

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
 Monday
 June 17, 1985
 Senate called to Order by the President.

Prayer by The Honorable Jean B. Chalmers of Knox.

SENATOR CHALMERS: In memory of all who have suffered from injustice, especially those over in Beirut now, may I share with you a prayer from the Union Prayer Book.

"Fervently we invoke Thy blessing on our country and our nation. Guard them, O God, from calamity and injury. Suffer not their adversaries to triumph over them but let the glories of a just, righteous and God fearing people increase from age to age. Enlighten with Thy wisdom and sustain with Thy power those whom the people have set in authority. The President, his counselors and advisors, the judges, law givers and executives and all who are entrusted with our safety and with the guardianship of our rights and our liberties. May peace and good will obtain among all the inhabitants of our land. May religions spread its blessing among us and exalt our nation in righteousness." Amen.

Reading of the Journal of Friday, June 14, 1985.

Off Record Remarks

PAPERS FROM THE HOUSE
 Non-concurrent Matter

Bill "An Act Relating to the Administration of Vocational Education" (S.P. 628) (L.D. 1645)

In Senate June 5, 1985, PASSED TO BE ENGROSSED.

Comes from the House PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "B" (H-422) in NON-CONCURRENCE.

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

COMMITTEE REPORTS
 Senate

Ought to Pass in New Draft

Senator MATTHEWS for the Committee on AUDIT AND PROGRAM REVIEW on Bill "An Act Relating to Periodic Justification of Departments and Agencies of State Government under the Maine Sunset Laws" (Emergency) (S.P. 141) (L.D. 395)

Reported that the same Ought to Pass in New Draft under same title (Emergency) (S.P. 637) (L.D. 1653)

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

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

Sent down for concurrence.

RECALLED FROM THE GOVERNOR'S DESK

An Act to Amend the Reapportionment Law. (S.P. 619) (L.D. 1630) (H. "A" H-377) (In Senate June 13, 1985, PASSED TO BE ENACTED, in concurrence.)

(RECALLED from the Governor's Desk pursuant to Joint Order S.P. 638.)

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

On further motion by same Senator, the Senate RECONSIDERED whereby the Bill was PASSED TO BE ENACTED.

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

On further motion by same Senator, the Senate RECONSIDERED whereby the Bill was PASSED TO BE ENGROSSED AS

AMENDED.

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

On further motion by same Senator, the Senate RECONSIDERED whereby it ADOPTED House Amendment "A" (H-377).

Senator KANY: I move Indefinite Postponement of Senate Amendment "A" (H-377), and would speak to my motion.

Mr. President and Members of the Senate. The amendment that I'm seeking Indefinite Postponement of took out of the Bill, regarding reapportionment in Portland, three streets. This particular amendment was added elsewhere on this Floor only because the population statistics and data were not available at the time we were enacting this Bill. Since then, the State Government Committee has come into possession of that data and we have been assured that we're really only dealing with twenty-two homes and that this is a very reasonable amendment to the reapportionment law.

I do urge Indefinite Postponement of the amendment. Thank You.

On motion by Senator KANY of Kennebec, House Amendment "A" (H-377) INDEFINITELY POSTPONED in NON-CONCURRENCE.

Which was PASSED TO BE ENGROSSED in NON-CONCURRENCE.

Sent down for concurrence.

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

ORDERS OF THE DAY

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

SENATE REPORTS—from the Committee on BUSINESS AND COMMERCE on Bill "An Act to Clarify the Authority of Nonprofit Hospital and Medical Service Organizations to Make Incidental Indemnity Payments" (S.P. 230) (L.D. 592)

Majority Report—Ought to Pass in New Draft under same title. (S.P. 611) (L.D. 1604)

Minority Report—Ought to Pass as Amended by Committee Amendment "A" (S-120)

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

Pending—ACCEPTANCE OF EITHER REPORT.

(In Senate May 28, 1985, Reports READ.) On motion by Senator VIOLETTE of Aroostook, Bill and Accompanying Papers INDEFINITELY POSTPONED.

Sent down for concurrence.

Off Record Remarks

Senate At Ease

Senate called to Order by the President.

Off Record Remarks

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

Senator TWITCHELL for the Committee on TAXATION on Bill "An Act to Provide for Greater Tax Expenditure Accountability" (S.P. 579) (L.D. 1521)

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (S-294).

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

Committee Amendment "A" (S-294) 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.

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

COMMITTEE REPORTS

Senate

Ought Not to Pass

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

Bill "An Act to Provide a Sales and Use Tax Exemption for Certain Organizations Providing Support to Alcoholics" (S.P. 186) (L.D. 504)

Leave to Withdraw

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

Bill "An Act to Establish a Fund Concerning the Excavation, Repair, Maintenance and Cleanup of Underground Gasoline Storage Tanks" (S.P. 272) (L.D. 730)

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

COMMUNICATIONS

The Following Communication:

COMMITTEE ON UTILITIES
 112th LEGISLATURE

June 14, 1985

The Honorable Charles P. Pray
 President of the Senate
 112th Legislature
 Dear President Pray:

We are pleased to report that all business which was placed before the Committee on Utilities during the first regular session of the 112th Legislature has been completed. The breakdown of bills referred to our committee follows:

Total number of bills received	41
Unanimous reports	40
Leave to Withdraw	20
Ought to Pass	2
Ought Not to Pass	2
Ought to Pass as Amended	11
Ought to Pass in New Draft	3

Divided reports 1
 Carry Over Bills
 (Approved by the Legislative Council) 2

Respectfully submitted,
 S/ JOHN E. BALDACCI S/ HARRY L. VOSE
 Senate Chair House Chair
 Which was READ and ORDERED PLACED ON FILE.

The Following Communication:

COMMITTEE ON LEGAL AFFAIRS
 112th LEGISLATURE

June 14, 1985

The Honorable Charles P. Pray
 President of the Senate
 112th Legislature
 Dear President Pray:

We are pleased to report that all business which was placed before the Committee on Legal Affairs during the first regular session of the 112th Legislature has been completed. The breakdown of bills referred to our committee follows:

Total number of bills received	136
Unanimous reports	123
Leave to Withdraw	54
Ought to Pass	4
Ought Not to Pass	20
Ought to Pass as Amended	18
Ought to Pass in New Draft	26

Divided reports 13
 Carry Over Bills
 (Approved by the Legislative Council) 1

Respectfully submitted,
S/ RICHARD L. TRAFTON
Senate Chair

S/ POLLY REEVES
House Chair

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

Senate At Ease
Senate called to Order by the President.

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

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

After Recess
The Senate called to Order by the President.

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

COMMITTEE REPORTS House

Committee of Conference

The Second Committee of Conference on the disagreeing action between the two branches of the Legislature, on Bill "An Act to Authorize an Award System to Aid in Coyote Control" (H.P. 858) (L.D. 1217)

Have had the same under consideration and ask leave to report that the House **Recede** from **Passage to be Engrossed as Amended by Committee Amendment "A" (H-224)**; **Recede** from **Adoption** of Committee Amendment "A" (H-224) and **Indefinitely Postpone** the same; **READ** and **Adopt** Committee of Conference Amendment "A" (H-424) and **Pass the Bill to be Engrossed as Amended by Committee of Conference Amendment "A" (H-424) in Non-Concurrence**.

That the Senate **Recede** from Acceptance of the Minority Ought Not to Pass Report of the Committee on **FISHERIES AND WILDLIFE** **Accept** the Majority Ought to Pass as Amended by Committee Amendment "A" (H-224) Report of the Committee on **FISHERIES AND WILDLIFE**; **READ** the Bill **Once**; **READ** and **Indefinitely Postpone** Committee Amendment "A" (H-224); Under suspension of the rules **READ** the Bill a **Second Time**; **READ** and **Adopt** Committee of Conference Amendment "A" (H-424) and **Pass the Bill to be Engrossed as Amended by Committee of Conference Amendment "A" (H-424)**, in concurrence.

Signed on the part of the House:
Representative SMITH of Island Falls
Representative DUFFY of Bangor
Representative CONNERS of Franklin

Signed on the part of the Senate:
Senator USHER of Cumberland
Senator WEBSTER of Franklin
(Senator MATTHEWS of Kennebec Abstained.)

Comes from the House, with the Committee of Conference Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE OF CONFERENCE AMENDMENT "A" (H-424) in NON-CONCURRENCE**.

Which Report was **READ**.

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

Senator **MATTHEWS:** Mr. President, I request a Division, please.

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

Will all those Senators in favor of **ACCEPTANCE** of the Committee of Conference Report, please rise in their places and remain standing until counted.

The Chair recognizes the Senator from Franklin, Senator Webster.

Senator **WEBSTER:** Mr. President, would it be appropriate at this time to explain the issues

so people will have some idea of what we're discussing?

THE PRESIDENT: The Chair would answer in the affirmative.

Senator **WEBSTER:** Mr. President, Ladies and Gentlemen of the Senate, this legislation which came to the Fish and Wildlife Committee, is an award system which has never been tried as far as I know, anywhere in this Country where we're going to establish a bounty type system where the certain classifications of coyote that are shot, that the person shooting that animal would receive a lump sum dollar amount from the Department of Fisheries and Wildlife.

There has been \$5000 set aside, it is an experimental type season. We're going to have a year sunset, I believe that it is January 1, 1986 when this law would go off the books. It is a sincere attempt by Representative Smith from Island Falls and others who feel that this legislature has not done enough to address the problem of Coyotes.

So, it is one of those issues that may of us didn't feel very good about but we felt that something had to be done and this seems like a reasonable approach that would only last for one year. I don't have the Bill in front of me but I believe that we're going to give as of a certain date beginning when this Bill is enacted, we're going to give \$1000 to the biggest female that was shot, I haven't got all the figures in front of me but \$500 for the largest male. It is in the law anyway.

Roughly that is what it does and this has been through two Committee of Conferences and the Committee agreed to sunset this Legislation and that was a compromise. I hope you will consider supporting this if you feel that something should be done in the area of Coyote control. Thank you.

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

Senator **MATTHEWS:** Mr. President and Members of the Senate. I rise very briefly to explain my decision on the Committee of Conference Report and my vote, all along through the Committee, on this Bill, and concur with the good Senator from Franklin, Senator Webster.

The attempt was to control the Coyote problem which I agree is a big problem and I think all the members of the committee agree, Statewide for many farmers and on the predation of the deer herd.

I disagree very strongly though on the method that is being used and one from a long standing concern that bounties have not proven to be effective historically, and maybe that is not a good thing for a Senate Chairman of Fisheries and Wildlife to say, but that is my personal belief.

Also, in this kind of award program I just have a very strong concern that the Department of Fisheries and Wildlife should not be in the business of running some kind of bounty or award type of program here. Money for the largest male coyote shot, a sum of money for the largest female. God only knows how far down the line they are going to go. The appropriation is only \$5000 but the principle concerns me very deeply and I just could not go along with it although the intent as has been mentioned, of those who sponsored this in the beginning and those who went along with the Committee of Conference has been of the highest caliber, I could not accept it.

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

Senator **CLARK:** That you, Mr. President, I would pose a question through the Chair to any member who might wish to respond to my inquiry, which is would it be incorrect of me to characterize this Committee of Conference Report as a one year experimental resurrection of a bounty on Coyote proposal? Question number one.

Question number two, for a Department that

has experienced dramatic and traumatic fiscal troubles over the past six years or so, \$5000 may seem to be a small sum indeed. Is the source of this bounty, excuse me, award program, from the funds of that department which in part were generated by rather dramatic increases in license fees that this Legislature passed?

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

The Chair recognizes the Senator from Cumberland, Senator Black.

Senator **BLACK:** Thank you, Mr. President and fellow Senators. I'm the cosponsor of this Bill and speaking partially for the agriculture community, they feel it is time that the State did something about Coyotes.

The money that set aside or presumably earmarked for this program is received from the special sports license and money that is earmarked for Coyote control. This in a sense, is not a bounty, if it makes a difference what your terminology of bounty is, but the relatively small number of animals that are going to be receiving anything, or people killing the animals, I don't think personally a bounty system overall would do much good. You would just spend a lot of money but if this will encourage a lot of Coyotes to be killed cheaply, and it is sunsetted in the Bill I believe for two years, it is worth a try. With the money coming out of the program itself it is worth trying.

I have given you my opinion of what it is worth.

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

Senator **WEBSTER:** Mr. President and Ladies and Gentlemen of the Senate. I just thought that I would mention very briefly that the funding for this proposed idea and think that most of us on the committee felt it was good for a one time thing to see how it works. It is coming from this super sport licenses.

A couple of years ago we passed a law that says if you have a license now, a hunting and fishing combination, and you want to do something to help the Department you can buy a super sport license which is a special color or something and it costs you \$10 more, it doesn't give you any more right to hunt or fish but it is just a way of helping the Department.

There was some feeling in the committee and the Department seemed to feel that if we said to the people out there, "if you bought this super sport license, this money is going to be used to help defray and help do something about Coyotes, that there would be an increase in sales because of that." There are a lot of people out there, as Senator Black from Cumberland has mentioned, a lot of people out there who feel very strongly that something should be done about Coyotes.

There are a number of people who don't buy this super sport license now who the committee feels will turn around and pay the \$10 extra because they think it is going to do something to help Coyotes. So, we all feel, the members of the committee, don't feel that it is going to really take that much money from the Department because we feel there will be increased revenues through the super sport licenses.

THE PRESIDENT: The pending question is to **ACCEPTANCE** of the Committee of Conference Report. A Division has been requested.

Will all those Senators in favor of **ACCEPTING** the Committee of Conference Report, 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.

15 Senators having voted in the affirmative, and 13 Senators having voted in the negative, the motion to **ACCEPT** the Committee of Conference Report, **PREVAILS**.

THE PRESIDENT: Is it now the pleasure of the Senate to **RECEDE** and **CONCUR**.

The Chair recognizes the Senator from Kennebec, Senator Matthews.

Senator **MATTHEWS:** Mr. President, I ask for a Division.

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

The Chair recognizes the Senator from Kennebec, Senator Matthews.

Senator **MATTHEWS:** Mr. President and Members of the Senate, I'll be very brief. I think that if you do go along with this as the good Senator from Cumberland, Senator Clark, has raised the question of whether or not this is a bounty, I would submit to you that it is probably in the grey area but as far as I'm concerned you are still putting a price tag on an animal's head and I guess you have to ask yourself the question—is that the kind of thing that the Department of Fisheries and Wildlife should be doing?

In talking with the Commissioner and the Deputy and the members of the Department, they have some serious problems in running this program and being able to make sure that there is no abuse of this program by bringing carcasses of dead Coyotes across the border from Quebec and New Hampshire are the real administrative concerns of running this program.

I submit to you that there are some real concerns and I'm not sure that the Committee on Fisheries and Wildlife really got into all the concerns that we should have about this program. We debated the merits of controlling Coyotes but I think this was a last minute attempt to satisfy everyone and I just don't think it quite measures up. You will have to ask yourself the important questions of whether or not you think the Department should run this kind of program.

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

Senator **BLACK:** Thank you, Mr. President, fellow Senators. I think the Department of Fisheries and Wildlife has considerable questions about running any program. I'm sure that the Chairman of Fish and Game has some reluctance on turning predator control, I can understand his apprehension on it, but the more Coyotes you kill—this is the idea of this program—the better, whether they come from New Hampshire or Quebec. They run across the lines the same as people buying beer.

The good thing about this program is that the dollars are limited, the dollars are raised for that purpose. They are going to be spent for that purpose somewhere. This is a program that has a sunset. It seems as though it is a workable and practical arrangement that won't take too much time for the game wardens to enforce. It seems though it makes a lot of practical common sense. Perhaps that is the trouble with it.

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

Senator **PERKINS:** Mr. President and Ladies and Gentlemen of the Senate, while I'm not on the Fish and Game Committee, I have in my area just recently had a friend who has lost some 30 sheep. When the investigation was carried out it appeared and was substantiated that Coyotes were the offending creature within this and so the Department of Fish and Game was called in to trap the Coyotes and after several tries and an expenditure of an untold amount of money and would be about one-fifth of the money that we're talking here, two Coyotes were trapped and taken away.

I would say that a self-perpetuating fund of this nature would perhaps, while the good Senator from Cumberland, Senator Clark, is concerned about the funding, indeed this might save them money rather than expend more.

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

Senator **MATTHEWS:** Mr. President, just two things. One in response to the good Senator from Hancock, anyone that is concerned that owns a rifle and has a valid Maine hunting license can shoot those Coyotes at any time during the daylight hours. There is no problem with doing that, especially protecting his livestock. That is already in the Fish and Wildlife regulations.

The other concern that I do want to mention for my own sake, if no one else is that the Committee on Fisheries and Wildlife passed out, I think, an important piece of legislation that all of us worked very hard on extending the Department of Fisheries and Wildlife's ability to regulate or control nuisance Coyotes and we did some things that I think were pretty courageous. We gave the Department of Fisheries and Wildlife just this year the ability into the next season of using the Maine Trappers Association in snaring nuisance Coyotes and expanding the Animal Damage Control Program. We managed to work with the Department of Agriculture, members of the Ag Committee, in trying to get some appropriations from the Department of Agriculture. So there are some things that we did do that I think are rational things that can be controlled by the Department.

Lastly, with respect to this award program, it was mentioned during the public hearing on the Bill by some of those who are trappers, Maine trappers, that they will have a field day with this awards program. Maine trappers have some of the most innovative ways of getting large Coyotes and I would submit to you that probably they will do very, very well in this awards program.

Those are the concerns that I had to listen to and wanted to share with you.

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

Senator **BLACK:** Thank you, Mr. President and fellow Senators. I ask for a Roll Call.

It seems as though this is a pretty practical program. The money is all raised, the limits are there. If it will kill Coyotes and that is what we are desiring to do, I think it is worth trying.

THE PRESIDENT: The Senator from Cumberland, Senator Black, 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 Clark.

Senator **CLARK:** Thank you Mr. President. I am reluctant to extend the debate on this issue but obviously I harbor some severe and serious reservations about the Committee of Conference Report and I must express my disappointment that I cannot enthusiastically support the Bill that is sponsored by my good friend from Cumberland, Senator Black.

However, lest you think I don't have any credentials dealing with issues surrounding the Committee on Inland Fisheries and Wildlife, may I suggest to you that at one time I was a member of a blue ribbon study commission to study the then plight, which is ever present, relative to the funding of the Inland Department of Fisheries and Wildlife and it was a tremendously exciting and meaningful learning experience for me. That was the year that I debated most of the issues that dealt with that department and everybody wondered what in the world I was standing and talking about, or why did I have the audacity to even address the issues.

But, I would like to at least clarify the Record relative to one statement and that is that the super sport license was not dedicated to the eradication of the Coyotes in Maine. That is a

misleading statement. It was dedicated to address the financial plight of the Department of Inland Fisheries and Wildlife over the past six years and it represented, as the good Senator has earlier explained, a goal license in which monies were submitted to the Department over and above the license fees for the activities which were authorized with the issuance of that license and the surplus of those monies was dedicated to the Department itself and not for any particular activities.

Obviously, I'm one of those from a more urban area but lest you think I don't know about Coyotes then you probably don't know that one of the most active extension agents in State Government is one of my neighbors and I have seen a number of Coyotes crossing what I call the Plains of Topsham, just as you cross the Androscoggin River on my many, many jaunts to Augusta early in the morning, around 6:30 a.m.

I'm fully sensitive to the situation dealing with the population and the expansion of the range of Coyotes across the state and the damage that they exact from the agricultural activities of our many Maine citizens, yet I am unalterably opposed to an award system which under this Committee of Conference Report, I submit, a guise to the resurrection of what this Legislature dealt with over I think ten years ago and that was the elimination of a bounty program.

I find that there are many sports people in this State who are actively seeking to control the Coyote population and that a canny creature, I must admit, he wears a coat of many colors. But, it would seem to me that with all of the technology available in those kinds of activities that if they really wish to organize and eliminate some of the harbingers of destruction as the Coyotes are referred to, that perhaps the sporting element could impact this significantly and that an award program which is contained and I will grant that it is contained with a one year sunset provision, but with a \$5000 dedication for awards of killing, is not something that I can support. Thank you, Mr. President.

THE PRESIDENT: The pending motion is to **RECEDE** and **CONCUR**. A Roll Call has been ordered.

A Yes vote will be in favor of the motion to **RECEDE** and **CONCUR**.

A No vote will be opposed.

Senator **KANY** of Kennebec was granted unanimous consent to address the Senate Off the Record.

THE PRESIDENT: The pending motion is to **RECEDE** and **CONCUR**. A Roll Call has been ordered.

A Yes vote will be in favor of the motion 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, Baldacci, Berube, Black, Bustin, Carpenter, Chalmers, Dow, Dutremble, Emerson, Erwin, Gill, Hichens, Kany, Maybury, McBrearty, Perkins, Sewall, Shute, Stover, Twitchell, Usher, Webster

NAYS:—Senators, Andrews, Brown, Clark, Danton, Diamond, Gauvreau, Matthews, Pearson, Trafton, Violette, The President—Charles P. Pray

ABSENT:—Senators, Najarian, Tuttle
22 Senators having voted in the affirmative and 11 Senators having voted in the negative, with 2 Senators being absent, the motion to **RECEDE** and **CONCUR**, **PREVAILS**.

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

ENACTORS

The Committee on **Engrossed Bills** reported as truly and strictly engrossed the following:
An Act to Amend the Probate Code to Im-

prove Guardianship and Conservatorship Proceedings. (S.P. 218) (L.D. 577) (H. "A" H-361; S. "A" S-285 to C. "A" S-176)

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) (S. "A" S-289 to C. "A" S-271)

An Act to Regulate Recovery of Costs of Canceled or Abandoned Electric Generating Facilities. (S.P. 570) (L.D. 1506) (C. "A" S-287)

An Act Relating to the Establishment of a Maine Children's Trust Fund. (H.P. 832) (L.D. 1176) (C. "A" H-415)

An Act Concerning Employment of Certain Individuals in Contact with Children. (H.P. 963) (L.D. 1384) (H. "A" H-421; C. "A" H-389)

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

An Act to Establish a Spent Nuclear Fuel Disposal Trust Fund. (S.P. 370) (L.D. 1004) (C. "A" S-286)

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; S. "B" S-283)

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:

ENACTORS

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

An Act to Adjust Bridge Capital and Maintenance Responsibilities. (H.P. 1128) (L.D. 1637) (C. "A" H-413)

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

Emergency

An Act to Establish Age 21 Years as the Legal Age to Purchase or Consume Alcoholic Beverages and to Deter Drinking and Driving by Minors. (S.P. 332) (L.D. 820) (S. "A" S-140; S. "C" S-284 to C. "A" S-118)

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

Emergency

An Act Establishing a Commission to Study Family Matters in Court. (S.P. 504) (L.D. 1364) (C. "A" S-291)

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

Emergency

An Act Amending the Charter of Farmington Village Corporation. (S.P. 629) (L.D. 1647) (C. "A" S-288)

This being an emergency measure and having received the affirmative vote of 28 Members of the Senate, with No Senators having voted in the negative was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

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

Senator **PEARSON**: Mr. President and Men and Women of the Senate, I really don't know

exactly what is going to go on the Table until the sheet comes out of Legislative Finance. Usually, when the sheet comes out they write down in red ink in here, probably an appropriate color, the cost of the Bill.

On Item 7-2, L.D. 820, just as a matter of general information because I'm kind of intrigued by it myself, the cost of the changing to age 21 is going to be something just over one million dollars for the two years, which is a substantial amount of money.

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 Relating to Taxation of Aircraft. (H.P. 671) (L.D. 954) (C. "A" H-419)

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

Emergency

An Act Relating to Shares of Stock of Asti-Kim Corporation. (H.P. 1144) (L.D. 1651)

Comes from the House Bill and Accompanying Papers **RECOMMENDED** to the Committee on **BUSINESS AND COMMERCE**.

This being an Emergency Measure and having received the affirmative vote of 28 Members of the Senate, with No Senators having voted in the negative was **PASSED TO BE ENACTED** and having been signed by the President in **NON-CONCURRENCE**.

(See Action Later)

Emergency Resolve

Resolve, Creating a Joint Select Committee on Economic Development. (H.P. 74) (L.D. 95) (H. "B" H-412; S. "A" S-277 to C. "A" H-344)

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

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

ENACTORS

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

An Act to Provide 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) (C. "A" H-418)

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

Emergency

An Act Making Authorizations and Allocations Relating to Federal Block Grants for the Expenditures of State Government for the Fiscal Years Ending June 30, 1985, June 30, 1986, and June 30, 1987. (S.P. 222) (L.D. 585) (H. "A" H-378 to C. "A" S-250)

This being an Emergency Measure and having received the affirmative vote of 28 Members of the Senate, with No Senators having voted in the negative was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

Senate At Ease

Senate called to Order by the President.

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

Senator **BUSTIN**: Thank you, Mr. President, is the Senate still in possession of L.D. 1651, An Act Relating to Shares of Asti-Kim Corporation?

THE PRESIDENT: The Chair would answer

in the affirmative.

On motion by Senator **BUSTIN** of Kennebec, the Senate **RECONSIDERED** whereby it **PASSED TO BE ENACTED** in **NON-CONCURRENCE**:

Emergency

An Act Relating to Shares of Stock of Asti-Kim Corporation. (H.P. 1144) (L.D. 1651)

(In Senate June 17, 1985, **PASSED TO BE ENACTED** in **NON-CONCURRENCE**.)

(In House June 17, 1985, **RECOMMENDED** to the Committee on **BUSINESS AND COMMERCE**.)

On further motion by same Senator, **RECOMMENDED** to the Committee on **BUSINESS AND COMMERCE**, in concurrence.

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

COMMITTEE REPORTS

House

Ought Not to Pass

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

Bill "An Act to Repeal the Sales Tax on Text Books and Require a Sales Tax on Certain Magazines" (H.P. 843) (L.D. 1193)

Bill "An Act to Provide the Sales and Use Tax Exemption for Community Action Ministries" (H.P. 540) (L.D. 767)

Bill "An Act to Permit the Interstate Commerce Exemption on Sales Tax to Apply to Persons who Lease Vehicles which are Placed in Interstate Commerce" (H.P. 25) (L.D. 23)

Bill "An Act to Exempt from State of Maine Sales Tax Meals Prepared and Served in the Field by Licensed Guides and Whitewater Outfitters" (H.P. 289) (L.D. 359)

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

COMMITTEE REPORTS

Senate

Leave to Withdraw

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

Bill "An Act to Reimburse the Unorganized Territory Education and Services Fund for Overcharges from 1978 to 1983" (S.P. 221) (L.D. 584)

Bill "An Act Concerning the Administration of the Unorganized Territory Education and Services Fund" (S.P. 316) (L.D. 805)

Bill "An Act to Require Equal Treatment for Taxpayers in the Unorganized Territory" (S.P. 163) (L.D. 430)

Ought to Pass As Amended

Senator **CHALMERS** for the Committee on **JUDICIARY** on Bill "An Act Amending the Maine Juvenile Code to Allow for Access to Records by Criminal Justice Agencies" (S.P. 565) (L.D. 1493)

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-295)**.

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

Committee Amendment "A" (S-295) **READ** and **ADOPTED**.

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

Sent down for concurrence.

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

PAPERS FROM THE HOUSE

House

Non-concurrent Matter

Bill "An Act to Create the Newcastle-Damariscotta Water District" (H.P. 1116) (L.D. 1626)

In Senate May 29, 1985, **PASSED TO BE**

ENGROSSED, without Reference to a Committee in **NON-CONCURRENCE**.

Comes from the House **PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "A" (H-425)** in **NON-CONCURRENCE**.

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

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

ORDERS

Joint Resolution

On motion by Senator **BLACK** of Cumberland, (Cosponsored by Representative **GREENLAW** of Standish) the following Joint Resolution: (S.P. 639)

JOINT RESOLUTION IN RECOGNITION OF THE BICENTENNIAL ANNIVERSARY OF THE TOWN OF STANDISH

WHEREAS, out of the wilderness of North America along the Ossipee Trail an important settlement was forged in 1750; and

WHEREAS, although the dangers and hardships were many, pioneers led by Captain Moses Pearson persevered in this first settlement; and

WHEREAS, at what is now known as Standish Corner, a community grew and incorporated as the Town of Standish on November 30, 1785; and

WHEREAS, named in honor of Miles Standish "captain of the pilgrims," this isolated community developed, as the mode of travel changed, to become an integral part of the beautiful and dramatically changing region; and

WHEREAS, the inhabitants of Standish now pause to reflect this rich heritage and to commemorate the close of the 2nd century of progressive development in the life of their proud community; now, therefore, be it

RESOLVED: That we the members of the Senate and the House of Representatives of the 112th Legislature of the great and sovereign State of Maine, unite in congratulating the Town of Standish for its excellent record of achievement on this the year of its 200th anniversary and offer our continued support and encouragement for the future, and be it further

RESOLVED: That the Secretary of the Senate be directed to immediately transmit to the citizens of the Town of Standish, through its management, a duly authenticated copy of this Resolution in honor of this special occasion.

Which was **READ** and **ADOPTED**.

Sent down for concurrence.

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

COMMUNICATIONS

The Following Communication:
COMMITTEE ON EDUCATION
112th LEGISLATURE

June 6, 1985

The Honorable Charles P. Pray
President of the Senate
112th Legislature
Dear President Pray:

We are pleased to report that all business which was placed before the Committee on Education during the first regular session of the 112th Legislature has been completed. The breakdown of bills referred to our committee follows:

Total number of bills received	82
Unanimous reports	68
Leave to Withdraw	25
Ought to Pass	6
Ought Not to Pass	17
Ought to Pass as Amended	14
Ought to Pass in New Draft	6
Divided reports	13
Carry Over Bills	
(Approved by the Legislative Council)	1

Respectfully submitted,
S/ LARRY M. BROWN S/ ADA K. BROWN
Senate Chair House Chair
Which was **READ** and **ORDERED PLACED**

ON FILE.

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

COMMUNICATIONS

The Following Communication:
COMMITTEE ON STATE GOVERNMENT
112th LEGISLATURE

June 12, 1985

The Honorable Charles P. Pray
President of the Senate
112th Legislature
Dear President Pray:

We are pleased to report that all business which was placed before the Committee on State Government during the first regular session of the 112th Legislature has been completed. The breakdown of bills referred to our committee follows:

Total number of bills received	105
Unanimous reports	90
Leave to Withdraw	37
Ought to Pass	9
Ought Not to Pass	4
Ought to Pass as Amended	25
Ought to Pass in New Draft	15
Divided reports	9
Carry Over Bills	
(Approved by the Legislative Council)	6

Respectfully submitted,
S/ JUDY C. KANY S/ DAN A. GWADOSKY
Senate Chair House Chair
Which was **READ** and **ORDERED PLACED**
ON FILE.

Senate At Ease

Senate called to Order by the President.

ORDERS OF THE DAY

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

SENATOR REPORT—from the Committee on **AGING, RETIREMENT AND VETERANS** on Bill "An Act Concerning Minimum Ordinary Death Benefits" (S.P. 94) (L.D. 292)

Report—Ought to Pass as Amended by Committee Amendment "A" (S-184).

Tabled—June 4, 1985, by Senator **VIOLETTE** of Aroostook.

Pending—ACCEPTANCE OF COMMITTEE REPORT.

(In Senate June 3, 1985, Report **READ**.)

Which Report was **ACCEPTED**.

The Bill **READ ONCE**.

Committee Amendment "A" (S-184) **READ** and **ADOPTED**.

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

On motion by Senator **CLARK** of Cumberland, Senate Amendment "A" (S-296) **READ**.

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

Senator **GAUVREAU:** Mr. President, Ladies and Gentlemen of the Senate. I would respectfully move that Senate Amendment "A" (S-296) be Indefinitely Postponed and would speak to my motion.

Thank you, Mr. President and Men and Women of the Senate. L.D. 292 has been a fairly troubling piece of legislation this Session to the Committee on Aging, Retirement and Veterans. The purpose of the Bill is to provide minimum ordinary death benefits to those judges who were in active service in the State of Maine prior to the inception of the Maine State Judicial Retirement System on December 1, 1984. The L.D. was submitted during the Session to correct an unintentional oversight in the Maine Judicial Retirement System.

As presently constituted the Maine Judicial Retirement System deprives those judges who were in fact in active service prior to December 1 of last year of those spousal retirement benefits which had been granted previously to members of Maine's judiciary. To demonstrate

why this is so I must briefly undertake a cursory review of the establishment of the Maine Judicial Retirement System.

Until 1984 Maine judges were amongst the lowest compensated, not only in New England but throughout the Nation and this was a concern to many observers. It was felt that the low compensation provided the judiciary was a disincentive for attraction of many qualified attorneys to serve on the bench. To partially offset the low wages paid to Maine judiciary our system did provide for totally State financed retirement benefits, not only for the judges but also for their surviving spouse and children so that the retirement pension for a retired judge will be equal to three-quarters of his or her salary at the time of retirement and that his or her surviving spouse or children would receive a death benefit equal to one-half of the pension of the judge or three-eighths of the salary of the judge at the time of his or her termination from judicial service.

But, as I mentioned, the low wages which were paid Maine judiciary still deterred many people from coming on the bench and it was a difficult task in attracting most qualified members in the Maine Bar to serve on the judiciary. As a result of this the State Compensation Commission reviewed the matter very thoroughly and decided in its report to the Legislature last year that over a period of years the wages to Maine judges to be substantially increased while at the same time we should adopt a contributory retirement system whereby the judiciary would have to make a substantial contribution to their retirement benefits for themselves and their family. And, in fact, the Legislature with very little debate, adopted the Maine State Judicial Retirement System and that system did, as I said before, go into effect on December 1st.

Now, at the time the system was established it was widely assumed by the people on the Compensation Commission and also by members of the Judiciary that those judges in active judicial service prior to the inception of the system would retain their eligibility for death benefits for themselves and their family. I have quite often styled those judges to be old judges, that is judges serving prior to December 1 of last year. It turned out however that a question was raised as to the nature of retirement benefits when a Superior Court justice retired and the issue was raised as to whether or not that justice would be entitled to receive retirement benefits under the old law, not under the new retirement system which was contributory in nature. An Attorney General opinion was requested and the opinion stated that only those judges in service prior to December 1, 1984 who were, in fact, in active service and actually died on the bench would be eligible for the spousal benefits and this had the practical effect of divesting or eliminating eligibility for the spousal retirement benefit for most of Maine's judiciary. As a result of this problem L.D. 292 was submitted into this Legislative Session.

Now, there has been a problem with the Bill in the sense that although the Committee was sensitive to the unfairness in deleting retirement benefits to Maine judiciary, there was a concern about the price tag on the Bill. It was in the nature of almost \$300,000 and the Committee was somewhat concerned as to whether or not there would be sufficient funding in this Session to properly finance L.D. 292 in its original form. Consequently, the Committee did, in fact, reduce or amend the Bill so that only those judges who were age fifty or above as of December 1, 1984, that is the inception of the Maine State Judicial Retirement System, only those judges would be eligible for the death benefits.

The rationale being that those judges had been active on the bench for some period of time and they were going into the latter years of their active careers and having spent the ma-

majority of their productive life on the bench at fairly low salaries. It was felt only fair that those judges nearing retirement age should, in fact, receive the minimum ordinary death benefit. While the younger judges, those under the age of 50, because they would have the benefit of higher judicial salaries as they are being phased in would have to finance their own contributory retirement system and as a result the Committee did vote unanimously to accept L.D. 292 as I have described the amendment.

However, I would point out that the Bill was required to be reported out of Committee on Black Friday and there was still concern among some members of the Committee as to whether or not there was appropriate funding for the L.D. The understanding in all fairness was that if it appeared that there was insufficient funding for L.D. 292 then perhaps the Bill could be pared down further to provide some measure of equity to those judges whose benefits were being reduced.

I have been monitoring the situation and I understand that this matter now, of course, if we do adopt it will go on to the Appropriations Table and the Committee on Appropriations will take a hard look to see whether or not there is sufficient monies available to fund L.D. 292 as it is presently drafted. I would submit that the better course of action will be to see whether or not we can finance L.D. 292 in its amended version rather than append the amendment which is now being offered. That would be scaling down the provision of the act and it may be that as a practical financial matter we will have to do that but I think it is only fair at this point that we allow L.D. 292 to go on the Table and be reviewed on its own merits. If it is determined that there are insufficient financial reserves to fund it properly we then can take appropriate action.

So, for these reasons I would respectfully ask the Senate this afternoon to Indefinitely Postpone proposed Senate Amendment "A" (S-296). Thank you.

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

Senator **CLARK:** Thank you, Mr. President. Let the Record show that L.D. 292 was actually on the face of it, a unanimous Committee Report but that isn't exactly the scenario.

If the time constraint that was placed on Committees on that famous Black Thursday had not occurred that Report would have been in fact divided from the Committee on Aging, Retirement and Veterans. This is my understanding of the scenario which followed the reporting out of L.D. 292 from the Committee on Aging, Retirement and Veterans, that the unanimous Committee Report was garnered because members of the committee who had expressed serious reservation about the fiscal note and about the thrust of L.D. 292, had been assured that the amendment that I offered this afternoon was to be offered by the Senate Chair of the committee and that has not occurred which is why, in fact, I offered it. And it has, as my students would say, this Bill L.D. 292, been cooling its heels on the Unassigned Table for these many weeks.

Though I concur with much that has been shared with you this afternoon by the good Senator from Androscoggin, Senator Gauvreau, but its important that the process reflect what was the intent of the committee when the Bill was signed out as reported unanimous. I wouldn't have signed it out unanimous if I had known that I was the one who was ultimately to present this amendment.

In 1984 at the end of the Special Session, this Legislature in the waning hours and in its typical rapid fashion, as often happens during the ends of Sessions, passed the new Judicial Retirement System which changed it, as Senator Gauvreau has stated, from a non-contributory system to a contributory system.

Senator Gauvreau is accurate in that the theory that was tied behind the pay increase that was part and parcel of that passage would have allowed those judges and justices to provide for their retirement and their spouses financial security in the form of insurance and IRAs and deferred compensation, etc., because of the dramatic increase in salaries that was contained in that Judicial Retirement package.

Let me give you an example. Judicial salaries are as follows: for the Supreme Court from December 1, 1984 to June 30, 1985, \$29,806, for Superior Court \$29,339 and for District Court, \$28,233. I don't believe there is anyone who would accord that salary status with the responsibilities of the office of those members of our judiciary. But in the new package of judicial salaries, on July 1 of this year to June 30 of next year, Supreme Court justices rebound in the positive to \$58,760, Superior Court justices to \$57,841, and District Court judges to \$55,659. On July 1, 1986 to June 30, 1987 Supreme Court justices again receive an increase up to \$65,224, for Superior Court justices, \$63,625, for District Court judges, \$61,225. And again, in July 1, 1987, the same members of our judiciary receive still another salary increase for that following fiscal year. In the Supreme Court to \$71,746, to the Superior Court, \$68,715 and in the District Court, \$66,123. That is not the end. July 1, 1988, members of our judiciary and thereafter will receive \$77,300 as Supreme Court justices, Superior Court justices, \$73,010 and as District Court judges, \$70,176. The Chief Justice of Maine's Supreme Judicial Court received 105% of what associate justices receive and the Chief of Maine's Superior Court has that same 105% increment. The Chief of Maine's District Courts also has 105% of the salaries accorded to the District Court judges and the Deputy Chief of the District Court has 102½%.

Now, I have no problem with the salary increases that we have accorded and which our judicial system justifiably earns when one considers the responsibilities and the ramifications of the offices and the duties that they perform for our citizens. However, it hasn't been long, not even a year, and the unfunded liability of the Judicial Retirement System stands at a mighty figure of \$7,314,098, and that's figured at only 44 judges. Contrast that with the unfunded liability of the Maine State Retirement System as of June 30, 1984 of \$1,154,590, but my friends, it's not for 44 souls, it is for State employees and teachers who are active, 31,888 of them, and for retired State employees and teachers, 12,672 of them. And it was the position of the Minority on the Committee on Aging, Retirement and Veterans had this amendment been offered, that L.D. 292 in the amended form as presented to you, carried too great a price tag.

I have not asked for your support of this amendment which I am proposing, I have not lobbied this issue but I do appeal to your sense of fair play, that the proposal in the amendment which has been offered this afternoon in Senate Amendment "A" (S-296) is the compromise which a large number of Committee on Aging, Retirement and Veterans embraced. Now, I'm not unalterably opposed to allowing the Committee Report to proceed through the Legislative process and let L.D. 292 stand on its own merits and go to the Appropriations Table, but I also happen to know if history repeats itself that there will be no major discussion of whether or not it will be funded—for it will be funded. It always has and it always will be. And, L.D. 292 which would be amended by Senate Amendment "A" (S-296) this afternoon, is a compromise phase-in of the same program. Its price tag is considerably less paid by the taxpayers of the State of Maine.

It does replace the original bill and it does provide for pensions for surviving spouses of judges who were over the age of 50 years to the day that the Maine Judicial Retirement

System law became effective. Senator Gauvreau has shared with you the manner in which the old system judges retired at 75% of their salary at the time of retirement and that their surviving spouses upon the death of the justice would receive three-eighths or one-half of that but he didn't tell you that that also includes an annual 6% increase. That's not bad! As a matter of fact, that's a lot more than most of the people who work in our State receive annually. And while I'm not opposed to survivors receiving an adequate amount of financial assistance for their own financial security, I think that a gradual phase-in of the old system judges as embodied in Senate Amendment "A" (S-296) is the more responsible, more conservative, yes, more conservative approach and reflects more accurate the sentiment of the Committee.

I know that it is difficult to have one's own Floor Leader, the good Senator from Aroostook, Senator Violette, ready to debate this issue, obviously not being supportive of the same. It is also a little bit awkward for a member of leadership to be lobbied by members of the judiciary and not to be in a position to respond positively. I do express the concern of the Committee that old system judges, so to speak, and their surviving spouses, upon the demise of the justices, be treated fairly and that their financial security be insured, but I do believe that the Senate Amendment which has a pending Indefinite Postponement motion, is by far the most responsible method to approach this and more accurately reflects the sentiment of the Committee.

Now, I say that from my perspective and perhaps that is not shared by other members of that Committee. But, I do know that L.D. 292, a version that which it sat on the Unassigned Table for so long, does not represent a unanimous committee report. With that in mind, I will save any of my other rebuttal remarks for further debate.

THE PRESIDENT: The pending question is the motion of the Senator from Androscoggin, Senator GAUVREAU, that Senate Amendment "A" (S-296) be **INDEFINITELY POSTPONED**.

The Chair recognizes the Senator from Aroostook, Senator Violette.

Senator **VIOLETTE:** Mr. President and Ladies and Gentlemen of the Senate. I would hope very much today that you would support the motion of the Gentleman from Androscoggin, Senator Gauvreau, and vote yes on the motion to Indefinitely Postpone this particular amendment.

As a member of the Judiciary Committee during the 111th and as a Chairman of the State Government also during that same Legislature, prior to the 111th, the first term of the 111th, judges were not included within the scope of the responsibilities of the Maine State Compensation Commission. It was in the first term of the 111th that we included judges and constitutional officers within the purview of the State Compensation Commission.

Thus, during the summer in between sessions and yes, during the course of the Second Regular Session of the 111th, the Compensation Commission was indeed working and recommendations came from that Commission, they were given hearings and an understanding was reached. An understanding was reached and was passed into law. But, evidently that law is being interpreted differently by the Executive Director of the Maine State Retirement System. Yes, salaries were increased substantially by 1989.

You have to remember, Ladies and Gentlemen of the Senate, that judges prior to 1989 and primarily before 1984 when the salaries were raised in an escalating way over a period of about five years, as memory serves me, the only real financial inducement to become a judge was the retirement system. You usually left your practice where in general you

were making at least twice as much as you were going to make as a judge, as an active judge. You did that at substantial loss of remuneration.

On the other hand, you could look forward to the fact that you could retire and you'd receive three-quarters of your pay and you did not pay into that retirement system, that is absolutely correct and that was because of the very low pay. Maine Supreme Court judges still with the increase that they have been given this year are the 50th in the Country and they were the 50th in the Country before the pay raise and I will dare say that by the time 1989 comes around when all the other states keep raising their salaries, they'll still be the 50th in the Country.

Anyway, the judges and the members of the Legislature are very pleased to raise those salaries in order to attract a younger group of people, perhaps, to become judges. Before raising families, attorney's raising families who had always been interested in serving on the judiciary but because of the fact of the low wages they were simply not capable of serving on the judiciary unless they had some other means of income. That prohibition, quite frankly, has been removed and I applaud that and I supported the raising of the salaries.

The Legislature also decided on its own and for whatever reason, that a group of judges over age 50 were going to be treated differently. They could have picked 60, they could have picked 55 or 40 or who knows what age but the simple fact of the matter is that it is already in the law—the age of 50. The Chairman of the Compensation Commission, I understand the Senator from Cumberland, Senator Clark's concerns about the committee process but I also remember the committee process that took place in the 111th whereby the judiciary had an understanding as to what was being passed and that understanding was that the older judges who had never had the benefit of higher salaries for a long enough period of time to set money aside so that they could have monies available to retire on or in this case, for their spouses, and because of the fact that all of them had come under the old system, the issue was of fairness and of consistency, quite frankly. They understood that they were going to be treated in the old manner because by 1989 would be the first year that we would get up to \$77,000 and I guess you could suggest that within three or four years they are supposed to set aside enough money to deal with their retirement and that didn't seem, quite frankly, to be something that could be done.

What we have here is an amendment that has been proposed that's going to substantially reduce a judge's potential, and particularly here, deals with death benefits for the spouse over a very short period of time. You may have a judge who is getting ready to retire in three, four or five years, and what this Bill is going to do is substantially reduce the potential benefit for that judge's spouse. That was not the intention of the Compensation Commission.

The Chairman of the Compensation Commission came before the Committee on Aging, Retirement and Veterans, told that Commission that it was not their intention, that the intention had been that judges over 50 continue under the old system and that the new system would be phased in because those under 50 years old would have a substantial number of years to benefit from the high salary level that were coming on-line in increments and by 1989 to reaching the maximum, that they would have a number of years to set aside and also under the new system to pay in.

Now, the Senator from Cumberland, Senator Clark, has made reference to the fact that there is an unfunded liability within the present retirement system but she doesn't discuss the fact that we're going to pay and we're committed under the legislation that was passed last

year to paying off that unfunded liability in the next ten years. So, each year we are paying off that unfunded liability just as we are paying off the unfunded liability that exists within the present State Retirement System, be that in the teacher retirement account or the like.

You know, the issue here is that we're not, and I would hope that you would vote against this amendment because if you vote for this amendment we're not being consistent with the intent of the Compensation Commission as to the particular group that was to be protected. They assume that judges and spouses over the age of 50 would be protected. As it is now without this Bill, widows are now left out and no one intended that. That's the reason why this Bill was put in.

The way the executive director was interpreting what was passed there was practically no spousal benefits so this legislation was introduced, it does indeed have a fiscal note on it of \$230,000 or whatever, but that liability would have been incurred by the State under the old system anyway. The State would have had, in fact, to have been continuing to pay that liability if we had continued under the old system for old judges. What we're doing is a Bill has been introduced that is going to allow those over the age of 50 to continue to be dealt with in the same manner as prior to that. At some point you are going to have to decide on a particular number. Now, there are some that are going to benefit from that but over the long term it's going to allow the older judges who generally are not going to have the long term benefit of high salaries, are not to be negatively impacted, and it's going to allow the younger judges who are going to have the benefit of the higher salaries set aside monies to pay into the system so that they will have monies available upon their retirement and to deal with their own death in their own manner as far as benefits are concerned for their spouse. There is going to be a group there in the middle who, perhaps, are going to benefit on both ends but whenever you pick a number arbitrarily that is always going to be the case. We do that here in the Maine Legislature all the time.

I would very much hope that you would join me and the good Senator from Androscoggin, Senator Gauvreau, in supporting the motion of Indefinite Postponement and I'll just say once more—this amendment is not consistent with the intent of the Compensation Commission as to the particular group that it's intended to protect. Thank you.

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

Senator **CLARK:** Thank you, Mr. President. Mr. President and Men and Women of the Senate. At least the issue has been aired. Let me respond then we'll vote and I know what's going to happen. I have no problem with that but at least we now know what we're doing.

It has been suggested that the spouses will not receive benefits upon the demise of the retired judges. Under current law, and that's the law that the judges admit they read and that this Legislature passed, these judges who are currently serving the State of Maine will receive as I suggested, higher salaries and there seems to be no non-concurrence of that issue and currently those who are in the system will exercise what all other people who are in the system will exercise and that is as we all know, the average of their highest three years, and should they wish to provide a 50% spousal benefit then the retirement benefit of the retired justice will be reduced as is all other State employees by a certain percentage to provide for that financial security to the spouse. Do not me mislead to the extent that you think that the spouses are not going to be receiving any money.

In addition to that, they will also be recipients of what we call an annual cost of living or COLA, should the Legislature approve the

same. So spouses will be protected and spouses will still receive benefits. The Senate Amendment simply phases in these old system judges in a more gradual, less dramatic fashion.

The Attorney General of the State of Maine has upheld the Director of the Maine State Retirement Systems interpretation of the judicial retirement law, lest you think she's over there running her own little fiefdom. And, I would suggest that many interpretations and rulings of the State A.G. can be, of course, litigated in court and that has not been the case in this. Instead, we've come to the Legislature. I'm not opposed to working with what was the intent or the understanding of the Judiciary and perhaps what was the understanding of the Commission, but I would like to approach it in a more gradual fashion, phasing in the old system judges rather than allowing them to enjoy the benefits of the dramatically increased salaries and then choosing to retain the average of their three salaries under the system without experiencing that small percentile decrease to guarantee that their spouse be the recipient of 50% of their retirement benefit.

That is the issue here and that there are those with feet perhaps in both systems who will not only receive the benefit by just a few years of service in the judiciary and take advantage of the higher salaries which they justly earn, and still without and decrease, as all other State employees are impacted, guarantee their surviving spouses 50% of their retirement benefit with the built-in six percent COLA. It is as simple as that.

I have no problem with that fact that perhaps this amendment will be defeated this afternoon and that the Bill will go on the Appropriations Table and the issue be addressed but I would submit to you that that may have been the understanding of the Judiciary but when asked point, "Did you read the Bill?" the answer was unanimously "Yes." "Did you understand the Bill?" "Yes, but we didn't understand that this was the intent." And, evidently someone erred when the Bill was drafted for it didn't allow the phase in of the old system judges. And, now the old system judges, and they know the age was 50 years old, I didn't know the age was 50 years old when that judicial bill was passed through here, I never even hardly had a chance, and I must admit I never even read the Statement of Fact, and I would dare say that probably represents the status of most of my colleagues during that session because it sort of went between Houses in a rather fast fashion.

The judiciary testified that they read the Bill, the members of the Judiciary who have been talking with some of us admit that they read the Bill and they say that that wasn't the intent of the Bill but they did read the Bill and my response was as I said to one of my students years ago—ignorance is no excuse under the law—and they suggested that that wasn't appropriate here and I suggested that in fact it was. So, now you see what the problem is.

I am not lacking in support for providing adequate financial security for the spouses and surviving children of deceased members of our retired judiciary and I dare say none of us are but I am opposed to addressing the fashion in such a manner as proposed by L.D. 292 as amended by Committee Amendment "A" without Senate Amendment "A" which eliminates Committee Amendment "A" as you can imagine and makes the whole proposal much more of a compromise, which was embraced by probably the minority of the Committee.

If we're going to talk about fairness and consistency might I submit that yes indeed, members of the judiciary now contribute to their own retirement system. Well, they should! I'd like to have a retirement system like that and a salary like that and yes, they earn it but why shouldn't they. And I ask you also why shouldn't they also be phased in from the

old system to the new system in a gradual manner so that there aren't members of the judiciary who will reap with just a few more years of service the benefits of a higher salary, the average of their highest three salaries and still guarantee their surviving spouses upon their demise of their 50% benefit, it is just not fair. Thank you.

Off Record Remarks

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

Senator GAUVREAU: Thank you, Mr. President, Men and Women of the Senate. I must congratulate the Senator from Cumberland on her presentation this afternoon. I think her remarks were articulate and do, in fact, express the concerns which she has mentioned all along in the Committee process regarding the tenor of judicial compensation.

I think that lest there be any misunderstanding the Committee did report the Bill out in a unanimous fashion as I indicated earlier in my remarks. That was subject to the understanding that in the event it appeared there was insufficient funds available to fund L.D. 292 that an amendment to pare down the thrust of the Bill would be offered. In fact, I drafted the amendment which she is offering before you this afternoon. But, I must oppose the amendment and I would go back to the remarks of the good Senator from Aroostook, Senator Violette, in dealing with the whole issue of fairness in this matter.

I think it is quite difficult for many of us to deal perhaps in a disinterested fashion in discussing judicial compensation because the judiciary received compensation and allied benefits far in excess of those which we will receive in our life time and I think there is a natural and a healthy skepticism regarding the equity of that sort of compensation disparity but we must remember that the judges when they came on board, these old system judges, those in active service prior to last year, those judges did so upon the very clear commitment and understanding that they would have a non-contributory retirement system. That is that the State would fund their retirement system and in return for which the judges would receive fairly low judicial salaries.

I agree with the remarks of the good Senator from Cumberland, Senator Clark, that we are changing that picture, we are at least in actual numbers making a substantial increase in judicial compensation. Frankly, I don't know where that will put Maine judges in comparison with the colleagues throughout the Nation. But, to deprive the judges of their retirement benefits will have a major impact and many of these old system judges are, or will be in the fairly near the future, are ready for retirement and it's very clear under the prevailing Attorney General's opinion that the old system judges, unless they happen to die, unless they hang on an actually die while they are in active service, they will lose any retirement benefits that they have for their spouses.

Now, the current, and let's not forget here that this Bill is only dealing with old system judges, new judges—those who entered the judicial service after December of last year—are not affected by this Bill. They are in fact contributing to and building their retirement and I believe that is a fair method for them to follow in light of their enhanced judicial compensation. We're just talking about the older judges who practiced most of their career under the old system had lower compensation and as the Senator from Aroostook, Senator Violette has mentioned, those judges did so at a substantial financial sacrifice. Now, it is hard for many of us to empathize with that because we're not going to earn salaries in that range and we might say well, from a population perspective that isn't fair but is in fact unfair

to deprive those judges of benefits which were the inducements for them to enter judicial service and for which they served most of their productive judicial careers.

Although it is true that the older judges could take a reduced pension in which to finance an alternative minimum death benefit, that is not the bargain which was struck when they entered judicial service. The bargain was that they would receive comparatively low judicial salaries in return for which they would, in fact, have a State paid, State funded Judicial Retirement System. So that really is the issue that we're talking about.

Now, whether or not it is fair for the State having induced these men and women to enter judicial service upon an expectation, in fact a statutory benefit that was allowed, expectation that the judges would have State paid retirement benefits and then to take that benefit away from them. There has been much discussion about the haste with which the judicial system was adopted by this legislation, I agree, in fact I voted against it because I didn't understand the Bill and I felt that I was not proud of the Body when we adopted it, either Body adopted that system, I didn't think that we had given appropriate legislative consideration to that document and as it turned out that was a correct concern because a glaring omission had in fact occurred. All that L.D. 292, as amended, would do would be to carry forward, maintain existing retirement benefits which old judges had. If we fail to take this action or if we adopt Senate Amendment "A" (S-296) as posed we would in fact be reducing it and diminishing retirement benefits which the old judges had rightfully assumed were theirs all along and which were part of their bargain when they entered judicial service.

For these reasons I must disagree with my good colleague from Cumberland, Senator Clark, and urge the Senate to Indefinitely Postpone her amendment. Thank you.

THE PRESIDENT: The pending question is the motion of the Senator from Androscoggin, Senator GAUVREAU, to INDEFINITELY POSTPONE Senate Amendment "A" (S-296). A Division as been requested.

Will all those Senators in favor of the motion of the Senator from Androscoggin, Senator GAUVREAU, to INDEFINITELY POSTPONE Senate Amendment "A" (S-296), 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.

14 Senators having voted in the affirmative, and 10 Senators having voted in the negative, the motion by Senator GAUVREAU of Androscoggin, to INDEFINITELY POSTPONE Senate Amendment "A" (S-296), PREVAILS.

Which was 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.

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

COMMITTEE REPORTS

House

Leave to Withdraw

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

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

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

Bill "An Act Providing for a Study of the Unorganized Territory" (H.P. 1029) (L.D. 1481)

Ought to Pass As Amended

The Committee on JUDICIARY on Bill "An Act to Protect Abused Children" (H.P. 969) (L.D. 1386)

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-426).

Comes from the House, with the Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-426).

Which Report was READ and ACCEPTED, in concurrence.

The Bill READ ONCE.

Committee Amendment "A" (H-426) READ and ADOPTED.

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.

ORDERS OF THE DAY

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

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

Tabled—June 14, 1985, by Senator PEARSON of Penobscot

Pending—ENACTMENT

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

(In Senate June 13, 1985, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-281).)

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

Senator PEARSON: Mr. President, this Bill was incorrectly put on the Appropriations Table, it does not have a fiscal note and so consequently because of the mistake we made we are removing it.

I would like to know who it was that drew up the title of this Bill, though.

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

Senate At Ease

Senate called to Order by the President.

Senator VIOLETTE of Aroostook, 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

Non-concurrent Matter

Emergency

An Act to Amend the Wood Measurement Laws (H.P. 960) (L.D. 1381) (C "A" H-272)

In House June 4, 1985, PASSED TO BE ENACTED

In Senate June 5, 1985, FAILED OF PASSAGE TO BE ENACTED in NON-CONCURRENCE.

Comes from the House that Body INSISTED. **THE PRESIDENT:** The Chair recognizes the Senator from Aroostook, Senator Carpenter.

Senator CARPENTER: Thank you, Mr. President, I move that the Senate Insist.

THE PRESIDENT: The Senator from Aroostook, Senator CARPENTER, moved that

the Senate **INSIST**.

The Chair recognizes the Senator from Cumberland, Senator Usher.

Senator **USHER**: Mr. President, I ask for a Division and would speak to my motion.

I would hope that the Senate would go along with opposing the pending motion, This had been an agreement on both sides and I'm sure this has been debated and lobbied very, very hard. This would give us a chance to monitor the program and if there is any flaws that are going to appear by the end of the year, the Energy and Natural Resources Committee will look at this again and straighten it out and I think it is a chance to give the small woodcutter a little security. So I hope the Senate would oppose the pending motion.

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

Senator **McBREAIRTY**: Mr. President and Honorable members of the Senate, I would hope you would go along with the Senator from Aroostook, Senator Carpenter.

According to Workers' Comp rated, woods work is one of the most dangerous jobs in Maine. Last week I voted for a change in Workers' Compensation that in the long run I believe will help business and create more jobs without much ill effect on labor. I'm going to continue to vote against this Bill because it hasn't been proven to me yet that the measurement law we now have will in the long run hurt business. I'm going to try to give you a few facts as to why we do have a new wood measurement law in the books and a little history as to how it got there.

Last year when L.D. 2402, An Act to Revise the Wood Measurement Law was being discussed it seemed to be common knowledge and most everyone seemed to agree that we had some serious problems in wood measurement of wood going into Canada from Aroostook County and with some contractors in Washington County. Evidently the Committee after a public hearing that was attended by all concerned, must have been convinced that changes in wood measurement was needed.

After the public hearing on L.D. 2404 and during the time the Bill was going through the Legislative process, many meetings were held in Speaker Martin's office and in the Halls with industry, contractors, labor and the Legislature represented. When L.D. 2404, An Act to Revise the Wood Measurement Law was finally passed I'm sure it was the result of many compromises by both industry and labor. The voting record from the House shows that on April 11, 1984, a motion to Indefinitely Postpone L.D. 2404 was defeated by a vote of 74 to 48. Also on April 11, 1984, a motion to table one Legislative Day was defeated. There was one other Roll Call in favor of this Bill that was defeated. In the Senate we had no registered vote, the Bill went through under the hammer.

What does the new law do or what does it say? Section 8 under Definition says: "Properly prepared wood means wood that was required to be harvested and yarded and was prepared as directed according to written specifications." The law states that when payment is made for services, harvesting wood, all wood that is properly prepared shall be measured in full. There is nothing in the law that prevents a contractor or the purchaser from discounting all wood that is not properly prepared according to written specification. Ask yourself why anyone one should object to a law that plainly states that you have to pay employees for work that is done according to the employers' written specifications.

The Department of Agriculture has been criticized because of the rules. Three public hearings were held on the original rules. The hearings were held in Skowhegan, Ellsworth and Presque Isle. Because of the demand by people who commented at the hearing and in

writing that the rules be more detailed and explicit resulted in rules much longer than originally proposed. Since the rules have been adopted the Department had held 34 public meetings to explain the rules. The Governor has instructed the Department in writing to monitor very carefully the implementation of the measurement law and make adjustments where necessary. The Governor in a letter to my constituents has pledged his support in making sure the law that is now on the books will be tried. The Department in writing has plainly stated that enforcement of the law for at least the first year will be information and education. The Department sees its job as helping with the transition and is looking for a good faith effort to make the necessary adjustments.

Ask yourselves, are the opponents of this law afraid that it won't work or are they afraid that it might or will? Many opponents have said that the law is alright for tree length wood. Many contractors have proven that it does work on tree length wood. Great Northern has negotiated long term contracts with all their employees that meets the requirements of this law. Several small contractors are working today in compliance with this law on tree length wood.

I had a contractor that had come in here from Portage the other day to lobby me on this Bill and he said he is now working in compliance with the law on tree length wood. 90% of all wood handled today is handled tree length. Do we want to completely gut a law that most people say can work well on 90% of our wood or should we try it out and adjust if necessary on the 10% that my be questionable?

As I've said before, if this Bill fails enactment and the Senate will allow me to I will offer an amendment to create a Select Committee to monitor along with Agriculture the implementation of this Bill for the next few months and then they can come back and give us the needed adjustment on the 10% instead of gutting it out from the whole system and believe me, this amendment does gut it. It says for 30 days you will work under it and then you are right back under the same conditions.

So, I hope that you will go along with the motion to Insist.

Off Record Remarks

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

Senator **USHER**: I move the Senate Recede and Concur and ask for a Roll Call.

THE PRESIDENT: The Senator from Cumberland, Senator **USHER** moved that the Senate **RECEDE** and **CONCUR** and 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 Aroostook, Senator Carpenter.

Senator **CARPENTER**: Mr. President, First I have a parliamentary inquiry to ask of the Chair. Am I correct in assuming that the vote necessary to carry the Recede and Concur motion will be a two-thirds vote?

THE PRESIDENT: The Chair would answer in the affirmative. The motion to Recede and Concur would in essence Enact the Bill which is an Emergency and therefore requires a two-thirds vote.

Senator **CARPENTER**: Thank you, Mr. President. Mr. President and Ladies and Gentlemen of the Senate. I don't intend to belabor this issue. You all know where the parties are or are not. I would disagree with my good friend from Cumberland, Senator Usher, that this is an agreed upon solution by both parties. I think

that you saw the woodcutters here last week, the people who are out there in the woods working every day and have been working for many, many years under a system which basically allowed their boss to tell them to bring those five bolts over there but when they got over there only paid them for four of them because the specifications were as he asked them to be when they got there but perhaps the specifications were not good enough when they got to the mill.

The law says the contractor, the person lobbying the other side of this Bill, the law says that if the contractor sends out specifications, if those specifications are not met then he does not have to pay for it. Simple as that. Standard practice throughout our system of Government, throughout our system for what you bargain for but if you go to this system that is proposed by enactment, by the emergency enactment of this Bill, in effect what you are doing is saying is that not only may you discount if they don't do it right and that is proper but even if they do it right you can discount even further and that is fundamentally wrong.

It's a situation in the analogy that I used last week about the person picking potatoes in Aroostook County. He's told to pick those potatoes, he picks and he gets paid for them when they are delivered if they meet specifications, if they didn't put in rocks and rot and sunburn and then a year down the road or six months down the road when the potatoes are sold something is wrong with those potatoes and now you would allow that person to go back and discount the person that picked them. That is wrong. And, I would ask you to please, I would implore you, stand by your earlier two votes, I guess—I'm beginning to lose track here—stand by your earlier votes and oppose the pending motion. Thank you.

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

THE PRESIDENT: The pending question before the Senate is the motion of the Senator from Cumberland, Senator **USHER**, that the Senate **RECEDE** and **CONCUR**. The Chair would advise the Senate that to **RECEDE** and **CONCUR** is Enacting the Bill and requires a two-thirds vote.

A Yes vote will be in favor of the motion of the Senator from Cumberland, Senator **USHER**, that the Senate **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, Baldacci, Berube, Black, Brown, Diamond, Dow, Dutremble, Emerson, Erwin, Gill, Hichens, Kany, Maybury, Pearson, Perkins, Sewall, Shute, Stover, Twitchell, Violette, Webster, The President — Charles P. Pray

NAYS:—Senators, Andrews, Bustin, Carpenter, Chalmers, Clark, Danton, Gauvreau, Matthews, McBreaarty, Tuttle, Usher

ABSENT:—Senators None
Senator **USHER** of Cumberland was granted leave of the Senate to change his vote from Yea to Nay.

22 Senators having voted in the affirmative and 11 Senators having voted in the negative, with 2 Senators Pairing their votes and No Senators being absent, and 22 being less than two-thirds the motion of the Senator from Cumberland, Senator **USHER** to **RECEDE** and **CONCUR**, **FAILS**

THE PRESIDENT: The pending question is the motion of the Senator from Aroostook, Senator **CARPENTER**, that the Senate **INSIST**. A Division had been requested.

The Chair recognizes the Senator from Cumberland, Senator Usher.

Senator **USHER**: I move this be Tabled until

Later in Today's Session.

THE PRESIDENT: The Senator from Cumberland, Senator USHER, moves that this be **TABLED** until Later in Today's Session, pending the motion of the Senator from Aroostook, Senator CARPENTER, to **INSIST**.

Is this the pleasure of the Senate?

The Chair recognizes the Senator from Aroostook, Senator Carpenter.

Senator CARPENTER: I request a Division on the tabling motion.

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

Will all those Senators in favor of the motion of the Senator from Cumberland, Senator USHER, that this matter be **TABLED** until Later in Today's Session, pending the motion of the Senator from Aroostook, Senator CARPENTER, to **INSIST**, 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.

22 Senators having voted in the affirmative, and 11 Senators having voted in the negative, the motion of the Senator from Cumberland, Senator USHER that this matter be **TABLED** until Later in Today's Session, pending the motion of the Senator from Aroostook, Senator CARPENTER, to **INSIST**, **PREVAILS**.

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

PAPERS FROM THE HOUSE

Non-concurrent Matter

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

In Senate June 14, 1985, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-270) AS AMENDED BY SENATE AMENDMENT "A" (S-293)**, thereto in **NON-CONCURRENCE**.

Comes from the House, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-270) AS AMENDED BY HOUSE AMENDMENT "B" (H-429)**, thereto **NON-CONCURRENCE**.

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

Non-concurrent Matter

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) (C "A" H-416)

In Senate June 14, 1985, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-416)**, in concurrence.

Comes from the House **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-416) AS AMENDED BY HOUSE AMENDMENT "A" (H-430)**, thereto in **NON-CONCURRENCE**.

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

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

COMMITTEE REPORTS

Senate

Leave to Withdraw

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

Bill "An Act to Fund Children's Programs of the Maine Coalition for Family Crisis Services" (S.P. 291) (L.D. 780)

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

After Recess

The 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. 1150) **ORDERED**, the Senate concurring, that Bill, "AN ACT to Create the Maine Rainy Day Fund," H.P. 521, L.D. 741, be recalled from the Governor's desk to the House.

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

COMMITTEE REPORTS

House

Leave to Withdraw

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

Bill "An Act to Provide Funds to Operate the Marine Laboratory Public Aquariums and Seal Pool at Boothbay Harbor" (H.P. 1148) (L.D. 1654)

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

PAPERS FROM THE HOUSE

Non-concurrent Matter

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

In Senate June 14, 1985, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-414)**, in concurrence.

Comes from the House **PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "A" (H-431)** in **NON-CONCURRENCE**.

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

COMMITTEE REPORTS

House

Ought to Pass As Amended

The Committee on **TAXATION** on Bill "An Act to Provide a Sales Tax, Trade-in Credit for Loaders and Chain Saws used to Harvest Lumber" (H.P. 72) (L.D. 93)

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-434)**.

Comes from the House, with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-434)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-434) **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.

The Committee on **TAXATION** on Bill "An Act to Exempt Lobster Feed and Medication Necessary for the Lobster Pound Business from the State Sales Tax" (H.P. 206) (L.D. 240)

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-435)**.

Comes from the House, with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-435)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-435) **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.

THE PRESIDENT: The Chair recognizes the Senator from Aroostook, Senator Carpenter. Senator CARPENTER: Mr. President, a parliamentary inquiry to the Chair? At what point could we plan on taking up the Wood Measurement Bill?

THE PRESIDENT: The Chair would hope that when we come back in we can finish the Calendar up and hopefully be out of here by 8:00. The Chair would hope that those matters that are in the House and those matters that are left on our Table, there are two which were tabled until later, one would be Wood Measurement and the other one being the Vocational Education Bill. Those are the two items that are Tabled until Later.

Senator CARPENTER: Am I correct in presuming that the only person who can remove that from the Table at this point is the person who put it on the Table?

THE PRESIDENT: The Chair would answer in the affirmative.

On motion by Senator VIOLETTE of Aroostook, **RECESSED** until the sound of the bell.

After Recess

Senate called to Order by the President.

On motion by Senator DANTON of York, the Senate removed from the **SPECIAL HIGHWAY APPROPRIATIONS TABLE**:

Emergency

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

Tabled—June 6, 1985, by Senator DANTON of York

Pending—ENACTMENT

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

(In Senate June 3, 1985, **PASSED TO BE ENGROSSED AS AMENDED BY SENATE AMENDMENT "A" (S-200)**.)

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

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

On further motion by same Senator, Senate Amendment "C" (S-297) **READ** and **ADOPTED**.

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:

COMMITTEE REPORTS

Senate

Ought to Pass As Amended

Senator TWITCHELL for the Committee on **TAXATION** on Bill "An Act to Exempt Leased Farm Equipment from Use Tax" (S.P. 190) (L.D. 508)

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-298)**.

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

Committee Amendment "A" (S-298) **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.

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 the Taxation of Trade-in Equipment" (H.P. 498) (L.D. 701)

Reported that the same **Ought to Pass as Amended by Committee Amendment "A"** (H-439).

Comes from the House, with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A"** (H-439).

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-4439) **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, ordered sent down forthwith for concurrence.

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

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

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

After Recess

Senate called to Order by the President.

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

COMMITTEE REPORTS**House****Divided Report**

The Majority of the Committee on EDUCATION on Bill "An Act to Implement Teacher Recognition Grants and Establish a Minimum Salary for Teachers" (H.P. 1087) (L.D. 1580)

Reported that the same **Ought to Pass as Amended by Committee Amendment "A"** (H-427).

Signed:

Senators:

BROWN of Washington

GAUVREAU of Androscoggin

Representatives:

CROUSE of Caribou

BOST of Orono

ROBERTS of Farmington

O'GARA of Westbrook

HANDY of Lewiston

BROWN of Gorham

MATTHEWS of Caribou

The Minority of the same Committee on the same subject reported that the same **Ought to Pass Amended by Committee Amendment "B"** (H-428).

Signed:

Senator:

HICHENS of York

Representatives:

SMALL of Bath

FOSS of Yarmouth

LAWRENCE of Parsonsfield

Comes from the House with the Majority **OUCHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A"** (H-427) Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A"** (H-427)

Which Reports were **READ**.

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

Senator **HICHENS:** Mr. President, I make a motion that the Senate would accept the Minority Ought to Pass as Amended Report and would speak to my motion.

Mr. President and Members of the Senate. Both of the Reports have been put before you, I know you have discussed them in caucus and possibly have your minds already made up but

I would like to explain the difference between these two proposals which you have before you tonight because there are some very important facts which I hope that you will weigh in your minds before you actually vote.

Both of the proposals, Majority and Minority Reports, contain two stipends. The two Bills each ask for an additional \$600,000 to fully fund the first 1000 stipends. The Majority Report must have the appropriation because it says in the law that teacher stipends of \$1000 each will be paid in 1985-1986. Our proposal asked for the additional money to fully fund the first stipend but leaves in the language stipends of up to \$1,000, so that if the Appropriations Committee did not fully fund that \$600,000, the grants will be protected. Both Bills guarantee to have a full \$1000 stipend in the second year.

The Majority puts in their Bill an appeals process which opens up again the whole debate of what is a teacher. Although in both Bills seven categories are listed to define teacher, under the Majority Report, Section 5 M.R.S.A. 13506 2A, it reads, "Appeal: Teachers may appeal the Assigned Teacher Recognition Grant in writing to a grant review panel or panels by March 15, 1986 for the grant assigned February 15th and by September 15, 1986 for the August 15th grant. The panel or panels should be composed of one representative of teachers, one representative of school management, and one member of the public, and shall be reimbursed for their expenses incurred in carrying out their responsibilities under the subsection. The panel or panels shall be established by the Commissioner. The cost of administration of the panel or panels shall be deducted from the funds available for block grants established in Section 13509."

Conceivably, this review panel could rule that someone was a teacher who was not included in the seven categories in the law. Once again we seem to be in doubt as to what a teacher is and who should get the grants.

The greatest difference between the two Bills is how the \$27 million is sent back to the districts in 1986-87 and 1987-88. Here there is a real division of philosophy and mechanics. The Majority Report attempts to equalize teacher salaries across the State. The grants are distributed according to cost per teacher to reach the mandated \$15,500 in the year 1987-88. The Minority report gives every school district the chance to increase the salaries by providing incentives to increase local effort in raising base pay.

The problems that the Minority Committee has with equalizing pay across the State are several. First, salaries will begin to separate again within a few years after setting the minimum. Will the Legislature be back setting them again in five years? Two, even if we mandate a standard for salaries the disparity in costs will continue to exist. A teacher living in Portland will have a higher cost of living than a teacher living in South Paris or Machias.

The grants are set up very differently in the two reports. In the Majority Report grants are doled out according to how much a district needs to bring its salaries to \$15,500 in 1987-88. If you are now paying way below average you will receive larger grants. Towns near or at the base figure will receive the minimum grant amount. The grants will get you to \$15,500 in the third year provided you have increased teachers salaries by 6% in each year.

The problem comes when the switch is made from per-teacher grants to the per-student formula in the Finance Act. In 1988-89 many towns will be forced to pick up a considerable cost to maintain the \$15,500 minimum salary. In the Minority Report grants are based on local effort. For every percentage point you raise your base salary we match it with a block grant based on the number of students in the district. In the first year of the grants our formula is based on the number of percentage points the

district raises it pays up to 6% times the number of students times \$8.60 for a maximum of \$51.60 per student. For the second year, the formula is the same but the dollar amount increase because we no longer need 14.3 million for stipends. The second year is the number of percentage points times the number of students times \$18.30 or a maximum of \$109.80 per student.

This money is then sent back to the school district to be used for increasing base pay further, creating master teacher positions, extending the school year for teachers, or any other teacher compensation which is negotiated at the local level.

The greatest problem we have with the Majority Report occurs in the third year, 1988-89, when the grants end and the \$27 million is turned into the Finance Act funding formula. The money which the Majority Report sent out on a per-teacher basis is now going to be distributed on a per-pupil basis. This leads to great disparity between what a unit received under the grants and what it receives under the formula. Some districts, a good many of them, will not receive enough money to maintain the \$15,500 minimum salary. They will then be forced to raise taxes from local property taxes, eliminate programs or reduce their number of teachers. Under the Minority proposal transition from the grants to the finance formula is much easier because our grants were already distributed on a per-student basis. Where there is disparity a unit which will not receive as much money under the formula as they received in grants, the school unit has the option of not raising its base salary above what it can afford.

When you vote tonight to accept the Majority or Minority Report I hope you will think long and hard about the full ramifications of salaries, both reports do that with roughly the same dollar amount. The question you must ask yourself is how best to do this, through mandates or incentives, with a property tax increase or without one, favoring some low paying districts or allowing districts to compete equally, taking control away from local boards or trusting them to meet the responsibility and raise salaries with the monies provided.

If you believe in the centralization of educational policy then you must accept the Majority Report. For this is another of a long list of bills this Session which attempted to take control of local school policy and put in into the hands of the State. I assure you that if we enact this tonight we'll be called on again and again and again to enact similar legislation in the future. I therefore urge you to accept Committee Report B.

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

Senator **BROWN:** Thank you, Mr. President and Men and Women of the Senate. The hour is late and I know you are not overly enthusiastic about long speeches at this time of the evening but there are several things that need to be said about this concern which there has been the major overriding concern of the Committee on Education this year.

The good Senator from York, Senator Hichens, has summarized very well the Minority position and I think there are some greater differences then he wished to state in his comments that has just been completed because both do not do the same things in terms of raising teacher salaries. There is a basic difference with that.

Let me begin briefly by describing some of the background of this Bill and the Majority's rationale for its recommendation. I'll then go through the Bill in some detail.

In recent years there have been numerous studies nationally and within Maine on the status of public elementary and secondary school education. The national studies indicate that the quality of education in this nation's public schools has been declining. These

studies also pointed out the important roll that teachers play in the quality of education offered in the public schools. An important element, admittedly not the only one, in the attraction and retention of qualified people in the teaching profession is the adequacy of teacher pay in relation to the responsibilities we as a society ask of them. At about the same time that national studies were issuing their report Maine conducted its own review of public education in Maine.

One year ago the Commission on the Status of Education issued its final report. The Commission's recommendations consisted of a comprehensive lists of education reform to maintain, and where necessary, to improve the quality of education in Maine. Regarding teacher salaries the Commission found that Maine teachers were poorly paid both when compared to other teachers nationally and when compared to other Maine workers. The commission concluded that to stem the loss of good teachers from Maine public schools and to attract bright young people into teaching so that future excellence of our schools might be assured the antiquated salary schedule contained in present law should be repealed and replaced with an up-to-date minimum starting salary. The Commission recommended \$15,000 per year as the minimum starting salary for 1985-86, the current year that we're in.

The Commission's recommendations were presented to the 111th Legislature in Special Session last September. Many of the reform measures were enacted at that time. In an effort to enhance the teaching profession, two \$1000 teacher recognition grants were to be awarded in the 1985-86 school year. The long term issue of teacher salaries, however, had to be studied further by the special commission to study the implementation of educational reform established as part of the reform act. That special commission issued its final report in March of this year. The majority report of the special commission agreed that Maine teachers are uniformly underpaid. The report recommended awarding two \$1000 teacher recognition grants in 1985-1986 and raising the minimum starting salary for teachers to \$14,500 in 1986-87 and \$16,000 in 1987-88.

Two other factors should be mentioned as background here. First, recent national studies have forecast the teacher shortages in the near future, especially math, science, special ed and industrial arts. To assure that teacher opening in these and other critical fields are filled, it is essential to take steps now to provide a professionally competitive salary to teachers. Unless we attract and retain qualified teacher, all the other educational reforms will fall short.

The second factor is that all the attention focused on education in the past year, other states have not been standing still. In order to maintain and improve Maine's competitive standing with respect to quality education, which is a key element in any measure of State's business climate, we need to keep pace with the reforms being enacted in other states. The educational climate is a key aspect of the business climate of this State.

Committee Amendment "A" which is before you tonight, is supported by the majority of the committee although not all of us are pleased with each element of the package, we uniformly support the compromise embodied in this report. We feel that majority report is reasonable, fair and workable. It is supported by the Governor's office, the Department of Education, the School Management officials and teacher representatives.

The Majority report has three basic elements. First, it provides for immediate recognition of current teachers through payment of two \$1000 grants in 1985-86. Second, it provides for a permanent solution to the teacher salary problem by establishing a target, non-mandatory minimum starting salary for teachers in 1986-87 and it requires minimum

starting salaries in 1987-88. Finally, the majority report provides for increasing State participation in the effort which will be necessary to reach the minimum salary levels.

We've decided to retain the teacher recognition grants for several reasons. First, that is the law. The recognition grants were an integral part of the educational reform package enacted last fall. Teachers have had their expectations raised by the act of the Legislature and it is up to us to live up to those expectations. Secondly, the grants serve as a recognition of the regard of which we hold teachers, a key element if we are to attract and retain quality teachers, while providing a temporary bridge for a more permanent solution. The grants for one year provide extra time for local communities to provide administratively and financially for the minimum salary requirement which will come later.

In order to more equitably implement teacher distribution recognition grants some amendments are proposed. Part-time teachers and teachers who job-share will be eligible for the grants as long as they are employed by the whole semester. Teachers on sabbatical leave during the year would also be eligible. Of course, teacher recognition grants are not the whole answer to the teacher compensation problem. The majority report proposes a recommended minimum starting salary of \$13,500 per year in 1986-87 and required minimum salary of \$15,500 for 1987-88. We feel such action is necessary to establish professionally competitive salaries for all Maine teachers.

In all other regards aside from establishing this minimum salary for 1987-88, teacher compensation issues will remain locally determined, as the good Senator from York, has so well stated they should. The structure of the salary schedule above the starting level, the distribution of teacher salaries as well as all other compensation related items will continue to be negotiated locally.

In order to meet the minimum starting salary State funds will be distributed directly to the school units in the form of block grants in 1986-87 and 1988-89. In subsequent years State dollars will be flowing to the units through the finance formula. Because the problem that we are addressing is the underpayment of teachers and because State funds have been set aside for that purpose the majority report provides for distribution of those block grants to units based on the number of teachers in each unit and the amount they are below the minimum. You'll note this is a difference between the Majority and Minority Report. To distribute it on any other basis would not directly address the problem that we're trying to resolve. Some units will be at or above the recommended 1986-87 and the required 1987-88 minimums. Those units will be awarded \$400 and \$800 per teacher in each of those years respectfully to be used for locally determined salary issues or not used at all. That is so not to penalize units which have been making an effort to raise teacher salaries right along. Other units will receive up to \$1800 in 1986-87, a move toward the recommended \$13,500 minimum and 1987-88 the amount necessary to reach the required \$15,500 minimum. Detailed instructions are contained in the Bill on how the Commission on Education is to calculate the amount of the block grants.

The third element of the Majority Report concerns the funding of the cost associated with increasing teachers salaries. The amount of the second teacher recognition grants issued in August of 1986 shall be included in determining local operating costs and will be eligible for reimbursement through the finance formula. The amount of that recognition grant and of the two block grants in determining the State percentages share to be paid from the General Fund. That will cause the State's percentage to increase and limit the local share

on a State-wide basis to what it would have been without the payment of the grants.

Men and Women of the Senate, I would urge you to very carefully weigh this matter and to vote with the majority of the Committee on Education which will carry through the commitments made last fall to permanently do something about teacher compensation. Thank you, Mr. President.

THE PRESIDENT: The pending question is the motion by Senator HICHENS of York, to ACCEPT the Minority OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "B" (H-428) Report.

The Chair recognizes the Senator from Franklin, Senator Webster.

Senator WEBSTER: Mr. President, Ladies and Gentlemen of the Senate, I just wanted to ask a question, first in regard to the handout I received on my desk here. I guess I would direct the question to Senator Brown since it was his handout.

I am curious on the last page there is some reference to the Number 3, it says "School funding formula" and it says "Purpose: to alleviate the burden on local school units and to demonstrate the State's commitment and willingness to share the costs involved." I think my question, I guess, is in regard to sharing the costs. It would seem appropriate to me if the State Government, we the Legislature, are going to mandate a certain pay range or starting salary for teachers, which I'm not at all that opposed to, but if we're going to do that if would seem to me that it would be appropriate for State Government to pay for it. I'm not sure that the property tax, at least not the property tax in my district, can afford any more increase at the local costs of property the way things are going.

I guess what I would like to know is, if we pass the Majority Report and we mandate in 1987-88 a \$15,500 starting salary, how much is this going to cost the local property tax or is the money all going to come from the State Government?

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

The Chair recognizes the Senator from Washington, Senator Brown.

Senator BROWN: Thank you, Mr. President, Men and Women of the Senate. I would like to respond to the question that has been posed by the good Senator because that is a very key element of the funding package.

The Committee was very concerned about any additional pressure on the local property tax, very concerned about that issue. As a matter of fact, there was a lot of concern last fall if the good Senator will remember, when the Educational Reform Act was passed, to not place additional pressure on local property taxes, they were already over-burdened. The intent last fall when we decided we were going to award the two \$1000 recognition grants and that continuing amount of money. Now, we're not talking about a one-time allocation of increasing roughly \$27 million in the full year. The first recognition grant will cost about half of that sum but for the full year the increased dollars to education will be in the neighborhood of \$27 plus million. We're talking about that on a continuing basis.

So, in other words, Senator Webster, the increase in State share would be going from 55% to somewhere near 57%. So, therefore, the State share is increased so this additional money for teacher salaries would be, in fact, funded by the State for the most part.

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

Senator PERKINS: Mr. President and Ladies and Gentlemen of the Senate, I think the good Senator from Washington's response provides me with another question which is will this increase in the extra 3% in the State's share then

cover all the additional costs in the property tax to cover all this for all the local communities? It would be my understanding from his answer that this would cover all the property tax increases for the communities?

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

The Chair recognizes the Senator from Androscoggin, Senator Gauvreau.

Senator **GAUVREAU:** Thank you, Mr. President, Men and Women of the Senate. I think that the question posed by the good Gentlemen from Hancock, Senator Perkins, really places the issue before us in stark contrasts.

The formula adopted by the majority would defer any impact, any significant impact, on the local property tax base for a period of five years until 1989-1990. That is because, as the Senator from Washington, Senator Brown, has carefully explained, do the intricacies of the School Finance Act and how it is being funded under the Majority plan, the increased subsidies from the State will be deemed local contributions for which the locals will secure reimbursement the following fiscal year. So, the answer to the question is yes, there will be some impact on the property tax, the local base of support for education but it will be some five years down the road.

But that also raises, I would like while I'm on my feet, to respond to questions raised by the good Senator from Franklin, Senator Webster. He indicated that he was in favor of decent and appropriate minimum salaries for teacher but he doesn't suggest a viable mechanism to attain those minimum salaries. If one were to adopt the Minority plan which is nothing more, really, than simply providing some incentives for voluntary actions by the locals he would never get to the decent salary level for teachers. In fact, the reason we have the problem before us is because the locals have not been able, on their own, to provide decent minimum wages for teachers.

The Majority plan can be summarized as follows: If you take the base salary for teachers in 1985-86, you factor in it assumed 6% increase in compensation due to cost of living or whatnot for the following year. We then would subsidize the difference between that figure, and \$13,500 in the fiscal year 1986-87. The following year, assuming again a 6% increase of cost of living, we subsidize at the State level the difference between that figure and a minimum salary of \$15,500. In doing so we do accomplish the significant goal of providing a basic floor for teacher salaries throughout the State.

To suggest that the voluntary mechanism proposed by the Minority will obtain that goal is somewhat specious. There is no evidence that has been attained in the past that has given rise to the problem before us today and for these reasons I suggest that the Majority proposal is the most fair and most logical method to use in getting to adequate minimum teacher compensation.

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

Senator **SEWALL:** Thank you, Mr. President and members of the Senate. I'm a little bit confused about this, maybe you could clarify it but I'm worried about the third year out after the grant money has come and it seems to me that it is going to be a shortfall and it seems to me that, that is going to have to be picked up by the local property tax. Is that what I'm seeing here?

I was given some notes here saying that, for instance, Eastport in the year 1988-89 would have to make up \$80,000. That Van Buren would have to make up \$180,000 in the year 1988-89 and Lubec would have to make up \$40,000 in that same year. Does that mean that they make that up under the Majority Report? Do they have to make it up out of local prop-

erty taxes?

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

The Chair recognizes the Senator from Washington, Senator Brown.

Senator **BROWN:** Thank you, Mr. President and Ladies and Gentlemen of the Senate. The question that has been posed regarding the local property tax; we cannot avoid the issue. The fact that based upon the commitment that a community has made to increase teacher salaries that somewhere down the road there can be an increase placed upon the local property tax. The answer to that is yes.

The problem, of course, comes with the fact that some communities have not made a consistent enough effort to get teacher salaries where they can be anywhere near competitive and the State has said that we feel that it is important enough to make a one-time intrusion into local control on this issue to establish a minimum salary. This one-time intrusion to establish this minimum salary then is turned back over in terms of negotiation.

\$15,500 is a respectable, I suppose, spot to start with in terms of that minimum. There's many communities throughout this State that will already have exceeded that by the year that we're talking about. There are other communities that as a matter of fact that are not even receiving, towns, that have not made the effort and they in fact will have to incur additional property taxes to establish the minimum. So, the fact is that somewhere down the road there is going to have to be, even though the State will be making this continued yearly effort to enhance teacher salaries if a community is some distance between that mandated minimum of \$15,500 and where they are currently, there will be additional pressure.

THE PRESIDENT: The pending question is the motion of the Senator from York, Senator HICHENS, to ACCEPT the Minority OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "B" (H-428) Report.

The Chair recognizes the Senator from Penobscot, Senator Maybury.

Senator **MAYBURY:** Thank you, Mr. President, members of the Senate. It seems to me that two people are clearly not represented in the Majority proposal, the students and the taxpayers.

As for the students, the Minority Report has allocated the block grants based on the number of students, not on the number of teachers as in the Majority Report. A per student allocation provides continuity with the basic calculations in the school finance formula. As for the taxpayers, they are being saddled in the 1988-89 school year with paying for part of the State mandate out of the local property tax.

Numbers fly back and forth but a significant statistic is that while the Maine teacher is 48th in the country in average salary, the average State pay for all taxpayers in Maine is also 48th in the country. The issue here is who is in charge of settling teacher salaries and of collective bargaining, the local units or State Government?

The Majority proposal is an end-run around collective bargaining and is a serious and maybe irreparable intrusion into local decision making. The Minority proposal encourages local units to raise salaries leaving the salary decision to local collective bargaining. It also encourages local units to increase their base salaries through incentive grants rather than mandating a Statewide minimum salary.

I would urge the members of the Senate to think this through and support the Minority Report. Thank you.

THE PRESIDENT: The pending question is the motion of the Senator from York, Senator HICHENS, to ACCEPT the Minority OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "B" (H-428) Report.

The Chair recognizes the Senator from York, Senator Hichens.

Senator **HICHENS:** Mr. President, I think the good Senator from Washington has answered the question as far as the local property taxes very explicitly and the good Senator from Cumberland, Senator Clark and myself served on the Education Committee last October when this issue was passed and that was one of the big issues as to whether the property tax was going to be up in the years to come under these new proposals and we were assured at that time that the property taxes would not be affected because the State funding would go up, possibly to 57% or 58%. Now the good Senator from Washington tells us that there is a great possibility and according to the chart that was given several of these towns are going to be really hurt unless they have a lot of additional property taxes in order to fund this.

When the vote is taken, Mr. President, I ask for the yeas and nays.

THE PRESIDENT: The Senator from York, Senator Hichens, 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 Androscoggin, Senator Gauvreau.

Senator **GAUVREAU:** Thank you, Mr. President, Men and Women of the Senate. I have sat here this evening and listened to the debate and I can't help but feel that when the parties in the Majority is asked to take responsible actions and sometimes when the parties in the Minority it can give lip service to recognizing a problem but propose no viable mechanism to deal with that problem. I think that is the problem that we're facing here this evening.

As I have studied the Minority Report I honestly don't believe that it will make any sizable inroad whatsoever in the serious problem of inadequate teacher compensation in the State of Maine. The Majority Report proposes after the fourth year out, partnership, a partnership in which both the State and locals will join in providing an appropriate level of minimum teacher compensation throughout the State. Beyond that level the Majority proposal allows substantial flexibility for collective bargaining for incentive grants to award truly exceptional teacher performances but we do set a basic floor. We recognize, as has the Minority, that inadequate teacher compensation is one of a series of factors which has contributed to deterioration of the quality of education in the State of Maine.

The Majority Report is very simple. It would have the State's share of education go from 55% to 58% through fiscal year 1988-89. That is a substantial, a major increase in the State effort to provide quality education at the local level. What we are indicating and asking is that the locals make a reasonable effort in a joint enterprise to enhance the quality of education in the State of Maine.

I don't think that when we take a look at the future of our children that, that is asking too much. I ask that you join us in voting for the Majority Report, Committee Report "A." Thank you.

THE PRESIDENT: The pending question is the motion of the Senator from York, Senator HICHENS, to ACCEPT the Minority OUGHT TO PASS AS AMENDED Report of the Committee. A Roll Call has been ordered.

The Chair recognizes the Senator from Lincoln, Senator Sewall.

Senator **SEWALL:** Thank you, Mr. President and Members of the Senate. Speaking for one of those in the minority who perhaps has been

accused of giving lip service to the subject of education finance, I would like you to remember back to when we had a little problem when we were doing this very same sort of thing, and it was called the Uniform Property Tax Repeal, and certainly those in the minority, those from towns, I happen to represent a bunch of them who are not receiving towns, who are getting no benefits and who are going to have to make up the difference completely on their property tax. Those towns who, by the way, are also paying their teachers higher and are going to get less help because they've been doing a better job at paying their teachers. These people that I represent may be in the minority but, last time that this kind of a program came along those same people got together and repealed the Uniform Property Tax. Those people wanted local control, that is why they went to the first of a long line of referendums that have come before us and I think have made a lot of difficulties for us politically. That the first of those, the first successful one in years and years and years had to do with this issue and some towns are drummed out and some towns are receiving different benefits at different levels than others and that is the reason. It may be lip service and it may be the minority but these people are real and they happen to care about the issue and they happen to be picking up a tremendous amount of the tab.

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

Senator **GAUVREAU:** Thank you, Mr. President. I would concur I think in the implicit statement of the good Senator from Lincoln that what we have here is a fundamental philosophical difference which is represented by the competing measures before us today.

But I view I think, as the sizable majority on the Committee on Education, that education really is the birthright of all Americans and that one should not be deprived of equal access in our democracy to an appropriate and meaningful educational experience merely due to the incidence of one's geographical residence.

What we're saying today in the Majority Report is a very strong commitment that regardless where one lives in the State of Maine that child is going to be assured of a basic minimum quality education. Thank you.

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

Senator **WEBSTER:** Mr. President and Ladies and Gentlemen of the Senate. You know, a few minutes ago the good Senator Gauvreau from Androscoggin made a point that somewhat upset me so I thought it was appropriate to stand on my feet and just talk about being in the minority and having views.

You know, I find the implications or the suggestions that it is easy to stand back when you're not in the majority and take pot shots at issues and I'll tell you that we have before us tonight a philosophical issue on how education should be funded. There are those of us who would say that education should be more adequately funded from the State level. There are others who would rather spend money socially and in other areas.

You know, I have advocated in my three terms in the Legislature now that one of the biggest problems with the whole political system and the whole way things here in Augusta goes is that we don't spend enough money for education. You know, I represent the University of Maine at Farmington, I have as many school teachers in my district as anybody in the State. I find that it is easy to come down here and say I'm for education and I'm going to do what's good for the teachers in my district. It is easy to say that I care for education but when the bottom line comes down and we're spending money, we're not giving it to education. We're spending it in areas that the

majority of the people or many of the people in my district don't even agree with.

Now, if you want to do something about education I suggest one report or the other and you know, I don't know which report doesn't contain enough funding from the State level as far as I'm concerned. But, I'll tell you what we should be doing is increasing the State's commitment on education, up to 65% if that is what it takes to pay the teachers something, to pay them more than they are getting now, to pay them \$15,000 or \$16,000, whatever it was, a year. You know, last year we came down here in Special Session and we passed a bonus package which was a joke as far as the people in my district were concerned. We had an opportunity at that point to raise the base salary of the teachers in this State and we didn't do it.

I suggest that what we ought to be doing today is discussing and debating the idea of raising the salaries but doing it by paying for it from here at the State level because the property tax cannot afford any more money for education or anything else. We're just fooling the people if we say we're helping you with this Bill and then turn around in five years from now and make them pay more out of the property tax.

THE PRESIDENT: The pending question is the motion of the Senator from York, Senator **HICHENS** to **ACCEPT** the Minority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "B"** (H-428) Report. A Roll Call has been ordered.

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

Senator **DUTREMBLE:** Mr. President, I request Leave of the Senate to be excused from voting because of the potential appearance of conflict of interest.

THE PRESIDENT: The Senator from York, Senator **Dutremble**, requests Leave of the Senate to be excused from voting today because of the potential appearance of conflict of interest.

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

It is a vote.

The Chair recognizes the Senator from Penobscot, Senator **Pearson**.

Senator **PEARSON:** Mr. President, I request Leave of the Senate to be excused from voting because of the potential appearance of conflict of interest.

THE PRESIDENT: 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 York, Senator **HICHENS**, to **ACCEPT** the Minority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "B"** (H-428) Report. A Roll Call has been ordered.

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

Senator **DIAMOND:** Mr. President, I would like to pose a parliamentary inquiry to the Chair if I may. I notice the people getting up to be excused from voting because they are direct recipients, would that in your opinion also be applicable to a spouse?

Off Record Remarks

Senator **DIAMOND:** Mr. President, I request Leave of the Senate to be excused from voting because of the potential appearance of conflict of interest.

THE PRESIDENT: The Senator from Cumberland, Senator **Diamond**, requests Leave of the Senate to be excused from voting because of potential appearance of conflict of interest.

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

It is a vote.

THE PRESIDENT: The pending question before the Senate is the motion of the Senator

from York, Senator **HICHENS** to **ACCEPT** the Minority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "B"** (H-428) Report. A Roll Call has been ordered.

A Yes vote will be in favor of the motion of the Senator from York, Senator **HICHENS**, to **ACCEPT** the Minority **OUGHT TO PASS AS AMENDED** Report.

A No vote will be opposed.

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

ROLL CALL

YEAS:—Senators, **Black**, **Emerson**, **Gill**, **Hichens**, **Maybury**, **McBairty**, **Perkins**, **Sewall**, **Shute**, **Stover**, **Webster**

NAYS:—Senators, **Andrews**, **Baldacci**, **Berube**, **Brown**, **Bustin**, **Carpenter**, **Chalmers**, **Clark**, **Danton**, **Dow**, **Erwin**, **Gauvreau**, **Kany**, **Matthews**, **Trafton**, **Tuttle**, **Twitchell**, **Usher**, **Violette**, **The President** — **Charles P. Pray**

ABSENT:—Senator **Najarian**

EXCUSED:—Senators, **Diamond**, **Dutremble**, **Pearson**

11 Senators having voted in the affirmative and 20 Senators having voted in the negative, with 3 Senators being excused and 1 Senator being absent, the motion of Senator **HICHENS** of York, to **ACCEPT** the Minority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "B"** (H-428) Report, **FAILS**.

The Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A"** (H-427) Report was **ACCEPTED**, in concurrence.

The Bill **READ ONCE**

Committee Amendment "A" (H-427) **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.

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 Establish an Aroostook County Budget Committee" (S.P. 310) (L.D. 799) (C "A" S-98)

In Senate June 13, 1985, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A"** (S-98) **AS AMENDED BY HOUSE AMENDMENT "A"** (H-396), thereto in concurrence.

Comes from the House **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A"** (S-98) **AS AMENDED BY HOUSE AMENDMENT "B"** (H-440), thereto in **NON-CONCURRENCE**.

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

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

PAPERS FROM THE HOUSE

Non-concurrent Matter

Bill "An Act to Create the Maine Rainy Day Fund" (H.P. 521) (L.D. 741) (C "A" H-301)

In Senate June 7, 1985, **PASSED TO BE ENACTED**, in concurrence.

RECALLED from the Governor's desk pursuant to Joint Order H.P. 1150.

Comes from the House **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A"** (H-301) **AND HOUSE AMENDMENT "A"** (H-442) in **NON-CONCURRENCE**.

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

ENACTORS

The Committee on **Engrossed Bills** reported as truly and strictly engrossed the following: An Act Concerning Minimum Ordinary Death Benefits (S.P. 94) (L.D. 292) (C 'A' S-184)

On motion by Senator **PEARSON** of Penobscot, placed on the **SPECIAL APPRO-**

PROPRIATIONS TABLE, pending PASSAGE TO BE ENACTED.

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

COMMITTEE REPORTS**House****Divided Report**

The Majority of the Committee on **TAXATION** on Bill "An Act to Provide a Sales Tax Exemption on Railroad Track Equipment and to Include Long-term Freight Car Leases in the Definition of Operating Investment for Railroad Excise Tax Purposes" (H.P. 1137) (L.D. 1643)

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-432)**

Signed:

Senators:

TWITCHELL of Oxford
DIAMOND of Cumberland
EMERSON of Penobscot

Representatives:

CASHMAN of Old Town
ZIRNKILTON of Mount Desert
MCCOLLISTER of Canton
INGRAHAM of Houlton
WEBSTER of Cape Elizabeth
JACKSON of Harrison
SWAZEY of Bucksport
DIAMOND of Bangor
NELSON of Portland

The Minority of the same Committee on the same subject reported that the same **Ought to Pass as Amended by Committee Amendment "B" (H-433)**.

Signed:

Representative:

MAYO of Thomaston

Comes from the House with the Majority **UGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-432) Report READ and ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-432) AS AMENDED BY HOUSE AMENDMENT "B" (H-445)**, thereto.

Which Reports were **READ**.

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

Committee Amendment "A" (H-432) **READ**. House Amendment "B" (H-445) to Committee Amendment "A" (H-432) **READ and ADOPTED**, in concurrence.

Committee Amendment "A" (H-432) as Amended by House Amendment "B" (H-445), thereto **ADOPTED**, in concurrence.

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

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

The Chair recognizes the Senator from Kennebec, Senator BUSTIN.

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

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

Will all those Senators in favor of this Bill being **PASSED TO BE ENGROSSED AS AMENDED**, 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.

28 Senators having voted in the affirmative, and 5 Senators having voted in the negative, the Bill is **PASSED TO BE ENGROSSED, as Amended**, in concurrence.

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

PAPERS FROM THE HOUSE**Non-Concurrent Matter**

Bill "An Act to Authorize Aroostook County to Raise \$2,100,000 for Renovations and Additions to the Aroostook County Jail" (S.P. 617)

(L.D. 1628)

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

Comes from the House **PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "B" (H-446)** in **NON-CONCURRENCE**.

The Senate **RECEDED and CONCURRED**.

Senate At Ease

Senate called to Order by the President.

ORDERS OF THE DAY

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

Bill "An Act Relating to the Administration of Vocational Education" (S.P. 628) (L.D. 1645)
Tabled—June 17, 1985 by Senator **VIOLETTE** of Aroostook.

Pending—**FURTHER CONSIDERATION** (In Senate June 5, 1985, **PASSED TO BE ENGROSSED**.)

(In House June 14, 1985, **PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "B" (H-422)** in **NON-CONCURRENCE**.)

On motion by Senator **BROWN** of Washington, the Senate **RECEDED**.

House Amendment "B" (H-422) **READ**.

On motion by Senator **BROWN** of Washington, Senate Amendment "C" (S-302) to House Amendment "B" (H-422) **READ and ADOPTED**.

House Amendment "B" (H-422) as Amended by Senate Amendment "C" (S-302), 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:

Emergency

An Act to Amend the Wood Measurement Laws (H.P. 960) (L.D. 1381) (C "A" H-272)

Tabled—June 17, 1985, by Senator **USHER** of Cumberland.

Pending—the motion of Senator **CARPENTER** of Aroostook, to **INSIST**.

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

(In Senate June 5, 1985, **FAILED OF PASSAGE TO BE ENACTED** in **NON-CONCURRENCE**.)

(In House June 17, 1985, that Body **INSISTED**.)

(In Senate June 17, 1985, **FAILED TO RECEDE and CONCUR**.)

THE PRESIDENT: The pending question before the Senate is the motion of the Senator from Aroostook, Senator **CARPENTER**, to **INSIST**.

The Chair recognizes the Senator from Cumberland, Senator Usher.

Senator **USHER:** I ask for a Division on the motion.

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

Will all those Senators in favor of the motion of the Senator from Aroostook, Senator **CARPENTER**, to **INSIST**, 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 24 Senators having voted in the negative, the motion of Senator **CARPENTER** to **INSIST, FAILS**.

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

Senator **USHER:** Mr. President, having voted on the prevailing side, I now move that the Senate Reconsider its action whereby the Senate failed to Recede and Concur

THE PRESIDENT: The Senator from

Cumberland, Senator **USHER**, moved that the Senate **RECONSIDER** its action whereby it **FAILED TO RECEDE and CONCUR**.

The Chair recognizes the Senator from Aroostook, Senator Gauvreau.

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

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

Will all those Senators in favor of the motion by the Senator from Cumberland, Senator **USHER**, to **RECONSIDER** whereby it **FAILED to RECEDE and CONCUR**, 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.

22 Senators having voted in the affirmative and 12 Senators having voted in the negative, the motion by the Senator from Cumberland, Senator **USHER**, to **RECONSIDER** whereby it **FAILED to RECEDE and CONCUR, PREVAILS**.

THE PRESIDENT: The pending question is the motion of the Senator from Cumberland, Senator **USHER** to **RECEDE and CONCUR**

The Chair recognizes the Senator from Aroostook, Senator Carpenter.

Senator **CARPENTER:** Mr. President, and Ladies and Gentlemen of the Senate. It is late and I am hungry and I think we were here just a few minutes ago, well about three hours ago now.

You know, you can beat all of the forces some of the time and some of the forces all of the time, but I think that this thing has been jerked around here about long enough. I would like to put it finally to rest one way or the other and I think this is probably going to be the vote to do it.

Once again on behalf of the woodcutters who sat in the back of this chamber, just a few days ago in these chairs right here, I would ask you please, please vote against the pending motion which if it passed by a two-thirds vote, will enact this Bill. Please hold fast and to all of the people who have supported me, Senator McBreairey and the rest, I really want to express my appreciation. It has been a long hard battle, you've been lobbied and bludgeoned and threatened and cajoled and I appreciate your sticking with it. Thank you.

Mr. President, I would ask for the Yeas and Nays.

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

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

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

The pending question before the Senate is the motion of the Senator from Cumberland, Senator **USHER** to **RECEDE and CONCUR**.

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

THE PRESIDENT: The pending question before the Senate is the motion of the Senator from Cumberland, Senator **USHER** to **RECEDE and CONCUR**.

A vote of Yes will be in favor of the motion of Senator **USHER** of Cumberland 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, Baldacci, Black, Brown, Diamond, Dow, Dutremble, Emerson, Erwin, Gill, Hichens, Kany, Maybury, Pearson, Perkins, Sewall, Shute, Stover, Trafton, Twitchell, Usher, Violette, Webster, The President —

Charles P. Pray

NAYS:—Senators, Andrews, Berube, Bustin, Carpenter, Chalmers, Danton, Gauvreau, Matthews, McBreairty, Tuttle

ABSENT:—Senators None

23 Senators having voted in the affirmative and 10 Senators having voted in the negative, with 2 Senators Pairing their votes, and No Senators being absent, the motion of the Senator from Cumberland, Senator **USHER**, to **RECEDE** and **CONCUR**, **FAILS**.

THE PRESIDENT: The Chair recognizes the Senator from Aroostook, Senator Carpenter. Senator **CARPENTER:** I move that the Senate Adhere.

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

Senator **WEBSTER:** I ask for a Roll Call.

THE PRESIDENT: The Senator from Franklin, Senator Webster, 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.

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

THE PRESIDENT: The pending question before the Senate is the motion of the Senator from Aroostook, Senator **CARPENTER**, to **ADHERE**.

A Yes vote will be in favor of the motion of the Senator from Aroostook Senator **CARPENTER**, to **ADHERE**.

A No vote will be opposed.

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEAS:—Senators, Andrews, Berube, Bustin, Carpenter, Chalmers, Danton, Gauvreau, Matthews, McBreairty, Tuttle

NAYS:—Senators, Baldacci, Black, Brown, Diamond, Dow, Dutremble, Emerson, Erwin, Gill, Hichens, Kany, Maybury, Pearson, Perkins, Sewall, Shute, Stover, Trafton, Twitchell, Usher, Violette, Webster, The President — Charles P. Pray

ABSENT:—Senators None

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

Senator **PEARSON:** Mr. President, I would like to pose a parliamentary question. Are we under a two-thirds situation on the motion to Adhere?

THE PRESIDENT: The Chair would answer in the negative.

10 Senators having voted in the affirmative and 23 Senators in the negative, with 2 Senators Pairing their votes and No Senators being absent, the motion of the Senator from Aroostook, Senator **CARPENTER**, to **ADHERE**, **FAILS**.

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

Senator **WEBSTER:** Mr. President, a parliamentary inquiry, would the motion to Insist and ask for a Committee of Conference be in order?

THE PRESIDENT: The Chair would answer in the affirmative.

Senator **WEBSTER:** Mr. President, I move we Insist and ask for a Committee of Conference.

Senate At Ease

Senate called to Order by the President.

THE PRESIDENT: The pending motion is the motion of the Senator from Franklin, Senator **WEBSTER**, that the Senate **INSIST** and **ASK FOR A COMMITTEE ON**

CONFERENCE.

The Chair recognizes the Senator from Kennebec, Senator Kany.

Senatory **KANY:** I move we Recede and Concur and I ask if someone would kindly move to table this.

THE PRESIDENT: The Senator from Kennebec, Senator **KANY** moves that the Senate **RECEDE** and **CONCUR**.

The Chair recognizes the Senator from Aroostook, Senator Carpenter.

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

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

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

The Chair recognizes the Senator from Cumberland, Senator Clark.

Senator **CLARK:** Mr. President, I move this matter be Tabled 1 Legislative Day.

THE PRESIDENT: The Senator from Cumberland, Senator **CLARK**, moved that this matter be **TABLED** 1 Legislative Day, pending the motion of the Senator from Kennebec, Senator **KANY**, to **RECEDE** and **CONCUR**.

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

Senator **VIOLETTE:** Mr. President, I request Leave of the Senate to Pair my vote with the Senator from Cumberland, Senator Najarian. If she were here, she would be voting Nay and I would be voting Yea.

THE PRESIDENT: The Senator from Aroostook, Senator Violette, requests Leave of the Senate to Pair his vote with the Senator from Cumberland, Senator Najarian. If she were here, she would be voting Nay and the Senator from Aroostook, Senator Violette, would be voting Yea.

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

It is a vote.

The Chair recognizes the Senator from Penobscot, Senator Baldacci.

Senator **BALDACCI:** Mr. President, the question as it's posed would you be voting Yea or Nay?

THE PRESIDENT: The pending question is the motion of the Senator from Cumberland, Senator **CLARK**, that this matter be **TABLED** 1 Legislative Day, pending the motion of the Senator from Kennebec, Senator **KANY**, to **RECEDE** and **CONCUR**. A Roll Call has been ordered.

The Chair recognizes the Senator from Aroostook, Senator Violette.

Senator **VIOLETTE:** Mr. President, I request Leave of the Senate to Withdraw my motion to Pair my vote with the Senator from Cumberland, Senator Najarian.

THE PRESIDENT: The Senator from Aroostook, Senator Violette, requests Leave of the Senate to Withdraw his motion to Pair his vote with the Senator from Cumberland, Senator Najarian

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

It is a vote.

The Chair recognizes the Senator from Aroostook, Senator Carpenter.

On motion by Senator **CARPENTER** of Aroostook, **TABLED** until later in Today's Session, pending the motion of the Senator from Kennebec, Senator **KANY**, to **RECEDE** and **CONCUR**.

Senate At Ease

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

Non-concurrent Matter

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

In Senate June 3, 1985, **PASSED TO BE ENACTED**, in concurrence.

RECALLED from the Governor's Desk pursuant to Joint Order H.P. 1147.

Comes from the House **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-162) AS AMENDED BY HOUSE AMENDMENT "C" (H-448)**, thereto in **NON-CONCURRENCE**.

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

ORDERS OF THE DAY

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

An Act to Amend the Wood Measurement Laws (H.P. 960) (L.D. 1381) (C "A" H-272)

Tabled—June 17, 1985, by Senator **CARPENTER** of Aroostook.

Pending—the motion of Senator **KANY** of Kennebec, to **RECEDE** and **CONCUR**.

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

(In Senate June 5, 1985, **FAILED OF PASSAGE TO BE ENACTED** in **NON-CONCURRENCE**.)

(In House June 17, 1985, that Body **INSISTED**.)

(In Senate June 17, 1985, **FAILED TO RECEDE** and **CONCUR**. **FAILED TO INSIST**. **RECONSIDERED FAILING TO RECEDE** and **CONCUR**. Subsequently, **FAILED TO RECEDE** and **CONCUR**. **FAILED TO ADHERE**.)

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

Senator **CARPENTER:** A parliamentary inquiry. Mr. President, the motion to Recede and Concur failed. There was then a motion to Insist and ask for a Committee of Conference which was made and withdrawn and then the next motion that was made was to Recede and Concur. My question is, is the motion to Recede and Concur properly before the Body?

THE PRESIDENT: The Chair would answer in the affirmative, all motions having been defeated, the pending motion is in order.

Senator **CARPENTER:** The pending motion is to Recede and Concur?

THE PRESIDENT: The Chair would answer in the affirmative.

Senator **CARPENTER:** I request the Yeas and Nays.

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

Will all those Senators in favor of ordering a Roll Call, please rise 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 Usher.

Senator **USHER:** Mr. President, I move this item be Tabled 1 Legislative Day.

THE PRESIDENT: The Senator from Cumberland, Senator **USHER**, moves that this matter be **TABLED** 1 Legislative Day pending the motion of the Senator from Kennebec, Senator **KANY** to **RECEDE** and **CONCUR**.

The Chair recognizes the Senator from Aroostook, Senator Carpenter.

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

THE PRESIDENT: A Division has been requested.

Will all those Senators in favor of the motion of the Senator from Cumberland, Senator **USHER**, that this matter be **TABLED** 1 Legislative Day, pending the motion of the Senator from Kennebec, Senator **KANY**, to **RECEDE** and **CONCUR**, 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.

The Chair recognizes the Senator from York, Senator Tuttle.

Senator TUTTLE: I request a Roll Call.

THE PRESIDENT: The Senator from York, Senator Tuttle, 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 pending question before the Senate is the motion of the Senator from Cumberland, Senator USHER, that this matter be **TABLED** 1 Legislative Day, pending the motion of the Senator from Kennebec, Senator KANY, to **RECEDE** and **CONCUR**.

A Yes vote will be in favor of the motion of the Senator from Cumberland, Senator USHER, that this be **TABLED** 1 Legislative Day, pending the motion of the Senator from Kennebec, Senator KANY, to **RECEDE** and **CONCUR**.

A No vote will be opposed.

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

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEAS:—Senators, Black, Diamond, Dow, Dutremble, Emerson, Erwin, Gill, Hichens, Kany, Maybury, Pearson, Perkins, Sewall, Shute, Stover, Trafton, Twitchell, Usher, Webster

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

ABSENT:—Senators None

19 Senator having voted in the affirmative, and 14 Senator having voted in the negative, with 2 Senators Pairing their votes and No Senators being absent, the motion by Senator USHER of Cumberland, to **TABLED** 1 Legislative Day, pending the motion of Senator KANY of Kennebec, to **RECEDE** and **CONCUR**, **PREVAILS**.

On motion by Senator CARPENTER of Aroostook,

ADJOURNED until 11 o'clock tomorrow morning.