

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

One Hundred and Twelfth

Legislature

OF THE

STATE OF MAINE

VOLUME II

SECOND REGULAR SESSION

April 3 - April 16, 1986

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

Senate

Ought to Pass in New Draft under New Title

Senator USHER for the Committee on ENERGY AND NATURAL RESOURCES on Bill "An Act Creating a Moratorium on Further Approval for Landfills for Out-of-state Waste" (Emergency)

S.P. 973 L.D. 2418

In Senate Chamber
Thursday
May 29, 1986

Reported that the same Ought to Pass in New Draft under New Title Bill "An Act to Create a Study of Solid Waste Disposal Policy in Maine" (Emergency)

S.P. 982 L.D. 2431

Senate called to Order by the President.

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.

Prayer by Rabbi Raymond Krinsky of the Beth Israel Synagogue in Waterville.

RABBI KRINSKY: Almighty God. We pray Your blessing upon our Senators as they continue to deliberate their concerns for the good and welfare of Maine and its' people.

May they be guided by those tenets of justice and equality which have always insured the spiritual and physical safety of us all.

May they eschew partisan advantage when the resolution is not to the publics' advantage and remain steadfast against unprincipled and uninformed conclusions.

Give them the power to use power wisely. Give them the strength to face disappointment courageously. Give them the confidence to know that whatever the results of their labors, they have done their best work.

And may they always be certain of the support of their constituencies and their dedication and devotion to the commitments they have affirmed. Amen.

Senate at Ease

Senate called to order by the President.

Off Record Remarks

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

ORDERS

Joint Order

On motion by Senator TRAFTON of Androscoggin the following Joint Order: S.P. 983

Reading of the Journal of Yesterday.

ORDERED, the House concurring, that Bill "An Act Relating to Liquor Excise Taxes and Freight Rates and Making Other Changes in the Liquor Laws," H.P. 1646, L.D. 2323, and all its accompanying papers be recalled from the Governor's desk to the Senate.

Off Record Remarks

Which was READ.

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

Senator VIOLETTE: Mr. President, if I may pose a question through the Chair. Perhaps the Senator from Androscoggin, Senator Trafton, could enlighten the Senate as to why the Senator is recalling this Bill?

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

The Chair recognizes the Senator from Androscoggin, Senator Trafton.

Senator TRAFTON: Mr. President, Men and Women of the Senate. This L. D. is a Bill that was unanimously reported as Ought to Pass, by the Legal Affairs Committee. It was Enacted by this Legislature and sent down to the Governor's desk in April. The Governor's Office reports that it finds one section of that Bill to be objectionable, and has requested me to enter this Order for the Senate to recall the Bill from the Governor's desk, in order to remove that objectionable section.

It is my understanding, from the Governor's Office, that unless this section is in fact, removed from the Bill the entire Bill will be vetoed. As the Chair of the Legal Affairs Committee, I am concerned about some other sections in the Bill that I do not particularly want to see vetoed and lost in the event of a veto. So, I would request your support of this motion, to recall this Bill from the Governor's desk in order that we may address this matter and remove, if necessary, that objectionable section.

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

Senator VIOLETTE: Mr. President, I would like to pose a further question through the Chair to the good Senator from Androscoggin, Senator Trafton, if he might elaborate on what section of that Bill that the Governor finds objectionable, and for what reasons?

THE PRESIDENT: The Senator from Aroostook, Senator Violette has posed a further 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 and Members of the Senate. The particular section deals with a preferential taxing scheme that would allow an in-state producer and bottler of liquor to have a preferential tax rate under our taxing laws. This affects, at the moment, one distiller and bottler in the City of Lewiston known as White Rock Industries and it is this section and this section alone that the Governor finds objectionable, at this moment, to the Bill.

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

Senator VIOLETTE: Mr. President. I will request a Division on this Order. The Legislature has dealt with this issue on several occasions, and as the good Senator from Androscoggin, Senator Trafton has stated, the point of contention, in a rather lengthy Bill, dealing with a number of issues, is, in fact, the one that he has stated, that is causing some problems with the Second Floor. I happen to believe, and I have told the Governor, that I would oppose recalling this Bill, as will I oppose the suspension of the Rules to amend it to remove this section. If the Governor feels that the other sections of this Bill are appropriate, then he shall have to accept one element of this Bill which he has some concern about. There is no concern as to the constitutionality of this section. The Attorney General has already ruled that this is constitutional, that we may allow for a preference in-state. All the Bill does, is offer preference of up to 10%, and allows for the retention of an in-state industry, a long term operation in this State, and the benefits accrued to this State from that situation.

I find nothing objectionable to that. I am surprised that the Second Floor does. But, I do not think that the Legislature should remove that section from this Bill. I think we should reject the Order. The Bill will go back down to the Second Floor. I understand the Senator's concern, as it relates to other matters of this Bill. But, let us place the pressure on the Second Floor. Let us say to the Governor, that this is something that we want and he is just going to have to accept it. If he doesn't want to, then fine. But, I am not going to support this Order this morning. I voted in favor of this preference, time and time again, and I know that the Committee has. I know that Senator Trafton is in a difficult position, as are other Members of this Body, who are on that Committee, because they unanimously supported this preference. Initially, we were told that there was not a problem with this section and then that there was a problem and then there wasn't. Now, all of a sudden, today, the Bill is being recalled to remove this section. I would hope that we would not recall this Bill. I would hope that we would send it back to the Second Floor.

If the Governor deems fit to veto it, then so be it. All of the aspects of this Bill are good and proper. They were good and proper, in the opinion of the Legislature, when it passed and Enacted this Bill. This is not a recall for a technical change. This is a recall for a substantive change in a Bill, that the Legislature has already Enacted. I would hope you would join me today, in rejecting this proposal. Thank you.

Senator VIOLETTE of Aroostook requested a Division.

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

Senator TRAFTON: Thank you, Mr. President. Mr. President and Members of the Senate. The good Senator from Aroostook, Senator Violette said "So be it if the Governor vetoes this Bill."

Let me remind the Senator, that this Bill is the redraft of a bill that was before this session of the Legislature for two years. This Bill has had two years of debate and work in the Joint Standing Committee of Legal Affairs. It deals with one of the most complicated taxing schemes in the State Government. It simplifies the markup process in the sale of liquor by the State of Maine. It simplifies the process that currently has fifteen different mathematical steps. It is complicated and it is misunderstood and it is one that needs to be simplified. This markup process, the improvements to it, that have been recommended by the Joint Standing Committee on Legal Affairs, will be lost if the Governor vetoes this Bill.

There are other sections in this Bill that will be lost if the Governor vetoes this Bill. There is a provision in the State law that prevents part time law enforcement officers to be a retail licensee, under the liquor laws. Currently, there are quite a few part time law enforcement officers, including part time game wardens, something that was created in the last Legislature, who are retail licensees, and they will lose their liquor licenses, unless this Bill is, in fact, passed.

I recognize the problem that the good Senator from Aroostook, Senator Violette has with removing this section of the Bill. I share his concerns. This was a unanimous report from the Joint Standing Committee on Legal Affairs. This was a section that the Committee spent several weeks in drafting, trying to dodge the constitutional problems that raised the issue in the first place.

The Governor's Office has clearly indicated that it will veto the whole Bill. This is a Bill that includes more than eight pages of substantive changes to the liquor mark up process, as well as the licensing process. I don't feel that it is fair to the Committee on Legal Affairs and the others who participated in the drafting and the Enactment of this Bill to simply allow the Governor to veto what was one of the most substantial pieces of legislation that the Legal Affairs Committee had. So, I encourage you to support the recall vote. If there is a compromise measure that can be reached with the Governor's Office, as to this particular section, for the tax preference, then hopefully that compromise can be reached. Frankly, there has not been enough time to deal with the Governor's Office, at this point, to see if that compromise, in fact, can be achieved, but that is one of the things that is being explored at the moment.

Please support the recall and afford the Committee on Legal Affairs one more day to see if a compromise can be reached, or if the Governor's Office can be convinced otherwise, not to veto this Bill. Thank you.

THE PRESIDENT: The pending question before the Senate is the motion of Senator TRAFTON of Androscoggin for PASSAGE of the Joint Order.

A Division has been requested.

Will all those Senators in favor of the motion of Passage, please rise in their places and remain standing until counted.

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

8 Senators having voted in the affirmative and 21 Senators having voted in the negative, the motion of Senator TRAFTON of Androscoggin for PASSAGE of this Joint Order FAILS.

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

PAPERS FROM THE HOUSE

Joint Order

The following Joint Order: H.P. 1744

ORDERED, the Senate concurring, that Resolve, to Establish a Commission to Examine Problems of Tort Litigation and Liability Insurance in Maine, H.P. 1624, L.D. 2289, and all its accompanying papers be recalled from the Governor's desk to the House.

Comes from the House READ and PASSED.

Which was READ and PASSED, in concurrence.

Senate at Ease

Senate called to order by the President.

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

PAPERS FROM THE HOUSE

Joint Resolution

The Following Joint Resolution: H.P. 1743

JOINT RESOLUTION RECOGNIZING THE 3RD REGIMENT,
MAINE VOLUNTEER INFANTRY

WHEREAS, the 3rd Regiment, Maine Volunteer Infantry (reactivated) is dedicated to the preservation of the history of the State of Maine's participation in the American Civil War; and

WHEREAS, the sacrifices and deeds of valor of the soldiers and sailors of the State of Maine are considerable and worth preserving for our future; and

WHEREAS, the members of the 3rd Regiment, Maine Volunteer Infantry (reactivated) have volunteered their personal time and treasure to the purpose of ensuring this preservation; and

WHEREAS, the citizens of the State of Maine are thus provided with a living window into the past and thereby gain individually and collectively in knowledge and experience; now, therefore, be it

RESOLVED: That we, the 112th Legislature of the State of Maine, now assembled, do hereby issue this Joint Resolution in recognition of the considerable efforts of the 3rd Regiment, Maine Volunteer Infantry (reactivated) in preserving and illustrating the noble and valorous deeds of our soldiers and sailors whose sacrifices preserved the union of our several states, helped to ensure the equality and freedom of all of our citizens and gave to us the legacy of these United States of America; and be it further

RESOLVED: That copies of this Joint Resolution, duly authenticated by the Secretary of State, be transmitted to the 3rd Regiment, Maine Volunteer Infantry.

Comes from the House READ and ADOPTED.

Which was READ and ADOPTED, in concurrence.

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

ENACTORS

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

Emergency

An Act Concerning Atlantic Salmon
H.P. 1722 L.D. 2411

This being an Emergency Measure and having received the affirmative vote of 27 Members of the Senate, with No Senators having voted in negative, and 27 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.

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

ENACTORS

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

Emergency

An Act to Regulate the Sale of Lobster Tails
H.P. 1714 L.D. 2407

This being an Emergency Measure and having received the affirmative vote of 28 Members of the Senate, with No Senators having voted in negative, and 28 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 Relating to Membership on the Maine-Canadian Legislative Advisory Commission
S.P. 981 L.D. 2430

This being an Emergency Measure and having received the affirmative vote of 28 Members of the Senate, with No Senators having voted in negative, and 28 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.

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

ENACTORS

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

An Act to Establish an Androscoggin County Budget
H.P. 1726 L.D. 2414

An Act to Clarify the County which is Responsible for Transportation Expenses in an Involuntary Hospitalization

H.P. 1724 L.D. 2413
(C "A" H-743)

An Act to Clarify the Laws of the Maine State Retirement System

H.P. 1723 L.D. 2412
(C "A" H-744)

Which were 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:

ENACTORS

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

Bond Issue

An Act to Authorize the Issuance of a Bond not Exceeding \$5,000,000 for the Financing of the Maine Inland Fisheries and Wildlife Acquisition Fund
S.P. 695 L.D. 1781
(C "B" S-550)

This being a Bond Authorization Act and having received the affirmative vote of 30 Members of the Senate, with No Senators having voted in negative, and 30 being more than two-thirds of the Membership present and voting was PASSED TO BE ENACTED and having been signed by the President, was presented by the Secretary to the Governor for his approval.

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

ENACTORS

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

Emergency

An Act to Expand Veterans' Employment Benefits to Veterans of Recent Military Actions
S.P. 977 L.D. 2423
(C "A" S-552)

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

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

PAPERS FROM THE HOUSE

Joint Order

The following Joint Order: H.P. 1745

ORDERED, the Senate concurring, that Bill "AN ACT Establishing a Commission to Implement Computerization of Criminal History Record Information," H.P. 1627, L.D. 2295, be recalled from the Governor's desk to the House.

Comes from the House READ and PASSED.

Which was READ and PASSED, in concurrence.

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

ORDERS

Joint Order

On motion by Senator DOW of Kennebec the following Joint Order: S.P. 984

ORDERED, the House concurring, that Bill "An Act Relating to Commercial Vehicles," S.P. 914, L.D. 2282, and all its accompanying papers, be recalled from the Governor's desk to the Senate.

Which was READ and PASSED.

Sent down for concurrence.

Which was READ and ORDERED PLACED ON FILE.

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

COMMUNICATIONS

The Following Communication:

STATE OF MAINE
ONE HUNDRED AND TWELFTH LEGISLATURE
COMMITTEE ON LABOR

May 29, 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 Labor has had under consideration the nomination of Gwendolyn Gatcomb of Winthrop, as a member of the Maine Labor Relations 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	1
	Representatives	9
NAYS:		0
ABSENT:	3	Sen. Dutremble of York; Sen. Tuttle of York; and Rep. Hepburn of Skowhegan.

Ten 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 Gwendolyn Gatcomb of Winthrop, as a member of the Maine Labor Relations Board be confirmed.

Sincerely,

Senate Chair
S/Dennis Dutremble

House Chair
S/Edith Beaulieu

THE PRESIDENT: The Joint Standing Committee on LABOR has recommended that the nomination of Gwendolyn Gatcomb of Winthrop be confirmed.

The pending question before the Senate is: "Shall the recommendation of the Committee on LABOR 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, BALDACCI, BERUBE, BLACK, BROWN, BUSTIN, CHALMERS, CLARK, DOW, EMERSON, ERWIN, GILL, HICHENS, KANY, KERRY, MATTHEWS, MAYBURY, MCBREAIRTY, PEARSON, PERKINS, SEWALL, SHUTE, STOVER, TUTTLE, TWITCHELL, USHER, VIOLETTE, WEBSTER, THE PRESIDENT - CHARLES P. PRAY

ABSENT: Senators, ANDREWS, CARPENTER, DIAMOND, DUTREMBLE, GAUVREAU, TRAFTON

RESIGNED: Senator NAJARIAN

No Senators having voted in the affirmative and 28 Senators having voted in the negative, with 6 Senators being absent, and None being less than two-thirds of the Membership present, it was the vote of the Senate that the Committee's recommendation be ACCEPTED and the nomination of Gwendolyn Gatcomb 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:

STATE OF MAINE
ONE HUNDRED AND TWELFTH LEGISLATURE
COMMITTEE ON LABOR

May 29, 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 Labor has had under consideration the nomination of Vandean V. Vafiades of Freeport, as a member of the Maine Labor Relations 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	1
	Representatives	9
NAYS:		0
ABSENT:	3	Sen. Dutremble of York; Sen. Tuttle of York; and Rep. Hepburn of Skowhegan.

Ten 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 Vandean V. Vafiades of Freeport, as a member of the Maine Labor Relations Board be confirmed.

Sincerely,
S/Dennis Dutremble
Senate Chair

S/Edith Beaulieu
House Chair

Which was READ and ORDERED PLACED ON FILE.

THE PRESIDENT: The Joint Standing Committee on LABOR has recommended that the nomination of Vandean V. Vafiades of Freeport be confirmed.

The pending question before the Senate is: "Shall the recommendation of the Committee on LABOR 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, BALDACCI, BERUBE, BLACK, BUSTIN, CHALMERS, CLARK, DOW, EMERSON, ERWIN, GILL, HICHENS, KANY, KERRY, MATTHEWS, MAYBURY, MCBREAIRTY, PEARSON, PERKINS, SEWALL, SHUTE, STOVER, TUTTLE, TWITCHELL, USHER, VIOLETTE, WEBSTER, THE PRESIDENT - CHARLES P. PRAY
ABSENT;	Senators, ANDREWS, BROWN, CARPENTER, DIAMOND, DUTREMBLE, GAUVREAU, TRAFTON
RESIGNED:	Senator NAJARIAN

No Senators having voted in the affirmative and 27 Senators having voted in the affirmative with 7 Senators being absent, and None being less than two-thirds of the Membership present, it was the vote of the Senate that the Committee's recommendation be ACCEPTED and the nomination of Vandean V. Vafiades 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

Ought to Pass As Amended

Senator PEARSON for the Committee on APPROPRIATIONS AND FINANCIAL AFFAIRS on Bill "An Act to Provide Emergency Funding for Sheltered Workshops" (Emergency)

S.P. 971 L.D. 2416

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (S-554).

Which Report was READ and ACCEPTED.

The Bill READ ONCE.

Committee Amendment "A" (S-554) READ and ADOPTED.

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

Sent down for concurrence.

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

PAPERS FROM THE HOUSE

Joint Resolution

The Following Joint Resolution: H.P. 1747

JOINT RESOLUTION COMMEMORATING THE 350TH ANNIVERSARY OF THE NATIONAL GUARD

WHEREAS, the National Guard is an important link in an unique American tradition of the citizen-soldier and the militia; the Guard is older than our nation, and boasts the longest continuous history of any military organization in the United States; and

WHEREAS, the federal mission of the National Guard is to blend with the United States military at a moment's notice in time of war or national emergency; Guardsmen played an important role in the Civil War, War of 1812, Spanish-American War, World War I and World War II, the Korean conflict and most recently in Southeast Asia; and

WHEREAS, during the War of Independence, Maine furnished about 6,000 officers and men. The state mission of the National Guard is to help protect life and property and to preserve peace, order and public safety; and

WHEREAS, the members of the National Guard have been able to respond quickly and efficiently to local emergencies, countless lives and millions of dollars of property and equipment have been saved; and

WHEREAS, the National Guard also provides assistance to local areas through its programs of community service, which gain an extra dimension since the Guardsmen are part of the community they serve; and

WHEREAS, Maine Guardsmen and the State of Maine may indeed be proud of the history of their National Guard units; their achievements of the Maine National Guard are truly a great heritage and provide a source of pride in membership which is inherited by each of the thousands of Maine National Guardsmen; now, therefore, be it

RESOLVED: That copies of this resolution, duly authenticated by the Secretary of State, be transmitted to the President of the United States, Ronald W. Reagan, as Commander of the United States Armed Forces; to the Governor of the State of Maine, Joseph E. Brennan, as Commander-in-Chief of the Maine military forces; to the Members of the Maine Congressional Delegation; and to the Adjutant General of Maine.

Comes from the House READ and ADOPTED.

Which was READ and ADOPTED, in concurrence.

Senate at Ease

Senate called to order by the President.

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

COMMITTEE REPORTS

House

Ought to Pass in New Draft under New Title

The Committee on LEGAL AFFAIRS on Bill "An Act to Amend the Liquor Laws to Allow a Vessel Corporation Owned by a Certificate Holder to Apply for a Liquor License"

H.P. 1727 L.D. 2415

Reported that the same Ought to Pass in New Draft under New Title Bill "An Act to Provide for Liquor Licensing of Cruise Ships" (Emergency) H.P. 1746 L.D. 2432

The Senate RECEDED and CONCURRED.

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

Off Record Remarks

Which Report was READ and ACCEPTED, in concurrence.

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

The Bill in NEW DRAFT under NEW TITLE READ ONCE.

SECOND READERS

Under suspension of the Rules, the Bill in NEW DRAFT under NEW TITLE, READ A SECOND TIME and PASSED TO BE ENGROSSED, in concurrence.

Senate

Bill "An Act to Create a Study of Solid Waste Disposal Policy in Maine" (Emergency) S.P. 982 L.D. 2431

Under suspension of the Rules, all matters thus acted upon, with the exception of those matters being held, were ordered sent down forthwith for concurrence.

Under suspension of the Rules, READ A SECOND TIME.

On motion by Senator TUTTLE of York, Senate Amendment "A" (S-556) READ.

Senate at Ease

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

Senate called to order by the President.

Senator USHER: Thank you, Mr. President. The Committee heard this Bill on Tuesday. The Bill had a moratorium section, which is before you in this amendment. The Committee voted this out unanimous, without the moratorium, because it would cause some concerns of having waste backed up and piled up and be very, very expensive throughout the State. We took the moratorium section out. We did agree, as a Committee, with the Commissioner, that a study was needed on all the waste landfills throughout the State of Maine. We changed the original date. The original date in the Bill was to report back to the next Legislature on January 1, 1987. We changed the date to March 15, 1987, so we can do a good thorough study on the matter. It was very acceptable to the Committee. I would oppose the pending question to Adopt this Amendment. Thank you.

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

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

PAPERS FROM THE HOUSE

Non-concurrent Matter

Bill "An Act Making Appropriations from the General Fund and Changing Certain Provisions of Law Necessary for the Operation of State Government for the Fiscal Years Ending June 30, 1986, and June 30, 1987" (Emergency)

H.P. 1741 L.D. 2428

In Senate, May 28, 1986, PASSED TO BE ENGROSSED, in concurrence.

Comes from the House Bill and Accompanying Papers RECOMMITTED to the Committee on APPROPRIATIONS AND FINANCIAL AFFAIRS in NON-CONCURRENCE.

Senator TUTTLE: Mr. President and Members of the Senate. I, first of all would thank the Senator from Cumberland, Senator Usher and the Committee on Natural Resources, for hearing the Bill and entrusting it from their point of view. But, what I would like to do, is explain the actual situation of what is going on and the reason why I put the Bill in, so you might understand why the amendment is so important.

The Bill, in new draft, essentially provides for the study of the effects of landfills which will receive out of state materials and all materials in general. A month ago, I asked the Commissioner of DEP to implement a landfill moratorium, after I learned that Waste Management, Inc. of Illinois and also another company that was centered in Massachusetts, were preparing to fill two landfill sites in the Town of Lebanon and Berwick, in my Senate district. However, the Commissioner told me, that he didn't have the statutory authority to impose a moratorium. Therefore, I submitted the Bill with the moratorium attached on it.

I am sure that this Senate is aware, that the regional interests in Maine landfill sites are increasing. The property values have climbed drastically in other states, like Massachusetts. Massachusetts is no longer allowing landfills to be built, which makes Maine, and particularly my Senate district, a very prime target for these landfill developers.

Presently, Waste Management, Inc. of Illinois, is planning a 75 acre parcel for out of state refuse, in the Town of Berwick. Another company from Massachusetts and New Hampshire, is planning another 65 acre parcel in North Lebanon, that will bury industrial waste, ash and asbestos, from Route 128 in Massachusetts. So, I have a tremendous amount of concern.

I feel that this an emergency and it should be addressed by the Legislature before these corporations have dumped refuse and then have the taxpayers of Maine pick up the tab in the years to come. I feel that we have a responsibility to take care of our own waste, but I do draw a line when we are asked to take care of every other state, north and west of Route 128 in Massachusetts. And from states that are no longer building landfills.

That is the reason why I would ask you to Adopt the moratorium, which was the original intent of the Bill. Thank you.

Senator PERKINS of Hancock requested a Division.

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

Senator PEARSON: Mr. President, Men and Women of the Senate. Obviously, this does not affect my Senate district. I just got out of a situation at home where there was consideration to put material in my Senate district. I think, I can imagine how Senator Tuttle might feel. I can't help but wonder if it were an out of state corporation that was coming in to develop a landfill in your community, if you wouldn't react in the same way that he is reacting.

I think that he is doing what he ought to do and that is to try to put a moratorium on this, until such time as regulations can be promulgated. Unless I am missing something here, it seems to me, that Senator Tuttle would be remiss if he didn't do what he is doing.

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

Senator USHER: Thank you, Mr. President. Mr. President and Members of the Senate. Presently, there are two landfills in the State that handle most of the waste in the area. Those are in Norridgewock and Hampden.

There is also one in Rochester, New Hampshire, which, as many of you know, is right on the border. It is a very large landfill. Senator Tuttle's district, and many in Senator Hichen's district, send their trash to New Hampshire. Now, this proposed landfill, for which the application hasn't even been submitted yet, is to look over sites in the Town of Lebanon or Berwick. The Senator argues that he wants to stop it before it is even proposed, or the application is even put in. We already accept out of state trash. A lot of out of state trash comes into the State of Maine, like our trash goes out of the State of Maine.

We have many problems on the border right now, as you can see in different editorials, in regards to tax problems. Now, I feel that this will be reciprocal in the trash matter. The application is supposed to be put in at the end of this year. This was explained to the Commissioner and the Commissioner believes it and we do. The study will start at the end of this year and possibly be done around the first of February, or the latter part of February. It takes about 9 months to get the application through. If the land is not suitable for a landfill, it will not be passed. So, you're talking way into next year, anyway. So, this is why we do not feel a moratorium should be put on this Bill. You could be holding up many other potential landfills. If we don't have landfills, what do you suggest we do with our waste? It is becoming the number 1 problem nationwide.

We have put on so many rules, to hold up the waste, that it just piles up. Other states have had many, many problems on this. At different conferences that I have been to, they urge us to not stop landfills, because you are going to need them. Anything that is built that is mechanical, energy recovery breaks down. We are going to need landfills. We don't believe that a moratorium is needed on this Bill.

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

Senator MATTHEWS: Mr. President and Members of the Senate. Since the Town of Norridgewock has been mentioned in this issue, it happens to border my Senate district, and the town that I represent for the people in Skowhegan, I guess my question, that I would like to direct the Chairman of the Energy and Natural Resources Committee, is why, and I guess I have to preference this a little bit. One of the problems with the landfills that we have been seeing over the years, is that many substances are coming from out of state, like toxic waste and chemical waste, have been dumped in these landfills.

Why shouldn't we have this moratorium until we find out what kinds of waste are being allowed into the State of Maine from out of state? And, why shouldn't we pass this moratorium, rather than to allow this to continue?

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 Cumberland, Senator Usher.

Senator USHER: In response to the good Senator from Kennebec, Senator Matthews, information that we received, that there isn't a state in New England that has a hazardous waste site. All the wastes that are generated in Maine, and other parts of New England, are shipped, either to New Jersey or down in the Southern part of the United States. There is no such dump in the New England area. All of these landfills, in this State, are controlled, and there is no hazardous waste at all. So, there is no concern about hazardous waste.

They are just preparing for the application. They haven't done anything to date, as far as the DEP Office is concerned.

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

Senator TUTTLE: Mr. President and Members of the Senate. I don't mean to belabor this issue, but it is an important issue for my district, so please bear with me. In response to Senator Usher's comments, I would hope that this Body would not defeat the amendment and allow the moratorium to go into effect, and I feel that was the original intent of the legislation. I feel this is only fair and just. Having communicated with the Attorney General's Office yesterday, pertaining to this legislation, at the public hearing there is still a grey area that a company like Waste Management, Inc. that is coming to my area, may apply for the granting of an application prior to the new rules being implemented in the 113th Legislature. Therefore, having it grandfathered under the old law.

This means, in a sense, that all of the work that the Committee is going to do and the Legislature is going to do, might be defeated, based upon legal precedent, and I wouldn't want that to happen. I am sure that if it were in your district, you wouldn't want it to happen either. We were told on Tuesday, at the public hearing, that a company would not do so. But, having been around here as long as I have, I have seen stranger things happen. If I were in their position and if I thought that new laws were going to be adopted that might jeopardize implementation of a landfill, that is going to generate a tremendous amount of profit to them, it might be very easily argued that an early date of application would be an expedient course of action, even though the representative from the company said that they would not do it.

It is because of this that I feel the moratorium should be instituted. So that when the new rules are adopted by the new Legislature, that everybody starts from day one. This moratorium will not affect those landfills presently on line. What it will do is give the people of Maine, the Committee on Natural Resources and the 113th Legislature, a chance to act responsibly and fairly on this issue of waste coming in from out of state in the years ahead. Therefore, I would hope that you would adopt this amendment.

THE PRESIDENT: The pending question before the Senate is the motion of Senator TUTTLE of York to ADOPT Senate Amendment "A" (S-556).

A Division has been requested.

Will all those Senators in favor of the motion to ADOPT Senate Amendment "A" (S-556), please rise in their places and remain standing until counted.

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

8 Senators having voted in the affirmative and 13 Senators having voted in the negative, the motion of Senator TUTTLE of York to ADOPT Senate Amendment "A" (S-556) FAILS.

On motion by Senator TUTTLE of York, Senate Amendment "C" (S-558) READ.

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

Senator USHER: Mr. President. I oppose the pending motion to Adopt Senate Amendment "C" (S-558) and will request a Division. The Amendment that is before us, we have called the Attorney General's Office on and the response was that the application, when it is submitted to DEP, the rules remain in effect on the date that they put their application in. The new rules would take effect when they are voted on, at the end of the study. So, I don't believe that this could take effect, and this was discussed in Committee and we did not approve of it.

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

Senator TUTTLE: Mr. President and Members of the Senate. I would hope that you would Adopt this amendment. This is, as Senator Usher has said, is something that had been requested in the Committee, and had been told to us by the Commissioner, as well as communication with the Attorney General's Office. What we are saying here is, "I want to have it in writing on the Bill so that I know that when these new rules are adopted my communities will not have to pay the price, if they submit their applications early." I think it is a very fair amendment, and I would hope that you would go along with it. It is a very important issue for my community. I think it is a very minor thing, something that has already been said, and told to me by other Members who have sponsored the Bill. I think it is a very minor amendment, and my hope is that it will be adopted.

Senator USHER of Cumberland requested a Division.

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

Senator USHER: Thank you, Mr. President. The Commissioner did state that he had a great concern for this area, and he also had faith in the business, and that is his procedure, and he felt there was no need for this.

On motion by Senator TUTTLE of York, supported by a Division of at least one-fifth of the Members present and voting, a Roll Call was ordered.

On motion by Senator VIOLETTE of Aroostook, Tabled until Later in Today's Session, pending the motion of Senator TUTTLE of York, to ADOPT Senate Amendment "C" (S-558). (Roll Call ordered)

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

COMMITTEE REPORTS

House

Leave to Withdraw

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

Bill "An Act to Amend the Charter of the Passamaquoddy Water District" (Emergency) H.P. 1313 L.D. 1829

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

COMMUNICATIONS

The Following Communication:

STATE OF MAINE
ONE HUNDRED AND TWELFTH LEGISLATURE
COMMITTEE ON ENERGY AND NATURAL RESOURCES

May 29, 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 Energy and Natural Resources has had under consideration the nomination of William Blodgett of Waldoboro, for reappointment to the Board of Environmental Protection.

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 3
Representatives 9
NAYS: 0
ABSENT: 1 Rep. Hoglund of Portland

Twelve 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 William Blodgett of Waldoboro, for reappointment to the Board of Environmental Protection be confirmed.

Sincerely,
S/Ronald E. Usher
Senate Chair
S/Michael H. Michaud
House Chair

Which was READ and ORDERED PLACED ON FILE.

THE PRESIDENT: The Joint Standing Committee on ENERGY AND NATURAL RESOURCES has recommended that the nomination of William Blodgett of Waldoboro be confirmed.

The pending question before the Senate is: "Shall the recommendation of the Committee on ENERGY AND NATURAL RESOURCES 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, BALDACCI, BERUBE, BLACK, BUSTIN, CARPENTER, CHALMERS, CLARK, DOW, EMERSON, ERWIN, GILL, HICHENS, KERRY, MATTHEWS, MAYBURY, MCBREAIRTY, PEARSON, PERKINS, SEWALL, SHUTE, STOVER, TUTTLE, TWITCHELL, USHER, VIOLETTE, THE PRESIDENT - CHARLES P. PRAY

ABSENT: Senators, ANDREWS, BROWN, DIAMOND, DUTREMBLE, GAUVREAU, KANY, TRAFTON, WEBSTER

RESIGNED: Senator NAJARIAN

No Senators having voted in the affirmative and 26 Senators having voted in the negative, with 8 Senators being absent, and None being less than two-thirds of the Membership present, it was the vote of the Senate that the Committee's recommendation be ACCEPTED and the nomination of William Blodgett 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:

STATE OF MAINE
ONE HUNDRED AND TWELFTH LEGISLATURE
COMMITTEE ON ENERGY AND NATURAL RESOURCES

May 29, 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 Energy and Natural Resources has had under consideration the nomination of Annee Tara of Freeport, for appointment to the Citizen's Forestry Advisory Council.

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. Kany of Kennebec, Rep. Hoglund of Portland

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 Annee Tara of Freeport, for appointment to the Citizen's Forestry Advisory Council be confirmed.

Sincerely,

S/Ronald E. Usher
Senate Chair

S/Michael H. Michaud
House Chair

Which was READ and ORDERED PLACED ON FILE.

THE PRESIDENT: The Joint Standing Committee on ENERGY AND NATURAL RESOURCES has recommended that the nomination of Annee Tara of Freeport be confirmed.

The pending question before the Senate is: "Shall the recommendation of the Committee on ENERGY AND NATURAL RESOURCES 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, BALDACCI, BERUBE, BLACK, BUSTIN, CARPENTER, CHALMERS, CLARK, DOW, EMERSON, ERWIN, GILL, HICHENS, KERRY, MATTHEWS, MAYBURY, MCBREAIRTY, PEARSON, PERKINS, SEWALL, SHUTE, STOVER, TRAFTON, TUTTLE, TWITCHELL, USHER, VIOLETTE, THE PRESIDENT - CHARLES P. PRAY

ABSENT: Senators, ANDREWS, BROWN, DIAMOND, DUTREMBLE, GAUVREAU, KANY, WEBSTER

RESIGNED: Senator NAJARIAN

No Senators having voted in the affirmative and 27 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 Annee Tara was CONFIRMED.

The Secretary has so informed the Speaker of the House.

ORDERS OF THE DAY

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

Emergency

An Act to Expand Veterans' Employment Benefits to Veterans of Recent Military Actions S.P. 977 L.D. 2423 (C "A" S-552)

Tabled - May 29, 1986, by Senator VIOLETTE of Aroostook.

Pending - ENACTMENT

(In House, May 29, 1986, PASSED TO BE ENACTED.)

(In Senate, May 28, 1986, PASSED TO BE ENGROSSED AS AMENDED.)

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

On further motion by same Senator, Senate Amendment "A" (S-553) READ and ADOPTED.

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

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

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

COMMITTEE REPORTS

Senate

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 Amend the Tax on Tobacco Products" (Emergency) S.P. 975 L.D. 2420

Senate at Ease

Senate called to order by the President.

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

RECALLED FROM THE GOVERNOR'S DESK

Bill "An Act Relating to Commercial Vehicles" S.P. 914 L.D. 2282 (H "A" H-733 to C "A" S-484)

(In Senate, April 15, 1986, PASSED TO BE ENACTED, in concurrence.)

(RECALLED from the Governor's Desk, pursuant to Joint Order S.P. 984.)

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

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

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

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

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

On further motion by same Senator, the Senate RECONSIDERED its action whereby Committee Amendment "A" (S-484) as Amended by House Amendment "A" (H-733), thereto was ADOPTED.

On further motion by same Senator Senate Amendment "B" (S-555) to Committee Amendment "A" (S-484) READ and ADOPTED.

Committee Amendment "A" (S-484) as Amended by Senate Amendment "B" (S-555) and House Amendment "A" (H-733), thereto ADOPTED in NON-CONCURRENCE.

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

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

Off Record Remarks

On motion by Senator CARPENTER of Aroostook RECESSED until sound of the Bell.

After Recess

Senate called to order by the President.

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

COMMITTEE REPORTS

House

Ought to Pass As Amended

The Committee on APPROPRIATIONS AND FINANCIAL AFFAIRS on Bill "An Act to Authorize a General Fund Bond Issue in the Amount of \$7,700,000 for Various Projects at the University of Maine" H.P. 1639 L.D. 2311

Reported that the same Ought to Pass as Amended by Committee Amendment "C" (H-753).

Comes from the House, with the Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "C" (H-753).

Which Report was READ and ACCEPTED, in concurrence.

The Bill READ ONCE.

Committee Amendment "C" (H-753) READ and ADOPTED, in concurrence.

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

Under suspension of the Rules, ordered sent forthwith to the Engrossing Department.

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

PAPERS FROM THE HOUSE

Non-concurrent Matter

Resolve, to Establish a Commission to Examine Problems of Tort Litigation and Liability Insurance in Maine (Emergency)

H.P. 1624 L.D. 2289 (H "B" H-655)

In Senate, April 15, 1986, FINALLY PASSED, in concurrence.

RECALLED from the Governor's Desk pursuant to Joint Order H.P. 1744.

Comes from the House PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "B" (H-655) AS AMENDED BY HOUSE AMENDMENT "A" (H-754), thereto in NON-CONCURRENCE.

The Senate RECEDED and CONCURRED.

Non-concurrent Matter

Off Record Remarks

Bill "An Act Establishing a Commission to Implement Computerization of Criminal History Record Information" (Emergency)

H.P. 1627 L.D. 2295
(H "B" H-660; S "A" S-454)

Senate at Ease

Senate called to order by the President.

In Senate, April 15, 1986, PASSED TO BE ENACTED, in concurrence.

RECALLED from the Governor's Desk pursuant to Joint Order H.P. 1745.

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

Comes from the House PASSED TO BE ENGROSSED AS AMENDED BY SENATE AMENDMENT "A" (S-454) AS AMENDED BY HOUSE AMENDMENT "A" (H-745), thereto AND HOUSE AMENDMENT "B" (H-660) in NON-CONCURRENCE.

COMMITTEE REPORTS

Senate

Ought to Pass As Amended

The Senate RECEDED and CONCURRED.

Senator PEARSON for the Committee on APPROPRIATIONS AND FINANCIAL AFFAIRS on Bill "An Act to Authorize a Bond Issue in the Amount of \$6,000,000 to Deal with Asbestos in State Facilities" S.P. 978 L.D. 2424

ORDERS OF THE DAY

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

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (S-564).

Bill "An Act to Create a Study of Solid Waste Disposal Policy in Maine" (Emergency) S.P. 982 L.D. 2431

Which Report was READ and ACCEPTED.

The Bill READ ONCE.

Tabled - May 29, 1986, by Senator VIOLETTE of Aroostook.

Committee Amendment "A" (S-564) READ and ADOPTED.

Pending - Motion of Senator TUTTLE of York to ADOPT Senate Amendment "C" (S-558) (Roll Call Ordered)

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

Sent down for concurrence.

(In Senate, May 29, 1986, READ A SECOND TIME. Senate Amendment "C" (S-558) READ.)

Senator TUTTLE of York requested and received Leave of the Senate to Withdraw his motion to ADOPT Senate Amendment "C" (S-558).

Under suspension of the Rules, all matters thus acted upon with the exception of those items previously held, were ordered sent down forthwith for concurrence.

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

Senate at Ease

Senate called to order by the President.

ORDERS OF THE DAY

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

Bill "An Act to Create a Study of Solid Waste Disposal Policy in Maine" (Emergency)
S.P. 982 L.D. 2431

Tabled - May 29, 1986, by Senator VIOLETTE of Aroostook.

Pending - PASSAGE TO BE ENGROSSED

(In Senate, May 29, 1986, READ A SECOND TIME.)

On motion by Senator TUTTLE of York Senate Amendment "D" (S-563) READ.

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

Senator USHER: Thank you Mr. President, would the sponsor of this amendment please try to describe a little more clearly the way this amendment is written?

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

The Chair recognizes the Senator from York, Senator Tuttle.

Senator TUTTLE: Mr. President and Members of the Senate. What this amendment does is essentially what we were debating earlier. We had some legal problems with the original amendment, so together with our Senate Attorney, Senator Carpenter and a few others, we drafted an amendment that will clear any constitutional problems that might have been addressed in the other amendment. So, I would hope that you would support the amendment.

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

Senator USHER: Mr. President, the way I read this, it says about a permit, being submitted ninety days after adjournment of the First Regular Session, and I don't know the correct dates, but I believe that we have been out of session over forty days already. Is this fair to the business community who want to submit a permit? Excuse me, this is in the 113th Legislature. The information that we received in Committee led me to believe that we couldn't do this for the next Legislature.

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

Senator TUTTLE: Mr. President, in response to Senator Usher's question, after checking with legal counsel, they said that we could, and that is why we drafted it in this way.

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

Senator USHER: To the good Senator from York, Senator Tuttle, I don't know who his legal counsel was, but we conferred with the Attorney General's office and they informed us that they did not think it was possible. I don't know if the good Senator from York, Senator Tuttle did so.

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

Senator TUTTLE: Mr. President, in response to the Senator from Cumberland, Senator Usher's question, yes we did check, and apparently it does meet legal muster.

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

Senator CHALMERS: Thank you Mr. President. It is my understanding that when someone applies for a license, that person has to be bound by the laws then in existence. What this amendment does, I believe, it says that when an application is in the process, ninety days after the adjournment of the First Regular Session of the next Legislature, that application is going to have to be bound by the Rules that the First Session of the next Legislature passes. That is slightly different than the previous amendment, which as I understood said that if an application were made, it was going to be bound by the next two years of whatever Bills were going to be passed. This is a modification of that, which says that if the application has not been finally approved, then any legislation in the first regular session of the next Legislature would affect that application, and obviously that application could be modified to reflect any changes in laws. That perhaps, is the difference between this amendment and the prior amendment.

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

Senator USHER: I don't think I completely understand the amendment, so therefore I would ask for a Division on the motion to Adopt the amendment.

Senator USHER of Cumberland requested a Division.

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

Senator DIAMOND: Thank you Mr. President, Ladies and Gentlemen of the Senate. If we don't understand the need for this amendment, then I would ask if the good Senator from Cumberland, Senator Usher, might Table this for a short period while we get it cleared up, instead of asking for a Division.

There is a serious problem in Berwick and in Lebanon, a problem where people from out-of-state want to come in and not build a landfill, what they want to do is collect trash in New York, New Jersey and New England and dump it in Maine. Berwick and Lebanon are only the first two stops. They have six other stops in mind as well. near Augusta, in Aroostook County and in Cumberland County. We are trying to do something to slow this down. What they will do is bring this trash in from out-of-state and pile it up until they reach sixty-five feet high and then they will cap it with clay and will leave. It will take about ten years for that to happen. We need time to look at this. My Senate district is one of the sites they have in mind, yours may be next. So, if there is a problem with this amendment, I think that it should be corrected. If the good Senator wouldn't mind if we could at least have it looked at by Tabling it rather than a Division, I think all of us would appreciate that, because we all have some serious questions about what we would be doing to our State. Thank you.

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

Senator KANY: Mr. President and Members of the Senate. I would suggest that the amendment before us would not be passing law that would be retroactive, because the law would not be retro-active upon enactment, but would speak to something in the future. That is the difference and I urge passage of the amendment. It seems constitutional to me.

Senator USHER of Cumberland requested and received Leave of the Senate to Withdraw his request for a Division.

On motion by Senator USHER of Cumberland, Tabled until Later in Today's Session, pending the motion of Senator TUTTLE of York to ADOPT Senate Amendment "D" (S-563).

Senator HICHENS of York was granted unanimous consent to address the Senate On the Record.

May 29th is a special day
 For one who's served us well
 For many terms in Senate Halls
 And of her feats we tell.
 For twenty-one years she's been around
 In varied types of service,
 And with her snapping of the whip,
 She's often made us nervous.
 Her bark's more vicious than her bite
 For we all know behind it all,
 Is a tender loving nature
 And oft I do recall,
 How sympathetic she could be
 When I had lost a battle,
 Yet in the Legislative Halls
 She's made the pillars rattle.
 Dexterity an asset strong
 This lovely gal is vested.

So on this Legislative Day
 While humidity is high,
 We cannot let this gal's birthday
 Just go drifting by.
 And so join me in greetings
 On this warm summer's day,
 In wishing all the very best
 to a Senate Sweetheart,
 May Ross, that is.

Senator USHER of Cumberland was granted unanimous consent to address the Senate On the Record.

Senator USHER: Thank you Mr. President and Members of the Senate. We were all pleased with the announcement by the D.O.E., that plans for a second nuclear repository have been dropped. I want to take a moment to express our thanks, on behalf of the Maine Senate and the people of the State, to one person. And this person, I think played a very major role in this whole effect, and that is Senator Judy Kany of Kennebec.

I believe that Senator Kany's tireless devotion to this issue was instrumental in the elimination of Maine from the D.O.E. list. Senator Kany coordinated the technical and popular opposition that eventually prevailed. I am told that Maine's response was the best prepared and most effective of any State on the D.O.E. list. We owe Senator Kany a deep debt of gratitude. Again, thank you Senator Kany.

THE PRESIDENT: The Chair would join with the comments of the Senator from Cumberland, Senator Usher, and state that I think that the Senate has been very fortunate, as well as the State of Maine, to have Senator Kany available at this time to take on such a task, and I think that having seen her last evening when she got off the plane and found out that Maine had been removed, and the entire second repository sight had been declared null and void, having seeing Senator Kany's response to having found out that news, I can tell you, that she was totally excited.

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

Senator KANY: Thank you Mr. President and Members of the Senate. I am really deeply touched by that, and I appreciate Senator Usher, particularly, making that statement. I will tell you that this is really the most exciting day of my life, and nothing has really been more thrilling than to see Maine people work together.

It was absolutely a consensus and everybody was pulling together and cooperating. So, believe me, the success was just not one person, it was a lot of people pulling together and working hard. I really appreciate Maine people so much because of that. I think we did make an impact nationally, but it was because everybody worked together. Thanks so much.

On motion by Senator BALDACCI of Penobscot RECESSED until the sound of the bell.

After Recess

Senate called to order by the President.

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

ENACTORS

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

Bond Issue

An Act to Authorize a General Fund Bond Issue in the Amount of \$7,700,000 for Various Projects at the University of Maine

H.P. 1639 L.D. 2311
(C "C" H-753)

This being a Bond Authorization Act and having received the affirmative vote of 25 Members of the Senate, with 2 Senators having voted in negative, and 25 being more than two-thirds of the Membership present and voting was PASSED TO BE ENACTED and having been signed by the President, was presented by the Secretary to the Governor for his approval.

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

ENACTORS

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

Emergency

An Act Establishing a Commission to Implement Computerization of Criminal History Record Information

H.P. 1627 L.D. 2295
(H "B" H-660; H "A"
H-745 to S "A" S-454)

This being an Emergency Measure and having received the affirmative vote of 29 Members of the Senate, with No Senators having voted in negative, and 29 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.

Constitutional Amendment

Resolution, Proposing an Amendment to the Constitution of Maine Providing for Filling a Vacancy in the Office of Governor after the Convening of the Legislature and before the Governor-elect is Inaugurated

S.P. 974 L.D. 2419
(C "A" S-551)

Comes from the House FAILING of FINAL PASSAGE.

This being a Constitutional Amendment and having received the affirmative vote of 26 Members of the Senate, with 3 Senators having voted in negative, and 26 being more than two-thirds of the Membership present and voting was FINALLY PASSED and signed by the President in NON-CONCURRENCE.

Sent down for concurrence.

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

ORDERS

Joint Resolution

On motion by Senator DIAMOND of Cumberland (Cosponsored by: Representative ROLDE of York, Representative JOSEPH of Waterville, Representative MCPHERSON of Eliot) the following Joint Resolution:

S.P. 985

JOINT RESOLUTION CONCERNING UNDERGROUND STORAGE TANK REMOVAL RULES

WHEREAS, a survey of retail, commercial, residential and publicly-owned underground storage tanks has estimated that there may be over 23,000 such tanks in Maine, not counting abandoned tanks; and

WHEREAS, that survey also indicates that underground storage tanks are concentrated near population centers; and

WHEREAS, underground storage tanks which have reached the end of their useful life must be removed to avoid damage to the environment and other tanks are frequently removed when property changes hands, land use changes or for other reasons; and

WHEREAS, underground storage tanks which are being removed often contain liquid, gases or vapors which are explosive, flammable or toxic; and

WHEREAS, these facts present an immediate threat to the health and safety of workers removing underground storage tanks and to members of the public living or working nearby; now, therefore, be it

RESOLVED: That We, the Members of the 112th Legislature, express to the Department of Environmental Protection our concern as to the need to study the removal of underground storage tanks and the appropriateness of issuing rules designed to protect workers and members of the public. The Legislature hereby expresses its support for the adoption of rules dealing with (1) the adoption of basic safety standards for personnel engaged in the removal of underground storage tanks and (2) special safety precautions to be taken for removal of underground storage tanks located in densely populated areas; and be it further

RESOLVED: That, in the conduct of any study and promulgation of rules, the Legislature urges the department to consult with representatives of the Department of Public Safety and the Department of Human Services and appropriate local officials, including fire chiefs, police chiefs and civil emergency planning officers; and be it further

RESOLVED: That the Legislature urges the Department of Environmental Protection to report to the First Regular Session of the 113th Legislature on the conduct of its study and on the development of its rules.

Which was READ and ADOPTED.

Sent down for concurrence.

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

PAPERS FROM THE HOUSE

Joint Resolution

The Following Joint Resolution: H.P. 1751

JOINT RESOLUTION RECOGNIZING THE HONORABLE ETHEL B. BAKER OF ORRINGTON

WHEREAS, high on the east bank of the Penobscot River in the same house where her mother was born, birth was given to a beautiful baby girl; and

WHEREAS, this young lady would serve 21 years as the town clerk of Orrington in that same house next door to the town office; and

WHEREAS, in her absence, her children would issue fishing and marriage licenses for the townspeople for a fee of 15¢ as the house became more like the town office; and

WHEREAS, this gentle lady came to Augusta as a State Representative to abolish billboards and establish a fine for highway littering, among other important matters; and

WHEREAS, she would be the first woman to complete 7 terms in the Maine Legislature as a member of the 99th, 100th, 102nd, 103rd, 104th, 105th and 106th Legislatures; and

WHEREAS, this dear colleague is here in our chambers today and celebrated the 80th anniversary of her birth on May 21, 1986; now, therefore, be it

RESOLVED: That We, the members of the 112th Legislature of the great and sovereign State of Maine now assembled in Special Session, pause in deliberations to welcome the Honorable Ethel B. Baker of Orrington and extend to her our very best wishes for the 80th anniversary of her birth; and be it further

RESOLVED: That although bullfighting in Maine became a lost cause, we thank this lovely Matador for establishing the ladies retirement room among other legislative improvements; and be it further

RESOLVED: That copies of this resolution, duly authenticated by the Secretary of State, be transmitted to Ethel by her son in token of the sentiments expressed herein.

Comes from the House READ and ADOPTED.

Which was READ and ADOPTED, in concurrence.

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

ENACTORS

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

Emergency

An Act to Provide for Liquor Licensing of Cruise Ships

H.P. 1746 L.D. 2432

This being an Emergency Measure and having received the affirmative vote of 27 Members of the Senate, with 1 Senators having voted in negative, and 27 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.

Senate at Ease

Senate called to order by the President.

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

COMMITTEE REPORTS

House

Divided Report

Seven Members on the Committee on TAXATION on Bill "An Act to Amend the Tax on Tobacco Products" (Emergency)

H.P. 1742 L.D. 2429

Reported in Report A that the same Ought to Pass as Amended by Committee Amendment "A" (H-756).

Signed:

Senators: TWITCHELL of Oxford
EMERSON of Penobscot

Representatives: CASHMAN of Old Town
SWAZEY of Bucksport
JACKSON of Harrison
MCCOLLISTER of Canton
WEBSTER of Cape Elizabeth

Four Members of the Same Committee on the same subject reported in Report B that the same Ought Not to Pass.

Signed:

Senator: DIAMOND of Cumberland

Representatives: TARDY of Palmyra
MAYO of Thomaston
NELSON of Portland

Two Members of the Same Committee on the same subject reported in Report C that the same Ought to Pass.

Signed:

Representatives: ZIRNKILTON of Mount Desert
INGRAHAM of Houlton

Comes from the House the Bill and Accompanying Papers INDEFINITELY POSTPONED.

Which Reports were READ.

Senator TRAFTON of Androscoggin moved the INDEFINITE POSTPONEMENT of the Bill and Accompanying Papers, in concurrence.

THE PRESIDENT: The Chair recognizes the Senator from Oxford, Senator Twitchell.

Senator TWITCHELL: Thank you Mr. President and Members of the Senate. I would request a Division on that motion. We have worked on this Bill for the last two days and we came out with three different reports. The report that I signed on was Report A, and that knocks the excise tax of 45% down to 30%. That is what I intended to vote for, which would raise \$450,000. This Report A is what this will do. If you accept Report B, that will bring in \$1,035,000. If you accept Report C, that would also bring in \$450,000, but also would include pipes and tobacco. Report A just takes the snuff products and the chewing tobacco, which is what we intended to do in the first place. So, I would ask for a Division on that motion.

Senator TWITCHELL of Oxford requested a Division.

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

Senator TRAFTON: Thank you Mr. President and Members of the Senate. The reason I stand today to speak against my good friend, the good Senator from Oxford, Senator Twitchell, is that I see no need to change a piece of legislation that was so recently Enacted.

To change a piece of legislation because the industry which is effected by this particular tax, proposes that the numbers that were originally projected are different from what was originally projected, and I believe that we should allow this particular piece of legislation to be Indefinitely Postponed today.

My feeling is that we should allow the Bill as originally Enacted by this Session of the Legislature to take effect, to maintain it's effectiveness for at least a period of one year, so in fact, the Bureau of Taxation can monitor what types of revenues are generated by the tax before any change is necessary. I urge you to support my motion to Indefinitely Postpone. We are talking about an issue that appears to have only one proponent for change and that is the industry itself. There has been no public outcry for change, and I urge you to support my motion of Indefinite Postponement.

THE PRESIDENT: The Chair recognizes the Senator from Oxford, Senator Twitchell.

Senator TWITCHELL: Thank you Mr. President and Members of the Senate. The reason we want to change this at this time, is that when we had the Bill before, the Department of Taxation gave us the wrong information and incorrect figures. We went with increases according to what they gave us, they gave us wrong information and incorrect figures and that is why we are here today, to correct it. That is the only reason.

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

Senator PEARSON: Mr. President, Men and Women of the Senate. I support the motion of the good Senator from Androscoggin, Senator Trafton, and I do so because in the process of this very special session, it has come to our attention that there may be some need for a little bit of additional revenue, if a Majority Report is accepted on Corrections. In addition to that, we were told that if some of the plans that are contained within the Majority Report go through, that there is going to be an increase of probation required of prisoners. That may cost to the tune of several hundred thousand dollars a year, in the next several years. If that is true, the revenue is going to come from somewhere and I can't guess of a better place for it to come from than tobacco products.

If you want to cut some taxes somewhere else, I would say that would be less erroneous then the one that you are proposing to do so now. I do understand that there was, perhaps, some miscalculations that were made and I think that is unfortunate. The law is on the books now and I say lets keep it right where it is.

THE PRESIDENT: The Chair recognizes the Senator from Oxford, Senator Twitchell.

Senator TWITCHELL: Thank you Mr. President and Members of the Senate. When we started out with this Bill, this was in the Governor's tax package to fund the University of Maine. This was to be for \$450,000 and that is what we intended to do in the Taxation Committee. This is what I thought we all voted for when we voted on the tax package for the University of Maine, the figure of \$450,000. We did get wrong information from the Department of Taxation and we received incorrect figures and now we find out that it is going to bring in over \$1,000,000. It was my intent, and the intent of my Committee, that all we needed was \$450,000 and I think that is all we should go for. I don't go for this extra money in surplus, because if we do, all we are going to do is spend it for something else. I suggest that you accept Report A.

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

Senator GILL: Mr. President, even before this Bill became part of the tax package, it was part of the Human Resource issue and we were concerned about the people who chew tobacco and who will become victims of cancer because of it. What we were trying to do is promote a good Bill that would protect the public and we thought a means of doing that, to prevent them from buying this stuff, would be to put a tax on it. We had a Bill, initially, before the Human Resources Committee that would label the product to state it could be hazardous to your health. Subsequently, the Federal Government passed that on and we withdrew that Bill before the Human Resource Committee and we presented it to the Taxation Committee, because there was that second part of it, the tax part.

As it sat in the Taxation Committee, people kept the Bill handy in case we needed any money, because it was a revenue generating proposition. Somewhere along the line the original intent got lost and I would just like to read some of the tobacco products involved in this. It means: "cigars, cheroots, stogies, plug cut, crimp cut, ready rubbed and other smoking tobacco. Snuff, snuff flour, cavendish, plug and twist tobacco, fine cut, refuse scraps, clippings, cuttings and sweepings of tobacco and other kinds of forms of tobacco prepared in such a manner as to be suitable for chewing or smoking in a pipe or otherwise." I am kind of fussy and I don't think I would want any chewings or scrapings to be in anything that I want to put in my mouth, or food, or anything else.

The original intent was not really to generate a lot of additional revenue, but that was a way that we could prohibit those people from thinking about buying the products and how injurious it could be to their own health. I think that we can say that they miscalculated the figures, but the tax is not even in place yet. I would ask you to wait for another period to go by until the money starts coming in and the tax is in place, so we can see whether, in fact, we over estimated or not. I would ask you to go along with the Ought Not to Pass Report.

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

Senator TRAFTON: Mr. President, I request a Roll Call and would like to speak to my motion. I would like to echo the comments from the good Senator from Cumberland, Senator Gill, as to what our Legislative intent was when we first voted for this particular measure in the Second Regular Session. It was my intent, in voting for this particular tax, to discourage the actual use of smokeless tobacco. There was considerable discussion, there was considerable writings being passed throughout this State House, as to what the effect of a high tax on consumption would be. There have been studies done in other states that show that this kind of high tax on smokeless tobacco does, in fact, discourage use. It does particularly discourage use among the age groups from 14-19, where we are seeing such a startling increase of usage of smokeless tobacco. I think it is fair to state that my legislative intent, the legislative intent of many other Senators who voted for this particular measure, was to discourage the consumption as well as to raise revenues.

What concerns me most is that we have no hard numbers as to the revenue projections from this particular measure. The revenue projections that have been discussed in the Joint Standing Committee on Taxation and that have given rise to this reduced tax come from the industry. We have no hard numbers. What is more fair than to let the revenue measure, as originally enacted, operate for a year and then decide whether a change is appropriate. Let's not make a change before this measure even is effective. Let's use hard numbers, let's use numbers that are generated from experience. I urge you to support my motion for Indefinite Postponement.

Senator TRAFTON of Androscoggin requested a Roll Call.

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

Senator BUSTIN: Thank you. Mr. President, Ladies and Gentlemen of the Senate. This is interesting to me that we are talking about coming in and reducing a tax, especially when I had such a hard time with the alcohol premium tax. Does anyone remember that? We just passed that and I got all of that conversation about projections and what that tax was going to bring in. It seems to me that that industry was able to give us some pretty good figures. I am extremely amazed and surprised that the tobacco industry couldn't give us as good figures as I got. In fact, if you remember correctly, that particular Bill ended up on the Appropriations Table because of a \$600,000 payment that has to come out of the raising of that alcohol premium to pay back into the General Fund for what is deemed to be a loss because of sales, because the industry feels that if you charge more for a product in the sales tax, then the sale is going to go down. I would have to assume that the same premise prevails when we are talking about tobacco products and sales tax increases. Is that not so? Or have I misunderstood? I don't think that I have.

Even taking that into consideration and going one step beyond, what we are talking about, again, is a product that happens to be detrimental to human health. We are talking about cancer, we are talking about cancer of the mouth, we are talking about hollowed out cheeks, that is what we are talking about. I don't know what the figures are on what that amounts to, but if, in fact, the premise that raising sales tax is raising the price of the product and reduces its use, then that is what I want to do. Let us not reduce it so they will reduce the price of the product so that they have more sales.

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

Senator CLARK: Thank you Mr. President, Men and Women of the Senate. The prime sponsor of this measure, the Majority Floor Leader of the Maine Senate, is not with us in this early evening. This happens to be his Bill, and I would, for purposes of sharing with you his position, read to you the following: "Last session we passed a tax on tobacco products other than cigarettes. With that tax we intended to raise \$450,000, only \$450,000. Rates, in fact, when applied to the Bureau of Taxation estimates on wholesale sales would generate that \$450,000. After the session, the Bureau reviewed it's estimates and determined that they had been grossly miscalculated. The original estimates were in break down: cigars \$357,000, pipes \$714,000 and smokeless tobacco \$714,000. In reality, the revised estimates are deemed to generate cigars \$1,700,000, pipes \$1,300,000 and smokeless tobacco \$1,500,000. These are significantly different than revised estimates of the tax that will be generated. It is now totaling \$1,035,000, instead of the \$450,000 which was the revenue enhancer incorporated into the University of Maine down payment.

The purpose of the Bill is to set the rates at a level that would generate only the \$450,000, as explained to us by the Senator from Oxford, Senator Twitchell. That was the original intent, that was the incorporation and instead it is deemed to generate many hundreds of thousand dollars more. If we need more tax revenue, at other times, we can raise that revenue, but right now at this Special Session is seems to be an auspicious opportunity to set the rate to raise only the revenues that we had, in fact, On the Record intended to raise." That is the position of the prime sponsor of the measure. My position in this early evening, is as often in the case when there are a number of empty seats, I am seeking pairs and those pairs having been secured, I would allow the Roll Call to go forward, but I did want the position of the prime sponsor of this measure, Senator Violette of Aroostook, to be On the Record.

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 pending question before the Senate is the motion of Senator TRAFTON of Androscoggin to INDEFINITELY POSTPONE the Bill and Accompanying Papers.

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

A vote of No will be opposed.

Is the Senate ready for the question?

The Doorkeepers will secure the Chamber.

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

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

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

The Secretary will call the Roll.

ROLL CALL

YEAS: Senators, ANDREWS, BLACK, BUSTIN, CARPENTER, DOW, GILL, HICHENS, KANY, KERRY, MATTHEWS, PEARSON, PERKINS, STOVER, TRAFTON, TUTTLE

NAYS: Senators, BALDACCI, BERUBE, EMERSON, ERWIN, MAYBURY, MCBREAIRTY, SEWALL, SHUTE, TWITCHELL, WEBSTER, THE PRESIDENT - CHARLES P. PRAY

ABSENT: Senators, BROWN, DUTREMBLE

RESIGNED: Senator NAJARIAN

15 Senators having voted in the affirmative and 11 Senators having voted in the negative, with 2 Senators being absent and 6 Senators having paired their votes, the motion by Senator TRAFTON of Androscoggin to INDEFINITELY POSTPONE the Bill and Accompanying Papers, in concurrence, PREVAILS.

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

COMMITTEE REPORTS

House

Ought to Pass in New Draft

The Committee on APPROPRIATIONS AND FINANCIAL AFFAIRS on Bill "An Act Making Appropriations and Allocations for the Expenditure of Funds Received by the State as a Result of a Federal Court Order in the Exxon Oil Overcharge Case" (Emergency)

H.P. 1713 L.D. 2406

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

H.P. 1753 L.D. 2436

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.

Under suspension of the Rules, the NEW DRAFT READ A SECOND TIME.

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

Senator PEARSON: Mr. President, Men and Women of the Senate. The Committee on Appropriations and Financial Affairs, including members of both political persuasions, made the best attempt that we could make to try to get as much energy conservation in the hands of the people of the State of Maine as we possibly could, under the guidelines that were given to us. I think we did a commendable job, I think the Committee did a good job. We didn't increase the bureaucracy. We tried as best we could to provide the people with the tools to be able to live a better life at a cheaper rate, through lots of different energy saving measures, that they will be able to partake in the future.

Which was PASSED TO BE ENGROSSED, in concurrence.

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

ENACTORS

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

Emergency

Resolve, to Establish a Commission to Examine Problems of Tort Litigation and Liability Insurance in Maine

H.P. 1624 L.D. 2289
(H "A" H-754 to H "B"
H-655)

This being an Emergency Measure and having received the affirmative vote of 24 Members of the Senate, with No Senators having voted in negative, and 24 being 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.

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

COMMITTEE REPORTS

House

Divided Report

The Majority of the Committee on APPROPRIATIONS AND FINANCIAL AFFAIRS on Bill "An Act to Allow Investments of State Funds Linked to Agricultural Loans"

H.P. 1732 L.D. 2425

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-759).

Signed:

Senators: MCBREAIRTY of Aroostook
BERUBE of Androscoggin
PEARSON of Penobscot

Representatives: MCGOWAN of Canaan
LISNIK of Presque Isle
C.W. SMITH of Mars Hill
CONNOLLY of Portland
CHONKO of Topsham
CARTER of Winslow
NADEAU of Lewiston

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

Signed:

Representatives: HIGGINS of Scarborough
FOSTER of Ellsworth
BELL of Paris

Comes from the House with the Majority OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-759) Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-759).

Which Reports were READ.

The Majority OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-759) Report ACCEPTED, in concurrence.

The Bill READ ONCE.

Committee Amendment "A" (H-759) READ and ADOPTED, in concurrence.

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

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

COMMITTEE REPORTS

House

Divided Report

The Majority of the Committee on APPROPRIATIONS AND FINANCIAL AFFAIRS on Bill "An Act to Establish a Legislative Task Force on Railroads to Study Tax Exemptions and Economic Subsidies to Railroads and the Future of Rail Transportation in Maine and its Effect on the Economic Viability and Stability of the State"

H.P. 1729 L.D. 2421

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

H.P. 1754 L.D. 2437

Signed:

Senators: MCBREAIRTY of Aroostook
BERUBE of Androscoggin
PEARSON of Penobscot

Representatives: MCGOWAN of Canaan
CARTER of Winslow
NADEAU of Lewiston
LISNIK of Presque Isle
HIGGINS of Scarborough
CONNOLLY of Portland
FOSTER of Ellsworth
CHONKO of Topsham
BELL of Paris

Emergency

An Act to Expand Veterans' Employment Benefits to
Veterans of Recent Military Actions
S.P. 977 L.D. 2423
(S "A" S-553; C "A"
S-552)

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

Signed:

Representative: C.W. SMITH of Mars Hill

Comes from the House with the Majority OUGHT TO
PASS IN NEW DRAFT Report READ and ACCEPTED and
the NEW DRAFT PASSED TO BE ENGROSSED.

Which Reports were READ.

The Majority OUGHT TO PASS IN NEW DRAFT Report
ACCEPTED, in concurrence.

The Bill in NEW DRAFT READ ONCE.

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

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

ENACTORS

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

Emergency

An Act to Provide Emergency Funding for Sheltered
Workshops

S.P. 971 L.D. 2416
(C "A" S-554)

This being an Emergency Measure and having
received the affirmative vote of 24 Members of the
Senate, with No Senators having voted in negative,
and 24 being 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.

This being an Emergency Measure and having
received the affirmative vote of 24 Members of the
Senate, with No Senators having voted in negative,
and 24 being 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.

ORDERS OF THE DAY

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

Bill "An Act to Create a Study of Solid Waste
Disposal Policy in Maine" (Emergency)
S.P. 982 L.D. 2431

Tabled - May 29, 1986, by Senator USHER of
Cumberland.

Pending - Motion of Senator TUTTLE of York to
ADOPT Senate Amendment "D" (S-563)

(In Senate, May 29, 1986, READ A SECOND TIME.
Senate Amendment "D" (S-563) READ.)

On motion by Senator USHER of Cumberland,
Tabled 1 Legislative Day, pending the motion of
Senator TUTTLE of York to ADOPT Senate Amendment
"D" (S-563).

Senate at Ease

Senate called to order by the President.

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

Off Record Remarks

Senator CLARK of Cumberland was granted unanimous consent to address the Senate On the Record.

Senator CLARK: Thank you Mr. President, Men and Women of the Senate. Yesterday all citizens of the State heaved a collective sigh of relief when we learned that the U.S. Department of Energy was no longer considering two sites in Maine for consideration for high-level toxic waste dumps. We have given great honor today to a lead person on behalf of the State of Maine, our very own Senator Judy Kany of Kennebec County. And yet, there is another person who should be recognized by this Body, for I feel sure that he has been recognized and appreciated by the people he serves. That person is the Senator from Penobscot, Senator Michael Pearson. Senator Pearson represents, in particular, the municipalities of Lee, Burlington and Lincoln that are located in and around the Bottle Lake area. I know of no Senator who picked up the gauntlet for his or her constituents with greater enthusiasm and greater purpose than the Senator from Penobscot. We all have long recognized his tenacity and his commitment and devotion to his service of the constituents that he has pledged to serve. But I would like all of us, and I am sure even his constituents, to recognize the outstanding leadership he exhibited as a time of crisis and to applaud his dedication and distinctive high achievement and commitment. No only to service, but to effective and equitable resolution and indeed we are glad you were there Mike. Thank you. (Applause and Members rising)

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

Senator KANY: Mr. President and Members of the Senate. In addition to providing leadership in the Maine Senate and at home in the Bottle Lake region, Senator Pearson of Penobscot County made an impact directly upon the Department of Energy, with his unusual ability to express the value of the people he represents. He helped the Department of Energy understand the strong feelings Maine people have about their land, their families land. The Department of Energy's representatives who were here in the State of Maine commented upon his ability to communicate numerous times.

Off Record Remarks

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

On motion by Senator TWITCHELL of Oxford RECESSED until the sound of the bell.

After Recess

Senate called to order by the President.

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

COMMITTEE REPORTS

House

Ought to Pass in New Draft under New Title

The Committee on APPROPRIATIONS AND FINANCIAL AFFAIRS on Bill "An Act Making Appropriations from the General Fund for the Fiscal Years Ending June 30, 1986, and June 30, 1987" (Emergency)
H.P. 1719 L.D. 2409

Reported that the same Ought to Pass in New Draft under New Title Bill "An Act Making Appropriations from the General Fund and Changing Certain Provisions of Law Necessary for the Operation of State Government for the Fiscal Years Ending June 30, 1986, and June 30, 1987" (Emergency)
H.P. 1755 L.D. 2438

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.

Under suspension of the Rules, the NEW DRAFT under NEW TITLE READ A SECOND TIME and PASSED TO BE ENGROSSED, in concurrence.

Under suspension of the Rules, ordered sent forthwith to the Engrossing Department.

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

COMMITTEE REPORTS

House

Ought to Pass in New Draft

The Committee on JUDICIARY on Bill "An Act to Make Corrections of Errors and Inconsistencies in the Laws of Maine" (Emergency)

H.P. 1734 L.D. 2427

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

H.P. 1748 L.D. 2433

Comes from the House, with the Report READ and ACCEPTED and the Bill in NEW DRAFT PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENTS "A" (H-746), "B" (H-747), "C" (H-748), "D" (H-749), "E" (H-750), "F" (H-751) AND "G" (H-752).

Which Report was READ and ACCEPTED, in concurrence.

The Bill in NEW DRAFT READ ONCE.

Under suspension of the Rules, House Amendment "A" (H-746) READ and ADOPTED, in concurrence.

Under suspension of the Rules, House Amendment "B" (H-747) READ and ADOPTED, in concurrence.

Under suspension of the Rules, House Amendment "C" (H-748) READ and ADOPTED, in concurrence.

Under suspension of the Rules, House Amendment "D" (H-749) READ and ADOPTED, in concurrence.

Under suspension of the Rules, House Amendment "E" (H-750) READ and ADOPTED, in concurrence.

Under suspension of the Rules, House Amendment "F" (H-751) READ.

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

Senator WEBSTER: Mr. President, I would like to pose a question through the Chair. I do not have House Amendment "F" in front of me. Would someone please explain that amendment to me?

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

The Chair recognizes the Senator from Knox, Senator Chalmers.

Senator CHALMERS: Thank you, Mr. President. What is happening right now, is that the Senate is accepting the Errors and Inconsistencies Bill, with House Amendments A, B, C, D, E, F, and G. They are going to wait for me to introduce a Senate Amendment. What House Amendment "F", and it is in the book, has to do with is compensation for uncompensated commission members.

A certain representative of the other Body felt that this was an error. That when Legislators serve on Commissions, it was the intent that they receive a per diem. So, that amendment was offered to the Errors Bill. We resisted that within the Judiciary Committee, because under the guidance of the good Senator from Aroostook, Senator Carpenter, the errors that have gone into the Errors and Inconsistencies Bill, have been only technical, and we felt this was a substantive change. It may have been an error, but it was not a technical point. It required a policy decision. Therefore, since the Errors and Inconsistencies Bill was intended to strictly correct only technical errors, correcting words such as 'an', 'and', or correcting a mislabeling of a number of a paragraph, or something like that, we did not have it in the Bill that came out of Committee, as a unanimous, Ought to Pass under New Title Report. That sounds very good, except that after the Senate adopts these, I am going to have to offer Senate Amendment "A", because, as a matter of fact, we discovered, this evening, something did slip through, and that there is something of substance in the Errors and Inconsistencies Bill. Therefore, I am going to move that we remove 2 sections from the Bill. Because this Bill should be only those items that are technical and procedural.

This is the Errors and Inconsistencies Bill. We haven't been out of Session very long, and there are over 60 items in this Bill. So, the amendments that we have been reading, are those items which Members of the Judiciary Committee thought were not purely technical, should not be in the Bill, that were offered as amendments, because they were, if you will, errors.

House Amendment "A" has to do with the establishment of the sentencing guidelines. We learned that this section should have been in the original Bill. So the Governor can select a Chairman for one of these. That is not quite a technical error, and therefore it went in as an Amendment.

I hope I can remember all of these. House Amendment "B" on the Blaine House Scholars, and I won't state all of these, just down to Amendment "F", that is the one that has to do with Compensation for uncompensated members.

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

Senator WEBSTER: Mr. President. I would like to pose a further question through the Chair on this issue. My concern and my question would be: If we were to Enact this Law with this Amendment to the Errors and Inconsistencies Bill, would we not be saying that if we set up a Blue Ribbon Commission, and we have 32 people, or 16 people, whatever the numbers might be, and 2 Legislators, that the 2 Legislators would be paid, and the other people on the committee would not, unless we said specifically, in the law, that any commission set up would be compensated.

I guess my concern would be why we would say that Legislators would receive compensation when the public might not. If we are doing that, I am concerned.

THE PRESIDENT: The Senator from Franklin, Senator Webster 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: As I understand the Amendment, it would do just as the good Senator from Franklin, Senator Webster, has said. If a Legislator serves on a Commission, he/she would be paid a per diem. Excuse me, I stand corrected. That is indeed, what this amendment says. There are some Legislators, who for instance, in the City of Augusta, who are asked to serve, who only have \$2 worth of travel time, or mileage, to and from a meeting. It was felt the per diem was more fair to all members of the Legislature, that serve.

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

Senator WEBSTER: Thank you, Mr. President. If I am not mistaken, assuming that we had a Commission dealing with whatever subject that might be, and some of our constituents were chosen by the Governor, and asked to serve, perhaps some of my constituents who live in Madison, or Farmington, and they were to come to Augusta to serve on this Commission, they would not be compensated. But, if I, as a Member of the Legislature were to serve on this Commission, I would receive compensation. I am very concerned about that, if that is the case, I would ask you to vote against this Amendment. Thank you.

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

Senator PERKINS: Thank you, Mr. President. It appears that after the explanation of the good Senator from Knox, Senator Chalmers, that this indeed is a substantive change and it deserves a more thorough hearing than what has been given, on the Errors Bill. Or else it would not have been rejected by the Committee on Judiciary.

I, therefore, would ask for a Division on the Adoption of this Amendment, and would ask you to vote against it.

Senator PERKINS of Hancock requested a Division.

THE PRESIDENT: The pending question before the Senate is the ADOPTION of House Amendment "F" (H-751), in concurrence.

A Division has been requested.

Will all those Senators in favor of the ADOPTION of House Amendment "F" (H-751), please rise in their places and remain standing until counted.

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

1 Senator having voted in the affirmative and 23 Senators having voted in the negative, the motion to ADOPT House Amendment "F" (H-751) FAILS, in NON-CONCURRENCE.

Under suspension of the Rules, House Amendment "G" (H-751) READ and ADOPTED, in concurrence.

Under suspension of the Rules, READ A SECOND TIME.

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

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

ENACTORS

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

Bond Issue

An Act to Authorize a Bond Issue in the Amount of \$6,000,000 to Deal with Asbestos in State Facilities
S.P. 978 L.D. 2424
(C "A" S-564)

This being a Bond Authorization Act and having received the affirmative vote of 22 Members of the Senate, with No Senators having voted in negative, and 22 being more than two-thirds of the Membership present and voting was PASSED TO BE ENACTED and having been signed by the President, was presented by the Secretary to the Governor for his approval.

Senate at Ease

Senate called to order by the President.

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

COMMITTEE REPORTS

House

Divided Report

The Majority of the Committee on HUMAN RESOURCES on Bill "An Act to Implement Certain Recommendations of the Blue Ribbon Commission on Corrections"

H.P. 1716 L.D. 2408

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

H.P. 1749 L.D. 2434

Signed:

Senators: GILL of Cumberland
BUSTIN of Kennebec
GAUVREAU of Androscoggin

Representatives: NELSON of Portland
ROLDE of York
SIMPSON of Casco
MELENDY of Rockland
CARROLL of Gray
MANNING of Portland
PINES of Limestone
KIMBALL of Buxton

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

H.P. 1750 L.D. 2435

Signed:

Representative: TAYLOR of Camden

(Representative SEAVEY of Kennebunkport Abstained.)

Comes from the House with the Majority OUGHT TO PASS IN NEW DRAFT (H.P. 1749) (L.D. 2434) Report READ and ACCEPTED and the NEW DRAFT PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENTS "B" (H-761) AND "C" (H-764).

Which Reports were READ.

The Majority OUGHT TO PASS IN NEW DRAFT (H.P. 1749) (L.D. 2434) Report ACCEPTED, in concurrence.

The NEW DRAFT READ ONCE.

House Amendment "B" (H-761) READ and ADOPTED in concurrence.

House Amendment "C" (H-764) READ.

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

Senator CLARK: Mr. President, I would move the Indefinite Postponement of House Amendment "C" (H-764) and would speak briefly to my motion. House Amendment "C" (H-764), if you check your amendments in your books on your desk, requires that any person that is otherwise eligible for the Intensive Supervision Program, to serve at least 90 days of his or her sentence, while being incarcerated.

Most of these sentences are of short duration, and would have to be served in County jails. This would seem absolutely counter-productive to what the Intensive Supervision Program is all about. I would hope you would support the pending motion.

Senator CLARK of Cumberland moved the INDEFINITE POSTPONEMENT of House Amendment "C" (H-764).

Senator PERKINS of Hancock requested a Division.

THE PRESIDENT: The pending question before the Senate is motion of Senator CLARK of Cumberland to INDEFINITELY POSTPONE House Amendment "C" (H-764).

A Division has been requested.

Will all those Senators in favor of the motion to Indefinitely Postpone the Amendment, please rise in their places and remain standing until counted.

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

13 Senators having voted in the affirmative and 10 Senators having voted in the negative, the motion by Senator CLARK of Cumberland to INDEFINITELY POSTPONE House Amendment "C" (H-764), PREVAILS, in NON-CONCURRENCE.

Under suspension of the Rules, READ A SECOND TIME.

On motion by Senator BUSTIN of Kennebec, Senate Amendment "A" (S-559) READ.

The Chair recognizes that same Senator.

Senator BUSTIN: Thank you, Mr. President. Ladies and Gentlemen of the Senate. This is probably more than a technical Amendment. It is changing a "may" to "shall". The Committee intended to have the Apprenticeship Council "shall" be conferred with, when they are developing those training programs, and advising the Department on that industries' program. That is all.

On motion by Senator BUSTIN of Kennebec, Senate Amendment "A" (S-559) ADOPTED.

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

Senator SEWALL: Thank you, Mr. President. I have an amendment, which I have just passed in, but it does not yet have a filing number. It is the same as the House Amendment, which was not presented. If you would like, I will present it that way.

Senate at Ease

Senate called to order by the President.

On motion by Senator CLARK of Cumberland, Tabled until Later in Today's Session, pending PASSAGE TO BE ENGROSSED AS AMENDED in NON-CONCURRENCE.

ORDERS OF THE DAY

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

"An Act to Make Corrections of Errors and Inconsistencies in the Laws of Maine" (Emergency)
 H.P. 1748 L.D. 2433
 (H "A" H-746; H "B" H-747; H "C" H-748; H "D" H-749; H "E" H-750; H "G" H-752)

Tabled - May 29, 1986, by Senator CLARK of Cumberland.

Pending - PASSAGE TO BE ENGROSSED AS AMENDED in NON-CONCURRENCE

(In House, May 29, 1986, PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENTS "A" (H-746), "B" (H-747), "C" (H-748), "D" (H-749), "E" (H-750), "F" (H-751), AND "G" (H-752).)

(In Senate, May 29, 1986, READ A SECOND TIME. House Amendments "A" (H-746), "B" (H-747), "C" (H-748), "D" (H-749), "E" (H-750) and "G" (H-752) READ and ADOPTED, in concurrence. House Amendment "F" (H-751) READ and FAILED ADOPTION, in NON-CONCURRENCE.)

On motion by Senator CHALMERS of Knox, Senate Amendment "A" (S-565) READ.

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

Senator USHER: Mr. President. I would like to pose a question through the Chair. Would the sponsor of this amendment, please give an explanation?

THE PRESIDENT: The Senator from Cumberland, Senator Usher 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: Thank you, Mr. President. I hope I can explain this properly. As I have repeated before, to this Body, the Errors Bill has attempted to be strictly for technical errors, and technical inconsistencies, and not errors and inconsistencies that are policy changes.

Yesterday, at 5 o'clock, the Judiciary Committee was shown 2 Bills. One Bill, Chapter 729, effective in 1984, had a provision in it saying; "if any person affected by this Act, was subject to the Personnel Law, a person incumbent on that position, or a person on leave from that position, shall retain his appointment, subject to the Personnel Board."

We were also shown a Bill, which was enacted on April 25, 1986, effective July 1, 1986, which said; "in the event that any physician was subject to the Personnel Law on the effective date of any Act making the physician a major policy, the person in that position shall be on leave of absence, so the physician may retain his appointment, subject to the Personnel Board."

Those two are obviously redundant. We were asked to repeal Public Law, 785, section 45, which is 5 M.R.S.A., 931, sub-paragraph 2, which contains the paragraph which I just read to you. It also contains a paragraph describing employees, and then paragraph B and C.

Today, we were notified that sub-paragraph 2 contains three paragraphs, not just one, but we were made aware of Chapter 746 of the State Laws, which were passed April 18, 1986, effective July 16, 1986. This Bill contains a transition clause, and also deals with personnel. It says the incumbent shall retain his/her appointment, subject to Personnel, until three years after the effective date of this Act. That is obviously, more than a technical error. Therefore, I have filed an amendment to delete Sections 1 and 2 of Part B, of the Errors and Inconsistencies Bill, because it is more than just technical. If you pass Senate Amendment "A" and delete those two Sections, Chapter 785 of the Laws, which will deal with personnel being subject to the Personnel Law, you are going to leave that in effect. Chapter 726, a Law that is going to take effect on July 16, 1986, says; "any person retains his appointment three years after the effective date of this Act."

So, if you pass this amendment, and delete these two Sections from the Bill, you still have these two Sections of the Law well in place, that protects the personnel for three years after this effective date of this Act. Should someone want to clarify these three Laws, you will not get it done by the Errors and Inconsistencies Bill, because when it comes to the Judiciary, we will say they are more than technical. You will not hurt any positions if you pass this Amendment, and repeal it. You will leave, in effect, these three Bills. That Bill, Chapter 746, which contains the protection until three years after the effective date of the Act, and you will leave all of Section 45 of Chapter 745, which is Title 5, M.R.S.A., section 931, sub 2. I hope I have not confused you too much.

This shows how technical the Errors and Inconsistencies Bill becomes, and when that we are up in the Judiciary Committee room debating this, we try very carefully to follow through this point. This slipped by us.

By adopting Senate amendment "A", you do not change the 3 laws that are in effect. You preserve the integrity of the Errors and Inconsistencies Bill, and you remove from it, something which we say is substantive. I ask you to vote to adopt the amendment.

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

Senator USHER: Thank you, Mr. President. By not being a lawyer, I am sort of confused. I hate to lose the Section that our Committee worked on, in regards to the physicians.

I would prefer to discuss this with possibly the Chairman of the Judiciary Committee. I do not know how much they have discussed this, and possibly someone could Table this, so I could have a chance to look at it a little further.

Senator TWITCHELL of Oxford moved to TABLE 1 Legislative Day, pending the motion of Senator CHALMERS of Knox To ADOPT Senate Amendment "A" (S-565)

Senate at Ease

Senate called to order by the President.

On motion by Senator CLARK of Cumberland, Tabled until Later in Today's Session, pending the motion of Senator CHALMERS of Knox to ADOPT Senate Amendment "A" (S-565).

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

ENACTORS

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

An Act Making Appropriations and Allocations for the Expenditure of Funds Received by the State as a Result of a Federal Court Order in the Exxon Oil Overcharge Case

H.P. 1753 L.D. 2436

Senator WEBSTER of Franklin was granted Leave of the Senate to abstain from voting, due to the appearance of a possible conflict of interest.

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

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

ENACTORS

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

Emergency

An Act to Establish a Legislative Task Force on Railroads to Study Tax Exemptions and Economic Subsidies to Railroads and the Future of Rail Transportation in Maine and its Effect on the Economic Viability and Stability of the State

H.P. 1754 L.D. 2437

On motion by Senator CLARK of Cumberland, Tabled until Later in Today's Session, pending ENACTMENT.

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

ENACTORS

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

An Act Relating to Commercial Vehicles

S.P. 914 L.D. 2282

(S "B" S-555 and H "A" H-733 to C "A" S-484)

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

ORDERS OF THE DAY

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

Emergency

An Act to Establish a Legislative Task Force on Railroads to Study Tax Exemptions and Economic Subsidies to Railroads and the Future of Rail Transportation in Maine and its Effect on the Economic Viability and Stability of the State
H.P. 1754 L.D. 2437

Tabled - May 29, 1986, by Senator CLARK of Cumberland.

Pending - ENACTMENT

(In House, May 29, 1986, PASSED TO BE ENACTED.)

(In Senate, May 29, 1986, PASSED TO BE ENGROSSED, in concurrence.)

This being an Emergency Measure and having received the affirmative vote of 21 Members of the Senate, with No Senators having voted in the negative, and 21 being less than two-thirds of the entire elected Membership of the Senate, FAILS OF ENACTMENT in NON-CONCURRENCE.

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

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

"An Act to Make Corrections of Errors and Inconsistencies in the Laws of Maine" (Emergency)
H.P. 1748 L.D. 2433
(H "A" H-746; H "B" H-747; H "C" H-748; H "D" H-749; H "E" H-750; H "G" H-752)

Tabled - May 29, 1986, by Senator CLARK of Cumberland.

Pending - Motion of Senator CHALMERS of Knox to ADOPT Senate Amendment "A" (S-565)

(In Senate, May 29, 1986, READ ONCE. House Amendments "A" (H-746), "B" (H-747), "C" (H-748), "D" (H-749), "E" (H-750), "G" (H-752), READ and ADOPTED, in concurrence. House Amendment "F" (H-751) READ and FAILED OF ADOPTION in NON-CONCURRENCE. READ A SECOND TIME. Senate Amendment "A" (S-565) READ.)

(In House, May 29, 1986, PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENTS "A" (H-746), "B" (H-747), "C" (H-748), "D" (H-749), "E" (H-750), "F" (H-751), and "G" (H-752).)

On motion by Senator CHALMERS of Knox, Senate Amendment "A" (S-565) ADOPTED.

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

Senator BUSTIN: Thank you, Mr. President. Ladies and Gentlemen of the Senate. I just want to commend the Committee on Judiciary for coming up with this Errors and Inconsistencies Bill. I am not tacking anything on. I am not going to take any time. I am only going to compliment the Judiciary Committee, and the other. I have come to recognize the process on the Errors and Inconsistencies Bill. When I first came here, I did not trust it. But, since I have been here, and since the Judiciary Committee has been so good, about making sure there are only technical things in that Bill, I have appreciated it. I have not taken a good look at it, so I appreciate what you have done. Thank you.

Off Record Remarks

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

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

Senate at Ease

Senate called to order by the President

On motion by Senator SEWALL of Lincoln RECESSED until the sound of the bell.

After Recess

Senate called to order by the President.

ORDERS OF THE DAY

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

Bill "An Act to Implement Certain Recommendations of the Blue Ribbon Commission on Corrections"
H.P. 1749 L.D. 2434
(H "B" H-761)

Tabled - May 29, 1986, by Senator CLARK of Cumberland.

Pending - PASSAGE TO BE ENGROSSED AS AMENDED in NON-CONCURRENCE

(In Senate, May 29, 1986, the Majority OUGHT TO PASS IN NEW DRAFT Report READ and ACCEPTED, in concurrence. The NEW DRAFT READ ONCE. House Amendment "B" (H-761) READ and ADOPTED, in concurrence. House Amendment "C" (H-764) READ and INDEFINITELY POSTPONED in NON-CONCURRENCE. Senate Amendment "A" (S-559) READ and ADOPTED.)

(In House, May 29, 1986, the Majority OUGHT TO PASS IN NEW DRAFT Report READ and ACCEPTED and the NEW DRAFT PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENTS "B" (H-761) AND "C" (H-764).)

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

Senator SEWALL: Thank you, Mr. President. First, I would like to apologize to the Members of the Body, in order to save time, and the unmentionable other Body, there was an arrangement made with someone not to present an amendment there, since we would be dealing with this in the morning, and there would be plenty of time for me to present it here.

That is the reason for my delay. Therefore, I present Senate Amendment "C" (S-566), and would move its Adoption.

On motion by Senator Sewall of Lincoln, Senate Amendment "C" (S-566) READ.

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

Senator SEWALL: Mr. President. The purpose of this amendment is to delay the implementation of the transfer of state prisoners to county jails for one year, for both the 6 month and under sentencing, and the 12 month and under sentencing.

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

Senator BUSTIN: Thank you, Mr. President. I will move Indefinite Postponement of this Amendment. This effectively delays the county jail portion of the Corrections Bill and it, in fact, guts what we have already voted on as acceptable to both Bodies. What we are going to do is putting in a uniform accounting procedure, all of the counties will be in line and will be able to give their costs, will be able to make their case to the State for adequate reimbursement. I see no reason why we would delay this another whole year, before implementation of it. I would urge you to vote for the Indefinite Postponement of this Amendment.

Senator BUSTIN of Kennebec moved the INDEFINITE POSTPONEMENT of Senate Amendment "C" (S-566).

THE PRESIDENT: The Chair will order a Division.

Will all those Senators in favor of the motion of Senator BUSTIN of Kennebec to INDEFINITELY POSTPONE Senate Amendment "C" (S-556), please rise in their places to be counted.

Will all those Senators opposed, please rise in their places to be counted.

13 Senators having voted in the affirmative, and 6 Senators having voted in the negative, the motion by Senator BUSTIN of Kennebec to INDEFINITELY POSTPONE Senate Amendment "C" (S-566) PREVAILS.

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

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

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.

On motion by Senator CLARK of Cumberland ADJOURNED until Friday, May 30, 1986, at 8:30 in the morning.