

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

One Hundred and Twelfth

Legislature

OF THE

STATE OF MAINE

VOLUME I

SECOND REGULAR SESSION

January 8 - April 2, 1986

Off Record Remarks

STATE OF MAINE
ONE HUNDRED AND TWELFTH LEGISLATURE
SECOND REGULAR SESSION
JOURNAL OF THE SENATE

PAPERS FROM THE HOUSE

Study Report

Committee on BUSINESS AND COMMERCE

In Senate Chamber
Monday
March 10, 1986

Report of the Committee on BUSINESS AND COMMERCE to which was referred by the Legislative Council the Study Relative to Social Worker Registration Act have had the same under consideration and ask leave to submit its findings and to report that the accompanying Bill "An Act Relating to the Social Worker Registration Law" H.P. 1520 L.D. 2140

Senate called to Order by the President.

Be referred to the Joint Standing Committee on BUSINESS AND COMMERCE for Public Hearing and printed pursuant to Joint Rule 19.

Prayer by Father Thomas Heath of the St. George Orthodox Church in Bangor.

Comes from the House with the Report READ and ACCEPTED and the Bill referred to the Committee on BUSINESS AND COMMERCE and ORDERED PRINTED.

FATHER HEATH: Let us pray to the Lord. Oh Lord of God who You're mercy and loving kindness does regard the prayer of all who call upon You with a whole heart. Incline Your ear and hear our prayer that is now humbly offered to You by Your servants. You almighty God are help and refuge, the fountain of wisdom and the tower of strength. Who knows we can do nothing without Your guidance and help. We pray to You that the people of this nation and of this State of Maine and for the Members of this Senate. We pray to You to direct them to Your divine wisdom and power so that they may accomplish the endeavors set before them. Grant that we and these Your servants of the Senate may execute their endeavors and consolations faithfully and diligently according to Your will. Be most gracious and pleased to direct and prosper their efforts so that what is accomplished here in the Senate be for the safety, honor, and welfare of ourselves, others, and for the good of our State, and for the glory of Your name. We pray and beseech you, oh Lord, that You will keep them diligent and faithful to their elected responsibilities and the endeavors presented to them so that the citizens may live a life in this our honored State that is calm and tranquil, kindly and in peace and happiness in truth and justice, in virtue that the examples set here may be to that of our noble and god fearing nation. For bless and glorified is Your most honored and magnificent name of the Father, the Son, and the Holy Spirit, now and forever to the ages of ages. Amen.

Which Report was READ and ACCEPTED, in concurrence.

The Bill referred to the Committee on BUSINESS AND COMMERCE and ORDERED PRINTED, in concurrence.

COMMITTEE REPORTS

House

Ought to Pass As Amended

The Committee on APPROPRIATIONS AND FINANCIAL AFFAIRS on Bill "An Act to Define Eligibility for School Purposes and to Determine Financial Responsibility for the Education, Care and Treatment of State Agency Clients" H.P. 1425 L.D. 2014

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-555).

Comes from the House, with the Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-555).

Reading of the Journal of Thursday, March 6, 1986.

Which Report was READ and ACCEPTED, in concurrence.

The Bill READ ONCE.

Committee Amendment "A" (H-555) READ and ADOPTED, in concurrence.

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

The Committee on APPROPRIATIONS AND FINANCIAL AFFAIRS on Bill "An Act to Fund the Holocaust Human Rights Center for Maine"

H.P. 1364 L.D. 1928

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-556).

Comes from the House, with the Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-556).

Which Report was READ and ACCEPTED, in concurrence.

The Bill READ ONCE.

Committee Amendment "A" (H-556) READ and ADOPTED, in concurrence.

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

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 Amending the Water Quality and Hazardous Waste Laws"

S.P. 789 L.D. 1982

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 for Continuation of the Living in the Community Program for Chronically Mentally Ill Persons" (Emergency)

S.P. 737 L.D. 1890

Ought to Pass

Senator ERWIN for the Committee on TRANSPORTATION on Bill "An Act Relating to Financing the Capital Improvement of Local Bridges" S.P. 672 L.D. 1740

Reported that the same Ought to Pass.

Which Report was READ and ACCEPTED.

The Bill READ ONCE.

The Bill LATER TODAY ASSIGNED FOR SECOND READING.

Ought to Pass in New Draft

Senator USHER for the Committee on ENERGY AND NATURAL RESOURCES on Bill "An Act to Amend the State Subsurface Waste Water Disposal Laws" S.P. 686 L.D. 1775

Reported that the same Ought to Pass in New Draft under same title.

S.P. 853 L.D. 2153

Which Report was READ and ACCEPTED.

The Bill in NEW DRAFT READ ONCE.

The Bill in NEW DRAFT LATER TODAY ASSIGNED FOR SECOND READING.

SECOND READERS

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

House

Bill "An Act to Perfect the Maine Business Opportunity Sales Act"

H.P. 1514 L.D. 2136

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

Senate

Bill "An Act to Clarify the Law Relating to Authorization for Disinterment or Removal"
S.P. 846 L.D. 2138

Which was READ A SECOND TIME and PASSED TO BE ENGROSSED.

Sent down for concurrence.

Bill "An Act to Strip Crime of its Profit"
S.P. 847 L.D. 2139

Which was READ A SECOND TIME.

On motion by Senator CLARK of Cumberland, Tabled 1 Legislative Day, pending PASSAGE TO BE ENGROSSED.

Senate at Ease

Senate called to order by the President.

ORDERS OF THE DAY

The Chair laid before the Senate the Tabled and specially assigned matter:

Bill "An Act to Clarify the Application of Water Quality Standards to Hydroelectric Projects"
H.P. 1495 L.D. 2107

Tabled - March 5, 1986, by Senator VIOLETTE of Aroostook.

Pending - PASSAGE TO BE ENGROSSED

(In Senate, March 5, 1986, READ SECOND TIME.)

(In House, March 3, 1986, PASSED TO BE ENGROSSED.)

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

Senator BUSTIN: Thank you Mr. President. I am going to ask for somebody to table this Bill for me, for later in today's session, because the amendment that I had prepared, and I am trying to clear up the water quality issue, and I find out that the amendment that I had prepared does not really do that. There is some technical language that has to be changed. When it went down to Research, one of the people there felt that they needed to add something and, in fact, it doesn't need to be added, so we have to make that change back to where it was, which is the amendment that I thought I was going to offer. So if somebody would be so kind as to table that I would appreciate it.

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

The Chair laid before the Senate the Tabled and specially assigned matter:

Bill "An Act to Expand and Continue Alcoholism Treatment, Education, Prevention and Research Programs"

H.P. 951 L.D. 1370

Tabled - March 5, 1986, by Senator VIOLETTE of Aroostook.

Pending - ADOPTION of Committee Amendment "A" (H-532)

(In Senate, March 4, 1986, Committee Amendment "A" (H-532) READ.)

(In House, March 3, 1986, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-532).)

On motion by Senator TWITCHELL of Oxford, Senate Amendment "A" (S-384) to Committee Amendment "A" (H-532) READ.

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

Senator VIOLETTE: Mr. President, would somebody explain to me how this particular amendment here is going to provide any more control, in terms of the amount that is going into a dedicated account, when those funds are dedicated for a particular account and must be expended within the charge of the dedicated account, irrespective of proper review by another committee. It still doesn't mean that if, in fact, that more money is available than really needs to be expended, where are those monies going to go to?

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

The Chair recognizes the Senator from Kennebec Senator Bustin.

Senator BUSTIN: I would be happy to explain that. If you would refer to the original legislation in 1980, I believe, in that legislation we make it abundantly clear that the allocation, not the appropriation, remember there is a difference between allocation and appropriation, the allocation would go to the Appropriations Committee to be dispensed with. In point of fact, what we did was set up a Joint Select Committee to review that, because at that particular point in time, it seemed like all of the four departments, the Department of Corrections, the Department of Education, the Department of Human Resources, and Mental Health and Retardation, were not working together. They were all submitting their requests for proposals and funding them and they may have overlapped, there was what we viewed at the time as chaos out there in the field.

What we did, was specifically required that those four departments plan together and submit a plan to the Legislature prioritized, and then we would allocate that premium money for those priorities. That is exactly what the Joint Select Committee did, and then they send it to the Appropriations Committee which then passed on that Bill. What this Amendment does is to make sure that that process continues whether or not we have the Joint Select Committee, and that the allocation Bill goes to the Appropriations Committee, and all other things having to do with alcoholism goes to the Human Resources Committee. That would mean that the Human Resources Committee would now function as the Joint Select Committee and then all of that stuff would go down to Appropriations that had allocations on it.

That is what this Bill means. We have no intention of continuing the Joint Select Committee, at least I have no intention of submitting a resolve to set up the Joint Select Committee next time. It seems to me that that is not necessary. What we did do, was set up the Alcohol and Drug Abuse Planning Committee that brings those four departments together, and makes them plan and, in fact, they go throughout the State and hold public hearings on this, where everybody comes in and lets you know what kind of services they need in their region. There are regional hearings. So, I think it is a very tight process. Any process, obviously, will have its' holes and need shoring up from time to time. I think we are all human and there are probably mistakes made, but I think this is one of the tighter request for proposal proceedings that I have seen. There is another amendment that is not printed yet and I need to know the point of order on whether we table this now, or to wait for that amendment until later on in the day.

THE PRESIDENT: If the Senator is inquiring a point of order in reference to the amendment. The amendment is presently at printing and should be back forthwith.

The Chair recognizes the Senator from Aroostook, Senator Violette.

Senator VIOLETTE: I guess I have to restate my question because it hasn't been answered. My question is this, a dedicated revenue account, what does it really matter if this goes down to the Appropriations Committee or any other Committee? The amount of money in that account is going to be spent. There is absolutely no check, in terms of the amount of money that is available. If there is fifty million dollars, it will be spent, if there is five million, it will be spent.

So, what does this amendment do, other than any other method that presently exists? That is what I want to know, what real check is there? There is going to be 2.4, this Majority Report is going to double that up to about five million dollars. Appropriations is going to get it, I guess they are going to look at it, but the five million has got to go to alcohol treatment, whether it is necessary or not. So I am not sure what this amendment does.

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

Senator BUSTIN: I apologize to the good Senator from Aroostook, Senator Violette, for not answering his question, now that I understand it, I think that I can answer it. Yes, he is correct, the five million will be spent. What you need to understand, in the original statute, what the Legislature in this instance can do, is say to the Departments, no, we don't like your priorities, and we are going to change them, and can change them.

If, for instance, somebody has gone to the Department for a request on a proposal, has been refused, and feels justified in needing the money for a program, then they, in fact, can come to the Appropriations Committee and say, we asked for this money, we didn't get it, we would like you to get it, and then they can switch all of those priorities around and give the money to that particular program, if they so desire. That is the difference.

On motion by Senator TWITCHELL of Oxford, Senate Amendment "A" (S-384) to Committee Amendment "A" (H-532) ADOPTED.

On motion by Senator VIOLETTE of Aroostook, Senate Amendment "B" (S-395) to Committee Amendment "A" (H-532) READ.

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

Senator BUSTIN: Because I do not have Committee Amendment "B" before me, I have no idea what amendment this is. Could I please ask the Senator to explain this amendment to me.

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

The Chair recognizes the Senator from Aroostook, Senator Violette.

Senator VIOLETTE: Mr. President, Ladies and Gentlemen of the Senate. I would be more than happy to respond to the Senator's question. The Senator has so aptly stated that all the amendment does is strike out everything in the Majority Report and undedicates the existing premium funds available to fund any legitimate and any appropriate State program.

Senate at Ease

Senate called to order by the President.

Senator TWITCHELL of Oxford moved the INDEFINITE POSTPONEMENT of Senate Amendment "B" (S-395) to Committee Amendment "A" (H-532).

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

Senator VIOLETTE: Mr. President, I would opposed that motion, I would request a Division at the appropriate time. What my amendment, this morning, proposes to do, is sort of a little different from the Majority Report and the Minority Report. It proposes to undedicate the existing premium on alcohol. I have a problem with dedicated funds, so I don't favor either report. So, I am attempting, this morning, to amend this report so that these monies will be available to any program that the Legislature considers to be of great priority, in terms of other competing programs. I have never understood why this particular program should have the ability to receive funds above others, when the needs of other programs may, in fact, be greater. I think that is the real problem with dedicated revenue funds. In addition to that, I do not wish to double the premium on alcohol at this time. We have, in the last five years, gone to this tax on alcohol four times, this will be the fifth time in a period of five years, that we have gone to taxes on alcoholic beverages for either general fund monies, when we removed the sales tax exemption, when we put on the premium, when we did away with the 8% markdown that a retailer was able to purchase his alcohol from the State at.

I do not think it is appropriate, at this time, given the no growth at all, in terms of amount of money coming to the general fund, from the sale of alcohol. I think if alcoholic programs and rehabilitation programs are necessary, that they ought to compete, in the arena that we have here in this Legislature, against all other priorities. This particular area may be felt, by some of us, to be a priority, by others, there are other matters that are of a greater priority.

We do not dedicate the funds that come from other special taxes to special programs, in terms of our other taxing programs, other than in Transportation and Fisheries and Wildlife. I am not going to get into a discussion of those today, I have not supported the dedication of either of those two, as well.

It provides for scrutiny, that those dollars are going to be spent whether they are needed or not, irrespective of how much money is available. I hope today you would join with me. This is not a vote against providing appropriate services for alcoholism treatment, education, and prevention. All it is saying, is that these programs should have to compete against everybody else's programs, and everybody else's priorities. Why should this class of programs be treated in such a special way? There is no reason why they should be treated in a special way, and quite frankly, the only ones that are so interested in seeing to it that these monies are continued, in terms of their dedicated aspect, are the programs that are presently receiving money from these funds.

I feel as if they are afraid to enter into the arena of the appropriations process. That is what their concern is. If their need is so desperate and their programs are so necessary, why then, if they competed in the appropriations process, wouldn't they receive what was appropriate, what was necessary? Why does their funding have to be set aside? How about what you are interested in, or what I am interested in, in terms of priorities of what the Legislature ought to be. Are we going to have dedicated revenue accounts for every tax that we pass here? Then we might as well go home. I thought that was what we were here to decide, and that is the reason I have always had such difficulty with dedicated revenue accounts.

The difference between my amendment and the Minority Report, is that both of those undedicate, but my amendment does not double the premium on alcohol. I have explained to you why I am opposed, at this time, to doubling the premium of alcohol. I have a real problem in terms of continuously going back to regressive taxes to find revenues. If these programs are so justifiable and so necessary, then let them go to the appropriations process into that general fund. Why should only a certain segment of our society have to bear the entire burden for these programs? I also have a problem with dedicated revenue funds, because these programs, their funding level exists on the basis of how much alcohol is consumed in the State. Just because the consumption of alcohol goes down doesn't mean the problem goes away.

Take the Department of Fisheries and Wildlife, for instance. Just because consumption goes down doesn't mean you even need more money. Are we going to continue to increase the premium on alcohol every year or every two years? Because of the shortfall of the money going to that program, because consumption is going down, and this is a consumption tax, it is based on the amount of gallonage that is sold, it makes no distinction between of the value of that product, it is an amazing tax.

It doesn't say we are going to tax a ten dollar product differently from a dollar product. No, Ladies and Gentlemen, it says we are going to tax them at the exact same amount. Not only is it regressive, overall, it is even more regressive, because the exact same tax is levied on a product that costs one dollar that has the same volume as a ten dollar product.

These are some considerations we ought to have with respect to this. This isn't a vote. I have received countless letters, and I have responded to all of them, dealing with this issue of continuing this dedicated revenue account. Paul Violette doesn't see this, as being a vote against providing the necessary funds to treat what is, in fact, a problem. Nobody is denying that is isn't a problem. But let these same people who say that this is such a problem go through the process that exists and let them justify it to the Legislature. The proponents will have you say, well, we're going to establish a process, Senator Twitchell's process, but it doesn't deal with whether or not their real need is there, because if there is five million in the pot, it is all going to go to alcoholism. It is not going to go anywhere else. Maybe, their concern is that the need that they say that exists, isn't there. Now they are not going to get the five million, they are not even going to get the 2.4 million.

I am not going to get up and make the arguments of a former member of this Body, but I remember Senator Conley getting up and talking about this issue in the past, and about the effectiveness of these programs. I am not going to talk about that this morning. All I am going to talk about is whether we ought to be doubling what has been a regressive tax, there has been no growth in this account, by the way. In 1983, thirty-two million dollars was coming from this State, in terms of net, to all accounts, that is going into the general fund, going to this dedicated fund, going to other accounts. In 1984, thirty-two million dollars was coming to the State and in 1985, thirty-two million dollars came to the State in the net to all accounts. There has been no growth in these accounts. Why hasn't there been any growth?

I'm not looking for growth. I'm the one that has gotten up a number of times on this floor to oppose measures that would have provided for cut rate discounting in the light to increase volume. But, there has been no growth in these accounts and why is that? It's because every time we have added addition taxes to this particular product, the sales have gone down, and sales have gone down every year in this State for the last three or four years.

That is not to say that there isn't a problem out there, Ladies and Gentlemen. There is a problem, but as consumption goes down, the amount of money available to this fund goes down. Is that the way we ought to be funding our answers to the problems in terms of alcohol? I say not. I say if there is a legitimate need, these programs ought to go through the process and the proper accountability, that is essential in Government, ought to be provided for here. I hope you would oppose the Senator from Oxford, Senator Twitchell's motion. I hope you will join with me today in accepting this amendment. Thank you.

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

Senator ANDREWS: Thank you Mr. President. Mr. President and Men and Women of the Senate. I would like to speak to this particular motion on the floor before us, and I would like to speak to the arguments that you have just heard from the good Senator from Aroostook, Senator Violette. I am not going to try to fill my predecessors shoes, from Portland, Senator Conley, on this particular issue and debate, but I would simply like to shed some light on the question of undedication vs. dedication.

Senator Violette spoke, in his remarks, about his interest in not debating the specific programs that are funded through this account, and he also talked about his interest in not debating the other dedicated accounts, namely Fisheries and Wildlife and the Highway fund. I think there is good reason for him to attempt to put the debate on this issue within those perimeters, because, if we were to discuss the programs and the services that are provided out there, to people who are in desperate need of those services, as well as, the prevention programs and services for our young people, that, I think would not bode well to those who are opposing the motion to Indefinitely Postpone this particular amendment.

It also would be important for those who oppose the motion, to sidestep the issue of dedicated accounts. I have a difficult time with this issue, because there are some things that Senator Violette has mentioned in his debate, that I concur with and feel very sympathetic with. The question of dedicated accounts is troublesome for two reasons. Number one, those programs indeed are not competing with other programs and services that come before this Legislature. Yes, that is bothersome. The second reason is the regressive nature of the tax that collects the revenues to fund those programs. That is also bothersome. But, if we are going to debate and discuss the issue of dedication, then we have to discuss the issue of dedication in the context of our public policy of dedicated accounts. Namely, we must discuss the Highway Fund, and we must discuss Fisheries and Wildlife. And, if we are going to eliminate those dedicated accounts, then we really shouldn't be discussing the issue of dedicated accounts at all.

If there is an amendment before us that will eliminate all dedicated accounts, everything, then we can legitimately discuss the pros and cons of dedication. But let's not kid ourselves, we are talking here about a particular dedicated account. So, the logic and the emphasis behind the debate and logic of undedicated accounts vs. dedicated is lost.

Now the regressive taxation issue. Yes, it is a concern, but let's take a look at this particular form of taxation and what it is going to fund. Before we do, let's look at the other dedicated accounts, the Highway Account. Well, you know you are paying for highways whenever you buy gasoline. It passes a certain logical consistency test.

If you are buying gasoline we assume you are going to be on the roads you are creating wear and tear on the roads which creates the need to repair those highways and construct new highways. It's consistent, its regressive, yes. When you go to the gas pump, the filling station attendant does not ask you how much money you made last year. The filling gas station attendant does not say this is a tax based on the ability to pay, no it doesn't pass that test, it is in that sense regressive, but it at least passes a logical consistency test that if you are buying gasoline, you are using the highway, and therefore you should be paying for the construction and maintenance of those highways.

Fisheries and Wildlife with the same kind of regressive argument can be made, that when you buy a license you are not asked about your ability to pay for that license, but if you are buying that license, of course, you are going to be going out and using the resources of Fisheries and Wildlife Departments, and it is a logical consistency thereto. So if both taxes are regressive, but both taxes pass this logical consistency test.

Now in the case of the dedicated account for alcohol, again you are right, it does not pass the regressive taxation test, in that when you go and buy a bottle of beer the store clerk does not ask you for an income statement. You pay the same amount regardless of how much income you make, but there is and I think if you can make an argument for logical consistency, perhaps the strongest argument you can make is with this particular account. We are talking about services, alcoholism services. We are talking about treatment of a disease. And Ladies and Gentlemen of the Senate, there is one cause, there is one ingredient to the disease of alcoholism that must be present in order for alcoholism to exist and that is alcohol. You have to consume alcohol in order to suffer from alcoholism. So when you buy that can of beer from the store clerk and you are paying a bit of money into this alcohol tax to fund alcoholism services which will cover a full range of services. There is a logical consistency between the purchase of alcohol and funding and supporting services that are critical for the prevention and the treatment of alcoholism in this State. So it is regressive, admittedly, no question about it. It doesn't test your ability to pay when you purchase that can of alcohol, but it does pass the logical consistency test, as do the other dedicated accounts, so if we are going to discuss dedication and whether or not that should be public policy in the State let's not pick on one particular fund lets discuss it as a matter of public policy.

If you want to talk about the alcoholism services fund, then I would suggest looking at the materials we have provided to you, that is the Joint Select Committee on alcoholism services of the programs and the services that are being provided to people young and old in our communities, who are either potentially confronted with the problem of alcoholism, namely our young people, or those people young and old who are suffering from alcoholism services.

I think that those programs, and quite frankly Ladies and Gentlemen of the Senate, I was not personally aware of the service that was provided by those programs and services until I became a member and then Chair of this Committee, and then did I realize the extreme importance of these services.

I am not going to summarize all of the programs and services that are provided, you have that material in front of you, but I suggest that you take a look at the overall problem that we are facing as a State to alcohol and when you vote on this particular amendment, please keep first and foremost in your mind the question of the public policy issue of dedication vs. undedication and don't buy the red herring, that we should undedicate this fund because of the overall argument of the problems of regressive taxation and dedication of funds for particular services and programs. It is an issue that we should take up as a whole and confront as a whole and until we do, I believe that we should be supporting this particular fund, these particular services there so important to this State, so I would urge you to support the motion to Indefinitely Postpone this amendment.

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

Senator BUSTIN: I think that we all are pretty clear on dedication and undedication, so I don't want to prolong the debate much longer. But I would point out to you, that this is a unanimous and I repeat an unanimous report by the Committee to raise the tax, to double the tax. An unanimous report. The only divided report was whether it was dedicated or undedicated and the amendment you have before you now reduces the tax that says that the Committee report does not stand, the unanimous report does not stand, that you are not raising that extra cent and that you undedicate.

So I would hope that you would vote for the pending motion which is the motion to Indefinitely Postpone this Amendment. Mr. President, when the vote is taken I request a Roll Call.

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

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

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

The Chair recognizes the Senator from Penobscot, Senator Baldacci.

Senator BALDACCII: Mr. President and Members of the Senate. One of the things that really concerns me about this program is one, according to the budget the increase in the amount of staffing in that proposal and the increased amount of contracts which will require more and more personnel.

But a bigger and deeper thing is that as more and more people are not drinking harder alcoholic beverages and going to wine and wine coolers, those sorts of things, they bring down their use of alcohol which I think is generally going on in this State and in the Country. Is the alcoholism program that's been started, does that go in that direction also, or does that increase in the amount of staff and bureaucracy as the use is decreased or does it go down as the use goes down? Is it based on that, because what would happen as fewer and fewer people drink alcohol they require more and more money to run the programs that are established and then you come to a point where you don't have any fuel in the motor and you have to go to the general fund for a supplemental appropriation. It is a concern I have, there are a lot of good programs that are being handled, but I just seem to notice that it seems to be a down turn in the amount of use and we are watching an increase in the amount of the programs and maybe the Committee that deals with this subject can tell us in their crystal ball what they are seeing in the future.

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

Senator BUSTIN: Thank you Mr. President, I will attempt to answer the question from the good Senator from Penobscot, Senator Baldacci, because I think it is a good one. The alcohol premium was set up specifically, so that if there was a reduction in consumption, the assumption is that there will be a reduction in having to deal with the problem. Now the reason that we did that is for the exact reason Senator Baldacci says, and that is to make sure that the bureaucracy does not tumble over itself and increase and increase and increase, that it exactly why we did that. It makes us have to take a good hard look at the programs that we are given and we have to come back in here and ask for a raise if, in fact, that is what you need. It is designed that way for that very specific reason. To answer the question of adding to the bureaucracy, in fact, what is being added is four people. On your desk you have a letter from the Skowhegan area high school, at the top from a Thomas Farrell, explaining to you what that program does for the schools. What it does is train community teams, including teachers, community leaders, students to handle the problem in their own school area. Project Graduation is one of the outgrowths of that, which a very viable program. We had a tremendous participation in that program last year and you will have again this year. That is the important part of that, and that is why we do it that way.

What we are doing, those four bureaucrats, if you will, that are being added. Three of them are for the Department of Education to continue that program. I have complained to Mr. Mowatt ever since I started in on this item, that he doesn't move fast enough for me. His answer is constantly to me, Beverly, I want quality not quantity. And he is right, I still push him, because I would like to see it in every school, but he can't do it without staff. He has to have trained staff, he has got to have people who know what they are talking about, and he has to have the extra staff in order to do it.

His budget has gone up tremendously, and it is used for hands on, what he does is train those people, he had little or nothing before this started and he couldn't do the job. Now, he has people and is beginning to do a really good job and these are the three staff people where that is going. The other one is ODET because they absolutely need that one.

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

Senator VIOLETTE: Mr. President and Ladies and Gentlemen of the Senate. To answer the Senator from Penobscot's question, consumption has gone down, total gallonage has gone down, and the tax is going to be doubled. So the assumption as the Senator from Kennebec has suggested, I did not know that was necessarily the assumption that we had based our vote on originally, but if that is the assumption we based our vote on in 1981, we really shouldn't be in this position today. Consumption is down, gallonage is down, we ought not to have to double the premium.

Now, I will give you the other side of that argument. I will disagree, vehemently, with the Senator from Cumberland, Senator Andrews, when is it not time to begin to discuss, to deal with the issue, of dedication or undedication. If we do not begin today when will we? Are we to put aside this issue? We will never deal with it in some massive document, it will have to be dealt with individually. There is nothing wrong with starting today, with the issue of dedication, it is an appropriate issue to discuss. I have never heard of a logical consistency test either, but we can debate that at some other time.

The problem with this is maybe consumption is down. Maybe fewer people are drinking as much alcohol. That doesn't mean the problem is going away. So when you have a dedicated revenue account, that is tied to consumption, your money goes away, but your problem doesn't necessarily go away, and that is the problem with this account. That is the problem with this program. It is tied to a source of revenue that may be decreasing, that doesn't mean the problem isn't decreasing. That is the problem with dedicated revenue accounts. If the program that the good Senator is talking about is such a good one, that in merit of that program will win the day down stairs, but let it compete against everybody else's good program. Thank you.

Senator BUSTIN requested and received Leave of the Senate to speak a third time.

Senator BUSTIN: Thank you Mr. President. Just to remind the Body, in 1980 we wanted 3 cents and we knew our problem was 3 cents, not 1 cent. We compromised on the 1 cent. Now it is only 2 cents, so we are always going to be behind and I might remind you that the good Senator from Aroostook, Senator Violette, has told you that we get thirty-two additional dollars in the State, which doesn't even begin to address the problem. We are not saying that the dedicated amount addresses the problem. It probably never will.

Short of going to prohibition, which I would not support, I don't know what you do, but you do is you try to address the problem in the best way that you can. We have not come back in six years for an increase in that fund, having known in 1980 that we needed 3 cents to even to begin to address the problem, even a little bit.

Regarding the dedicated and undedicated account, I think the good Senator from Cumberland, Senator Andrews, has addressed that issue very well, and I would be happy to address the issue if we had a bill before us for undedicating all accounts. But the point of fact is that, that Bill has been around for years and years, I understand in the Legislature, and has never passed number one. And number two, you have all kinds of federal monies that come in in dedicated accounts that you can't use for anything else. It is there, that is what you have, so we literally have no control over that money either. They are for good programs. It astonishes me that what you would have me do with the alcohol premium fund is to throw it in there with every other social service program, all of them good social service programs.

What you want me to do is compete with a program among all other programs which is all well and good, but I don't have Transportation money, I don't have other Federal monies, I don't have Fish and Wildlife monies, I don't have nuclear waste monies, I don't have all of those to put in that same fund to compete against. If I did, then I would be on, what I believe the legal profession calls, a level playing field. But I am not on a level playing field and so I shouldn't be asked to compete with those other social service programs the head injury, the child abuse, the advocates for sexually abused children, for rape and incest, I shouldn't be asked to do that when what I am asking for is dedicated monies from a product that is the only product that results in alcoholism. There is no other product I know, on this earth, that results in alcoholism except the consumption of alcohol. And that is exactly what we are talking about and that is what your vote should be this morning. I urge you to vote Yes on the pending amendment.

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

Senator BERUBE: Thank you Mr. President. We were told that most of the monies go for education and training, I happened to speak to a teacher over the weekend and he said to me, for heaven's sake don't give us more training, it is coming out of our ears.

What I don't understand, however, and maybe you could explain it to me. In reviewing the expenditures of that particular education account and it went up last year by thirty-eight thousand dollars from the previous year. Spending three hundred and eighty-eight thousand dollars, two hundred and forty thousand went for salaries and fringe benefits and retirement costs and sixty-three thousand dollars for travel and I am just wondering how that reached the young person who needs assistance.

Maybe if the monies were indeed placed in the general fund that if a counseling unit or school needed money to take care, physically and emotionally, of a person who has been harmed by alcohol, then maybe that would be the way to go, but I thought you should know, I don't know how those monies are used to treat the people, but I was just looking at the expenditures and I thought I would share them with you.

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

Senator MATTHEWS: Mr. President and Members of the Senate. I just want to respond to the good Senator from Androscoggin's question. About two weeks ago, as an example of where those dollars are going by the Department of Education, they had a program up in Waterville, it was a session day and I was in both places and that program was for adolescents to teach them about the problems with alcohol abuse and other chemicals. That program reached out to school systems within a radius of fifty miles of Waterville and Augusta so it touched quite a few school systems. I was amazed how many people, principals, superintendents, teachers, people in the field, counselors, physicians, were at the seminar and that was a two day seminar put on by the Department of Education and the Office of Drug and Alcohol Abuse. So that is one example, as you all received the letter from a gentleman who is in my district up in Skowhegan, Principle Tom Farrell, who has worked very, very tirelessly in the field of training young people in his school system and young people all other the Country in helping them deal with alcohol and chemical abuse.

Mr. Farrell has received national attention from the President of the United States, Mr. Reagan, and his effort on the national scale. As I listen to the debate it reminds me of a prayer that was cited very well by the good Senator, Senator Black, about two weeks ago and that prayer I would like to read to you today. It says "God grant me the serenity to accept the things I cannot change, the courage to change the things I can, and the wisdom to know the difference." That little prayer today, really hits home with me and I hope with all of you. We have to have the wisdom today to see the difference. There are things happening with the treatment of alcoholism and drug abuse, Statewide, that are being done by our State agencies and people in the field, and community leaders that are bringing this problem back down to a level where we can begin to handle it. The questions dealing with alcoholism and those in the field that sell alcoholic beverages, is an interesting one.

It is unfortunate that we have to tax those people, but having worked in the field of treatment of alcohol abuse and chemical abuse, I can tell you that alcohol usually that beginning substance, at least for adolescents and I think for adults too, and leads to much more serious drugs and there have been medical studies that have been done by the most premier research people in the Country, that will point that out.

Alcohol is the leader drug and it is a drug, lets be honest with that today. This program, the programs we have in the State of Maine, dealing with alcohol abuse and chemical abuse are working, yes alcohol abuse is coming down, but the saddening thing is that the abuse of other chemicals is rising. We have a long way to go, but the nice thing about what we are doing in the State of Maine, and the Legislature should be commended, the nice thing that is happening today is the community people are being involved.

If you want to see how this program is working, call up your superintendent of your school system, or your teachers involved in drug treatment teams locally, call up community leaders and they will tell you that we are saving the very life blood of this Country. Young people that are going to be sitting in this Senate in the next twenty years, leading this State, we are saving their lives from the evils of chemical abuse and I hope that you will think about what is at stake here today and really think about the things that make a difference in the things that we have been changing. Thank you.

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

Senator BALDACCI: Mr. President and Members of the Senate. I think we have all have dealt with this issue to a great deal today. I want to add to this particular issue is that it really bothers me when I start hearing a group that is dealing with alcohol is now interested in getting involved in chemical abuse and chemical substances. And it hit me because I watched other Committees branch out from low level waste to high level waste and other nuclear issues and I see the start of something that I think we will live to regret. I want to make it very clear though, that I am in favor of doubling the tax, but I am also equally adamant about its process, which is dealing with the undedication of that money into the general fund and having that growth in bureaucracy checked. I think it is very important, You deal with a board and a committee and you think the greatest problem is and if you can solve this problem, the rest of the world will be in peace. And I can appreciate that, but it needs to come together to a process which all those good causes and concerns can be balanced out, and I think we need more coordination as has been pointed out here, there are a lot of different agencies that are working on alcohol and alcoholism abuse, chemical abuse in younger and older people and those sort of things. So, while I will be supporting the position against the retaining at its present level, I would like an opportunity when it comes back from the lower Body, to be able to deal with the dedication, undedication issue, because it is very important to me. Thank you.

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

Senator BROWN: Thank you Mr. President, Men and Women of the Senate. I have sat here this morning and tried to resist the temptation to become involved in this issue and finally have given in and decided I will become involved.

I was sitting here trying to listen to the logic that was involved into whether or not we ought to be debating the dedicated vs. the undedicated this morning. And concluded that that probably is a reasonable proposition for us to be considering. I sit here and I listen to the good Senator from Kennebec, Senator Matthews, talk about calling the schools and the other users of these funds, as to whether or not they have been successful. I think about the number of elderly people in my community that also might like to have a call on how their property taxes are coming right now.

I made a list as I was listening this morning, about all the different ways that we tax people. The ways we raise revenues. I have listened this year, consistently, with all that is happening to the Gramm-Rudman-Hollings cuts in Washington, and what that means to the AFDC people in this State. What it means to the whole variety of people who receive funds from the Federal level. I will tell you one thing, ladies and gentlemen, we're in a time of crisis right now, in this State and in many other States, as to where we are going to get the revenue to run State Government. We're in the process of heading into a crisis, and if we don't figure ways, and there are only a limited number of ways of where we are going to get the funds to do that. We can go ahead and say that this is not the time to talk about dedicated vs. undedicated, but there are only a limited number of places that we can raise funds.

We are going to have to look very seriously before we go ahead and set aside a dedicated fund. There is not a person in this Chamber today, that can not think about, that every time you set up a dedicated fund, you set up the opportunity to have some people that's involved in getting the funds from that dedicated amount, that will become fact.

You have on the other hand, other needs that will not be met. It seems to me that when we think about the crisis that we are in, and the crisis that we will be in when the next Administration comes in, for sure, now is the time when we ought to be thinking about dedicated revenue vs. undedicated revenue.

There is no one here this morning that will not say that the programs that have been established as a result of this tax are necessary and needed. They have been good in my community and they have been good in other communities across this State. But, we are entering a very difficult time. I would urge that you would support the good Senator from Aroostook, Senator Violette, and not kill this amendment. Thank you.

Senator BUSTIN of Kennebec requested and received Leave of the Senate to speak a fourth time.

Senator BUSTIN: I would just remind the Body, that if you kill the motion to Indefinitely Postpone and support the amendment, that what you, in fact, are doing, is also not raising the 1 cent premium. Because, that is included in this amendment. And, you ought to remember when you vote, that that is in fact, what you are doing.

The pending question before the Senate is the motion of Senator TWITCHELL of Oxford, to INDEFINITELY POSTPONE Senate Amendment "B" (S-395) to Committee Amendment "A" (H-532).

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

A vote of No will be opposed.

The Doorkeepers will secure the Chamber.

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

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

The Secretary will call the Roll.

ROLL CALL

YEAS: Senators, ANDREWS, BALDACCI, BLACK, BUSTIN, CARPENTER, CHALMERS, DIAMOND, DUTREMBLE, EMERSON, ERWIN, GAUVREAU, GILL, HICHENS, KERRY, MATTHEWS, PEARSON, PERKINS, STOVER, TWITCHELL, WEBSTER, THE - PRESIDENT, CHARLES P. PRAY

NAYS: Senators, BERUBE, BROWN, MAYBURY, MCBREAIRTY, SEWALL, SHUTE, TRAFTON, TUTTLE, USHER, VIOLETTE

ABSENT: Senators None

21 Senators having voted in the affirmative and 10 Senators having voted in the negative, with 4 Senators having paired their votes, and No Senators being absent, the motion by Senator TWITCHELL of Oxford to INDEFINITELY POSTPONE Senate Amendment "B" (S-395) to Committee Amendment "A" (H-532), PREVAILS.

THE PRESIDENT: The pending question is ADOPTION of Committee Amendment "A" (H-532) as Amended by Senate Amendment "A" (S-384), thereto in NON-CONCURRENCE.

The Chair recognizes the Senator from Cumberland, Senator Diamond.

Senator DIAMOND: Mr. President, Ladies and Gentlemen of the Senate. The amendment which I was about to present, I was just told, has a technical flaw and there is another amendment on the way. So I would ask somebody to Table this.

On motion by Senator CLARK of Cumberland, Tabled until Later in Today's session, pending ADOPTION of Committee Amendment "A" (H-532) as Amended by Senate Amendment "A" (S-384), thereto in NON-CONCURRENCE.

Senate at Ease

Senate called to order by the President.

The Chair laid before the Senate the Tabled and specially assigned matter:

Bill "An Act to Clarify and Make Corrections in the Election Laws"

H.P. 1284 L.D. 1801

Tabled - March 4, 1986, by Senator VIOLETTE of Aroostook.

Pending - ADOPTION of Committee Amendment "A" (H-537)

(In Senate, March 4, 1986, Committee Amendment "A" (H-537) READ.)

(In House, March 3, 1986, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-537) AND HOUSE AMENDMENT "A" (H-542).)

On motion by Senator TRAFTON of Androscoggin, Senate Amendment "A" (S-397) to Committee Amendment "A" (H-537) READ and ADOPTED.

Committee Amendment "A" (H-537) as Amended by Senate Amendment "A" (S-397) thereto ADOPTED in NON-CONCURRENCE.

House Amendment "A" (H-542) READ and ADOPTED, in concurrence.

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

On motion by Senator BUSTIN of Kennebec RECESSED until the sound of the bell.

After Recess

Senate called to order by the President.

Off Record Remarks

Under suspension of the Rules, all matters thus acted upon, with the exception of those matters being held, were 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

Senator WEBSTER for the Committee on UTILITIES on Bill "An Act Concerning Filing Fees to the Public Utilities Commission" S.P. 729 L.D. 1852

Reported that the same Ought to Pass.

Which Report was READ and ACCEPTED.

The Bill READ ONCE.

The Bill TOMORROW ASSIGNED FOR SECOND READING.

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

COMMITTEE REPORTS

Senate

Ought to Pass As Amended

Senator WEBSTER for the Committee on UTILITIES on Bill "An Act to Make Changes in the Reserve Fund for Municipal Water Departments and Quasi-municipal Water Districts" S.P. 649 L.D. 1674

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (S-394).

Which Report was READ and ACCEPTED.

The Bill READ ONCE.

Committee Amendment "A" (S-394) READ and ADOPTED.

The Bill as Amended, TOMORROW ASSIGNED FOR SECOND READING.

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

PAPERS FROM THE HOUSE

House Papers

Bill "An Act to Better Protect Adults and Abused Children Residing in Adult and Child Care Facilities" H.P. 1527 L.D. 2156

Committee on HUMAN RESOURCES suggested and ORDERED PRINTED.

Comes from the House referred to the Committee on JUDICIARY and ORDERED PRINTED.

Which was referred to the Committee on JUDICIARY and ORDERED PRINTED, in concurrence.

COMMITTEE REPORTS

House

Leave to Withdraw

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

Bill "An Act Concerning Surety Bonds Required of Motor Vehicle Dealers to Guarantee Title and Mileage of Vehicles Sold"

H.P. 1380 L.D. 1948

Bill "An Act to Increase the Affordability, Accessibility and Quality of Child Care"

H.P. 1432 L.D. 2023

Ought to Pass

The Committee on LOCAL AND COUNTY GOVERNMENT on Resolve, for Laying of the County Taxes and Authorizing Expenditures of Hancock County for the Year 1986 (Emergency)

H.P. 1525 L.D. 2154

Reported that the same Ought to Pass, pursuant to Joint Order 1316.

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

Which Report was READ and ACCEPTED, in concurrence.

The Resolve READ ONCE.

The Resolve TOMORROW ASSIGNED FOR SECOND READING.

The Committee on LOCAL AND COUNTY GOVERNMENT on Resolve, for Laying of the County Taxes and Authorizing Expenditures of Piscataquis County for the Year 1986 (Emergency)

H.P. 1526 L.D. 2155

Reported that the same Ought to Pass, pursuant to Joint Order 1316.

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

Which Report was READ and ACCEPTED, in concurrence.

The Resolve READ ONCE.

The Resolve TOMORROW ASSIGNED FOR SECOND READING.

Ought To Pass As Amended

The Committee on TAXATION on Bill "An Act to Reduce the Burden of Property Taxes on Persons who are Elderly"

H.P. 1212 L.D. 1719

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-557).

Comes from the House, with the Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-557).

Which Report was READ and ACCEPTED, in concurrence.

The Bill READ ONCE.

Committee Amendment "A" (H-557) READ and ADOPTED, in concurrence.

The Bill as Amended, TOMORROW ASSIGNED FOR SECOND READING.

Ought to Pass in New Draft under New Title

The Committee on APPROPRIATIONS AND FINANCIAL AFFAIRS on Bill "An Act to Provide Funding for Community Mental Health Programs" (Emergency)

H.P. 1353 L.D. 1897

Reported that the same Ought to Pass in New Draft under New Title Bill "An Act to Provide Funding for Mental Health Programs"

H.P. 1524 L.D. 2144

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

Which Report was READ and ACCEPTED, in concurrence.

The Bill in NEW DRAFT under NEW TITLE READ ONCE.

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

The Committee on JUDICIARY on Bill "An Act to Clarify the Applicability of the Maine Tort Claims Act"

H.P. 1304 L.D. 1820

Reported that the same Ought to Pass in New Draft under New Title Bill "An Act to Clarify the Applicability of the Maine Tort Claims Act and to Limit the Personal Liability of Governmental Entity Employees" (Emergency)

H.P. 1522 L.D. 2142

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

Which Report was READ and ACCEPTED, in concurrence.

The Bill in NEW DRAFT under NEW TITLE READ ONCE.

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

The Committee on JUDICIARY on Bill "An Act to Improve Tax Collection Procedures"
H.P. 1367 L.D. 1931

Reported that the same Ought to Pass in New Draft under New Title Bill "An Act to Permit the Supreme Judicial Court to Authorize Employees of the Bureau of Taxation and of the Bureau of Employment Security to Participate in Court Proceedings"
H.P. 1521 L.D. 2141

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

Which Report was READ and ACCEPTED, in concurrence.

The Bill in NEW DRAFT under NEW TITLE READ ONCE.

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

The Committee on STATE GOVERNMENT on Resolution, Proposing an Amendment to the Constitution of Maine to Require that Local Units of Government be Reimbursed for the Costs Incurred in Executing State-mandated Programs
H.P. 446 L.D. 628

Reported that the same Ought to Pass in New Draft under New Title Bill "An Act Requiring Fiscal Impact Statements Describing the Costs and Benefits Associated with Each Legislative Document and Agency Rule that Affect Political Subdivisions of the State"
H.P. 1523 L.D. 2143

Comes from the House, with the Report READ and ACCEPTED and the Resolve in NEW DRAFT under NEW TITLE, PASSED TO BE ENGROSSED.

Which Report was READ and ACCEPTED, in concurrence.

The Bill in NEW DRAFT under NEW TITLE READ ONCE.

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

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 Permit Denial of Bail in Certain Cases to Assure the Safety of Other Persons"
S.P. 284 L.D. 773

Resolution, Proposing an Amendment to the Constitution of Maine to Provide for a Clear Right to Bail with a Possible Denial of Bail in Certain Cases
S.P. 373 L.D. 1007

SECOND READERS

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

House As Amended

Bill "An Act to Fund the Holocaust Human Rights Center for Maine"
H.P. 1364 L.D. 1928
(C "A" H-556)

Bill "An Act to Define Eligibility for School Purposes and to Determine Financial Responsibility for the Education, Care and Treatment of State Agency Clients"
H.P. 1425 L.D. 2014
(C "A" H-555)

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

Bill "An Act to Clarify and Make Corrections in the Election Laws"
H.P. 1284 L.D. 1801
(S "A" S-397 to C "A" H-537; H "A" H-542)

Which was READ A SECOND TIME and PASSED TO BE ENGROSSED, as Amended in NON-CONCURRENCE.

Sent down for concurrence.

Senate

Bill "An Act Relating to Financing the Capital Improvement of Local Bridges"

S.P. 672 L.D. 1740

Bill "An Act to Amend the State Subsurface Waste Water Disposal Laws"

S.P. 853 L.D. 2153

(See Action Later Today)

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

Sent down for concurrence.

ENACTORS

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

An Act Pertaining to Local Registration of Watercraft

H.P. 1216 L.D. 1724 (C "A" H-522)

An Act Concerning the Open Time for Polls on Election Day

H.P. 1326 L.D. 1861 (C "A" H-536)

An Act Concerning the Court Appointed Special Advocate Program and the Conduct of Court Appointed Special Advocates

H.P. 1349 L.D. 1885 (C "A" H-538)

An Act to Remove Barriers to the Appropriate Disclosure of Mental Health Information

H.P. 1363 L.D. 1917

An Act to Clarify the Education Funding Laws Relating to Reduction of State Aid to School Districts Based on the Receipt of Certain Federal Funds

H.P. 1366 L.D. 1930 (C "A" H-539)

An Act to Coordinate Board of Pesticides Control Registration

S.P. 831 L.D. 2091

An Act to Strengthen Provisions Relating to the Delivery of the Publications of State Agencies to the Maine State Library for Reliable Public Access

H.P. 1502 L.D. 2117

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 Amend the Medical Examiner Act and Related Provisions

H.P. 859 L.D. 1218 (S "A" S-383 to C "A" H-530)

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

Emergency

An Act to Amend the Maine Agricultural Marketing and Bargaining Act of 1973

H.P. 1273 L.D. 1790 (S "A" S-390; C "A" H-551)

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

Emergency

An Act to Improve Retraining Opportunities for Dislocated Workers

H.P. 1508 L.D. 2122

This being an Emergency Measure and having received the affirmative vote of 31 Members of the Senate, with No Senators having voted in negative, and 31 being more than two-thirds of the entire elected Membership of the Senate, was PASSED TO BE ENACTED and having been signed by the President, was presented by the Secretary to the Governor for his approval.

Emergency Resolve

Resolve, Amending the Reporting Date of the Joint Select Committee for Learning Disabled Children
S.P. 741 L.D. 1894
(S "A" S-387 to C "A" S-382)

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

Emergency Resolve

Resolve, to Extend the Reporting Deadlines for the Joint Select Committee on Nursing Care Needs and the Special Commission to Study the Utilization of Vacant Buildings at Pineland Center
H.P. 1484 L.D. 2096
(S "A" S-386)

This being an Emergency Measure and having received the affirmative vote of 34 Members of the Senate, with No Senators having voted in negative, and 34 being more than two-thirds of the entire elected Membership of the Senate, was FINALLY PASSED and having been signed by the President, was presented by the Secretary to the Governor for his approval.

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

SENATE PAPERS

Bill "An Act to Improve the Marketing of Milk in Maine"

S.P. 856

Presented by Senator EMERSON of Penobscot
Cosponsored by: Senator DUTREMBLE of York, Representative MASTERMAN of Milo, Representative BRANNIGAN of Portland
Submitted by the Department of Agriculture, Food and Rural Resources pursuant to Joint Rule 24

Which was referred to the Committee on AGRICULTURE and ORDERED PRINTED.

Sent down for concurrence.

Bill "An Act to Enhance the Sound Use and Management of Maine's Coastal Resources"
S.P. 855

Presented by Senator CLARK of Cumberland
Cosponsored by: Representative VOSE of Eastport, Senator USHER of Cumberland, Representative MICHAUD of Medway
Submitted by the State Planning Office pursuant to Joint Rule 24

Which was referred to the Committee on ENERGY AND NATURAL RESOURCES and ORDERED PRINTED.

Sent down for concurrence.

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

SENATE PAPERS

Bill "An Act to Clarify the Authority of Municipalities to Raise and Appropriate Money for Financial Assistance to Water and Sewer Districts" (Emergency)

S.P. 854

Presented by President PRAY of Penobscot
Cosponsored by: Representative VOSE of Eastport
Approved for Introduction by a Majority of the Legislative Council pursuant to Joint Rule 27

Which was referred to the Committee on UTILITIES and ORDERED PRINTED.

Sent down for concurrence.

ORDERS OF THE DAY

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

Bill "An Act to Clarify the Application of Water Quality Standards to Hydroelectric Projects"
H.P. 1495 L.D. 2107

Tabled - March 10, 1986, by Senator VIOLETTE of Aroostook.

Pending - PASSAGE TO BE ENGROSSED

(In Senate, March 5, 1986, READ SECOND TIME.)

(In House, March 3, 1986, PASSED TO BE ENGROSSED.)

On motion by Senator BUSTIN of Kennebec, Senate Amendment "B" (S-398) READ.

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

Senator BUSTIN: I believe this Body deserves an explanation of the delay and what this amendment is all about and I will be happy to try to deliver that message. To give you some explanation of what I have been doing with my vote in relations to this Bill.

It has been an extremely difficult Bill for me. Having worked for nine years with case work very closely with Federal and State legislation. I have some sense of what goes on among bureaucracies, State Government, and Legislators and the people out there that we are trying to serve. All of that was coming to mind as I was reading this Bill.

The reason that I voted on the prevailing side when this Bill first came before us, is because I was assured that water quality would, in fact, be reviewed. That night in talking to both the Commissioners of LURC and DEP, I recognized and became acutely aware that was not so. That, in fact, the Bill that I had voted on would allow all future projects not to be reviewed under the water quality standards. That I could not tolerate.

So what I did was, I went to both of the Commissioners and the Legal Counsel that we have on the third floor, and tried to draft something that would do just that. That is what this final, I hope, version is all about. To insure that water quality will be reviewed, if the project does not reach the water quality standards, that a certificate will not be given. Now that does not mean that a permit won't be given, I want you to understand that, because there are still some ambiguities in the Bill that I have not cleared up.

I understand there is a very big omnibus called L.D. 1503, that are supposed to clear up a lot of things and a lot of people, for a year and a half, have been working on that Bill, so I have tried to avoid getting involved in that process and divorce myself from that and only address the water quality issue.

It is my understanding that what this amendment does, is make water quality determination a separate issue. Separate from the balancing, you have seven items that you can balance when LURC looks at it, this is separate from that. That you must have it reviewed by water quality, under the water quality standards, before a certificate could be issued. It still keeps the Commissioner or the director acting on that certificate, whatever way, whether it is positive or negative.

It is my understanding if you do not have a positive certificate action on that by either of those boards, it is the boards that will be reviewing, not the staff. It is the Commissioner that will actually do the signing off.

I don't have a great deal of problem with that, so what this is doing, to what I understand, is separating that issue out. You still have other issues I have not addressed, the retroactivity issue. I consider that a bogus issue to me. That a mistake was made, that retroactivity is doing is trying to clear that up. I have no real problem with that, I am a little uncomfortable with it, but not uncomfortable enough not to pass out this Bill with this amendment to clear up the water quality issue. So I would appreciate it, if you would vote a positive vote on this.

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

Senator DIAMOND: Thank you Mr. President, Mr. President and Men and Women of the Senate. This amendment, Senate Amendment "B", if it did what the good Senator from Kennebec, Senator Bustin, liked to have it do and only that, I guess I would support it and say yes, we need to have it on this Bill. Certainly if we are considering the Majority Report, we would want to have it on.

The good Senator from Kennebec, Senator Bustin's, first intent, when I first talked with her about this, was first to do two things. One, meet water quality standards, and if that was met then issue a license. But it goes much beyond that, in fact, if you look at section 4 line 26-32, we are talking about here a balancing act that we are going to ask the board to make. A balancing act between whether or not water quality is worth more than the need of a dam. That hasn't changed, retroactivity hasn't changed and, in fact, if you compare the two Amendments, one that was done this morning and the other that was done this afternoon, two things happen. One, the word discharge was moved up a line, for the mere purpose for including discharge as one of those reasons for issuance. And the other thing that was changed, instead of saying fails to issue it says fails to act on.

Looking at those things, first off the discharge word, the verbiage, really doesn't mean that much anyway, because discharge is not a major concern here. The discharge, we are talking about the water maybe being heated a little bit or maybe being added some grease to it of whatever might be. So that is really not a big issue, a minor change. And the other word, of course, issuance changed to act on. That is what the good Senator from Kennebec, Senator Bustin, was just talking about.

It does a little bit of the things that we talked about, that we were concerned about, but it didn't address some of the major areas. I am very concerned about what this amendment is going to do if we add it on to the Majority Report and then be asked to pass the Majority Report onto the other Body.

We have a letter which we received today, which I am sure all of you have seen, from EPA expressing their concerns about what we are doing with the Legislation.

I think we will get into that when the time comes for that sort of debate, but right now we are talking about this amendment. I would ask you, all be it for good intentions of the Senator from Kennebec, Senator Bustin, I would ask that we would not accept this amendment. Thank you.

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

Senator USHER: Thank you Mr. President, Mr. President and Members of the Senate. This amendment I understand, was worked out with a corporation of DEP acting Commissioner and also the director of LURC. My understanding was to help make things a little clearer in regards to water standards and I think that this will resolve the matter which is a major issue. I do endorse this amendment this afternoon to speed up this process.

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

Senator DIAMOND: I request a Roll Call.

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

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

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

The Chair recognizes the Senator from Penobscot, Senator Baldacci.

Senator BALDACCI: Mr. President and Members of the Senate. I have a question for anyone in the Chamber who cares to answer it, but if I have got the right amendment on page two it says on line eleven, if the Commissioner or the director failed to act on the certificate, the Federal certification requirements of the United States water pollution control act shall be waived.

I was under the impression from the Federal Government that you couldn't waive it on a case by case basis. That if you were going to set standards which you want incorporated by the Federal Government, that you would have to do it in all cases and they couldn't be waived on a case by case basis.

THE PRESIDENT: The pending question is the motion of Senator BUSTIN of Kennebec to ADOPT Senate Amendment "B" (S-398).

A Roll Call has been ordered.

The Chair recognizes the Senator from Penobscot, Senator Baldacci.

Senator BALDACCI: Mr. President and Members of the Senate. In discussions with the Board of Environmental Protection member, over the weekend, it was my understanding in discussing with them that because of section 401 Clean Waters Act of 1970, as amended, the State must find that the project will not violate State Water Quality Standards, in order to get that certification. The Clean Water Act must be approved by the EPA and when they approved it's incorporated in section 401 review, and under that law the State can waive the standards, but not on a case by case basis. It must be all or nothing and unless there is testimony here in the Senate here opposite of that, I don't think it is possible to do what is being proposed to do in this amendment. And I stand corrected.

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

Senator PEARSON: Mr. President and Men and Women of the Senate. The first Bill that we had before us did not address the question of reviewing for water quality, as I understand it. Upon that point, Senator Bustin from Kennebec, asked that the amendment be drafted for her to address that. To make sure that water quality was reviewed.

The amendment that was drafted for her, as I understand it, didn't do that either. Upon looking at that, she said no, that is not what I want and another amendment was drafted which is much more palatable to her in a number of different areas. Each one of those versions was sold to us as being the perfect Bill. I have a question about the amendment that is currently before us and that is; can a hydro power license be granted if the water does not meet, after having been reviewed, water quality standards? I think that is an important question to ask and to be answered for people who might review the record in the future.

THE PRESIDENT: The Senator from Penobscot has posed a question through the Chair to any Senator who may care to respond.

The Chair recognizes the Senator from Kennebec, Senator Bustin.

Senator BUSTIN: Thank you Mr. President, I will be happy to answer that question because, it is an answer that I do know.

In my own mind, I have had this Bill drafted so that if it does not meet the water quality standards and it is reviewed by a board and it does not meet those water quality standards, that the project will not go forward. That a certificate will not be issued. When the certificate is not issued, then EPA must then do the water quality review. If they don't have a certificate from the State, as I understand it, then they will not issue that license. That is the way I understand it and that is the way I structured this amendment.

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

Senator PEARSON: Mr. President and Men and Women of the Senate. I thank the Senator from Kennebec, Senator Bustin, for explanation. It would be my hope that her explanation was what this Bill does. I feel that it doesn't, however, because it seems to me that what this is calling for is that you are putting water quality on a scale, a balancing scale, with a lot of other issues. If you can in this balancing criteria, prove that hydro power is worth more than water quality and that water qualities don't meet the standards then a license can be issued. What the good Senator intends is not indeed what is happening here.

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

Senator BUSTIN: I can only tell you that I have talked to both Ken Young of the DEP and Alec Giffen of the LURC and Ken Young says that he would interpret this amendment to mean that he would review water quality separate from the balancing act. Alec Giffen says, that he can interpret it that way, but he still feels it is ambiguous.

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

Senator TRAFTON: Thank you Mr. President, Mr. President, I would like to pose a question through the Chair. That question is; does the good Senator from Kennebec intend this amendment, and by that I mean the amendment which we are currently debating with a filing number of (S-398) to have any effect upon the "Big A" application, which has been denied by the Board of Environmental Protection? Does this amendment effect the retroactive application of the Bill to which the amendment is being attached to the "Big A" application?

THE PRESIDENT: The Senator from Androscoggin, Senator Trafton, has posed a question through the Chair to any Senator who may care to respond.

The Chair recognizes the Senator from Kennebec, Senator Bustin.

Senator BUSTIN: Thank you Mr. President, I will be happy to respond. As I said when I presented the amendment, I have not addressed retroactivity and no, it does not address the "Big A" at all. I have throughout this process refused to deal with it as a "Big A" issue.

What I say is, that if you want me to vote and you think it is appropriate for philosophical decision to be made by this Body, then give me a straight "Big A" bill to vote on. I do not consider that this. That is another issue, that is a bureaucratic issue that needed to be resolved, the Legislature thought they had done one thing, the bureaucrats interpreted it as another and you're clearing it up on that retroactivity. No, my amendment does not address retroactivity, it merely addresses future projects. It was my very deep concern that future projects, the way the Bill was written, would not be reviewed for water quality and that is what I am trying to clear up.

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

Senator DIAMOND: Thank you Mr. President and Ladies and Gentlemen of the Senate. As the good Senator from Kennebec, Senator Bustin, said, Alec Giffen, the Commissioner, did say that this is ambiguous, that is one of the concerns I have with this. Certainly it is, if you read through it and you attach this amendment to the actual Majority Report, you'll see that the ambiguities are everywhere.

Commissioner Young, as far as acting Commissioner, as far as his position was prior to this amendment, to let him make the decision on issuance. So now he is saying, he would like to make the decision based on act on. I am not sure that carries an awful lot of weight since he, before this amendment came in, was willing to go in that route full force ahead. With that interpretation, and now with this new amendment, he is willing to interpret it this way. I think the first person she mentioned, Commissioner Giffen, I think is the one that probably states it clearly, and that is that it is ambiguous and it does do some things that I don't think we want to do and it doesn't do some things that I think we should do, on retroactivity and other sorts of things. Thank you.

THE PRESIDENT: The pending question before the Senate is the motion of Senator BUSTIN of Kennebec, to ADOPT Senate Amendment "B" (S-398).

A Roll Call has been ordered.

Is the Senate ready for the question?

The Doorkeepers will secure the Chamber

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

The Secretary will call the Roll.

ROLL CALL

YEAS: Senators, BLACK, BUSTIN, CARPENTER, DUTREMBLE, EMERSON, ERWIN, GILL, HICHENS, MCBREAIRTY, PEARSON, PERKINS, SHUTE, USHER, VIOLETTE, WEBSTER, THE PRESIDENT - CHARLES P. PRAY

NAYS: Senators, ANDREWS, BALDACCI, BERUBE, BROWN, CHALMERS, CLARK, DIAMOND, GAUVREAU, KERRY, MATTHEWS, MAYBURY, NAJARIAN, SEWALL, STOVER, TRAFTON, TUTTLE, TWITCHELL

ABSENT: Senators None

16 Senators having voted in the affirmative and 17 Senators having voted in the negative, with 2 Senators having paired their votes, and No Senators being absent, the motion of Senator BUSTIN of Kennebec to ADOPT Senate Amendment "B" (S-398), FAILS.

THE PRESIDENT: The pending question is PASSAGE TO BE ENGROSSED.

The Chair recognizes the Senator from Cumberland, Senator Diamond.

Senator DIAMOND: Thank you Mr. President and Ladies and Gentlemen of the Senate. A week ago I rose before you to express my concerns about this Majority Report and where we were headed with that. I guess tonight those convictions are even stronger than they were then. I do think, as I stated at that time, that we are tampering with the due process, we are tampering with the procedure, we are tampering with our own State Government and how it is structured. In fact, I think we are tampering with the very sole of our State Government. I wonder if we would even be discussing this issue if it were for a lesser corporation with less power and influence, such as my small company, or your small company, where ever it might be. I am concerned about that being before us in that way. I am concerned about our system that is being asked to be changed around, which our system is much more important than any small or large business, it is much more precious than any special interest group, and certainly we, as the keepers of this system have to look carefully, when they try to change it.

The concerns that I speak about are not concerns that are confined to these walls and they are not concerns that are confined to you and I. They are concerns that are spread wide around this State and I think we have seen those expressed in several ways. On the rarest of occasions, which this is now, we have had the strangest of bed fellows join forces.

We have had the editorial boards of The Portland Press Herald, The Kennebec Journal, The Portland Sunday Telegram, The Maine Times, and The Bangor Daily News. All of which have said in a resounding way, that we should not be tampering with the system the way we are now.

In fact, The Maine Times is very clear in the editorial they put out on March 7, 1986, just one line struck me very clearly and that is; the most blatant regard for the rule of law we have ever seen in the State of Maine. In The Bangor Daily News said among other things; this has established a sad precedence that will haunt this State.

These people, by the way, over half of those editorial boards, support the construction of the "Big A" dam. As we said last week, this is not a referendum on the "Big A" dam. This is a referendum on our due process, in what we are doing, and what we are going to do to it. These boards were unanimous as were other people around this State.

I think we have to listen to that, because it is very serious what we are doing, what we are being asked to do. All for one reason, and if you look carefully at that legislation, and you see the retroactivity provision and where it is taking us, and the statement it is making to the people to the State of Maine and those citizens boards. We are turning that upside down, Ladies and Gentlemen, we should not be doing that. We shouldn't do it for you, we shouldn't do it for me, we shouldn't do it for anyone. And if we do nothing else in our short term in the Senate, I think we have to protect that process. There is no one issue that takes over the concern and our charge, and our responsibility.

One of the rules that I have given myself, over the past ten years, six years in the House and four years down here, was not to call colleagues on the week-end to lobby them on bills. I don't think I have even done that, even when I was serving in Leadership, in the other Body. I didn't so that, I didn't think that was appropriate, but I broke that rule this week-end, and I called some of you, unable to reach some of you, but I called about this because regardless of anything else that happens the rest of this session, I think we have to stand up and say to whomever it might be, that we are defenders of our State process. No one, absolutely, no one is going to come in and change that. We are not going to for a special interest or for a special reason turn our process around to accommodate anyone. The irony of the matter is, of course, the process that we are protecting allows someone, to come in and try to undermine it. That is the beauty of our system, but we must recognize that, as State Senators, and not allow that to happen. I support the Minority Report there is a wrong that needs to be corrected, but this Majority Report, Ladies and Gentlemen, I think it creates a disaster. Thank you very much.

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

Senator VIOLETTE: Mr. President and Ladies and Gentlemen of the Senate. I won't take much of your time, this afternoon. I am very interested with the remarks of the good Senator from Cumberland, Senator Diamond. I must say that I hope he listens to every major editorial newspaper in the State has also endorsed my seat belt bill. I'm not sure what this Chamber is going to do with that one, but I will say that this is an issue that I happen to have a particular viewpoint on and I think that to suggest that those Members of this Body who don't vote in the same light or don't see this in the same way as the good Senator from Cumberland, or those that are supporting his position in some way, that only he is protecting the system and the rest of us are corrupting it, I don't agree with that.

I respect the opinion of the good Senator from Cumberland, but on this issue I disagree with him and I have no difficulty voting for this legislation this morning. I happen to feel otherwise and I think other Members of Body can vote for this legislation without any taint of impropriety or as if they are doing something underhandedly, or something that is dastardly in the mechanism by which it came about, or the way that we are doing this, today. I disagree with that.

There are ample other arguments that one can make on any legislation, but to suggest that by voting for this today, I'm contributing to the corruption of a process. That may be your argument, but I feel otherwise, so I would suggest to my colleagues, here today, that I feel that, that is not the issue upon which you should base your decision on this legislation. Thank you.

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

Senator DUTREMBLE: Mr. President, Ladies and Gentlemen of the Senate. I want to agree with the remarks of the good Senator from Aroostook, Senator Violette. I am too, one of those people that don't agree with the good Senator from Cumberland, Senator Diamond, we are not corrupting the system. We are just seeing it in our own personal way.

Ten or fifteen years from now, when people look back at Maine Legislative history, I don't think they are going to look back at this particular time, as one of our greatest moments. I think we have seen examples of this in the past few weeks of why. In trying to win this Bill, or trying to defeat this Bill, we have seen a lot of innuendoes, accusations, it has sort of cheapened the process a little bit.

I have been in this legislature for eight years, six years in this distinguished Body, and throughout those years we have had a lot of important issues. When I went home at night, I always felt good, regardless of whether I lost or won, I always felt good about it. What is happening here and what happened last week, in this Body, I didn't feel good about at all.

I felt that it would be wrong for me to sit here and not say anything. Just be quiet about the issue and not say something about what is being said. I mean everybody, both sides are doing this. This is a proud respective Body and commands the respect of the people of this State. I don't think we should cheapen that by how we debate this issue.

I am going to be voting again for this piece of legislation. I would like to give you my reasons why. Before we took the initial vote, I was undecided, I didn't know which way I was going to go. It really doesn't affect my area. Some people may have concerns about it, but it didn't affect my area directly. So, I did a lot of research on this. Read a lot of information. Listened to one side, particularly, people who were opposed to it, who called and called and called, and I talked to their lobbyist in the hallways, but after putting all the information and going through all the information, I decided the right thing to do was to vote for it.

Unlike other Senators, I think this is a "Big A" bill. A lot of people, continually mention that this is not a "Big A" bill. If it wasn't for "Big A", this Bill wouldn't be here. We wouldn't have all the fanfare that we are going through. We wouldn't have all these lobbyists fighting for it or against it. This is definitely a "Big A" bill.

If no other project had gone through the process, then I may not be voting for this Bill, but there has been one other project. The Aziscohos Project, and they went through the process created by this Legislature. They were granted a certificate by LURC, and they were immediately, within five days, given a certificate by the Commissioner of the DEP.

What is so different with this project? Is it because it is "Big A"? Is water quality different in different parts of the State? Are we going to be making decisions on how much opposition there is for this particular dam, and not the same rules for everyone.

A lot of people are concerned with the environment, concerned about jobs. There is not one person in this Body, whether you voted for this Bill, or against it, not one person wants to do anything to harm the environment of this State. I consider myself an environmentalist, certainly I don't belong to the NRC or the Audubon Society, but that doesn't make me any less concerned about the resources that our environment provides. Everybody is concerned about the environment, but I am also concerned about the type of power and energy we are going to be using in the future. I certainly don't want nuclear power. And I don't want to continue to introduce any new combustible materials to be burnt, that pollute our air. So we look to other safe alternative methods. And that is hydro power. And that is what Great Northern did. They went to a system that would provide clean, cheap, safe, inexhaustible power and are being chastised for it.

I understand that building "Big A" is going to alter the environment somewhat, but we have to start making choices here. Great Northern made that choice, that is what they want to do. Instead of polluting the air, they chose to use clean, safe power.

As Chairman on the Joint Standing Committee on Labor, I have always considered the business climate, jobs, employment, unemployment, and this has to enter into the debate. You just can't sit by and not talk about jobs.

The people in that area are concerned about their jobs. The opponents have been saying that this has not insured jobs for the future, there is no guarantees. Anytime an industry, makes a multi-million dollar investment in the State, to me that is a commitment, not only the jobs in that area, not only to the people in that area, but the whole State of Maine. It seems to me you don't dump millions of dollars and then decide to pull out. That project alone is a commitment to jobs in the State of Maine.

Let's not forget what happened to the textile industry in this State, and the shoe industry in this State. The paper industry in this State is undergoing the same problems. Competition from outside, and they have to provide a product that can be competitive. The cheap power that hydro electricity produces will help them do that.

A lot of Senators have said that people have flexed their muscles. Great Northern, if it was your little company, would the same thing be happening. Great Northern has never even talked to me. Leadership, the good President, has not even talked to me about this. I made a decision on this, on my own, reading all the information and seeing what impact it was going to have. If there was any muscle flexing, it was from the other side, but that is all right, that is what I am here for to listen to that information. It wasn't Great Northern that flexed their muscles, but they are not the only ones concerned up there. There are 4800 jobs in that area. What about those people? Aren't we supposed to be concerned about those people too? Or do we turn a deaf ear on them? In this Legislature in the past we have dealt with issues that have helped other industries. Not too long ago, I believe last year, we helped an industry in Waterville, Keyes Fibre. We have helped other places. Spencer Press, Pratt and Whitney, Bath Iron Works, and if you check the record I am sure you will find others. Every time we did something like that we asked the taxpayers of this State to somehow to foot the bill. The people in the Great Northern area, are, part of the people in this State. They were asked to foot the bill. Now they are asking for our help and you know the difference with this thing, is that this won't effect the taxpayers at all. This doesn't effect taxpayers, this effects the environment of that area and helps the people of that area.

I guess the last question I ask myself on whether or not I am going to support this Bill. I ask if this were an issue that affected your district, if this was right in your back yard, and the possibilities of losing all these jobs, the possibilities of devastated economic quality of the area, how would you vote? There is no question in my mind, that if this was in my district, and if it affected an industry, the only major industry, that I would fight this Bill to the limit. I would push for it, and I would lobby it. And so would you, if it affected your area, you would be voting for this Bill.

Unfortunately, this has been an emotional issue. It has been often controversial. I would hope that we decide this Bill on the facts, on what we think the facts are, or maybe a little bit of your own gut feeling. I would hope that we would always continue to extend ourselves the general courtesy of at least allowing each other to agree to disagree, without personal implications that we have seen here in the past two weeks.

One final remark, I am concerned about Maine's resources, so are you. I enjoy Maine's clean air and I enjoy Maine's clean water, and I enjoy the wildlife in the forest, rivers, lakes, mountains, and the panoramic views that it shows, but let's not forget Maine's most important resource, Maine's people. A segment of that population is now asking for your help. I hope that you would vote for this Bill.

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

Senator CHALMERS: Thank you Mr. President and Ladies and Gentlemen of the Senate. If this vote were just on "Big A" I might say some other things differently than what I am about to say. This is not a vote on "Big A". I have had people from one end of my district, little district 21, call me from Palermo, up in the mountains, up to Matinicus up in the islands. On the coast, they are not calling me because "Big A", some of them are, some of them say vote against "Big A", but these calls are about the process.

These calls are about the process of having passed some bills, having had the boards make there decisions and I would only show you today's debate where we were arguing over the meaning of Senator Bustin's little amendment. Obviously, they are going to disagree, things aren't crystal clear, that we did pass the bills, we did have a legislative process, and a hearing process. The boards did make their decision and key word in this Bill, as far as I am concerned, is retroactivity. If you took out the retroactivity of it, I would be up here moving its adoption. But we are not, we are changing the rules in the middle of this game.

When I was young growing up, I learned you can't do that. You start playing a game, you play by the rules. It seems to me the message that this Bill will send is that statutes can be amended to benefit one project. It seems to me, what is clear is that this is not fair. The regulatory process is meaningless if the losing side can come in and ask them to change the rules. I ask you to vote against this. Thank you.

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

Senator MCBREAIRTY: Mr. President and Honorable Members of the Senate. I don't think there is any doubt that what we have proven, that the intent of the Rivers Bill was that in the unorganized we deal with LURC, as far as dams are concerned. In the organized we deal with the DEP.

I value the process as much as anyone here, but I also have concern when a regulatory agency out there disregards the law that we pass and goes contrary to it. And that has happened in this process. I think that Great Northern complied with the law, I think LURC complied with the law. But I don't think that the DEP has. I am going to read you just a little section of a testimony by Everett B. Carson, Executive Director of the Natural Resource Counsel of Maine, on a bill last year, I think the bill was to extend LURC's time. Give them more time to reach a decision.

He said in this statement, he's speaking on behalf of 14,200 members on the Natural Resources counsel. This statement says, "as I trust you are aware the decision of whether to allow construction of the "Big A" dam rests with two regulatory agencies. LURC, at the State level, and FERC, at the Federal level. It is before those two regulatory Bodies that the arguments for and against the project are to be made."

Those agencies, and those agencies alone, will judge the merits of the project, the decision on whether to license "Big A" is not and will not be a legislative one.

I have a letter here to Henry Warren, Commissioner of Environmental Protection, from Alec Giffen, and I won't bore you with reading it, but it states that Alec was surprised to find that DEP was questioning whether they had considered water quality in their decision, because they had been communicating with DEP and DEP had agreed that they had.

I have another letter to the Board of Environmental Protection, this is to the Board from Kenneth C. Young, Jr., acting Commissioner. In this letter he states to the Board; it has been and continues to be the position of the Department that the Board should adhere to the expressed language of section 631.1 of the Maine Water Development Conservation Act, and grant the certification based on the issuance by the Land Use Regulation Commission of a permit for the proposed project. In keeping with this position, the Department, now recommends that the Board grant reconsideration, reverse its January decision and approve the certification.

So, I think that when a company goes and applies for a permit, based on the law we pass, I think it is wrong to change the rules in the middle of the game, and that has been done. They had six to eight weeks of hearings, LURC did, that was adequate time for everybody in the United States to come in and testify if they wished. Most of them did. I think to protect jobs, in my end of the State, you should pass this Bill. If we find problems with it after, I'm sure that the Natural Resource Counsel or the Audubon Society will be in here with some legislation to correct the problem.

I was in a mill in Lewiston recently, a textile mill I think, where the owners told us if it wasn't for the fact that they were generating their own power, from the dam that was just above the mill, that they would have probably gone out of business. We are not just protecting the jobs of Great Northern, possibly with this Bill, we are protecting many, many jobs in northern Maine.

Most of our young people can enjoy the environment in northern Maine, because they have to go to Connecticut or Massachusetts to get a job. Hundreds and thousands of them have gone. Population in Aroostook County has dropped ten or twelve thousand in population in the last few years. I realize that many people in Maine want to protect that area, so that we can use it for recreation, but we still need a few people there to meet you when you arrive. I would hope that you would realize that.

When the Bill came up, Bath Iron Works, I think that probably every Legislator in northern Maine voted for it, because we were told that it would create a thousand jobs for people in southern Maine. That Bill required twenty million dollars of taxpayers money, by the time it is paid back and we pay the interest it may be forty million, or close to it.

That had some effect on the environment. I am sure that took some very valuable coastal land in Portland, I'm sure that it brought people in and had a lot of effect on the environment. I never heard one word about the permit. I think it was understood that the permit would be issued prior to passage of the bill. I would hope that you would go along northern Maine on this Bill and help protect the jobs that we have. Thank you.

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

Senator PEARSON: Mr. President and Men and Women of the Senate. Senator Dutremble, of York, has said that we should be able to agree to disagree and I think that is true. I think that honest men have honest differences and I understand the position that everybody takes here. One of the things that I would like to clear up, and a question I would like to pose. The thing I would like to clear up, my information on the Aziscohos project, which is located along the New Hampshire line close to the Providence of Quebec, is that there was a pre-existing dam. There was no controversy on it, nobody filed any kinds of requests for hearing and the Commission delegated the authority to the staff, because it was of that nature and they simply wanted to put turbines in to generate electricity. It was not the same as the so called "Big A" project which did not have a dam and was somewhat controversial.

One of the things I think that we ought to be asking ourselves is; what happens if this Bill doesn't pass? What happens if the retroactive provision of this Bill does not pass? And the rest of it were to pass, so that an impoundment would reach a different classification. What then would the Great Northern have to do? I want to tell you that I don't know the answer to the question.

I suspect there are people here that do, but I am wondering out loud. If the law were passed without a retroactive provision, I would assume that the Great Northern could then go back to the DEP, or LURC, which ever one has the jurisdiction, once the Bill is passed and reapply. If they reapplied, how long would that take, and what kind of resources would that mean that Great Northern would have to expend in time and in money and legal fees?

I really would like to have that answered, because if it is a simple process for them to go back and re apply under just that one small part of their whole application. To get it done in a timely fashion. I would like to know that.

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

Senator CARPENTER: Mr. President and Ladies and Gentlemen of the Senate. This is probably the last Bill in this session that I intended to speak on, but a couple of things sort of peaked my curiosity today. When I heard persons who opposed the pending Bill, the Majority Report. Referred to it as the Majority Report, it triggered my memory that, in fact, there was a Minority Report here, wasn't there?

I went back, after a lot of scrambling, I finally found it and it is embodied in House Amendment (H-541), and I looked at it and it proposes to change the impoundment classification behind a hydro power project. Since the purpose of this amendment is to provide a reasonable administrative procedure for dealing with the ambiguity of the existing water quality standards when applied to hydro electric proposals.

If you take that Minority Report and you put that with the Majority Report, that seems to say that the entire Committee, to a person, is saying that there is an ambiguity, apparently, with the law as it presently exists. So what are we left with? Both Reports, both Bills, if you will. Say that there was a problem here, or at least there was a perception of a problem here and that the BEP either did something that they were suppose to do or didn't do something they weren't supposed to do. How do we correct that? Do we correct it prospectively, or retrospectively? I don't like to do things which interfere with the process, either, but I have a difficult time standing up here and being terribly pious about it, since I am one of the people who voted on the Local Measured Service issue. Which was clearly an interference with the regulatory process. The Public Utilities Commission had held hearings they made their determination and we sought to overturn that determination legislatively. We did not seek to do it retroactively, we sought to do it prospectively, as it was about to come on line, it was about to happen. I respect the regulatory process, and I have always in my terms, here in the Senate, tried to stay out of that business. We put people on those boards, usually without too much regard for their personal philosophy, because we believe that they are going to follow the law. I think that there was a genuine misunderstanding, either on our part, or on their part, as to this particular action.

The retroactivity portion, as long as it is constitutional, and I guess I have convinced myself that it probably passes constitutional muster, while we are at least waiting for an opinion from the Attorney General. The retroactivity portion is easier for me to get over, because we have handled that issue before. We handled it this session, we handled it in other sessions. Whether it is the Public Utilities Commission or Board of Environmental Protection, LURC, or whatever, we have handled that issue. We have dealt with that issue as a Legislature.

Then I looked at both bills and the entire Committee says that there is a problem with the law. Then it narrows the focus, doesn't it? Down to how do we deal with that problem of law? Do we deal with it only prospectively, or do we deal with it retrospectively? I guess, I am not particularly comfortable dealing with it retroactivity, but I think you put the business, whether it is hydro power or any other business, in an interesting spot, if you are going to allow this as a precedent.

If you are only going to correct the law prospectively, then it seems to me the precedence you are establishing is, who is going to be first to test the new law, to test a new licensing procedure? Because, we think there is an ambiguity, we think there is a problem in this procedure, you be first.

If you find out there is a problem with it, the Legislature will correct it and and I will go ahead and go through the process. It seems to me that is a dis-incentive for business to go ahead with projects, be it hydro power projects or other projects which need licenses. I just had to point out to you that it seems to me there are three positions, here today, not two. One is the pro Majority Report. One, apparently, is pro Minority Report, which is to clear up the law, but only retrospectively. And I think there is another position here which is, anti both changes, because the process has worked to defeat a project, which people were very up front about, they wanted it defeated. Thank you.

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

Senator NAJARIAN: Mr. President and Members of the Senate. Senator McBreaarty raised a number of issues that I think most of them have been answered, either today or last week, but he raised a new one and that was regarding Bath Iron Works. I just wanted to respond to that and say the port of Portland, prior to Bath Iron Works, was so run down and dilapidated that Bath Iron Works actually beautified the port of Portland.

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

Senator MCBREAIRTY: Mr. President and Honorable Members of the Senate. I am pleased that Senator Najarian, from Cumberland, has stated that it did beautify Portland, because I think the same thing could happen with the "Big A". I think when they get through with that project, that it will surprise us in what we could have there.

There has been quite a lot of talk about retroactivity. We spend millions of dollars here based on retroactive bills. State employee contracts and other things, so this is not setting a precedence. I am really concerned that if we don't pass this Bill that Great Northern Paper Company could have their application before FERC dismissed. L.D. 2107 simply allows Great Northern to argue their case before the Federal Government. If the Bill does not pass, those opposed to the "Big A" will be in Washington, petitioning that the "Big A" application be dismissed.

The history of FERC is, to dismiss, if there is no water quality certificate from the State. I think that Great Northern has put millions into this application. I think they deserve fair play and I don't think we have been giving it to them. Thank you.

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

Senator BALDACCI: Mr. President and Members of the Senate. It has been alluded to that this Legislature, or this Senate, overruled the Public Utilities Commission in regards to the Local Measured Service question. I have yet to see that On the Record, where this Legislature, or Senate, voted to override the Public Utilities Commission. We maintained the process, we allowed the Commission, through its deliberations and hearings, the interveners and the public advocates office to develop a process.

We voted to uphold that process, we didn't vote to override the Commission. While we are on the subject, one thing that has bothered me tremendously, that if the law was so clear, as the good Senator from Aroostook, Senator McBreairty, pointed out, that it shall be mandated, why didn't the aggrieved party seek redress in the courts? This past week, New England Telephone was in court. They were asking the Superior Court to determine whether the question of mandatory measured service on the ballot was applicable when the present plan was optional. They are expecting a decision at the end of this week. If such a major issue, as Great Northern's "Big A" dam which is 3.2 miles of impoundment and 5 miles wide, and recognized by national studies, is an important issue, why could this not have been addressed in the court? If the BEP acted wrong, that bothers me. The second thing that bothered me was the possibility of tainting the application at the Federal level. I spoke to you last week in regards to that discussion I had with the person at FERC. It was their opinion, in recommending to the FERC commissioners that as long as the project was moving ahead and it was moving in that direction, once I explained to them the difference between the Majority and Minority Reports, not to take it as a negative message, he said "no, as long as it is moving ahead, they would not recommend dismissal." That was his opinion, yes, his opinion, he is not a FERC commissioner, but he is on the staff that develops the recommendation for these commissions. He knows more about it than probably, this Senator from Bangor, but the point is at the Federal level, that was the result. As far as Local Measured Service, that was the result.

The other thing that bothers me tremendously, is the treatment that the Board of Environmental Protection is getting. I would be the last one to get up here and defend the Board of Environmental Protection, but as this process has gone on and as I have developed and gone ahead and done some research, the Board of Environmental Protection was acting within the law. The law that we set up and had approved by the EPA. The 401 review process on water quality standards. That were not dealt with by the LURC Commission. The LURC Commission only had one day of testimony and it was negative on water quality standard. It said that it will not meet the B-1 classification. That was back in April of last year.

In January and February, Great Northern had been approached about this potential conflict that was going to arise. In April, it was brought to the LURC Commission. There was a conflict here at the ultimate resolution of the problem.

Why not then bring it to the Legislature to have the Legislature change the classification, rather than going through this process? We have continually berated the Boards and Commission. I think after discussions with a member of that Board, whose father and grandfather was an engineer at Great Northern Paper Company and had sympathy for that area, that they were generally in a dilemma. They had forewarned people of the conflict. They had acted as the law stated and as they believed that they were the certifying agents as by that executive order of Governor Curtis and that had not changed. The 401 review had not been conducted. The only testimony that LURC got was negative on the classification and it wouldn't stand the light of day in Washington was their opinion, by Federal review. That was it. Now we are trying to correct that. So we are going to change it to a Great Pond to a B-1.

When I found out that it had originally been classified as an A, by a National Interior Department study and then down to a B-1. Now we are going from a B-1 to a Great Pond and we have to change that because when we take an area that big and make it a Great Pond, we are also including an area like the Androscoggin River, as being a Great Pond, and because of the lack of discharge you couldn't have that occurring, so they had to change it so it didn't encompass that. That is why we have boards and commissions, because this legislature generally is trying to deal with the problem. But we set up these boards and commissions to deal with it in depth. Appoint them and confirm them so that statutes and standards that they operate by, and let them make those decisions. We can't, you heard today, the question in regards to the Federal waiver on a water quality project. Would that mean we would be giving up all our standards altogether?

This letter from this person at EPA, says the Majority Report basically concerns him tremendously, because that 401 Certification responsibility would revert to the EPA. He says that he is sure that that was not the intended result of the legislation.

There are concerns here and problems and we are trying to deal with it by a Legislature and I think that the best thing we can do for Great Northern and the best thing we can do for the people in the State of Maine, is to clarify the process and allow them to go back in and resubmit their application. That is the best thing, because that is the process. Great Northern Paper Company wanted the application, yesterday. Well I don't think they should get it yesterday, I don't think they should get it today, I think they should get it tomorrow. I think that is the way we are going to treat people in the State of Maine.

I had a Representative that asked me if they don't get the bio-mass boiler approved for another mill, will I support his legislation to overturn that Boards decision? They have got to act on it by Friday. Are we going to start to set a precedent dealing with these projects here in the Legislature, because of dissatisfaction? That is what I don't like to see and that is the precedent that I am dealing with.

You see how we deal with it on the Utilities Commission, and we deal with the courts. I don't understand those problems and understand the way that they have been dealt with. It is the process that I think we really have in question here today, because we will be setting a very, very bad precedence and I think the Legislature should make it very clear that it is going to stand up for the process.

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

Senator PEARSON: Mr. President and Men and Women of the Senate. Awhile ago I asked a question, a couple of questions, and I didn't get a reply and I want a reply. I think that people are entitled to it. My question was, how difficult is it for The Great Northern Company to go back in and ask for a change in the water quality licensing? How difficult is it? How long will it take? How much of an expenditure will it take?

I can't believe that there isn't anybody in this Legislature or even in this State that doesn't think that the DEP wouldn't move the agenda up rather rapidly after all this controversy, and address the issue, once a bill was passed without a retroactive clause. I can't believe that that wouldn't happen. Can you imagine the people in DEP sitting over there saying, "no, we are not going to hear this one, not for a couple of more months." They wouldn't do that, they wouldn't dare to do that. You know that. But I need to know how long it would take, if the process began, how much it would cost? Somebody must surely know that in here and I hope that the person that knows that would share that information.

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

Senator BUSTIN: Mr. President, thank you. I don't have the answer to the good Senator's question, but what I want to do is to explain what my vote is going to be on this next vote. I will be switching to voting against the Majority Report.

Not because I disagree with the retroactivity, because I think that what the good Senator from York, Senator Dutremble said, echoes what I would say if I were debating "Big A". Absolutely echoes it.

I have made a stand and I continue to make that stand. That we must clear up what brought us here in the first place, and that is how we issue a Water Quality Certificate. We must clear that up. It is my hope that somebody in the other Body will be able to get an amendment on that, it will come back to this Body and I will then be able to vote for the Bill.

I would like to quote to you a letter that I received from the Senator from Cumberland, Senator Diamond and it is from Michael R. Deland, Regional Administrator of the United States Environmental Protection Agency. I will only quote you one paragraph from it and I would refer you to that letter as dated March 7, 1986, for those who are interested in trying to clear up this controversy.

"Two provisions in the Bill are of particular concern to EPA, since they would, in effect, revise the State's Water Quality Standards. The first is the classification of certain new or proposed hydroelectric impoundments as GPA.

The second is the provision, making issuance of a Water Quality Certificate mandatory whenever an application for hydro power license is approved under 38 MRSA 634-1. This requirement seems to amount to a variance of Water Quality Standards for hydro power projects." That second issue is my concern. They don't go into the first one so I can't comment on it, but that second issue is my concern and it must be addressed.

The President requested the Assistant Sergeant-At-Arms to escort the Senator from Aroostook, Senator CARPENTER, to the Rostrum where he assumed the duties as President Pro Tem.

The President then took a seat on the floor of the Senate.

Senate called to order by the President Pro Tem.

Senator MCBREAIRTY requested and received Leave of the Senate to speak a third time.

Senator MCBREAIRTY: Mr. President and Honorable Members of the Senate. As I stated the other day, I was on the Natural Resource Committee when the Rivers Bill was passed. We didn't spend days on that Bill, we didn't spend weeks on that Bill, we spent several months on that Bill. We wanted to make sure that the law was written clear enough so that everybody would understand what our intent was.

Sub-article 1-8, dealing with permits of hydro projects, section 630 short title, this sub-article may be cited and referred to in proceeding an agreement as the Maine Water Way Development and Conservation Act. I read this the other day, but I would like to read it again, because I think there was some misunderstanding and some thought I was reading the statement of fact.

The purpose, findings, "The legislature finds and declares that the surface water of the State constitutes a valuable and renewable energy resource and that hydro power development utilizing these waters is unique and its benefit and impact to the natural environment and makes a significant contribution to the general welfare of the citizens of the State for the following reasons;

Hydro power is the State's only economically, feasible, large scale energy resource which does not rely on combustion of a fuel, thereby avoiding air pollution, solid waste disposal, problems and hazards to human health from admissions, wastes and by-products. Hydro power can be developed at many sites, with minimum environmental impacts, especially at sites with existing dams, or where current type turbines can be used. Like all energy generating facilities, hydro power projects can have adverse affects, in contrast with other energy resources. They may also have positive environmental effects. For example, hydro power dams can control floods and down stream flow to improve fish and wildlife habitats, water quality, and recreational opportunities. As everybody knows, without dams we wouldn't have any white water rafting, because it is the water behind those dams that they let out that provides it.

Section C says, hydro power is presently the State's most significant resource that can be used to free our citizens from their extreme dependence on foreign oil for peaking power. Section 2 of this law says, policy and purpose, "The Legislature declares that hydro power justifies singular treatment. The Legislature further declares that it is a policy of the State to support and encourage the development of hydro power projects by simplifying and clarifying requirements for permits, while assuring reasonable protection of natural resources and the public interest in use of waters of this State. It is the purpose of this sub-article to require a single application and permit for the construction of all hydro power projects and for the reconstruction or structural alterations of certain projects, including water storage projects. The permit application process shall be administered by the Department of Environmental Protection, except that for hydro projects within the jurisdiction of the Maine Land Use Regulation Commission. The Commission shall administer the permit application process under this sub-article".

That is the law that Great Northern decided to apply for a permit under and I think that they met every requirement of it. I think that if you want to read this yourselves it is very clear what our intent was.

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

Senator MATTHEWS: Mr. President and Members of the Senate. I will be very brief. I wanted to rise today to go on Record and state my change of support for this Bill. When this Bill came to the Senate floor I stood on the Record on a Roll Call and supported the Majority Report. I did so with my head held high and in belief that I was voting for the right side and the right way.

Today, after listening to intensive debate and concerns from constituents, the Governor's office, and others involved in this issue, I stand before you as someone who is going to vote against the Majority Report today.

I want to do something else today on the floor of the Senate. I guess I want to echo the words that have been expressed by the good Senator, Senator Dutremble from York, and others about the debate on this issue. I have never, since I have been in the Legislature, been the recipient of the kind of calls from constituents and sensitive concerns that have been voiced on any other issue. This one was, by far, the greatest.

Most of my constituents have understood that as Senators and Representatives we are entitled to our viewpoints and we can vote with a clear conscience. Some of those people, however, from the other side, and I do look at and say to the Natural Resources Council and the other organizations that have lobbied on the other side of this issue, that you should be very cognizant of the kind of debate that was waged and of the statements made by the Legislature.

I was not lobbied by my Leadership, in the Senate, in any way, shape, or form. I was not lobbied by Great Northern Paper Company, in any way, shape, or form. I voted for the Majority Report at the time, because I believed it was right. I am a supporter of hydro-electric power, and any one that wants to look back at the Record, will see that I supported the Governor's proposal and the Bill that affected hydro development in 1983.

I really am concerned that the integrity of this Legislature has been questioned. I think that is very, very unfair. The integrity of a company that wishes to partake the debate is in question, and I think that is unfair. Today, I stand before you as the person that is about ready to change his vote, because of new information about the constitutionality of this law. I will not stand in this Senate and vote for a bill that is unconstitutional and I believe that this Bill is. That is why I am going to oppose it.

But I do support hydro development that meets the environmental criteria, that meets the criteria that was laid out in the Rivers Bill, and meets the criteria of the Clean Water Act and the Federal protections that we have all worked for.

I have all due respect and support for my colleagues on either side of this issue and for my President, and for Leadership on both sides of the State House, because there has been no arm twisting, and I think that the Record should be set straight on this issue. There was a lot of statements made, by organizations, that were absolutely unfair and untrue. When I am voting today, because of information that I received, and I'm voting with a clear conscience, and I just thank you for giving me a chance to state my reasons.

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

Senator USHER: Mr. President and Members of the Senate. I will try to answer some of the questions that the good Senator from Penobscot, Senator Pearson, posed before us. One was, if it was denied, how long would it take.

No one really knows, it is speculation, because one question is, do they go back to the LURC Board and I assume that they do, because that is Unorganized Territory and they still go through the normal process that they went through before. About the only thing that is certain, actually, is that it has been denied by the Board and the opponents who have been fighting the issue can request that FERC deny the application.

That is about the only thing that is certain today. Nobody has any figures on how much it would cost, what procedure, or how long before they decide to return to the proper board. So, about the only thing that is certain is if the opponents request that FERC deny the application.

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

Senator TRAFTON: Thank you Mr. President, Mr. President, I suggest that the answers that have been suggested to the good Senator from Penobscot, Senator Pearson's questions, are able to be disputed. My suggestion would be that LURC would not be the board which would hear or rehear this matter if we were to adopt a Great Pond standard for water quality behind impoundments, such as we are talking.

The Governor, as you know, by his December 24, 1985, Executive Order, said that LURC would be the one stop shopping site for these types of permits, that was a perspective order, and this application was pending at the time, so that it appears that the Board of Environmental Protection would rehear this particular application if Great Northern Paper were to resubmit, and it was this type of resubmission that the Minority Report from Energy and Natural Resources suggested.

I would say that Great Northern would simply go back to the Board of Environmental Protection, with little additional expense, little additional time for preparing its briefs. All it simply has to do is to write a letter to the Board of Environmental Protection, reincorporating all of the transcripts and application with exhibits that it had previously submitted to the Board of Environmental Protection.

There is no need for additional testimony, there is no need for additional submissions to the Board. The Board could then reschedule in one of its bi-weekly hearings, and I would suggest that it wouldn't take more than thirty to sixty days for this matter to be scheduled.

At any rate, there is no hearing before FERC, Federal Energy Regulatory Commission, for at least another year, so therefore, Great Northern would not be held up in any way in resubmitting this matter to the Board of Environmental Protection. In summary, to try to respond to the good Senator from Penobscot, Senator Pearson's questions, I don't see that it is an onerous task to resubmit this matter under a new standard, and I suggest that he is right. The Board of Environmental Protection would take this responsibility seriously and act in all due haste to give a final review to this matter under new standard water quality. Thank you.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Penobscot, Senator Pray.

Senator PRAY: Thank you Mr. President. Mr. President and Ladies and Gentlemen of the Senate. Speaking as a Senator from Senate District 5, which happens to be the area in this State that has been of great debate, and great concern among a number of people over the past few weeks, and even in the last few months, and particularly on reference to the issue on "Big A" for the past few years.

As an individual who has been intensely involved in that issue, I would like to make a few comments, respond to a few written words and a few spoken words. Also, to share with the Members of this Chamber, a few personal thoughts.

It has been with great interest that I have looked at the Ambejackmockamus Application by Great Northern Paper Company. Ambejackmockamus, in this State, soon became known as the "Big A" project, because a number of people had problems with it, pronouncing it and spelling it. My own personal involvement comes with approximately thirty-three years ago of living in the town of East Millinocket, my father being an electrician for Great Northern Paper Company, was offered an opportunity to go to a place called Ripogenus Dam and become an electrician in the hydro station. They made the choice to move up into that area of Maine, which on your maps is T-3, R-11. That is Territory 3, Range 11, of the Unorganized Territories.

Approximately for the last thirty-two years, except for four years in military service, that is where I resided. The Ambejackmockamus Project is approximately four miles from Ripogenus Dam. It lies in the West Branch of the Penobscot River.

When Great Northern Paper Company originated back in the early 1900's, 1899 to be exact, they came to Maine and decided to locate where they did, because of the potential for the utilization of the hydro system that lies in the West and East branches of the Penobscot River.

At that time, their storage dams were built for the purpose of delivering the raw material, the wood, from somewhere in Maine's vast forest lands, down to the paper mills. The Ripogenus Dam construction was started in 1915 and completed in 1918. At the time when they built it, it was the largest wilderness dam in the world. Behind Ripogenus Dam today, lies somewhere around 93 billion cubic feet of water, when it is full.

To give you a perspective of what 93 billion cubic feet of water is, it is approximately about 100 gallons of pure drinking water for every citizen in the United States. Behind that project lies a water that is drinkable by State standards. Below that dam is water that is drinkable by State standards. By our own classification, that waterway that lies above and below the dam, is a Class "A" water, B-1 in the classification of the State's Classification law.

Having grown up there, and being a young boy of 8 and then into my young teens, I learned to play in the woods and down the river bank, in a place called Little Eddy, which is approximately a 50 foot ledge, having the tendency as a 12 or 13 year old, and jumping off that ledge down into the river and swimming. Grabbing onto some logs and going down through where some of the rafts go down through, today. No wonder my mother had grey hairs very early, and you can understand why.

It is fortunate, or maybe unfortunate that I am here today, because of some of the foolishness as a young kid, that I participated in on that river. But, I grew up on that river and have a very personal attachment to it. In 1970, when I got out of the service, after serving 4 years in the Air Force, I had an opportunity to go several places to go to work. The one thing that I missed, really, was the snow. So, I made the decision that I wanted to come back to Maine.

This was a conscious decision that I wanted to return back to this State, and this is where I wanted to bring up my family. So, I came back and went back up to Ripogenus, and assisted in the family business. Right back into that area that I had grown up in and learned to love, the way it was. The river, the lakes, the many ponds, brooks, and everything else, back at that time, there were very few individuals who traveled great distances to enjoy this area.

Over the years, I saw the change slowly taking place. Progress, I guess, is what it is called. Slowly, the influx of outsiders who utilized the area as a recreational area, and not as a livelihood, came into the area. Demands changed and increased on an on going basis. Approximately 10 years ago, a new fad or a new industry started. That was white water rafting. White water rafting has brought in, literally tens of thousands of people into that area.

Very serious, to my way of thinking, having seen it 30 years ago, when they were still using horses in the woods doing logging operations, a very serious change and a threat to the environment that I had grown up with was occurring.

Great Northern Paper Company, several years later, and to put it into perspective so that everybody understands why Great Northern Paper Company made their hydro licensing application then. A few of you may remember back to the era of the oil embargo. The United States Congress responding to that, passed legislation that allowed people to speculate in energy. Individuals could go out and they could file for a permit on various sites, hydro and alternative energy sources, such as solar, a wide range of options.

Because people were allowed to speculate under that Federal Act, Great Northern Paper Company filed their application when they did, to prevent other individuals from filing for that same application. Even though they owned the land, that did not prohibit other individuals to speculate on potential energy development, then.

Of course, you know, if we were voting on this in 1976, because of the Arab oil embargo, I do not think there would be very much debate here today, as to what would happen. It would sail right through.

Anyway, they filed for the permit and they have been going through it for several years now. The initial studies, and evaluations of the impact of it. There were some comments and concerns by the Natural Resource Council and the Maine Audubon Society, and others, that the volume of materials that were presented on the "Big A" application was so large - just volumes and volumes of information, that there were concerns about the amount of time that hearings would take place.

I did not immediately express support representing District 5. The towns of Millinocket, East Millinocket, Medway and other communities of which a number of people are employed by Great Northern, came out strongly in favor of it.

There were accusations they were only in favor of it because Great Northern says they need it. I did not make a comment publicly, one way or another. I waited. I received LURC applications and the FERC applications, which I think are somewhere around 50 some inches thick, if you piled them on the floor and you went through them. Many of them were studies and surveys, fishing surveys, and a number of volumes of pages, which was data information and somewhat repetitious of the evaluation and studies that took place.

I still did not comment on whether or not the "Big A" project was a worthwhile project. But, I sat there and I evaluated, and I read the reports. I went through them, page by page, night after night, sitting here in Augusta and back home in Millinocket and at Ripogenus. Going through and studying, evaluating, looking at other issues that were being talked about and discussed, in reference to alternative energy sources and the issues facing the State.

One example, of course, is Keyes Fibre, where Keyes Fibre said that because of low cost electricity in the South, we are thinking about relocating. I came to the conclusion that energy is a major question in this State that is going to determine the future of the economic growth. The Federal administration in Washington decided that the Hoover facilities and the TVA facilities would have a 40 year extension of low, cheap cost of energy subsidized by the American tax payer.

Those of us in Maine are paying for that subsidized energy down South, that Keyes Fibre almost chose to go to Kentucky for. CMP, back in Maine, told Keyes Fibre that they could look at the cost of electricity doubling, going from 6.7 or 6 and some odd cents of kilowatt, up to 12 in the next 10 years. Kentucky said "Come on down here. We have it for 3 cents a kilowatt, and we will guarantee you 10 years from now, you will be paying 3 cents a kilowatt."

My personal attachment to the area, was one of the reasons that I held off with reservations to change. I studied the evaluations and the reports, and I studied the alternative sources of energy and the issues that the State is faced with. I eventually decided that I was going to support the project. And, I was going to support it because I looked at alternative sources of energy, the over all question of energy in this State, and what it meant for economic development.

I testified at the LURC hearing as to that impact, and to the alternatives that we would have to consider. One of the things that I heard through out that room, was public benefit. The Natural Resource Council, the Maine Audubon Society and many other individuals around the State, came up and said "It is only a public benefit if it is left as a river for me to enjoy. It is not a public benefit if you allow the people in the Millinocket, Kathadin region to use it for one company."

Well, I perceived that one company, who had at that time had employees of around 4100 people to be members of the general public. And, that there was a trade off in there as to what was public interest. The public interest was to that particular area of the State.

I then observed the LURC process. I observed the BEP process, and I attended several of their hearings, read their transcripts and listened with great intensity to the regulatory process that we had set up in the Rivers Bill, the hydro licensing law and so forth. For those of you who were not here, let me just back up for a moment and talk about the Rivers Bill.

I have a chart here that shows the Rivers Bill. In that chart there is a section of waterway that is left out. It was left out in exchange for the potential growth for utilization of hydro power. The Natural Resource Council screamed that the State had sold them out because they had left out that section of waterway, in which the Ambejackmockamus project would lie.

That is an interesting group of people, who say that they are opposed to nuclear power, they are opposed to the burning of coal because of the sulfur content into the atmosphere. They say they are in support of hydro power, but you ask them one place where in this State they would support it, and then they say "We can't comment on that until we see a project that comes in." I don't think you will ever see them identify a spot in this State, where they will support hydro power.

There are some tough choices that we have to make here, when we try to put all of these things into perspective. Now we have a Bill, trying to define that regulatory process, which I have observed. A lot of people say that they just do not like this Bill, there is something funny about it, they feel uneasy about it. Do you know something? I feel that way too.

Some want to question the integrity of individuals of this Chamber, as to how they vote, are doing a disservice to any individual who seeks public service, and to how they vote on a particular issue. Particularly in the Maine Legislature. I think we have a fine group of individuals on both sides of many issues, who do so because they intensely feel that they are doing what is right.

The more that I have looked at this issue, and the more that I have looked at the regulatory process, I came away with a feeling that the regulatory process had no respect for the Legislature. I attended the BEP hearing, where Evelyn Jepson stated and I quote "I do not care what the State law says, I think this degrades water quality." I will tell you right now, a GPA and a B 1 does not degrade the water quality.

But, the comment that I heard, that bothered me the most, was "I don't care what Maine law says." That concerns me. I think it is important that we now understand the issue that is really before us. The reason that I am pursuing this issue, not to the frantic, hysterical lobbying that the Bangor Daily News credits me with, I don't think. But, the concerns that I have that the regulatory process has broken down and people have taken a personal position on the issue, itself, and not on the merit of the project. I believe that is the position the BEP is in.

I do not believe, no matter what we do here, that they are going to change their opinion of that. That is my personal opinion. The question has been asked as to whether or not, if Great Northern were required to go back before the BEP, what would the time question be. How long would it take? The Senator from Androscoggin, Senator Trafton has said "I am sure they could do it in rather a speedy process." I am sure they could, if the Board wanted to. And, also if they wanted to, they could drag it out, and once you get into the administrative procedures process, those who are opposed also have the opportunity to present evidence and information on the issue.

The Senator from Androscoggin, Senator Trafton said "They do not have to go through any additional expense, all they have to do is present them the same papers they presented them with the last time the Board turned them down on." What do you think the Board is going to do if they come back with the exact same evidence and the same information?

I spent several hours working with the acting Commissioner, Ken Young, of the DEP and the Director of LURC. During the several hours that we were working, I asked the Director of DEP "If we provided you with 90 days to go out and evaluate water quality, would you do anything under State law, under water quality, or Federal law? Would you do anything extra that would change your opinion?" His answer is "No, we have done everything that we can do to determine water quality." And of course, you had it read into the Record numerous times here, that the Department says that they feel that this applicant met water quality standards of State law.

It is not going to change if you send it back and give them another 90 days to determine something different. They are not going to do it. The Senator from Penobscot, Senator Pearson had asked, in reference to the FERC process, as to what impact does delay have on them? My understanding is that 30 days after the BEP has denied the consideration of the process, anybody can approach and ask for a dismissal of the case. The Natural Resource Council, Trout Unlimited, the Audubon Society, anybody can go in and say they would like the case dismissed, because they did not get their water quality statement.

The Federal Regulatory Commission has already dismissed one case in Maine, in East Machias, and 2 cases in Rhode Island, because they did not have the water quality statement, and they were asked to dismiss the case, by opponents to those projects.

Those who have concerns about the process, if you have a better way to address it, and not say to some company, or any company, I do not care if they are large or small. In this one particular incident, they have spend 6 million dollars to the process and you say "We would like for you to come back here and file with this good old Maine process again. It might only cost you a couple of million dollars more, just maybe it would cost you just a couple of million dollars more. It might cost you another 4 or 5 million dollars." I do not know of how many businesses, large or small, would take that type of a percentage of their capital investment money that they want to use for their expansions, and make that type of a commitment, and fight the regulatory process that we have here, that says "We don't care what Maine law says."

I would be interested in any comments of any individual who first of all feel that there is another way that you could more explicitly clear, than what I sat in my office and worked out with the acting Commissioner and the Director, who both said they could live with the language. Now, I understand one has some concerns.

How do we solve the dilemma that we are in with this particular applicant or any applicant, in this State, who has been wronged as Great Northern Paper Company has been wronged? It is awfully easy to pick on a large corporation and say "Now, those big guys, let's pick on them." But, I will tell you something. Great Northern Paper Company has been a good corporate citizen to this State. That vast wilderness that lies up in the Northern part of the State, has been bought in the past 50 years, by them, on the market, which is there with an open door policy for the general public and the State to use.

They have been a corporation who have shared their fortunes with its' employees and around this State. If you don't believe that, look at some of the contributions that they make all over this State. Sixty thousand dollars to Westbrook College in Portland. Five thousand dollars to Ricker College in Houlton, which folded 90 days after they gave it to them. The list goes on and on, of areas outside of their own perimeters of their little part of Maine, where they have attempted to be responsible corporate citizens.

If they meet that criteria, then I challenge those who propose to this proposal, to come up with their own proposal, that solves the dilemma. Any citizen of this State, be it a large corporation or a small business or an individual. Let's get a process together that works. Let's take care of those who have been wronged in that same process. In this particular instance, that means Great Northern Paper Company, as well.

I, as one, who had to explain very long and tediously, with my two sons, as to why there should be a dam on the West Branch of the Penobscot. My youngest one, who is just a little bit older than I was when I moved up there. You know, they have some reservations about seeing that change come. But, if I honestly believe if we do not do something to address this dilemma, then the Northern part of the State is going to suffer severe economic impact. Others have stressed the importance of the economy, and I understand how it is pretty easy to sit down in some Southern county, and say "This is just not the right way, let's do it some other way. Let's vote against this Bill and let somebody else come up with a solution." If you lived in the Kathadin region, you would see first hand the impact this situation has had. Those of you, who have lived through it, and I know the Senator from Kennebec, Senator Matthews, and Senator Kany went through it just a year ago with Keyes Fibre. The Senator from Cumberland, Senator Usher went through it several years ago, when Westbrook laid off about a third of its' employees.

It is not a pleasant situation to go through. As an elected official trying to help your constituents, when you see some of the adverse impacts on individuals. When you see this type of economic prospect of the future lying before you. I would interestingly listen to some of the more serious responses to the concerns that I have expressed, at this time. Thank you.

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

Senator DIAMOND: Thank you, Mr. President. Men and Women of the Senate. I thank the good Senator from Penobscot, Senator Pray, for posing the questions and for also giving his insight and his opinions, and I think it was well done.

First off, I would like to say that those people who know me well, which is just about everybody here, and I just clarified that with the good Senator from York, Senator Dutremble, that certainly I respect both sides of of the opinion. I am, however, compelled on this issue, to articulate as best I can as to my concerns about my side of this issue.

It has been brought up, just recently, by the previous speaker and also by some other speakers tonight, that jobs are the issue here, and economic development and economic problems in the North vs. South, is the issue. Well, ladies and gentlemen, that is not the issue and I wish it were, because if it were a matter of jobs or whether or not the economy of the Northern part of the State, depended on this issue today, then I would not be standing and arguing one word against it.

That is not the case, and it is not as simplistic as that, but I wish it were. The actual fact is that dam will be built now, anyway, because of a near economic factor. That is, when this whole proposal was set forth a year ago, oil was selling for \$32 per barrel. Testimony showed, if you would like to read it, that \$32 per barrel is just about low as you can go and still make that dam feasible. Right now, as of February 28th, oil was \$13 per barrel.

So, it just does not make economical feasible sense right now. That will all change, of course. The prices go up and down, and I understand that. It is not a matter of jobs. It is not a matter of economy on this issue. We are talking about a Majority Report and we are talking about a Minority Report. Both of which, correct or wrong, both support the intent of Legislation, and that is one stop permitting. Both of which, I think, will allow companies like Great Northern and others, to go and have their permits assessed at one stop and then go on their way without being harassed, or put in a cumbersome manner in any way, by the State Government.

That is what I want. That is what I support. But, it is not a matter of those of us who are voting against this Majority Report or against jobs. It is not that at all. This Bill is not on jobs. It is not on the "Big A". If you look at the legislation carefully, you will see that we're talking about those two Reports - the Majority and the Minority. That is just exactly what we are talking about. One stop permitting not retroactive and keeping the system the way it is and pursuing along as we are, because I can tell you, as I said initially, whether it is 1689 jobs, as was the original number that was given us, or 1150, or 800, that is irrelevant. I would support any of those, if this vote depended on those jobs, or less, I would support that.

That is not the vote tonight, and that is not what we are discussing on this Minority Report, or Majority Report that is before us now. Thank you.

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

Senator PERKINS: Mr. President, Ladies and Gentlemen of the Senate. I have sat and I have listened to the various talk and eloquence of many of my colleagues, and most know, much more than I. And I think one of the statements I read recently said "If the auto were to be proposed today, would it pass any of the musters that have been forced upon us and upon our environmental progress over the past few years". I doubt it. After all, it smells. It is noisy. Some say it needs seatbelts, it kills people and it is expensive. Another progression that we have had, deals directly with what we are talking of today, is electricity. Would electricity itself, pass these stringent tests? After all, it must either go over land or under ground in order to reach the subject for which it is to benefit. And, in this process, would not it, itself, and has not itself destroyed many of the things which we find to hold a thing of beauty, a thing to be preserved? I think we do.

The good Senator from York, told of our resources and he told of our education and our youth. We have often said in this Legislature that we export one of our greatest resources, and I can't but see that we will have to continue to do so. If we eliminate the potential for employment for them, where else will they go, out of State?

Our University System is under scrutiny and one of those colleges is the college of pulp and paper. To what use will that be if our pulp and paper industry can no longer meet the competition? I hear the remarks about that they should reapply, and that thought has crossed my mind. I think of the response of my mother before my father came home on many a day, when I wanted to either buy something, do something which she wasn't sure I should do it, but her response was "We'll see".

Ladies and gentlemen, we'll see. Do you think the people of Millinocket are going to be able to spend and pay the 20 and 30 year mortgages on their homes, on just "we'll see"? Do we think that their children are going to be able to attend colleges? Do you think the Senator from South Portland is going to be able to see her team entertain a basketball team from Millinocket on "we'll see"? I doubt it. I think, and my hearsay tells me, that 6 million dollars have been expended on this application. Bad industry. Bad for the State. Flexing their muscles. Well, maybe. We'll see.

Can we here, say to the people in Millinocket, and the people of Eastern Maine, as a whole, because this reflection, it is the railroads, it is the shopping centers, it is the whole area, because it is one of the larger, if not the largest employer in Eastern Maine. Can we stand by?

There is no question in my mind or anybody here, that it is such a beautiful area, and it does, indeed, need to be preserved in some manner. But, is it a reflection of our courage, as our forefathers had, when they took the time and the fortitude to chance the auto, electricity, and some of the benefits that you and I enjoy today?

I maybe am going to err, because I am going to vote for the Majority Report, though it does deal with the retroactive part. Knowing that this Company has put the best they know how, and has leveled with its' neighbors and with all, to the tune of 6 million dollars.

If I err, I will err on behalf of the people, because I think that is what this Legislature is for.

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

Senator DIAMOND: I request a Roll Call.

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

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

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

The pending question before the Senate is PASSAGE TO BE ENGROSSED, in concurrence.

The Chair recognizes the Senator from Penobscot, Senator Pearson.

Senator PEARSON: Mr. President, Men and Women of the Senate. For purposes of the Record, I want to state that I do not consider the vote that we are taking on this, to be a referendum on the Big "A", but I do consider it a vote on the retroactivity clause.

The President Pro Tem requested that the Sergeant-At-Arms to escort the Senator from Penobscot, Senator PRAY to the Rostrum where he resumed his duties as President.

The Sergeant-At-Arms escorted the Senator from Aroostook, Senator CARPENTER to his seat on the Senate floor.

Senate called to order by the President.

THE PRESIDENT: The Chair would like to thank the Senator from Aroostook, Senator Carpenter, for doing a fine job as President Pro Tem. (Applause)

Off Record Remarks

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

Senator TRAFTON: Thank you, Mr. President. Mr. President, you have asked a legitimate question and you had no full response. That question was "How does Great Northern get from point A to point B, how do you approach a problem such as the one that has been created by an apparent conflict in State Law"? Let me suggest that there are several ways for Great Northern to proceed, because I think there are many people here who would like to resolve this problem in a productive approach.

First, a Resolution was attempted this summer, through some hydro power regulations, through the BEP and LURC. Those regulations, however, were opposed almost unanimously by the hydro electric community, even though they would have resolved this question and this issue with which we are concerned, when it arose its' head late this fall and early this winter. But, there are two approaches left, and I think those are legitimate approaches for Great Northern to follow. In fact, I have suggested one before.

That approach was the Minority Report from the Committee. That was that the water classification standard be changed to the Great Ponds standard. GPA, that then Great Northern could resubmit its' application. And, in fact, as you well know, Mr. President, because you were here at that water quality hearing before the BEP. Mrs. Jepson, who made the motion to deny the petition for reconsideration, suggested at that time that it might not be inappropriate for the Great Northern Paper Company to resubmit its' application, and her motion was made without prejudice to Great Northern so they could resubmit its' application. That is one approach, and as I suggest, I don't see that as an onerous request, because Great Northern has the bulk of its' testimony and its' transcripts and its' exhibits all prepared.

We're simply applying those facts to a new standard. So, I suggest that could be an expedited procedure. That is one approach.

One thing that has not been mentioned is the other approach. As you know, the petition for Reconsideration was denied in late February. If Great Northern Paper Company feels that the BEP acted incorrectly, it still has an opportunity to appeal that decision.

No decision, as I understand it, has been made as to whether or not, to appeal the Board's decision. So, this matter is still ripe for appeal. It could be brought to Superior Court, if, in fact, the Board acted improperly in Great Northern's viewpoint.

There is an avenue that is still open to Great Northern. The Superior Court could, in fact, throw the Board's decision out, or ordered that it be modified in some way. This could be going on at the same time that a rehearing, with a new water quality standard, could be done within the BEP. In fact, both avenues could go on simultaneously.

So, I suggest there are legitimate approaches for Great Northern to use. I suggest that those approaches back to the BEP are more appropriate than their coming to the Legislature and asking us to act retroactively.

I stood here last week and talked for some time and raised the various issues, as to why I believe this Bill was unconstitutional. There has not been one response to my three points of unconstitutionality, by this Bill. Does that mean that everybody accepts the fact that this Bill is unconstitutional, and then still decides to vote the way they have been? I don't think so.

I suggest that the regulatory approach is the better approach. There is an approach for Great Northern to use. I am not trying to put a monkey on Great Northern's back. They have this approach. Let them use it. It is a process that this Legislature, and Legislatures before us created. Other people seem to work within the process. Let's encourage Great Northern to do the same.

THE PRESIDENT: The pending question before the Senate is PASSAGE TO BE ENGROSSED.

A Yes vote will be in favor of Passage to be Engrossed.

A No vote will be opposed.

Is the Senate ready for the question?

The Doorkeepers will secure the Chamber.

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

The Secretary will call the Roll.

ROLL CALL

YEAS: Senators, BLACK, CARPENTER, DUTREMBLE, EMERSON, ERWIN, GILL, MCBREAIRTY, PERKINS, SHUTE, USHER, VIOLETTE, WEBSTER, THE PRESIDENT - CHARLES P. PRAY

NAYS: Senators, ANDREWS, BALDACCI, BERUBE, BROWN, BUSTIN, CHALMERS, CLARK, DIAMOND, GAUVREAU, HICHENS, KERRY, MATTHEWS, MAYBURY, NAJARIAN, PEARSON, SEWALL, STOVER, TRAFTON, TUTTLE, TWITCHELL

ABSENT: Senators, None

13 Senators having voted in the affirmative and 20 Senators having voted in the negative, with 2 Senators having paired their votes and No Senators being absent, the Bill FAILS of PASSAGE TO BE ENGROSSED, in NON-CONCURRENCE.

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

Senator DIAMOND: Mr. President. I would like to pose a parliamentary inquiry. For those of us, who have stated on the Record, and want to have the Minority Report passed, as opposed to nothing, am I correct to assume that we would need to then, back up this Bill for the purpose of Accepting the Minority Report?

THE PRESIDENT: The Chair would advise the Senator to accomplish what he desires, he would need to Suspend the Rules, Reconsider the Acceptance of the Majority Report, defeat the Acceptance of the Majority Report, and then it would be able to remove the Minority Report.

On motion by Senator DIAMOND of Cumberland, the Senate SUSPENDED THE RULES.

On further motion by same Senator, the Senate RECONSIDERED, whereby the Bill was READ A SECOND TIME.

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

The same Senator further moved that the Senate RECONSIDER ACCEPTANCE of the Majority OUGHT TO PASS IN NEW DRAFT Report.

The Chair Ruled the motion NOT PROPER, the Senator not being on the prevailing side.

Senator PEARSON of Penobscot, moved that the Senate RECONSIDER ACCEPTANCE of the Majority OUGHT TO PASS IN NEW DRAFT Report of the Committee.

The Chair Ruled the motion NOT PROPER, the Senator not being on the prevailing side.

On motion by Senator USHER of Cumberland, Senate RECONSIDER ACCEPTANCE of the Majority OUGHT TO PASS IN NEW DRAFT Report.

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

Senator DIAMOND: Mr. President, I request a Division.

THE PRESIDENT: The pending question is the motion of the Chair to ACCEPT of the Majority OUGHT TO PASS IN NEW DRAFT Report.

A Division has been requested.

The Chair recognizes the Senator from Androscoggin, Senator Trafton.

Senator TRAFTON: Thank you Mr. President. I would urge Members of the Senate to vote against the prevailing motion, against the acceptance of the Majority Report.

Senator USHER of Cumberland moved that the Bill and Accompanying Papers be RECOMMITTED to the Committee on ENERGY AND NATURAL RESOURCES in NON-CONCURRENCE.

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

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

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

Senator DIAMOND: Mr. President, I wasn't expecting that one! Mr. President, I was wondering if the kind Senator from Cumberland, Senator Usher, could explain what he is doing this at this point, for myself, and the rest of the Body. Thank you.

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

Senator BUSTIN: Thank you Mr. President, I rise to get in before the good Senator from Cumberland, Senator Usher, to let you know that I applaud the motion to Recommit it to committee. I applaud that, simply because maybe then we can work out this water quality problem. The problems that EPA has put down so well in their letter, and deal with the Attorney General's opinion that has come to our desk. So I will be supporting Senator Usher's motion to Recommit it to the Energy and Natural Resources Committee.

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

Senator USHER: Thank you Mr. President and Members of the Senate. The main reason I want to Recommit this back to my Committee is that we did not discuss a Minority Report. It is just as plain and simple as that. We took the vote and the vote was Ought To Pass, and we did not discuss a Minority Report. That was brought forth when I found out on the third floor. We are concerned about the process, I would rather have the Committee who is dealing with the issues, discuss the Minority Report.

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

Senator DIAMOND: Mr. President, I guess I wouldn't object it going back to Committee, as long as we completed what we just did and that is reject the Majority Report. Where we are now is we are ready to accept or reject that Majority Report. If going back to Committee, I would like to have it leave this position the way it was intended, before we tried to back it up and put in the other Report we had talked about. If that is agreeable with everybody, including the good Chairman of the Committee, then that is fine with me.

THE PRESIDENT: The Pending question is the motion by Senator USHER of Cumberland that this Bill and All Accompany Papers be RECOMMITTED to the Joint Standing Committee on ENERGY AND NATURAL RESOURCES.

The Chair recognizes the Senator from Penobscot, Senator Baldacci.

Senator BALDACCI: Mr. President and Members of the Senate. We have debated the issue, tremendously, spent a long time looking over notes, reading material, or what ever, I would extend the courtesy of Recommitting the Bill to the Committee on Energy and Natural Resources, as suggested by the Chairman, but I think that it is very important for the intent that was within this Body in regards to the time, effort, and votes that have been taken, how this Body feels about the question of retroactivity.

I think that is encumbered and if you feel it necessary that this Body should take a formal vote on that question, of retroactivity, then I would just as soon recommend that.

I would hope that in the deliberations of the Committee, if it does take this issue, that it would look at the processes in which, go called, the aggrieved party, would be able to resubmit its application, without the extensive time involved and money that was expended and that the same time clarify the conflict in the Federal laws and in the State laws. I would appreciate knowing whether the Committee intends to take up the question of retroactivity, or whether this Body would have to vote on it so that that message would be sent.

THE PRESIDENT: The pending question is the motion by Senator USHER of Cumberland, that the Bill and All Accompanying Papers be RECOMMITTED to the Joint Standing Committee on ENERGY AND NATURAL RESOURCES.

The Chair recognizes the Senator from Penobscot, Senator Baldacci

Senator BALDACCI: Mr. President, I would urge people to vote against the motion to Recommit this Bill to the Committee. Once it is in the Legislature, upstairs on the third floor, we can all watch it and work with it. It will be sent back down to the House in Non-concurrence. We will have an opportunity for that Committee to get together and work on it, rather than any other procedure. I think that that can be accomplished.

I think it is unfortunate that we have to take so much time on these particular issues, but I would encourage you to vote against that motion, send it down to the House and allow the time in between for the Committee, they can Table it in the House and allow the time for the Committee to get together and work on some recommendations to amend it and that way, at least, the vote of this Senate would be on record, in regards to that particular portion of the Bill, which seems to bother a tremendous amount of people. I would encourage you to vote against Recommitting it to Committee.

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

Senator VIOLETTE: Mr. President and Ladies and Gentlemen of the Senate. I would urge you to vote to support the motion of the Chairman of that Committee. I understand the remarks that have been made, well maybe I really can't understand the remarks made by the gentlemen from Penobscot, Senator Baldacci. This Chamber has dealt at length on this issue and has been debated extensively. It is obvious that there is great concern. I would rather that this matter be sent back to that Committee, that has dealt with this issue, with this entire issue of water quality. Allow that Committee to have this matter before them again, and to deal with it, not in a framework where it is felt it must be an expedited process, which will allow that Committee an opportunity to have that Bill before it.

I am in hopes that the Committee will, obviously pay deference to the comments that have been made in this Body, as well as those in the other Body, in returning to the floor with some legislation. I do not think it is a vote in terms of your position on this Bill.

The matter will come back to the Body at some point, I don't want to belabor this issue any more this evening, but I think perhaps if there is one sign that this Chamber can show to the public at large, it is that it does not have to carry this issue to such an extreme, as not to allow it to return to the Committee process from whence it came and to allow that Committee to deliberate upon it and hopefully return it back to this Chamber, knowing the concerns that have been expressed in both Bodies, to be dealt with. That would be my hope. If that is not what the Committee does with it then this Body may do as it has done this evening with it, once again. I hope we would extend, it is a significant courtesy I would grant you that, it is not a common courtesy at this point in terms of something that we do, but this is not part of the average legislation. I would hope today that you would join the Senator from Cumberland, Senator Usher the Chairman of that Committee, in allowing that Bill to go back to its Committee. I thank you.

Senator USHER of Cumberland requested and received leave of the Senate to withdraw his motion to RECOMMIT Bill and all Accompanying Papers.

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

Senator DIAMOND: Mr. President, what the Chairman of the Committee just did, was to allow us what I asked previously, which was to allow us to finish the vote on this and then I for one would not mind it and support it going back to Committee, for all the reasons that the good Majority Leader just pointed out. As I requested initially, we do want it to leave this Body with the vote that it had before.

THE PRESIDENT: The pending question before the Senate is the motion of the Chair to ACCEPT the Majority OUGHT TO PASS IN NEW DRAFT Report.

A Division has been requested.

Will all those Senators in favor of the motion to ACCEPT the Majority OUGHT TO PASS IN NEW DRAFT Report of the Committee, please rise in their places and remain standing in their places until counted.

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

12 Senators having voted in the affirmative and 22 Senators having voted in the negative, with 1 Senator being absent, the motion of the Chair to ACCEPT the Majority OUGHT TO PASS IN NEW DRAFT Report FAILS in NON-CONCURRENCE.

On motion by Senator USHER of Cumberland, Bill and Accompanying Papers RECOMMITTED to the Committee on ENERGY AND NATURAL RESOURCES, in NON-CONCURRENCE.

Sent down for concurrence.

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

Bill "An Act to Amend the State Subsurface Waste Water Disposal Laws"

S.P. 853 L.D. 2153

On motion by Senator BROWN of Washington, Senate Amendment "A" (S-401) READ and ADOPTED.

Which was PASSED TO BE ENGROSSED, as Amended.

Sent down for concurrence.

ORDERS OF THE DAY

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

Bill "An Act to Expand and Continue Alcoholism Treatment, Education, Prevention and Research Programs"

H.P. 951 L.D. 1370
(C "A" H-532)

Tabled - March 10, 1986, by Senator CLARK of Cumberland.

Pending - ADOPTION of Committee Amendment "A" (H-532) as Amended by Senate Amendment "A" (S-384) thereto

(In Senate, March 10 1986, Senate Amendment "A" (S-384) to Committee Amendment "A" (H-532) READ and ADOPTED.)

(In House, March 3, 1986, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-532).)

On motion by Senator CLARK of Cumberland, Senate Amendment "E" (S-400) to Committee Amendment "A" (H-532) READ and ADOPTED.

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

Senator BUSTIN: I challenge the germaneness of that amendment. That amendment is exactly the same as the Minority Report. Almost word for word.

THE PRESIDENT: The Chair would respond that the amendment is germane. It is, in essence the same as the Minority Report. That however, does not make the amendment not germane.

The Chair would inform the Senator that the Amendment has been adopted.

Senator BUSTIN of Kennebec moved the Senate RECONSIDER its action whereby it ADOPTED Senate Amendment "E" (S-400) to Committee Amendment "A" (H-532).

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

Senator TRAFTON: I request a Division.

THE PRESIDENT: A Division has been requested.

The Chair recognizes the Senator from Kennebec, Senator Bustin.

Senator BUSTIN: I request a Roll Call.

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

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

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

The Chair recognizes the Senator from Penobscot, Senator Pearson.

Senator PEARSON: Mr. President, I feel like I am standing on the platform and the train is pulling out and I don't know where it is going. I would like to have somebody explain to me what this is all about.

THE PRESIDENT: The Senator from Penobscot, Senator Pearson, has posed a question through the Chair to any Senator who may care to respond.

The Chair recognizes the Senator from Kennebec, Senator Bustin.

Senator BUSTIN: If you will take a look at your filing number (S-400), you will see that it is the same as the Minority Report. The Minority Report, as I explained to you this morning on this Bill, is part of that unanimous vote of the Taxation Committee to raise the premium. However, the Minority Report undedicates the funds. This morning we voted to dedicate it. I was not quick enough and did not realize that it was going under the hammer as fast as it was on this amendment, which is why we need to have a vote to Reconsider this, so we can defeat this amendment.

THE PRESIDENT: The pending question before the Senate is the motion of Senator BUSTIN of Kennebec, to RECONSIDER ADOPTION of Senate Amendment "E" (S-400) to Committee Amendment "A" (H-532).

A Roll Call has been ordered.

Is the Senate ready for the question?

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEAS: Senators, ANDREWS, BLACK, BUSTIN, CHALMERS, DIAMOND, DOW, DUTREMBLE, ERWIN, GAUVREAU, GILL, HICHENS, MATTHEWS, PERKINS, STOVER, TWITCHELL, WEBSTER

NAYS: Senators, BALDACCI, BERUBE, BROWN, CARPENTER, CLARK, EMERSON, KERRY, MAYBURY, MCBREAIRTY, NAJARIAN, PEARSON, SEWALL, SHUTE, TRAFTON, TUTTLE, USHER, VIOLETTE, THE PRESIDENT - CHARLES P. PRAY

ABSENT: Senator KANY

16 Senators having voted in the affirmative and 18 Senators having voted in the negative, with 1 Senator being absent, the motion of Senator BUSTIN of Kennebec, to RECONSIDER ADOPTION of Senate Amendment "E" (S-400) to Committee Amendment "A" (H-532), FAILS.

Senate at Ease

Senate called to order by the President.

Senator VIOLETTE of Aroostook moved the Senate RECONSIDER ADOPTION of Senate Amendment "A" (S-384) to Committee Amendment "A" (H-532).

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

Senator VIOLETTE: Mr. President, I am moving Reconsideration where the Senate Adopted Senate Amendment "A" (S-384), which was Senator Twitchell's amendment, which we Adopted this morning. Now that we have Adopted Senator Clark's amendment, Senate Amendment "E" (S-400), this evening.

Senate Amendment "A" (S-384) at this point, has no more purpose and is in conflict with Senator Clark's amendment. As you remember, Senator Twitchell's amendment, this morning, referred the dedicated fund accounts to various appropriate committees, for other appropriation or allocation. Since those funds are no longer dedicated, after having adopted Senate Amendment "E" (S-400), this evening, Senator Twitchell's amendment of this morning, Senate Amendment "A" (S-384), is in conflict with Senator Clark's amendment, Senate Amendment "E" (S-400). Therefore, I would be moving its Indefinite Postponement.

Senator BUSTIN of Kennebec moved this matter be Tabled 1 Legislative Day, pending the motion of Senator VIOLETTE of Aroostook to RECONSIDER ADOPTION of Senate Amendment "A" (S-384) to Committee Amendment "A" (H-532).

Senator CLARK of Cumberland requested a Division.

THE PRESIDENT: A Division has been requested.

Will all those Senators in favor of the motion of Senator BUSTIN of Kennebec to TABLE this Bill 1 Legislative Day, please rise in their places and remain standing until counted.

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

16 Senators having voted in the affirmative and 12 Senators having voted in the negative, the motion of Senator BUSTIN of Kennebec, to TABLE 1 Legislative Day, pending the motion of Senator VIOLETTE of Aroostook to RECONSIDER ADOPTION of Senate Amendment "A" (S-384) to Committee Amendment "A" (H-532), PREVAILS.

ITEM HELD

Senator CHALMERS of Knox, moved that the Senate RECONSIDERED PASSAGE of:

Joint Order recognizing David Himmelstein
HLS 808

(In Senate, March 10, 1986, READ and PASSED in concurrence.)

(In House, March 6, 1986, READ and PASSED.)

Senator CHALMERS: It seems a long time ago, this morning, first thing, we passed as one of the House supplements, a recognition for David Himmelstein, for the world premiere for the movie "Power" in South Portland. You will excuse me, but I come from Knox County and the world premiere was in Rockland. I have discussed this matter with the various sponsors of this and I would ask you to Reconsider and Indefinitely Postpone that and I will draft a new House Sentiment, which more accurately reflects what happened.

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

Senator NAJARIAN: Mr. President, it is true that the Senator from Knox County, Senator Chalmers, consulted me before she made that motion, but my thinking is a little slow tonight, and it occurs to me that the showing of the movie "Power", in Rockland, was to a private audience, and would that be considered a world premiere? Whereas, in South Portland, the public at large could attend.

Off Record Remarks

On motion by Senator CLARK of Cumberland, Tabled 1 Legislative Day, pending the motion of Senator CHALMERS of Knox to RECONSIDER PASSAGE.

Senator BUSTIN was granted unanimous consent to address the Senate Off the Record.

On motion by Senator CLARK of Cumberland, ADJOURNED until March 11, 1986, at 9:00 in the morning.