

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,
Friday
June 14, 1985
Senate called to Order by the President.

Prayer by The Honorable Henry W. Black of Cumberland.

SENATOR BLACK: Dear God, on this day we thank Thee for all the goodness of life, for all its blessings, privileges and opportunities. We ask Thy blessing upon this group and all those dear to us. Amen.

Reading of the Journal of Yesterday.

Off Record Remarks

PAPERS FROM THE HOUSE

Non-concurrent Matter

Bill "An Act to Prohibit Consumption of Alcoholic Beverages within 15 Feet of a Public Way" (H.P. 529) (L.D. 749)

In House June 13, 1985, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-405.)**

In Senate June 13, 1985, Bill and Accompanying Papers **INDEFINITELY POSTPONED IN NON-CONCURRENCE.**

Comes from the House that Body **INSISTED** and **ASKED FOR A COMMITTEE OF CONFERENCE.**

On motion by Senator **CARPENTER** of Aroostook, the Senate **INSISTED** and **JOINED IN A COMMITTEE OF CONFERENCE.**

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

Senator **VIOLETTE** of Aroostook
Senator **TRAFTON** of Androscoggin
Senator **SHUTE** of Waldo

Non-concurrent Matter

Joint Order, Expression of Legislative Sentiment recognizing the Town of Eddington (SLS 270)

In Senate June 10, 1985, **READ** and **PASSED.**

Comes from the House **INDEFINITELY POSTPONED** in **NON-CONCURRENCE.**

On motion by Senator **VIOLETTE** of Aroostook, Tabled Unassigned, pending **FURTHER CONSIDERATION.**

COMMITTEE REPORTS

House

Ought to Pass As Amended

The Committee on **TAXATION** on Bill "An Act Relating to the Income Tax Checkoff for Political Parties" (H.P. 1077) (L.D. 1567)

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-414).**

Comes from the House, with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-414).**

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

The Bill **READ ONCE.**

Committee Amendment "A" (H-414) **READ** and **ADOPTED**, in concurrence.

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

The Committee on **TRANSPORTATION** on Bill "An Act to Adjust Bridge Capital and Maintenance Responsibilities" (H.P. 1128) (L.D. 1637)

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-413).**

Comes from the House, with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY**

COMMITTEE AMENDMENT "A" (H-413).

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

The Bill **READ ONCE.**

Committee Amendment "A" (H-413) **READ** and **ADOPTED**, in concurrence.

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

Under suspension of the Rules, all matters thus acted upon were ordered sent down forthwith for concurrence.

Divided Report

Seven Members on the Committee on **JUDICIARY** on Bill "An Act to Require Parental Consent in the Case of Minors' Abortions" (H.P. 298) (L.D. 387)

Reported in Report A that the same **Ought to Pass as Amended by Committee Amendment "A" (H-408).**

Signed:

Senators:

CARPENTER of Aroostook
SEWALL of Lincoln
CHALMERS of Knox

Representatives:

COOPER of Windham
STETSON of Damariscotta
ALLEN of Washington
PRIEST of Brunswick

Five Members of the Same Committee on the same subject reported in Report B that the same **Ought to Pass as Amended by Committee Amendment "B" (H-409).**

Signed:

Representatives:

CARRIER of Westbrook
DRINKWATER of Belfast
MACBRIDE of Presque Isle
LEBOWITZ of Bangor
PARADIS of Augusta

One Member of the Same Committee on the same subject reported in Report C that the same **Ought to Pass as Amended by Committee Amendment "C" (H-410).**

Signed:

Representative:

KANE of South Portland

Comes from the House with Report **B OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "B" (H-409) READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "B" (H-409).**

Which Reports were **READ.**

On motion by Senator **VIOLETTE** of Aroostook, Tabled until Later in Today's Session, pending **ACCEPTANCE OF ANY REPORT.**

ENACTORS

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

Bond Issue

Bill "An Act to Authorize a Bond Issue in the Amount of \$4,300,000 for Constructing and Equipping Centers for Advanced Technology that Service the Economic Development Needs of Maine" (S.P. 412) (L.D. 1142) (C "A" S-265)

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

Bond Issue

Bill "An Act to Authorize a General Fund Bond Issue in the Amount of \$15,000,000 for Sewage Treatment and Water Quality Improvement Facilities and Restoration and Cleanup of Oil Contaminated Ground Water and Well Water" (H.P. 907) (L.D. 1306) (C "A" H-380)

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

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

COMMITTEE REPORTS

Senate

Ought to Pass As Amended

Senator **BALDACCI** for the Committee on **UTILITIES** on Bill "An Act to Regulate Recovery of Costs of Canceled or Abandoned Electric Generating Facilities" (S.P. 570) (L.D. 1506)

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-287).**

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

The Bill **READ ONCE**

Committee Amendment "A" (S-287) **READ** and **ADOPTED.**

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

Sent down for concurrence.

Under suspension of the Rules, all matters thus 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 **GILL** of Cumberland, was granted unanimous consent to address the Senate Off the Record.

On motion by Senator **GILL** of Cumberland, **RECESSED** until the sound of the Bell.

After Recess

Senate called to Order by the President.

Off Record Remarks

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

COMMITTEE REPORTS

Senate

Ought to Pass As Amended

Senator **TUTTLE** for the Committee on **LOCAL AND COUNTY GOVERNMENT** on Bill "An Act Amending the Charter of Farmington Village Corporation" (Emergency) (S.P. 629) (L.D. 1647)

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-288).**

(Representative **WENTWORTH** of Wells Abstained.)

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

The Bill **READ ONCE.**

Committee Amendment "A" (S-288) **READ** and **ADOPTED.**

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

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

ORDERS OF THE DAY

The President laid before the Senate the Tabled Later Today assigned matter:

HOUSE REPORTS — from the Committee on **JUDICIARY** on Bill "An Act to Require Parental Consent in the Case of Minors' Abortions" (H.P. 298) (L.D. 387)

Report A—**Ought to Pass as Amended by Committee Amendment "A" (H-408).**

Report B—**Ought to Pass as Amended by Committee Amendment "B" (H-409).**

Report C—**Ought to Pass as Amended by Committee Amendment "C" (H-410).**

Tabled—June 14, 1985, by Senator **VIOLETTE** of Aroostook.

Pending—**ACCEPTANCE OF ANY REPORT.**

(In Senate June 14, 1985, Reports **READ.**)

(In House June 13, 1985, Report **B OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "B" (H-409) READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMIT-**

TEE AMENDMENT "B" (H-409).

Report **A OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-408) READ** and **ACCEPTED** in **NON-CONCURRENCE**.

The Bill **READ ONCE**.

Committee Amendment "A" (H-408) **READ** and **ADOPTED** in **NON-CONCURRENCE**.

THE PRESIDENT: Is it the pleasure of the Senate that under suspension of the Rules, this Bill be given its Second Reading at this time by Title only?

The Chair recognizes the Senator from York, Senator **DUTREMBLE**.

Senator **DUTREMBLE:** Would it be at this time that I would oppose this Bill or after the Second Reading?

THE PRESIDENT: The pending question is **SUSPENSION OF THE RULES** for the purpose of giving this Bill its Second Reading, Under suspension of the Rules **READ A SECOND TIME**.

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

Senator **DUTREMBLE:** I would move that we vote against Passage to be Engrossed and I ask for a Roll Call.

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

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

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

The Chair recognizes the Senator from Aroostook, Senator **Carpenter**.

Senator **CARPENTER:** Mr. President and Ladies and Gentlemen of the Senate. I am not sure that this is the appropriate time to discuss this particular Bill but I would just point out to the people in the Chamber that if you vote against the pending motion then, in effect, unless there is an amendment to be offered, in effect what you are doing is that you are saying that you want no bill involving parental consent.

Senate At Ease

Senate called to Order by the President.

THE PRESIDENT: The pending question before the Senate is **PASSAGE TO BE ENGROSSED AS AMENDED**. A Roll Call has been ordered.

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

Senator **MATTHEWS:** Mr. President, the pending question please?

THE PRESIDENT: The Chair would inform the Senator that the pending question is **PASSAGE TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-408)**.

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

THE PRESIDENT: The Chair recognizes the Senator from Franklin, Senator **Webster**.

Senator **WEBSTER:** Mr. President and Ladies and Gentlemen of the Senate. I just want it made clear that, from what I can understand of this motion, we have only one motion that we can vote, either to pass some form of parental consent bill, which would be a Yea vote on this issue or vote no and defeat everything.

So, I am going to be voting Yea because it is the only motion I can see that would give us any form of parental consent through this Body, would be to vote in support of this measure.

THE PRESIDENT: The Chair recognizes the

Senator from York, Senator **Dutremble**.

Senator **DUTREMBLE:** Mr. President and Members of the Senate. I would hope that you would vote against Passage to be Engrossed so that we can reconsider Committee Amendment "A" and I could move that we accept Committee Amendment "B."

So, I would hope that you would vote against Passage to be Engrossed of Committee Amendment "A."

Senator **BUSTIN** of Kennebec who would have voted Nay requested and received permission to pair her vote with Senator **BROWN** of Washington who would have voted Yea.

Senate At Ease

Senate called to Order by the President.

THE PRESIDENT: The pending question is Passage to be Engrossed. A Roll Call has been ordered.

The Chair recognizes the Senator from Kennebec, Senator **Matthews**.

Senator **MATTHEWS:** Mr. President and Members of the Senate. In deference to all of you and myself included, I want to explain my vote on this Bill.

I voted against the Engrossment of this Bill because it was the only motion available to us. I hope the Members who are so inclined will vote against the Engrossment of this Bill so that we can, as the good Senator from York, has mentioned, reconsider our position and adopt Committee Amendment "B."

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

Senator **DIAMOND:** Mr. President, I pose a Parliamentary inquiry.

THE PRESIDENT: The Senator may state his inquiry.

Senator **DIAMOND:** Mr. President, if we're at the point of Engrossment and we reject Report "A" in order to reconsider our First Reader status Report "B" or "C," would that require suspension of the rules?

THE PRESIDENT: The Chair would answer in the negative.

Senator **DIAMOND:** So, upon rejection of Report "A," Report "B" would be then presented or could be presented? Or "C" or "D" or "E"?

THE PRESIDENT: The Chair would answer that if Passage to be Engrossed failed, the Senate would have to reconsider its action whereby it failed to Engross this Bill. Then reconsider acceptance of Report "A." At that time, the Chair would entertain motion to accept any other report.

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

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

Senator **DUTREMBLE:** Mr. President and Members of the Senate. I do want to say a few words on this before we vote on Engrossment because I do want you to vote against it so that we can offer at a later time Committee Amendment "B."

There is a marked difference between Report "A" and Report "B" and I guess the major difference is in "B" a minor would be required to go to a judge, under the age of 17. In Report "A" it would be required to go to a master, whatever that means, under the age of 16.

I guess the question is that I have and some other people have is who is this master going to be? Is it going to be a psychiatrist; is it going to be a psychologist, a social worker? Is it going to be a person who is pro-abortion or anti-abortion, will that person be impartial?

I guess the final question I would have is, is this Constitutional, has the Supreme Court proven, as in Committee Amendment "B," that the language in Committee Amendment "A" is Constitutional?

Unless those questions are answered satisfactorily I think we should all vote against Engrossment so that we can adopt Committee

Report "B" and have something about parental consent in the Books.

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

Senator **CARPENTER:** Mr. President and Ladies and Gentlemen of the Senate. I don't intend to belabor this issue.

There may be a difference point at which to get into a great discussion, but I know that both of the political parties which represent all the people in this Chamber have caucused and have had it discussed. I would simply say in response to the Senator from York, Senator **Dutremble**, answering his second question first, is that when this issue first came up I told my Committee, at least, and anybody else who was interested in listening, that I would not support anything although my credentials for eleven years are strongly on the so called right to life side, I would not support any bill out of the Committee that I did not believe was constitutional.

That obviously, has caused me some agony, in looking at all three of the reports, but I think given the information that is now before us that, in fact, the Supreme Court is reviewing or re-reviewing, if you will, the same issues that have been decided by that same court since *Rowe vs. Wade* in 1973, but I think it stretches the imagination to automatically conclude that even the other report, which is not presently before us, the other bill if you will, would be Constitutional.

I believe with all that I know and understand, that the Bill before us is Constitutional. I will simply read one line from an Attorney General's opinion dated June 7, 1985, by a person over there who I respect, which was discussed in some length with the Committee for the provisions which follow: "For the provisions which follow it is my view that all of the provisions of the Bill," that is Report "A" we're about to vote on, "are likely to survive Constitutional scrutiny." That comes as close to an assurance as you are every going to be able to get in this area.

In terms of the Senator from York, Senator **Dutremble's** question about the "master," I guess that my only response to that would be that we have set up a masters program defined and codified in such a way that I, from a very personal stand point, if I were to have a young daughter in this situation, I would be much more comfortable with somebody meeting the definition of "master" in this Bill deciding on whether or not that person was mature enough, and that is the only decisions we're asking this person to make, was mature enough to make the decision, absent parental consent, then to throw my child into a judge's courtroom with the black robes and all the formality that goes with that. That is the difference between this and the other report which has not been accepted.

I would ask you to vote for the pending motion. Thank you.

THE PRESIDENT: The pending question is **PASSAGE TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-408)**. A Roll Call has been ordered.

A Yes vote will be in favor of **PASSAGE TO BE ENGROSSED AS AMENDED**.

A vote of No will be opposed.

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

ROLL CALL

YEAS:—Senators, Andrews, Berube, Black, Carpenter, Chalmers, Clark, Danton, Dow, Emerson, Gauvreau, Gill, Kany, Maybury, Najarian, Perkins, Sewall, Trafton, Usher, Violette, The President — Charles P. Pray

NAYS:—Senators, Diamond, Dutremble, Erwin, Hichens, McBreairty, Pearson, Shute, Stover, Tuttle, Twitchell, Webster

ABSENT:—Senators None

20 Senators having voted in the affirmative and 11 Senators having voted in the negative, with 4 Senators pairing their votes, and No

Senators being absent, the Bill was **PASSED TO BE ENGROSSED AS AMENDED IN NON-CONCURRENCE**.

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

Senator **CLARK:** Thank you Mr. President. I move that the Senate Reconsider its action whereby it Passed L.D. 387, Report "A," Majority Report from the Committee on Judiciary, and would hope that the Members of this Senate would vote against me and I request a Division.

THE PRESIDENT: The Chair understands that the Senator from Cumberland, Senator Clark, moves that the Senate **RECONSIDER** its action whereby this Bill was **PASSED TO BE ENGROSSED AS AMENDED IN NON-CONCURRENCE**.

The Chair recognizes the Senator from Penobscot, Senator Pearson.

Senator **PEARSON:** Mr. President, I move that this matter be Tabled until Later in Today's Session.

THE PRESIDENT: The Senator from Penobscot, Senator Pearson, moved that this matter be **TABLED UNTIL LATER IN TODAY'S SESSION**, pending the Motion of the Senator from Cumberland, Senator **CLARK**, that the Senate **RECONSIDER** its action whereby this Bill was **PASSED TO BE ENGROSSED AS AMENDED**. A Division having been requested.

The Chair recognizes the Senator from Aroostook, Senator Violette.

Senator **VIOLETTE:** I request a Division on the motion to Table this matter until Later Today.

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

The pending question is the motion by the Senator from Penobscot, Senator **PEARSON**, that this matter be **TABLED UNTIL LATER IN TODAY'S SESSION**, pending the motion of the Senator from Cumberland, Senator **CLARK** to **RECONSIDER** whereby the Bill was **PASSED TO BE ENGROSSED AS AMENDED IN NON-CONCURRENCE**.

The Chair recognizes the Senator from Kennebec, Senator Bustin.

Senator **BUSTIN:** Is it in order for me to speak?

THE PRESIDENT: The Chair would answer in the negative. A tabling motion is not debatable.

The pending question is the motion of the Senator from Penobscot, Senator **PEARSON**, that this matter be **TABLED UNTIL LATER IN TODAY'S SESSION**, pending the motion of the Senator from Cumberland, Senator **CLARK** to **RECONSIDER** whereby the Bill was **PASSED TO BE ENGROSSED AS AMENDED IN NON-CONCURRENCE**.

A Division has been requested.

Will all those Senators in favor of the motion to **TABLE** until Later in Today's Session, pending the motion of the Senator from Cumberland, Senator **CLARK** to **RECONSIDER** whereby the Bill was **PASSED TO BE ENGROSSED AS AMENDED IN NON-CONCURRENCE**, please rise in their places and remain standing until counted.

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

10 Senators having voted in the affirmative and 22 Senators having voted in the negative, the motion of Senator **PEARSON** of Penobscot to **TABLE** until Later in Today's Session, pending the motion of the Senator from Cumberland, Senator **CLARK**, to **RECONSIDER** whereby the Bill was **PASSED TO BE ENGROSSED AS AMENDED IN NON-CONCURRENCE, FAILS**.

The pending question is the motion of the Senator from Cumberland, Senator **CLARK**, that the Senate **RECONSIDER** its action whereby this Bill was **PASSED TO BE**

ENGROSSED AS AMENDED IN NON-CONCURRENCE.

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

Senator **BUSTIN:** I ask for a Division on that and would like to speak to my motion.

I realize that I may not get another chance to speak on the issue and I realize that I have paired with the good Senator from Washington, Senator Brown, but I think the Body ought to know where I am coming from on this particular bill.

For one thing, I would have loved to have been in the position to have a Indefinite Postponement or an Ought Not to Pass report on this because I think the present law takes care of anything that needs to be taken care of in this regard.

An issue that I want to bring before you, and there are a number of them, is the one of responsibility. If you are going to ask twelve, thirteen-, fourteen-, fifteen-year-old women to bear your children for you when they do not want to, then you must also take the responsibility for what happens at that birth, that there is a deformity, retardation, learning disabilities and even the responsibility for taking care of that child until it's of legal age, which is eighteen in this State I believe.

The State ought to be willing, if they are willing to tell that woman that she must bear that child then they must also, I take it, be willing to pay the fee to raise that child. You can't put women in the position of forcing them to do one thing and then not assisting them to take care of the forcing of that. That is exactly what you are doing.

I would like to have you go with the tabling motion because I am having an amendment prepared that would require the State in those instances where they demand that the child be born that they bear the responsibility for raising that child or for whatever happens at that birth. I think that is only fair. So, I wish you would go along with the tabling motion and I ask for tabling for later in the day on the Reconsideration motion.

THE PRESIDENT: The Chair would inform the Senator that her motion would be improper since she debated the issue.

The Chair recognizes the Senator from York, Senator Hichens.

Senator **HICHENS:** A Parliamentary inquiry, please.

THE PRESIDENT: The Senator may state his inquiry.

Senator **HICHENS:** Is it proper to ask for tabling of this again for one Legislative Day?

Senate At Ease

Senate called to Order by the President.

THE PRESIDENT: In response to the inquiry from the Senator from York, Senator Hichens, the only motion that would be available at this time is to a time-certain. Since a motion to table until later in the day was defeated.

The Chair recognizes the Senator from York, Senator Hichens.

Senator **HICHENS:** I move this item be tabled until 1:30 this afternoon.

THE PRESIDENT: The Senator from York, Senator Hichens, moves that this matter be **TABLED** until time-certain, 1:30 in the afternoon.

The Chair recognizes the Senator from Cumberland, Senator Clark.

Senator **CLARK:** Thank you Mr. President. I would request a Division on the pending motion

THE PRESIDENT: The Senator from Cumberland, Senator Clark, has requested a Division.

The Chair recognizes the Senator from Cumberland, Senator Diamond.

Senator **DIAMOND:** My apologies, but a Parliamentary inquiry.

THE PRESIDENT: The Senator may state his inquiry.

Senator **DIAMOND:** If there has been intervening debate between one tabling motion and the next, would not a tabling motion of any kind be appropriate?

Senate At Ease

Senate called to Order by the President.

THE PRESIDENT: In response to the inquiry by the Senator from Cumberland, Senator Diamond, the Chair would rule, based upon "Reed's Parliamentary Rules," Rule 116, "To Lay Upon the Table Renewed. If the motion to lay upon the table be decided in the negative, the original question proceeds as if the motion has not been made, and the motion may be renewed when there has been such progress as to make the motion a substantially a new one."

The Chair would rule that the motion to Table would be proper since the Senate has been informed that there is a desire to Reconsider for the purpose of amending.

The pending question is the motion of the Senator from York, Senator **HICHENS** that this matter be **TABLED** until a time certain, 1:30.

The Chair recognizes the Senator from York, Senator Hichens.

Senator **HICHENS:** Mr. President, I request leave of the Senate to withdraw my motion.

THE PRESIDENT: The Senator from York, Senator Hichens, asks Leave of the Senate to withdraw his motion to table until a time certain, 1:30. Is it the pleasure of the Senate to grant this Leave?

It is a vote.

The pending question before the Senate is the motion of the Senator from Cumberland, Senator **CLARK**, that the Senate **RECONSIDER** its action whereby this Bill was **PASSED TO BE ENGROSSED AS AMENDED IN NON-CONCURRENCE**.

A Division has been requested.

Will all those Senators in favor of **RECONSIDERATION**, please rise in their places and remain standing until counted.

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

10 Senators having been voted in the affirmative, and 22 Senators having voted in the negative, the motion by Senator **CLARK** of Cumberland, to **RECONSIDER PASSAGE TO BE ENGROSSED AS AMENDED IN NON-CONCURRENCE, FAILS**.

Sent down for concurrence.

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

ENACTED

The Committee on **Engrossed Bills** reported as truly and strictly engrossed the following:
An Act to Permit Voluntary Hospitalization of Adults under Guardianship (S.P. 423) (L.D. 1171)

An Act Concerning Liability for Injuries Caused by Drunken Persons (S.P. 598) (L.D. 1568) (H "A" H-395 to C "A" S-263)

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 Index Eligibility Levels for the Elderly Householders Tax and Rent Refund Program to Conform to Increases in Social Security Benefits (S.P. 85) (L.D. 266) (C "A" S-281)

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

An Act to Provide a Procedure to Petition for Standing and Intervenor Status for Foster Parents in Child Protection Proceedings (S.P.

450) (L.D. 1253) (C "A" S-271)

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

On further motion by same Senator, the Senate **RECONSIDERED** its action whereby this 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" (S-271).

On further motion by same Senator, Senate Amendment "A" (S-289) to Committee Amendment "A" (S-271) **READ**.

Senator **BERUBE**: Thank you, Mr. President. This Amendment simply corrects a grammatical and a technical error though an oversight in passage of the Bill, in printing it. Thank you.

Senate Amendment "A" (S-289) to Committee Amendment "A" (H-271) **ADOPTED**.

Committee Amendment "A" (H-271) as Amended by Senate Amendment "A" (S-289), thereto **ADOPTED** in **NON-CONCURRENCE**.

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

Sent down for concurrence.

Under suspension of the Rules, all matters thus acted upon were ordered sent down forthwith for concurrence.

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)

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

Senator **TUTTLE**: Mr. President, I would like to pose a question through the Chair to anyone who could answer it. In reference to L.D. 1264, I have received a number of calls and letters, as maybe many of you have pertaining to this Bill.

It is my understanding that in Enactment of this Bill in this form I would probably ask the Chairman of the Committee to explain what the Bill is attempting to do and it is my understanding that a few days ago we had passed this Bill after some debate and maybe she could explain what the Bill does presently?

THE PRESIDENT: The Senator from York, Senator Tuttle, 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 Tuttle.

Senator **TUTTLE**: Mr. President, apparently nobody wishes to answer my question so I think because of the concern that has been expressed by many people from my district, I would make a motion that we would Table this for 1 Legislative Day, pending enactment.

On motion by Senator **VIOLETTE** of Aroostook, Tabled until Later in Today's Session, pending **PASSAGE TO BE ENACTED**.

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 Change the Sales Tax Exemption for Property Purchased Outside the State (H.P. 24) (L.D. 22) (C "A" H-401)

An Act to Amend the Disclosure of Licensing Records Regarding Adult and Child Care Programs to Clarify Officials Authorized to Act as Public Guardians or Conservators under the Probate Code (H.P. 584) (L.D. 854) (C "A" H-407)

An Act Relating to Investigations of Child Abuse in Institutions Licensed by the State

(H.P. 923) (L.D. 1330) (S "A" S-276 to C "A" H-385)

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 Initiate Agricultural Technology Transfer and Special Project Programs (H.P. 452) (L.D. 725) (C "A" H-400)

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

An Act to Exempt Veterans' Memorial Cemetery Associations from Maine Sales and Use Tax (H.P. 748) (L.D. 1071)

On motion by Senator **PEARSON** of Penobscot, placed on the **SPECIAL APPROPRIATIONS TABLE**, pending **PASSAGE TO BE ENACTED**

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)

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

An Act to Encourage the Establishment of Statewide Standards for the Identification and Management of Child Abuse and Neglect (H.P. 985) (L.D. 1415) (H "A" H-397 to C "A" H-390)

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

An Act to Exempt Search and Rescue Units from the Sales and Use Tax (H.P. 1031) (L.D. 1483) (C "A" H-398)

On motion by Senator **PEARSON** of Penobscot, Placed on the **SPECIAL APPROPRIATIONS TABLE**, pending **PASSAGE TO BE ENACTED**.

An Act to Allow the Department of Human Services to Investigate and Provide Information on Community Health Issues (S.P. 535) (L.D. 1436) (H "A" H-393)

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

On further motion by same Senator, Senate Amendment "B" (S-282) **READ**.

Senator **WEBSTER**: Mr. President, Ladies and Gentlemen of the Senate. This is, as you all realize, the Community Right to Know Law that was passed through here yesterday and during yesterday's debate I expressed concern about the possibility of someone calling from Aroostook County somewhere into Madison, into Farmington to find out what some paper company might be doing or whatever for no real reason. So I am offering this amendment which states very simply that you can call within a 50-mile radius of where you reside.

It seems to me that that would be more than sufficient enough for anyone who has a true interest in finding out what is being produced in their area by a business or someone who might be producing some chemical that might be harmful to them.

As a member of the House I never seemed to have this problem but now as a member of the Senate I, on occasion, get some person who tends to be quite an extremist. I was telling one of the Senators here earlier that I got a call from Biddeford not too long ago from a lady who was quite upset and I promptly explained to her that I didn't represent her, but anyway, on occasion it seems to me that there are people out there who are extreme and who might pursue trying to find out what is pro-

duced in certain areas when it really isn't their concern. So I would offer this amendment and would ask you to support it. Thank you.

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

Senator **DIAMOND**: Mr. President, Members of the Senate. I am a little perplexed and need to pose a question through the Chair if I may. It seems like there are several administrative problems with this amendment. How would one know if they are 50 miles away or not? Does that mean that if someone is 49 miles away can call but someone who is 50 miles away can't? My first question Mr. President.

The second question is: I'm sure there is some good, sound research on why we chose 50 and not 60 or 40, I would like to have that question answered, too. Thank you Mr. President.

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

The Chair recognizes the Senator from Franklin, Senator Webster.

Senator **WEBSTER**: Mr. President and Ladies and Gentlemen of the Senate. If you read the amendment it says that: "the doctor shall be required to provide information pursuant to this chapter on the specific site within a fifty-mile radius of the municipality where it is requested." As to why the fifty-mile radius, it just seemed, I would admit it is a figure which I just thought of and felt it might be a reasonable area. Assuming that there were aquifers in a location of a factory somewhere it could have far reaching, further than fifty miles, but I felt that that was a reasonable number and would have no real concern if it were 40 or 60 but I felt that 50 seemed reasonable so that is why I proposed it. Thank you.

THE PRESIDENT: The pending question before the Senate is the **ADOPTION** of Senate Amendment "B" (S-283).

The Chair recognizes the Senator from Cumberland, Senator Andrews.

Senator **ANDREWS**: Mr. President, Men and Women of the Senate. The issue that the good Senator from Franklin, Senator Webster, has addressed to the Senate is an issue of whether or not the Bureau of Health will be harassed as a result of this Bill. Whether or not this right to know would be abused by some individuals here in the State of Maine. I am very certain that, in fact, that would not occur and I believe that therefore this amendment, particularly given its arbitrariness of 50 miles isn't necessary.

There is another concern I have for the amendment, namely that I happen to have a camp on a pond in the Winthrop/Wayne area and that camp is further than 50 miles from my residence. But, if there is a something that I suspect is in the area of my camp that I would like to have some information on, I would not be able to seek that information. With this amendment I would not be able to do it even though I obviously have a direct interest in it. So, I think that this amendment is very sincerely put, I think it is trying to address an area of sincere concern of the Senator from Franklin, Senator Webster, and certainly if it was put on the Bill it would not make the Bill inoperative. I would prefer to have an amendment on than no program at all, but I really don't think that it is necessary.

Ladies and Gentlemen of the Senate, and I'll tell you on the Floor of the Senate right now that if during the first year of the implementation of this program there is harassment, if there is irresponsible use of this law then I would be the first to stand on the Floor of the Senate and support such an amendment if, in fact, from experience we found that that was the case. But, I don't think we have enough evidence to suggest that would be the case and what we would lose by preventing people like myself from asking a question about a facility

or a chemical near where I live in the summertime I just don't think it is worth it, so I would move now that we indefinitely postpone this amendment.

THE PRESIDENT: The Senator from Cumberland, Senator **ANDREWS**, moves that Senate Amendment "B" (S-283) be **INDEFINITELY POSTPONED**.

The Chair recognizes the Senator from Franklin, Senator Webster.

Senator **WEBSTER:** I request a Division.

THE PRESIDENT: The Senator from Franklin, Senator Webster has requested a Division.

Will all those Senators in favor of the motion of the Senator from Cumberland, Senator **ANDREWS**, to **INDEFINITELY POSTPONE** Senate Amendment "B" (S-283), please rise in their places and remain standing until counted.

The Chair recognizes the Senator from Kennebec, Senator Kany.

Senator **KANY:** Mr. President and Senators, I felt the need to rise only to clarify for the Legislative Record what my interpretation of the amendment is and that is it says: "A residence of the individual." In my opinion that would include a summer residence also.

I personally don't feel strongly one way or the other if this amendment is adopted. I don't think it will do great harm to the legislation but I plan to vote with the good Senator from Cumberland, Senator Andrews, but I certainly do hope in the long run that we adopt this legislation. It is important for individuals to have a right to know about the hazardous chemicals within their area.

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

Senator **ANDREWS:** Mr. President, I request permission to withdraw my motion to indefinitely postpone Senate Amendment "B" (S-283).

THE PRESIDENT: The Senator from Cumberland, Senator Andrews requests Leave of the Senate to withdraw his motion for Indefinite Postponement of Senate Amendment "B" (S-283).

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

It is a vote.

The pending question before the Senate is the **ADOPTION** of Senate Amendment "B" (S-283). The Chair will order a Division.

Will all those Senators in favor of the **ADOPTION** of Senate Amendment "B" (S-283), please rise in their places and remain standing until counted.

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

19 Senators having voted in the affirmative, and 12 Senators having voted in the negative, the motion by Senator **WEBSTER** of Franklin, to **ADOPT** Senate Amendment "B" (S-283), **PREVAILS**.

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

Senator **GILL:** Mr. President, I move that we indefinitely postpone this Bill and all Accompanying Papers.

THE PRESIDENT: The Senator from Cumberland, Senator **GILL**, moves that this Bill and all Accompanying Papers be **INDEFINITELY POSTPONED**.

The Chair recognizes the Senator from Cumberland, Senator Diamond.

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

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

Will all those Senators in favor of ordering a Roll Call, please rise in their places 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 Andrews.

Senator **ANDREWS:** Thank you, Mr. President. Mr. President and Men and Women of the Senate. I would hope that you would vote against the pending motion to indefinitely postpone this Bill. I would like to explain to you what I just did in withdrawing my motion for Indefinite Postponement of Senate Amendment "B" (S-283) and why I supported the amendment.

The concern that was raised by the good Senator from Franklin, Senator Webster, was the concern that I've heard in the halls of the Senate and I believe is not a legitimate concern as far as this Bill is concerned and as far as this program is concerned. But, because of the concern of Senator Webster and because this amendment that he put on it would allay that fear and allay that concern of the harassment and because, Ladies and Gentlemen, my purpose in this Bill is to provide those people who are living in the community and who are concerned about a toxic or hazardous substance near by, because that's my primary concern.

I didn't feel that the amendment was going to hurt the program or hurt the Bill so much as to pursue the Indefinite Postponement so it was in the spirit of compromise that I switched my position and voted for the amendment supported by the good gentlemen from Franklin, Senator Webster. Having done that, Ladies and Gentlemen, I think that we have address a concern that was put before this Senate yesterday and a concern expressed before the Senate today, concern for abuse or harassment under this program, under this Bill.

So, with that taken care of, I believe that this program and the point, and we've debated a great deal yesterday, I won't bore you by going over once again the points of that debate but let us stick by our position and let us stand beside our constituents and their right to know of the existence of toxic or hazardous substances in their community which may pose a harm to them or their families.

I urge you to vote no against the pending motion to indefinitely postpone this Bill.

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

Senator **USHER:** Thank you Mr. President. Mr. President and Members of the Senate, I support the pending motion to indefinitely postpone this Bill and all accompanying papers.

As I said yesterday, we did pass a Bill out of Energy and Natural Resources which is almost a duplication to this. I personally feel that the qualified professionals should know about all the chemicals in their location and I think they can handle it in a professional way. I think if all this information is divulged to the public it will only scare them because much of this technical information is really complicated for the people and overnight they can be scared, a whole large group just talking about one issue that they don't understand. These professionals that handle all these chemicals are trained for this and they can handle the situation as they did in my community this year.

There is no need for this legislation and I support the pending motion.

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

Senator **BERUBE:** Thank you, Mr. President and fellow Senators. I think that the people of our state are astute enough and feeling enough to understand the dangers if they are told what the dangers are. They are sensitive enough to the rights of industry, the privileges I should say, that they wouldn't offhandedly start rumors needlessly. They must have some ability because these people have elected us so they must know what they are doing to start off with.

As far as privileged information, this Bill covers anything that has to do with a trade secret so that if there were dangerous

chemicals in the formula of Coca-Cola, we would not know the makeup of the formula. That is protected under our laws in Maine under Title 26, Chapter 22. So, I feel very comfortable with this Bill, I feel very comfortable because if I lived in an area that had an industry that might use and needed to use a particular chemical, I don't say "don't use it," I would simply want to know what it is so that if my family has some symptoms that I could tell the doctor that chemical such and such is being used and he would know how to treat and we would at least be aware of what is being used in our neighborhoods. Thank you.

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

Senator **GILL:** Mr. President and Members of the Senate. Employees have the right now to find out information from their employers as far as the chemicals that are used in the work place. This is because of the Bill that we passed last Session.

This session we passed a bill that would allow municipal officials, and I spoke about the bill the other day, it was L.D. 1382, and municipal officials have the right to find the information out so they can handle it properly and anyone in a community whether it be fifty miles or whether it be more than that, can talk to the municipal official, put in writing that they would like to know what is available there and that municipal officials will forward that to the Department of Health, they will in turn respond to the individual's request.

You know, the interesting thing about the legislation we have before us today is that I, as a committee member on Human Resources, was not aware that we had a bill in Energy and Natural Resources dealing with information that would be made available to municipal officials. I think the problem here is coordination of efforts in communication. And, I think it would be a good idea for this legislature to let some of the laws that we have on our books now work and see how they work. We're here every year. If we have a problem with identification and people can't get the information they want from the legislation that we have passed then we can deal with it at that point. But that pendulum is swinging and we hopefully are somewhere in the middle and we're going to go far to the other side before we come back at a happy medium.

I am not opposed to information being let out to the public but I want to know what that public is going to do with that information. I can know that there is certain chemicals with a chemical names being used, but unless I know what that will do to my particular body, what it might do to my community, it is not going to do me any good, it will be a chemical name that I know.

I've worked around long enough to know that even with prescription medication that a physician gives you, it may react on me differently than it might react on one of you because of the chemical make up of my body. So, there are a lot more things involved than just know what chemical is around. I think unless we all go to medical school and get degrees in chemical engineering or chemistry and biology then a lot of this information is not going to do all of us in this State a lot of good.

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. The good Senator from Cumberland, Senator Gill, in two of her three points just have you two reasons to support this Bill and oppose the motion to indefinitely postpone.

One of the points that she mentioned was the problems of coordination and communication. There is not enough coordination, there is not enough communication when it comes to hazardous substances, toxic chemicals and indeed there isn't with respect to other types of emergencies.

After I heard of the fire in Westbrook, the good Senator from Cumberland, Senator Usher, spoke about on the Floor yesterday, I called the Environmental Health Unit within the State Bureau of Health, I asked them if they had information about that fire, if there was coordination, if there was information generally disseminated for not just that area but other areas as well. Did the right hand know what the left hand was doing when it comes to emergencies? The response was **NO**, the right hand does not know what the left hand is doing, and there is a crisis out there waiting to happen. We need to get ourselves coordinated and we need to take a hard look at this whole area. Ladies and Gentlemen of the Senate, the Bill before you today calls for just such a study. It calls for just such communication and just such coordination.

A second point that was raised was, okay, what good does it do with just the chemical name? Precisely, that is why this Bill calls for a program to not only provide the chemical identity but calling on the Bureau to provide, given its resources, information about that chemical. What it is, how it may react, so that the individual doesn't get just partial information but gets complete information so that there is not the hysteria that we've heard mentioned on the Floor of this Senate. So, that the information is responsible and is thorough. That's another reason why we have the Bill before us.

As far as L.D. 1382, and yes Ladies and Gentlemen of the Senate, I am familiar with L.D. 1382. I was cosponsor of L.D. 1382 and if you look at the Bill, 1382, as we heard from the good Senator from Androscoggin, Senator Berube, yesterday, all information submitted to a municipality under this subsection shall be confidential.

THE PRESIDENT: The pending question before the Senate is the motion of the Senator from Cumberland, Senator GILL, to **INDEFINITELY POSTPONE** this Bill and all accompanying papers.

Senator DANTON of York who would have voted Nay requested and received permission to pair his vote with Senator BALDACCI of Penobscot who would have voted Yea.

Senator DOW of Kennebec who would have voted Yea requested and received permission to pair his vote with Senator GAUVREAU of Androscoggin who would have voted Nay.

Senator McBREAIRTY of Aroostook who would have voted Yea requested and received permission to pair his vote with Senator BROWN of Washington who would have voted Nay.

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

Senator KANY: Mr. President, I would like to inquire as to the posture of the amendment. Is the motion before us Indefinite Postponement of the amendment or is the amendment presently attached to the Bill so that the motion before us would then be Indefinite Postponement of the Bill with the amendment that was offered by the good Senator from Franklin, Senator Webster?

THE PRESIDENT: The Chair would respond that Senate Amendment "B" (S-283) has been adopted. The pending question at that point was Passage to be Engrossed as Amended when the Senator from Cumberland, Senator Gill, moved the Bill and all accompanying papers, including Senate Amendment "B" (S-382), be Indefinitely Postponed.

The pending question before the Senate is the motion of the Senator from Cumberland, Senator GILL, that this Bill and all accompanying Papers be **INDEFINITELY POSTPONED**. A Roll Call has been ordered.

A Yes vote will be in favor of the motion of the Senator from Cumberland, Senator GILL, to **INDEFINITELY POSTPONE** this Bill and all accompanying Papers.

A No vote will be opposed.

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

ROLL CALL

YEAS:—Senators, Black, Dutremble, Emerson, Gill, Hichens, Maybury, Perkins, Sewall, Shute, Stover, Usher

NAYS:—Senators, Andrews, Berube, Bustin, Carpenter, Chalmers, Clark, Diamond, Erwin, Kany, Matthews, Najarian, Pearson, Trafton, Tuttle, Twitchell, Violette, Webster, The President—Charles P. Pray

ABSENT:—Senators None

11 Senators having voted in the affirmative and 18 Senators having voted in the negative, with 6 Senators Pairing their votes and No Senators being absent, the motion of the Senator from Cumberland, Senator GILL, to **INDEFINITELY POSTPONE** the Bill and Accompanying Papers, **FAILS**.

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

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

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

ENACTORS

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

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)

An Act to Amend and Clarify the Maine Juvenile Code. (H.P. 746) (L.D. 1069) (C. "A" H-406)

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

Under suspension of the Rules, the Senate considered the following inclusively:

Emergency

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

Emergency Resolve

Resolve, Authorizing Continuing Activities to Streamline Information Processing by Income Supplementation and Social Service Programs. (S.P. 527) (L.D. 1422) (C. "A" S-273)

These being Emergency Measures and having received the affirmative vote of 24 Members of the Senate, with No Senators having voted in the negative, and 24 being more than two-thirds of the entire elected membership, were **PASSED TO BE ENACTED** or **FINALLY PASSED** and having been signed by the President, were presented by the Secretary to the Governor for his approval.

Emergency Resolve

Resolve, to Establish a Commission to Prepare a Revision of the State's Motor Vehicle Laws. (S.P. 321) (L.D. 810) (S. "A" S-278 to C.C. "A" H-370)

On motion by Senator DANTON of York, placed on the **SPECIAL HIGHWAY APPROPRIATIONS TABLE**, pending **PASSAGE TO BE ENACTED**.

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 **BUSINESS AND COMMERCE** on Bill "An Act to Establish Competitive Insurance Rating Under the Maine Workers Compensation System" (H.P. 937) (L.D. 1343)

Reported that the same **Ought to Pass as Amended by Committee Amendment "A"** (H-373).

Comes from the House with the Bill and Accompanying Papers **INDEFINITELY**

POSTPONED.

Which Report was **READ**.

On motion by Senator CLARK of Cumberland, Bill and Accompanying Papers were **INDEFINITELY POSTPONED**, in concurrence.

The Committee on **LOCAL AND COUNTY GOVERNMENT** on Bill "An Act to Authorize Franklin County to Raise \$1,432,085 for Renovations and Additions to the Franklin County Court House" (Emergency) (H.P. 1140) (L.D. 1648)

Reported that the same **Ought to Pass as Amended by Committee Amendment "A"** (H-416).

Comes from the House, with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A"** (H-416).

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-416) **READ** and **ADOPTED**, in concurrence.

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

The Committee on **TAXATION** on Bill "An Act Relating to the Establishment of a Maine Children's Trust Fund" (H.P. 832) (L.D. 1176)

Reported that the same **Ought to Pass as Amended by Committee Amendment "A"** (H-415).

Comes from the House, with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A"** (H-415).

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-415) **READ** and **ADOPTED**, in concurrence.

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

ENACTORS

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

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

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

Senator DOW: Mr. President, I move this bill be placed on the Special Appropriations Table.

THE PRESIDENT: The Senator from Kennebec, Senator DOW, moves that this bill be placed on the **SPECIAL APPROPRIATIONS TABLE**.

The Chair recognizes the Senator from Cumberland, Senator Andrews.

Senator ANDREWS: Thank you, Mr. President. A point of inquiry. I want to be certain as to where we are on the supplements. I understand this is item 7-1.

THE PRESIDENT: The Chair would inform the Senator that the pending question is the motion of the Senator from Kennebec, Senator DOW, that L.D. 1649, on Supplement number 6, be placed on the **SPECIAL APPROPRIATIONS TABLE**.

Senator ANDREWS: Is it true, Mr. President, that the motion to place on the Special Appropriations Table is not debatable?

THE PRESIDENT: The Chair would answer in the affirmative.

Senate At Ease

Senate called to Order by the President.

On motion by Senator DOW of Kennebec, placed on the **SPECIAL APPROPRIATIONS TABLE**, pending **PASSAGE TO BE ENACTED**.

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 Implement Recognition Grants for Teachers, Establish a Minimum Salary for Teachers and Provide Money for School Administrative Units to Operate Preschool Programs for Handicapped Children" (H.P. 1088) (L.D. 1581)

In House May 24, 1985, referred to the Committee on **EDUCATION** and **ORDERED PRINTED**.

In Senate May 28, 1985, **PASSED TO BE ENGROSSED**, without Reference to a Committee, in **NON-CONCURRENCE**.

Comes from the House that Body **ADHERED**.

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

Non-concurrent Matter

Bill "An Act to Implement Teacher Recognition Grants, Establish a Summer Grants Program for Teachers and Establish a Minimum Salary for 1986-87" (H.P. 1089) (L.D. 1582)

In House May 24, 1985, referred to the Committee on **EDUCATION** and **ORDERED PRINTED**.

In Senate May 28, 1985, **PASSED TO BE ENGROSSED**, without Reference to a Committee, in **NON-CONCURRENCE**.

Comes from the House that Body **ADHERED**.

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**

Resolve. Creating a Joint Select Committee on Economic Development. (Emergency) (H.P. 74) (L.D. 95) (S. "A" S-277 to C. "A" H-344)

In Senate June 12, 1985, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE "A" (H-344) AS AMENDED BY SENATE AMENDMENT "A" (S-277)**, thereto in **NON-CONCURRENCE**.

Comes from the House **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE "A" (H-344) AS AMENDED BY SENATE AMENDMENT "A" (S-277) AND HOUSE AMENDMENT "B" (H-412)**, thereto in **NON-CONCURRENCE**.

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

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

An Act Concerning Access to Medical Records by Prosecutors. (S.P. 566) (L.D. 1494) (C. "A" S-280)

In House June 14, 1985, **PASSED TO BE ENACTED**.

This being an Emergency Measure and having received the affirmative vote of 23 Members of the Senate, with No Senators having voted in the negative and 23 being less than two-thirds of the entire elected membership, **FAILS OF PASSAGE TO BE ENACTED**.

(See Action Later Today)

Senate At Ease

Senate called to Order by the President.

On motion by Senator **CLARK** of Cumberland, under suspension of the Rules, the Senate **RECONSIDERED** its action whereby it **FAILED TO ENACT**:

Emergency

An Act Concerning Access to Medical Records by Prosecutors. (S.P. 566) (L.D. 1494) (C. "A" S-280)

(In House June 14, 1985, **PASSED TO BE ENACTED**)

This being an Emergency Measure and having received the affirmative vote of 26

Members of the Senate, with No Senators having voted in the negative and 26 being more than two-thirds of the entire elected membership, 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:

COMMITTEE REPORTS**House****Ought to Pass As Amended**

The Committee on **TAXATION** on Bill "An Act Relating to Taxation of Aircraft" (Emergency) (H.P. 671) (L.D. 954)

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-419)**.

Comes from the House, with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-419)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-419) **READ** and **ACCEPTED**, in concurrence.

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

The Committee on **TRANSPORTATION** on Bill "An Act to Provide for Cost Sharing for Maintenance of Railroad Grade and Highway Bridge Crossings and the Allocation and Appropriation of Funds for Transportation Purposes" (H.P. 1138) (L.D. 1644)

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-418)**.

Comes from the House, with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-418)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-418) **READ** and **ADOPTED**, in concurrence.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED, as Amended**, in 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:

ENACTORS

The Committee on **Engrossed Bills** reported as truly and strictly engrossed the following: An Act Concerning Incarcerated Prisoners and the Employment Security Law. (H.P. 822) (L.D. 1163) (C. "A" H-403)

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

Senator **TUTTLE:** Mr. President and members of the Senate, I would move Indefinite Postponement of this Bill and all accompanying papers and would speak to my motion.

It came to my attention that there has been a recent decision on this issue that requires that this Bill no longer be before the Legislature. The original Bill, which is what the Committee worked on, has been totally changed by the recent House amendment that has been offered to the Bill.

Because the Chair of the Committee is not here I would also make a motion that this be tabled 1 Legislative Day pending the motion to Indefinitely Postpone so that he might have a chance to look at the Bill.

THE PRESIDENT: The Chair would advise the Senator that the tabling motion is not proper.

On motion by Senator **TUTTLE** of York, Bill

and Accompanying Papers were **INDEFINITELY POSTPONED**.

(See Action Later Today)

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 Require Parental Consent in the Case of Minors' Abortions" (H.P. 298) (L.D. 387)

In House June 13, 1985, Report **B OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "B" (H-409) READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "B" (H-409)**.

In Senate June 14, 1985, Report **A OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-408) READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-408) IN NON-CONCURRENCE**.

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

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

Senator **CARPENTER:** Mr. President and Ladies and Gentlemen of the Senate, (beginning of remarks inaudible) . . . and I think that you probably can see or can recall from the debate that we've already had in this Chamber as to what the process has been here, now we're faced with the motion from the other Body to Insist, that they have Insisted, which implies that there is some room for negotiation, so room for maneuvering.

Let me say as somebody who has always been on the other side and who the inclination was at the beginning of this whole process to be there and let me assure you that if there ever was a middle ground it is embodied in what this Chamber accepted a few minutes ago. It seems to me to be totally futile to go with an Insist motion and therefore, Mr. President, I would move that the Senate Adhere.

THE PRESIDENT: The Senator from Aroostook, Senator **CARPENTER**, moves that the Senate **ADHERED**.

The Chair recognizes the Senator from Oxford, Senator **Twitchell**.

Senator **TWITCHELL:** I move that we **RECEDE** and **CONCUR** with the House and I ask for a Roll Call.

THE PRESIDENT: The Senator from Oxford, Senator **TWITCHELL**, moves that the Senate **RECEDE** and **CONCUR**. 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 in their places and remain standing until counted.

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

The Chair recognizes the Senator from Aroostook, Senator **Carpenter**.

Senator **CARPENTER:** Mr. President, this is such an important issue that I don't want anybody to be confused because of the procedure. I want to make sure that we're all up front so that if you agree with the position of myself, the position that this Body took about an hour ago you will be voting **NO** on the pending motion. If in fact you agree with the position of the other Body you will be voting yes on the pending motion to Recede and Concur.

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

Senator **STOVER** of Sagadahoc who would have voted **Yea** requested and received permission to pair his vote with Senator **BALDACCI** of Penobscot who would have voted **Nay**.

Senator **McBREAIRTY** of Aroostook who

would have voted Yea requested and received permission to pair his vote with Senator **VIOLETTE** of Aroostook who would have voted Nay.

Senator **TWITCHELL** of Oxford who would have voted Yea requested and received permission to pair his vote with Senator **BROWN** of Washington who would have voted Nay.

Senator **WEBSTER** of Franklin who would have voted Yea requested and received permission to pair his vote with Senator **GAUVREAU** of Androscoggin who would have voted Nay.

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

Senator **SHUTE** of Waldo who would have voted Yea requested and received permission to pair his vote with Senator **TRAFTON** of Androscoggin who would have voted Nay.

THE PRESIDENT: The pending question before the Senate is the motion of the Senator from Oxford, Senator **TWITCHELL**, that the Senate **RECEDE** and **CONCUR**. A Roll Call has been ordered.

A Yes vote will be in favor of the motion of the Senator from Oxford, Senator **TWITCHELL**, to **RECEDE** and **CONCUR**.

A No vote will be opposed.

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

ROLL CALL

YEAS:—Senators, Berube, Diamond, Erwin, Matthews, Pearson, Tuttle

NAYS:—Senators, Andrews, Black, Bustin, Carpenter, Clark, Danton, Dow, Emerson, Gill, Kany, Maybury, Najarian, Sewall, Usher, The President—Charles P. Pray

ABSENT:—Senators None

6 Senators being voted in the affirmative and 15 Senators having voted in the negative, with 14 Senators Pairing their votes and No Senators being absent, the motion of the Senator from Oxford, Senator **TWITCHELL**, to **RECEDE** and **CONCUR**, **FAILS**.

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

Sent down for concurrence.

Senator **WEBSTER** of Franklin moved that the Senate **RECONSIDER** its action whereby it **INDEFINITELY POSTPONED**:

An Act Concerning Incarcerated Prisoners and the Employment Security Law. (H.P. 822) (L.D. 1163) (C. "A" H-403)

(In House June 14, 1985, **PASSED TO BE ENACTED**.)

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

Senator **MATTHEWS:** Mr. President, I don't seem to have the supplement on my desk. Could someone explain the Bill please.

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 Franklin, Senator Webster.

Senator **WEBSTER:** Mr. President and Ladies and Gentlemen of the Senate. A few minutes ago we voted to Indefinitely Postpone a motion made by Senator Tuttle from York, a measure which in my opinion was a reasonable piece of legislation. As a matter of fact, at one time I had even considered cosponsoring it except that Senator Dutremble who is not here at this moment, was a sponsor of, so I felt that in his wisdom being the Chairman of Labor, that I would let him sponsor it rather than myself.

Let me just read to you what the Bill does as amended. It says, I'll read the Statement of Fact: "This amendment disqualifies an unemployment claimant if he is discharged from work because he has been convicted of a criminal offense and subsequently incarcerated causing him to miss at least two days of work." This Bill is a result of an in-

dividual who was thrown in jail for committing a crime and the unemployment board ruled that he was eligible for unemployment because he couldn't work. I mean, that's crazy! It is the most ludicrous proposal I've ever heard of. This is a reasonable proposal and I think we made a mistake when we Indefinitely Postponed it and I would ask you to Reconsider so we could pass this Bill into law.

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

Senator **TUTTLE:** Mr. President and Members of the Senate. The initial Bill which is what Senator Webster read and the amendment that was adopted really drastically changed the bill.

I think the proper motion before us now might be to table this 1 Legislative Day so that the Senator from York, Senator Dutremble, might look at the bill. That was my original motion when I did make the motion to Indefinitely Postpone it.

It is my understanding that there is at present a court decision pertaining to this issue making this Bill no longer necessary. It is because of that that I made the motion and I would, if the Senator would withdraw his motion then I would make the motion to table for 1 Legislative Day.

Off Record Remarks

Senate At Ease

Senate called to Order by the President.

On motion by Senator **CLARK** of Cumberland, Tabled until Later in Today's Session, pending the motion of Senator **WEBSTER** of Franklin to **RECONSIDER** whereby the Bill and Accompanying Papers were **INDEFINITELY POSTPONED**.

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

COMMUNICATIONS

The Following Communication:

STATE OF MAINE HOUSE OF REPRESENTATIVES AUGUSTA 04333

June 14, 1985

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

The Speaker appointed the following conferees to the Committee of Conference on the disagreeing action of the two branches of the Legislature on Bill "An Act to Prohibit Consumption of Alcoholic Beverages within 15 Feet of a Public Way" (H.P. 529) (L.D. 749):

Representative ALLEN of Washington
Representative MANNING of Portland
Representative LEBOWITZ of Bangor

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

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

The Following Communication: STATE OF MAINE HOUSE OF REPRESENTATIVES AUGUSTA 04333

June 14, 1985

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

The Speaker appointed the following conferees to the Committee of Conference on the disagreeing action of the two branches of the Legislature on Bill "An Act Concerning Nomination Petitions for Unenrolled Candidates" (H.P. 1063) (L.D. 1542):

Representative DUFFY of Bangor
Representative SWAZEY of Bucksport

Representative CAHILL of Woolwich

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

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

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

COMMITTEE REPORTS

House Ought to Pass

The Committee on **BUSINESS AND COMMERCE** on Bill "An Act Relating to Shares of Stock of Asti-Kim Corporation" (Emergency) (H.P. 1144) (L.D. 1651)

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

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

The Bill **READ ONCE**.

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

Under suspension of the Rules, all matters thus acted upon were ordered sent down forthwith for concurrence.

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

PAPERS FROM THE HOUSE

Joint Order

The following Joint Order: (H.P. 1146)
ORDERED, the Senate concurring, that Bill "AN ACT to Establish a Maine-New Hampshire Boundary Commission" (H.P. 1049) (L.D. 1525), be recalled from the Governor's desk to the House.

Comes from the House, **READ** and **PASSED**. Which was **READ** and **PASSED**, in concurrence.

ENACTORS

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

An Act to Amend the Maine Certificate of Need Act to Clarify the Provision to Mutually Extend the Review Period for Certificate of Need Review and to Make the Reconsideration Hearing Optional and Establish a Time Limit for Decisions After a Reconsideration Hearing. (S.P. 214) (L.D. 572) (C. "A" S-270)

On motion by Senator **CLARK** of Cumberland, Tabled until Later in Today's Session, pending **PASSAGE TO BE ENACTED**.

ORDERS OF THE DAY

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

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)

Tabled—June 14, 1985, by Senator **VIOLETTE** of Aroostook.

Pending—**PASSAGE TO BE ENACTED**. (In House June 14, 1985, **PASSED TO BE ENACTED**.)

(In Senate June 10, 1985, **PASSED TO BE ENGROSSED AS AMENDED**.)

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

On motion by Senator **PEARSON** of Penobscot, **RECESSED** until the sound of the bell.

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

Senate **CARPENTER** for the Committee on **JUDICIARY** on Bill "An Act Establishing a Commission to Study Family Matters in Court and the Establishment of a Family Division of Court" (Emergency) (S.P. 504) (L.D. 1364)

Reported that the same **Ought to Pass as Amended by Committee Amendment "A"** (S-291).

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

Committee Amendment "A" (S-291) **READ** and **ADOPTED**.

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

Sent down for concurrence.

Under suspension of the Rules, all matters thus acted upon were ordered sent down forthwith for concurrence.

Divided Report

The Majority of the Committee on **JUDICIARY** on Bill "An Act to Establish Confidential Communications Between Certified Public Accountants and their Clients Concerning Tax Matters" (S.P. 620) (L.D. 1635)

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

Signed:

Senators:

CARPENTER of Aroostook
SEWALL of Lincoln

Representatives:

COOPER of Windham
ALLEN of Washington
DRINKWATER of Belfast
KANE of South Portland
PRIEST of Brunswick
STETSON of Damariscotta
LEBOWITZ of Bangor
MacBRIDE of Presque Isle
PARADIS of Augusta
CARRIER of Westbrook

The Minority of the same Committee on the same subject reported that the same **Ought to Pass as Amended by Committee Amendment "A"** (S-292).

Signed:

Senator:

CHALMERS of Knox

Which Reports were **READ**.

The Majority **UGHT NOT TO PASS** Report was **ACCEPTED**.

Sent down for concurrence.

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

ORDERS

Joint Order

On motion by Senator **CLARK** of Cumberland, the following Joint Order: (S.P. 638)

ORDERED, the House concurring, that Bill "An Act to Amend the Reapportionment Law" (S.P. 619) (L.D. 1630), be recalled from the Governor's desk to the Senate.

Which was **READ** and **PASSED**.

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

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

PAPERS FROM THE HOUSE

House Papers

Bill "An Act to Provide Funds to Operate the Marine Laboratory Public Aquariums and Seal Pool at Boothbay Harbor" (H.P. 1148)

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

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

Senator **PEARSON**: Mr. President, an inquiry through the Chair. When was this Bill allowed in?

THE PRESIDENT: The Chair would respond approximately six or less hours ago on an eight to one vote by the Council. Only the Presiding Officer of the Senate voting against the introduction of the bill at this late time.

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

Senate At Ease

Senate called to Order by the President.

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

An Act to Amend the Maine Certificate of Need Act to Clarify the Provision to Mutually Extend the Review Period for Certificate of Need Review and to Make the Reconsideration Hearing Optional and Establish a Time Limit for Decisions After a Reconsideration Hearing. (S.P. 214) (L.D. 572) (C. "A" S-270)

Tabled—June 14, 1985 by Senator **CLARK** of Cumberland.

Pending—**PASSAGE TO BE ENACTED**.

(In House June 14, 1985, **PASSED TO BE ENACTED**.)

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

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

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

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

On further motion by same Senator, the Senate **RECONSIDERED** its action whereby Committee Amendment "A" (S-270) was **ADOPTED**.

On further motion by same Senator, Senate Amendment "A" (S-293) to Committee Amendment "A" (S-270) **READ** and **ADOPTED**.

Committee Amendment "A" (S-270) as Amended by Senate Amendment "A" (S-293), 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.

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

An Act Concerning Incarcerated Prisoners and the Employment Security Law, was Indefinitely Postponed. (H.P. 822) (L.D. 1163) (C. "A" H-403)

Tabled—June 14, 1985, by Senator **CLARK** of Cumberland.

Pending—the motion of Senator **WEBSTER** of Franklin to **RECONSIDER** whereby the Bill and Accompanying Papers were **INDEFINITELY POSTPONED**.

(In Senate June 14, 1985, Bill and Accompanying Papers **INDEFINITELY POSTPONED**.)

(In House June 14, 1985, **PASSED TO BE ENACTED**.)

THE PRESIDENT: The pending question before the Senate is the motion of the Senator from Franklin, Senator **WEBSTER**, that the Senate **RECONSIDER** its action whereby the Bill and Accompanying Papers were **INDEFINITELY POSTPONED**.

The Chair recognizes the Senator from York, Senator Tuttle.

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

THE PRESIDENT: The Senator from York, Senator Tuttle, has requested a Division.

Will all those Senators in favor of the motion of the Senator from Franklin, Senator **WEBSTER**, that the Senate **RECONSIDER** its action whereby the Bill and Accompanying Papers were **INDEFINITELY POSTPONED**, please rise in their places and remain standing until counted.

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

13 Senators having voted in the affirmative, and 7 Senators having voted in the negative, the motion by Senator **WEBSTER** of Franklin to **RECONSIDER INDEFINITE POSTPONEMENT, PREVAILS**.

The pending question before the Senate is the motion of Senator **TUTTLE** of York, to **INDEFINITELY POSTPONE** this Bill and Accompanying Papers.

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, has requested a Division.

Will all those Senators in favor of the Senator from York, Senator **TUTTLE**, that this Bill be **INDEFINITELY POSTPONED**, please rise in their places and remain standing until counted.

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

Senator **TUTTLE**: Thank you, Mr. President. Just briefly, I wish I hadn't been put in this spot. I understand where the Senator from Franklin, Senator Webster, is coming from but I am trying to look for that decision and we haven't been able to find it.

Some of my concerns pertaining to this issue—I've got a memo from the Department of Labor—it says "pertaining to L.D. 1163 as the Department is not sure as to the extent to which this provision would apply, it is possible that the impact of a provision would change the total intent of the legislation." I wish I did have that decision but with time constraints before us today, it doesn't seem that that's where we're going to head.

I think that in its present form we have charged the Department of Labor where it was refusing people benefits who are discharged for misconduct. Certainly, people who do not appear for work are guilty of misconduct, which was the intent of the Committee.

I urge you to leave the present decision to the Department as I felt was the case in previous legislatures and I believe was the intent of the person who sponsored the Bill. For that reason I hope that you will vote in favor of the motion to Indefinitely Postpone.

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

Senator **BLACK**: Thank you, Mr. President, fellow Senators. The Labor Committee heard this Bill some time ago. I think even previous to the Workers' Compensation work. If my recollection serves me correctly, all members present at the time voted Ought to Pass unanimously. Some people were not there.

The issue is if a person came up that had stolen something, for some act of their own did not show up for work or was in jail or something, the Committee felt that they did not deserve to receive employment compensation benefits for anything like that.

That is it in a nut shell, I could elaborate but the hour is late and I move that this be reconsidered and passed. Thank you.

THE PRESIDENT: The pending question is the motion of the Senator from York, Senator **TUTTLE**, to **INDEFINITELY POSTPONE** the Bill and Accompanying Papers.

The Chair recognizes the Senator from Hancock, Senator Perkins.

Senator **PERKINS**: I have two requests. One, I would appreciate it if the Secretary would read the Committee Report. And the second, I would ask for a Roll Call.

Which Report was **READ**.

THE PRESIDENT: The Senator from Hancock, Senator Perkins, 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 in their places and remain standing until counted.

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

Off Record Remarks

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

Senator **TUTTLE:** I don't mean to belabor the issue but my one fear is in passing it as it is that by passing what we have now will totally, as the memo that I received from the Department of Labor, would totally change the whole intent of the Bill. As my own concern, I wasn't expected to be in this position but I am and I felt I had to represent that point.

THE PRESIDENT: The Chair recognizes the Senator from Hancock, Senator Perkins.

Senator **PERKINS:** Mr. President and Ladies and Gentlemen of the Senate, I think my object in asking to have the Committee Report read that was I believe the Chairman of the Committee that reported this Bill out is also the sponsor of the Bill, or a cosponsor if I'm not mistaken.

I also believe that it is possible that were this to be changed that the Chairman of the Committee of Labor in conference with the Department of Labor can very well read into the Record on enactment any changes or anything that they feel would clarify the legislative report. So, therefore I have less fears and I respect the fears of the good Senator from York but I really believe that it is possible to read into the Legislative Record the intent and that I believe that given time the chairman of the committee will do just that if he and the Department of Labor feel it is necessary.

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

Senator **MATTHEWS:** Mr. President and Members of the Senate. I would like to address a question through the Chair to anyone who may choose to answer. My question deals with someone on an OUI offense that happens to be incarcerated for one day or an evening or an afternoon and happens to miss his day at work, what happens to that person? I have some serious problems with this Bill and certainly it should be debated and certainly it seems to me that the chairman of the committee should be here to discuss this issue.

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

Senator **SEWALL:** Thank you, Mr. President and Members of the Senate. I would be happy to explain what happens in a situation of the OUI and what happened with the court.

The court ruled, well, they had a problem with people who were incarcerated for OUI and loosing their job because of it. Generally, what the court decided was that if you had the sort of job, for instance you were a taxi driver or something along those lines, and you had to drive as part of your job that in those cases those people would no longer be allowed to collect their benefits but the other people would be, the people who didn't drive as a living or a bus driver or a taxicab driver or something like that. That's the case that went to court, it had nothing to do with this Bill which has to do with someone convicted and in prison and collecting unemployment benefits.

THE PRESIDENT: The pending question before the Senate is the motion of the Senator from York, Senator Tuttle, to **INDEFINITELY POSTPONE** the Bill and Accompanying Papers. A Roll Call has been ordered.

Senator **TUTTLE** of York requested and received Leave of the Senate to Speak a fourth time.

Senator **TUTTLE:** Mr. President, I've gotten a few notes from a number of members who would like me to maybe explain the Bill a little bit more so that they can understand what they are voting on so I will try to do that.

I guess according to the Statement of Fact L.D. 1163, the purpose of the Bill is that the State Employment Security Law is to amend

the definition of voluntary leaving of work to include the commission of any voluntary act which makes it impossible for the employee to continue in the job if the employee knew or should have known that commission of the act would jeopardize the job. The Department believes, this is a memo that I have from the Department, that L.D. 1163 in its present form with the amendment raises a number of concerns. The language of the bill is very general and broad and may therefore be subject to wide interpretation, which I tried to bring up before.

The Department believes that this provision would result in a number of court cases that this bill is trying to address but won't cover the intent and scope of this provision. The language of this Bill appears to state that an individual must have to be charged by his employer in order for this provision to apply. If this is the case, the language will be more appropriately placed in probably another provision of the employment security law. The Bill appears in effect to be amending a definition of misconduct and not the definition of voluntary leave.

Although the doctrines of constructive quit have been applied by few courts in unemployment compensation cases, no state has enacted any sort of constructive quit language like is in this particular legislation, so we would be the first state in the nation to do something like this.

I think we have concerns, they are justified. I think that if there are some problems we can come back next year and address them. I would only ask that we be cautious and defeat this bill.

THE PRESIDENT: The Chair recognizes the Senator from Franklin, Senator Webster.

Senator **WEBSTER:** Mr. President and Ladies and Gentlemen of the Senate. Just very briefly, I would like to comment on a couple of the statements made by the Senator from York, Senator Tuttle, in regards to this legislation.

First of all, there are three other states to my knowledge, California, Michigan and Massachusetts who have laws virtually with exactly the same wording as this Bill we're proposing today. I'm not proposing but it has been proposed by Senator Dutremble and Representative Hepburn.

I think it is a simple little Bill and I think it makes some sense, it clarifies the statutes, it says that if someone loses their job—I think the problem with this Bill came from a problem in Skowhegan where an individual was in a rebellious fight in a bar, he got thrown in jail for three days. He never notified his employer and he couldn't go back to work for three days so his employer had to hire somebody else. The Unemployment Commission ruled that he was eligible for unemployment because he had been fired from his job. It doesn't make sense. I don't think we ought to be subsidizing criminals. I mean if a guy goes out and gets drunk or whatever the case may be, he beats up his wife and is thrown in jail, I don't want to give him unemployment compensation; it's very simple.

So, I would ask you to support this Bill. I think it is a reasonable proposal. I think we have to look at the committee report. I think that Senator Dutremble and Senator Black and others spent hours on this Bill and I think it is a reasonable proposal. I think the majority of the committee felt so and I would hope you would support that version.

Senator **TUTTLE** of York requested and received Leave of the Senate to speak a fifth time.

Senator **TUTTLE:** Mr. President and members of the Senate. Very briefly, pertaining to the three other states that presently have these laws, I've got a memo from the Department of Labor that says we're the first state.

Again, I understand what the gentleman is

getting at but I will read the last section of what I was given. It says, "The Department is not sure to the extent of what this provision will do. It is possible that the impact of this provision would totally change the total intent of this legislation."

Senator **WEBSTER** of Franklin requested and received Leave of the Senate to speak a fourth time.

Senator **WEBSTER:** Mr. President and Ladies and Gentlemen of the Senate. It was brought to my attention that perhaps the concern about this measure that has been brought to your attention by Senator Tuttle dealt with the issue of the original bill and we're now discussing the amendment, which is the amendment that replaces the original legislation and this is what we should be discussing.

Senator **TUTTLE** of York requested and received Leave of the Senate to speak a sixth time.

Senator **TUTTLE:** Mr. President and members of the Senate. I was speaking to the amendment.

THE PRESIDENT: The pending question is the motion of Senator Tuttle of York to **INDEFINITELY POSTPONE** the Bill and Accompanying Papers.

The Chair recognizes the Senator from Kennebec, Senator Matthews.

Senator **MATTHEWS:** At the risk of bodily harm to my person, I would like to still ask a question through the Chair if I may.

My question to anyone who might respond is, what happens to the person who notifies his employer and who happens to miss one day? What happens to that gentleman who notified his employer?

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

The Chair recognizes the Senator from Lincoln, Senator Sewall.

Senator **SEWALL:** Thank you, Mr. President. The answer to the question is nothing.

THE PRESIDENT: The pending question is the motion of Senator Tuttle of York to **INDEFINITELY POSTPONE** the Bill and Accompanying papers.

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

A No vote will be opposed.

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

THE PRESIDENT: The pending question before the Senate is the motion of Senator Tuttle of York to **INDEFINITELY POSTPONE** the Bill and Accompanying Papers. The Doorkeepers will secure the Chamber. The Secretary will call the Roll.

ROLL CALL

YEAS:—Senators, Andrews, Bustin, Carpenter, Chalmers, Danton, Matthews, Tuttle, The President—Charles P. Pray

NAYS:—Senators, Berube, Black, Emerson, Erwin, Gill, Kany, Maybury, McBreaarty, Pearson, Perkins, Sewall, Shute, Twitchell, Usher, Webster

ABSENT:—Senators, Baldacci, Brown, Diamond, Dow, Gauvreau, Hichens, Najarian, Stover, Trafton, Violette

8 Senators having voted in the affirmative and 15 Senators having voted in the negative, with 2 Senators Pairing their votes and 10 Senators being absent, the motion of Senator Tuttle of York, to **INDEFINITELY POSTPONE** the Bill and Accompanying Papers, **FAILS**.

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

(See Action Later Today)

Off Record Remarks

Senator **GILL** of Cumberland was granted unanimous consent to address the Senate Off the Record.

On motion by Senator **CHALMERS** of Knox, **RECESSED** until the sound of the bell.

After Recess

Senate called to Order by the President.

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

ENACTORS

The Committee on **ENGROSSED BILLS** reported as truly and strictly engrossed the following:

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

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

Senator **PERKINS** of Hancock moved that the Senate **RECONSIDER PASSAGE TO BE ENACTED** on:

An Act Concerning Incarcerated Prisoners and the Employment Security Law. (H.P. 822) (L.D. 1163) (C. "A" H-403)

(In Senate June 14, 1985, **PASSED TO BE ENACTED**, in concurrence.)

(In House June 14, 1985, **PASSED TO BE ENACTED**.)

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

Senator **BUSTIN:** I ask for a Division.

THE PRESIDENT: The Senator from Kennebec, Senator Bustin, has requested a Division.

Will all those Senators in favor of the motion of Senator **PERKINS** of Hancock to **RECONSIDER** its action whereby this Bill was **PASSED TO BE ENACTED**, please rise in their places and remain standing until counted.

The Chair recognizes the Senator from Aroostook, Senator Carpenter.

Senator **CARPENTER:** Mr. President, I move this be Tabled 1 Legislative Day, pending the motion of the Senator from Hancock, Senator Perkins, to Reconsider its action whereby the Bill was **PASSED TO BE ENACTED**.

THE PRESIDENT: The Senator from Aroostook, Senator **CARPENTER**, moves that this matter be **TABLED** 1 Legislative Day, pending the motion of the Senator from Hancock, Senator **PERKINS**, to **RECONSIDER** its action whereby the Bill was **PASSED TO BE ENACTED**.

The Chair recognizes the Senator from Hancock, Senator Perkins.

Senator **PERKINS:** I would ask for a Division on the Tabling motion.

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

Will all those Senators in favor of the motion of the Senator from Aroostook, Senator **CARPENTER**, to **TABLE** this matter 1 Legislative Day, pending the motion of the Senator from Hancock, Senator **PERKINS**, to **RECONSIDER** its action whereby the Bill was **PASSED TO BE ENACTED**, please rise in their places and remain standing until counted.

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

9 Senators having voted in the affirmative, and 14 Senators having voted in the negative, the motion of Senator **CARPENTER** of Aroostook, to **TABLE** 1 Legislative Day, pending the motion of the Senator from Hancock, Senator **PERKINS**, to **RECONSIDER** its action whereby the Bill was **PASSED TO BE ENACTED**, **FAILS**.

The pending question before the Senate is the motion of Senator **PERKINS** of Hancock, to **RECONSIDER PASSAGE TO BE ENACTED**. A Division has been requested.

Will all those Senators in favor of the motion

of Senator **PERKINS** of Hancock, to **RECONSIDER PASSAGE TO BE ENACTED**, please rise in their places and remain standing until counted.

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

7 Senators having voted in the affirmative, and 15 Senators having voted in the negative, the motion of Senator **PERKINS** of Hancock, to **RECONSIDER PASSAGE TO BE ENACTED**, **FAILS**.

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 Employment of Certain Individuals in Contact with Children" (H.P. 963) (L.D. 1384) (C. "A" H-389)

In Senate June 12, 1985, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-389)**, in concurrence.

Comes from the House **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-389) AND HOUSE AMENDMENT "A" (H-421) IN NON-CONCURRENCE**.

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

Off Record Remarks

House Papers

Bill "An Act to Promote Industrial Stability" (H.P. 1145)

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

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

COMMUNICATIONS

The Following Communication:

STATE OF MAINE HOUSE OF REPRESENTATIVES AUGUSTA 04333

June 14, 1985

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

Dear Madam Secretary:

The House voted today to adhere to its former action on Bill "An Act to Require Parental Consent in the Case of Minors' Abortions" (H.P. 298) (L.D. 387).

Sincerely,

S/ EDWIN H. PERT

Clerk of the House

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

Senator **PEARSON** of Penobscot was granted unanimous consent to address the Senate Off the Record.

On motion by Senator **PERKINS** of Hancock, **RECESSED** until the sound of the bell.

After Recess

Senate called to Order by the President.

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

PAPERS FROM THE HOUSE

Joint Order

The following Joint Order: (H.P. 1147)

ORDERED, the Senate concurring, the Bill "AN ACT to Clarify the Discretionary Authority of the Harness Racing Commission to License Pari-mutuel meets and Assign Racing Dates," (H.P. 790) (L.D. 1120), be recalled from the Governor's desk to the House.

Comes from the House, **READ** and **PASSED**.

Which was **READ** and **PASSED**, in concurrence.

Under suspension of the Rules, all matters thus acted upon were ordered sent down forthwith for concurrence.

On motion by Senator **CLARK** of Cumberland, **ADJOURNED** until 9 o'clock, Monday, June 17, 1985.