

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

Bill "An Act to Authorize a General Fund Bond Issue in the Amount of \$14,500,000 for Sewer Treatment Facilities and Storage of Road Salt and Sand"

H.P. 1617 L.D. 2288

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

In Senate Chamber
Monday
March 31, 1986

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

Senate called to Order by the President.

SENATE PAPERS

Pursuant to Resolves

Joint Select Committee on NURSING CARE NEEDS

Senator BUSTIN for the Joint Select Committee on NURSING CARE NEEDS to which was referred the Study Relative to the Current and Projected Needs of Maine Citizens for Additional Nursing Care Services, pursuant to Resolves 1985, Chapter 47, have had the same under consideration and ask leave to submit its findings and to report that the accompanying Bill "An Act to Authorize Additional Facilities for Long-term Care"

S.P. 913 L.D. 2280

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

Which Report was READ.

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

Senator BUSTIN: Mr. President, I just want to make some comments that I was not able to make on Thursday when the good Senator from Washington, Senator Brown, was making some statements of the availability on nursing home beds. I think that the Ladies and Gentlemen of the Senate ought to take a very good look at that study, because there is a crying need for nursing home beds. You might think that because of that need that you wouldn't need Certificate of Need for the veterans' home beds, but that is not what it is all about. In the nursing home study, what we learned was that there would be upwards of 1300 beds that we could add in this State in order to take care of the need. When you start adding those 1300 beds, then you start adding an incredible amount of health care dollars to the system. What the State had suggested in their budget requests was only 190 beds.

Prayer by Reverend Herbert Reid of the Church of World Brotherhood in Fairfield.

REVEREND REID: God shed His grace on Thee and crown Thy good with brotherhood from sea to shining sea. Amen.

Reading of the Journal of Thursday, March 27, 1986.

Off Record Remarks

PAPERS FROM THE HOUSE

House Papers

Bill "An Act Relating to the Labeling of Milk"
H.P. 1616 L.D. 2287

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

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

What the Committee came up with was to recommend an additional 270 beds. That does not mean that we do not recognize that we may need upwards of 1300 beds. What it recognizes is that we have limited resources to expend on those beds and that is why you go through Certificate of Need for all of those nursing home beds. Thank you.

Which Report was ACCEPTED.

The Bill referred to the Committee on HUMAN RESOURCES and ORDERED PRINTED.

Sent down for concurrence.

(See Action Later Today)

COMMITTEE REPORTS

House

Ought to Pass As Amended

The Committee on APPROPRIATIONS AND FINANCIAL AFFAIRS on Bill "An Act to Establish the Maine State Parks Development Fund"

H.P. 1483 L.D. 2095

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-605).

Comes from the House, with the Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-605).

Which Report was READ and ACCEPTED, in concurrence.

The Bill READ ONCE.

Committee Amendment "A" (H-605) READ and ADOPTED, in concurrence.

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

Ought to Pass in New Draft

The Committee on HUMAN RESOURCES on Bill "An Act to Provide Medicaid Coverage for Mental Health Services for Children in Certain Hospital Facilities"
H.P. 1348 L.D. 1884

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

H.P. 1610 L.D. 2267

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 LEGAL AFFAIRS on Bill "An Act Concerning Private Adoptions"

H.P. 1499 L.D. 2112

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

H.P. 1605 L.D. 2262

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 STATE GOVERNMENT on Bill "An Act Relating to Boards and Commissions"

H.P. 1424 L.D. 2013

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

H.P. 1614 L.D. 2269

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.

Divided Report

The Majority of the Committee on LEGAL AFFAIRS on Resolve, to Permit Edgar Warren to Sue the State for Compensation for Injuries Incurred While He was a Ward of the State

H.P. 1377 L.D. 1940

Reported that the same Ought Not to Pass.

Signed:

Senators: TRAFTON of Androscoggin
STOVER of Sagadahoc

Representatives: PAUL of Sanford
DILLENBACK of Cumberland
MURPHY of Berwick
MASTERMAN of Milo
NICKERSON of Turner

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

Signed:

Senator: NAJARIAN of Cumberland

Representatives: REEVES of Pittston
PERRY of Mexico
RIOUX of Biddeford
WARREN of Scarborough
BOTT of Orono

Comes from the House with Minority OUGHT TO PASS Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "A" (H-610).

Which Reports were READ.

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

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 Provide Assistance to Mature Industries"

S.P. 802 L.D. 2015

Bill "An Act to Classify AIDS as a Dangerous Communicable Disease for the Purpose of Public Health"

S.P. 825 L.D. 2085

Ought to Pass

Senator ANDREWS for the Committee on STATE GOVERNMENT on Bill "An Act to Authorize the Treasurer of State to Temporarily Invest Excess Money Including Unspent Bond Proceeds in Tax-exempt Obligations" (Emergency)

S.P. 862 L.D. 2176

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 GILL for the Joint Select Committee on ALCOHOLISM SERVICES on Bill "An Act to Make Additional Allocations from the Alcohol Premium Fund"

S.P. 505 L.D. 1365

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

S.P. 910 L.D. 2277

Which Report was READ and ACCEPTED.

The Bill in NEW DRAFT READ ONCE.

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

Senator USHER for the Committee on ENERGY AND NATURAL RESOURCES on Bill "An Act to Amend the Classification System for Maine Waters and Change the Classifications of Certain Waters"

S.P. 557 L.D. 1503

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

S.P. 915 L.D. 2283

Which Report was READ and ACCEPTED.

The Bill in NEW DRAFT READ ONCE.

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

Senator WEBSTER for the Committee on FISHERIES AND WILDLIFE on Bill "An Act to Modify and Update Certain Laws Pertaining to Inland Fisheries and Wildlife"

S.P. 678 L.D. 1759

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

S.P. 916 L.D. 2286

Which Report was READ and ACCEPTED.

The Bill in NEW DRAFT READ ONCE.

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

Senator NAJARIAN for the Committee on LEGAL AFFAIRS on Bill "An Act Concerning Access to Vital Records in Cases of Adoption"

S.P. 827 L.D. 2087

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

S.P. 909 L.D. 2276

Which Report was READ and ACCEPTED.

The Bill in NEW DRAFT READ ONCE.

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

Senator ERWIN for the Committee on TRANSPORTATION on Bill "An Act to Amend Certain Motor Vehicle Laws"

S.P. 750 L.D. 1914

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

S.P. 912 L.D. 2279

Which Report was READ and ACCEPTED.

The Bill in NEW DRAFT READ ONCE.

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

Ought to Pass in New Draft under New Title

Senator GAUVREAU for the Committee on HUMAN RESOURCES on Bill "An Act to Require Labeling of Coffees Decaffeinated with Methylene Chloride"

S.P. 808 L.D. 2035

Reported that the same Ought to Pass in New Draft under New Title Bill "An Act to Require Labeling of Coffees and Teas Decaffeinated with Methylene Chloride"

S.P. 911 L.D. 2278

Which Report was READ and ACCEPTED.

The Bill in NEW DRAFT under NEW TITLE READ ONCE.

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

Divided Report

The Majority of the Committee on AGRICULTURE on Bill "An Act Relating to Use of Sulfite as a Food Preservative"

S.P. 793 L.D. 1994

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

S.P. 908 L.D. 2275

Signed:

Senators: ERWIN of Oxford
BLACK of Cumberland
CARPENTER of Aroostook

Representatives: MICHAEL of Auburn
DAGGETT of Manchester
SHERBURNE of Dexter
LORD of Waterboro

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

Signed:

Representatives: TARDY of Palmyra
MCCOLLISTER of Canton
AYER of Caribou
PARENT of Benton
BRAGG of Sidney
WHITCOMB of Waldo

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

S.P. 721 L.D. 1844
(S "A" S-412 to C "A" S-402)

An Act to Modernize the Telephone Excise Tax
H.P. 1595 L.D. 2240

Which Reports were READ.

The Majority OUGHT TO PASS IN NEW DRAFT Report ACCEPTED.

An Act Permitting Municipalities to Require that a Payment on Taxes be Applied Toward the Oldest Outstanding Taxes

H.P. 1596 L.D. 2247

The Bill in NEW DRAFT READ ONCE.

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

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

SECOND READERS

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

An Act to Study Establishment of an Emergency 9-1-1 System in Heavily Populated Areas

H.P. 1601 L.D. 2255

House

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

Bill "An Act to Authorize the Establishment of Veterans' Homes in Northern and Southern Maine"
H.P. 1604 L.D. 2258

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

Emergency

An Act to Authorize the Creation of Detention Districts

H.P. 1434 L.D. 2025
(C "A" H-597)

Senate

Bill "An Act to Continue Use of Computer Match Programs to Determine Eligibility of Public Assistance Recipients" (Emergency)
S.P. 861 L.D. 2175

This being an Emergency Measure and having received the affirmative vote of 25 Members of the Senate, with No Senators having voted in negative, and 25 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.

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

Sent down for concurrence.

Emergency

An Act to Deorganize Plantation 14
S.P. 833 L.D. 2115
(C "A" S-428)

ENACTORS

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

This being an Emergency Measure and having received the affirmative vote of 25 Members of the Senate, with No Senators having voted in negative, and 25 being more than two-thirds of the entire elected Membership of the Senate, was PASSED TO BE ENACTED and having been signed by the President, was presented by the Secretary to the Governor for his approval.

Emergency

An Act to Amend the Charter of the Brunswick Sewer District

H.P. 1602 L.D. 2256

This being an Emergency Measure and having received the affirmative vote of 25 Members of the Senate, with No Senators having voted in negative, and 25 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.

On motion by Senator VIOLETTE of Aroostook, the Senate RECONSIDERED its action whereby it referred to the Committee on HUMAN RESOURCES:

"An Act to Authorize Additional Facilities for Long-term Care"

S.P. 913 L.D. 2280

(In Senate March 31, 1986, referred to the Committee on HUMAN RESOURCES.)

On further motion by same Senator, referred to the Committee on APPROPRIATIONS AND FINANCIAL AFFAIRS and ORDERED PRINTED.

Sent down for concurrence.

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

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

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

After Recess

Senate called to order by the President.

On motion by Senator SHUTE of Waldo RECESSED until 4:30 in the afternoon.

After Recess

Senate called to order by the President.

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

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

COMMITTEE REPORTS

Senate

Leave to Withdraw

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

Bill "An Act Relating to the Maine Public Utilities Commission's Regulation of Cable Television Companies"

S.P. 839 L.D. 2128

Off Record Remarks

Ought to Pass As Amended

Senator CHALMERS for the Committee on JUDICIARY on Bill "An Act to Amend the Drug Enforcement Law"

S.P. 797 L.D. 2004

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (S-440).

Which Report was READ and ACCEPTED.

The Bill READ ONCE.

Committee Amendment "A" (S-440) READ and ADOPTED.

The Bill as Amended, TOMORROW ASSIGNED FOR SECOND READING.

Signed:

Senators: ANDREWS of Cumberland
KERRY of York

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

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

The Minority of the same Committee on the same subject reported that the same Ought to Pass as Amended by Committee Amendment "B" (S-444).

COMMITTEE REPORTS

Senate

Ought to Pass in New Draft under New Title

Signed:

Senator: HICHENS of York

Senator ANDREWS for the Committee on STATE GOVERNMENT on Bill "An Act Concerning the Day-care Program at Augusta Mental Health Institute"
S.P. 829 L.D. 2089

Which Reports were READ.

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

Reported that the same Ought to Pass in New Draft under New Title Bill "An Act Providing for the Lease of Unused Space or Facilities Owned by the State"
S.P. 917 L.D. 2291

Senator HICHENS: Mr. President, I am not going to ask for the acceptance of the Minority Report, because I realize that it would be an effort in futility, but I would like to draw attention to the Senators the amendment that I have signed on, for and wish that it could go through. This amendment is filing number S-444, which is Committee Amendment "B" a Resolve to Create a Maine Commission to Commemorate the Bicentennial of the United States Constitution. During our hearing on this Bill, there were concerns raised that this might promote the calling of the Constitution Convention, which has been an issue before the Legislators in Congress for quite a few years.

Which Report was READ and ACCEPTED.

The Bill in NEW DRAFT under NEW TITLE READ ONCE.

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

It was hope that this wouldn't generate any such plans and then further concerns were raised, because some minority radical groups has said that they were going to have their own versions of the Bill of Rights and so forth to present to the school children and to people throughout the State.

COMMITTEE REPORTS

Senate

Divided Report

The Majority of the Committee on STATE GOVERNMENT on Resolve, Creating a Maine Commission to Commemorate the Bicentennial of the United States Constitution (Emergency)
S.P. 813 L.D. 2045

For those concerns in mind, this amendment was written up, which I would like to have put on the Record. "This activity shall consist solely of efforts to promote respect for the understanding of the United States Constitution. Activities promoting the general United States Constitutional Convention of proposing changes to the present United States Constitution are specifically excluded. Organizations other than the Commission itself, shall use the following disclaimer on all activities supported by or jointly conducted with the Commission. The opinions expressed in this presentation are not necessarily those of the Maine Commission to Commemorate the Bicentennial of the United States Constitution or the people of Maine."

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (S-443).

On motion by Senator HICHENS of York, the Majority OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-443) Report was ACCEPTED.

The Bill READ ONCE.

Committee Amendment "A" (S-443) READ and ADOPTED.

The Bill as Amended, TOMORROW ASSIGNED FOR SECOND READING.

The Bill READ ONCE.

Committee Amendment "A" (S-441) 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:

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

COMMITTEE REPORTS

Senate

Divided Report

The Majority of the Committee on TAXATION on Bill "An Act to Require Legislative Review and Approval of Sales and Use Tax Exemptions Every 5 Years"

S.P. 748 L.D. 1912

Reported that the same Ought Not to Pass.

Signed:

Senators: DIAMOND of Cumberland
EMERSON of Penobscot

Representatives: MCCOLLISTER of Canton
CASHMAN of Old Town
SWAZEY of Bucksport
TARDY of Palmyra
JACKSON of Harrison
INGRAHAM of Houlton
ZIRNKILTON of Mount Desert
NELSON of Portland
WEBSTER of Cape Elizabeth

The Minority of the same Committee on the same subject reported that the same Ought to Pass as Amended by Committee Amendment "A" (S-441).

Signed:

Senator: TWITCHELL of Oxford

Representative: MAYO of Thomaston

Which Reports were READ.

On motion by Senator TWITCHELL of Oxford, the Minority OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-441) Report was ACCEPTED.

COMMITTEE REPORTS

Senate

Divided Report

The Majority of the Committee on HUMAN RESOURCES on Bill "An Act to Provide a Reasonable Increase for State Reimbursement to Boarding Care Facilities, to Allow for Periodic Cost-of-living Adjustments and for Other Purposes"

S.P. 814 L.D. 2046

Reported that the same Ought to Pass in New Draft under New Title Bill "An Act to Provide a Periodic Cost-of-living Adjustment in the State Reimbursement to Boarding Care Facilities"

S.P. 918 L.D. 2292

Signed:

Senators: GILL of Cumberland
GAUVREAU of Androscoggin

Representatives: MELENDY of Rockland
MANNING of Portland
SEAVEY of Kennebunkport
PINES of Limestone
ROLDE of York
NELSON of Portland
TAYLOR of Camden
KIMBALL of Buxton
SIMPSON of Casco

The Minority of the same Committee on the same subject reported that the same Ought to Pass in New Draft under New Title Bill "An Act to Increase the Minimum Flat Rate Reimbursement and to Provide a Periodic Cost-of-living Adjustment in the State Reimbursement to Boarding Care Facilities"

S.P. 919 L.D. 2293

Signed:

Senators: BUSTIN of Kennebec

Representative: CARROLL of Gray

Which Reports were READ.

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

Senator BUSTIN: Thank you Mr. President, Ladies and Gentlemen of the Senate. I am going to be doing the same thing as the good Senator from York, Senator Hichens, has just done on the previous report and that is I am obviously not going to move the Minority Report on this Bill. I feel very strongly that you ought to be made aware of it and take a good look at what we are doing here. What the Committee has done, is agreed to finally upgrade the amount of reimbursement for boarding homes. They are only doing that to the tune of a total of \$136,935. It takes more than \$400, I believe that it is \$437, that they will be paying boarding homes to take care of boarding home eligible patients. That it not enough to keep a patient. Everybody recognizes that, but also the State resources have to be prioritized and this is one of the ways we are prioritizing them.

The reason that I signed onto the Minority Report with Representative Carroll is because I feel very strongly that we are not paying enough attention to our boarding homes. That we are not upgrading them and that is the reason that there is a big rift in the levels of care that we can give. People don't want to send their people to boarding homes. As a matter of fact, I am housing an 85 year old gentlemen today, in my own home, because the family is unwilling to send them to a boarding home because we do not really have the kind of boarding homes that we would really like to have. It cast no aspersions of those boarding homes, what it casts aspersions on is the amount the State is willing to pay those people to take care of those patients. They cannot afford to give any better service then what they are giving.

We ought to be thankful that there are some boarding homes that are at least willing to make the effort. We ought to at least recognize that we are short shrift to those boarding home patients. The Minority Report asks for nearly one million dollars. I recognize, as I am sure everybody else does, that when that lands on the Appropriations Table that it would not be funded. I make the assumption that the Committee is probably taking the more responsible view and signing onto the Majority Report, because they feel that is the one that will probably be funded, however, I did not feel right on signing the Majority Report because I wanted to be able to make that statement.

Senator GILL of Cumberland moved that the Senate ACCEPT the Majority OUGHT TO PASS IN NEW DRAFT under NEW TITLE (S.P. 918) (L.D. 2292) Report.

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

Senator BROWN: Mr. President, I request a Division and would like to speak to my motion. I appreciate very much the good Senator from Kennebec, Senator Bustin, in her comments in regard to this matter. The fact that we ought to go ahead and be very understanding on the financial plight that the State is in, consequently we shouldn't be pressing to push a bill through committee and get it down to the Appropriations Table where it might be killed because there is not enough funds to go around.

I would like to point out this morning after this matter was brought up and tabled, I had a chance to spend some time over in the Audit division of the Department of Human Services to check on this matter. Let me state clearly now that I am not involved in boarding home care, I have no intentions in becoming involved in boarding home care because there is no way you can make a living at it. It is a ridiculous insult that we have presently in this State in the way that we reimburse the boarding homes. It takes about 1.2 million dollars for what the good Senator has mentioned here and in the last ten years about 50% of the boarding homes beds that were in existence are no longer in existence, because the people could not make a living at it. I have a break down here of what it costs, and that was supplied to the Committee, from the different parts of operating a boarding home. It comes to a cost figure of two dollars a month. Six hundred and seventy-two dollars a month per individual. We are talking here about increasing this up to four hundred and thirty-seven, that is not even covering the cost of operation. Some where along the line you will have calls from constituents and they will get very indigent later on when we find out the boarding home people are not being cared for properly, because they are not getting enough money to operate, they have to find some way to survive on the amount that they are getting. For the Committee to go ahead and say that it is not going to be funded, there is not enough funds to go around in this State to take and fund the boarding home care. I think that it is letting it off kind of easy. I would urge that you support the minority position.

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

Senator GILL: Mr. President, the Committee on Human Resources the majority of the Committee did sign out the Majority Report and we took into consideration the care that is being given in boarding homes throughout the State for our residents. We looked at what flat rate boarding homes were getting and this Bill will increase the flat rates, not a lot but something.

We did that because we felt there was a need for an increase for those boarding homes who were only getting flat rates. Today the Human Resources Committee heard another bill dealing with boarding homes that will change the system in looking at boarding homes and foster homes that we have in the State dealing with a number of clients. There are 162 six bed boarding homes, there are 81 who have seven to fifty beds, and there are 2 that have fifty to one hundred beds and there are 2 that have over one hundred beds. Of that we have a number of clients who are mentally retarded in those boarding homes and the Commissioner of Mental Health and Retardation spoke about those numbers that require a lot more care. We are cognizant of the fact that we are not paying enough, but we are realistic to know that if we send an appropriation downstairs for over a million dollars for all of these homes when we are now looking at the make up of homes, that it is unrealistic that this will get passed. Those people who have flat rate boarding homes need the help now and that is what we are attempting to do. So I would urge that we adopt the Majority Report.

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

Senator VIOLETTE: Mr. President, Ladies and Gentlemen of the Senate. I join in commending the Committee on Human Resources. This Bill happens to be the Bill that I sponsored. I have been very concerned with boarding homes for a number of years now. I think the Legislature has always taken the lead in addressing the needs of boarding homes where, quite frankly, the Department has always shirked its' responsibilities in this area. Neither of these reports in my opinion, proves the kinds of monies that would be adequate and necessary for boarding homes. I have always been a strong supporter of boarding homes, but I also must admit that there are certain limitations. I think that this is a step in the right direction, maybe a small one but it is a good step in the right direction. The Majority Report, is one that I think is going to move boarding homes and put them on a more positive footing for the future, in terms of trying to provide some sort of index. All of the increases that have come to boarding homes basically have all come out of the Legislature. I might be mistaken, but I do not believe that any of them have come out of the Department. It has been this Legislature that has come to the help of those boarding homes. I must admit that I can't agree with the Senator from Washington, Senator Brown, that I would much rather have several millions of dollars to assist boarding homes.

I would much rather have those people in boarding homes than in nursing homes. It is much less expensive to keep them there and I think sometimes it is a better environment. I must also live in a world that does recognize some limitations and it is for that reason, although I am the sponsor of this Bill, I am going to go along with the Majority Report and accept a much smaller amount. I feel a positive approach, I am in hopes that the Committee, as Senator Gill as expressed, is going to be looking into this area and hopefully they can truly come to the Legislature next year and address an area that has not been addressed by State Government. In some respect my heart is with the Minority Report but, I am going to join the Members of this Committee and support the Majority Report. Thank you.

THE PRESIDENT: The pending question before the Senate is the motion of Senator GILL of Cumberland to ACCEPT the Majority OUGHT TO PASS IN NEW DRAFT under NEW TITLE (S.P. 918) (L.D. 2292) 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 under New Title Report, please rise in their places and remain standing until counted.

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

23 Senators having voted in the affirmative and 5 Senators having voted in the negative, the motion by Senator GILL of Cumberland to ACCEPT the Majority OUGHT TO PASS IN NEW DRAFT UNDER NEW TITLE (S.P. 918) (L.D. 2292) Report, PREVAILS.

The Bill in NEW DRAFT under NEW TITLE READ ONCE.

The Bill in NEW DRAFT under NEW TITLE 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

Senator ERWIN for the Committee on AGRICULTURE on Bill "An Act to Reorganize the Maine Potato Industry"

S.P. 876 L.D. 2205

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:

PAPERS FROM THE HOUSE

House Papers

Resolve, Authorizing the Sale of Certain Public Reserved Lands in Winterville Plantation
H.P. 1626 L.D. 2294

Comes from the House referred to the Committee on ENERGY AND NATURAL RESOURCES and ORDERED PRINTED.

Which was referred to the Committee on ENERGY AND NATURAL RESOURCES 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 to Place the State Lottery Commission and the Director of State Lotteries within the Department of Finance and Administration" H.P. 1389 L.D. 1958

Bill "An Act to Guarantee Insurance Coverage for Child Care Centers and Family Day Care Providers Licensed by the State" H.P. 1394 L.D. 1966

Resolve, Creating a Study Commission on Emotionally Stressful Job Classifications in State Government (Emergency) H.P. 1426 L.D. 2016

Bill "An Act Pertaining to the Establishment of Mandatory Risk-sharing Plans" H.P. 1456 L.D. 2053

Ought to Pass

The Committee on ENERGY AND NATURAL RESOURCES on Bill "An Act to Improve the Management of Maine's Forest Recreation Resource" H.P. 1559 L.D. 2198

Reported that the same Ought to Pass.

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

Which Report was READ and ACCEPTED, in concurrence.

The Bill READ ONCE.

The Bill TOMORROW ASSIGNED FOR SECOND READING.

Ought to Pass As Amended

The Committee on ENERGY AND NATURAL RESOURCES on Resolve, Directing the Director of the Bureau of Public Lands to Convey the State's Interest in Certain Lands Surrounding Little Sebago Lake H.P. 1439 L.D. 2030

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-609).

Comes from the House, with the Report READ and ACCEPTED and the Resolve PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-609).

Which Report was READ and ACCEPTED, in concurrence.

The Resolve READ ONCE.

Committee Amendment "A" (H-609) READ and ADOPTED, in concurrence.

The Resolve as Amended, TOMORROW ASSIGNED FOR SECOND READING.

The Committee on LEGAL AFFAIRS on Bill "An Act to Amend the Maine Implementing Act with Respect to the Houlton Band of Maliseet Indians" H.P. 1418 L.D. 2007

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-607).

Comes from the House, with the Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-607).

Which Report was READ and ACCEPTED, in concurrence.

The Bill READ ONCE.

Committee Amendment "A" (H-607) READ and ADOPTED, in concurrence.

The Bill as Amended, TOMORROW ASSIGNED FOR SECOND READING.

Ought to Pass in New Draft

The Committee on TAXATION on Bill "An Act to Conform State Income Tax Laws Relative to Premature Retirement Plan Distributions" H.P. 1403 L.D. 1979

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

H.P. 1609 L.D. 2265

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 TOMORROW ASSIGNED FOR SECOND READING.

Divided Report

The Majority of the Committee on HUMAN RESOURCES on Bill "An Act Relating to Medicaid Fees for Pharmacies"

H.P. 1347 L.D. 1883

Reported that the same Ought to Pass in New Draft.

H.P. 1611 L.D. 2268

Signed:

Senators: GILL of Cumberland
BUSTIN of Kennebec
GAUVREAU of Androscoggin

Representatives: CARROLL of Gray
SEAVEY of Kennebunkport
MELENDY of Rockland
PINES of Limestone
ROLDE of York
NELSON of Portland
KIMBALL of Buxton

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

Signed:

Representatives: TAYLOR of Camden
SIMPSON of Casco

(Representative SIMPSON of Casco Abstained.)

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.

Which Reports were READ.

The Majority OUGHT TO PASS IN NEW DRAFT Report ACCEPTED.

The Bill in NEW DRAFT READ ONCE.

The Bill in NEW DRAFT TOMORROW ASSIGNED FOR SECOND READING.

SECOND READERS

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

House

Bill "An Act Concerning Private Adoptions"
H.P. 1605 L.D. 2262

Bill "An Act to Provide Medicaid Coverage for Mental Health Services for Children in Certain Hospital Facilities"
H.P. 1610 L.D. 2267

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

Bill "An Act Relating to Boards and Commissions"
H.P. 1614 L.D. 2269

Which was READ A SECOND TIME.

On motion by Senator VIOLETTE of Aroostook, Senate Amendment "A" (S-446) READ.

THE PRESIDENT: The Chair recognizes the same Senator.

Senator VIOLETTE: Mr. President, at present, the University of Maine Board of Trustees do not receive compensation, they do not desire to receive compensation and advertently the Bill provides that they receive compensation and this amendment simply removes that section of the Bill that would have provided that they would receive compensation. They will only, as they have in the past, receive expenses.

On motion by Senator VIOLETTE of Aroostook, Senate Amendment "A" (S-446) ADOPTED.

On motion by Senator BROWN of Washington, Senate Amendment "B" (S-448) READ and ADOPTED.

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

Sent down for concurrence.

House As Amended

Bill "An Act to Establish the Maine State Parks Development Fund"

H.P. 1483 L.D. 2095
(C "A" H-605)

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

Senate

Bill "An Act to Authorize the Treasurer of State to Temporarily Invest Excess Money Including Unspent Bond Proceeds in Tax-exempt Obligations" (Emergency)

S.P. 862 L.D. 2176

Bill "An Act Concerning Access to Vital Records in Cases of Adoption"

S.P. 909 L.D. 2276

Bill "An Act to Make Additional Allocations from the Alcohol Premium Fund"

S.P. 910 L.D. 2277

Bill "An Act to Amend Certain Motor Vehicle Laws"

S.P. 912 L.D. 2279

Bill "An Act to Amend the Classification System for Maine Waters and Change the Classifications of Certain Waters"

S.P. 915 L.D. 2283

Bill "An Act to Modify and Update Certain Laws Pertaining to Inland Fisheries and Wildlife"

S.P. 916 L.D. 2286

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

Sent down for concurrence.

Bill "An Act Relating to Use of Sulfite as a Food Preservative" (Emergency)

S.P. 908 L.D. 2275

Which was READ A SECOND TIME.

On motion by Senator BROWN of Washington, Senate Amendment "A" (S-449) READ and ADOPTED.

Which was PASSED TO BE ENGROSSED, as Amended.

Sent down for concurrence.

Bill "An Act to Require Labeling of Coffees and Teas Decaffeinated with Methylene Chloride"

S.P. 911 L.D. 2278

Which was READ A SECOND TIME.

On motion by Senator VIOLETTE of Aroostook, Tabled 1 Legislative day, pending PASSAGE TO BE ENGROSSED.

ENACTORS

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

An Act to Bring into Conformity Municipal and State Subdivision Laws

H.P. 872 L.D. 1229
(C "A" H-572)

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

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

COMMUNICATIONS

The Following Communication:

STATE OF MAINE
DEPARTMENT OF AUDIT
STATE HOUSE STATION 66
AUGUSTA, MAINE 04333

To the President of the Senate and the Speaker of the House of Representatives

In accordance with Title 5, Section 243, Maine Revised Statutes Annotated of 1964, as amended, an audit has been conducted of the financial records of the Unorganized Territory Tax District for the fiscal year ended June 30, 1985.

The examination was made in accordance with generally accepted auditing standards and the Standards for Audit of Governmental Organizations, Programs, Activities and Functions, promulgated by the U.S. Comptroller General and, accordingly included such tests of the accounting records and such other auditing procedures as we considered necessary in the circumstances.

Within the scope of the examination, the financial transactions were appropriately handled, with such exceptions as may be noted in the accompanying commentary.

In our opinion, the exhibits and schedules contained in this report present fairly the financial position of the various funds of the Unorganized Territory Tax District at June 30, 1985, the results of operations and the changes in fund balances of such funds for the fiscal year then ended, in conformity with generally accepted accounting principles applied on a basis consistent with that of the preceding year.

S/Robert W. Norton
State Auditor

January 4, 1986

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

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

COMMUNICATIONS

The Following Communication:

COMMITTEE ON AGRICULTURE
ONE HUNDRED AND TWELFTH LEGISLATURE

March 31, 1986

The Honorable Charles P. Pray
President of the Senate of Maine
State House
Augusta, Maine 04333

Dear Mr. President:

In accordance with 3 M.R.S.A., Chapter 6, Section 151, and with Joint Rule 38 of the 112th Maine Legislature, the Joint Standing Committee on Agriculture has had under consideration the nomination of Donald W. Buzzell of Fryeburg, as a member of the Animal Welfare Board.

After public hearing and discussion on this nomination, the Committee proceeded to vote on the motion to recommend to the Senate that this nomination be confirmed. The Committee Clerk called the roll with the following result:

YEAS: Senators 2
Representatives 9

NAYS: 0

ABSENT: 2

(Sen. Carpenter of Aroostook and Rep. Whitcomb of Waldo)

Eleven members of the Committee having voted in the affirmative and none in the negative, it was the vote of the Committee that the nomination of Donald W. Buzzell of Fryeburg, as a member of the Animal Welfare Board be confirmed.

Sincerely,

S/Edgar E. Erwin
Senate Chair

S/John M. Michael
House Chair

Which was READ and ORDERED PLACED ON FILE.

THE PRESIDENT: The Joint Standing Committee on AGRICULTURE has recommended that the nomination of Donald W. Buzzell of Fryeburg be confirmed.

The pending question before the Senate is: "Shall the recommendation of the Committee on AGRICULTURE be overridden?"

In accordance with 3 M.R.S.A., Chapter 6, section 151 and with Joint Rule 38 of the 112th Legislature the vote will be taken by the yeas and nays.

A vote of Yes will be in favor of overriding the recommendation of the Committee.

A vote of No will be in favor of sustaining the recommendation of the Committee.

Is the Senate ready for the question?

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEAS: Senators None

NAYS: Senators, ANDREWS, BALDACCI, BERUBE, BLACK, BROWN, BUSTIN, CHALMERS, CLARK, DIAMOND, DOW, EMERSON, ERWIN, GILL, HICHENS, KANY, MATTHEWS, MAYBURY, MCBREAIRTY, NAJARIAN, PERKINS, SEWALL, SHUTE, STOVER, TRAFTON, TWITCHELL, USHER, VIOLETTE, WEBSTER, THE PRESIDENT - CHARLES P. PRAY

ABSENT: Senators, CARPENTER, DUTREMBLE, GAUVREAU, KERRY, PEARSON, TUTTLE

Which Report was READ and ACCEPTED.

On motion by Senator BROWN of Washington, the Senate RECONSIDERED its action whereby it ACCEPTED the OUGHT TO PASS Report.

THE PRESIDENT: The Chair recognizes the same Senator.

Senator BROWN: Thank you Mr. President, I just want to make a comment to this Bill prior to it being passed. It is a unanimous report and I suppose I was triggered a moment ago about us being responsible and not passing something onto the Appropriations Committee that does require some money. I would like to point out this particular Bill is one that we had very similar to this last year increasing the State purchasing limit of school buses from four to six million. That was last year.

That went unanimous from the Committee on Education to the Appropriation Committee and failed because there was not enough funds to go around. It is back this year and the request is to go from four to seven million, but there is not enough funds to go around. We have school buses in this State that the bodies are rusting and have to be welded back together. Engines are dropping out, boards have to be put on the floor so the kids feet don't go through. There has to be some point where we go ahead and address some of the priorities that exist even though there is not enough money to go around. Thank you.

Which Report was ACCEPTED.

The Bill READ ONCE.

The Bill TOMORROW ASSIGNED FOR SECOND READING.

No Senators having voted in the affirmative and 29 Senators having voted in the negative, with 6 Senators being absent and None being less than two-thirds of the Membership present and voting, it was the vote of the Senate that the Committee's recommendation be ACCEPTED and the nomination of Donald W. Buzzell was CONFIRMED.

The Secretary has so informed the Speaker of the House.

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

COMMITTEE REPORTS

Senate

Leave to Withdraw

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

Bill "An Act to Place a Sunset Provision in the Antlerless Deer Permit Law" S.P. 873 L.D. 2203

Ought to Pass

Senator BROWN for the Committee on EDUCATION on Bill "An Act to Increase the School Bus Purchase Limit" S.P. 817 L.D. 2062

Reported that the same Ought to Pass.

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 Clarify the Authority of Municipalities to Raise and Appropriate Money for Financial Assistance to Water and Sewer Districts" (Emergency) S.P. 854 L.D. 2166

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (S-445).

Which Report was READ and ACCEPTED.

The Bill READ ONCE.

Committee Amendment "A" (S-445) READ and ADOPTED.

The Bill as Amended, TOMORROW ASSIGNED FOR SECOND READING.

Eleven members of the Committee having voted in the affirmative and none in the negative, it was the vote of the Committee that the nomination of Rachel B. Leighton of Milbridge, a be confirmed.

Sincerely,

S/Edgar E. Erwin
Senate Chair

S/John M. Michael
House Chair

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

COMMUNICATIONS

The Following Communication:

COMMITTEE ON AGRICULTURE

ONE HUNDRED AND TWELFTH LEGISLATURE

March 31, 1986

The Honorable Charles P. Pray
President of the Senate of Maine
State House
Augusta, Maine 04333

Dear Mr. President:

In accordance with 3 M.R.S.A., Chapter 6, Section 151, and with Joint Rule 38 of the 112th Maine Legislature, the Joint Standing Committee on Agriculture has had under consideration the nomination of Rachel B. Leighton of Milbridge, as a member of the Animal Welfare Board.

After public hearing and discussion on this nomination, the Committee proceeded to vote on the motion to recommend to the Senate that this nomination be confirmed. The Committee Clerk called the roll with the following result:

YEAS:	Senators	2
	Representatives	9
NAYS:		0
ABSENT:		2
	(Sen. Carpenter of Aroostook and Rep. Whitcomb of Waldo)	

Which was READ and ORDERED PLACED ON FILE.

THE PRESIDENT: The Joint Standing Committee on AGRICULTURE has recommended that the nomination of Rachel B. Leighton of Milbridge be confirmed.

The pending question before the Senate is: "Shall the recommendation of the Committee on AGRICULTURE be overridden?"

In accordance with 3 M.R.S.A., Chapter 6, sect 151 and with Joint Rules 38 of the 112th Legislature the vote will be taken by the yeas and nays.

A vote of Yes will be in favor of overriding the recommendation of the Committee.

A vote of No will be in favor of sustaining the recommendation of the Committee.

Is the Senate ready for the question?

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEAS: Senators None

NAYS: Senators, ANDREWS, BALDACCI, BERUBE, BLACK, BROWN, BUSTIN, CHALMERS, CLARK, DIAMOND, DOW, EMERSON, ERWIN, GILL, HICHENS, KANY, MATTHEWS, MAYBURY, MCBREAIRTY, NAJARIAN, PERKINS, SEWALL, SHUTE, STOVER, TRAFTON, TWITCHELL, VIOLETTE, WEBSTER, THE PRESIDENT - CHARLES P. PRAY

ABSENT: Senators, CARPENTER, DUTREMBLE, GAUVREAU, KERRY, PEARSON, TUTTLE, USHER

No Senators having voted in the affirmative and 28 Senators having voted in the negative, with 7 Senators being absent and None being less than two-thirds of the Membership present and voting, it was the vote of the Senate that the Committee's recommendation be ACCEPTED and the nomination of Rachel B. Leighton was CONFIRMED.

The Secretary has so informed the Speaker of the House.

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

COMMUNICATIONS

The Following Communication:

JOINT SELECT COMMITTEE ON ALCOHOLISM SERVICES

March 31, 1986

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

Dear President Pray:

We are pleased to report that all business which was placed before the Committee on Alcoholism Services during the Second Regular Session of the 112th Legislature has been completed. The breakdown of bills referred to our committee follows:

Total number of bills received	2
Unanimous reports	2
Leave to Withdraw	1
Ought to Pass	0
Ought Not to Pass	0
Ought to Pass as Amended	0
Ought to Pass in New Draft	1
Divided reports	0

Respectfully submitted,

S/Thomas H. Andrews
Senate Chair

S/Alfred L. Brodeur
House Chair

Which was READ and ORDERED PLACED ON FILE.

ORDERS OF THE DAY

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

HOUSE REPORTS - the Committee on LEGAL AFFAIRS on Resolve, to Permit Edgar Warren to Sue the State for Compensation for Injuries Incurred While He was a Ward of the State

H.P. 1377 L.D. 1940

Majority - Ought Not to Pass.

Minority - Ought to Pass.

Tabled - March 31, 1986, by Senator VIOLETTE of Aroostook.

Pending - ACCEPTANCE OF EITHER REPORT

(In Senate, March 31, 1986, Reports READ.)

(In House, March 27, 1986, Minority OUGHT TO PASS Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "A" (H-610).)

Senator TRAFTON of Androscoggin moved that the Senate ACCEPT the Majority OUGHT NOT TO PASS Report in NON-CONCURRENCE.

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

Senator NAJARIAN: Mr. President and Members of the Senate. I rise in opposition to the Majority Report and I would like to explain to you some background on this Bill. This is a Bill that was introduced to allow Edgar Warren to sue the State of Maine and in doing so, if the Bill passed, would have to waive two of its' defenses, the defense of sovereign immunity and the Statute of Limitations of six years. Edgar Warren had a very unfortunate childhood. Apparently, his mother died or left them, I can't recall exactly which, and his father was unable to raise six children by himself and so then were farmed out to various places. Edgar Warren was put into a foster home and then there was an accident where he set some drapes on fire, he said it was an accident, but he ended up in the State school of boys at the age of thirteen. At the age of fifteen he was paroled and was placed by the Department of Corrections with an apple farmer in Oxford County. He was supposed to work for the farmer and be paid wages, two dollars a week. One day the other boys were in school, apparently Edgar did not go to school, the man who was suppose to be working the saw to cut down a tree was drunk and did not show up so the farmer told Edgar to help him with this saw. With no training of any kind, he said he had been using the saw and he reached down to pick up another piece of wood and his hand was gone. He was taken to the hospital and was treated, but there was a lot of correspondence, this happened in 1940, so this case is 45 years old.

There was a lot of correspondence back and forth between the Department of Corrections and the Department of Social Welfare about who was responsible for this boy. Each blaming each saying the other was, but he was never informed of his legal rights, he was never told of his statute of limitations so when he became of age at 19, he could have sued the farmer for negligence. He did not have that information. He went to lawyers three different times, from what I could learn at the hearing, he could have sued some of these lawyers for malpractice because they did not give him good legal advice. The time has gone on and eventually was told that the six years has expired and he had passed the statute of limitations and he had no recourse. He is a painter by profession, because he only has one hand there are a lot of jobs that he misses out on employment opportunities.

He is now about sixty years old and I must say a very pathetic looking gentleman. He has no family, he has never been married and so Pine Tree Legal helped him draft this Bill to bring before the Legislature. The problem was what kind of evidence can you find forty-five years later. We went back and forth with the Department of Corrections who support this gentleman receiving something. They seem to be saying in their correspondence that we do have a moral obligation to this man. They said at one of our work sessions that it was a unique case, that the chances of opening the door to lots of other instances like this are highly unlikely.

The Legislature is the court of last resort, it is all this person has and we thought once of just passing the bill and tabling it, or passing the bill and that would be an incentive for the Department to negotiate some kind of settlement. We have been informed by the Attorney General that the Department can't do that without a specific authorization from the Legislature.

They advised us that the best way to handle this was to have the Legislature make an outright appropriation to him, under a private and special act. That has been done in the amendment that was put on in the House to just appropriate him \$25,000, which will in no way compensate him for his, in my opinion, for the loss he suffered all these years. When the State was really his legal parents. I would like to see this Bill passed through the House and Senate and go on the Appropriations Table and let the Committee decide the merits of his receiving something as backed up against all the other claims that they will have down there on the Table. I would ask for a Roll Call, Mr. President.

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 until counted.

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

The Chair recognizes the Senator from Androscoggin, Senator Trafton.

Senator TRAFTON: Thank you Mr. President, Mr. President, I want you and the other Members of this Body to understand that I certainly have sympathy for Edgar Warren, I think that we all have sympathy for people who are injured and particularly those who are injured as wards of the State. I rise today to speak in favor of the Majority Report not out of a lack of sympathy for Edgar Warren, but as one who is concerned about how do we judge whether these types of cases, these types of problems deserve State compensation. This accident occurred as the good Senator from Cumberland, Senator Najarian, explained over forty years ago. I don't know all the facts, the Legal Affairs Committee didn't hear all the facts. We did here the story of Edgar Warren, because he is, as far as we can determine, the only person alive today who was present on that ill-fated day back over forty years ago. I am not suggesting in any way that Mr. Warren did not tell us the truth, but how can we judge whether the State was at fault. I would like to correct something that the good Senator from Cumberland, Senator Najarian, said. We did have a representative from the Department of Corrections appear before the Committee on several occasions, we did receive correspondence from the Department, however, never did the Department endorse this proposal to pay Mr. Warren money.

They did indicate that this was, in their opinion, a case that deserved some consideration and they did indicate that the Legislature was the appropriate Body to decide whether Mr. Warren deserved some compensation. They did not indicate, however, how much compensation, they simply said the Legislature is the court of last resort.

Is \$25,000 appropriate for the loss of an arm. This accident occurred forty years ago, I don't believe that we can put a value on the loss of an arm, especially when that loss occurred so long ago. I have to think that Mr. Warren has been able to live the last forty some odd years and support himself without any assistance from the towns in which he was living in, or the State on his own merits. Yes, he was able to work as a self-employed painter. He still paints, he still earns his own living, he is not a ward of the State today. He does not receive any State benefits today. How many others like Mr. Warren are out in the State of Maine, or living outside the State of Maine at this point in time. How many years is this Legislature willing to go back to compensate the people for accidents that occurred so long ago? I question whether or not we are opening the door, opening a flood gate, if you will, to many other similar claims that can't be judged fairly. Do we send this Bill down to the Committee on Appropriations and let them try to decide? They will have no more information then we have today. We are simply basing our decision today on some old documents that were found in the Department of Corrections records and the specialized testimony of Mr. Warren who stands to benefit from any award that this Legislature makes. I think this is an inappropriate act for the Legislature and that is why I rise today in support of the Majority Ought Not to Pass Report and I urge to you support that report.

THE PRESIDENT: The Chair recognizes the Senator from Sagadahoc, Senator Stover.

Senator STOVER: Thank you Mr. President, I rise and support the motion of the good Senator from Androscoggin, Senator Trafton. I think I can relate to this, perhaps, a little more than some in that for thirty-two years I was a farmer and also my wife and I did take in several wards of the State. Back in those days when we took them in, they became our children. They stayed with us until they grew up or until they got married, one of them didn't get married until he was thirty so you can see that we were their parents, so to speak. I can't see how the State is responsible in any way, shape or matter in this. The State foes out and they take these children from broken homes, running on the street, getting no supervision, without shelter or food, and they place them in what they consider the best possible home. In my mind, although farming is a hard way to make a living, it is a wonderful way to bring up a family. They put this boy, apparently, it happened to be an apple farm, I was a dairy farmer, but to go back to how I can relate to this, when we took in our first two children they were seven and nine. Back in those days they paid \$3.50 a week to house them and feed them and provide recreation and amusement, hair cuts and school supplies.

We didn't take them for the money, we took them because we didn't have any children at the time and we thought this was one way of filling that need. But now I am going to relate one incident. When they became fourteen years old, the grange was a big recreation for the children and they joined the grange.

One of the boys, they had a big wood furnace, and they asked one of the boys to throw in a stick of wood. It was probably three feet long and heavy. Instead of putting his hand under it he put it out over the end and went to shove it in. He missed the opening and smashed his finger against the furnace and they came up to the house about ten o'clock all bloody and so forth so I called the doctor and he was able to repair the finger and did save it. He could have had his finger cut off then. I just can't see where the State in any way, shape or matter can be responsible. The State should be commended for taking these boys from the position which was intolerable and place them in what they felt was the best circumstances. They used to send someone around periodically to make sure that the children were being treated right, but you certainly couldn't expect the State to hold them by the hand. As far as this fellow not having proper training, there is no training that goes with this, they all did the same thing, they took wood away from the saw. You just said be careful don't get your hand near the saw and you don't have to have mechanical training in order to be able to do something like this. I urge you to support the motion before us.

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

Senator NAJARIAN: Mr. President and Members of the Senate. I would like to make a couple more comments. It is true as the Senator from Androscoggin, Senator Trafton, has mentioned that we don't have many facts in this case. We do have some facts, though, that the reports from the State School for Boys, I guess there were thirteen monthly reports that said that Edgar Warren had no mechanical ability. So that was pretty clear that he shouldn't been operating a saw for someone who has no mechanical inclination. Secondly, how do you put a price on a hand? Well we do it all the time, as I understand it, in workman's compensation. This man has been without a hand for forty years and if we don't do something, he will receive nothing. Either we allow him to sue the State and then he can take his chances in court, but the Committee was not inclined to do that either. Or we appropriate some money to him, something that shows that we do owe him a moral obligation. He is now approaching sixty years of age. He is not going to be able to paint much longer. I doubt if his social security is going to be very much. The letter from the Department said "Obviously the circumstances surrounding the unfortunate event in Mr. Warren's life which occurred forty-five years ago, probably is relatively unique. It appears therefore that Legislative action may be appropriate."

They can arrange a settlement without some legislation and so it was the Department and the Attorney General's suggestion of a private and special law which will be against scrutinized by the court, because it said the private bill directly appropriating money to an individual must be based on the Legislative assessment that the State owes a moral obligation to a particular person. I really believe that we owe a moral obligation to this gentlemen and I hope that you will defeat the pending motion. Thank you.

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

Senator MATTHEWS: Mr. President and Members of the Senate. I would like to pose a question through the Chair. My question is to the signers of the Majority Report. How is this case, and we have some good attorneys in here, differ from any other workers compensation case in that we have had over the last year or two examples of workers compensation cases that have effected shipyard workers and numerous other workers compensation cases where one is allowed redress through the courts and under workers compensation, where an injury has occurred in the past and a person has the right to compensation, or at least his day in court? I guess my other concern is that if we defeat this Bill today, then what redress do we allow this gentlemen? It seems we allow him nothing. He is not as the good Senator from Cumberland, Senator Najarian, mentioned not even given the consideration of suing the State. That puts me in a very undesirable position, if I voted for this Majority Report it would leave no option for this gentlemen.

I think that as I listen to the debate and listened this morning in caucus, and my feelings are shared by many members of our caucus, that it seems to me as a State Legislator and those that are empowered to protect the citizens, that the State is no different that any other business or industry in my estimation. We have to live under the laws which we pass. Certainly anyone injured who is a ward of the State should have some kind of legal option and I just wonder if we are passing the buck here.

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

The Chair recognizes the Senator from Androscoggin, Senator Trafton.

Senator TRAFTON: Thank you Mr. President, Mr. President, as the good Senator from Kennebec, Senator Matthews, has suggested we are passing the bucks out in this particular Bill. This is a private pension that we are providing Mr. Warren and I think the answer to his second question is that unless we take action here today, Mr. Warren probably will receive no compensation for this claim, because the Legislature through its Committee on Legal Affairs decided that this is not an appropriate case to allow Mr. Warren to sue the State and that the best option for Mr. Warren is the Minority Report which is a straight appropriation of \$25,000 for the loss of his arm.

If you wish to compensate Mr. Warren and give him a pension, so called, then I would say you should vote against the Majority Report and accept the Minority Report. I suggest that is not the appropriate thing to do. There are many people who may be in the same situation as Mr. Warren. Remember we are talking about over forty years ago. The forty limitation matter is of no magic here today, we may as well go back one hundred and forty years. We are setting no standard of limitations here. The good Senator from Kennebec, asks isn't this similar to a workers compensation claim. I would say no.

First of all, there was no workers compensation program at the time Mr. Warren had his injury. Second it is questionable whether Mr. Warren would even be considered an employee at the time this accident occurred. There was no coverage on the same lines as was suggested by the Senator from Kennebec. The only type of compensation that is available to Mr. Warren at this point in time, is this direct appropriation for the State. I am suggesting that if we make this appropriation from the State to Mr. Warren to compensate his loss then there will be many other similar claims, equally as difficult to access in there merit. I suggest this is a bad door to open.

THE PRESIDENT: The pending question before the Senate is the motion of Senator TRAFTON of Androscoggin to ACCEPT the Majority OUGHT NOT TO PASS Report in NON-CONCURRENCE.

A vote of Yes will be in favor of Acceptance.

A vote of No will be opposed.

Is the Senate ready for the question?

The Doorkeepers will secure the Chamber.

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

The Secretary will call the Roll.

ROLL CALL

YEAS: Senators, BERUBE, BLACK, BROWN, DOW, EMERSON, GILL, HICHENS, MAYBURY, MCBREAIRTY, PERKINS, SHUTE, STOVER, TRAFTON, WEBSTER, THE PRESIDENT - CHARLES P. PRAY

NAYS: Senators, ANDREWS, BALDACCI, BUSTIN, CHALMERS, DIAMOND, ERWIN, KANY, MATTHEWS, NAJARIAN, SEWALL, TWITCHELL, VIOLETTE

ABSENT: Senators, CARPENTER, DUTREMBLE, KERRY, PEARSON, TUTTLE, USHER

15 Senators having voted in the affirmative and 12 Senators having voted in the negative, with 2 Senators having paired their votes and 6 Senators being absent, the motion by Senator TRAFTON of Androscoggin to ACCEPT the Majority OUGHT NOT TO PASS Report, PREVAILS in NON-CONCURRENCE.

Sent down for concurrence.

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

Bill "An Act Concerning Self-funded Pools among Public Agencies for Tort and Property Liability" S.P. 902 L.D. 2263

Tabled - March 27, 1986, by Senator VIOLETTE of Aroostook.

Pending - PASSAGE TO BE ENGROSSED

(In Senate, March 27, 1986, READ A SECOND TIME.)

On motion by Senator TRAFTON of Androscoggin, Senate Amendment "A" (S-447) READ and ADOPTED.

Which was PASSED TO BE ENGROSSED, as Amended.

Sent down for concurrence.

THE PRESIDENT: The Chair is in receipt of the certificates for the institute on the Maine Economy. For those who have attended the various Economic tours around the State. Those who participated in the tours will receive a certificate, and also those who have attended will receive college credits from the University of Maine at Orono, soon to be the University of Maine. The Chair would like to comment that the attendance by a number of Legislators is commendable and in reference to the work that is done by Henry Bouchard and Meredith Jones on behalf of the Maine Development Foundation, the Chair would like to have the following Senators, after the end of the session, come pick up their certificates. Senator Hichens receives seven college credits, Senator McBreairty receives four, Senator Erwin receives four, Senator Dow receives five, Senator Clark receives five, Senator Chalmers receives five, Senator Bustin receives five and Senator Brown receives four. The Chair would like to complement these individuals for taking the time out of their schedule to visit the various regions of the State of Maine and understand the stress and the situation that business communities are going through.

Off Record Remarks

Senator CHALMERS of Knox was granted unanimous consent to address the Senate Off the Record.

On motion by Senator CHALMERS of Knox
ADJOURNED until Tuesday, April 1, 1986, at 9
o'clock in the morning.