

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

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

Comes from the House PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-385) AS AMENDED BY HOUSE AMENDMENT "B" (H-567), thereto in NON-CONCURRENCE.

The Senate RECEDED and CONCURRED.

In Senate Chamber
Wednesday
March 12, 1986

House Papers

Senate called to Order by the President.

Bill "An Act to Create a Noncommercial Scallop License and to Adjust Fees for the Scallop Boat License"

H.P. 1537 L.D. 2173

Prayer by Father Thomas Joyce of the St. Mary's Catholic Church in Augusta.

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

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

FATHER JOYCE: Oh God, we ask Your blessing upon all gathered here, this morning. We seek Your divine guidance and strength, and never forgetting Your blessings of the past, we thank You for all of them. In petition, we humbly pray for all here, for the strength and courage to fulfill their duties. In Your goodness, watch over those in authority, that our State may always enjoy freedom, security and peace.

We pray, today, with confidence and trust. Protect, as always. Make us always realize our dependence on You. That all of our works may begin with You, and in You, be happily ended. Amen.

COMMITTEE REPORTS

House

Leave to Withdraw

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

Reading of the Journal of Yesterday.

Bill "An Act to Amend the Motor Vehicle Laws with Reference to Operating Under the Influence to Decriminalize Proceedings under the Traffic Infraction Laws" (Emergency)

H.R. 636 L.D. 904

PAPERS FROM THE HOUSE

Non-concurrent Matter

Ought To Pass As Amended

Bill "An Act to Correct Some Inconsistencies in the Law Relating to the Financing of Services in the Unorganized Territory" (Emergency)

S.P. 713 L.D. 1838
(C "A" S-385)

The Committee on JUDICIARY on Bill "An Act Relating to the Time of Passamaquoddy Tribe Trust Land Designation"

H.P. 1183 L.D. 1680

In Senate, March 5, 1986, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-385).

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-565).

Comes from the House, with the Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-565).

Which Report was READ and ACCEPTED, in concurrence.

The Bill READ ONCE.

Committee Amendment "A" (H-565) READ and ADOPTED, in concurrence.

The Bill as Amended, LATER TODAY ASSIGNED FOR SECOND READING

Ought to Pass in New Draft

The Committee on BUSINESS AND COMMERCE on Bill "An Act to Clarify the Confidentiality Provisions of the Maine Banking Code"

H.P. 1224 L.D. 1731

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

H.P. 1532 L.D. 2159

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

Which Report was READ and ACCEPTED, in concurrence.

The Bill in NEW DRAFT READ ONCE.

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

The Committee on JUDICIARY on Bill "An Act to Eliminate Exemptions from Jury Service"

H.P. 1368 L.D. 1932

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

H.P. 1531 L.D. 2158

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

Which Report was READ and ACCEPTED, in concurrence.

The Bill in NEW DRAFT READ ONCE.

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

Senator CARPENTER: Mr. President, Ladies and Gentlemen of the Senate. I rise, only because this Bill has caused a great deal of concern, and a number of questions to my self, and to other Members of the Judiciary Committee. What we attempted to do, by this Bill, was to narrow the list of exemptions that were previously in the statute. Over the years, as happens with sales tax exemptions and other kinds of things, the list of exemptions had grown and grown. We thought it was time to reassess. We are guaranteed right to trial by jury by our peers, and that pool of peers, if you will, was shrinking rapidly as various and sundry special interest groups had come in, and gotten themselves exempted by class. What we have tried to do, is be honest, objective and exempt only those who would have a truly legitimate and overriding right to be exempt, and those who might, in some way, impede the judicial process. Therefore, we kept out the Governor, obviously judges, attorneys, and active duty National Guard Persons. Attorneys, I initially had concerns with, but the argument was made to me, and I feel a little bit sheepish standing here talking about attorneys being exempted, but the argument was being that you don't want an attorney in the jury room, with a group of your peers, because they might unduly influence the jury process. Then the jury might end up listening to the attorney rather than the instructions that the judge had given them.

Those are the exemptions. The physician, dentist exemption, if you will, was removed. If you look at the Bill, which in New Draft, is L.D. 2158, a doctor or a dentist may now be called for jury duty. However, they will automatically be excused from that call, in other words, we have thrown the burden onto them, they will be excused from that call if they maintain that for them to serve, it would cause a threat to the public health and that they are in active care. In other words, retired doctors and dentists, and others who are not in active patient care, will have to make their case without any help from the statute. We felt this was a good middle ground. It was acceptable to the physicians that we dealt with, and obviously to their lobbyist. But, I think the Bill is good, in that it does take a first step in narrowing down the list of exemptions, which if you look at the Bill, and look at the people who were crossed out, all officers of the United States, nobody was sure what that meant. Whether that meant Federal Employees, whether it meant a military officer, or just exactly what it meant. So, we have taken those exemptions out of the law. Those people are now subject to jury call, just as the rest of us are. So, that is what the Bill does. It is a watered down version. It leaves only, I think 4 exemptions. I'm sorry. It exempts Sheriffs, as well. So, we have narrowed the list of exemptions down to 5, rather than about 12 that it was before. Thank you.

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

Senator BALDACCII: Mr. President. I would like to pose a question through the Chair to the good Chairman of the Judiciary Committee, Senator Carpenter, or to any other Member of the Senate who may care to answer. It is my understanding that the physician, the active physician, the practicing physician or dentist, would still have to go to court when they are being presented as potential jurists, and how long of a time would that encompass for that individual to be away from that active practice?

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

The Chair recognizes the Senator from Knox, Senator Chalmers.

Senator CHALMERS: They would call in, when the doctor or dentist received notice, that little envelope saying "Would you please fill out the questionnaire, you are going to be put on the jury list." They would then call in to the court, and if they could explain to the satisfaction of either the Clerk or the Justice, that they were in active care, if it were an obstetrician and the woman was going to produce within the next week or so. If they were a dentist and there was some active care that required their presence, on a regular basis, then they would get an excuse from the Justice. They would not have to go down.

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

Ought to Pass in New Draft under New Title

The Committee on STATE GOVERNMENT on Bill "An Act to Permit Administration of Home Winterization Programs on an Optional Basis Through Local Municipalities"

H.P. 1327 L.D. 1862

Reported that the same Ought to Pass in New Draft under New Title Bill "An Act to Permit Specific Municipalities to Serve as Administrators of Fuel Assistance Programs"

H.P. 1536 L.D. 2163

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 LATER TODAY ASSIGNED FOR SECOND READING.

Senate

Ought to Pass As Amended

Senator PEARSON for the Committee on APPROPRIATIONS AND FINANCIAL AFFAIRS on Bill "An Act to Establish a Toll-free Statewide Hot Line for Victims of Sexual Assault and Domestic Violence" S.P. 796 L.D. 2003

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (S-407).

Which Report was READ and ACCEPTED.

The Bill READ ONCE.

Committee Amendment "A" (S-407) READ and ADOPTED.

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

SECOND READERS

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

House As Amended

Bill "An Act to Establish a Land and Air Search and Rescue Procedure for Missing Aircraft Personnel" H.P. 1362 L.D. 1906 (C "A" H-563)

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

Bill "An Act to Increase the Maine Child Care Credit Under the State Income Tax" H.P. 1310 L.D. 1826 (C "A" H-562)

Which was READ A SECOND TIME.

On motion by Senator TWITCHELL of Oxford, the Senate RECONSIDERED its action whereby Committee Amendment "A" (H-562) was ADOPTED.

On further motion by same Senator, Senate Amendment "A" (S-406) to Committee Amendment "A" (H-562) READ and ADOPTED.

Committee Amendment "A" (H-562) as Amended by Senate Amendment "A" (S-406), thereto ADOPTED in NON-CONCURRENCE.

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

Sent down for concurrence.

Senate As Amended

Bill "An Act to Allow the Freeport Sewer District to Acquire the Freeport Branch of the Maine Water Company" (Emergency)

S.P. 763 L.D. 1927
(C "A" S-404)

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

Sent down for concurrence.

ENACTORS

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

An Act Transferring Legislative Jurisdiction over Acadia National Park, St. Croix Island International Historic Site, Portsmouth Naval Shipyard, Veterans Administration Center at Togus and the Soldiers' Lots at the Mount Pleasant Cemetery

S.P. 761 L.D. 1925

An Act to Conserve Striped Bass

H.P. 1448 L.D. 2041
(S "A" S-391)

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

Off Record Remarks

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

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

Senator KANY: Thank you, Mr. President. Mr. President and Members of the Senate, it is nice to come home after having been away on Legislative business for the last nine days.

The only unhappy news to return home to, really, was the problem - the continuing problem with the railroad. Of course, Waterville is the center of the railroad industry in the State, with railroad shops and railroad yards. I am really disturbed to read, in the papers, that things are as bad as they are. Really, just barely falling short of violence.

I has occurred to me, driving down from Waterville this morning, after having spent some time catching up on the local newspapers and every day having a recurring front page story on the strikes and threats and so on. I was wondering - where is George Campbell? What is he doing? He works for Guilford Transportation. He is very familiar with the State of Maine and its' people. I ask him to remember his roots. He was our State Development Director, our Commissioner of Transportation, and he served as a Town Manager of Dexter. Now, here he is, one of the major executives for Guilford Transportation. We have not heard a word from him. I publicly call upon George Campbell to remember his roots, remember the people of Maine and to speak up for us. Let us hear from him!

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

On motion by Senator GILL of Cumberland RECESSED until 4 o'clock.

After Recess

Senate called to order by the President.

Under suspension of the Rules, all matters previously 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:

PAPERS FROM THE HOUSE

Non-concurrent 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)

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

In Senate, March 11, 1986, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-532) AS AMENDED BY SENATE AMENDMENT "E" (S-400) thereto in NON-CONCURRENCE.

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

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

House Papers

Reported Pursuant to Resolve 1985

Report of the Special Commission to Study the Utilization of Vacant Buildings at Pineland Center, pursuant to Resolve 1985, Chapter 36 ask leave to submit its findings and to report that the accompanying Resolve, Authorizing a Continuation of the Study of the Utilization of Vacant Buildings at Pineland (Emergency)

H.P. 1539 L.D. 2170

Be referred to the Joint Standing Committee on HUMAN RESOURCES for Public Hearing and printed pursuant to Joint Rule 18.

Comes from the House with the Report READ and ACCEPTED and the Resolve referred to the Committee on HUMAN RESOURCES and ORDERED PRINTED.

Which Report was READ and ACCEPTED, in concurrence.

The Resolve referred to the Committee on HUMAN RESOURCES and ORDERED PRINTED, in concurrence.

Joint Resolution

The Following Joint Resolution: H.P. 1538

JOINT RESOLUTION IN RECOGNITION OF THE GREAT CULTURAL HERITAGE OF THE STATE OF MAINE

WHEREAS, from its inception the State of Maine has tied its fortunes to a spirited people of diverse talents and backgrounds; and

WHEREAS, this people has crafted a proud and finely textured cultural heritage as its legacy; and

WHEREAS, it is important to remember what has gone before us in order to appreciate the quality of our present every day life; and

WHEREAS, Maine's artistic traditions as exemplified by the works of E. B. White, Andrew Wyeth and Walter Piston owe much to the spirit and sensibilities of the State's people and land; and

WHEREAS, the myriad of contributions made by Maine's citizens to folk arts and crafts are equally important and should be similarly recognized; and

WHEREAS, the wealth of traditions and industries of Maine's seafaring community are full and well documented; and

WHEREAS, the cultural heritage of our State owes as much to the arts and traditions of the French-Canadian, Shaker, Ukrainian, Native American and other ethnic communities as to those of the sea; and

WHEREAS, in observance of this rich cultural heritage, the Governor will issue a proclamation, to coincide with Statehood Day, recalling lengthy and important traditions in all the arts; and

WHEREAS, this important event will contain appropriate celebration and activity in Maine's schools, colleges, universities, theatres, museums, studios, galleries, and workshops as coordinated by the Maine State Commission on the Arts and the Humanities; now, therefore, be it

RESOLVED: That We, the Members of the 112th Legislature of the vibrant and culturally diverse State of Maine, now assembled in Second Regular Session pause in our deliberations to recognize the State's cultural heritage and its effect on the quality of our daily lives; and be it further

RESOLVED: That in honor of Maine's diverse and textured heritage, we recognize and support the observance of cultural heritage, a celebration of the people and art of Maine during a period from March 10th through the 16th as proclaimed for that express purpose by the Governor of the State of Maine.

Comes from the House READ and ADOPTED.

Which was READ and ADOPTED, in concurrence.

COMMUNICATIONS

The Following Communication:

JOB
PARTNERS IN TRAINING

March 10, 1986

Ms. Joy J. O'Brien
Secretary of Senate
Maine State Senate
State House Station #3
Augusta, Maine 04333

Dear Ms. O'Brien:

Attached is a PY '86/'87 JTPA Title II-A Summary Job Training Plan for Maine's 15-County Service Delivery Area (SDA). The Summary JTP is developed as a draft response to planning instructions from the Maine Department of Labor, Bureau of Employment and Training Programs and the Maine Job Training Council (MJTC).

This Summary JTP has been sent to you as part of a review and comment procedure in hopes that any questions your review might raise could be responded to and/or appropriately addressed in the JTP's final version. Accordingly, any issues you wish to communicate to us should be communicated in writing to me by close of business on March 24, 1986.

Thank you.

Sincerely,

S/George R. Ezzy
SDA Director

Which was READ and with Accompanying Papers ORDERED PLACED ON FILE.

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 to Improve the Quality of Milk"
H.P. 145 L.D. 179

Bill "An Act to Require that State Programs Recognize the Impact of Minimum Wage Increases"
H.P. 1197 L.D. 1702

Bill "An Act Regarding Smokeless Tobacco"
H.P. 1242 L.D. 1752

Divided Report

The Majority of the Committee on TRANSPORTATION on Bill "An Act Relating to a New Registration Plate Issue"
H.P. 229 L.D. 263

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

H.P. 1540 L.D. 2171

Signed:

Senators: ERWIN of Oxford
SHUTE of Waldo
DOW of Kennebec

Representatives: MILLS of Bethel
CALLAHAN of Mechanic Falls
THERIAULT of Fort Kent
CAHILL of Woolwich
POULIOT of Lewiston
McPHERSON of Eliot
STROUT of Corinth
SOUCY of Kittery
MOHOLLAND of Princeton

The Minority of the same Committee on the same subject reported that the same Ought to Pass in New Draft under same title (Emergency).

H.P. 1541 L.D. 2172

Signed:

Representative MACOMBER of South Portland

Comes from the House with the Majority OUGHT TO PASS IN NEW DRAFT Report READ and ACCEPTED and the Bill in NEW DRAFT PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "A" (H-568).

Which Reports were READ.

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

Senate

Divided Report

The Majority of the Committee on STATE GOVERNMENT on Bill "An Act to Amend the Requirement that All Part-time Law Enforcement Officers be Trained by the Maine Criminal Justice Academy" S.P. 798 L.D. 2005

Reported that the same Ought Not to Pass.

Signed:

Senators: ANDREWS of Cumberland
KERRY of York

Representatives: HICHBORN of LaGrange
LACROIX of Oakland
GWADOSKY of Fairfield
NADEAU of Saco
DESCOTEAUX of Biddeford
WENTWORTH of Wells
DILLENBACK of Cumberland
SPROUL of Augusta

The Minority of the same Committee on the same subject reported that the same Ought to Pass As Amended by Committee Amendment "A" (S-410).

Signed:

Senator: HICHENS of York

Representatives: COTE of Auburn
BOUTILIER of Lewiston

Which Reports were READ.

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

SECOND READERS

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

House

Bill "An Act to Clarify the Confidentiality Provisions of the Maine Banking Code" H.P. 1532 L.D. 2159

Bill "An Act to Eliminate Exemptions from Jury Service" H.P. 1531 L.D. 2158

Bill "An Act to Permit Specific Municipalities to Serve as Administrators of Fuel Assistance Programs" H.P. 1536 L.D. 2163

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

House As Amended

ORDERS OF THE DAY

Bill "An Act Relating to the Time of Passamaquoddy Tribe Trust Land Designation" H.P. 1183 L.D. 1680 (C "A" H-565)

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

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

Bill "An Act to Strengthen State-local Cooperation through Regional Councils" H.P. 837 L.D. 1181 (C "A" H-558)

Tabled - March 11, 1986 by Senator VIOLETTE of Aroostook.

Pending - PASSAGE TO BE ENGROSSED AS AMENDED

(In Senate, March 11, 1986, READ A SECOND TIME.)

(In House, March 11, 1986, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-558).)

Senate As Amended

Bill "An Act to Establish a Toll-free Statewide Hot Line for Victims of Sexual Assault and Domestic Violence" S.P. 796 L.D. 2003 (C "A" S-407)

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

Sent down for concurrence.

On motion Senator TUTTLE of York, the Senate RECONSIDERED its action whereby it ADOPTED Committee Amendment "A" (H-558).

On further motion by same Senator, Senate Amendment "A" (S-409) to Committee Amendment "A" (H-558) READ.

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

ENACTORS

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

An Act to Establish an Official Endangered Plant List H.P. 1413 L.D. 1997 (H "A" H-554; C "A" H-552)

An Act to Perfect the Maine Business Opportunity Sales Act H.P. 1514 L.D. 2136

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

Senator TUTTLE: Mr. President and Members of the Senate. Just as a point of clarification. The purpose of this Amendment is to strike the 2nd and the 3rd paragraphs of the Committee Amendment, and revise the appropriation accordingly. We had inadvertently left some language out in the Committee, and the Bill had already gone through First Reading before we had figured it out. So, this Amendment clarifies that.

Senate Amendment "A" (S-409) to Committee Amendment "A" (H-558) ADOPTED.

Committee Amendment "A" (H-558) as Amended by Senate Amendment "A" (S-409) thereto ADOPTED in NON-CONCURRENCE.

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

Sent down for concurrence.

Off Record Remarks

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

Bill "An Act Concerning State Contribution to Pollution Abatement"

H.P. 1469 L.D. 2071
(S "A" S-389; H "A" H-540)

Tabled - March 11, 1986, by Senator VIOLETTE of Aroostook.

Pending - FURTHER CONSIDERATION

(In House, March 3, 1986, PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "A" (H-540).)

(In Senate, March 5, 1986, PASSED TO BE ENGROSSED AS AMENDED BY SENATE AMENDMENT "A" S-389 AND HOUSE AMENDMENT "A" H-540 in NON-CONCURRENCE.)

(In the House, March 10, 1986, PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "A" (H-540) AS AMENDED BY HOUSE AMENDMENT "A" (H-564) thereto AND SENATE AMENDMENT "A" (S-389) in NON-CONCURRENCE.)

On motion by Senator VIOLETTE of Aroostook, the Senate ADHERED in NON-CONCURRENCE.

Sent down for concurrence.

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

Bill "An Act to Extend the Trust Land Designation of the Penobscot Nation"

S.P. 721 L.D. 1844
(C "A" S-402)

Tabled - March 11, 1986, by Senator VIOLETTE of Aroostook.

Pending - PASSAGE TO BE ENGROSSED AS AMENDED

(In Senate, March 11, 1986, READ A SECOND TIME.)

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

On motion by Senator VIOLETTE of Aroostook, the Senate removed from the Tabled and Later Today assigned matter:

Bill "An Act Relating to the Time of Passamaquoddy Tribe Trust Land Designation"

H.P. 1183 L.D. 1680
(C "A" H-565)

Tabled - March 12, 1986, by Senator VIOLETTE of Aroostook.

Pending - PASSAGE TO BE ENGROSSED AS AMENDED

(In Senate, March 12, 1986, READ A SECOND TIME.)

(In House, March 11, 1986, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-565).)

On motion by Senator PEARSON of Penobscot, the Senate RECONSIDERED its action whereby it ADOPTED Committee Amendment "A" (H-565).

On further motion by same Senate Amendment "A" (S-411) to Committee Amendment "A" (H-565) READ.

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

Senator PEARSON: Mr. President and Men and Women of the Senate. What I have to say, I think, is very important, because I want to reestablish legislative intent at the same time, while offering this Amendment. This Amendment is an Amendment to allow the Passamaquoddy Tribe to purchase land, pursuant to the Indian Land Claim Settlement Act. Each year an extension has been given to both the Penobscot and the Passamaquoddy Tribes, to continue to do what was promised to them, under the Indian Land Claim Settlement Act.

That is, that they would be able to continue to buy land in areas designated by the State, and agreed to by the Tribes, pursuant to that Act. It is a normal thing that we have done continually, to keep our end of the bargain for the two Tribes. This allows them to continue the purchases and the swapping that has been going on for some time, since the Settlement Act.

The reason I am elaborating on this, is because I want anybody who may read this Record to realize that it was the intention, and is the intention of the State to keep the agreement that we had with the Tribes, because it is very important. The Department of Energy's recent moves in the State, and in particular in the Bottle Lake complex, with regards to the possibility of placing a nuclear high level dump there. This is not a new action of this Legislature. It is simply a continuation of a promise that that land in that area, and other areas so designated, are still able to be purchased by the Indians, as we promised, provided they could find a willing buyer in the area that they wish to purchase the land from. So, this Amendment extends that for 2 years, instead of 1, which was the original Bill. I am making the assertion for the Record, that this is simply a continuation of a promise, a responsibility that we have, and so does the Federal Government.

Senate Amendment "A" (S-411) to Committee Amendment "A" (H-565) ADOPTED.

Committee Amendment "A" (H-565) as Amended by Senate Amendment "A" (S-411), thereto ADOPTED in NON-CONCURRENCE.

On motion by Senator VIOLETTE of Aroostook, Tabled Unassigned, pending PASSAGE TO BE ENGROSSED AS AMENDED in NON-CONCURRENCE.

On motion by Senator VIOLETTE of Aroostook, the Senate removed from the Tabled and Later Today assigned matter:

Bill "An Act to Extend the Trust Land Designation of the Penobscot Nation"

S.P. 721 L.D. 1844
(C "A" S-402)

Tabled - March 12, 1986, by Senator VIOLETTE of Aroostook.

Pending - PASSAGE TO BE ENGROSSED AS AMENDED

(In Senate, March 11, 1986, READ A SECOND TIME.)

Senate at Ease

Senate called to order by the President.

On motion by Senator PEARSON of Penobscot, the Senate RECONSIDERED its action whereby it ADOPTED Committee Amendment "A" (S-402).

On further motion by same Senator, Senate Amendment "A" (S-412) to Committee Amendment "A" (S-402) READ.

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

Senator PEARSON: Mr. President, Men and Women of the Senate. This does for the Penobscot Nation, the same as the previous Amendment did for the Passamaquoddy Tribe. It allows them to continue to be able to purchase land that we promised would be available for them to purchase, if they could find a willing seller. It allows them to continue what they have been promised that they could do, under Federal Legislation, State Legislation and Tribal approval, under the Indian Land Claims Settlement Act.

It allows them to continue to be able to purchase land, specifically in the Bottle Lake area, that is now being considered for a nuclear high level repository, both in Hancock, Washington and Penobscot Counties. It will be Tabled after the induction of this Amendment, pending the approval of the Tribal State Commission. It is our promise to keep our word, just as we expect the Federal Government will keep their word.

Senate Amendment "A" (S-412) to Committee Amendment "A" (S-402) ADOPTED.

Committee Amendment "A" (S-402) as Amended by Senate Amendment "A" (S-412), thereto ADOPTED in NON-CONCURRENCE.

On motion by Senator VIOLETTE of Aroostook, Tabled Unassigned, pending PASSAGE TO BE ENGROSSED AS AMENDED.

Off Record Remarks

Senate at Ease

Senate called to order by the President.

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

HOUSE REPORTS - from the Committee on TRANSPORTATION on Bill "An Act Relating to a New Registration Plate Issue."

H.P. 229 L.D. 263

Majority Report - Ought to Pass in New Draft under same title (Emergency)

H.P. 1540 L.D. 2171

Minority Report - Ought to Pass in New Draft under same title (Emergency)

H.P. 1541 L.D. 2172

Tabled - March 12, 1986, by Senator VIOLETTE of Aroostook.

Pending - ACCEPTANCE OF EITHER REPORT

(In Senate, March 12, 1986, Reports READ.)

(In House March 12, 1986, Majority OUGHT TO PASS IN NEW DRAFT (H.P. 1540) (L.D. 2171) Report READ and ACCEPTED and the NEW DRAFT PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "A" (H-568).)

On motion by Senator DOW of Kennebec, the Majority OUGHT TO PASS IN NEW DRAFT Report ACCEPTED, in concurrence.

The Bill in NEW DRAFT READ ONCE.

House Amendment "A" (H-568) READ.

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

Senator VIOLETTE: Mr. President. I would like to pose a question through the Chair to any Member of the Committee on Transportation, who may care to elaborate on what this House Amendment does to the Majority Report?

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 Dow.

Senator DOW: Thank you, Mr. President and Members of the Senate. Just to answer some of the questions, and to go into a little detail on the Bill. The Majority Report, of course, is alot different than the Amendment. The colors stayed the same. Right now, the color is a white background with red Maine and Vacationland and blue letters. The Amendment would then put the lobster across the middle of the plate. We came out of the Committee, as you can see, with a Divided Report, only the Division was not with the lobster on there. We had taken numerous votes in the Committee, and as you might well imagine, some of them with a lighthouse on the plate, some with a lobster, some with a pine tree, one with a moose, and the last one that I heard was the plate made in the shape of a lobster.

After we had taken numerous votes, we had a 7 to 6 Ought to Pass Report, without the lobster on it. We had decided, once we got a Majority, that is the way we would send it out, and that is the reason that it has not a Divided Report as far as the design goes. If you are interested in a little other information. Incidentally, everyone has a copy of what the plate would look like. They say that is a lobster but it looks more like a bug to me, of some sort. I am not sure if it is a crayfish, but I am sure it is not a black fly. It certainly does look like a bug. Then, somebody asked if there were any way we could have it green during the summer, and after dark, could it be red. I am not sure that is a good idea. That is some of the things you deal with.

We need the new plate. To answer a couple of the questions that might be coming along. The cost is 1.6 million dollars. We have increased the plate, and incidentally, there are two plates, we haven't done anything differently than what there is now. One plate for the front and one plate for the back. We are charging \$1 per plate, for each one for the first time. That will bring in enough revenue so there will not be any cost other than that to the Transportation Committee.

Any other questions that you might have, I will try to answer.

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

Senator BALDACCI: Mr. President. Just a point on this particular issue. I know it has been made light of in regards to the design. I think there is a more important issue here, and I recognize that this Body has always stood up and been counted and risen to the occasion. I think the issue here is that students got active and involved in a particular issue. They came to Augusta last year. They presented their design to the Committee on Transportation. They had tee shirts, then stickers. They went all over the State. They got very involved in the process. We recently had an examination where it showed that testing among our students was that only 43% of them, given 4 names, recognized the United States Senators. I think this is an opportunity that we have today, to demonstrate to them, that their voice will be heard in Augusta. That they would be included in the process, and that their State Senator is looking out to make sure that the process is protected.

I would like to say to those students, that in today's vote, and in all of the work that they have put into it, that it is due to their efforts and accomplishments, that we do have this design on the plate. Thank you, Mr. President.

House Amendment "A" (H-568) ADOPTED, in concurrence.

The Bill in NEW DRAFT as Amended, TOMORROW ASSIGNED FOR SECOND READING.

Senate at Ease

Senate called to order by the President.

The Chair laid before the Senate the Tabled and 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 12, 1986, by Senator VIOLETTE of Aroostook.

Pending - FURTHER CONSIDERATION

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

(In Senate, March 11, 1986, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-532) AS AMENDED BY SENATE AMENDMENT "E" (S-400) thereto in NON-CONCURRENCE.)

(In House March 12, 1986, that Body ADHERED in NON-CONCURRENCE.)

Senator TWITCHELL of Oxford moved that the Senate RECEDE and CONCUR.

Senator VIOLETTE of Aroostook moved that the Senate RECEDE.

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

Senator BUSTIN: Mr. President. 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 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 Chair recognizes the Senator from Kennebec, Senator Bustin.

Senator BUSTIN: Mr. President. If the motion to Recede is defeated, what is the next motion in order?

THE PRESIDENT: The Chair would advise the Senator that the motion to Recede and Concur, to Insist, or to Adhere would be proper.

The Chair recognizes the Senator from Aroostook, Senator Violette.

Senator VIOLETTE: I would appreciate, and I would hope this evening, you would support the motion to Recede. I would like to move this Bill back to a point where I will Indefinitely Postpone Senator Clark's Amendment of yesterday, which would have Undedicated the Bill, which would have Undedicated the premium, and I then wish to offer my Amendment, which raises the premium, leaves in place the present Dedicated premium fund, but any additional increase in the premium would go to the General Fund. That is the purpose for my moving to Recede from Engrossment.

I would hope you would support that motion, so I would have the ability to back this Bill up, and then if you find so fit to oppose my Amendment, so be it.

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

Senator BUSTIN: My purpose in asking for a defeat of the Recede motion, is because it is now 5:30 at night. There are many Members who want to go home. There are two dinners going on for fund raising, that started at 5:00 o'clock. We have handled this issue many, many times, already. It seems to me that all we have to do, if we allow these Amendments to go on, is to debate those and then debate the Recede and Concur, and it is going to take a tremendous amount of time. That is the reason for that. If Senator Violette so desires, out of deference to him, I will withdraw my motion and give him a chance to put on his motion and Amendment, and remind the Members they would need to defeat the Amendment "E", in order for Senator Violette to be able to put on his other Amendment. We would need to accept the defeat of the Amendment "E", which would be a positive vote, in order for Senator Violette to put on his other Amendment.

Senator BUSTIN of Kennebec requested and received Leave of the Senate to withdraw her motion for a Roll Call.

Senate at Ease

Senate called to order by the President.

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

Senator VIOLETTE: Mr. President, Ladies and Gentlemen of the Senate. It pains me, but I will ask Leave of the Senate to withdraw my motion to Recede from Engrossment, because as I understand it, the only two motions that are properly before this Body at this time, seeing as how the other Body has Adhered, is the motion to either Adhere in this Body, or to Recede and Concur. So I am asking Leave of the Senate to withdraw my motion on Receding from Engrossment.

Senator VIOLETTE of Aroostook requested and received Leave of the Senate to withdraw his motion to RECEDE

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

Senator VIOLETTE: Mr. President, Ladies and Gentlemen of the Senate, I will not belabor this issue, this evening, at length. I would stand here in opposition to the motion by the good Senator from Oxford, Senator Twitchell, to Recede and Concur with the other Body.

I would hope that we would defeat that motion and that we would then Adhere to our prior action, here in this Body. I do that and I will say for the same reasons that this Body voted as it did yesterday in accepting Senator Clark's Amendment, to undedicate that fund. I stand today, and those issues are the issues of accountability, in terms of those monies. Those issues are, when funding is necessary for other issues, of higher priorities.

Those monies, because they are dedicated, are not available. In time, when we should be raising money to make up for losses of Federal Funds, in my opinion, it is not time to be increasing dedicated accounts. It is not as if this program does not receive substantial other funds, from other sources. There will be no more increases in terms of funds coming from the Bureau of Alcoholic Beverages, to the dedicated fund. In my opinion, the amounts of money going to this dedicated fund, will be growing smaller, and smaller.

As recently, as you all are aware, last year, effective with the fiscal budget for the Federal Government, their year starting October 1st. The new 5% tax on alcohol at the Federal level, in only the past five months, the Department of Alcohol Beverages has seen a reduction in the amount of 2.5 million dollar loss to the General Fund, because of a drop in sales of 33,000 cases.

I have no problem with reduced consumption of alcohol, but, it is primarily due to the increase in the cost, there has been a decrease, in terms of consumption by some 33,000 cases, with a loss of 2.5 million dollars to the General Fund.

In a time when we are in need of other revenue sources, as a result of matters occurring in Washington, we are now going to increase this, if the motion to Recede and Concur prevails, we are now going to be increasing what now is already the highest alcohol tax in New England, from some 67 and one half cents per case, to approximately 70 cents per case. In excess of 20% higher than Vermont and 40% percent higher than New Hampshire. It is not as if this is not being consumed, but simply means that there will be more reason for people to be crossing over into the State of New Hampshire, whose tax per case is some 40 cents, and ours will be going over 60 cents. This is a tax that is based on consumption. The more people consume, the more money goes to treat this, and go to this dedicated account. If there is such a need, then I fervently believe, that that need should be addressed, if there is more than 5 million dollars necessary for alcohol abuse, from the State Government, then fine. Only if they can justify those expenditures, those programs in the process that we have.

If we increase this dedicated fund, by adding this additional tax, we will continue to see a reduction in sales. In my opinion, not because there is less consumption, but because we are losing those sales to the State of New Hampshire.

If, in the last five months, we have seen a decrease, and from what I understand, a net loss to the General Fund of 2.5 million dollars, on a 5% increase from the Federal Government, I can only surmise as to what the additional loss of revenue will be to the General Fund, when we increase and double the premium.

There is a fiscal note on this Bill. I think that is something that should concern us. When people go to buy these products elsewhere, they buy other products at the same time. When people go to New Hampshire to buy alcoholic beverages and other products, while they are there, they certainly buy other products. I have heard on numerous occasions, when Members of this Body, as they have stood here last year and the year before, debating this very same issue, particularly those Senators from Western Maine, and Southern Maine, and wanting to create more discount liquor stores, to compete against New Hampshire, not because they were concerned about the loss of alcohol revenue, but because of all of the other losses of business to the Southern part of this State.

This has not been a problem in the Northern part of the State, where I come from, but I have heard it said on the floor of this Senate, time and time again, by Members of this Body, who come from Southern Maine, who have supported, not all, but some, who have supported Legislation, creating more discount liquor stores on that border. Trading seasonal stores in order to deal with that problem, and now what we are going to do is exacerbate that situation.

There will be all the more reason to go to the State of New Hampshire to purchase this product, and thence while there, take advantage of the fact that there is no sales tax on many more items, in the State of New Hampshire.

I think that should be a concern here. For 1.8 million dollars, that is all that this is going to generate. This doubling of this premium. That is all - 1.8 million dollars. It generates 2.4 with a loss of \$600,000 dollars to the General Fund. If this 1.8 million dollars can be so substantiated, it is still beyond my understanding, as to why those people, those providers cannot go through the appropriations process to get the money for their programs.

I believe, and I maintain that they are afraid to go through that process. That they are afraid that their programs will not be justified in that process, when it comes to the other priorities that are before the Legislature.

In my opinion, one of the reasons why, they are going back to this dedicated account, is because, evidently there must be some inability to get this money out of the General Fund.

Now, what we are going to do, is double the tax, we're going to see a further erosion of these funds to the General Fund, a further loss of competition in Southern Maine, for that business there.

And, so I begin to question, not only the regressive aspects of this tax, because nobody can deny that it is not only regressive, it is blatantly regressive, because not only, is it a regressive, but it is a tax on volume, not the value of the product.

If we were to tax automobiles the same way, on the excise tax, I guess if a Porsche weights as much as Volkswagon, you would pay the same amount of money. But, that is not the way we pay our excise tax, when it comes to that product. No, we don't. We pay on the value of the product. That is the difference here. This tax is blatantly regressive. That concerns me. Not only is it regressive. Not only does this fund lack the accountability that it should. It also means a continuing loss of business for Southern Maine to the competing State of New Hampshire. It means a loss to the General Fund, in my opinion, far in excess of the fiscal note on this Bill, because that fiscal note does not begin to take into consideration the further loss of funds through the sales tax.

So, I challenge you, this evening, to consider these issues that I have raised. I know that there has been a great deal of lobbying, on both sides of this issue. But, I ask you. Why is this group, who receive their funds, a small percentage of their funds, from this account, it just defies me to understand why they are so determined, not to have to go through that process that my bills do and your bills do, and everybody elses.

That is the issue here, this evening. The issue isn't an individual program here, or there. There is no doubt that these programs, if they are providing a necessary benefit, and they are appropriate, that they will not be funded. But, they do not want to go through that process. I think you should question that. It should immediately raise a red flag, when there is a group that doesn't want to go through that appropriations process, and have to justify to that Committee and ultimately to the Legislature.

So, I raise those issues with you, this evening, for you to ponder, when you finally vote on this matter. I think that the ramifications of this Legislation go far beyond the issue that is trying to be made, and that is somehow you are opposed to providing services for those who are, evidently, in need. Or, providing wage increases, because there hasn't been an increase in this fund since 1981. The simple fact of the matter is that there is far more money that comes in from other sources, than from this fund.

There is something like 8 million dollars, if I remember, that comes from other sources. There is money available in other areas, there are other dollars available. It is for those people with the monies that they have, to establish their own priorities.

It is not my fault that they have decided to detain so many people in these programs, or not to give them wage increases since 1981. Let them take those funds from something else within the services that they are providing.

That is what we all have to do in our programs. When we do not receive an increase, we have to go back, we have to look at them, and we have to decide where we are going to make some cuts.

I guess these people, these programs, are somehow beyond that process. I am beginning to wonder how they are going to deal with the reality of what is going to be an increase, in terms of a loss of funds that is going to be coming from the Federal Government, when they can't even deal with this minor problem. How are they going to deal with this problem, as their funds are reduced because their income from this tax is based upon consumption. Thank you.

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

Senator BERUBE: Thank you, Mr. President. May I pose a question to the Chair, please?

THE PRESIDENT: The Senator may state her inquiry.

Senator BERUBE: We have heard that there is a fiscal note on this Bill, and yet, somehow I can't seem to find it anywhere. Could we have what the amount is?

Senate at Ease

Senate called to order by the President.

THE PRESIDENT: In response to the inquiry of the Senator from Androscoggin, Senator Berube's question, the Chair believes he has the most recent and up to date fiscal note on this Bill. "The revenue estimate is a loss of \$600,000 of undedicated revenue. Highway fund revenue dedicated is 2.4 million dollars. The proposed Legislation would increase dedicated revenues to alcohol premium fund by 2.4 million dollars in the fiscal year - 1986 - 1987. The loss of General Fund revenue due to reduced sales directly attributed to this Legislation would be \$600,00 in fiscal year - 1986 - 1987. The estimate of the loss of General Fund revenues was reduced after discussion with the Commissioner of Finance and Administration, and further analysis of the impact the past Legislation, present consumption trends and other similar factors."

The Chair recognizes the Senator from Androscoggin, Senator Berube.

Senator BERUBE: Does this mean that this Bill, if Enacted, would go to the Appropriations Table, or would funding be found prior to that?

THE PRESIDENT: The Chair would inform the Senator, it would be his opinion, due to the fiscal note, of a loss of undedicated revenue, that it would be placed on the Special Appropriations Table.

The Chair recognizes the Senator from Androscoggin, Senator Berube.

Senator BERUBE: Somehow, my predecessor, Senator Danton, was giving me a message, because I can't get the microphone to work properly, but somehow, I recall that he had spoken very well, last year, against this Bill. It hasn't worked for me. I guess, I just want to say something. I have, on my desk, many, many questionnaires, that have been returned. I think that when we pass a Bill, I know where this thing is going, and frankly, I marvel at the magnificent lobbying that has taken place. I confess, to you, that the lobbying of the Big "A" pales in comparison to this. What disturbs me, is where the lobbying for a private sector monies, come from private sector. The monies lobbying for this come from a different source, the tax payer.

I guess, that is what disturbs me. I think that when we look to fund or expand a program, or to raise revenues, we have to look at two things: the cost, the benefit and how does it affect the people we represent? I know it is getting late. Some people are hungry, but I think it has to be said. I think that the organization that runs this program has spent 2.6 million dollars, last year, from the premium tax. That many of the programs that have been funded in your localities, were funded, not be this, but by the Block Grant Fund, which is, I think, 6 million dollars per year.

I heard someone say, the other day, that we needed this very badly, to bring education in the local schools, and I think that is terrific. I would vote for any appropriation to do this, on the General Fund. But, when I see that in the Research Fund Account, that close to \$400,000 is available, and yet a letter from the Department of Finance, tells me that for the 10 positions, most of that money goes in that particular category, to salaries, fringes, travel, most of it is administrative and that is good, I suppose, but they found \$5500, only to fund these programs for the school system. This is in this particular category, I am saying now. \$5500 and mini-grants of \$100 to \$1500, and yet, we have the gall, and forgive me, Mr. President, I have never spoken like this. But, we have the gall to go to the well one more time and ask for another 2.5 million dollars, without accountability?

I know where it is going. I just want you to know how my people feel. There is concern about alcohol treatment and drug abuse treatment, as anybody else. One lady called me today, and of course, the telecommunication was in fine spirits these past few days, it was working very well. She didn't know why we should vote, she told me to Recede and Concur.

This was just one of the five that I received today. I told her what it would do if we undedicated it, because the organization she represented might get a little bit more. She said "You do what you have to do, and I know you're right, but I have been asked to say this."

I won't even say what two of the other people said. Coming back to my survey's. When the question was posed "Do you want to continue dedication to the alcohol abuse treatment fund?" Sixty nine said "Yes", and 228 said "No", and 45 were undecided.

You could feel the frustration of the people. You know, they take the time to check off these little squares. They take the time to put a 22 cents stamp on this. They don't have to, but they do. It's their contact with their elected official. You can see the frustration even more, when instead of 1 check mark in the "No", they put 4 check marks, and they underline it. One man wrote "The greedy expletive deleted." Another woman said "It is about time we had another Boston Tea Party, because I never see any of this." I am sorry if I have been long winded, but I feel very strongly about raising taxes. If, with this tax, you would assure me, that all of it went for the purpose for which it is intended, but if you look at the expenditure account for the past 2 years, and the projected expenditures for this 1986 - 1987, I think you would vote to go along with my Majority Leader, Senator Violette.

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

Senator BUSTIN: I was not going to rise, because I am aware of the time, but I feel there have been some allegations that need to be answered because the members need to know. One is the charge that the taxpayers are paying for the lobbying that has been going on here. I do not think that is correct. The Maine Association of Substance Abuse providers, did in fact, hire a lobbyist. They pay dues, they get donations and grant monies. They do not use premium funds to pay what they need for their own organization. It is their own organization. It is not an organization that is funded by the premium fund.

Accountability, I will only go over once again. Accountability is greater in this fund than in any other fund that I know of in this Legislature. It not only goes before a Committee for allocation of the priorities that come in from four different departments, that have put a plan together, so they do not have duplication, but it then goes down to the Appropriations Committee for appropriations. I don't know what other kind of accountability that you need. I might remind you that if you have treatment programs, you need counselors, you need to pay salaries. People do not get served unless there are real people there, with real knowledge, that knows how to handle those. They simply do not get served. You don't take somebody who has a problem with alcohol, and put them in a room for a week or ten days, or thirty days, and then say "O. K., thirty days are up, come on out. You are all better." You need to pay salaries to do that kind of thing.

As far as the amount from the General Fund. It is not 6 million, it is 3.4 million for 1985 - 1986. It is 1.8 from the Federal Government, and I suspect that will be down, and yes, we will have to deal with that. It is 2.4 million from the premium.

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

Senator CLARK: Thank you, Mr. President. Mr. President, Men and Women of the Senate. I am not going to offer an explanation, or an apology for my standing before you at this late hour. I am standing because I stood in 1981, against then L. D. 1655, not against the concept embraced in the issue before us. But, against the single issue of dedication vs. undedication. That concerns me, and it has, and I hope it will increasingly concern you.

I have worked long and hard on this issue. I have some remarks to say. If you find it tiresome, and you have other commitments, then you may do as your conscience directs. I do not mean to appear insensitive or discourteous. There are some remarks that I need to make. I even got a copy of my speech, back from June 2, 1981, and I thought I might spare you, all of that. Some of you were here then. Some of you probably recognize that what I have to say is perhaps a reworking of those remarks.

What we have here this evening is a motion to Recede and Concur. The question is not whether the tax will be assessed, but whether that the gains of that assessment will be placed in the General Fund. That is the only difference between the two positions. That is the only difference.

There is something fascinating about this choice, and that assumption, I am going to hopefully clarify, at least for my own satisfaction. Those, who would seek to keep the dedicated fund, probably embrace the assumption, unfortunately, that the Appropriations Committee, or whatever committee reviews requests for alcoholism related funds, and this Body, indeed the Legislature as a whole, will not vote to allocate adequate tax monies, raised through the premium tax, for the treatment, the prevention and the education of alcohol abuse, which has coincidentally, been expanded to include drug abuse treatment.

I respect your positions. I would hope that I could change it. I have this very strong feeling, as I did on that June evening in 1981, that the outcome of the pending motion will be much the same. As a Member of this Legislature, who cares very deeply about alcoholism, I resent the assumption that the Committee on Appropriations and Financial Affairs, and indeed, this Legislature, would not allocate adequate tax monies, generated from the premium tax, for the treatment of alcohol.

Those, who would support undedicating these monies, and those who would heavily roaded, in the force of the heavy lobbying which has occurred today, and we all have experienced these pressures, would request that the money generated from the tax, be appropriated by the appropriate committee, and this Legislature.

The Appropriations Committee, which reviews the requests for money, for alcohol services, and all of us in the Legislature, do care. We do care about alcohol services. Together, I fervently believe, that we will appropriate monies to those projects, even though they compete with other projects, ranging from Education, to Parks and Recreation, and other public services.

Earlier, this week, the good Senator from Kennebec, Senator Bustin, shared with us a host of results of severe alcoholism. Those results of alcoholism fall into categories such as medical treatment, for those who have reached that point, or at least to the extent that they qualify for Medicaid. It falls in the field of child abuse and sexual abuse. The problems of alcoholism are found in victims of domestic violence, in the numbers, the increasing numbers, of divorces in our State. In displaced homemakers and fetal alcoholic syndrome. In mediation services for divorce cases. It also impacts on those who are unable to pay their taxes, and for elderly people of incomes who would qualify for rent and property tax relief.

All of those myriad human needs, which I have attempted to abbreviate in an abbreviated form outline, are not funded from the alcohol premium tax fund. All of those services are funded out of the General Fund. They compete with all of the other programs and services that this State provides for its' citizens.

And so the alcohol dedicated premium tax fund, moves merrily onward. Yes, they address the needs across our State, but I find the distinction between two positions, here this evening, remarkable. I believe it is this Legislature, which is leading the Nation, in the crack down on drunk driving, I believe that it is this Legislature, that has enacted the most comprehensive set of liquor controlled laws in the entire Nation. And, I believe that it is this Legislature, which has dealt with bill after bill to improve the way our society in Maine, deals with alcohol. I have complete confidence that the Appropriations Committee, and this Legislature, as previous Legislatures, will continue to act, in the future, with the same degree of concern, it has acted with in regard to alcoholism, in the recent past.

There is nothing on the horizon to suggest that this Legislature, should this fund be undedicated, act irresponsibly. It is because I have that confidence, that I introduce Senate Amendment "B", to undedicate the alcohol premium taxes. I didn't have to ask you to join me, a couple of nights ago, as I presented that Amendment, but I would like to tell you why now. There is not a person in this Body, whose life has not been touched in some way, by the terrible problems of alcoholism. I am no exception. There is not a person here who would not rejoice at a cure, and that would not help another to become cured of alcoholism. Where we differ, those who would undedicate and those who would dedicate, is in our approach.

There are those who believe that we should not hold, and I say this sincerely, the current programs and services, under the same type of scrutiny and level of accountability, that all of the other programs and services afforded our citizens would be held.

I must say, I am not among them. I believe it is counter-productive to fund money through a dedicated tax, because it encourages waste and inefficiency. Yes, it undermines public confidence in the varying solutions that we care most about creating and supporting. Yesterday morning, I arrived at the Legislature early. I received a phone call from a constituent of mine in Senate District 26. That phone call at 25 minutes of 8, was as follows, and I will share it with you. "I have been told to call you, Senator Clark, and ask you are a provider to move away from supporting undedicating the alcohol premium tax monies." Now, while I paraphrase this conversation, I am relating it to you as accurately as I can remember it. I answered "I am afraid that I am unable to respond to you positively, for I am the Senator who introduced the Amendment that would undedicate the fund." This provider of services then went on to say "I have been a provider of alcoholism in the State of Maine since 1973, and I have done my job and have done what I have been asked to do. May I speak to you now, as your constituent? I have never talked with you before." I said "Of course you can." This gentleman said it would be the best thing in the world, if these monies would be undedicated. I asked him, of course, "Why?" He said "Because it is run like a closed shop. There is no accountability, there is no measure of effectiveness, there is no restructuring of programs welcoming new ideas. I said "I appreciate your position. I would hope, should these funds not remain undedicated, which is not likely, (I admitted it, even then, I say parenthetically), that you would address your concerns to the appropriate supervisor and program managers." He said "I have, to no avail. I have only been threatened with dismissal."

If that reinforces my quest to enhance the evaluation aspect of the premium fund, I would hope, at least, that you might be concerned. For that was from the mouth of a provider of services, not a receiver of services. Alcoholism is as much subject to the truth of accountability and evaluation as any other problem. When we first started the alcohol premium tax, yes, I admit it, it made sense to dedicate the money so that we could be certain that we studied the problem well enough, and that we got some programs off the ground. But, that was back, in 1981. It is not 1986. That is more than 4 and almost 5 years ago, now. Since that time, this Legislature, has refused to increase the tax, agreeing with arguments that we needed to make sure we were spending the first 2.5 million dollars, that we dedicated, to the solution to this problem well before we allocated more money to the solution to this problem.

In that time, we created a bureaucracy full of people who cared deeply about alcoholism, and yet, whose jobs depend on the funding we are discussing today. Like you, I have heard from many of these people employed in the bureaucracy, and I have heard from many people who are concerned outside of the bureaucracy. Some have been State employees. Some have been non-State employees. I have heard from Superintendents, as have you, who have beseeched us to increase the tax, but who have not always beseeched us to leave it dedicated. Those letters and telephone calls are coming in now, or coming in between the time of the Adoption of Senate Amendment "E" and this evening.

I honestly can't blame the people, who would seek to retain the dedicated feature of the alcohol premium tax fund. In lay terms, they have a good thing going. In some respects, they're no different from defense contractors, but I guess I shouldn't enter into that fray. As a Legislator, I must ask myself, and I would hope you will ask yourself, whether the program, these that are currently administered, will create better programs, if they compete with other programs for the dollars, should this fund be undedicated.

I must ask, and hope you would ask, whether their programs will be better if they compete with child abuse programs, the remedial reading programs, and yes, as you would imagine, the educational programs. Or, whether there will be better programs if they compete with no programs at all. The answer is crystal clear to me. In a free enterprise system, where the market place prevails, programs are better when they compete. The effectiveness of the programs are better when they compete. The accountability of programs are better with they compete. It is a rule of nature. It applied to those who provide the alcoholism programs and services, as well as throughout the rest of the State Government.

If, as I surmise, the program remains dedicated, I would hope that committee's who review what the programs and services offered, would look at seek and ask for more accountability. Not a report, which contains numbers of people served, and statistics, but programs have been evaluated, questioned, reevaluated, and measured for effectiveness. If the program, surrounding alcoholism, should be undedicated, there is a risk, and I am willing to accept that risk, and the risk is simply that unworthy programs may not be funded. That the money might merely be placed in the Alcoholic Premium Tax Trust Fund, to be spent another day, when its' expenditure will be better deserved. I can accept that.

I would invite you to accept that, too. Or, chances are, that if the money were undedicated, it might even be better to spend it on child abuse, which is a direct result in many instances, of alcoholism. It might even be better, to spend some of those monies for victims of domestic violence, so frequently the victims of alcoholic abuse. It might even be better to spend it for displaced homemakers, for mediation services in divorces which result from alcoholism.

That would be a decision of the Appropriations and Financial Affairs Committee, and this Legislature, all would decide. You know what, Members of the Maine Senate? I think we can decide and I think we can decide it well. I have faith in our process, and I would hope that you would too. Thank you, Mr. President.

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

Senator BUSTIN: Mr. President, Ladies and Gentlemen of the Senate. Even though I do not see a great deal of you here listening to me, but there have been some statements made, and I think I ought to address them. One is, if you will look at me, that this is the Alcoholic Prevention, Education and Research Fund for 1985, progress report, July 1, 1984 to June 30, 1985. Programs to be continued in 1986 - 1987. It is signed by the four commissioners. That is what is presented to us. This is what they tell us. We have gone all through that. I think that everybody has this, or has had it at some time. I can't think of a more thorough way to take a look at what kinds of programs we have. This yellow document that I have here, is entitled "Alcohol and Drug Abuse Planning Committee Public Form Document," February, 1986, prepared by the staff of the Alcohol and Drug Abuse Planning Committee. The introduction, and I will just take a minute to read you a little bit of that, is "The Maine Drug and Alcohol Abuse Planning Committee has continued to work with various groups to address the alcohol prevention, education and treatment needs of the Maine citizens. During the past year, we have focused upon the needs of populations that have been traditionally under served, the elderly and the native American. Policy issues that could have a significant influence upon the Alcoholism Services system. The need for residential rehabilitation, for instance." That is only part of it. It goes on and on, as to what they do. I offer this as evidence that there is much accountability, all through the State on this. I do not know about that provider. The providers that I hear from, the superintendents that I hear from, the people who have received services that I hear from, are very supportive of what is being done. Now, the reason, and I have to remind you, we started this fund in the first place, was because we had all kinds of people coming to us, saying that the system wasn't working. The ODAT system wasn't working in this State, and we needed something different. That is why we set up the Joint Select Committee. That is why we set up the Alcohol and Drug Abuse Planning Committee. That is why we did that, because everybody was complaining that they were not being heard. You will always find, with a shortage of funds, which there will always be to address the alcohol program in Maine, you will always find that there will be people who are dissatisfied because their requested proposal did not get funded.

We sit here every day of the week, turning down people's proposals. Ought Not to Pass Reports. That is the way the system works. There is nothing that can be done about that. That's just the way it is.

As far as the General Fund, funding the alcoholism programs, I don't know about the five year period, 1975 - 1980, but I also had copies made of the Legislative Record in 1981. In my remarks, I said to you then, that the 1.8 million from the General Fund then, I just told you tonight, there is 1.8 million from the General Fund six years later. My point is made.

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

Senator CLARK: The General Fund, in the current fiscal year, contributes to alcoholism programs, to the tune of \$3,592,438. The Alcohol and Drug Youth Planning Committee received \$43,539, Corrections, to address the problems of alcoholism, received \$127,475. The Department of Educational and Cultural Services received \$97,619. The Department of Human Services received \$2,464,956. The Mental Health and Retardation received \$858,849. The General Fund contributes to these programs and peripheral results of alcoholism, to the tune of \$8,422,827. Four years ago, that total was approximately 4 million dollars. I would say that the Legislature and the Appropriations process, bodes well for alcoholism and drug prevention, education and treatment programs.

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

Senator SEWALL: Thank you, Mr. President and Members of the Senate. If we are all going to go back tonight to 1981, I might add a little new, old information. I am reacting to one remark, which has very little to do with money. It has to do with a remark made by the good Senator from Kennebec, Senator Bustin, when she said "People can't get the help without paid counselors. They just can't go and get the help without paid counselors. They have to be paid, and they need raises." May I remind you, that the single most successful treatment for alcoholism, the organization who is still far beyond everyone else in the curing of alcoholics, and in helping people recover from the disease, is Alcoholics Anonymous, it does not tax its' clients, does not charge its' clients, nor does it charge the tax payers one cent.

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

Senator BUSTIN: Thank you, Mr. President. Ladies and Gentlemen of the Senate. I had heard this many, many times, so I did some research. I came up with some very interesting things. I think that everybody knows that the AA is a very, very good organization. It was started in 1935, and it has probably been the single most important factor in recognizing alcoholism as a disease. I applaud that organization. It is one of the most important elements of alcohol treatment in this Country, today.

Even, in this world today. They are all over the Country. I just want to read you some history that I have dug up. Marty Mann was the first woman to maintain sobriety in AA, and a number of other founding members, Marty was one of them. After 10 years, decided another organization should be formed to address the need to educate the public about alcoholism as a disease. And, to provide public policy positions and to have a strong link with the general public about the alcoholism issues.

All of this could not be done under the traditions of AA. Thus, Marty Mann founded the National Council on Alcoholism, in 1944. Approximately 9 years after AA had been founded. NCA became the first National organization to insist on the recognition of alcoholism, as a disease. NCA inspired the passage of the American Medical Association, AMA Resolution. Hospitalization of patients with alcoholism. This recognized the need to provide medical care for alcoholics, based upon the disease concept.

NCA created the labor management model for Employee's Assistance Program. NCA was the first to focus public attention on the Fetal Alcohol Syndrome, and emphasized the special needs of women in minorities. In 1972, Senator Hughes, backed by NCA public policy group, drafted and passed major National legislation, which funds the National Institute on Alcoholic Abuse and Alcoholism. The NI Triple A, which has created various State agencies, such as ODAT throughout the United States.

I could go on, but in the interest of time, I won't. That is what the AA has done. The founders of that formed another organization, recognizing that they needed many legs to the treatment field.

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

Senator NAJARIAN: Mr. President. I would like to pose a question through the Chair to the Gentlewoman from Kennebec, Senator Bustin, if she could provide, for the Senate, the Membership on the Alcohol and Drug Abuse Planning Council?

THE PRESIDENT: The Senator from Cumberland, Senator Najarian, poses a question through the Chair to any Senator who would care to respond.

The Chair recognizes the Senator from Kennebec, Senator Bustin.

Senator BUSTIN: Thank you, Mr. President. The Members of the Council, I am not exactly sure what you were asking, but, they are the representatives of the 4 different departments.

THE PRESIDENT: The pending question is the motion of Senator TWITCHELL of Oxford, to RECEDE and CONCUR.

The Chair will order a Division.

The Chair recognizes the Senator from Kennebec, Senator Bustin.

Senator BUSTIN: Mr. President. 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 Senator 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 pending question before the Senate is the motion of Senator TWITCHELL of Oxford, to RECEDE and CONCUR.

A Yes vote will be in favor of Receding and Concurring.

A no vote will be opposed.

Is the Senate ready for the question?

The Doorkeepers will secure the Chamber.

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

Senator SEWALL of Lincoln who would have voted Nay requested and received permission to pair her vote with Senator ANDREWS of Cumberland who would have voted Yea.

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

Senator USHER of Cumberland who would have voted Nay requested and received permission to pair his vote with Senator PEARSON of Penobscot who would have voted Yea.

Senator MAYBURY of Penobscot who would have voted Nay requested and received permission to pair her vote with Senator PERKINS of Hancock who would have voted Yea.

The Secretary will call the Roll.

ROLL CALL

YEAS: Senators, BALDACCI, BLACK,
 BUSTIN, CARPENTER, CHALMERS,
 DIAMOND, DOW, EMERSON,
 ERWIN, GAUVREAU, GILL,
 HICHENS, KANY, MATTHEWS,
 STOVER, TWITCHELL, THE
 PRESIDENT - CHARLES P. PRAY

NAYS: Senators, BERUBE, CLARK,
 KERRY, MCBREAIRTY, SHUTE,
 TUTTLE, VIOLETTE

ABSENT: Senator, BROWN

17 Senators having voted in the affirmative and 7
Senators having voted in the negative, with 10
Senators having paired their votes and 1 Senator
being absent, the motion by Senator TWITCHELL of
Oxford, to RECEDE and CONCUR, PREVAILS.

On motion by Senator KANY of Kennebec
ADJOURNED until Thursday, March 13, 1986, at 9
o'clock in the morning.