**, in **NON-CONCURRENCE**.

Comes from the House **PASSED TO BE ENGROSSED AS AMENDED BY SENATE AMENDMENT "A" (S-200) AND HOUSE AMENDMENT "A" (H-379)** in **NON-CONCURRENCE**.

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

SECOND READERS

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

Senate As Amended

Bill "An Act Concerning Liability for Injuries Caused by Drunken Persons" (S.P. 598) (L.D. 1568) (C "A" S-263)

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

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

COMMITTEE REPORTS

Senate

Leave to Withdraw

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

Resolve, Creating a Commission to Study Procedures for Exercising the Legislative Powers of Impeachment and Address (S.P. 445) (L.D. 1248)

Ought to Pass As Amended

Senator CARPENTER for the Committee on JUDICIARY on Bill "An Act to Amend Certain Sex Crimes Under the Maine Criminal Code" (S.P. 525) (L.D. 1408)

Reported that the same **Ought to Pass as Amended by Committee Amendment "A"** (S-267).

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

Committee Amendment "A" (S-267) **READ** and **ADOPTED**.

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

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

COMMUNICATIONS

The Following Communication:

**COMMITTEE ON ENERGY AND NATURAL RESOURCES
112th LEGISLATURE**

June 12, 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 Energy and Natural resources 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	75
Unanimous reports	65
Leave to Withdraw	22
Ought to Pass	8
Ought Not to Pass	4
Ought to Pass as Amended	19
Ought to Pass in New Draft	8
Divided Reports	10
Carry Over Bills (Approved by the Legislative Council)	4
Respectfully submitted, S/ RONALD E. USHER Senate Chair	

S/ MICHAEL H. MICHAUD
House Chair

Which was **READ** and **ORDERED PLACED ON FILE**.

Senate At Ease

Senate called to Order by the President.

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 Concerning the Rate of Return on Investment Factor Under the Railroad Excise Tax" (H.P. 287) (L.D. 357)

ORDERS OF THE DAY

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

Emergency Resolve

Resolve, Creating a Joint Select Committee on Economic Development (H.P. 74) (L.D. 95) (C "A" H-344)

Tabled—June 11, 1985, by Senator VIOLETTE of Aroostook.

Pending—**FINAL PASSAGE**
(In House June 11, 1985, **FINALLY PASSED**.)
(In Senate June 10, 1985, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A"** (H-344), in concurrence.)

Senate At Ease

Senate called to Order by the President.

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

HELD ITEM

THE PRESIDENT: The Chair recognizes the Senator from Androscoggin, Senator Trafton. Senator **TRAFTON:** Mr. President, is the Senate in possession of L.D. 1467?

THE PRESIDENT: The Chair would answer in the affirmative, the Bill having been held.

Resolve, Authorizing Colwell Construction Company Incorporated, to Bring a Civil Action Against the State of Maine (S.P. 550) (L.D. 1467) (C "A" S-242)

(In Senate June 11, 1985, **FAILED OF PASSAGE TO BE ENGROSSED AS AMENDED**.)

Senator **TRAFTON:** Mr. President, at this time I moved that the Senate Reconsider its action whereby it failed to pass this Bill for Engrossment.

THE PRESIDENT: The Chair would inform the Senator that the motion would be improper since he was not on the prevailing side of the issue.

The Chair recognizes the Senator from Penobscot, Senator Baldacci.

Senator **BALDACCI:** Mr. President, I would like to move Reconsideration having previously voted on the prevailing side.

THE PRESIDENT: The Senator from Penobscot, Senator **BALDACCI**, moved that the Senate **RECONSIDER** its action whereby this Bill **FAILED OF PASSAGE TO BE ENGROSSED AS AMENDED**.

The Chair recognizes the Senator from Sagadahoc, Senator Stover.

Senator **STOVER:** Mr. President, I would like to ask for a roll call on the motion for Reconsideration and would speak to my motion.

Just to recapitulate, and not going through all the debate we had yesterday, Colwell Construction Company did some work for the State of Maine on the Pine Tree Inn down in Bangor. There is a difference of opinion as to how much that job is worth. Colwell Construction put in an estimate of \$185,000. It was not put out to bid and that was their price. When the Department of Finance and Administration finally caught up with them, they had already done a considerable amount of work. They stopped the work after some delay and then they put the rest of it out to bid and Colwell was the low bidder on that and they paid them for it.

What is in question is: Colwell maintains that the State owes their company \$116,000 in work that they have done. The Department of Finance and Administration feels that this is grossly more than it should be. The State feels it should be about \$80,000, what the job is actually worth. What they have done is offered to Mr. Colwell, written him, and asked him to meet with them and mediate it and have gotten no response. The only response they have got is Colwell Construction had legislation presented to the Legislature that would authorize them to sue the state for \$300,000 which of course is a very crazy amount.

So anyway, the Legal Affairs Committee or at least some of them decided what they would do is to make a bill mandating mandatory arbitration, binding arbitration, but the Department of Finance and Administration is opposed to that feeling that will leave them the room to maneuver their need. All they are doing is trying to protect the interest of the State of Maine.

I know I have been one in the past to be quite critical about certain departments not being quite zealous enough in doing just that. Now we have a department, they aren't trying to defraud this man, they are perfectly willing to pay him for what he has done and what the

job is worth. And they are perfectly willing to bring in a disinterested third party to talk about it if that is what Colwell wants and then if they show that the Department is in error, they will go on from there. At least it gives the State some room to maneuver and I think the Department and Rod Scribner in particular are to be commended for trying to look after the interest of the tax payers of this State. I have said so many times in the past, it isn't the amount of money we appropriate here only, it is the mileage you get out of your dollar and that is all he is trying to do is get full mileage out of the dollar for the tax payers of this State.

I would ask you to vote against reconsideration.

THE PRESIDENT: The Senator from Sagadahoc, Senator Stover, 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 in order.

The Chair recognizes the Senator from Androscoggin, Senator Trafton.

Senator **TRAFTON:** Thank you, Mr. President. Mr. President, and Members of the Senate, for over three years the State of Maine and Colwell Construction Company have been unable to agree on the just value of the work done by Colwell Construction Company on a particular construction job that they were hired for on behalf of the State of Maine. The Bill before you presents a method of resolving this dispute. It calls for binding arbitration on one issue and one issue alone and that is the issue as to the just value of the work done by Colwell Construction Company.

The good Senator from Sagadahoc is correct. Senator Stover indicated that there is a split as to how much value that work done actually was. I suggest to you that the courts of the State of Maine are not the most appropriate forum to resolving this matter. The court case to resolve just value would be expensive, time consuming and may well use two or three years additional time before a resolution of this one question. I repeat that is the State of Maine wants to use the defense, the legal defense, that this contract should have gone to competitive bidding, but the State still has that possible defense open to it. It can, after a binding arbitration decision, go to court, raise the issue of competitive bidding and perhaps have this particular award thrown out.

But I suggest to you that this is a matter that has been under discussion for the last three years. The State has been unable to resolve it, I suggest to you it is unfair to Colwell Construction Company, a reputable contractor in the State of Maine that continues to do work for the State, to let this matter hang any further. Lets resolve this matter, lets send the issue of just value to binding arbitration and lets go on with other matters that are more pressing to this State. I urge you to vote for reconsideration of this matter.

THE PRESIDENT: The pending question is the motion of the Senator from Penobscot, Senator Baldacci, that the Senate **Reconsider** its action whereby this Bill **Failed of Passage to be Engrossed as Amended**. A Roll Call has been ordered.

A Yes vote will be in favor of **Reconsideration**.

A No vote will be opposed.

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

ROLL CALL

YEAS: Senators, Baldacci, Berube, Brown, Bustin, Carpenter, Chalmers, Clark, Diamond, Dow, Dutremble, Emerson, Gauvreau,

Maybury, McBreairty, Pearson, Perkins, Sewall, Shute, Trafton, Twitchell, Usher, Violette, The President — Charles P. Pray

NAYS: Senators, Andrews, Black, Erwin, Gill, Hichens, Kany, Stover, Tuttle

ABSENT: Senators, Danton, Matthews, Najarian, Webster

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

23 Senators having voted in the affirmative and 8 Senators having voted in the negative, with 4 Senators being absent, the motion of Senator **BALDACC**I of Penobscot to **RECONSIDER** whereby this Bill **FAILED OF PASSAGE TO BE ENGROSSED AS AMENDED, PREVAILS**.

THE PRESIDENT: Is it now the pleasure of the Senate that this Bill be **PASSED TO BE ENGROSSED AS AMENDED**?

The Chair recognizes the Senator from Cumberland, Senator Andrews.

Senator **ANDREWS:** I move this item be Tabled until Later in Today's session.

THE PRESIDENT: The Senator from Cumberland, Senator **ANDREWS**, moves that this matter be **TABLED UNTIL LATER IN TODAY'S SESSION**.

The Chair recognizes the Senator from Androscoggin, Senator Trafton.

Senator **TRAFTON:** I request a Division
THE PRESIDENT: The Senator from Androscoggin, Senator Trafton, has requested a Division.

Will all those Senators in favor of the motion of Senator **Andrews** of Cumberland that this matter be **Tabled Until Later in Today's Session**, pending **Passage to be Engrossed as Amended**, please rise in their places until counted.

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

9 Senators having voted in the affirmative, and 20 Senators having voted in the negative, the motion of Senator **ANDREWS** of Cumberland that this matter be **TABLED UNTIL LATER IN TODAY'S SESSION**, pending **PASSAGE TO BE ENGROSSED AS AMENDED, FAILS**.

Which was **PASSED TO BE ENGROSSED, as Amended**.

Sent down for concurrence.

Off Record Remarks

ORDERS OF THE DAY

On motion by Senator **PEARSON** of Penobscot, the Senate removed from the **SPECIAL APPROPRIATIONS TABLE:**

An Act to Provide for State Research Grants (H.P. 707) (L.D. 1017) (C "A" H-297)

Tabled—June 6, 1985, by Senator **PEARSON** of Penobscot.

Pending—**ENACTMENT**
(In House June 5, 1985, **PASSED TO BE ENACTED**.)

(In Senate June 4, 1985, **PASSED TO BE ENGROSSED AS AMENDED**, in concurrence.)

On further motion by same Senator, the Senate **SUSPENDED THE RULES**.

On further motion by same Senator, the Senate **RECONSIDERED** its action whereby the Bill was **PASSED TO BE ENGROSSED AS AMENDED**.

On further motion by same Senator, the Senate **SUSPENDED THE RULES**.

On further motion by same Senator, the Senate **RECONSIDERED** its action whereby it **ADOPTED** Committee Amendment "A" (H-297)

On further motion by same Senator, Senate Amendment "A" (S-268) to Committee Amendment "A" (H-297) **READ**.

Senator **PEARSON:** Mr. President, Men and Women of the Senate. This is an amendment to correct what was an unconstitutional pro-

vision in that particular Bill, and allows the Legislative members of the Board under the Governor to be placed under the appointment of the Governor to satisfy the Constitutional requirement for separation of powers.

Senate Amendment "A" (S-268) to Committee Amendment "A" (H-297) **ADOPTED**.

Committee Amendment "A" (H-297) as Amended by Senate Amendment "A" (S-268), thereto **ADOPTED IN NON-CONCURRENCE**.

Which was **PASSED TO BE ENGROSSED as Amended in NON-CONCURRENCE**.

Under suspension of the Rules, ordered sent down forthwith for concurrence.

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

An Act to Make Additional Allocations from the Alcohol Premium Fund (S.P. 505) (L.D. 1365) (C "A" S-226)

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

Pending—**ENACTMENT**
(In House June 10, 1985, **PASSED TO BE ENACTED**.)

(In Senate June 7, 1985, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-226)**.)

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

On further motion by the same Senator, the Senate **RECONSIDERED** its action whereby the Bill was **PASSED TO BE ENGROSSED AS AMENDED**.

On further motion by the same Senator, the Senate **SUSPENDED THE RULES**.

On further motion by the same Senator, the Senate **RECONSIDERED** its action whereby it **ADOPTED** Committee Amendment "A" (S-226).

On further motion by the same Senator, Senate Amendment "A" (S-262) to Committee Amendment "A" (S-226) **READ**.

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

Senator **BALDACC**I: Mr. President, I was wondering if there would be just a brief explanation as to what this amendment is.

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

The Chair recognizes the Senator from Kennebec, Senator Bustin.

Senator **BUSTIN:** The Statement of Fact will tell you, and I know it has just been put on the desk, that the purpose of this amendment is to add standard language governing the coordination, accountability and administration of alcoholic services programs. It is a technical amendment.

Senate Amendment "A" (S-262) to Committee Amendment "A" (S-226) **ADOPTED**.

Committee Amendment "A" (S-226) as amended by Senate Amendment "A" (S-262) thereto **ADOPTED IN NON-CONCURRENCE**.

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

Under suspension of the Rules, ordered sent down forthwith for concurrence.

There being no objections all matters previously acted upon were ordered sent down forthwith 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.

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

Bill "An Act to Amend Certain Provisions of the Laws Pertaining to Child Support" (S.P. 385) (L.D. 1065) (C "A" S-253)

Tabled—June 12, 1985, by Senator VIOLETTE of Aroostook.

Pending—FURTHER CONSIDERATION.

(In Senate June 11, 1985, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-253).)

(In House June 11, 1985, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-253) AS AMENDED BY HOUSE AMENDMENT "A" (H-376) thereto in NON-CONCURRENCE.)

On motion by Senator CARPENTER of Aroostook, the Senate RECEDED.

On further motion by same Senator RECOMMENDED to the Committee on JUDICIARY in NON-CONCURRENCE.

Sent down for concurrence.

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 Amend the Reappointment Law" (S.P. 619) (L.D. 1630)

In Senate May 29, 1985, PASSED TO BE ENGROSSED.

Comes from the House PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "A" (H-377) in NON-CONCURRENCE.

The Senate RECEDED and CONCURRED.

Non-concurrent Matter

Bill "An Act to Amend the Offenses for Operating under the Influence" (S.P. 562) (L.D. 1491)

In Senate June 11, 1985, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-260).

Comes from the House PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-260) AND HOUSE AMENDMENT "A" (H-386) in NON-CONCURRENCE.

The Senate RECEDED and CONCURRED.

COMMITTEE REPORTS

House

Ought to Pass As Amended

The Committee on APPROPRIATIONS AND FINANCIAL AFFAIRS on Bill "An Act to Authorize a General Fund Bond Issue in the Amount of \$12,000,000 for Sewage Treatment and Water Quality Improvement Facilities" (H.P. 907) (L.D. 1306)

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-380).

Comes from the House, with the Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-380).

Which Report was READ and ACCEPTED, in concurrence.

The Bill READ ONCE.

Committee Amendment "A" (H-380) READ and ADOPTED, in concurrence.

Senate At Ease

Senate called to Order by the President.

Which was, under suspension of the Rules, READ A SECOND TIME and PASSED TO BE ENGROSSED AS AMENDED, in concurrence.

Off Record Remarks

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

COMMITTEE REPORTS

House

Ought to Pass As Amended

The Committee on HUMAN RESOURCES on Bill "An Act to Improve the Administration of General Assistance" (H.P. 916) (L.D. 1309)

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-384).

Comes from the House, with the Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-384).

Which Report was READ and ACCEPTED, in concurrence.

The Bill READ ONCE.

Committee Amendment "A" (H-384) 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 Relating to Investigations of Child Abuse in Institutions Licensed by the State" (H.P. 923) (L.D. 1330)

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-385).

Comes from the House, with the Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-385).

Which Report was READ and ACCEPTED, in concurrence.

The Bill READ ONCE.

Committee Amendment "A" (H-385) READ and ADOPTED, in concurrence.

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

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

PAPERS FROM THE HOUSE

Non-concurrent Matter

Bill "An Act Relating to Cumberland County Budget Process" (S.P. 618) (L.D. 1629) (C "A" S-237)

In Senate June 10, 1985 PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-237).

Comes from the House PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-237) AND HOUSE AMENDMENT "B" (H-382) in NON-CONCURRENCE.

The Senate RECEDED and CONCURRED.

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 Make Supplemental Allocations from the Federal Expenditure Fund, Special Revenue Funds and to Change 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. 472) (L.D. 675) (C "A" H-359)

In Senate June 10, 1985, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-349), in concurrence.

Comes from the House PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-359) AS AMENDED BY HOUSE AMENDMENT "A" (H-374), thereto in NON-CONCURRENCE.

The Senate RECEDED and CONCURRED.

COMMITTEE REPORTS

House

Divided Report

The Majority of the Committee on HUMAN RESOURCES on Bill "An Act to Require Prior Consent of a Patient before a Medical Consultant can Provide a Billable Service" (H.P. 574) (L.D. 845)

Reported that the same Ought Not to Pass. Signed:

Senators:

BUSTIN of Kennebec
GILL of Cumberland
BERUBE of Androscoggin

Representatives:

PINES Of Limestone
SEAVEY of Kennebunkport
KIMBALL of Buxton
MELENDY of Rockland
TAYLOR of Camden

The Minority of the same Committee on the same subject reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-383).

Signed:

Representatives:

CARROLL of Gray
BRODEUR of Auburn
NELSON of Portland
MANNING of Portland
ROLDE of York

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.

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 Prevent Discrimination Against Retired Maine Residents who have Previously been Members of the Maine State Retirement System (H.P. 212) (L.D. 246) (S "A" S-249 to C "A" H-342)

An Act to Establish Special Motor Vehicle License Plates for Firefighters (H.P. 617) (L.D. 887) (H "A" H-369 to C "A" H-362)

An Act to Amend the Laws Related to Motor Vehicle Dealers and to Address Certain Problems Related to Motor Vehicle Auctions in Maine (H.P. 1084) (L.D. 1575) (S "A" S-256 to C "A" H-348)

An Act to Protect Works of Art (S.P. 415) (L.D. 1145) (C "A" S-245)

An Act Concerning Access to Telephone Toll Records by Prosecutors (S.P. 536) (L.D. 1437) (C "A" S-238)

An Act to Establish a Medicaid Report (S.P. 592) (L.D. 1555) (S "A" S-258)

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 Increase Fees for Licenses Issued by the Department of Marine Resources (H.P. 761) (L.D. 1081) (H "B" H-294; H "C" H-360 to C "A" H-237)

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

Senator SHUTE: Mr. President and Ladies and Gentlemen of the Senate, this Bill is a Bill that we had in the Marine Resources Committee this year. It substantially increased the fees on a variety of Marine Resource licenses.

The Committee Report on this Bill was a seven to six. Certainly not a mandate of any kind and I would like to point out to the Senate that this is not a Governor's Bill. It is a Bill that was put in for the Department, kind of around the Governor's office and this was brought up during the Committee hearing.

Originally the Bill called for a 300% increase

in the licensess fees and finally it was dropped down to a 100% increase in license fees. Then in the other Body it was amended again to bring the fee increases down to about 70% on the low end and a 100% on the high end. There are some substantial license fee increases here.

I can't possibly see what the reason would be to pick out one little segment of this society, a group of people that work very hard for a living and out on their backs a 100% fee increase or a 70% fee increase. This Bill would put lobster licenses from \$33 up to \$53 or put worm diggers licenses from \$13 to \$26, or scallop licenses from \$33 up to \$53, a whole range of license fee increases in this Bill. The commercial fishing, licenses has doubled, resident operator license had doubled, about every license fee there is in the Department of Marine Resources either goes up 70% or 100%.

Now those of you who don't represent a constituency from the coast probably don't have much interest in this Bill. I am sure you would have an interest in it if we were going to increase the hunting and fishing licenses by 70% or 100% or if we were going to increase the fee on a bill that would effect everyone of your people. If we wanted to increase the automobile registration fee 100%, I am sure that wouldn't pass the Senate.

So Mr. President and Ladies and Gentlemen of the Senate, I hope you will vote against the Enactment of this Bill and when the vote is taken, I ask for a Roll Call.

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

Senator **CHALMERS:** Thank you Mr. President, Ladies and Gentlemen of the Senate. The good Senator from Waldo is quite correct. This Bill concerns only an increase in the license fees for fishermen.

One of the arguments I have heard ever since I got onto the Marine Resources Committee, or ever since I moved to Maine and got interested in the fishing industry, is that we don't have enough wardens. One thing that this Bill does do and this is largely due to the latest amendment, (H-360) recently put on in the House, is that it ties in the increase in fees to specifically, the increase in four wardens this year and an additional warden next year so there would be a total of five wardens.

We also will upgrade the Department so we have the data entry position filled and we will have another person in marketing. This is a nuts and bolts issue for the fisherman all along the coast and the one thing that this Bill does do is it guarantees that we are going to have another marketing expert and that we are going to be able to computerize the information that's over there in the Department of Marine Resources for the fishermen.

This is a Bill and the good Senator from Waldo is quite correct, when this Bill originally came to us it was a 300% and it would have had nine wardens. We have had many Committee hearings and work sessions on this Bill and we have tuned it down to the point where the increase for lobstermen is from \$33 a year up to \$53 a year and there are more lobstermen and I can tell you on this issue, I might not be able to speak to you for all lobstermen on the question of the maximum and minimum length but on this issue I feel absolutely sure I speak for all lobstermen. They will not mind an increase up to \$53 for their license if you guarantee five more wardens. That is the standard cry on the coast. I would ask you to vote for passage of this

THE PRESIDENT: The Senator from Waldo, Senator Shute, 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 un-

til counted.

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

The pending question before the Senate is **ENACTMENT.**

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

Senator **BROWN:** Thank you Mr. President and Men and Women of the Senate. The remarks that have been made by the good Senator from Waldo, Senator Shute are correct in many respects, in the sense that the substantial increase is in fact 100%. I represent a coastal area. The good Senator who just finished speaking, the Senator from Knox, Senator Chalmers, represents the coastal area. We had fishermen who came in representation of the various groups of fishermen who requested these kinds of increases.

The basic premise behind this is that those people who derive a substantial financial benefit from the resource of this State should be in fact, for the handling of that resource whether it be with additional wardens or whether it be with additional research that is done on that particular resource, be responsible.

I would urge you to support the Report and not indefinitely Postpone this. Thank you, Mr. President.

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

Senator **CHALMERS:** Only for a point of information. Has there been a motion for Enactment?

THE PRESIDENT: The pending question is **ENACTMENT.**

The Chair recognizes the Senator from Waldo, Senator Shute.

Senator **SHUTE:** Mr. President, Ladies and Gentlemen of the Senate. I haven't had one call from my fishermen who want this fee increase. I wonder how many calls anyone in this Chamber has had to increase the fee on the worm diggers and how many calls you have had to increase the fee on the scallop fishermen.

The people who did testify for the fee increase were the large lobstermen, the ones that want to exclude other people from lobstering. The only people this Bill is going to hurt is the poorest of the poor, the people who can't afford the license fee increase, the people who are digging clams or worms and do a little lobstering on the side. They are going to have not one fee increase, they are going to have two or three fee increases or four and I don't think the fishermen of this State want this, I don't think they need it, I don't think we need to fund a marketing specialist from Philadelphia, which this Bill does. There is a variety of things I don't think we need in this Legislation.

THE PRESIDENT: The pending question before the Senate is **ENACTMENT.** A Roll Call has been ordered.

A Yes vote will be in favor of **ENACTMENT.**
A No vote will be opposed.

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

ROLL CALL

YEAS:—Senators, Andrews, Baldacci, Brown, Bustin, Carpenter, Chalmers, Clark, Dow, Dutremble, Erwin, Gauvreau, Kany, Matthews, Pearson, Trafton, Violette, The President — Charles P. Pray

NAYS:—Senators, Berube, Black, Diamond, Emerson, Gill, Hichens, Maybury, McBreairty, Sewall, Shute, Stover, Tuttle, Twitchell, Usher, Webster

ABSENT:—Senators, Danton, Najarian, Perkins

Senator **BLACK** of Cumberland was granted permission to change his vote from **YEA** to **NAY.**

Senator **PEARSON** of Penobscot was granted permission to change his vote from **NAY** to **YEA.**

17 Senators having voted in the affirmative and 15 Senators having voted in the negative, with 3 Senators being absent, the Bill was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

Bill "An Act to An Act to Revise the Maine Securities Act (H.P. 1022) (L.D. 1500) (H "A" H-368; C "A" H-333)

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

An Act to Amend the Probate Code to Improve Guardianship and Conservatorship Proceedings (S.P. 218) (L.D. 577) (H "A" H-361 to C "A" S-176)

On motion by Senator **TRAFTON** of Androscoggin, Tabled until Later in Today's session, pending **ENACTMENT.**

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) (H "A" H-244 and H "B" H-367 to C "A" S-132; S "A" S-213)

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

Emergency

An Act Converting Caswell Plantation into the Town of Caswell (S.P. 636) (L.D. 1650)

This being an Emergency Measure and having received the affirmative vote of 27 Members of the Senate, with No Senators having voted in 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.

Emergency

An Act to Amend the Provisions Governing the Conversion of a Mutual Insurer (H.P. 1024) (L.D. 1476) (C "A" H-279)

This being an Emergency Measure and having received the affirmative vote 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 presented by the Secretary to the Governor for his approval.

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:

Senate As Amended

Bill "An Act to Amend the Certain Sex Crimes Under the Maine Criminal Code" (S.P. 525) (L.D. 1408) (C "A" S-267)

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

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

COMMITTEE REPORTS

House

Leave to Withdraw

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

Bill "An Act Concerning Pretrial Determination of Ownership of Personal Property" (H.P. 727) (L.D. 1036)

Ought to Pass As Amended

The Committee on **HUMAN RESOURCES**

on Bill "An Act to Fund Community Response Programs to Address Child Sexual Abuse in Maine Communities" (H.P. 962) (L.D. 1383)

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-388)**

Comes from the House, with the Report **READ and ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-388)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-388) **READ and ADOPTED**, in concurrence.

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

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

COMMITTEE REPORTS

Senate

Ought to Pass As Amended

Senator **BUSTIN** for the Committee on **HUMAN RESPOURCES** on Bill "An Act to Establish a Procedure to Appoint Advocates for Foster Children" (S.P. 450) (L.D. 1253)

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-271)**.

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

Committee Amendment "A" (S-271) **READ and ADOPTED**.

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

Divided Report

The Majority of the Committee on **HUMAN RESOURCES** on Bill "An Act to Amend the Maine Certificate of Need Act to Require More Timely Decision Making on the Part of the Department of Human Services" (S.P. 214) (L.D. 572)

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-270)**.

Signed:

Senators:

- BUSTIN of Kennebec
- GILL of Cumberland
- BERUBE of Androscoggin

Representatives:

- MANNING of Portland
- KIMBALL of Buxton
- NELSON of Portland
- PINES of Limestone
- TAYLOR of Camden
- CARROLL of Gray
- BRODEUR of Auburn
- SEAVEY of Kennebunkport
- ROLDE of York

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

Signed:

Representative:

- MELENDY of Rockland

Which Reports were **READ**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (S-270) **READ and ADOPTED**.

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

Senate At Ease

Senate called to Order by the President.

ORDERS OF THE DAY

On motion by Senator **DOW** of Kennebec, the Senate removed from the **SPECIAL AP-**

PROPRIATIONS TABLE:

An Act to Require the State to Comply with Municipal Ordinances Governing the Construction of Building (S.P. 185) (L.D. 503) (C "A" S-123)

Tabled—June 3, 1985, by Senator **PEARSON** of Penobscot

Pending—**ENACTMENT**

(In House June 3, 1985, **PASSED TO BE ENACTED**.)

(In Senate May 28, 1985, **PASSED TO BE ENGROSSED AS AMENDED**.)

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

On further motion by the same Senator, the Senate **RECONSIDERED** its action whereby the Bill was **PASSED TO BE ENGROSSED AS AMENDED**.

On further motion by the same Senator, the Senate **SUSPENDED THE RULES**.

On further motion by the same Senator, the Senate **RECONSIDERED** its action whereby it **ADOPTED** Committee Amendment "A" (S-123).

On further motion by the same Senator, Senate Amendment "B" (S-227) to Committee Amendment "A" (S-123) **READ and ADOPTED**.

Committee Amendment "A" (S-123) as Amended by Senate Amendment "B" (S-227) thereto **ADOPTED**, in **NON-CONCURRENCE**.

Which was **PASSED TO BE ENGROSSED, as Amended in NON-CONCURRENCE**.

Under suspension of the Rules, ordered sent down forthwith for concurrence.

Off Record Remarks

Senator **TUTTLE** of York was granted unanimous consent to address the Senate Off the Record.

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

Senator **BUSTIN**: Thank you very much. I have a very nice note here from one Robert P. Cammack and if you don't know him, that's the "Bob" that you see around here bringing all those troops of kids that come in here. He would like me to read On the Record his heartfelt thanks to the Senate staff and the Senators for all of the help that we have given him in helping those children and all of those tours to understand what goes on in this Chamber. He wanted in a matter of Record and I have so done it and I also want it a matter of Record that I think that Bob does a tremendous job. Thank you.

Under suspension of the Rules, all matter previously acted upon were ordered sent forthwith for concurrence.

On motion by Senator **CHALMERS** of Knox, **RECESSED** until 2:00 this afternoon.

After Recess

Senate called to order by the President.

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 Bill "An Act to Clarify the General Assistance Law" (S.P. 297) (L.D. 786)

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-272)**.

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

Committee Amendment "A" (S-272) **READ and ADOPTED**.

The Bill as Amended **ASSIGNED FOR SEC-**

OND READING LATER IN TODAY'S SESSION.

Senator **BUSTIN** for the Committee on **HUMAN RESOURCES** on Resolve, Authorizing Continued Study of Information Processing in Social Service Agencies (Emergency) (S.P. 527) (L.D. 1422)

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-273)**

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

Committee Amendment "A" (S-273) **READ and ADOPTED**.

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

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

COMMITTEE REPORTS

Senate

Divided Report

The Majority of the Committee on **HUMAN RESOURCES** on Bill "An Act to Amend the Maine Certificate of Need Act to Correct Inconsistencies Related to Other Statutory Provisions and to Ensure Cost-effective Development of Services Requiring Acquisition of Major Medical Equipment" (S.P. 461) (L.D. 1264)

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-274)**

Signed:

Senators:

- BERUBE of Androscoggin
- GILL of Cumberland

Representatives:

- SEAVEY of Kennebunkport
- KIMBALL of Buxton
- NELSON of Portland
- PINES of Limestone
- TAYLOR of Camden
- ROLDE of York

The Minority of the same Committee on the same subject reported that the same **Ought to Pass as Amended by Committee Amendment "B" (S-275)**.

Signed:

Senator:

- BUSTIN of Kennebec

Representatives:

- BRODEUR of Auburn
- CARROLL of Gray
- MANNING of Portland
- MELENDY of Rockland

Which Reports were **READ**.

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

Senator **BERUBE**: Thank you, Mr. President. I now move acceptance of the Majority Ought to Pass as Amended Report.

THE PRESIDENT: The Senator from Androscoggin, Senator **BERUBE**, now moves that the Senate **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-274)** Report.

The Chair recognizes the Senator from Kennebec, Senator Bustin.

Senator **BUSTIN**: I request a Division and would speak to my motion.

Thank you Mr. President, Men and Women of the Senate. This Bill is a very important Bill and if you will take a look at the two amendments, both amendments are good because they address the Certificate of Need and they address the very important issues that we wanted to address in the Human Resources Committee.

The thing that is lacking in L.D. 274 is the recommendation from the Minority of the Committee that you include doctors in the Certificate of Need process. In Committee Amendment 275 we have further reduced doctors being covered by Certificate of Need to three

kinds of equipment, expensive major medical equipment, and if you will forgive the pronunciation of the words because I am not sure too many people in here could pronounce them, because they are long and they are expensive, one is the Nuclear Magnetic Resonance Scanner, a Computer Axio Tomography Scanner and an Extra Corporeal Lithotripter Equipment. Those are some pretty huge words and they have some pretty huge price tags on them.

When we first did the Certificate of Need and when we first did Health Care Finance up in Human Resources, I made the observation then of saying what about the doctors? Why don't we ever address the doctors and their costs and also why don't we ever address how much medical equipment costs in general? Why haven't we ever looked at that? I said I would like to see that and I would have liked to put it in then. But, the decision was made to wait and get through the Health Care Finance and do some things with Certificate of Need before we address the issue.

The issue is now before us and we are addressing it. The Bill would have any medical equipment over \$300,000 go through the Certificate of Need process. We have amended that down to only cover these three different pieces of equipment. I would hope that you would defeat the Majority Report so you could accept the Minority Report and include these pieces of equipment in the Certificate of Need.

One of the biggest reasons you have this before you is because of the situation in Bangor where some doctors are planning to purchase an N.M.R., a Nuclear Magnetic Resonance, and put it in their offices. All that did was point up the need to try to get doctors under the Certificate of Need. And the reason that you would want to do that is because of the expense of the equipment. In fact, what it will cost each person who uses that equipment is approximately \$700. It means an additional million dollars of health care payments in this State and when you talk about health care payments in this about third party payments and that means that the Medicare/Medicaid, Blue Cross/Blue Shield, all those people must then kick in for that. There is nothing wrong with that because the equipment may be needed and it may be needed in the Bangor area, it may be needed and it may be needed in the Portland area, it may even be needed in my area, God forbid, and maybe we should have it.

The problem is where does the equipment go? If you put it in doctor's offices does it limit the use. That is what you have to decide. If you are a patient in a hospital and already have this expensive piece of equipment in a doctor's office, must you then move the patient out of the hospital, go use a piece of equipment and come back in the hospital? Doesn't it make a bit more sense to put it in a more central setting where everybody can use it? Whether or not it is a hospital or a doctor's office is for the Certificate of Need review process. You have to have the doctors come under the process for those three pieces of equipment in order to review it. That is the basic difference between the two amendments.

I have passed around a piece of material that will explain some of this to you why you need it. I will sit down now and listen to some of the other arguments and hope that you would vote against the pending motion.

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

Senator **BERUBE:** Thank you Mr. President and fellow Senators. I hope you will go along with the Majority Ought to Pass as Amended Report. The Committee worked long hours on this particular issue trying to correct some of these inequities that have evolved since the initial passage of this law a few years ago. I think the Committee has worked well enough so everybody could live with this. However, there

were some who favored including, extending rather, to the medical profession the same rules and regulations pertaining to Certificate of Need.

If I could briefly mention some of the issues that our colleague on the Committee, Senator Bustin, has mentioned, She mentioned third party reimbursement. It is my understanding that hospitals, when it comes to third party reimbursement, are reimbursed on a cost plus basis, not so with the doctors. Also, they do have an organization of peer review and I suspect that if doctors felt they couldn't support a piece of equipment they wouldn't bring it into their office or clinic.

We must also think that it is cheaper to be diagnosed in a doctor's office than it is certainly to spend two or three days in a hospital. And we also have to look at those areas in the state, rural areas which would conceivably be deprived of sophisticated diagnostic equipment. And again, I would rather be diagnosed without pain than be diagnosed through diagnostic surgery as happens many times.

I would, therefore, ask you to support the Majority Report and vote for my position.

Mr. President, I would ask to have the pending motion restated to make sure we are on the right track.

THE PRESIDENT: The pending question is the motion of the Senator from Androscoggin, Senator **Berube**, that the Senate **Accept** the Majority **Ought to Pass as Amended by Committee Amendment "A"** (S-274) Report of the Committee. A Division has been requested.

Will all those Senators in favor of **Acceptance of the Majority Ought to Pass as Amended Report**, please rise in their places until counted.

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

20 Senators having voted in the affirmative and 6 Senators having voted in the negative, the motion of the Senator from Androscoggin, Senator **BERUBE**, to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED Report PREVAILS.**

The Bill **READ ONCE**

Committee Amendment "A" (S-274) **READ** and **ADOPTED.**

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

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 As Amended

Bill "An Act to Improve the Administration of General Assistance" (H.P. 916) (L.D. 1309) (C "A" H-384)

Bill "An Act Relating to Investigations of Child Abuse in Institutions Licensed by the State" (H.P. 923) (L.D. 1330) (C "A" H-385) (See action later today)

Bill "An Act to Fund Community Response Programs to Address Child Sexual Abuse in Maine Communities" (H.P. 962) (L.D. 1383) (C "A" H-388)

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

Senate As Amended

Bill "An Act to Amend the Maine Certificate of Need Act to Require More Timely Decision Making on the Part of the Department of Human Services" (S.P. 214) (L.D. 572) (C "A" S-270)

Bill "An Act to Establish a Procedure to Appoint Advocates for Foster Children" (S.P. 450) (L.D. 1253) (C "A" S-271)

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

Sent down for concurrence.

Senate At Ease

Senate called to Order by the President.

On motion by Senator **VIOLETTE** of Aroostook, the Senate **RECONSIDERED** its action earlier in Today's session whereby it **PASSED TO BE ENGROSSED AS AMENDED:**

Bill "An Act Relating to Investigation of Child Abuse in Institutions Licensed by the State" (H.P. 923) (L.D. 1330) (C "A" H-385)

(In House June 12, 1985, **PASSED TO BE ENGROSSED AS AMENDED.**)

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

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

COMMITTEE REPORTS

House

Divided Report

The Majority of the Committee on **JUDICIARY** on Bill "An Act to Create a Cause of Action Against the State for Wrongful Imprisonment" (H.P. 171) (L.D. 205)

Reported that the same **Ought to Pass as Amended by Committee Amendment "A"** (H-387)

Signed:

Senators:

CARPENTER of Aroostook
CHALMERS of Knox

Representatives:

MacBRIDE of Presque Isle
DRINKWATER of Belfast
COOPER of Windham
PRIEST of Brunswick
PARADIS of Augusta
LEBOWITZ of Bangor
ALLEN of Washington

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

Signed:

Senator:

SEWALL of Lincoln

Representatives:

CARRIER of Westbrook
STETSON of Damariscotta
KANE of South Portland

Comes from the House with the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A"** (H-387) Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A"** (H-387)

Which Reports were **READ.**

The Majority **OUGHT TO PASS AS AMENDED Report READ** and **ACCEPTED**, in concurrence.

The Bill **READ ONCE.**

Committee Amendment "A" (H-387) **READ** and **ADOPTED**, in concurrence.

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

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

COMMITTEE REPORTS

House

Divided Report

The Majority of the Committee on **ENERGY AND NATURAL RESOURCES** on Bill "An Act to Require Voter Approval of the Disposal of Low-level Radioactive Waste" (I.B. 1) (L.D. 615)

Reported that the same **Ought to Pass in New Draft under New Title** Bill "An Act to Establish a State Policy Relating to the Disposal of Low-level Radioactive Waste" (H.P. 1141) (L.D. 1649)

Signed:

Senators:

USHER of Cumberland
EMERSON of Penobscot

Representatives:

MICHAUD of Medway
JACQUES of Waterville
RIDLEY of Shapleigh
HOGLUND of Portland
BROWN of Livermore Falls
DEXTER of Kingfield
LAW of Dover-Foxcroft
COLES of Harpswell

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

Signed:

Senator:

KANY of Kennebec

Representatives:

MITCHELL of Freeport
HOLLOWAY of Edgecomb

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

Which Reports were **READ**.

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

Senator **ANDREWS:** Mr. President, Men and Women of the Maine Senate. Before we pass the Majority Ought to Pass in New Draft Under New Title Report, there are some questions and concerns I have about this issue that I simply would like to have addressed on the Floor.

I think many of us have discussed this issue during various caucuses earlier today and have had a chance to go through some of the material and some of the issues that have been presented to the Committee on Energy and Natural Resources.

My concern, I guess I have one primary concern with the Majority Report and that is the concern with the competing measure we would have on the ballot before the Maine voters. Now, I have heard from my constituents when I travel throughout the district, particularly after we have had an election that has involved referendum questions. Lots of concerns and criticism is about what we do up here with respect to these questions. We put a question before the voter and often times it is very confusing. The issue is not clear and what people think they are voting on perhaps they are not voting on at all. Perhaps they are voting on just the opposite issue. They could be voting just the opposite position they believe in.

I look at the specific wording of the competing measure that the Majority of the Committee is seeking to put before the voters and I could just hear those constituents complaining to me once again that what we are putting out before them is not clear. It is confusing and perhaps what they are seeking to do in voting for this referendum they in fact are not doing. The specific problem I have with this question is that it deals and asks the voters specifically about disposal of low-level radioactive waste and whether or not they want to have a vote on disposal of low-level radioactive waste.

The issue that this competing measure and the original question that we have before us addresses is the tremendous concern in this state about the existence of low-level radioactive waste and what we are going to do with it both in the short run and in the long run. The people who signed that petition, I believe, felt strongly that the people of Maine should have a say in what happens to that waste in the long and the short run. This competing measure excluded storage of low-level nuclear waste. There is no mention of storage of low-level nuclear waste, simply disposal.

When I asked this morning at our caucus, the Democratic Caucus, the distinction between

storage and disposal, I learned that a state, the State of New York for example, could, if we pass this competing measure, bring in low-level nuclear waste, dump it in Maine as a storage measure and the voters of Maine would have nothing to say about whether or not that waste from New York is dumped in the State of Maine. If we call it storage its okay, if we call it disposal then it would have to go before the voters.

I then asked: Do we have a say? That is, the State of Maine, whether it be this Legislature or whomever, have a say in whether or not we label this radioactive material storage or whether we label it disposal. I found out no, we have no control of that at all, we have no say in that at all. That is controlled by the Federal Government and as a matter of fact those definitions are changing and evolving. So, for example, if the Federal Government decided in its wisdom that storage meant "Temporary storage of up to a hundred years" then we conceivably could take all the low-level radioactive material in this Country, have it placed in the State of Maine and the people of this State would have nothing to say about it one way or the other.

In my view, the intention behind the initiative that was circulated throughout the various months last year to have this question before the voters, the intention of those people who did that was to give people a choice in where low-level nuclear waste is being stored as well as being disposed. I think this question we have doesn't make clear to the voters that they may not have a chance to say up or down whether or not we would like to store that waste for whatever length of time, the Federal Government is defining as storage. That is now the question. I feel particularly uncomfortable about putting that question before the voters, it is going to be very confusing for them. I will not be able to support the Majority Report because of that ambiguity in that question.

If anybody on the Committee or anyone who has expertise in this issue can align my concern, I would be very grateful. I would ask for a division on this question and because of that lack of clarity, I ask that we do not accept the Majority Report.

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

Senator **KANY:** Mr. President and Senators. The Senator from Cumberland, Senator Andrews, is accurate in his statements and if there is to be a storage facility here in Maine presently under current law the State would have to have approval from the B.E.P., the Board of Environmental Protection, and then the State Legislature would have to approve of any such facility.

Apparently Maine Yankee has a storage license to store its own waste at its own site for five years and would have to reapply for further license to keep stored waste there. It would have to apply for a new license in order to store others waste at Maine Yankee, but there would be no public participation necessarily in that particular license approval.

It is a fairly complicated procedure regarding licensing of any facility now and I will say that the Nuclear Regulatory Commission rules on storage are evolving. It is something that they are looking at now. The Nuclear Regulatory Commission has new proposed rules out on decommissioning. A decommissioned nuclear power plant is mostly contaminated and is mostly considered low-level radioactive waste. Just for everybody's benefit, a decommissioned nuclear power plant is largely low-level radioactive waste also. Just to go further into what actually is low-level radioactive waste, it is all radioactive waste other than spent fuel rods which would be generated here in the State of Maine. It includes primarily the waste

from Maine Yankee also some from our biomedical research laboratories and from the University, Bowdoin College and also some from Portsmouth/Kittery Naval Shipyard.

We are required by a Federal law to make arrangements for the low-level radioactive waste generated commercially here in the State of Maine and to have made arrangements by next January. Unfortunately, the existence of this initiated measure in a way, perhaps takes away a little bit from the development of that policy and makes it a little more difficult to make such arrangements. We simply must deal with the fact that we do have an initiated measure before us seeking to change our statutes, to require a referendum on any storage or disposal plan or facility here in the State of Maine and any proposed compact.

You really do have three choices how to comply with the federal law. Number one, we could enact the initiated measure before us and allow us to go on about our way seeking approval or disapproval of a particular plan or compact or storage facility or disposal facility. Secondly, we could go along with this competing measure which is reported out by the Majority of the Energy and Natural Resources Committee, that competing measure is primarily the developed policy of the Low-level Radioactive Waste Siting Commission which has really been working for over three years to develop such a policy. It is the current policy recommendations of that Commission.

In my opinion, even though I did not vote for that competing measure out of Committee, I do think that is a reasonable policy and one very appropriate for the State of Maine. Thirdly, of course, we could reject both the immediate enactment of L.D. 615 which is the initiated measure, the one that the voters brought to use here, the petition signers brought to us or we could reject the choice of having a competing measure and if we reject that choice, then we would be sending the initiated measure up to the voters alone. You notice no member of the Energy and Natural Resources Committee sought to do that because we probably all decided to reject it because we decided that any public debate would not be over should people have the right to vote over certain things, but instead should be focused on the more important policy on what to do with this radioactive waste which does exist in the State and which we must make arrangements for to isolate it from our population and from our food chain.

I urge you to vote as you see fit given those circumstances and although I voted with the Minority to enact the initiated measure now so we could get on about our business. I would say that the Majority Report in the Committee is a very reasonable one and if you do have any questions on this topic, I would be happy to attempt to answer them now or in the future or to find others who can help you with your questions or your constituents questions because I am sure you will have hundreds if not thousands of questions on this issue prior to November.

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

Senator **BALDACCI:** Mr. President and Members of the Senate: It is my understanding on this very complicated issue that it is very clear and very simple.

The initiative has to go through and be placed on the ballot. The Committee draft to be placed on the ballot also would deal directly with taking the waste and storing it somewhere here in the State of Maine and giving the people of the State of Maine an opportunity to vote on it at that time if waste is to be stored here ultimately as a storage site. Now that is my understanding of it. If I am incorrect I would appreciate the good Senator correcting me.

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

Senator **KANY:** Mr. President and Senators. Briefly, the initiated measure, the one that is brought to us here by thousands of petition signers, ask would statutorily require the voters of Maine to approve or disapprove of any proposed storage facility in the State of Maine. That would include at Maine Medical, it does exclude medical waste, but it would include any storage facility generally in the State of Maine.

In addition, it would require voter approval of any disposal facility in the State of Maine for low-level radioactive waste and thirdly, it would require a voter approval of any compact in which the Legislature had obligated the State to a compact with other states. That is the initiated measure, that includes approval of storage.

Now the competing measure, which the Majority of the Members of the Energy and Natural Resources Committee preferred and that includes, of course, the good Senator from Cumberland, Senator Usher, who serves on the Low-level Radioactive Waste Siting Commission also, along with the good Senator from Penobscot, Senator Emerson, who serves on both the Committee and on the Low-level Waste Commission, that competing measure would not require voter approval of storage facilities at all. It would not require voter approval of the disposal facility if it were located at Maine Yankee and it would not require a voter approval of a compact. That competing measure would only require future referendum, future voter approval of a Maine disposal facility not located at Maine Yankee.

I hope that answers the good gentlemen from Penobscot's question, Senator Baldacci's question.

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

Senator **BALDACCI:** I would like to thank the very good Senator from Kennebec, Senator Kany, for clearing that up;

This underlines the basic point with this particular measure is the fact that the Committee's Report would allow for the utilities that are affected, Maine Yankee in particular, to get into out-of-state compacts without, say they were going to be taking the waste from Maine to New York, would allow them to get into this out-of-state compacts and agreements without having to have it as an ultimate provision that they would have to get voter ratification because while the negotiations would be going on it would be less than in good faith.

I would be supporting the motion Ought to Pass on the Majority Report.

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

Senator **KANY:** Having spoken perhaps more than I should have, need I request permission to speak?

THE PRESIDENT: The Chair would inform the Senator this would be her third time.

Senator **KANY:** Thank you, Mr. President and Senators. Just to clarify the good Senator from Penobscot's statement, Senator Baldacci's statement, I just wanted to make it clear that although the voters would not have to approve of any compact, that the Maine Legislature would have to approve of any compact.

First, that requirement would be made and the Maine Legislature would approve of a compact and then Congress would also have to ratify that compact before it would go into effect. Now if that compact includes the provision that Maine waste and other states waste be stored in Maine, then there would not have to be a voter approval of that storage facility in Maine. But, if within that compact that had been approved by the Maine Legislature, if it called for a disposal facility in Maine for out of State waste, then the provision would come

into effect in which the voter approval would still be required under the competing measure that is being offered.

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

Senator **ANDREWS:** Thank you Mr. President. Mr. President, Men and Women of the Maine Senate. I think the discussion we have had on this issue for the past ten or fifteen minutes illustrates the kind of confusion that may exist in the balloting booth when voters go to vote on this question. That is the underlying concern that I have for this competing measure.

If you have the opportunity to sit and listen to the Maine Senate debate this issue, you probably will have a fairly good idea of the distinction between these two measures, but if you don't have that opportunity and you simply look at that question and if you are looking at that question on that ballot it is not going to be clear to you that you are allowing for storage of nuclear waste in this State for as long as the Federal Government decides to define storage. I think that is, as matter of fairness to voters and clarity on the ballot, I think that at the very least if that is going to be a key distinguishing factor we should be clear on that ballot and on that question and this question is not clear whatsoever.

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

Senator **BALDACCI:** Mr. President and Members of the Senate. I beg to disagree with the good Senator from Cumberland, Senator Andrews. It is very clear to me upon listening to the good Senator from Kennebec, Senator Kany's explanation, it is very simple that by going with the Majority Report and putting an initiative on the ballot, we are allowing the people an opportunity for ratification within the State where it doesn't deal with a particular compact as the Legislature and the Congress would and on the other, would be encompassing everything on that particular point. Thank you.

THE PRESIDENT: The pending question is the **ACCEPTANCE** of the Majority **OUGHT TO PASS IN NEW DRAFT UNDER NEW TITLE** Report of the Committee. A Division has been requested.

Will all those Senators in favor of the **ACCEPTANCE** of the Majority **OUGHT TO PASS IN NEW DRAFT UNDER NEW TITLE** Report of the Committee, please rise in their places until counted.

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

The Chair recognizes the Senator from Cumberland, Senator Usher.

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

THE PRESIDENT: The Senator from Cumberland, Senator Usher, 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 in order.

The Chair recognizes the Senator from Cumberland, Senator Usher.

Senator **USHER:** Thank you Mr. President. Members of the Senate. If you do accept this Minority Report you are going against the petition signers. They have requested a referendum. The referendum is in the Majority Report. The Minority Report means you want to take action here. They have requested over 40,000 signatures. We have coupled in a competing measure with the Majority Report. It sends it out to referendum and also a competing measure.

THE PRESIDENT: The Senator from Cumberland, Senator Andrews, asks Leave of the Senate to speak a fourth time.

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

It is a vote.

Senator **ANDREWS:** Thank you Mr. President. Mr. President just so we are clear on what we are voting on, we are voting on Majority Report of the Committee. We are voting to send before the voters that competing question that we have been discussing just today.

After we dispose of this particular question then the options we will have before us including enacting what the petitioners took around throughout the State to have signed, which would mean of course that voters would have the right to choose this disposal sight. We might also want to offer an amendment that may change the question, make the question clearer, different, take care of some of the problems which I have expressed in this debate.

What we are voting on right now is whether or not to send out to the voters the question of the Majority Report and nothing more.

THE PRESIDENT: The pending question before the Senate is **ACCEPTANCE** of the Majority **OUGHT TO PASS IN NEW DRAFT UNDER NEW TITLE** Report of the Committee. A Roll Call has been ordered.

A Yes vote will be in favor of the **ACCEPTANCE** of the Majority **OUGHT TO PASS IN NEW DRAFT UNDER NEW TITLE** Report.

A No vote will be opposed.

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

ROLL CALL

YEAS:—Senators, Baldacci, Black, Carpenter, Clark, Danton, Dow, Dutremble, Emerson, Gill, Hichens, Maybury, McBreaury, Sewall, Shute, Stover, Usher, Violette, Webster, The President — Charles P. Pray

NAYS:—Senators, Andrews, Berube, Brown, Bustin, Chalmers, Diamond, Erwin, Gauvreau, Kany, Matthews, Pearson, Trafton, Tuttle, Twitchell

ABSENT:—Senators, Najarian, Perkins
19 Senators having voted in the affirmative and 14 Senators having voted in the negative, with 2 Senators being absent, the motion to **ACCEPT** the Majority **OUGHT TO PASS IN NEW DRAFT UNDER NEW TITLE** Report **PREVAILS**.

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

The Bill in **NEW DRAFT UNDER NEW TITLE** **ASSIGNED FOR SECOND READING LATER IN TODAY'S SESSION**.

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

COMMITTEE REPORTS

Senate

Ought Not To Pass

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

Bill "An Act to Establish Statutory Definitions of Entrapment under the Maine Criminal Code" (S.P. 451) (L.D. 1254)

Ought to Pass

Senator **CARPENTER** for the Committee on **JUDICIARY** on Bill "An Act to Permit Voluntary Hospitalization of Adults under Guardianship" (S.P. 423) (L.D. 1171)

Reported that the same **Ought to Pass**. Which Report was **READ** and **ACCEPTED**. The Bill **READ ONCE**.

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

Sent down for concurrence.

Senator **CARPENTER** for the Committee on

JUDICIARY on Bill "An Act to Amend Certain Aspects of Criminal Homicide in the Maine Criminal Code" (Emergency) (S.P. 497) (L.D. 1335)

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

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

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

Sent down for concurrence.

Under suspension of the Rules, there being no objections, all matter previously acted upon were ordered sent down forthwith for concurrence.

Senate At Ease

Senate called to Order by the President.

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

COMMITTEE REPORTS

House

Ought to Pass in New Draft

The Committee on **LABOR** on Bill "An Act to Improve the Workers' Compensation System and Reform the Rate-making Process" (H.P. 771) (L.D. 1063)

Reported that the same **Ought to Pass in New Draft** under same title (Emergency) (H.P. 1127) (L.D. 1634)

Comes from the House, the Report **READ** and **ACCEPTED** and the Bill in **NEW DRAFT PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "C" (H-394)**.

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

The Bill in **NEW DRAFT UNDER SAME TITLE READ ONCE**.

House Amendment "C" (H-394) **READ** and **ADOPTED**, in concurrence.

Under suspension of the Rules, **READ A SECOND TIME**.

On motion by Senator **ANDREWS** of Cumberland, Senate Amendment "J" (S-269) **READ**.

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

Senator **DUTREMBLE:** Mr. President, I move that Senate Amendment "J" (S-269) be **Indefinitely Postponed**.

THE PRESIDENT: The Senator from York, Senator **Dutremble** moves that Senate Amendment "J" (S-269) be **Indefinitely Postponed**.

The Chair recognizes the Senator from Cumberland, Senator **Andrews**.

Senator **ANDREWS:** Thank you Mr. President. Mr. President, Men and Women of the Senate. First of all I would like to ask for a Division on that motion and I would like to explain just very briefly what Senate Amendment "J" does.

If you look at the Bill, on page 13 of the Bill on the bottom of the page, the section for sheltered workshops. In that section it says that the \$25 weekly minimum compensation limitation under this section which applies to every other worker in the State of Maine does not apply to a handicapped individual who is employed at a sheltered workshop.

Ladies and Gentlemen of the Senate, I see many cases of discrimination against handicapped people from time to time, unfortunately, and as many of you know, I am very involved in those issues. I can't quite recall seeing a more blatant example of discrimination against a handicapped person than this particular section of this Bill. There are many misconceptions of individuals that are working in sheltered workshops that perhaps on the basis of this amendment or the reasoning behind it, there are some individuals who are making less than \$25 a week in sheltered workshops and I guess the logic goes that if you are making less than \$25 a week and many handicapped

people working in sheltered workshops are, then we should suspend this minimum rate for those individuals.

Well, I have had some experience with individuals who work in sheltered workshops, I have received some post-graduate training in rehabilitation of individuals with multiple handicaps. There is an individual who was employed at a sheltered workshop that I was associated with some years ago and he was making less than \$25 a week, but through the success of the program and through the success of his initiative and because he is a very able handicapped person, he was able to leave that sheltered workshop and go to work in a factory and is making a fairly competitive wage right now. If that individual in the process of his training back at that sheltered workshop when he was making less than \$25 per week, if he became disabled, lets say sustained a physical disability to compound his mental disability, then he would have been in very serious trouble economically. But the point is that he would not have been able to realize the potential that he did realize and so many handicapped people realize.

\$25 per week is a very paltry sum when you consider what is happening with handicapped people as they go through these sheltered workshops and go out into the competitive market place and make a decent living. And to make an exception for just this group of people and to not even allow them \$25 per week compensation if they get injured in that sheltered workshop is to me preposterous and it would be a cruel injustice in my view to single out that group of people and allow that to happen.

I would respectfully hope and ask that you defeat the motion before you to **Indefinitely Postpone** this amendment so that we can eliminate this section on page 13 from this Bill. Thank you.

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

Senator **DUTREMBLE:** Mr. President and Members of the Maine Senate. We had a hearing and two workshops on this Bill and at no time did anyone come to oppose it. As a matter of fact the only people who were there were those in favor of it. I was kind of surprised to find the amendment in the book when it did appear.

A couple of years ago we had a bill to do away with the workers compensation all together for sheltered workshops. And at that time there was a lot of opposition and at that time we killed the bill. This time the bill was presented in such a way that the people who worked in the sheltered workshops would only get two-thirds of their amount and eliminate the \$25 minimum. The reason for eliminating the \$25 minimum was not to discriminate against handicapped workers, because I am sure most of you know that myself and a lot of you in here have supported a lot of legislation dealing with handicap and I personally have sponsored a lot of legislation with the good Senator from Cumberland, Senator **Andrews**, in assisting the handicapped.

What has happened in this particular Bill is that sheltered workshops have very little money to work with and are being charged an artificially high rate for their premiums based on the \$25. Most people who work for sheltered workshops make less than \$25 and it is my understanding there are very few if any people who get injured in sheltered workshops because of the type of work they do. I am sure injuries will occur sometime, but I understand there are very few. By eliminating the \$25 minimum for sheltered workshops it is my understanding and to the understanding of the Members of the Committee that it will create more jobs for handicapped persons and I am all for that.

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

Senator **ANDREWS:** Mr. President, Men and Women of the Senate. If sheltered workshops are being charged artificially high rates then lets deal with that problem. If the rate they are being charged does not reflect the actual experience in terms of injury at the work place then okay, lets deal with that problem, but lets deal with it in terms of the workshops and the insurance companies and lets not just turn on disabled people and say we are going to dump that problem onto your shoulders by eliminating this \$25 minimum.

If there was a specific piece of legislation as there have been in the years past dealing with this problem head on in a separate issue, then probably there would have been more people or people at the work session and perhaps at the public hearing to express the opposition this year as they have in past years. The Bill we are dealing with here obviously is a very complicated piece of legislation, it deals with a number of issues and sometimes for better or for worse there are some specific provisions that are worked into a complex piece of legislation that does not get noticed by individuals who otherwise would express opposition.

The point, in fact I found the rationale we have just heard which was expressed to me and I was somewhat concerned about it, of course, I would like to create more jobs and more opportunities for handicapped people and of course this is the identical argument and we are hitting a raw nerve here, I guess because the very issue of workers compensation reform is to create more jobs and more opportunity by increasing the business climate and we are going to do so in this case as perhaps in other cases by hurting the worker. In my view, if we are going to have economic development, if we are going to have jobs, if we are going to have sheltered workshops and opportunities for handicapped people then lets think about those handicapped people and lets not base those jobs on discrimination.

Just to be on the safe side, I placed a call this afternoon to a sheltered workshop and I placed a call to my own office at the Maine Association of Handicapped Persons and asked them to place some calls to sheltered workshops and say "is there a strong unified position out there among sheltered workshop directors and managers that in fact this is a good provision and it would in fact create more jobs in the interest of handicapped people." The word I got from one executive director of a sheltered workshop is no, it is not in the interest of handicapped people, and no it's not a critical element for sheltered workshops, and no there isn't that direct relationship between more jobs, more opportunities and this particular provision. So certainly from the prospective of a disabled person who is trying to put themselves in the competitive marketplace to earn a decent wage and starting at the very bottom, if you have ever been to a sheltered workshop you should know that when you start at a sheltered workshop it is the very beginning of a very long and difficult process. To slap that worker across the face when they are just starting out by this provision I think is totally unfair and I don't believe it has been demonstrated and certainly it has been contradicted by people in management of sheltered workshops that I have talked to that this is not going to have the kind of benefit to handicapped people that people may think it might.

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

Senator **DUTREMBLE:** Mr. President and Members of the Senate. Just a couple points.

The reason that the premiums are set artificially high is because of the \$25. These workers make in most cases less than \$25 and

yet the insurance companies have to bill for these employees because of the \$25 minimum. Second, to clarify a point. The Bill was a separate bill. It was not included in the package. It had a separate hearing and it was separately advertised from all other issues that we held at the Civic Center and there was nobody there to oppose it.

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

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

THE PRESIDENT: The Senator from Kennebec, Senator Bustin, 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 in order.

The pending question before the Senate is the motion of the Senator from York, Senator **Dutremble**, that Senate Amendment "J" (S-269) be **Indefinitely Postponed**.

Senator **MATTHEWS** of Kennebec who would have voted Nay requested and received permission to pair his vote with Senator **PERKINS** of Hancock who would have voted Yea.

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

THE PRESIDENT: The pending question is the motion of the Senator from York, Senator **Dutremble** that Senate Amendment "J" (S-269) be **Indefinitely Postponed**. A Roll Call has been ordered.

A Yes vote will be in favor of the motion of the Senator from York, Senator **Dutremble** to **Indefinitely Postpone** Senate Amendment "J" (S-269).

A No vote will be opposed.

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

ROLL CALL

YEAS:—Senators, Baldacci, Berube, Black, Brown, Danton, Diamond, Dow, Dutremble, Emerson, Gill, Hichens, Maybury, McBreairty, Sewall, Shute, Stover, Trafton, Tuttle, Twitchell, Usher, Webster, The President — Charles P. Pray

NAYS:—Senators, Andrews, Bustin, Carpenter, Chalmers, Erwin, Gauvreau, Kany, Pearson, Violette.

ABSENT:—Senators None.

22 Senators having voted in the affirmative and 9 Senators having voted in the negative, with No Senators being absent and 4 Senators having paired their votes, the motion of the Senator from York, Senator **DUTREMBLE** to **INDEFINITELY POSTPONE** Senate Amendment "J" (S-269), **PREVAILS**.

On motion by Senator **BUSTIN** of Kennebec, Senate Amendment "B" (S-217) **READ**.

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

Senator **DUTREMBLE:** I move that Senate Amendment "B" (S-217) be **Indefinitely Postponed**.

THE PRESIDENT: The Senator from York, Senator **DUTREMBLE** moves that Senate Amendment "B" (S-217) be **INDEFINITELY POSTPONED**.

The Chair recognizes the Senator from Kennebec, Senator Bustin.

Senator **BUSTIN:** Thank you, Mr. President, I request a Roll Call on the motion and would like to speak to the amendment.

Workers get hurt at all ages. Young workers get hurt, middle aged workers get hurt, even older workers get hurt. Often times older workers who are hurt, particularly if they are

close to 62 and unable to continue with their job, apply for and take Social Security early retirement benefits. Taking Social Security retirement benefits at 62 rather than waiting to 65 reduces the benefits by approximately 20%. Likewise, if a company pension exists, taking benefits early results in a reduction of the level of those benefits.

This amendment, like L.D. 1634, coordinates or reduces benefits between Social Security retirement and workers compensation. The difference is in the fairness and the amount of the reduction. Both L.D. 1634 and this amendment exclude from coordination of benefits or reduction in formula 50% of Social Security benefits which are attributable to the workers rather than the employers contribution. Of course, both contributions are the result of the mandate, and I repeat, the mandate of Congress and can hardly be considered voluntary.

The Social Security law recognizes that you don't have to retire completely to get Social Security retirement benefits. In deed, you can receive all the benefits due you for the year if your annual earnings in 1985 do not exceed \$7,320 for people who are between 65 and 70 years old or \$5,400 for people who are under 65. Of course, if you are 70 or older you can receive your full Social Security benefit and earn any amount of money you are able to even if the earnings of a Social Security retiree go over the annual amount prescribed. Social Security only deducts a dollar of benefits for each two dollars you earn above the exempt amount. The earnings limit increases each year. L.D. 1634, in its present form, discriminates against older workers who are injured and in that it fails to treat workers compensation benefits in the same category as the wages they replace in regard to the coordination of benefits formula.

The amendment simply treats Workers Compensation benefits as if they were wages up to the amount of allowable earnings under the Social Security Retirement Act. Likewise the amendment, unlike L.D. 1634, does not consider Social Security benefits received at age 70 in regard to coordination of benefits or reduction formula. And lastly, the amendment unlike the Bill, makes clear that Social Security retirement benefits to an eligible spouse or dependent are not to be considered and determined the set off formula.

Basically, the Bill and amendment are in agreement that Social Security retirement benefits should not be ignored in determining the level of Workers Compensation payments. Yet the amendment, unlike the Bill, coordinates the two forms of the benefits in an equitable fashion without discrimination against the elderly.

In order to highlight the difference between the Bill and the amendment an example is useful. A worker age 62 with the average weekly wage of \$300 per week receives a work injury. After a period of total disability, surgery and recovery, he recovers part of his ability to work, but cannot do his usual job. He is determined by the Workers Compensation Commission to be 25% disabled and as such receives a Workers Compensation weekly disability check of \$50 per week or approximately \$215 per month. Since he is unable to do his usual job and is age 62 and practically speaking, would have great difficulty in finding other employment, he decides to retire early. His Social Security benefit is \$400 per month. If he had not been injured and had been able to continue work until age 65, he not only would have made over \$1,300 per month in wages, over \$46,000 in three years and at age 65 he would have received a Social Security check of \$500 per month adjusted for inflation.

Under L.D. 1634, his Workers Compensation amount of \$50 per week or \$250 per month, has subtracted from it 50%, the employers por-

tion, of his \$400 per month Social Security check and he receives \$15 per month or approximately \$4 per week Workers Compensation.

The minimum benefit provision of L.D. 1634, Section 26 of the Bill Enacting 39 M.R.S.A. of Subsection 62 b., 3., d., provides that he receives a weekly benefit of \$7 per week. Under the amendment the situation would be different. The Workers Compensation benefit would still be reduced, but only on a proportionate basis. The Workers Compensation benefit of \$50 per week amount or \$215 per month, would be reduced by \$50 per month and the employee would receive \$165 in Workers Compensation benefits per month.

Now you know what, I don't even agree with the amendment I am offering you because I don't think you should take anybody's Social Security because I think that Social Security is a mandated benefit, mandated for us to have to pay in and for the employee to have to pay in and that whatever happens in that regard ought to happen with the Federal Government and not with the State of Maine in the first place and in the second place of course I support the amendment with my vote because I don't see another way. Obviously, the skids are so well greased here today that I expect this won't make it either as the good Senator from Cumberland, Senator Andrews' amendment didn't make it, but we can always try to get on the Record what we feel about the workers.

Think about it, we are talking about workers and our attitudes toward them. We are talking about a living wage or put another way, a standard of living for people who are disabled, that's what we are talking about. We are talking about limiting a persons ability to have a decent living simply because he was hurt on the job. Does this mean workers are disposable? Because if they are, perhaps all workers should refuse to work and let the State pay the tab in the form of whatever welfare payments we can get.

However, I remind you that the State of Maine has a commitment by our Constitution to take care of the welfare of our people and that is an extreme measure that I wouldn't recommend to the workers but do you know what, I feel like recommending it, I feel like as a worker that if I am so disposable that I can't be told I can have a decent wage if I get hurt on the job, why should I even go to work for somebody. I got hurt on that job. Think about the twenty-two year old person, I don't have an example to give you, but take an assumption, he goes to work on construction, decides to quit college, whatever, he has decided that what he wants to do is construction work. He gets hurt and loses two legs; that twenty-two year old man. Lets make another assumption with that twenty-two year old man. He got married, he quit college, he is looking to have a family, he went to work on construction. He now loses two legs through no fault of his own, through an unsafe work condition at a worksite and what you want to do is confine that man to a barely living wage for the rest of his life. I don't think that is fair and that makes me angry.

I hope you vote with this amendment. Thank you.

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

Senator **DUTREMBLE:** Mr. President and Members of the Senate. This particular portion of the package that was worked on in the Labor Committee represents one of the two items that will give the system the most cost savings. It was introduced in the Governor's, package and it was also introduced in the Speaker's package, it was also introduced by individual Legislators. I guess the reason for that is simply put that the Workers Compensation System was never really meant to supplement retire-

ment. It was meant as wage replacement.

I think it is very important to point out here that regardless of if a person is at partial incapacity or total incapacity, there will always be a way for that particular person to get two-thirds of his total wages and that is what the Workers Compensation System was meant to be and that is what it does. What this Bill does is prevent double dipping. What we have here is an injured worker collecting from Social Security and again collecting from the Workers Compensation System. He is either going to be a worker or he is going to retire.

I want to make clear that we are not taking away from Social Security. We cannot do that. Social Security payments will remain in tact and in full. I would hope that you would oppose the motion that the good Senator from Kennebec, Senator Bustin, made and stick with the Indefinite Postponement of this Bill.

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 in order.

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

Senator **BUSTIN:** In response to the good Senator from York, Senator Dutremble's remarks about Workers Comp not being meant to be a full pension package. He is absolutely right, it never was meant to be and neither was Social Security.

I happened to have worked with Social Security pensions and disability for the last nine years in case work and that is a common misconception. When Social Security was put in it was only meant to supplement any other benefits you might get and the effect of cutting the Workers Comp because of what you get from Social Security is the same as cutting Social Security, it just allows the State to do rather than the Federal Government. The effect is the same. On the one hand we say it is the Government — that your pension plans aren't meant for full pension plans — to go out and do something else and when a disabled worker who can no longer work goes out and tries to do something else, i.e. cash in on his Social Security or whatever else he might have, the gets cut on Workers Compensation and the insurance company reaps the difference. I fail to understand the logic in that.

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

Senator **BALDACCI:** Mr. President and Members of the Senate. As far as this particular issue is concerned, I think this is probably one of the most progressive steps that the Legislature has taken as far as Workers Compensation is concerned, income averaging or including the income of other sources that people are receiving when determining a wage replacement as the good Senator from York, Senator Dutremble, has discussed. I think this is a good coordination of benefits that people are receiving and accountability during tough times that people expect of their Government. We are not saying that people should be denied less than that, we are just saying that particular program, when you are setting that particular level you should include it whether it is Social Security, or whether it is another type of program that people are receiving assistance from, not just Social Security, and that figure should come up to and not exceed that particular level.

It is just a coordination and I don't think that it is putting ourselves on the line to say that we are not thinking of the working people, I think we are talking about good coordination

and good efficiency policy for the government programs that we have been working on.

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

Senator **KANY:** Mr. President and Senators. I just have a question. I assume we are not dealing with S.S.I. or Disability which is kind of a welfare thing and yet we are really dealing with the old age payments in which workers contribute to. I am wondering if someone would please differentiate between the treatment between S.S.I., Social Security of S.S.I. and old age benefits.

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 York, Senator Dutremble.

Senator **DUTREMBLE:** Mr. President and Members of the Senate. To answer the question, this does not include S.S.I., Social Security Retirement.

THE PRESIDENT: The pending question before the Senate is the motion of the Senator from York, Senator Dutremble, that Senate Amendment "B" (S-217) be **Indefinitely Postponed**. A Roll Call has been ordered.

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

THE PRESIDENT: The pending question is the motion of the Senator from York, Senator Dutremble, that Senate Amendment "B" (S-217) be **Indefinitely Postponed**.

A vote of Yes will be in favor of **Indefinite Postponement**.

A vote of No will be opposed.

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

ROLL CALL

YEAS:—Senators, Baldacci, Black, Brown, Danton, Diamond, Dow, Dutremble, Emerson, Erwin, Gauvreau, Gill, Hichens, Maybury, McBreairty, Pearson, Perkins, Sewall, Shute, Stover, Trafton, Twitchell, Webster

NAYS:—Senators, Andrews, Berube, Bustin, Carpenter, Chalmers, Kany, Matthews, Tuttle, Usher, Violette, The President — Charles P. Pray

ABSENT:—Senators None

22 Senators having voted in the affirmative and 11 Senators having voted in the negative, with No Senators being absent and 2 Senators having paired their votes, the motion of the Senator from York, Senator **DUTREMBLE**, to **INDEFINITELY POSTPONE** Senate Amendment "B" (S-217), **PREVAILS**.

On motion by Senator **CHALMERS** of Knox, Senate Amendment "C" (S-219) **READ**.

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

Senator **DUTREMBLE:** Mr. President, I move that Senate Amendment "C" (S-219) be **Indefinitely Postponed**.

THE PRESIDENT: The Senator from York, Senator **DUTREMBLE**, moves that Senate Amendment "C" (S-219) be **INDEFINITELY POSTPONED**.

The Chair recognizes the Senator from Knox, Senator Chalmers.

Senator **CHALMERS:** I shall be very brief, Mr. President. I ask for a Division and would speak to my motion.

This is not a lawyers bill, please understand that. I realize I am facing quite a tide here. This Bill, this amendment, would only help the injured worker who has medical evaluation costs and witness fees to pay for. The Workers Comp Bill does not allow attorneys fees if you lose a case. It does allow it if you win a case. If you win a case it allows the medical evaluation and the medical costs and the witness fees, but it doesn't allow if you lose the case. This amendment would only help the worker. It would

help him with the evaluations from physicians, specialists and other expert witnesses. Lawyers may volunteer their time until they decide whether they are going to take a chance on a case and then they will work their time to try and win the case for the employee and if they win they will be compensated.

Small town country lawyers like myself can't afford, because we don't make that much money, can't afford expert witness evaluation. The insurance companies can and every case they are going to have plenty of expert evaluation. The disabled worker is often unable to afford this.

This amendment is only simple fairness and would allow for good, safe claims on reasonable grounds. The Workers Compensation Commission could decide that, would allow the awarding of transcript costs, medical evaluation costs or witness fees.

I ask you to vote for this amendment. Thank you.

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

Senator **DUTREMBLE:** Mr. President and Members of the Senate. There is one issue we dealt with downstairs that more Legislators spoke to me about and it was this one. Time and time again from the onset of this work on Workers Compensation it was let's do something about attorneys fees and we did. This amendment would require employers to pay the employees costs in any case regardless of the outcome of the case, but not the attorneys fees in losing cases. Both costs will presumably include such items as cost of medical reports used in evaluating the case, telephone calls, traveling, photocopying, etc. Often those are expenses that are paid upfront by lawyers and recovered later in the case.

The amendment is, in reality, a lawyer's relief measure since it will enable them to recover the cost of the expense of the employers in all cases. This is a requirement that is not only unfair, it is unique to me in the Workers Compensation law. In many states the employees' attorney does not get reimbursed by the employer unless the employee prevails. In many other states the employees' attorney does not get reimbursed by the employer for anything even if the employee prevails. Those states have a so-called Common Law Rule in which each party bears the cost of his own expense and lawyers' fees regardless of the result of the case.

To adopt this amendment would make Maine continue to stand out as the only State in the Country with this type of unfair requirement. I might also point out and maybe somebody can correct me if I am mistaken, but I can't think of any other system in the State of Maine where you have to pay the attorneys fees for the other side if you win.

I would hope that you would **Indefinitely Postpone** this amendment.

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

Senator **CARPENTER:** Mr. President, Ladies and Gentlemen of the Senate. If there is only way to neutralize the attorneys in the Chamber, I guess it's to say that is a lawyers relief Bill or an amendment, a lawyers relief amendment. I am an attorney and I do practice compensation, but to characterize this amendment, I think, offered by the Senator from Knox, Senator Chalmers, as that is unfair and totally not accurate.

If you read the amendment, what we are going from and I have not resisted it and I in fact decline to offer amendments on behalf of compensation attorneys who have approached me, I have declined to do that and I had no intention whatsoever of speaking on this issue, going from a system whereby the injured worker has his case paid for. Now we are going to back up and we are going to say . . . "You are going

to find your own attorney and it is going to have to be somebody who is willing to take on the case, risking substantial involvement, substantial time and no money." All right, I can live with that as an attorney. I have no problem with that. I think there are going to be a lot of cases out there, and believe me we wouldn't have the business community here if they didn't believe there were a lot of cases that would not be taken, period. We've stepped from here back to there and now we are going back one step further by the Bill without this amendment, we are saying not only will he have to find an attorney who is willing to up-front his hours and time, but now we are going to have to find the money somewhere to pay for all of the other costs, but the insurance company is darn sure going to be paying for their side to carry this thing on for how long.

I don't think this is fair and I think it is very unfair to characterize this as an Attorneys Relief Act because if you read it it is (S-119). I call your attention to the way the Bill is worded, it is not attorneys fees. It is the money that is up-fronted and I can't afford to up-front that money from my office. It is bad enough that my time is going in. That is a risk I will be willing to take for somebody who I believe is injured, if there is a risk then I will put my time in there. Now you are going to ask me to up-front hundreds and hundreds of dollars potentially for all the rest of these costs. Instead of having this many cases under the present system, you cut it down to this many cases by taking away the attorneys fees. Okay, I'll live with that and now you are cutting it down even more. You are going to be darn hard pressed to find an attorney to take a case where they have got to up-front the medical costs.

Just understand what you are doing here, and understand that this amendment does not provide, in my opinion, and I don't see how you can get that out of it that this is money that is going to the attorney.

Mr. President, I would request a Roll Call.

THE PRESIDENT: The Senator from Aroostook, Senator Carpenter, 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 in order.

The Chair recognizes the Senator from York, Senator Dutremble.

Senator **DUTREMBLE:** Mr. President, I want to point out one thing. The employee or the injured worker is not left out in the cold, he can go to the Office of Employee Assistance Information and ask for guidance and advice from Employee Assistance to make sure he has a case and they can advise him how to proceed.

I guess the problem I have with the good Senator from Aroostook, Senator Carpenter, and his statements is that what you are saying to the attorney of the injured worker is . . . "Go ahead and spend as much money as you want, the employer will pay for it."

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

Senator **CHALMERS:** Thank you, Mr. President and Ladies and Gentlemen of the Senate. This is very short. Let me just read the amendment, it is very short and you can all understand it. It says: "Cost. The Commission or the Commissioner in any proceedings brought or defended in good faith and upon reasonable grounds may assess the employer costs including transcript costs, medical evaluation costs or witness fees, when those costs in the Commission's judgement or the Commissioner's judgement were necessary to the proper and expeditious disposition of the case." Thank

you.

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

Senator **CARPENTER:** I would just point out, Mr. President and Ladies and Gentlemen of the Senate and the Senator from York, that the Commissioner can also deny those costs if they are not brought in good faith and necessary to the proper and expeditious disposition of the case. It is called judicial discretion. It is something that is fairly common in our judicial system while the Workers Compensation System is not a judicial system per say, it seems to me that we put these people in office and we confirm them here in the Senate and we give them a certain amount of trust and have a certain amount of faith in their competence to do their job and here we are saying to them . . . "We don't trust you to make that judgement that these costs, costs, were undertaken as a necessary expense of bringing this case."

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

Senator **DUTREMBLE:** I guess I don't want to get away from the main point, the main point is you are still asking the employer to pay for the employees cost. That is the main point and I guess we shouldn't get away from that point.

I just can't see, we are trying to take the attorneys in some cases out of the system, and you are trying to put them back in by saying they are going to pay for the costs.

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

Senator **BUSTIN:** Thank you, Mr. President, Men and Women of the Senate. I try to resist getting up on the Floor and feel that I have been up too much these days, but this is an issue since they started the hearings on the benefit package, I have indicated to the Labor Committee and Leadership and anybody else who would listen about the chilling effect of having the employee have to pay when he goes to get a lawyer.

I have worked with these disability cases for nine years. I have watched human beings walk into my office, if in fact they can walk. I have gone to their homes, I have taken their cases, I have worked them, I have called the Workers Compensation Commission, I have two cases I am handling right now while I am also doing this on Workers Comp. I am telling you that the chilling effect of an employee who is out of work, who is disabled, who knows he can't work, is great, almost impossible to meet.

Can you imagine an employee, and I am sure it is written into the Bill that you can go and get the Employee Assistance from the Workers Comp work that we put in last year. That's wonderful. It still leaves the burden on the employee to make that decision once getting all of that information as to whether he should put out the money to go get a lawyer or just not run the case. I think that is very chilling and remember, it is exactly what I said on the other amendment, you have other workers who are working for other people and they probably got hurt because they were in an unsafe work environment and you are asking them to now pay their lawyers fees in case they don't win the case. That I submit to you is not very reasonable.

If there is a problem with the lawyers fees and there may be, then I would have hoped it could have been handled in a different manner and because of the lateness of the hour, I would hope that you would pass this amendment and work on a better solution next session.

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

Senator **CARPENTER:** Mr. President, Ladies and Gentlemen of the Senate. I apologize for getting up a third time. I would reemphasize

this is not attorneys fees. If somebody would be willing to accept this amendment with a further amendment to specifically say that no money is going to the attorney, I will draft the amendment. All we are talking about is the cost of the medical, the witness, transcripts, other costs.

The Senator from York, Senator Dutremble, said you are asking the employer to pay this. Tell me how an employee injured, unable to work, not drawing compensation, you tell me what chance they have. If you want to hold on to this and use it as a vehicle and put the language in there that says that this specifically, nothing goes to the attorneys then I will help you draft it. Lets take that out of the argument now and lets just talk about the other fees.

THE PRESIDENT: The pending question is the motion of the Senator from York, Senator **DUTREMBLE** that Senate Amendment "C" (S-219) be **INDEFINITELY POSTPONED.**

The Chair recognizes the Senator from Androscoggin, Senator Gauvreau.

Senator **GAUVREAU:** Mr. President, Men and Women of the Senate. I have a question which I would direct to the good Senator from York, Senator Dutremble, and would inquire of the good Senator if during the extensive deliberations which the Labor Committee voted to L.D. 1634 and its predecessor, did the Committee receive evidence on an average or a mien cost which would be incurred on behalf of an employee by means of compulsory attendance of physicians at hearings, at dispositions, and also the mien expenses of medical reports and hospital records.

THE PRESIDENT: The Senator from Androscoggin, Senator Gauvreau, has posed questions through the Chair to any Senator who may respond if they so desire.

The Chair recognizes the Senator from York, Senator Dutremble.

Senator **DUTREMBLE:** Mr. President and Members of the Senate. It was mentioned that there would be cause, but I can't remember if there was a specific in nature.

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

Senator **GAUVREAU:** Thank you Mr. President, Men and Women of the Maine Senate. I realize that my position also as another attorney, mea culpa, renders me and the advice I might give to my colleagues in this distinguished Body suspect, but nevertheless I feel it incumbent upon me based upon the area I represent, the City of Lewiston, with many mill workers in that area who would be substantially and adversely impacted if this L.D. were to go through in its present form.

It is quite common in my area for doctors to charge a hundred dollars for a brief narrative report regarding a client, a patient. It is also quite common in the course of an average contested proceeding for us to require several reports, three or four reports, that may in fact be different positions which the client may present with a modality of injuries to require different specialists. It is also quite common for depositions to be taken out in the course of compensation proceedings, and I would say an average cost of depositions to run in the area of \$200 for transcripts. It is also quite common for us to require physicians to appear and give evidence before the Commission's proceedings. It is quite common for doctors to charge between \$75 to \$125 for each and every appearance before the Commission whether it be for ten minutes or one hour. It is also my experience throughout the last ten years that the cost can run between \$500 to \$1,000 in even most basic of contested Workers Compensation proceedings.

My concern, indeed my grave concern, on this matter is that insurance companies will be able to dilute resources available to injured

workers by lengthening litigation which would put insurance carriers at substantial advantages. They will have at their disposal a wide range of medical reports, depositions transcripts since their attorneys can pour over and prepare in advance to the contested proceeding. Whereas an injured worker, should he or she obtain counsel or secure counsel, that injured worker will be unable to locate an attorney in all likelihood who will be able to bear that expense.

I would point out that this situation dealing with Title 39, Workers Compensation, is substantially different from the tenor of personal injury litigation. In that context an attorney generally takes a contingency fee which ranges between 25% to 33% in the average case so that if a client was to receive an award say of \$100,000 the attorney could receive a substantial contingency fee and that is an incentive for that attorney to dole out \$1,000 or \$2,000, whatever dollars it is for cost. That situation does not pertain in a Workers Compensation hearing where the attorney is only allowed to charge a reasonable hourly rate and in fact carriers can and quite often do in some cases contest the reasonableness of attorney fees awards.

Without question, the language in L.D. 1634 will be a major disincentive for many attorneys to involve themselves in these proceedings. That will hurt not the attorneys because they will develop other lines of practice. That will, however, substantially deter and reduce the availability of competent counsel in these matters. I understand that if the majority, the great majority of you, ever set foot in a contested proceeding and what you know is gleaned from conferences, discussions with employers they are frustrated as am I with the ever rising cost of compensation. I understand that and I understand that you sincerely believe this is a measure to get those nefarious attorneys out of the compensation business so we can get our costs in order. I am just telling you from my personal experience, that is not the way it is. Thank you.

THE PRESIDENT: The pending question before the Senate is motion of the Senator from York, Senator **Dutremble** the Senate Amendment "C" (S-219) be **Indefinitely Postponed**.

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

THE PRESIDENT: The pending question before the Senate is motion of the Senator from York, Senator **Dutremble** the Senate Amendment "C" (S-219) be **Indefinitely Postponed**. A Roll Call has been ordered.

A Yes vote will be in favor of the motion of the Senator from York, Senator **Dutremble**, that Senate Amendment "C" (S-219) be **Indefinitely Postponed**.

A No vote will be opposed.

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

ROLL CALL

YEAS:—Senators, Baldacci, Black, Brown, Danton, Diamond, Dutremble, Emerson, Gill, Hichens, Maybury, McBrearty, Perkins, Sewall, Stover, Trafton, Webster

NAYS:—Senators, Andrews, Berube, Bustin, Carpenter, Chalmers, Dow, Erwin, Gauvreau, Kany, Matthews, Pearson, Shute, Tuttle, Twitcheil, Usher, Violette, The President — Charles P. Pray

ABSENT:—Senators None

16 Senators having voted in the affirmative and 17 Senators having voted in the negative, with 2 Senators Pairing their votes and No Senators being absent, the motion of the Senator from York, Senator **DUTREMBLE**, to **INDEFINITELY POSTPONED** Senate Amendment "C" (S-219) **FAILS**.

Senate Amendment "C" (S-219) **ADOPTED**.

On motion by Senator **GAUVREAU** of Androscoggin, Senate Amendment "F" (S-247) **READ**.

THE PRESIDENT: The Senator has the floor. Senator **GAUVREAU:** Thank you, Mr. President, Men and Women of the Maine Senate. Senate Amendment "F" pertains to the area of rehabilitation which is addressed in L.D. 1634.

Before I begin my presentation describing what this amendment does, I feel obligated to express the appreciation to the good Senator from York and his compatriots on the Labor Committee for the work which they did on this truly substantial piece of Legislation. I had the pleasure of serving with Senator **Dutremble** during the 111th and I found him to be a solid leader and a very fair and judicious individual. He was able to bring his Committee to appropriate compromises and I know from my experience this Session that the good Senator along with my seatmate, Senator **Black**, Senator **Tuttle**, have devoted a substantial amount of time to this piece of Legislation. I am truly sincere when I say that I respect their considered judgement.

I do, however, have a major philosophical difference with them with respect to the area of rehabilitation. Indeed, I believe that rehabilitation is the keystone toward meaningful reduction of workers compensation expenses. If we confine our focus to benefits accorded to injured workers we will merely be treating the symptoms of the patient, but we will have failed to properly diagnose the patients disease. I think we all recognize that the injured worker, if at all practical, should be returned to suitable work at the earliest available time. We all benefit from that experience, certainly the employer does as the employer gets back in his or her work force a good experienced worker and that certainly is the desire of management. Obviously the employee wants to return to the workforce at the earliest possible time to provide sustenance support to his or her family and the longer that delay goes on, the longer that worker is removed from the workforce there are certain psychological factors at work which militate against the prompt orderly return of the injured worker to the workforce and yet we all recognize prompt return to work as a universal goal, we have consistently failed in this state to adopt a statutory vehicle that will bring that to fruition.

We have in Maine and if the L.D. before you passes in its current form, continue to have a system of voluntary rehabilitation. Voluntary rehabilitation has clearly, clearly not worked in this State. There are many reasons for that. I suggest that there are as many disincentives for workers to be rehabed as there are for companies to promptly rehab their injured workers. It requires under current law a true element of trust to enter into a rehabilitation plan because although an employer through an insurance carrier can invest literally thousands of dollars in an appropriate rehabilitation plan, there is no mandate, there is no requirement for the injured worker for whatever reason to either follow through with the plan or then locate suitable work within the range of his physical tolerance for which he or she is been rehabilitated.

I suggest that the only way we can really resolve this issue is to deal up front with a mandatory rehabilitation approach. Now the vehicle before us presented by the Labor Committee does partially address some of the concerns which I have articulated. In fact, the rehabilitation structure contained within L.D. 1634 does require within 120 days after a worker is injured that the employer file with the Workers Compensation Commission Offices a report as to the feasibility of the injured worker either returning to work or being rehabilitated. In many cases an injury will resolve itself in a fair-

ly short time frame that is obviating the need for any rehabilitation, but in more serious cases when there will be long lasting injuries from an impairment and the like, rehabilitation will have to be considered. And if in fact, under the vehicle before us, if in fact the employer reports that the employee may be a suitable candidate for rehabilitation, then an assessment can be ordered by the Workers Compensation Commission.

Following the assessment, a vocational rehabilitation plan will be prepared and both employee and the employer through its insurance carrier will have representation in the design and preparation of that plan and that is all very good and that is all very new and that will be to some extent an improvement over current Maine law and I truly do applaud the good Senator from York, Senator **Dutremble** and his Committee for the work they have done in this area and I recognize the militant tensions which they have had to resolve between management, the insurance industry and labor in trying to craft what they believe to be a fair and equitable solution to this problem. But I sincerely believe that the Committee has fallen short of dealing with the issue in the most appropriate fashion.

Senate Amendment "F" which I am offering, does take that further step so that if after the employee and employer are unable to agree upon a particular rehabilitation plan, the final decision on whether a plan will be implemented rests with the Commission. The Commissioner decides whether or not it is in the best interest of the injured worker to be rehabilitated and that consideration has to reflect many factors including the potential cost of rehabilitation, the product working life of the individual, injured worker and the nature of the workers disability as well as the feasibility of locating work within the employees physical tolerances after a rehab plan has been effectuated. Now this system is in effect in other jurisdictions. Many people point to the experience in Michigan and in California which I think is somewhat in opposite because of the more urban nature of those areas. Many states do have provisions in their workers compensation statutes which require workers to go to debate to rehabilitation plans.

What Senate Amendment "F" does is create a right on behalf of the injured worker to a meaningful rehabilitation experience. It likewise imposes a concomitant duty upon that worker to participate in rehabilitation and that failing good faith effort to take part in rehabilitation the injured worker can have his or her compensation benefits reduced. That certainly is a heavy stick and is meant to be such. It is meant to encourage in the strongest possible form that rehabilitation not be simply a dream, but a reality.

On managements side the same holds true. The employer has a duty to take part in rehabilitation programs ordered and approved by the Workers Compensation System. But also, and equally as important, the employer has the right to require the injured worker to take part in that rehabilitation and failing that the injured worker can be removed from compensation benefits. And there lies the real benefit of mandatory rehabilitation. We know that current voluntary rehabilitation efforts in this State have failed and I think that if we fall short of anything other than requiring an injured worker and his or her employer to take part in required rehabilitation the same unfortunate experience will continue and this is the main culprit in the ever increasing cost of workers compensation premiums. When we realize that 4%, 4% of the injured workers constitute approximately 4/5 of the benefits paid out, we realize the problem we are talking about and mandatory rehabilitation is a device

which will target those individuals and get them back to the workforce as fast as is practical.

Now there are some practical problems in the way L.D. 1634 is structured and without getting too technical I will share those with you. An employer, L.D. 1634 establishes an employer rehabilitation fund. An employer who expends funds for a rehabilitation plan will be allowed to recoup those expenses in the event the rehab worker who returns to the work place is unsuccessful in his or her efforts to obtain full time employment. Another portion of the law allows an insurance carrier to secure recoupment for its expenses in rehabilitation and that is when an injured worker returns to the work force after having been rehabed and then experiences a second injury and if in fact as a result of the second injury whether or not the second injury is related to the first injury or it might affect a different part of the workers body entirely.

Nevertheless, if as a result of the second injury the worker is disabled to an extent greater than disability arising from the initial injury, then the employer will be allowed to go into the second injury fund and secure recoupment of its expenses. Now, on the face of it that sounds eminently reasonable, but we should bear in minds here that when we are talking about a second injury fund which provides reimbursement for employers who have borne the expense of rehabilitating workers, in all other states in this Country there is a requirement that the employer have knowledge that the worker has some of injury. It only makes sense because second injury funds are set up to encourage employers to hire disabled individuals or persons who have partial disabilities or who were injured before.

If we adopt 1634 in its present language, there is no requirement of knowledge. Now you might say, what does that do? Well, I suggest that provides a major incentive for savvy, sophisticated, large employers and their insurance companies to dip into this second injury fund, to declare efforts on behalf of injured workers when they return to work unsuccessful and therefore, raid, if you will, the second injury fund. Now, that to me is irrational. I believe the second injury fund should be limited to provide reimbursement to those employers who in fact hire handicapped workers or injured workers who have had prior injuries. That's meaningful because that does get the injured worker back to work.

I think there is a real flaw in the way 1634 is drafted now. It does present, I think, the very real potential for large employers to pass costs on to this second injury fund and I would point out that that fund is being subsidized and being paid by all employers. One of the most frustrating things I think all of us had was talking to the small businessmen who have constantly year after year it seems, been subject to premium increases although they have had not or very little injury experience in the place of work and they always ask the plaintiff question why, what have I done? I have got a good safety record why should I bare the cost? I shouldn't have to bare the cost. My suggestion to you, though, that if we adopt this kind of practice, this kind of vehicle will allow large employers to effectively subsidize their operations by dipping into the second injury fund.

It is somewhat technical and I think it has to be addressed. The amendment which I offer resolves that problem and by making rehabilitation mandatory has the laudable goal of returning the truly injured worker to work.

There is one final point which I should address which is encompassed in Senate Amendment "F" which I am offering. That would limit and would target the limited rehabilitation resources we have available in this State to those workers who in fact are in the greatest

need of rehabilitation and by that in fact I am referring to the worker who cannot secure suitable employment with his or her first employer because as we all know, 90% plus of Maine businesses are small businesses, eight or fewer employees, it is quite likely there will be no suitable employment for that worker with the initial employer. Now, what Senate Amendment "F" does is target rehabilitation reimbursement to second employers, employers again who knowingly take an injured worker, who pay for rehabilitation and then find that after rehabilitation has gone on it is still not feasible for the injured worker to continue his or her work.

I realize this is a fairly complicated subject area, but I sincerely believe that if we don't act to adopt some form of mandatory rehabilitation the problems which we have had over the last eight to ten years will persist and what we will have done is reduced the current benefits of injured workers but fallen far short of our real goal which is to return that workers to the workplace at the earliest feasible time. Thank you.

Senate At Ease

Senate called to Order by the President.

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

Senator **TUTTLE:** Thank you, Mr. President, I would move Indefinite Postponement of Senate Amendment "F" and would speak to my motion.

Mr. President and Members of the Senate. While I commend the Senator from Androscoggin, Senator Gauvreau, for his amendment, I would be remiss if I didn't speak on this issue.

Being a member of the Committee that talked about mandatory work rehabilitation had been one that we have discussed an awful lot. It is a very important issue, but I think that with the nature of where the rehabilitation program is right now and where the Committee was looking at, what Senator Gauvreau is offering may be something that we will come back to in other Legislatures and offer. I think that right now, based upon the cost we have received in the Committee and the talk to both employees and employers around the State and as most of you know, I usually speak from the employees point of view, I would hope that we could defeat this amendment. But on the other hand I would commend the Senator for offering this amendment because somewhere down the road this amendment and this idea will finally come to something it will see.

I think that right now, particularly, what we are talking about is the area of cost and the area of where I would hope that worker rehabilitation would head for, for the benefit of the employee, I would hope that we would Indefinitely Postpone this amendment.

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

Senator **BLACK:** Thank you, Mr. President and Fellow Senators. This is a subject which the Labor Committee debated on a long time and several times. We realize at the present time there is no rehabilitation in our law. This is a first step. We realize it is going to need some correction and you aren't going to know what this correction necessitates. We debated the issue of voluntary versus compulsory and as several companies have voluntary programs and we do not wish to discourage that, we wish for this to go for a couple of years and find out where the problems are and then answer to it. I urge that you defeat this motion.

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

Senator **MATTHEWS:** Mr. President, I wish to address a question through the Chair to the signers, actually the Committee on Labor.

Since the Committee has come out with a bitter pill to swallow for many of us here, and I

would mention all of us on all sides, and has seen fit to mandate the maximum level of benefits and mandate an awful lot of things to Maine workers in this Bill, I wonder why? And I would like an explanation why mandatory rehab was not included in this Bill and another big step forward?

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

The Chair recognizes the Senator from York, Senator Dutremble.

Senator **DUTREMBLE:** Mr. President and Members of the Senate. I think it is very important to point out that this rehab portion of the Legislation we are now considering was a result of the work that was done by a special Select Committee that studied the rehab for two years and it involved all sides of the issue. It involved industry, labor, insurance people, therapists. I understand that when they come out with the final report out of that Committee that it was agreed to that they would support the rehab program as voluntary.

During our hearings the Committee did debate whether we should make it mandatory or voluntary and a lot of people including myself thought it should be mandatory. There was evidence presented by experts who said that in states just starting out, mandatory rehab is very expensive, and it is better to start out with voluntary. Get the kinks out of the system and then make it mandatory at a later time if we still choose. I think the Committee went along with that suggestion and that is why it is a voluntary rehab system.

THE PRESIDENT: The pending question is the motion of the Senator from York, Senator **TUTTLE**, that Senate Amendment "F" (S-247) be **INDEFINITELY POSTPONED**.

The Chair recognizes the Senator from Androscoggin, Senator Gauvreau.

Senator **GAUVREAU:** Thank you Mr. President. I request a Division on the motion.

THE PRESIDENT: The Senator from Androscoggin, Senator Gauvreau, has requested a Division.

The pending motion is the motion of the Senator from York, Senator **TUTTLE**, that Senate Amendment "F" (S-247) be **Indefinitely Postponed**.

Will all those Senators in favor of the motion of the Senator from York, Senator **TUTTLE** to **Indefinitely Postpone** Senate Amendment "F" (S-247), please rise in their places until counted.

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

The Chair recognizes the Senator from Kennebec, Senator Bustin.

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

THE PRESIDENT: The Senator from Kennebec, Senator Bustin, 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 in order.

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

THE PRESIDENT: The pending question before the Senate is the motion of the Senator from York, Senator **TUTTLE** that Senate Amendment "F" (S-247) be **Indefinitely Postponed**.

A Yes vote will be in favor of the motion to **Indefinitely Postpone** Senate Amendment "F" (S-247).

A No vote will be opposed.

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEAS:—Senators, Baldacci, Berube, Black, Brown, Carpenter, Danton, Diamond, Dow, Dutremble, Emerson, Erwin, Gill, Hichens, Maybury, McBreairty, Pearson, Perkins, Sewall, Shute, Stover, Trafton, Tuttle, Twitchell, Violette, Webster

NAYS:—Senators, Andrews, Bustin, Chalmers, Gauvreau, Kany, Matthews, Usher, The President — Charles P. Pray

ABSENT:—Senators None

25 Senators having voted in the affirmative and 8 Senators having voted in the negative, with No Senators being absent and 2 Senators Pairing their votes, the motion of the Senator from York, Senator **TUTTLE**, to **INDEFINITELY POSTPONE** Senate Amendment "F" (S-247), **PREVAILS**.

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

On motion by Senator **BERUBE** of Androscoggin, Senate Amendment "E" (S-243) **READ**.

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

Senator **BERUBE:** Thank you, Mr. President and Fellow Members of the Senate. Presently, the Bill has a 5% cap. This amendment simply extends the cap to 2% under the inflation rate, if it should rise beyond that. For instance, if the inflation rate based upon the Consumer Price Index were to be say 9% this would extend the cap to 2% under that, to 7%. I think it is something everyone can live with. Thank you.

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

Senator **DUTREMBLE:** Mr. President and Members of the Senate. First I would like to make the motion that this amendment be indefinitely Postponed and I would like to speak to my motion.

Mr. President and Members of the Senate. What this amendment does is create an exception to the 5% cap which makes the cap meaningless. It provides that the annual adjustment may not be less than 2% below the annual increase in the Consumer Price Index. In other words it will result in annual increases equaled to the increased in C.P.I. minus 2% with no cap. It should be noted that the amendment actually does and what the Statement of Fact does, what it says it does, are two different things. The Statement of Fact claims that the exception only triggers in when there is an increase in the cost of living in excess of 7%, yet there is no language in the amendment itself which mentions anything about a 7% trigger. The results of the amendment is to remove any meaningful cap from the Bill.

The annual inflation adjustment is probably the single most expensive feature of Maine's law. The Special Study Commission on Workers' Compensation, Munarial's group, found that the adjustment in and of itself, accounts for nearly 40% of all benefit costs in the State. The reason is twofold. First, it naturally results in higher direct benefit costs and most importantly it forces insurance companies to establish high reserves to account for the growing cost of individual claims as time goes by. Since, like anyone else, insurance companies cannot accurately predict the rate of future increases in the State average weekly wage, they must ere on the side of caution. To do otherwise would possibly place them in a position where they have not set aside sufficient funds to pay for claims as they mature.

It should be noted that there are only twelve states in the Country that have an inflation adjustment provision. Simply put, the annual inflation adjustment places Maine companies at

a great disadvantage in competing with their counterparts in other states. I would hope that you would support the Indefinite Postponement of this amendment.

THE PRESIDENT: The Senator from York, Senator **DUTREMBLE**, moves that Senate Amendment "E" (S-243) be **INDEFINITELY POSTPONED**.

The Chair recognizes the Senator from Androscoggin, Senator Berube.

Senator **BERUBE:** Thank you Mr. President. I forgot to ask for a Division. May I so request at this time please. Thank you.

THE PRESIDENT: The pending motion is the motion of the Senator from York, Senator **Dutremble**, that Senate Amendment "E" (S-243) be **Indefinitely Postponed**. A Division has been requested.

The Chair recognizes the Senator from Kennebec, Senator Bustin.

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

THE PRESIDENT: The Senator from Kennebec, Senator Bustin, 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 in order.

The pending question before the Senate is the motion of the Senator from York, Senator **Dutremble** that Senate Amendment "E" (S-243) be **Indefinitely Postponed**.

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

THE PRESIDENT: The pending question before the Senate is the motion of the Senator from York, Senator **DUTREMBLE**, to **INDEFINITELY POSTPONE** Senate Amendment "E" (S-243)

A No vote will be opposed.

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

ROLL CALL

YEAS: Senators, Baldacci, Black, Brown, Carpenter, Danton, Diamond, Dutremble, Emerson, Gauvreau, Gill, Hichens, Maybury, McBreairty, Pearson, Perkins, Sewall, Stover, Trafton, Tuttle, Twitchell, Violette, Webster

NAYS: Senators, Andrews, Berube, Bustin, Chalmers, Dow, Erwin, Kany, Matthews, Shute, Usher, The President — Charles P. Pray

ABSENT: Senators None

22 Senators having voted in the affirmative and 11 Senators having voted in the negative, with 2 Senators Pairing their votes, and No Senators being absent, the motion of the Senator from York, Senator **DUTREMBLE**, to **INDEFINITELY POSTPONE** Senate Amendment "E" (S-243) **PREVAILS**.

On motion by Senator **MATTHEWS** of Kennebec, Senate Amendment "H" (S-254) **READ**.

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

Senator **MATTHEWS:** Mr. President and Members of the Senate. I know the day has been long and rather hard for all of us in this Chamber and this Legislature and I suspect it has been very, very hard for those assembled around this Chamber.

My amendment maybe should have been offered in the beginning because it deals with what, I believe, the essence of this Bill is all about. But be that as it may, I will, proceed. I believe the preamble of this Bill, compromise Bill, unfairly indicts all Maine workers. It is rather like the issue of guilt by association I guess because it presumes, in my estimation, that Maine workers are somehow robbing the system and the only culprits in the abuse of workers comp, and I find that rather hard to

understand.

I applaud, as many of the others that have risen to amend this Bill, the work of the Members of the Labor Committee. All those individuals on that Committee are good people. I don't know that happened with respect to this preamble but, I would imagine we will hear very soon.

Some of the concerns that my amendment will take care of, in my estimation, and will set straight in the Record, I would like to mention and I think the best way to do that is to read into the Record the Statement of Fact on this amendment. The fundamental facts recited in the emergency preamble of the Bill are untrue. The emergency preamble alleges that workers compensation costs are rising in Maine when in fact they have been stable for four years. The emergency preamble implies that workers compensation costs are higher in Maine than they are in other New England States, which again is untrue. Maine workers compensation costs are average for the New England States.

Lastly, the emergency preamble alleges that the Maine economy has been hurt and job creation effected, whereas in fact in 1984, it was a banner year for the Maine economy. The best peace time ever in terms of job creation, income increases, and low unemployment rate. The rate of increase in wages in Maine in the last 4 years has exceeded the national average and is the highest in New England. It is important that this emergency preamble be accurate and it is crucial that it not be demonstrably untrue.

Ladies and Gentlemen of the Senate, it reminds me today a little bit of this debate of an issue that we debated for hours and hours and days and days only one term ago. That was increasing the minimum wage in the Maine Legislature. It took a long battle to get that minimum wage increase and as I recall some of the things that were said in the Legislature in favor of raising Maine's minimum wage is that because we are very proud of Maine workers, men and women that work for a living and we are very, very proud of the work ethic in the State of Maine. Where has that pride gone with respect to this Bill? Where have those voices gone today in the Maine Senate?

Another concern I have with the preamble and I think the thrust of the Legislation we are looking at today is the implication that Maine should look to the southern states of this Country, to state's like Mississippi and North Carolina and South Carolina and many right-to-work state's for leadership and direction in our economy and that kind of business climate and working environment that we want. I submit to the Members of this Body that Maine has a better way, maybe our better way is included or started right in our motto Dirigo, "I Lead." Because I believe the Legislature and the people of the State of Maine are very, very proud of their people of the State of Maine are very, very proud of their working people but don't believe that just those who control business corporations should have all the power, that we believe a working environment that is healthy and protective of injury for Maine workers is one that is desirable.

I hope that you will take a look at this amendment that I proposed and I guess that if you really do believe that this preamble says the right things in it, then I guess I will end by saying something that I shouldn't mention on the Floor, but it came to me to mind sitting here throughout this whole thing. Where's the beef? Thank you.

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

Senator **DUTREMBLE:** Mr. President, I move that Senate Amendment "H" (S-254) be indefinitely Postponed and would speak to my motion.

Senator **DUTREMBLE**: Mr. President and Members of the Senate. The emergency preamble only states three areas that the Committee discussed downstairs. When we took up this issue there were three major areas that we wanted to address. One dealt with benefits, one dealt with safety and one dealt with rehabilitation, and the emergency simply has three paragraphs describing each one of those. It doesn't make any statements for or against the employees, for or against business, it just actually states what the Committee did. I would hope you would support the Indefinite Postponement of this amendment.

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

Senator **TUTTLE**: Thank you, Mr. President. I would hope that you would not Indefinitely Postpone this amendment.

Working on the Labor Committee, a number of us had extreme concerns about this issue. I talked to different people, I have been to different states, and if they tell you the reason why they moved here, workers compensation is not the problem. If you think it is, I think we are deluding ourselves. If we have a problem specifically, we can address it through some parts of this Legislation. I agree with the good Senator from Kennebec, I hope this preamble does go in there because it does answer the problem and in fact what the amendment says is true.

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

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

THE PRESIDENT: The Senator from Kennebec, Senator Matthews, 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 in order.

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

THE PRESIDENT: The pending question before the Senate is the motion of the Senator from York, Senator **Dutremble**, that Senate Amendment "H" (S-254) be **Indefinitely Postponed**. A Roll Call has been ordered.

The Chair recognizes the Senator from Cumberland, Senator Diamond.

Senator **DIAMOND**: Thank you, Mr. President and Members of the Senate. You know there is trying to be a portrait painted here today which I don't appreciate. The portrait that is trying to be painted is showing that anyone who is voting against the amendments is against the worker and after this last debate, I just had to get up.

You know there is something wrong with the workers comp system right now. There is something wrong with our system.

I have been in the Legislature for nine years and we worked on this thing in the 110th and we worked on it pretty hard and we came away with a pretty good ending, at least that is what the workers said, and I think they were right. We had more to do and there is something wrong with a system that does not supply jobs for workers and there is something wrong with a system that takes a worker and drags them out there for three or four or five years with no resolution. We can sit here or stand here and talk about how great the system is and forget about the person back home and I don't like the image that is being painted.

Workers need some help, the injured workers need some help and you can talk about a preamble anytime you would like and we can

talk over words and disagree on which verb goes where and what we are doing and not doing, but the fact is the system is not working and when you start equating this Bill and these amendments with Right to Work, you know, that is going a tad too far because there is no one in this room who is voting for amendments, at least I am not one of them who supports Right to Work. I will say that now and I will say that tomorrow as I have said it in the past.

The Committee has worked hard. I may not have liked everything they have done, but they have a unanimous Committee Report, **UNANIMOUS COMMITTEE REPORT!** And, I am willing to swallow some of those bullets to go with that Committee and I don't object to anybody in here who has their own amendment and tries to put their amendment on — that is what the system is all about, but there are some of us and I am one, who feel they have done a pretty good job and we need something if we say what we mean and mean what we say, there are some folks back home who need a change. If we don't make a change now, it is not going to happen and it seems to me that if this Bill doesn't go the way it was designed through that unanimous Committee Report that we end up with nothing. It is either going to happen this year or not at all.

I support those who wish to put on amendments, I think they should try to do that, but don't paint a picture that isn't there because I object and I will object again. Because I am not voting for an amendment does not mean I don't support the people I think I am helping. I think that I am helping. If you disagree with me that is fine, I accept that. I give you yours and I will take mine.

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

Senator **MATTHEWS**: Mr. President and Members of the Senate. I just rise to apologize to the good Gentlemen from Cumberland, Senator Diamond and Members of the Committee and all of those within earshot of remarks and comments about right work. That was unfair and unfortunately an emotional moment I said that and I apologize for those remarks. I still stand behind the basic thrust that I believe had been mentioned around here that by curbing through what this Bill attempts to curb in workers compensation abuses and somehow, that takes care of our poor economic climate and that somehow or other puts us on the par with other states. I completely disagree with that assumption and I think there are many economicists and others who will substantiate that.

One thing that comes to mind and I will mention it very quickly here because I think the issue for many of us here is one that is pretty obvious, is the problem we have with our high energy costs in the State of Maine. That's just one that comes to mind and that is a disincentive. I think, for business and industry in the State of Maine, to those that are here now and those that want to come to Maine, but that is something in my estimation that we are only beginning to deal with and that is a snails pace in my estimation.

I again, apologize for my remarks to all of you in the Body and I am sorry.

THE PRESIDENT: The pending question is the motion of the Senator from York, Senator **Dutremble**, that Senate Amendment "H" (S-254) be **Indefinitely Postponed**. A Roll Call has been ordered.

A Yes vote will be in favor of the motion of the Senator from York, Senator **Dutremble** to **Indefinitely Postpone** Senate Amendment "H" (S-254).

A No vote will be opposed.

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

ROLL CALL

YEAS:—Senators, Black, Brown, Danton,

Diamond, Dow, Dutremble, Emerson, Erwin, Gill, Hichens, Maybury, McBreaarty, Pearson, Perkins, Sewall, Shute, Stover, Trafton, Twitshell, Webster

NAYS:—Senators, Andrews, Baldacci, Berube, Bustin, Carpenter, Chalmers, Gauvreau, Kany, Matthews, Tuttle, Usher, Violette, The President — Charles P. Pray

ABSENT:—Senators None

20 Senators having voted in the affirmative and 13 Senators having voted in the negative, with 2 Senators Pairing their votes, and No Senators being absent, the motion of the Senator from York, Senator **DUTREMBLE**, to **INDEFINITELY POSTPONE** Senate Amendment "H" (S-254) **PREVAILS**.

On motion by Senator **USHER** of Cumberland, Senate Amendment "I" (S-257) **READ** and **ADOPTED**.

On motion by Senator **DUTREMBLE** of York, the Senate **RECONSIDERED** its action whereby Senate Amendment "I" (S-257) was **ADOPTED**.

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

Senator **DUTREMBLE**: Mr. President, I move that Senate Amendment "I" (S-257) be Indefinitely Postponed.

THE PRESIDENT: The Senator from York, Senator **DUTREMBLE**, moves that Senate Amendment "I" (S-257) be **INDEFINITELY POSTPONED**.

The Chair recognizes the Senator from Cumberland, Senator Usher.

Senator **USHER**: Thank you Mr. President. I think that is called part of fairness. Mr. President and Members of the Senate. We have heard quite a few amendments proposed here this afternoon. I understand this is the last one, so it is probably the one you have been waiting to hear from.

This afternoon we have addressed attorneys fees and other issues in regards to handicapped, Social Security, the 5% cap, the rehab program and other things concerned with the workmen's comp program before us this afternoon.

I realize that the Committee did a lot of hard work on this, there was statements made that why weren't these amendments proposed to the Committee while they were working. I can say on my behalf that I have two responsibilities on two other Committees and there is no way I had time to attend their work sessions. I am sure there are many of us in the same position. We couldn't attend the work sessions.

I realize this is a unanimous report. We have all been here a few years, unanimous reports are not automatic. That means thirteen people approved of it. There is a hundred and seventy-one more people that should have their input and this is part of the Legislative process which we are using this afternoon.

This is a fairly simple amendment. My amendment addresses housing, transportation, health insurance and probably alcoholic programs and everything else. This is called speedy payments. I have worked along side people who have gotten injured and waited for their money in different jobs I have had throughout life. Have you seen a young couple get married, they both have a job, they both have a car but the car just passes inspection stickers. This is a typical Maine family in many, many cases, just getting by and then the husband gets injured then all the burden falls on the other person and then marital problems start because he hasn't got his payment yet. Then the person gets into the alcoholic program and in some cases suicide has been the case.

This amendment is a fairness from the insurer to insure that the person injured will get payment. That is all it is. When they have to wait up to a year to get their payments, that is a long time. In some places they have S&A

programs, we are not addressing these people, we are addressing the people that don't have these programs and they are worried about getting their money. I urge you to accept this amendment this afternoon.

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

Senator **DUTREMBLE:** Mr. President and Members of the Senate. I hope you all believe in public hearings because this is it.

This is the first time this information has ever been presented to the Committee on Labor. This is something new and something we have not seen before. We have never had a chance to discuss it, never had a chance to see what the impact would be on the workers comp costs. One of the reasons we are here today is legislation like this. Legislation like this was passed in the past and led us to the point where we are today where we are trying to reform workers compensation. The only difference is back then a lot of this legislation passed without opposition. Thank God today we are here to stop things like this at least so we can have a chance to look at it in depth and find out what it would do. Right now we have no idea at all what this would do except for the possible exception of doing away with all the cuts and cost savings we have made with the other amendments. I would hope and urge you to stick with the Indefinite Postponement of this Bill.

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

Senator **BALDACCI:** Mr. President and Members of the Senate. This is probably one of the most important areas of the compensation plan that concerns me and people who have contracted me from the Bangor area. There are people who have been waiting for a decision by the Compensation Commission for two years in one case and in another case they have been waiting for seven years. All during that time period they have not received any payments whatsoever for the work injury that was created. They have lost their car because they could not make the car payments. They have lost their house because they could not make the house payments, and that upsets their family life which is caused in one situation, a divorce. That disturbs me.

I tend to be supportive of a measure like this and I want to do what is right because I don't think it is right if the worker is the one who suffers. He has bills to pay, the system was not set up to be dragged out by attorneys, medical experts or the commissioners. It was set up to guarantee repayment to those workers of an injury for quick compensation. We spend millions of dollars modernizing, computerizing, staffing, more staffing, more commissioners (from seven to thirteen), higher salaries, the next thing they'll want is the black robes. What has happened since we spent that money over there? We read about that even our State laws aren't even paid attention to, where it says that upon hearing within thirty days they have to make a decision or their salaries are docked. What do we read about, no attorneys dare bring that up. No attorneys dare bring that up because they have to continually practice in front of the Commission. That is one fact. The second fact, is that it may change their case.

Laws that we pass. Very upsetting to me. The problem with this amendment is that it is too open-ended because the Commissioners have to set a hearing date. That can go on for a period of time before they set that hearing date. That time frame is not the penalty to the employer or employee — it is at the Commission. After that then they should be expeditious in determining that judgement. It's the only reason I can't support this because the Commission has to set that hearing and once that point is set then they go forward.

I have a letter here. I have contacted the

Governor, I have contacted the Chairman of the Committee about my concerns. The Chairman of the Committee, the good Senator from York, told me that we are going to have the commissioners in here because that is where the concern is, it isn't with the employees or the employers, it is with the commissioners in that process over there. If they are having problems I want to know about it. If they are not obeying State Laws, I want to know about it. I write them, I am telling Mr. Devoe about my concerns about why the delay in setting up the hearings for the disputes.

These people are hurting, they don't know whether it is the attorneys who are working together for the insurance companies and their own attorneys, they don't know if its the medical experts or whatever else. They are concerned about it. Those are the people I really care for and that is what the system was set up for. Those are delays in setting up the hearings for disputes and also about the postponements of hearings. I have been told there are attorneys that have asked for continuances not once, not twice, but three times. Not for the employee but because it interrupted their vacation plans. Now I am not laying a black stole over all attorneys, but the concern here is with the employee and as I point out to Commissioner Devoe, I don't care if you have to penalize the attorneys, I don't care if you have to penalize the commissioners, if they don't want the job, they don't like it, they can leave, but I don't want to see the employee have to suffer for that and I wanted to make that very clear.

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

Senator **GAUVREAU:** Mr. President and Men and Women of the Senate. I just perused the Amendment "I" just a few moments ago and if I am wrong, I would like to be corrected. By my reading of the amendment, if an employer or its insurance carrier could contest the validity of any compensation claim and later on after informal conference if the case is adjudicated and the employee receives compensation that would trigger the application of this amendment.

I think many of you have heard me advocate long and loud on behalf of employees and I think I should continue to do so. It strikes me that in this situation I would agree with the good Senator from York, Senator Dutremble, that this amendment clearly, although well intended, goes too far and in fact, there are several cases, several instances when employers legitimately defend claims and in the event they lose good faith defense. There is a very serious problem with frivolous delaying tactics. I have seen that all too often and a current feature of our law imposing a \$25 per day penalty upon the employer is clearly inadequate, it should be addressed.

But, I do think, if my understanding of this Amendment is correct, it simply is unfair, in fact, it provides a disincentive for an employer to present a legitimate defense to a claim. Therefore, although I'm very sympathetic with the Senator from Cumberland, Senator Usher, and thank him for bringing this matter to our attention, and it's an issue which I will devote myself to during the balance of this Legislative Session and from here on in, I do think that this Amendment is drafted too broadly and should be defeated. Thank you.

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

Senator **BLACK:** Thank you very much, Mr. President and Fellow Senators. I wish to commend Senator Diamond for his utterances a little while ago. I wholeheartedly agree with him.

Being on this Labor Committee was not my choice, but I took the responsibilities and worked diligently and earnestly in it and all

the other members of this Committee, both the House and the Senate, did the same.

The attempts to rewrite the Workers' Compensation law was not to hurt workers. We realize there are wrongs and I'm not sure we've answered them all at the present time but we've packaged this together from several people's ideas, many people's ideas and many bills. It is an attempt to encourage jobs and jobs is the best things that can happen to workers. We expect that there are going to have to be some corrections made in this Bill in the future but it's going to have to be enforced and working awhile before we can do it.

I respectfully ask you to support the Committee in the best passage of this Bill and let the Legislature work its best in communication with our municipal officers and the people in the State to see that we can create jobs necessary to employ our workers which desperately need them.

The incentives to come to this State for people to invest their money and create jobs is not great, it's the end of the line and they come to New Hampshire and Governor of New Hampshire sends them over here and he says "Just look at the system and you'll be back," and they do.

So, I wish to commend Senator Diamond again and many people feel the same way and it has been a pleasure to work on this Committee and we're trying to do the best we can for workers and the State.

I thank you, Mr. President.

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

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

THE PRESIDENT: The Senator from Cumberland, Senator Usher, 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 in order.

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

THE PRESIDENT: The pending question before the Senate is the motion of the Senator from York, Senator **Dutremble**, to **Indefinitely Postpone** Senate Amendment "I" (S-257). A Roll Call has been ordered.

A Yes vote will be in favor of the motion of the Senator from York, Senator **Dutremble**, to **Indefinitely Postpone** Senate Amendment "I" (S-257).

A No vote will be opposed.

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

ROLL CALL

YEAS:—Senators, Andrews, Baldacci, Berube, Black, Brown, Danton, Diamond, Dow, Dutremble, Emerson, Erwin, Gauvreau, Gill, Hichens, Maybury, McBreaury, Perkins, Sewall, Stover, Trafton, Tuttle, Twitchell, Violette, Webster

NAYS:—Senators, Bustin, Carpenter, Chalmers, Kany, Matthews, Pearson, Shute, Usher, The President — Charles P. Pray

ABSENT:—Senators None

24 Senators having voted in the affirmative and 9 Senators having voted in the negative, with 2 Senators Pairing their votes and No Senators being absent, the motion of the Senator from York, Senator **DUTREMBLE**, to **INDEFINITELY POSTPONE** Senate Amendment "I" (S-257), **PREVAILS.**

Senate At Ease

Senate called to Order by the President.

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

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

PAPERS FROM THE HOUSE

Non-concurrent Matter

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

In House June 10, 1985, Bill and Accompanying Papers **INDEFINITELY POSTPONED** In Senate June 11, 1985 **PASSED TO BE ENACTED, in NON-CONCURRENCE.**

Comes from the House that Body **INSISTED AND ASKED FOR A COMMITTEE ON CONFERENCE.**

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

The Chair appointed the following Members on the part of the Senate as Conferees:

Senator PRAY of Penobscot
Senator VIOLETTE of Aroostook.
Senator DANTON of York.

COMMITTEE REPORTS

House

Ought to Pass As Amended

The Committee on **HUMAN RESOURCES** on Bill "An Act Concerning Employment of Certain Individuals in Contact with Children" (H.P. 963) (L.D. 1384)

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-389).**

Comes from the House, with the Report **READ and ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-389)**

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

The Bill **READ ONCE.**

Committee Amendment "A" (H-389) **READ and ADOPTED** in concurrence.

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:

Emergency Resolve

Resolve, to Establish a Commission to Prepare a Revision of the State's Motor Vehicle Laws (S.P. 321) (L.D. 810) (C C "A" H-370)

On motion by Senator ERWIN of Oxford, the Senate **RECONSIDERED** its action whereby the Bill was **PASSED TO BE ENGROSSED AS AMENDED.**

On further motion by the same Senator, the Senate **SUSPENDED THE RULES.**

On further motion by the same Senator, the Senate **RECONSIDERED** its action whereby it **ADOPTED** Committee of Conference Amendment "A" (H-370).

On further motion by the same Senator, the Senate **SUSPENDED THE RULES.**

On further motion by the same Senator, Senate Amendment "A" (S-278) to Committee of Conference Amendment "A" (H-370) **READ and ADOPTED.**

On further motion by the same Senator, the Senate **SUSPENDED THE RULES.**

Committee of Conference Amendment "A" (H-370) as Amended by Senate Amendment "A" (S-278) thereto **ADOPTED** in **NON-CONCURRENCE.**

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:

COMMITTEE REPORTS

House

Divided Report

The Majority of the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** on Bill "An Act to Authorize a General Fund Bond Issue in the Amount of \$6,700,000 for State Facilities Improvements" (H.P. 922) (L.D. 1326)

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-381).**

Signed:

Sensors:

DOW of Kennebec
PEARSON of Penobscot

Representatives:

McGOWAN of Canaan
NADEAU of Lewiston
LISNIK of Presque Isle
CONNOLLY of Portland
CHONKO of Topsham
CARTER of Winslow

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

Signed:

Senator:

McBREAIRTY of Aroostook

Representatives:

SMITH of Mars Hill
HIGGINS of Scarborough
FOSTER of Ellsworth
BELL of Paris

Comes from the House with the Majority **UGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-381)** Report **READ and ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-381).**

Which Reports were **READ:**

THE PRESIDENT: Is it now the pleasure to **ACCEPT** the Majority **UGHT TO PASS AS AMENDED** Report of the Committee?

The Chair recognizes the Senator from Hancock, Senator Perkins.

Senator PERKINS: I request a Division.

THE PRESIDENT: The Senator from Hancock, Senator Perkins, has requested a Division.

Will all those Senators in favor of **ACCEPTING** the Majority **UGHT TO PASS AS AMENDED** Report of the Committee, please rise in their places until counted.

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

18 Senators having voted in the affirmative and 9 Senators having voted in the negative, the motion to **ACCEPT** the Majority **UGHT TO PASS as Amended** Report **PREVAILS.**

The Bill **READ ONCE.**

Committee Amendment "A" (H-381) **READ and ADOPTED,** in concurrence.

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 to Pass

The Committee on **LOCAL AND COUNTY GOVERNMENT** on Bill "An Act to Establish a Portion of the Boundary between the Town of Clinton in the County of Kennebec and the Town of Pittsfield in the County of Somerset" (H.P. 1111) (L.D. 1621)

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

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

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

The Bill **READ ONCE.**

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

The Committee on **TAXATION** on Bill "An Act to Exempt Veterans' Memorial Cemetery Association from Maine Sales and Use Tax" (H.P. 748) (L.D. 1071)

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

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

The Bill **READ ONCE.**

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

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 Establish a State Policy Relating to the Disposal of Low-Level Radioactive Waste" (H.P. 1141) (L.D. 1649)

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

House As Amended

Bill "An Act to Create a Cause of Action Against the State for Wrongful Imprisonment" (H.P. 171) (L.D. 205) (C "A" H-387)

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

Senate As Amended

Bill "An Act to Clarify the General Assistance Law" (S.P. 297) (L.D. 786) (C "A" S-272)

Resolve, Authorizing Continued Study of Information Processing in Social Service Agencies (Emergency) (S.P. 527) (L.D. 1422) (C "A" S-273)

Bill "An Act to Amend the Maine Certificate of Need Act to Correct Inconsistencies Related to Other Statutory Provisions and to Ensure Cost-effective Development of Services Requiring Acquisition of Major Medical Equipment" (S.P. 461) (L.D. 1264) (C "A" S-274)

Which were **READ A SECOND TIME and PASSED TO BE ENGROSSED AS AMENDED.**

Sent down for concurrence.

Senate At Ease

Senate called to Order by the President.

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

COMMUNICATIONS

The Following Communication: H.P. 1143

**STATE OF MAINE
OFFICE OF THE GOVERNOR
AUGUSTA, MAINE 04333**

June 12, 1985

To the Honorable Members of the 112th Maine Legislature:

I am returning without my signature or approval H.P. 1132, L.D. 1639, "An Act to Establish the Maine Vocational-Technical Institutes Administration."

There are two reasons why I can not approve this proposal.

1. In the early 1970's, Governor Curtis proposed, and the Legislature enacted a significant reform in the organization of Maine State Government. That law created several umbrella departments under which were placed the myriad of agencies, bureaus and committees which had previously operated almost independent of control by a Governor. The result of Governor Curtis' reforms is a system of governmental organization that is accountable to those elected and appointed officials charged with administering State government.

The proposal in L.D. 1639 for a separate agency to operate the Vocational-Technical

Institutes would reverse the wise movement towards accountability and would result in two departments with responsibility for vocational education. The existence of two departments with similar responsibilities can only weaken our ability to address the real needs of our citizens for vocational and technical education while needlessly increasing the costs for administering two duplicative agencies.

2. Last summer the Commission for the State of Education in Maine reported that there were management shortcomings in our vocational education system. Goals were not being set properly, personnel and fiscal practices were constrictive, and coordination was lacking. The Commission considered a variety of administrative alternatives to address these problems — including a separate VTI Board of Trustees — and concluded “that the State Board of Education presently had the authority to effect needed changes.”

This bill is designed to address the management problems the Commission found. However, it does so by choosing a solution explicitly rejected by the Commission.

This L.D. would set up a new government bureaucracy — complete with a Board and a staff and an office and a budget — in order to solve the problems of goals, administrative practices, and coordination. It is a costly, inefficient, and possibly counter-productive solution. Indeed, one thing State Government doesn't need is another new bureaucracy.

It would break the management continuity between the secondary vocational schools and the post-secondary vocational schools — thus making the systems even less coordinated and more fragmented that it is now.

It would reduce the amount of funds available for direct training activity, in order to pay for new administrative costs. This year the funds would be taken from Federal sources. In two years the funds would have to come from State sources.

According to Federal law, the State Board of Education is responsible for receiving and expending Federal vocational training funds. If a new Vocational Board were to be set up, it would still have to apply to the responsible body — the State Board of Education — in order to receive any Federal support. So rather than streamlining administrative procedures, as everyone agrees is needed, this bill would add new paperwork and delays into the system.

There are management improvements which must be made to the vocational education system in Maine. The Department of Education and the State Board of Education have identified how to make some improvements, and are in the process of making further recommendations. The approach they suggest is incorporated in L.D. 1645, “An Act Relating to the Administration of Vocational Education.” A prudent approach in this situation would be to wait and see how the improved system within the Department of Education works out. If it doesn't work, a more drastic solution, such as setting up a separate Board, could be reconsidered.

The recommendation to set up a separate Vocational Education Board is premature, expensive and inefficient. For these reasons I veto this bill.

Sincerely,
S/ JOSEPH E. BRENNAN
Governor

Comes from the House **READ** and **ORDERED PLACED ON FILE**.

Which was **READ** and **ORDERED PLACED ON FILE**, in concurrence.

The accompanying Bill, “An Act to Establish the Maine Vocational-Technical Institutes Administration” (H.P. 1132) (L.D. 1639)

Comes from the House with the following endorsement.

In House, June 12, 1985, this Bill having been returned by the Governor, together with his objections to the same pursuant to the Provisions of the Constitution of the State of Maine, after reconsideration, the House proceeded to vote on the question: ‘Shall this Bill become law notwithstanding the objections of the Governor?’

119 voted in favor and 25 against, accordingly it was the vote of the House that the Bill become law, notwithstanding the objections of the Governor, since two-thirds of the Members of the House so voted.

S/ EDWIN H. PERT
Clerk of the House

Which was **READ**.

The President laid before the Senate the question:

“Shall this Bill become law, notwithstanding the objections of the Governor?”

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

Senator **KANY:** Thank you, Mr. President. I move that this Bill be Tabled 1 Legislative Day, pending **CONSIDERATION**.

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

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

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

Will all those Senators in favor of the motion of the Senator from Kennebec, Senator **KANY**, that this matter be **TABLED 1 LEGISLATIVE DAY**, please rise in their places until counted.

The Chair recognizes the Senator from Washington, Senator Brown.

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

THE PRESIDENT: The Senator from Washington, Senator Brown, 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 in order.

Senator **BROWN** of Washington requested and received Leave of the Senate to withdraw his motion for a Roll Call.

The pending question before the Senate is the motion of the Senator from Kennebec, Senator **Kany**, that this matter be **Tabled 1 Legislative Day**, pending **Consideration**. A Division has been requested.

Will all those Senators in favor of the motion of the Senator from Kennebec, Senator **Kany**, that this matter be **Tabled 1 Legislative Day**, pending **Consideration**, please rise in their places until counted.

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

16 Senators having voted in the affirmative, and 17 Senators having voted in the negative, the motion of the Senator from Kennebec, Senator **KANY**, that this matter be **TABLED 1 LEGISLATIVE DAY**, pending **CONSIDERATION**, **FAILS**.

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

Senator **BROWN:** Thank you, Mr. President and Men and Women of the Senate. What you have before you of course is the Governor's statement in regard to the VTI issue which we have discussed at length in this Chamber. I would hope today that you would sustain the Governor's position.

This year the VTI's have received a great deal of attention in the State Government Committee and the Education Committee. Both of those committee's have worked very hard to try to make sure that the various concerns that were pointed out by the Special Commission

on Education last summer have been addressed. Both committees have worked very hard to see that those were addressed. What we have before us at this time is essentially a competing measure. We have the measure that has been tabled by the other Body, we have the issue that the Governor has vetoed presently. We could place the VTI's in a worse position then they are currently in, but I have asked before and what I ask you again to consider is very carefully the words that the Governor has stated in his message is to take this more conservative approach, give the State Board of Education the opportunity to correct the concerns which I might say were articulated quite well in the editorial in today's Bangor Daily. Give the State Board the opportunity to correct those concerns, if in fact they do not do that in the next Session, we will at that time take up this more drastic measure.

I would urge you instead of taking this very dramatic and drastic overhaul of the system to take the more conservative approach and lets deal with it in that fashion. Thank you Mr. President.

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

Senator **PEARSON:** Mr. President and Ladies and Gentlemen of the Senate and whoever else may be listening, particularly on the second floor. The VTI issue is something that bothers me a great deal. I will be voting to sustain the Governor's veto, however, I don't think that this issue would have gotten this far if proper financing had been addressed for the VTI's over the last several years. It has been almost totally neglected. The programs this year in the VTI's for next year would not be in existence, virtually, probably 25% of them if it wasn't for the Appropriations Committee's action this year.

It goes back a long, long time on the Appropriations Committee. We have always been, I am proud to say, the ones who have been the advocates of the VTI's and that includes members of both parties, the Republicans and Democrats on that particular Committee. We have had to drag it out of the Department of Education, we have had to insist that it be properly financed. Programs have suffered, equipment is abysmal, we are suggesting on our own initiative from our own Committee a bond issue for VTI equipment because in many of the VTI institutions around the State they are operating on equipment that is World War II type of equipment. We have found out the problems of the VTI's primarily from the directors of the various institutions themselves and not from the Department of Education.

I think it has gone on long enough and I do appreciate the fact that this one idea of how to address that. I do think that the Education Committee should be given an opportunity to complete its work and the Audit Committee the following year. So I will vote to sustain, but I think many of the problems that we are hearing here today on this particular veto are caused by the Executive Department's failure to address this over the last decade.

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

Senator **KANY:** Mr. President and Senators. I haven't really had a chance to fully digest the Governor's veto message, but a couple of items do stand out.

It is interesting to note on the message that 119 voted in favor and 25 against voting to override the veto in the sponsor's Chamber.

The Governor seems to focus in on two things. One is that he prefers umbrella departments instead of segregating certain areas out from within an agency. And, I would like to point out that at least twice in Governor Brennan's term of office as Governor that I know I have voted and I am sure a number of you have voted along with the Governor at the

Governor's urging to create a Department of Corrections for instance, to take that out of the Department of Mental Health and what was Corrections, because it seemed to be appropriate to do so and I have heard no one suggest that that be placed back within that umbrella agency.

The second department had to do with the Department of Personnel. There were a couple of offices that often conflicted and we streamlined the personnel system even though it still has problems as any state personnel system does, but I do think that has been an improvement to create the Department of Personnel. Often we can combine and that is the appropriate thing, but sometimes there is an overriding reason for separating something out and I think that is the case here. It is the case because our post-secondary Vocational-Technical Institutes simply are too important to the State's economy and to the State's future and to the State's citizens to have to share the energies and efforts of a single commissioner who also has to administer our entire educational system of kindergarten through twelfth grade, and have to share the energies and efforts of our State Board of Education which is also responsible for helping the communities attempt to deal with the education basics for a couple hundred plus thousand children of the state. I think that is important to remember.

Secondly, the Governor talks about studying and prudent action and I just wanted to quote a tiny bit from a 1966 study, the Cole Study. We have had many studies over the years. Way back in 1966 about twenty years ago, a couple of quotes on the findings. "The increasing demands on the State Board of Education and the State Department of Education for the improvement of elementary and secondary education will make it difficult for them to give at the same time the much needed attention necessary to ensure the improvement of public higher education in Maine." Also in 1966, "The effect of automation and mechanization will eliminate jobs for the unskilled and inadequately educated young people coupled with the changes in Maine's economy and new employment opportunities, automation will increase future demands for higher education in Maine." Also in 1966, twenty years ago, "there is confusion in vocational and technical education, but there is no clarity as to the goal of post high school technical and vocational education and no coherent recognition of the social industrial needs of the State," etc. There are many, many quotes, I could continue. Another one, 1966 Coles Report. "Industry will need encouragement to expand in Maine, but the absence of strong technical programs is a hindrance to economic growth." Over the years we have many, many studies, many individuals have pointed to the fact that we need to train our individuals so they can compete in this changing economic world.

We had a fairly short debate on this issue before and the Senate voted to, actually during discussion and passage to be engrossed, and at that time some facts came forth. One was that 3,000 applicants for post secondary vocational technical institutes were actually turned down, turned away. I think that is really a shame because somebody might be turned down as an applicant to college and perhaps they can find another college where that education is available to them, but as far as vocational technical training it means generally they simply don't get that. We also learned that Maine is at the bottom of the list when it comes to the percent of our high school graduates that go on to post secondary education and perhaps this is one reason why. If we turn away 3,000 people, certainly that has to effect why some of our secondary graduates cannot go on and get further training at that time.

I just want to remind you, also, about the

very cumbersome government structure within the Department of Education and you really have to go way down within the Bureau of Vocational Education where there are three other divisions before you even find the Vocational-Technical Institutes and it really is very hard to trace a line from Governor and get down to the Vocational-Technical Institutes. You simply can't get there from here, it is literally impossible to get there from here. No wonder the Appropriations Committee has had to be the primary advocate. This system is simply not working properly and I really hope that you do override the Governor's veto.

Our Governor has basically done a wonderful job regarding economic development, I know he cares deeply about the young people of the State and their future and I just really feel he has listened too much to his fine Commissioner of Education who does a very good job in many areas. But we simply need to do something. We need the flexibility to respond so that the curricula can be changed so that people can be trained to meet the industries needs, to meet labors needs and to meet the systems needs. I would hope that the VTI's would finally be able to keep that tuition instead of having to put it in the General Fund because presently there is no incentive for good management within the VTI's and there is no incentive to train additional students.

I hope you do go along and vote to override this veto. I think it is something significant, I think this is something we can really do to help our citizens and meet their needs in attempting to become trained so they can have good jobs in the future.

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

Senator TUTTLE: Mr. President and Members of the Senate. I don't want to belabor this issue, but I, up until a few minutes ago, was undecided on how I was going to vote on this issue. I voted for the Bill when it first came and I have supported it everytime it has come back, but I will vote to sustain the Governor's veto.

I received and many of you have received an editorial from the Bangor Daily News and some of the things it brings out I think are very important and I would like to share it with you. "Most state officials agree that reforms need to be made so that the State's six Vocational-Technical Institutes will have more flexibility to start new courses in response to Maine's economic needs, but the sticking point is why the VTI's need to be uprooted to accomplish that change."

It goes on to say that "the VTI's are now smothered under a multi-layered bureaucracy consisting of the State Board of Education, the Department of Education, the Department of Personnel, the Department of Finance and Administration and the Governor's Office. The flexibility problem, however, if caused by bureaucracy's ability to assign the VTI's to a higher priority. Given the VTI's independent status would probably change their form of links and that State's vocational high schools and regular public high schools. This link is crucial to avoid duplication. A second risk is a separation is that the VTI's will become the object of political controversy like the University of Maine system whose funding remains in question year after year. Governor Brennan already has said he is committed to giving the State Board of Education more control over the VTI's within the current structure. The Board is committed to study to determine how best to overcome the obstacles of the VTI's. The VTI's are something it says here like "motherhood and apple pie," but when it comes to insuring their effectiveness the State often has been slow to move. These competing bills and the attention they have attracted are evidence that the officials finally are interested

in taking serious action. Instead of overreacting with the reform measure, it actually could do more harm than good. Lawmakers should take a cautious route then if the State bureaucracy fails to address the real needs of VTI's more radical action can be taken."

This is pretty much my sentiments on this issue. I think its time will come, I am voting to sustain the Governor's veto and I hope you will too.

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

Senator VIOLETTE: Mr. President and Ladies and Gentlemen of the Senate. Briefly, I too would hope you would vote to sustain the Governor's veto with respect to this particular piece of Legislation.

My reasoning is somewhat different from some of the others that have spoken on this issue on either side of the issue. I have always believed and I too have served as Chairman of the Committee on State Government, that Committee which generally considers proposals to cut up departments or to create new departments and I have always believed fundamentally in the concept that like issues, like matters, ought to be handled from within the same organization and the primary reason for that is, quite frankly, coordination and I think that goes to the issue here. I have always felt and I have generally been opposed to the divisions, the breaking up of the departmental system which we have created under the Curtis Administration which took together a fractured system, autonomous agencies and divisions which had no answer and which did not answer to one another and acted on their own. It brought these together and for good reason. It brought them together so that there could be coordination amongst the various like entities. It brought them together so that their could be overall management, and I believe that this is exactly that issue. The Commission on the Status of Education in Maine from whence we took many of the recommendations and we have implemented many of them, also reviewed this very area and recommended that a separate VTI board of trustees and the like not be implemented.

I would hope that instead of overreacting, in my opinion, that we would allow the reforms that have been proposed by the Committee on Education to be implemented and that during the course of the next year or two as those reforms work their way through this system and we see what in fact occurs at that time, we will be able to assess whether or not such a dramatic step as this is actually necessary.

So I would hope that you would join with me this evening in sustaining the Governor's veto by voting no.

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

Senator ANDREWS: Thank you Mr. President, Mr. President and Men and Women of the Senate. As a cosponsor of this piece of legislation and as a member of the State Government Committee, I hope you will bear with me as I speak as briefly as I can on this issue.

I was not here for the original debate on the issue and I would simply like to express my sentiments. Obviously, there has been quite a bit of work done on this Bill and I am certain there is quite a bit of pressure on some of you to reconsider the stand that you took originally on this Bill when we enacted it.

I would like to address some of the concerns that were spoken here on the Floor this afternoon and also written by the Governor in his veto message. The key point I would like to raise and address is the question of coordination. It is true we would like to promote coordination, but what is important here is to look at coordination with whom. That is the question, coordination with whom?

Now, there is two basic ways you can look

at this issue. As a matter of fact when we debated where this Bill was going to go originally, it was quite interesting because the question was, do we look at this as an issue within the education bureaucracy or do we look at it as an issue of economic development, an economic development policy in the State? If we look at this issue from the perspective of the education bureaucracy, then the answer to the question of coordination is fairly simple. Yes, lets keep vocational education within the education bureaucracy so we can promote coordination. But if you look at it from the perspective, if you look at this issue, the issue of vocational education, not from the perspective of a bureaucracy but through a perspective of economic development in the State, then the answer to the question of coordination is quite different because the concern is less with the bureaucracy and obviously those people who are in charge of this bureaucracy want to keep this bureaucracy intact clearly and I understand that and appreciate that. The Governor is backing his people up and I can understand that too, but we don't work in that bureaucracy and our fundamental goal, I think, is not to promote and defend a particular bureaucracy and promote and defend coordination within that bureaucracy as an ending in itself. Our goal is to promote, I think, first a foremost economic development and prosperity in this State and to use the tools we have in state government to meet that goal.

Now, when the Governor talks about two departments with similar responsibilities, I believe that vocational education is more similar to, lets say other institutions of higher education like the university system than it is with, lets say, primary education or the arts. We are talking about post secondary education.

When I served on the Taxation Committee there were lots of discussion about economic development and the business climate in Maine, and there are many allegations about what are the major causes that promoted economic development, that supported businesses that were here in the State or attracted businesses that were considering coming into the State.

There were many claims and allegations so we studied the issue and we asked what are the primary factors, some of the most important factors, that underlie economic development in the State of Maine. When all the rhetoric is taken away what are the facts and we looked at several studies of this issue and we found study after study after study, that the quality and the availability of our workforce was the top consideration or near the top consideration in every single study. Tell us about the workforce, tell us about their availability. We talk about the economic development strategy for Maine. If in fact as these studies show, the workforce in Maine is our number one asset and our number one resource for economic development. Shouldn't we be coordinating that resource with those people who are in the forefront of economic development in Maine?

What this proposal is calling for, what our Bill that this Legislature has enacted is calling for, is to sit down with those leaders of business, of industry, of labor, and of education and coordinate those economic development goals with the primary resource in the State, namely our people. Not only for young people who are going through the system, but for those workers and remember the average age of students in this type of vocational education is twenty-five years old, that is the average age. We also have to consider those individuals who have been thrown out of work because of a failing industry and because of the need to address that industry and a changing economic climate. If that industry is going to consider retooling, redeveloping itself, we have to have the capac-

ity to retrain those workers so they can redevelop themselves and learn new skills so we can continue to keep those people at their jobs.

All this requires is coordination, but not with third grade, second grade, first grade, kindergarten or the arts. Coordination with those of us who are involved in the economic future of this State and tiny decisions which are going to determine the kind of economic climate that we have in the State of Maine. That is the thrust behind the proposal and the bill we have enacted.

I understand and appreciate the need for coordination of government, absolutely, but I think when it comes to the new frontier that this State is facing, the new frontier, the new challenges we are facing in economic development and jobs, we have got to understand that we can't sit back on our laurels, we have to look ahead and we have to plan for the future and as we plan for the future we have got to put the people of this State first and foremost in that planning process and first and foremost in our consideration for that economic development future. The best way to do that, and by the way, of course another thing we hear around this Chamber a lot is sending the right message to business and industry and to our workers. I can't think if I am choosing between the two proposals that we have, waiting and looking at as we have for the last several years, the education bureaucracy and how we can perhaps change this patchwork quilt that we have, perhaps put a bandaid here or a bandaid there. Looking at that choice and then just opposing the choice of aggressively setting out a vocational education system that is linked with economic development in the State then that second choice, the Bill we have enacted in this Chamber and the Bill we are considering today gives the kind of statements and message to business and industry and labor that I think we should be sending out in this State.

There are many, many points that have been brought up in the discussion, in the debates and I'm not going to go over the technical points and the specifics. The good Senator from Kennebec, Senator Kany, I think has handled that quite well. I think that when we consider this vote and I would hope that those of you who have supported this in the past will stick to your guns on this issue, that when we think about coordination we think about it not from a bureaucratic point of view, we think about it from the point of view of our people and economic prosperity in the State and if we do it from that perspective then the best coordination we could possibly receive is establishing this new administration. Thank you.

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

Senator **BROWN:** Thank you, Mr. President and Men and Women of the Senate. I'd like to commend the good Senator from Cumberland, Senator Andrews, for the comments he has made this afternoon especially in regard to economic development and the fact that it is a very great priority to all of us in this Chamber and all of us that serve in any capacity within government in the State of Maine. But I do take some concern with his comments about the purposes of the Vocational-Technical Institutes.

Ladies and Gentlemen of the Senate, the purpose of those institutes, like the purpose of the University or the purpose of any other educational institution of this State is to educate our people, that is the purpose of this, its not just to train them for a job. The good Senator would lead you to believe that economic development and training a person for a specific job is the one major goal of the Vocational-Technical Institutes, and may I remind the good Senator we offer English, Psychology, Social Studies, Sociology, and a number of other things from

Vocational-Technical Institutes in addition to training them for a specific job.

The thrust he has given this afternoon in terms of economic development I won't argue with and I dare say there is no one in this Chamber who will argue with him, but I do argue very much with the fact that he and the Committee that has worked on that specific proposal has couched every single thing dealing with Vocational-Technical Institutes in terms of economic development.

Sending out the right message to the industries of this State and to the Country. The message is being sent out this afternoon on workers compensation, the message is being sent out when we changed the minimum wage. All kinds of messages are sent out and the message that is going to be sent out by our action here today and by the action of the Special Commission that worked last summer on all of the educational reform that we are dealing with in this Legislature, all the other reforms we have been dealing with in Committee this year, that Special Commission that was set up looked at all the different varieties of the ways to address the concerns of the Vocational-Technical Institutes. They looked at setting up a separate department, they concluded after a great deal of deliberation that the best approach would be to get into the State Board of Education the necessary tools they need to take care of the problem and that is precisely what we have tried to do in the other measure.

Ladies and Gentlemen don't be fooled by this idea that the VTI's are strictly and only to create jobs for the industries of this State. It's to educate our people — that is what its for. Thank you.

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

Senator **PERKINS:** Mr. President and Ladies and Gentlemen of the Senate. Speaking as a Senator from District 12 and as a cosponsor of this piece of Legislation, I am interested in the remarks of the good Senator from Penobscot, Senator Pearson, and also from the good Senator from Washington, Senator Brown, as we both sit on the Appropriations Committee year after year and watched the requests for funding come in and it seems that the VTI's were a third or a fourth cousin of the Department of Education. I think the new commissioner has set about to make some of these corrections, but we still again, this year, without the help of the Appropriations Committee, would have had an inadequately funded VTI system and I think this is woefully wrong.

We are speaking of post secondary education. The University of Maine system has an autonomous budget and growing and increasingly growing, the numbers are closing. It would appear that we have close to 18,000 people in our VTI system at this time. 13,000 of them are part time people who are readjusting their lives to meet a present need for occupation and this is where the flexibility of the VTI system comes into play and this is where I think we need people who adjust their lives full time to addressing a VTI system rather than having and being a part of a department.

There are several problems with it, one of them is communication. Were the communications adequate this situation would never have developed, but until we have an autonomous group that can present itself and present its budget the way some 17,000 of our post secondary people deserve, we are relegating them to a second-hand utilization of variety that I don't think any of us want. While I have in the past been on both sides of separation of the departments, I think the good Governor and I, when he chose to separate the Department of Corrections from the Department of Mental Health, on the first occasion I opposed this move because I felt it was a little pre-

mature. I believe on the second time we came to concur that perhaps the time had come. So I cannot profess to always having been for or always to having been against one form of separation or another.

I can only speak to you today of experience and the experience of watching the inability of our Vocational-Technical Institutes to get the adequate funding that I think they deserve. While I think on different occasions we have agreed or disagreed, I urge you today that perhaps now is the time to address the needs of the many people in our post secondary education system who don't have for themselves this great lobby who profess to work for them. Let's give them the chance to have one system working directly for their needs, then lets see how that works.

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

Senator **HICHENS:** Mr. President and Members of the Senate. I spoke on this issue quite a lengthy time when it was originally before us and I am not going to repeat the things I addressed at that time.

I would like to share with you a letter that was put on your desk last week and which many of you may have read and since reading it have forgotten. From the Maine Advisory Council on Vocational Education addressed to the Members of the 112th Legislature. "As Chairman of the Maine Council on Vocational Education, I wish to inform you that it was the unanimous vote of the Council on May 30th to support the bill creating the Maine Vocational-Technical Institute Administration. The Vocational-Technical Institute system is the only one of the three publicly funded systems of higher education that is located within the Department of Education and Cultural Services. As such it is subject to all the requirements of any state agency. Control is fragmented. The VTI's are responsible to the Department of Personnel, the Department of Finance and Administration, the Department of Educational and Cultural Services and the Bureau of Vocational Education and the State Board of Education.

"Good management requires good accountability and the best use of resources. To do this it is essential that one board be given responsibility to the VTI system. That board must have authority over its finances and its personnel. This is not possible under current circumstances. As a policy advisory board we have been studying the vocational educational system at both the secondary and the post secondary levels for fifteen years and have seen the need for the above changes."

In my previous speech I mentioned having attended the conference on education and labor in South Carolina back in February, in which we were told that eighteen states have separate VTI administrations, which have proved to work much better than had educational departments. I believe the same can be accomplished in the State of Maine. I hope you will vote to override the veto.

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

Senator **GAUVREAU:** Thank you Mr. President, Men and Women of the Senate. I must be candid with you. This issue has caused me a great deal of distress.

I represent a region of the State which solely relies on a lean and efficient and well financed vocational training institute for its economic survival. I would agree with many of the remarks offered here this evening that the VTI's have been sorely underfunded and ignored and there is no justification for that whatsoever. Many people in my community are ready at this time to stake out new ground and set up a separate and new department of State Government to deal solely with the issues of

the VTI's.

I am hesitant at this point and with some reluctance, I am going to vote this evening to sustain the Governor's veto, however, like many of you I suspect, if the reforms which we hope will accrue as a result of a subsequential measure, L.D. 1645, if they do not come to fruition I will be the first sponsor of a legislative measure to in fact set up a separate, an autonomous VTI system.

I think we have to be cognizant in many factors and not just the imperative streamline and accentuate the significance of the VTI system as it has been so well articulated by the good Senator from Hancock, Senator Perkins, the Senator from Cumberland, Senator Andrews. There are many other factors. We would, if we vote to override, set up a new department of State that will be going in a direction directly opposite that which was realized in the early seventies when we adopted the recommendations of Governor Curtis and streamlined State Government into twelve basic departments. We will also be really doing substantial injustice, I think, to the whole notion of coordination. I know there has been some discussion on that, but I must share with you my concerns.

If I had my way we would have one State Board of Education which would oversee all other aspects of education in the State, the University, the Maritime Academy, VTI's, K-12. That is not the case. If we vote to set up a separate and distinct department, the vocational training, at this point we will be separating the vocational training institute system. We will have the post secondary VTI's in this new grant or new department of government and we will have the secondary aspect of vocational training still under the auspices of the Department of Education and the State Board. I think that will in fact, be productive. Now I recognize that the vehicle which the Committee on Education is suggesting may not in fact address all the concerns we have, but the most prominent of the concerns which have been expressed, that of having a separate and distinct lump sum budget which will stand on its own before the Appropriations Committee, allowing the VTI's to transfer funds and transfer personnel between training institutes, and establishing more visibility for the VTI's, to take them out of what has been classified as second or third-class citizenship. Those factors and those concerns are addressed in L.D. 1645, the Education Committee Report. I suggest that we sustain the Governor's veto this evening. I think we have accomplished our purpose, I think we have made it know very clearly that we will not tolerate further delay in adopting a meaningful reform of the vocational training institutes system. I think if we don't do this we will have acted prematurely.

One final note on coordination. I was a cosponsor this year on a bill that dealt with setting up a system for gifted and talented children throughout the State of Maine. It became painfully apparent that as we moved to adoption of that measure there was a real problem with coordination now, coordination between the University system and K-12. We in the Committee on Education recognized there was a crying need to expand the availability of gifted and talented programing for our State's children and yet the University system wasn't producing teachers with the expertise and the background in that discipline to teach in the elementary system. Clearly if we go at this time to set up a separate VTI system, we may be as the good Senator from Washington suggests, exasperating this lack of coordination. It is for this reason and this reason alone that I this evening am going to vote to sustain the Governor's veto. Thank you.

THE PRESIDENT: The pending question is: "Shall this Bill become law notwithstanding the objection of the Governor?" According to

the Constitution, the vote will be taken by the Yeas and Nays.

A vote of **YEA** will be in favor of the Bill. A vote of **NAY** will be in favor of sustaining the veto of the Governor.

Is the Senate ready for the question?

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

ROLL CALL

YEAS:—Senators, Andrews, Berube, Black, Dow, Emerson, Erwin, Gill, Hichens, Kany, Maybury, McBreairty, Perkins, Sewall, Shute, Stover, Usher, Webster

NAYS:—Senators, Baldacci, Brown, Bustin, Carpenter, Chalmers, Clark, Danton, Diamond, Dutremble, Gauvreau, Matthews, Pearson, Trafton, Tuttle, Twitchell, Violette, The President — Charles P. Pray

ABSENT:—Senator Najarian

17 Senators having voted in the affirmative and 17 Senators having voted in the negative, with 1 Senator being absent, and 17 being less than two-thirds of the members present and voting, the veto was **SUSTAINED**.

ORDERS OF THE DAY

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

Bill "An Act to Improve the Workers' Compensation System and Reform the Rate-making Process" (H.P. 1127) (L.D. 1634) (H "C" H-394; S "C" S-219)

Tabled—June 12, 1985 by Senator **VIOLETTE** of Aroostook.

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

(In Senate June 12, 1985, the Majority **OUGHT TO PASS IN NEW DRAFT** Report **READ** and **ACCEPTED**, in concurrence. House Amendment "C" (H-394) **READ** and **ADOPTED**, in concurrence. Senate Amendment "C" (S-219) **READ** and **ADOPTED**.)

(In House June 12, 1985, **PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "C" (H-394)**.)

On motion by Senator **CHALMERS** of Knox, the Senate **RECONSIDERED** its action whereby it **ADOPTED** House Amendment "C" (H-394).

On further motion by the same Senator, Senate Amendment "A" (S-279) to House Amendment "C" (H-394) **READ**.

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

Senator **DUTREMBLE:** Mr. President, a point of inquiry. Would we have to Reconsider Senate Amendment "C" (S-219) before we take any action on this Bill?

THE PRESIDENT: The Chair would answer in the negative.

Senator **DUTREMBLE:** I now move Indefinite Postponement of Senate Amendment "A" (S-279) to House Amendment "C" (H-394).

THE PRESIDENT: The Senator from York, Senator **DUTREMBLE**, moves that Senate Amendment "A" (S-279) to House Amendment "C" (H-394) be **INDEFINITELY POSTPONED**.

The Chair recognizes the Senator from Knox, Senator Chalmers.

Senator **CHALMERS:** Mr. President, I would apologize to the Senate for this late hour and I am learning the procedure. I would speak briefly to this amendment.

This is, indeed, the good Senator from Aroostook, Senator Carpenter's amendment to my amendment before which you voted on. We discovered that Senate Amendment "C" which I had previously offered and which you so generously had adopted contained language which was in conflict with House Amendment "C" and if you look at House Amendment "C" on page 9 and then on page 10 you will see that this Senate Amendment "A" to House Amendment "C" fits in much more closely than my

previous Senate Amendment "C." This amendment, let me just say it exclusively, this amendment states the "Commission or Commissioner in any proceeding brought or defended in good faith and upon reasonable grounds may assess," excuse me I just have to read my a's and b's and c's to make sure I am right, "may assess the employer costs including transcript costs, medical evaluation costs, or witness fees when those costs in the Commission's judgement or the Commissioner's judgement were necessary to the proper and expeditious disposition of the case."

You will remember that is what I had said before earlier this afternoon. What is new on this is, let me continue, "costs do not include cost for telephone, copying and travel by the employees attorneys." The last line in this Statement of Fact which has just been delivered to you states "This amendment provides that experts but not the lawyer, may be paid if the case is brought or defended on an honest and reasonable basis even if they, the worker, does not prevail."

Again, I ask you to defeat the measure to Indefinitely Postpone this Senate Amendment "A" to House Amendment "C" because this provides for costs, it doesn't provide a penny for the poor attorney. Thank you.

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

Senator **CARPENTER:** Mr. President, a Parliamentary inquiry. If we accept this amendment, what then is the status of Senate Amendment "C" (S-219) which I believe was adopted earlier by this Body?

THE PRESIDENT: The amendment, if the Chair understands the inquiry of the Senator from Aroostook, Senator Carpenter, correctly, the answer is that the amendment has been adopted.

Senator **CARPENTER:** A further inquiry, Mr. President. As I understand it, that is in direct conflict with this amendment.

THE PRESIDENT: In response to the inquiry, the Chair believes that the Senator from Knox, Senator Chalmers, will be moving Reconsideration after the adoption of this amendment and correcting the concerns of the Senator from Aroostook, Senator Carpenter.

Senator **CARPENTER:** Mr. President and Ladies and Gentlemen of the Senate. I realize the hour is late and the day has been long. This amendment is the one I spoke of as we debated this earlier. It simply clarifies and I thought it was clear under the old amendment, Senate Amendment "C" (Senator Chalmers), that attorneys costs were not involved, attorneys fees are out elsewhere. We are not talking fees, now we are only talking costs. I thought the old amendment made it clear separating lawyers costs and non lawyers costs, but there was some concern expressed here that that was not explicit enough. I believe it is now explicit.

In this refined, if you will, Senate Amendment "C," costs do not include costs for telephone, copying or travel by the employees attorney. I want to make that very, very clear. All we are talking about are the costs of medical reports, depositions, whatever. If I, in my office, make a phone call to Caribou to Phil Bennett the Court Reporter and say "I need to depose Dr. Housted in Houlton on June 12, 1985, can you be available? Yes I will be there. I'll check with the doctor and if he is available, get it all set up." My costs involved in setting up that deposition I eat. The cost of the deposition itself, i.e., the court reporter, would be borne in this case.

I ask you to back away from what I know is a hard fought compromise, a tough battle and I compliment the Senator from York, Senator Dutremble, for all his hard work, Senator Tuttle, Senator Sewall, the members of the Committee, they worked hard. But I just feel we have got to leave, we have got to take some of

the chill that the Senator from Knox, Senator Chalmers talked about, we have got to take some of that chill away because a truly injured worker with a case that is the least bit complicated is going to have a very difficult time finding an attorney willing to swallow the costs, the attorneys costs, the attorneys time and all the rest that an attorney puts into it. Fine, I am hoping they can do that and I am trusting in the system they will be able to find the attorneys. However, outside of the attorneys you have a different issue, another issue and that is who is going to pay the cost of the medical reports, the cost of deposing the doctors, the witness costs? Who is going to pay for those? You chill it even further if you don't allow that to be borne.

I would ask that you oppose the motion and Mr. President I request the yeas and nays.

THE PRESIDENT: The Senator from Aroostook, Senator Carpenter 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 in order.

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

Senator **DUTREMBLE:** Mr. President and Members of the Senate. I think it is very important to point out one more time that if the employee prevails all costs will be paid for, every single penny. It is only in the cases when the employee does not prevail that the employer should not be burdened with the costs and that is the only fair way to do it. Why should an employer lose when he wins the case. That is what we are asking here, its the only legal proceedings in the State of Maine that this occurs.

I also understand that the Social Security Disability, SSI, the attorneys fees are paid the same way as we have drafted our package concerning the attorneys. If I am mistaken you might want to correct that, but I understand that if the employee prevails or the injured person prevails he gets his attorney paid, if not, he has to take care of his own attorney. It has already been done in some even in the SSI area.

One point I want to point out on the amendment it says may assess the employer costs including transcript costs, medical evaluation costs, the witness fees and so on. I think you should know that currently in Maine law that same sort of language addresses attorneys fees. The Commission may assess attorneys fees and you know what has happened with attorneys fees in the State of Maine in the last ten years, they have gone out of sight. Now we are using the same language for costs. We know what is going to happen with "may assess", they are all going to get paid, history has proven it. Whether it is in good faith or not the track record on the Commission has proven that. That is what we tried to address and I think we have in the Committee Bill.

I would hope that you would Indefinitely Postpone this Senate Amendment.

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

Senator **GAUVREAU:** Thank you Mr. President, Men and Women of the Maine Senate. I would like first of all to respond to the inquiry by the good Senator from York into the status of costs and witness attendance fees and the like in conjunction with Social Security claims. I would point out that under the system we have now under Federal Law, Title 42, the Social Security Administration orders and pays for all medical reports, when a claim is filed the Government has the claimant examined at

the Government's expense and those reports are readily available to the claimant or his or her attorney. I would also point out that the Government does subpoena and have available at hearings physicians, and their bills are paid for by the Government. That situation definitely does not obtain, will not obtain if L.D. 1634 is adopted.

I might also point out I realize that the attorney fees issue is an inflammatory one and I personally support the deletion of attorney fees in cases when the employee does not prevail. But it should be pointed out that in point of fact the overall expenditures in a workers compensation system, attorneys fees from my understanding in discussions with the Commissioner's office are in the area of one and a half to two percent so I think that everything is relative and eighty percent as I pointed out earlier, eighty percent of the funds, the monies go to that narrow class of individuals who are out on permanent/partial injuries. That is an area that will have to be addressed if we hopefully at some point move to mandatory rehabilitation.

With respect to this specific issue, the good Senator from Aroostook is absolutely correct, if we allow insurance carriers to come in to review benefits, to review claims, there will be a chilling effect upon employees in their efforts to secure competent legal representation. The employer, the insurance carrier can on a routine basis command review benefits, depose witnesses, secure transcripts — clearly it will be a one-sided situation and that is what we are talking about.

I commend the good Senator from Aroostook, Senator Carpenter and the good Senator from Knox, Senator Chalmers, for their efforts to even clarify further that the only thing we are talking about here in terms of reimbursement is simply witness fees, transcripts, and doctors report fees.

For these reasons I would urge this Body to retain the amendment we adopted this afternoon and defeat the pending motion for Indefinite Postponement. Thank you.

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

Senator **CARPENTER:** Mr. President and Ladies and Gentlemen of the Senate. Earlier this afternoon the Senator from Cumberland, Senator Diamond, was angered by something that was said on the Floor and I understand now his sense of frustration.

I would ask and plead and beg with the people on the other side of this issue not to draw the red herring of attorneys across this issue. That was the purpose of our standing around here for two hours so I could draft the language which I didn't think needed to be drafted. I thought it was clear, but to solve the concerns of some of the people in this Chamber to take attorneys explicitly out of it, that is what this amendment does. To stand on the Floor of this Senate and to say that the attorneys are being paid attorneys fees is a red herring. The filing number of this amendment that we are considering now is 279, please read it.

The Senator from York, Senator Dutremble, asked a question of what about Social Security. Well, Senator Gauvreau answered part of the question. The Senator from York, Senator Dutremble, said well we have got this system right now for attorneys fees. Back to attorneys fees again. I'll tell you how it works on Social Security. When I win a Social Security case they take a nice big 25% pot and set it aside and that is what I have to justify my existence to and that is eligible for me. That is called modified Contingency Fee Agreement which is not in here, that is why no attorneys are going to take these cases and certainly they are not going to touch these people if the attorney or the injured worker who has no money, has

to upfront all these medical costs.

The Senator from York, Senator Dutremble, says you know what happens now if the costs are just and reasonable. That's not what the law says, the law says your attorney is paid for as long as the case is brought in good faith. We have given the Commissioners the discretion if they find any reason.

To give you a hypothetical, you go to three doctors, you go to two doctors and they say your injury is not such it should prevent you from work. You go to the third doctor. I would certainly say that the Commissioner should say no fees — not brought in good faith. That is what we are talking about here, we are talking about medical fees. I'm not a medical doctor, I don't know how I keep getting into this. As the attorney, I don't know how I keep getting dragged back into this. It is very clear, that is out of the Bill. I have already told the Senate that I do not disagree with that decision to take the attorneys out. I'll still take the cases, but I can't begin to touch a case where the insurance company is going to be able to put on expert after expert after expert and my guy is sitting here with nothing, not a dollar coming in and in my area probably working minimum wage. He hasn't got the money in the bank to go out and hire countering experts, no case. Clearly injured lets say, no case. That is what you have if you don't accept this amendment. Thank you.

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

Senator **DUTREMBLE:** The good Senator from Aroostook, Senator Carpenter, talks about red herring. I am going to talk about red flags. I am sure you all read the newspaper this morning, Maine's business climate dropped from 37 to 46th and I guess some of you can look at that and ignore it, but I can't.

I am not going to stand here and say that workers compensation is the only reason for that. Obviously it isn't, but obviously it is one of the reasons stated. That is why the business climate in this State is so low and one of the red flags in the workers compensation, are attorneys fees. I won't mention fees, lets just talk about costs. Senator Carpenter keeps saying keep the attorneys out of it, well I can see that maybe he wants to keep the attorneys out of it as long as the employees are put back into it paying for whatever costs, other costs that he may think that is going to be created by the case.

The fact remains that the costs are borne by the attorney whether it is for witness or transcripts or medical reports. He is the one who is creating those costs and if the employer wins the case why should he have to pay for the employees expenses. The good Senator from Aroostook keeps mentioning good attorneys, good attorneys won't touch people who are injured who don't have money. I think that good attorneys should look and see whether there is a case or not, first, and then decide whether there is any money involved.

I would hope that you would stick with the indefinite postponement of this amendment.

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

Senator **BLACK:** Thank you very much, Mr. President and Fellow and Senators. In the deliberations we have had here for the past two or three months there was certain observations made and one of them was the fact of abuse of the system by attorneys. 2. By excessive doctors fees. 3. By insurance companies not paying claims as soon as they should have been. The total package which we laid before you has answered all of these things. The doctors fees will be addressed at length and in future legislation when we have the proper information to do an intelligent job of it.

I would point out to you that even if the lawyer doesn't receive his fee, some of these

costs which Senator Dutremble had just mentioned can be over-inflated. This is just a step in the door and I am sure there are certain attorneys who have made a major income from this side of litigation and would be only too happy to see this amendment take place. Thank you.

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

Senator **CHALMERS:** Thank you Mr. President. I don't want to prolong this anymore but let me just reiterate what I said before. The Commissioner or the Commission could decide if the case had been brought in good faith and upon reasonable grounds and if these costs were necessary to the expeditious moving of the case. The Commission would decide this, they would not be writing out a check to the attorney, they would be writing out a check to the doctor for the medical costs, to the witness for coming, to the court reporter for the transcript.

They are not going to write out a check for the attorney at all. All this does is help an injured worker, one of Maine's injured workers get some representation. I ask you to vote against the indefinite postponement. Thank you.

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

Senator **SEWALL:** Thank you Mr. President and Members of the Senate. What this amendment permits is the "doctor shopping" to continue and that is you to go to one doctor and they say there is not much wrong with you and then you go to a second one, you go to a third and you are doing it all in good faith looking for that doctor who knows that they are going to finally put you on comp and that is what this amendment provides for.

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

Senator **CARPENTER:** Mr. President, Ladies and Gentlemen of the Senate. My last attempt at clarifying the issue and I guess I will just read from the Statement of Fact. This amendment provides that the expert, but not the lawyers, may be paid if the case is brought or defended in an honest and reasonable basis even if they do not prevail.

We have talked about costs and everytime somebody on the other side gets up they talk about the attorneys costs. I would ask you simply to read the amendment. It seems to me to be very clear to the Senator from Cumberland, Senator Black, to the Senator from York, Senator Dutremble. First sentence in the Statement of Fact . . . "This amendment provides a disbursement, those costs that the attorney puts out of his or her own office. This amendment provides that the injured workers attorneys fees and disbursements of the case are to be paid by the employer or insurer only if the worker wins his case."

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

Senator **KANY:** Mr. President and Senators. It appears to be as if there could not be a great deal of physician shopping because the amendment would limit payment of such costs to those in the Commissioner's judgement or Commission's judgement which is necessary to the proper and expeditious disposition of the case. Just listening, not knowing a lot about the topic, I just don't think this is an unreasonable amendment at all and I hope we adopt it. I think I always try to keep in mind that really it seems only fair to allow a person to present a decent case, just attempt to get workers compensation. After all, we are preventing them from suing their employer even if there were gross negligence.

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

Senate called to Order by the President.

THE PRESIDENT: The pending question is the motion of the Senator from York, Senator **Dutremble**, that Senate Amendment "A" (S-279) to House Amendment "C" (H-394) be **Indefinitely Postponed**. A Roll Call has been ordered.

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

THE PRESIDENT: The pending question is the motion of the Senator from York, Senator **Dutremble**, that Senate Amendment "A" (S-279) to House Amendment "C" (H-394) be **Indefinitely Postponed**. A Roll Call has been ordered.

A Yes vote will be in favor of motion of the Senator from York, Senator **Dutremble**, that Senate Amendment "A" (S-279) to House Amendment "C" (H-394) be **Indefinitely Postponed**.

A No vote will be opposed.

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

ROLL CALL

YEAS:—Senators, Baldacci, Berube, Black, Brown, Danton, Diamond, Dutremble, Emerson, Gill, Hichens, Maybury, McBreairty, Perkins, Sewall, Stover, Trafton, Twitchell, Webster

NAYS:—Senators, Andrews, Bustin, Carpenter, Chalmers, Dow, Erwin, Gauvreau, Kany, Matthews, Pearson, Shute, Tuttle, Usher, Violette, The President — Charles P. Pray

ABSENT:—Senators None

18 Senators having voted in the affirmative and 15 Senators having voted in the negative, with 2 Senators Pairing their votes and No Senators being absent, the motion of the Senator from York, Senator **DUTREMBLE** to **INDEFINITELY POSTPONE** Senate Amendment "A" (S-279) to House Amendment "C" (H-394), **PREVAILS**.

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

Senator **DUTREMBLE:** Do we have to readopt House Amendment "C" (H-394)?

THE PRESIDENT: The pending question is the **ADOPTION** of House Amendment "C" (H-394). Is it now the pleasure of the Senate that House Amendment "C" (H-394) be **ADOPTED**?

The Chair recognizes the Senator from Hancock, Senator Perkins.

Senator **PERKINS:** I request a Division.

THE PRESIDENT: The Senator from Hancock, Senator Perkins, has requested a Division.

Will all those Senators in favor of the **ADOPTION** of House Amendment "C" (H-394), please rise in their places until counted.

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

34 Senators having voted in the affirmative, and No Senators having voted in the negative, the motion to **ADOPT** House Amendment "C" (H-394), **PREVAILS**.

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

Senator **DUTREMBLE:** Mr. President, I move we reconsider our action whereby we adopted Senate Amendment "C" (S-219).

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

Senator **CARPENTER:** Mr. President and Ladies and Gentlemen of the Senate. This is the amendment offered by the Senator from Knox, Senator Chalmers, earlier which is presently on the Bill and I would ask for a Roll Call.

THE PRESIDENT: The Senator from Aroostook, Senator Carpenter, 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 in order.

The pending question before the Senate is the motion of the Senator from York, Senator **Dutremble**, that the Senate **Reconsider** its action whereby it **Adopted** Senate Amendment "C" (S-219).

A Yes vote will be in favor of the motion of the Senator from York, Senator **Dutremble**, that the Senate **Reconsider** its action whereby it **Adopted** Senate Amendment "C" (S-219).

The Chair recognizes the Senator from Aroostook, Senator Carpenter.

Senator **CARPENTER**: Mr. President and Ladies and Gentlemen of the Senate. I would ask you to stand by what I would call your courageous vote of earlier. There is obviously a great deal of pressure, a great deal of momentum that this Bill has gathered and I would just indicate to you that the only thing I know that gathers momentum is rolling down hill and that is where all the hardship is going to roll if you vote yes on the pending motion. All the hardship is going to roll down hill on the back of the person who is now injured with no money coming in, no way to afford a doctor, no way to afford to have his or her witnesses come to testify. That is what you are now going to require that person to do.

I believe that this amendment when it was offered by the Senator from Knox, Senator Chalmers, in the first place was very, very clear as to what it was, what it stood for and more importantly, apparently in this Chamber this afternoon, this evening what it didn't stand for. It stands for those things that it says it stands for and I would ask you to stand firm in your earlier position, stand by your earlier vote and vote no on the pending motion. Thank you.

THE PRESIDENT: The pending question before the Senate is the motion of the Senator from York, Senator **Dutremble**, that the Senate **Reconsider** its action whereby it **Adopted** Senate Amendment "C" (S-219). A Roll Call has been ordered.

A Yes vote will be in favor of the motion of the Senator from York, Senator **Dutremble**, that the Senate **Reconsider** its action whereby it **Adopted** Senate Amendment "C" (S-219).

A No vote will be opposed.

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

ROLL CALL

YEAS:—Senators, Baldacci, Black, Brown, Clark, Danton, Diamond, Dow, Dutremble, Emerson, Gill, Hichens, Maybury, McBreairty, Perkins, Sewall, Stover, Trafton, Webster

NAYS:—Senators, Andrews, Berube, Bustin, Carpenter, Chalmers, Erwin, Gauvreau, Kany, Matthews, Pearson, Shute, Tuttle, Twitchell, Usher, Violette, The President — Charles P. Pray

ABSENT:—Senator Najarian

18 Senators having voted in the affirmative and 16 Senators having voted in the negative, with 1 Senator being absent, the motion of the Senator from York, Senator **DUTREMBLE**, that the Senate **RECONSIDER** its action whereby it **ADOPTED** Senate Amendment "C" (S-219) **PREVAILS**.

THE PRESIDENT: The pending motion is the **ADOPTION** of Senate Amendment "C" (S-219).

The Chair recognizes the Senator from York, Senator **Dutremble**.

Senator **DUTREMBLE**: Mr. President, I move that Senate Amendment "C" (S-219) be **Indefinitely Postponed**.

THE PRESIDENT: The Senator from York, Senator **DUTREMBLE**, moves that Senate

Amendment "C" (S-219) be **INDEFINITELY POSTPONED**.

The Chair recognizes the Senator from Aroostook, Senator Carpenter.

Senator **CARPENTER**: Mr. President, I request the Yeas and Nays.

THE PRESIDENT: The Senator from Aroostook, Senator Carpenter 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 in order.

The pending question before the Senate is the motion of the Senator from York, Senator **Dutremble**, that Senate Amendment "C" (S-219) be **Indefinitely Postponed**.

A Yes vote will be in favor of the motion of the Senator from York, Senator **Dutremble**, that Senate Amendment "C" (S-219) be **Indefinitely Postponed**.

A No vote will be opposed.

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

ROLL CALL

YEAS:—Senators, Baldacci, Berube, Black, Brown, Carpenter, Clark, Danton, Diamond, Dutremble, Emerson, Gill, Hichens, Maybury, McBreairty, Perkins, Sewall, Stover, Trafton, Twitchell, Webster

NAYS:—Senators, Andrews, Bustin, Chalmers, Dow, Erwin, Gauvreau, Kany, Matthews, Pearson, Shute, Tuttle, Usher, Violette, The President — Charles P. Pray

ABSENT:—Senator Najarian

Senator **CARPENTER** of Aroostook was granted permission to change his vote from **NAY** to **YEA**.

20 Senators having voted in the affirmative and 14 Senators having voted in the negative, with 1 Senator being absent, the motion of the Senator from York, Senator **DUTREMBLE**, to **INDEFINITELY POSTPONE** Senate Amendment "C" (S-219), **PREVAILS**.

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

Senator **DUTREMBLE**: 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 Senator from York, Senator **DUTREMBLE**, now moves that the Senate **RECONSIDER** its action whereby it **INDEFINITELY POSTPONED** Senate Amendment "C" (S-219).

The Chair recognizes the Senator from Aroostook, Senator Carpenter.

Senator **CARPENTER**: I move this matter be **Tabled 1 Legislative Day**.

THE PRESIDENT: The pending motion is the motion of the Senator from Aroostook, Senator **CARPENTER**, that this matter be **TABLED 1 LEGISLATIVE DAY**, pending the motion of the Senator from York, Senator **DUTREMBLE**, that the Senate **RECONSIDER** its action whereby it **INDEFINITELY POSTPONED** Senate Amendment "C" (S-219).

The Chair recognizes the Senator from York, Senator **Dutremble**.

Senator **DUTREMBLE**: I request a Division. **THE PRESIDENT**: The Senator from York, Senator **Dutremble**, requests a Division.

Will all those Senators in favor of the motion of the Senator from Aroostook, Senator **CARPENTER** that this matter be **TABLED 1 LEGISLATIVE DAY**, pending the motion of the Senator from York, Senator **DUTREMBLE**, that the Senate **RECONSIDER** its action whereby it **INDEFINITELY POSTPONED** Senate Amendment "C" (S-219), please rise in their places until counted.

Will all those Senators opposed, please rise

in their places to until counted.

10 Senators having voted in the affirmative, and 24 Senators having voted in the negative, the motion of the Senator from Aroostook, Senator **CARPENTER** that this matter be **TABLED 1 LEGISLATIVE DAY**, pending the motion of the Senator from York, Senator **DUTREMBLE**, that the Senate **RECONSIDER** its action whereby it **INDEFINITELY POSTPONED** Senate Amendment "C" (S-219), **FAILS**.

THE PRESIDENT: Is it now the pleasure of the Senate to **RECONSIDER** its action whereby it **INDEFINITELY POSTPONED** Senate Amendment "C" (S-219)?

The Chair recognizes the Senator from Franklin, Senator Webster.

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

THE PRESIDENT: The Senator from Franklin, Senator Webster, requests a Division.

Will all those Senators in favor of the motion of the Senator from York, Senator **DUTREMBLE**, that the Senate **RECONSIDER** its action whereby it **INDEFINITELY POSTPONED** Senate Amendment "C" (S-219), please rise in their places until counted.

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

12 Senators having voted in the affirmative, and 22 Senators having voted in the negative, the motion of the Senator from York, Senator **DUTREMBLE**, that the Senate **RECONSIDER** its action whereby it **INDEFINITELY POSTPONED** Senate Amendment "C" (S-219), **FAILS**.

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

Senator **TUTTLE**: Mr. President. I don't mean to belabor this, but it has been a difficult issue for a number of us and I guess sometimes you win and sometimes you lose. I think that the issue of workers compensation is going to stay with us a long time and it is not going to go away.

The Labor Committee worked very diligently on this issue, Senator **Dutremble**, Senator **Black**, Senator **Diamond**, was around, this concern as well as the number of members that are here tonight, but I think that only time will tell whether our efforts have been successful or in vain. I think that probably history will be the final judge of what we have done tonight. We will see if jobs come to the State, we will see if the rates will drop. What we have done, I think, will reflect in future years not only for our party, our Legislature and our State, but for the people who elected us.

I hope that what we have acted upon in time in this Chamber today will be in their best interests.

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

Senator **CARPENTER**: Mr. President, Ladies and Gentlemen of the Senate. I just fought and I lost and I don't know what I am going to do with final Enactment of this Bill, but I think one of the ironies that I see potentially out there is now the pendulum has swung so far to the other side and the disabled worker is just not going to be able to get his or her case, so you are going to have a real problem up there and I think you could see the irony of this, I think the system now will be so slanted against the worker that you are probably going to see the pendulum come back in about two years and this Legislature, the next session of this Legislature, rush to put back in costs and maybe lawyers fees. That would be a real irony of the result of this if we have gone so far and its so reprehensible down the road a year or so from now.

I think that is what is going to happen and the people you have harmed here I would predict are the people who can least afford it.

The unions will ensure for this, the unions will cover the cost, the BIW, the Maine State Employees Association, AFL-CIO, they will take care of the people.

It is my people who work in little woodworking factories in Houlton who haven't got any union to look out for them, they are the ones who are not going to be able to get their case even in front of the Commission and I think that is really sad. The other organizations knowing the momentum this Bill had have already taken steps to ensure, but it is the people who have nobody representing them that are going to be hurt by this and they are the people who can afford it the least. Thank you.

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

Senator **PEARSON:** Mr. President, Men and Women of the Senate. The remarks of Senator Carpenter have been on my mind for a long time. His thoughts anyway, about whether one thing is swinging too far one way or swinging too far to the other way.

I am an optimist when it comes to that kind of thing, after having been here for a while and I believe that if time will prove that it has gone too far the other way, I believe that it will swing back to the middle. I have seen it happen lots of times. There are people who have made the case that perhaps it has swung too far in the previous years to one side and that is why the pendulum is swinging to the other side. If it has gone too far to the other side and if it proves that business management or whatever you wish to call it, then has become too greedy, it will swing back. I am sure that justice will take care of that.

THE PRESIDENT: The Chair recognizes the Senator from Franklin, Senator Webster.

Senator **WEBSTER:** Mr. President, Ladies and Gentlemen of the Senate. You know today I listened to a long debate on this issue and I have listened to some people tonight express sorrow for the passage of this legislation at least that is the interpretation that I hear. I am pleased to see the Senate has acted responsibly today by passing this Bill and sending it on to be enacted and we will be getting it back soon and I am hopeful that we will pass this.

I have listened for six years for my constituents to tell me there is something wrong with this system and I don't want anyone, no person in my district to be injured and not receive compensation for those people who truly need it, but I think it is important that we do something and I commend the Senate, I commend the Governor's Office and all the people who have stood strong and stood up and been counted on this issue.

If we don't do something at some point I am concerned about the people out there who don't have jobs. We haven't talked about that. I am not going to spend anymore time here tonight, but I think this is a jobs bill. You know, I think we are going to have some jobs once this bill is passed because some businessmen are going to be able to afford to come here and create jobs, so I don't want any one here or anyone out there in the State of Maine to think that I am sorry for the passage of this bill. I think it is about time and I am thankful that we finally have done something.

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

Senator **CHALMERS:** Thank you Mr. President. Very briefly, Ladies and Gentlemen. I see some problems with this Bill I have spoken several times today on this. I do see a problem out there, it was said once that a good compromise is when everybody is unhappy and it has been listed all the various people that are unhappy. I see one group that isn't unhappy with this and that is the medical profession and it doesn't seem to me that we have addressed that problem. I see great problems with this Bill, I think there is a problem with workers

compensation and that is probably why I don't like it, I will probably vote for this Bill. I think we will be back because this Bill doesn't solve the problem of the worker in Maine and it doesn't help him. Thank you.

Which was **PASSED TO BE ENGROSSED as Amended**, in concurrence.

Off Record Remarks

Under suspension of the Rules, there being no objections, all matters previously acted upon were ordered sent forthwith.

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

COMMUNICATIONS

The Following Communication: COMMITTEE ON AGRICULTURE 112TH LEGISLATURE

June 12, 1985

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

In accordance with 3 M.R.S.A., Chapter 6, Section 151, and with Joint Rule 38 of the 112th Maine Legislature, the Joint Standing Committee on Agriculture has had under consideration the nomination of Jesse Harriman, Jr. of Richmond as a member of the Animal Welfare Board.

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

YEAS:	Senators	3
	Representatives	10
NAYS:		0
ABSENT:		0

Thirteen members of the Committee having voted in the affirmative and none in the negative, it was the vote of the Committee that the nomination of Jesse Harriman, Jr. of Richmond as a member of the Animal Welfare Board be confirmed.

Sincerely,
S/ EDGAR E. ERWIN
Senate Chair
S/ JOHN M. MICHAEL
House Chair

Which was **READ and ORDERED PLACED ON FILE.**

THE PRESIDENT: The Joint Standing Committee on AGRICULTURE has recommended that the nomination of **Jesse Harriman, Jr.** be **Confirmed.**

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

Is the Senate ready for the question?

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

ROLL CALL

YEAS:—Senators None
NAYS:—Senators, Andrews, Baldacci, Berube, Black, Brown, Bustin, Carpenter, Chalmers, Clark, Danton, Diamond, Dow, Dutremble, Emerson, Gill, Kary, Matthews, Maybury, Pearson, Perkins, Sewall, Shute, Stover, Trafton, Tuttle, Twitchell, Violette, Webster, The President — Charles P. Pray

ABSENT:—Senators, Hichens, Najarian, Usher

No Senators having voted in the affirmative and 32 Senators having voted in the negative,

with 3 Senators being absent and none being less than two-thirds of the membership present, it is the vote of the Senate that the Committee's recommendation be **ACCEPTED.** The nomination of **Jesse Harriman, Jr.** was **CONFIRMED.**

The Secretary has so informed the Speaker.

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

COMMUNICATIONS

The Following Communication: COMMITTEE ON AGRICULTURE 112TH LEGISLATURE

June 12, 1985

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

In accordance with 3 M.R.S.A., Chapter 6, Section 151, and with Joint Rule 38 of the 112th Maine Legislature, the Joint Standing Committee on Agriculture has had under consideration the nomination of Cheryl Kelly of St. Francis, as a member of the Animal Welfare Board.

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

YEAS:	Senators	3
	Representatives	10
NAYS:		0
ABSENT:		0

Thirteen members of the Committee having voted in the affirmative and none in the negative, it was the vote of the Committee that the nomination of **Cheryl Kelly** of St. Francis, as a member of the Animal Welfare Board be **Confirmed.**

Sincerely,
S/ EDGAR E. ERWIN
Senate Chair
S/ JOHN M. MICHAEL
House Chair

Which was **READ and ORDERED PLACED ON FILE.**

THE PRESIDENT: The Joint Standing Committee on AGRICULTURE has recommended that the nomination of **Cheryl Kelly** be **Confirmed.**

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

Is the Senate ready for the question?

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

ROLL CALL

YEAS:—Senators None
NAYS:—Senators, Andrews, Baldacci, Berube, Black, Bustin, Chalmers, Clark, Danton, Diamond, Dow, Dutremble, Emerson, Erwin, Gauvreau, Gill, Kary, Matthews, Maybury, McBrearty, Pearson, Perkins, Sewall, Shute, Stover, Trafton, Tuttle, Twitchell, Violette, Webster, The President — Charles P. Pray
ABSENT:—Senators, Brown, Carpenter, Hichens, Najarian, Usher

No Senators having voted in the affirmative and 30 Senators having voted in the negative, with 5 Senators being absent and none being less than two-thirds of the membership present, it is the vote of the Senate that the Committee's recommendation be **ACCEPTED.** The nomination of **Cheryl Kelly** is **CONFIRMED.**

The Secretary has so informed the Speaker.

COMMUNICATIONS

The Following Communication:
COMMITTEE ON AGRICULTURE
112TH LEGISLATURE

June 12, 1985

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

Dear Mr. President:

In accordance with 3 M.R.S.A., Chapter 6, Section 151, and with Joint Rule 38 of the 112th Maine Legislature, the Joint Standing Committee on Agriculture has had under consideration the nomination of Russell W. Pinfold, DVM of Brunswick, as a member of the Animal Welfare Board.

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

YEAS: Senators	3
Representatives	10
NAYS:	0
ABSENT:	0

Thirteen members of the Committee having voted in the affirmative and none in the negative, it was the vote of the Committee that the nomination of Russell W. Pinfold, DVM of Brunswick, as a member of the Animal Welfare Board be confirmed.

Sincerely,
S/ EDGAR E. ERWIN
Senate Chair
S/ JOHN M. MICHAEL
House Chair

Which was **READ** and **ORDERED PLACED ON FILE**.

THE PRESIDENT: The Joint Standing Committee on **AGRICULTURE** has recommended that the nomination of **Russell W. Pinfold, DVM** be **Confirmed**.

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

Is the Senate ready for the question?

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

ROLL CALL

YEAS:—Senators None

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

ABSENT:—Senators, Brown, Carpenter, Hichens, Najarian, Usher

No Senators having voted in the affirmative and 30 Senators having voted in the negative, with 5 Senators being absent and none being less than two-thirds of the membership present, it is the vote of the Senate that the Committee's recommendation be **ACCEPTED**. The nomination of **Russell W. Pinfold, DVM** is **CONFIRMED**.

The Secretary has so informed the Speaker.

ORDERS OF THE DAY

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

An Act to Revise the Maine Securities Act (H.P. 1022) (L.D. 1500) (H. "A" H-368; C "A" H-333)

Tabled — June 12, 1985, by Senator **VIOLETTE** of Aroostook.

Pending — **ENACTMENT**

(In House June 12, 1985, **PASSED TO BE ENACTED**.)

(In Senate June 11, 1985, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-333) AND HOUSE AMENDMENT "A" (H-368)**, in concurrence.)

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

The Chair laid before the Senate the Tabled and Later Today Assigned matter:

An Act to Amend the Probate Code to Improve Guardianship and Conservatorship Proceedings (S.P. 218) (L.D. 577) (H "A" H-361 to C "A" S-176)

Tabled — June 12, 1985, by Senator **TRAF-TON** of Androscoggin.

Pending—**ENACTMENT**

(In House June 12, 1985, **PASSED TO BE ENACTED**.)

(In Senate June 10, 1985, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-176) AS AMENDED BY HOUSE AMENDMENT "A" (H-361)**, thereto, in concurrence.)

On motion by Senator **TRAF-TON** of Androscoggin, Tabled 1 Legislative Day, pending **PASSAGE TO ENACTED**.

The Chair laid before the Senate the Tabled and Later Today Assigned matter:

Bill "An Act Relating to Investigations of Child Abuse in Institutions Licensed by the State" (H.P. 923) (L.D. 1330) (C "A" H-358)

Tabled—June 12, 1985, by Senator **VIOLETTE** of Aroostook.

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

(In Senate June 12, 1985, **RECONSIDERED PASSAGE TO BE ENGROSSED AS AMENDED**.)

(In House June 12, 1985, **PASSED TO BE ENGROSSED AS AMENDED**.)

On motion by Senator **BERUBE** of Androscoggin, the Senate **RECONSIDERED** whereby Committee Amendment "A" (H-358) was **ADOPTED**.

On further motion by same Senator, Senate Amendment "A" (S-276) to Committee Amendment "A" (H-358) **READ** and **ADOPTED**. Committee Amendment "A" (H-358) as Amended by Senate Amendment "A" (S-276) thereto, **ADOPTED** in **NON-CONCURRENCE**.

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

Sent down for concurrence.

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

Senator **ANDREWS**: Thank you Mr. President. Mr. President, Men and Women of the Senate. I would just like to express my appreciation on behalf of myself and my family for your expression of sympathy and support following the loss of my father. It meant a great deal. Thank you.

Off Record Remarks

On motion by Senator **CLARK** of Cumberland,
ADJOURNED until 9:30 o'clock tomorrow morning.