

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD
OF THE
One Hundred And Thirteenth Legislature
OF THE
State Of Maine

VOLUME I
FIRST REGULAR SESSION
December 3, 1986 to May 22, 1987

STATE OF MAINE
ONE HUNDRED AND THIRTEENTH LEGISLATURE
FIRST REGULAR SESSION
JOURNAL OF THE SENATE

In Senate Chamber
Friday
April 10, 1987

Senate called to Order by the President Pro Tem,
Senator Dennis L. Dutremble of York.

Prayer by Father Michael Lauze of the St. Paul's
Center in Augusta.

FATHER LAUZE: Oh, source of all goodness and
truth, shower Your many blessings and graces upon
this session. Might Your Holy Spirit guide our
deliberations and discussions that they might be
appropriated to the service of those whom we have
been called to serve. Help us realize our own
poverty and dependence on Your divine will. Might
Your wisdom direct all of our efforts. Make us
responsive to the needs of others, especially the
materially poor. Be our source of refuge and
strength. Do not forsake us as we call upon You and
beseech Your almighty presence. Kindle within our
being a desire to please You in all matters of public
concern.

May the God of all grace who has called us to his
everlasting glory in Christ Jesus, after brief
suffering, restore us to Himself and confirm us. May
He strengthen us and make us steadfast. To Him, be
power forever and ever. Amen.

Reading of the Journal of Yesterday.

PAPERS FROM THE HOUSE
Non-concurrent Matter

RESOLUTION, Proposing an Amendment to the
Constitution of Maine to Establish a Limit on
Increases in the Local Property Tax

H.P. 843 L.D. 1134

In House, April 7, 1987, referred to the
Committee on TAXATION and ORDERED PRINTED.

In Senate, April 8, 1987, referred to the
Committee on STATE AND LOCAL GOVERNMENT and ORDERED
PRINTED in NON-CONCURRENCE.

Comes from the House, that Body INSISTED.
The Senate RECEDED and CONCURRED.

Non-concurrent Matter

Bill "An Act to Exempt Municipal Combination
Snowplows and Dump Trucks from the Weight Limitations
Imposed on Other Highway Vehicles"

H.P. 69 L.D. 72
(C "A" H-39)

In Senate, April 1, 1987, PASSED TO BE ENGROSSED
AS AMENDED BY COMMITTEE AMENDMENT "A" (H-39), in
concurrence.

Comes from the House with the Report READ and
Bill and Accompanying Papers RECOMMITTED to the
Committee on TRANSPORTATION in NON-CONCURRENCE.

The Senate RECEDED and CONCURRED.

House Papers

Bill "An Act to Realign the Base-year Retirement
Computation with the Cost of Living for Residual
Members of the Maine State Retirement System Employed
by the University of Maine System"

H.P. 865 L.D. 1166

Resolve, to Provide a Retirement Benefit to
Dorothy R. Lizzotte

H.P. A71 L.D. 1172

Bill "An Act to Amend the Retirement Law
Regarding Schools"

H.P. 882 L.D. 1183

Come from the House referred to the Committee on
AGING, RETIREMENT AND VETERANS and ORDERED PRINTED.

Which were referred to the Committee on AGING,
RETIREMENT AND VETERANS and ORDERED PRINTED, in
concurrence.

Bill "An Act to Require Full State Funding of any
Legislative Mandate"

H.P. 877 L.D. 1178

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

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

Off Record Remarks

Bill "An Act to Require an Insurance Agent or
Broker be Present when any Insurance Sale Takes
Place"

H.P. 875 L.D. 1176

Comes from the House referred to the Committee on
BANKING AND INSURANCE and ORDERED PRINTED.

Which was referred to the Committee on BANKING
AND INSURANCE and ORDERED PRINTED, in concurrence.

Bill "An Act to Require on all Purchase and Sale
Agreements a Declaration of Presence or Absence of
Asbestos Materials"

H.P. 866 L.D. 1167

Bill "An Act to Regulate Electrical Wiring"

H.P. 883 L.D. 1184

Bill "An Act to Protect Consumers who Join Health
Spas"

H.P. 901 L.D. 1202

Come from the House referred to the Committee on
BUSINESS LEGISLATION and ORDERED PRINTED.

Which were referred to the Committee on BUSINESS
LEGISLATION and ORDERED PRINTED, in concurrence.

Bill "An Act to Provide Funding for Job Training
to Support Development Efforts"

H.P. 891 L.D. 1192

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

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

Resolve, to Amend the Reporting Date of the
Special Commission to Study Teacher Training in the
University of Maine System (Emergency)

H.P. 870 L.D. 1171

Bill "An Act to Clarify the State's
Responsibility to Establish Competitive Pay Schedules
for State Teachers and Related Classifications"

H.P. 884 L.D. 1185

Resolve, to Establish a Task Force on
Post-secondary Education Financing

H.P. 887 L.D. 1188

Bill "An Act Relating to Adult Education"

H.P. 893 L.D. 1194

Come from the House referred to the Committee on EDUCATION and ORDERED PRINTED.
Which were referred to the Committee on EDUCATION and ORDERED PRINTED, in concurrence.

Resolve, to Encourage the Safe Disposal of Lead-acid Batteries
H.P. 867 L.D. 1168
Resolve, to Study Heating Oil, Gasoline and Propane Gas Pricing Factors in the State
H.P. 889 L.D. 1190

Come from the House referred to the Committee on ENERGY AND NATURAL RESOURCES and ORDERED PRINTED.
Which were referred to the Committee on ENERGY AND NATURAL RESOURCES and ORDERED PRINTED, in concurrence.

Bill "An Act to Require that Children Under the Custody of the Department of Human Services be Placed in Homes with Traditional Family Settings"
H.P. 846 L.D. 1137

Bill "An Act Pertaining to Breast Cancer Treatment"
H.P. 868 L.D. 1169

Bill "An Act to Institute a Literacy Educational Program in State Correctional Facilities"
H.P. 873 L.D. 1174

Bill "An Act to Improve the Quality of Information Available to the Department of Human Services on Radioactive Emissions from Nuclear Power Plants"
H.P. 895 L.D. 1196

Come from the House referred to the Committee on HUMAN RESOURCES and ORDERED PRINTED.
Which were referred to the Committee on HUMAN RESOURCES and ORDERED PRINTED, in concurrence.

Bill "An Act to Amend the Juvenile Code Relating to the Questioning of Juveniles"
H.P. 876 L.D. 1177

Bill "An Act to Establish a Procedure for Trial De Novo in Certain Divorce Actions"
H.P. 881 L.D. 1182

Bill "An Act to Facilitate the Use of Testimony of Young Victims of Sex Offenses"
H.P. 886 L.D. 1187

Bill "An Act to Perfect Title of Forfeited Vehicles"
H.P. 892 L.D. 1193

Bill "An Act to Amend the Laws Regarding Small Claims"
H.P. 898 L.D. 1199

Come from the House referred to the Committee on JUDICIARY and ORDERED PRINTED.
Which were referred to the Committee on JUDICIARY and ORDERED PRINTED, in concurrence.

Bill "An Act to Increase the Minimum Wage"
H.P. 869 L.D. 1170

Bill "An Act to Fully Compensate Injured Workers and their Families for Losses Suffered Because of Delays in Paying Claims"
H.P. 894 L.D. 1195

Come from the House referred to the Committee on LABOR and ORDERED PRINTED.
Which were referred to the Committee on LABOR and ORDERED PRINTED, in concurrence.

Bill "An Act to Amend the Notice Provisions Concerning Write-in Candidates in Primary Elections"
H.P. 872 L.D. 1173

Bill "An Act to Impose Monetary Limits on Campaign Expenditures"
H.P. 880 L.D. 1181

Bill "An Act to Protect Tenants in Rental Housing"
H.P. 900 L.D. 1201

Come from the House referred to the Committee on LEGAL AFFAIRS and ORDERED PRINTED.
Which were referred to the Committee on LEGAL AFFAIRS and ORDERED PRINTED, in concurrence.

Bill "An Act Relating to the Enhancement and Preservation of Marine Resources"
H.P. 903 L.D. 1205

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

Bill "An Act to Require the Members of the Maine Turnpike Authority to be Confirmed"
H.P. 885 L.D. 1186

Comes from the House referred to the Committee on STATE AND LOCAL GOVERNMENT and ORDERED PRINTED.
Which was referred to the Committee on STATE AND LOCAL GOVERNMENT and ORDERED PRINTED, in concurrence.

Bill "An Act to Allow the Treasurer of State to Vote on Certain State Boards"
H.P. 902 L.D. 1203

Comes from the House referred to the Committee on STATE AND LOCAL GOVERNMENT and ORDERED PRINTED.
On motion by Senator CLARK of Cumberland, referred to the Committee on AGING, RETIREMENT AND VETERANS and ORDERED PRINTED in NON-CONCURRENCE.
Sent down for concurrence.

Bill "An Act to Provide a Sales Tax Exemption to Youth Scouting Organizations"
H.P. 864 L.D. 1165

Bill "An Act to Enable Municipalities to Assess Impact Taxes on Development"
H.P. 878 L.D. 1179

Bill "An Act to Amend the Inflation Incrementing Provision in the Tax Laws"
H.P. 896 L.D. 1197

Come from the House referred to the Committee on TAXATION and ORDERED PRINTED.
Which were referred to the Committee on TAXATION and ORDERED PRINTED, in concurrence.

Bill "An Act Concerning Proof of Insurance on School Buses"
H.P. 863 L.D. 1164

Comes from the House referred to the Committee on TRANSPORTATION and ORDERED PRINTED.
Which was referred to the Committee on TRANSPORTATION and ORDERED PRINTED, in concurrence.

Bill "An Act to Amend the Charter of Searsport Water District"
H.P. 874 L.D. 1175

Resolve, to Create a Commission to Study the Cost of Replacement Power in Case of a Shutdown of the Maine Yankee Power Plant (Emergency)

H.P. 888 L.D. 1189

Come from the House referred to the Committee on UTILITIES and ORDERED PRINTED.

Which were referred to the Committee on UTILITIES and ORDERED PRINTED, in concurrence.

Resolve, Creating a Commission to Study the Allocation of Water Supply Rights Among Water Utilities and Others (Emergency)

Committee on ENERGY AND NATURAL RESOURCES suggested and ORDERED PRINTED.

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

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

Pursuant to Private and Special Law Committee on ENERGY AND NATURAL RESOURCES

The Committee on ENERGY AND NATURAL RESOURCES, pursuant to Private and Special Law 1985, Chapter 137, ask leave to submit its findings and to report that the accompanying Bill "An Act to Ensure Timely Adoption of Revised Solid Waste Rules" (Emergency)

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

Comes from the House with the Report READ and ACCEPTED and the Bill referred to the Committee on ENERGY AND NATURAL RESOURCES and ORDERED PRINTED, pursuant to Joint Rule 18.

Which Report was READ and ACCEPTED, in concurrence.

The Bill referred to the Committee on ENERGY AND NATURAL RESOURCES and ORDERED PRINTED, pursuant to Joint Rule 18, in concurrence.

COMMUNICATIONS

The Following Communication: S.P. 389 113th MAINE LEGISLATURE

April 9, 1987

Senator Zachary Matthews
Representative Robert J. Tardy
Chairpersons
Joint Standing Committee on Agriculture
113th Legislature
Augusta, Maine 04333
Dear Chairs:

Please be advised that Governor John R. McKernan, Jr. has nominated Betty Sawyer of Jonesport and Joseph N. Williams of Waterville for appointment to the Animal Welfare Board.

Pursuant to Title 17, M.R.S.A. Section 1051, these nominations will require review by the Joint Standing Committee on Agriculture and confirmation by the Senate.

Sincerely,
S/Charles P. Pray
President of the Senate
S/John L. Martin
Speaker of the House

Which was READ and referred to the Committee on AGRICULTURE.

Sent down for concurrence.

The Following Communication:
STATE OF MAINE
ADMINISTRATIVE OFFICE OF THE COURTS
PO BOX 4820 DTS

PORTLAND, MAINE 04112

April 9, 1987

Dear President Pray:

It is my honor and personal pleasure to transmit to you and each of the other Senators of the 113th Legislature a copy of the Eleventh Annual Report of the Judicial Department, pursuant to the provisions of 4 MRSA §17.10.

Sincerely,
S/Dana R. Baggett
State Court Administrator

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

SENATE PAPERS

Bill "An Act to Establish a Comprehensive Service Delivery System for Survivors of Head Injuries"

S.P. 391 L.D. 1210

Presented by Senator ANDREWS of Cumberland
Cosponsored by: Senator CAHILL of Sagadahoc,
Representative DAVIS of Monmouth, Representative
CHONKO of Topsham

Bill "An Act to Appropriate Funds for the Support of Musical Performances in this State"

S.P. 395 L.D. 1214

Presented by Senator TUTTLE of York
Cosponsored by: Senator MATTHEWS of Kennebec,
Senator BRAWN of Knox, Senator COLLINS of
Aroostook

Which were referred to the Committee on APPROPRIATIONS AND FINANCIAL AFFAIRS and ORDERED PRINTED.

Sent down for concurrence.

Bill "An Act to Enhance Educational Opportunity for Disabled Students"

S.P. 390 L.D. 1209

Presented by Senator ANDREWS of Cumberland
Cosponsored by: Senator RANDALL of Washington,
Representative O'GARA of Westbrook, Senator
GAUVREAU of Androscoggin

Bill "An Act to Provide Assistance to Parents of Exceptional Students"

S.P. 392 L.D. 1211

Presented by Senator ANDREWS of Cumberland
Cosponsored by: Senator ESTES of York,
Representative KILKELLY of Wiscasset,
Representative SMALL of Bath

Which were referred to the Committee on EDUCATION and ORDERED PRINTED.

Sent down for concurrence.

Bill "An Act to Implement Certain Recommendations of the Judicial Council's Committee on the Collection of Fines"

S.P. 397 L.D. 1216

Presented by Senator GAUVREAU of Androscoggin
Cosponsored by: Representative PARADIS of
Augusta, Representative MACBRIDE of Presque Isle
Bill "An Act to Improve Court Security"

S.P. 398 L.D. 1217

Presented by Senator GAUVREAU of Androscoggin
Cosponsored by: Representative MARSANO of
Belfast, Representative COTE of Auburn,
Representative MACBRIDE of Presque Isle

Which were referred to the Committee on JUDICIARY and ORDERED PRINTED.

Sent down for concurrence.

Bill "An Act to Exempt a Homestead Percentage of Property Tax"

S.P. 396 L.D. 1215

Presented by Senator RANDALL of Washington
 Cosponsored by: Senator TWITCHELL of Oxford,
 Representative JACKSON of Harrison,
 Representative ZIRNKILTON of Mount Desert
 Which was referred to the Committee on TAXATION
 and ORDERED PRINTED.
 Sent down for concurrence.

Resolve, to Adjust Utility Rates to Reflect the Change in the Rate of Federal Corporate Income Tax

S.P. 393 L.D. 1212

Presented by Senator BALDACCI of Penobscot
 Cosponsored by: Senator KANY of Kennebec,
 Senator MATTHEWS of Kennebec, Senator ANDREWS of Cumberland
 Bill "An Act Relating to Electric Rate Design for Residential, Commercial and Industrial Classes"
 S.P. 394 L.D. 1213
 Presented by Senator BALDACCI of Penobscot
 Cosponsored by: Representative CASHMAN of Old Town, Representative VOSE of Eastport
 Which were referred to the Committee on UTILITIES
 and ORDERED PRINTED.
 Sent down for concurrence.

COMMITTEE REPORTS

House

Ought Not to Pass

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

Bill "An Act to Require Certified Proof of Marketable Title to Land in a Proposed Subdivision Prior to Subdivision Approval"

H.P. 363 L.D. 477

Bill "An Act to Require Affirmative Permission for ATV Use"

H.P. 390 L.D. 524

Bill "An Act to Provide Certain Retired State Troopers with Health Insurance"

H.P. 574 L.D. 772

Leave to Withdraw

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

Bill "An Act to Extend the Teachers' Bonus Provisions to Certain Excluded Schools"

H.P. 106 L.D. 116

Bill "An Act to Amend the Charter of the Kennebunk, Kennebunkport and Wells Water District (Emergency)"

H.P. 171 L.D. 215

Bill "An Act to Exempt Nonprofit Organizations on Federal Military Installations from Sales Tax"

H.P. 362 L.D. 476

Bill "An Act to Provide an Income Tax Exclusion for Income Earned from Service in the Maine National Guard"

H.P. 432 L.D. 578

Bill "An Act to Implement a Waiver for Nonuse in the Boat Excise Tax Laws"

H.P. 472 L.D. 639

Bill "An Act to Require Certain Restaurants to Post their Prices"

H.P. 505 L.D. 678

Bill "An Act Concerning the Elderly Householders Tax and Rent Refund and Low Cost Drug Programs"

H.P. 568 L.D. 766

Bill "An Act to Prevent Discrimination under the Elderly Householders Tax and Rent Refund Act"

H.P. 569 L.D. 767

Ought to Pass

The Committee on APPROPRIATIONS AND FINANCIAL AFFAIRS on Bill "An Act to Open Maine Libraries to Modern Information Technology"

H.P. 248 L.D. 321

Reported that the same Ought to Pass.
 Comes from the House with the Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED.

Which Report was READ and ACCEPTED, in concurrence.

The Bill READ ONCE.
 The Bill TOMORROW ASSIGNED FOR SECOND READING.

The Committee on STATE AND LOCAL GOVERNMENT on Bill "An Act Relating to Major Policy-influencing Positions in State Government"

H.P. 175 L.D. 219

Reported that the same Ought to Pass.
 Comes from the House with the Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED.

Which Report was READ.
 On motion by Senator CLARK of Cumberland, Tabled 1 Legislative Day, pending ACCEPTANCE of the Committee Report.

Ought to Pass in New Draft

The Committee on AGRICULTURE on Bill "An Act to Strengthen the Efforts of the Maine Potato Industry and the Responsibility of the Maine Potato Board to Improve the Quality of Maine Tablestock Potatoes"

H.P. 360 L.D. 474

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

H.P. 856 L.D. 1150

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

Which Report was READ and ACCEPTED, in concurrence.

The Bill in NEW DRAFT READ ONCE.
 The Bill in NEW DRAFT TOMORROW ASSIGNED FOR SECOND READING.

Ought to Pass in New Draft under New Title
 The Committee on JUDICIARY on Bill "An Act to Prohibit the Creation of Unlawful Barriers"

H.P. 48 L.D. 51

Reported that the same Ought to Pass in New Draft under New Title Bill "An Act to Require the Marking of Barriers on Certain Public Ways"

H.P. 861 L.D. 1154

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

Which Report was READ and ACCEPTED, in concurrence.

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

Divided Report

The Majority of the Committee on STATE AND LOCAL GOVERNMENT on RESOLUTION MAKING APPLICATION TO CONGRESS CALLING A CONSTITUTIONAL CONVENTION TO

PROPOSE AN AMENDMENT TO THE FEDERAL CONSTITUTION TO REQUIRE A BALANCED FEDERAL BUDGET

H.P. 250 L.D. 323

Reported that the same Ought Not to Pass.

Signed:

Senators:

TUTTLE of York
BALDACCI of Penobscot

Representatives:

CARROLL of Gray
ROTONDI of Athens
BOUTILIER of Lewiston
LACROIX of Oakland
HUSSEY of Milo
ANTHONY of South Portland
LOOK of Jonesboro

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

Signed:

Senator:

GOULD of Waldo

Representatives:

WENTWORTH of Wells
BICKFORD of Jay
STROUT of Windham

Comes from the House the Majority OUGHT NOT TO PASS Report READ and ACCEPTED.

Which Reports were READ.

Senator TUTTLE of York moved that the Senate ACCEPT the Majority OUGHT NOT TO PASS Report.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Waldo, Senator Gould.

Senator GOULD: Thank you, Mr. President. Ladies and gentlemen of the Senate. I urge you, the Senators of this distinguished Body, to consider not passing the pending motion, and then to accept the Minority Report.

I believe this country is a great country and I realize this is the 200th anniversary of the Constitution of the United States, or of its' being signed. I think, upon this distinguished occasion, marvelous occasion, actually, that we should consider sending a Resolution to our Senators in Washington, to balance our Federal Budget. In doing that, the Congress could avoid the Convention by acting itself. If thirty four states called for a Constitutional Convention on the balanced budget amendment, the Congress would have the option of proposing such an amendment, itself.

The Congress establishes the Convention procedures. Any confusion about how a Convention would operate would be the fault of the Congress. All thirty two state Convention calls on the balanced budget issue are limited to that topic and no other. That is those states that have called for it already and have asked for that particular topic. The delegates would have a moral and legal obligation to stay on the topic of a balanced budget. There is a long history in the United States of individuals limiting their actions to the job for which they were chosen. Members of the Electoral College could, if they wished, elect anyone to the Presidency of the United States, even someone who is not a candidate, and have received no popular vote. This has never happened. I believe in the people. Voters, themselves, demand that a convention be limited. Certainly, the convention would be held and each candidate would be asked if he favored limiting the Convention to the subject of the call, even if the voters in some areas did favor a open Convention, or some candidates lied and were elected, it is still improbable that a majority of delegates would be elected who favored opening the Convention on other issues, whether a majority of voters do not.

Congress would have the power to refuse sending a nonconforming amendment to ratification. Congress, as yet of preventing another run away amendment, they could simply refuse such an amendment to the states for ratification. Proposals would stray beyond the Convention call would subject to court challenge. Leaders and legislators, which have petitioned for a Constitutional Convention on the balanced budget issue have indicated that they would institute court challenge to the proposal which went beyond their original call. After the convention, if it were held, it would take 38 states to ratify the amendment, what ever the amendment may be. The Federal deficit for fiscal year 1986, was 220.7 billion dollars. The estimated fiscal deficit for 1987 is going to be another 173.2 billion dollars. The Federal debt, at the end of 1987, is going to be 1,912.8 billion dollars or 1.9 trillion dollars. We, the people of the United States, created the Constitution 200 years ago on September 17, 1786. I believe that the people could be in entrusted to amend this great document, now. I would respectfully ask for a Roll Call.

Senator GOULD of Waldo requested a Roll Call.

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

Senator TUTTLE: Mr. President, men and women of the Senate. I won't belabor this issue. As Senator Gould has said, L. D. 323 proposes a Joint Resolution to Congress to call for a Constitutional Convention. Presently, 32 states have passed a Resolution requesting Congress to call the proposed Constitutional Convention. Two more states must pass similar resolutions before the Convention can be held. According to my research, according to the National Tax Payers Union, are considering an appeal of this provision, for many reasons that I will get into later. L. D. 323, specifically declares that a Constitutional Convention will be called explicitly for the purpose of proposing an amendment to the U. S. Constitution for a balanced budget. When the same Joint Resolution was presented to the State Government Committee, in 1985, proponents feared that the Constitutional Convention would address other issues such as abortions, school prayer, busing, etc., and that was brought up at the public hearing. Proponents based their arguments, in part, on the differences among Joint Resolutions presented by various State legislatures. The opponents also pointed out that there is nothing to prevent Congress from following from calling a Constitutional Convention, in which other issues could be considered. In other words, the Joint Resolution does not have the force of law. While the Joint Resolution failed passage in the Legislature, it will prove another resolution requesting a moratorium to Congress, and I thought that had addressed the issue. Apparently, this Bill was back again this year.

I don't feel that I am going to change anyone's mind on this issue. I am sure that most of you have already made up your minds on this issue. This issue has been before us before and probably will be before us again. As I said before, we passed a Resolution last year and I thought it took care of this issue, but it is back before us, this year. The main reason I supported the Majority Report, as did the majority of the Committee, is because we feel we passed the Bill and then the Convention, we feel would do much more than the sponsors would want this Resolution to do. We are all in favor of a balanced budget. I don't know of anybody who isn't. I am not going to support a Constitutional Convention that might change our Bill of Rights, the right to bear arms and our

fundamental rights as citizens. In this year of our Constitution, our 200th birthday, that has worked so well over the years, let's not do something that we might be sorry for in the long run. For that reason, I hope you will support the Majority Report. Thank you.

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

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

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

The Chair recognizes the Senator from Androscoggin, Senator Gauvreau.

Senator GAUVREAU: Thank you, Mr. President. men and women of the Senate. I know it is late on Friday and many of us have plans to Adjourn and attend to our various business, but I feel the issue is solemn enough that I would like to put on the Record a few of my comments, that hopefully might be of some relevance in our deliberations on this issue. We have heard, over and over again, on the possibility of urging the Federal Congress to propose a Constitutional Convention for a limited purpose of addressing the balanced budget issue. I have given this matter some thought, over the years, and it is my judgment, based on reviewing several documents, that there no way in which the Congress can circumscribe a Constitutional Convention's charge. In other words, clearly, the membership in the Convention, would have the authority to debate and consider any issues, even beyond the reason for which the Conference was convened. We can only look at the famous Constitutional Convention which occurred 200 years ago in Philadelphia. In fact, if you will recall, in the Philadelphia Conference, that was convened for a very narrow purpose. There were problems dealing with trade between these 13 original states, and there were severe problems regarding tariffs and what not, and it was felt that the issue of trade had to be addressed.

Nevertheless, there was concern, in the various states as to the advisability for calling the Conference. It was felt that the Conference, might in fact, go beyond its' original charge. As we all know, the Convention did, in fact, address a whole range of other issues, recommending our Constitution as we know it today, and the Bill of Rights which was appended some 4 years later on. So, I think it is somewhat specious to suggest that we could craft an instrument by which we could circumscribe the authority of any Constitutional Convention, we could not. This is a matter of significant concern to me. As the Senator from York, Senator Tuttle has commented, all of us understand the imperative of the Federal Government securing a balanced budget, and yet, it is interesting to note that there is nothing, currently, prohibiting Congress and the President from proposing and adopting a balanced budget. The situation is significantly different than it was some 200 years ago, when the Congress and the President were unable to affectively chart a Federal policy calling for uniform trade relations between the states. So, one could argue, with some force, that there was a necessity of convening the Convention some 200 years ago. That argument cannot be carried forward today with any force. The President, certainly has it in his authority and in his power to recommend a balanced budget. The Congress, likewise, has the authority to do just that.

It is significant to note, that in 1979, the deficit was around 48 billion dollars, in that budget year, and yet, some 6 years later on, the deficit has swollen to 275 billion dollars. So, I would suggest, not withstanding any resolutions the states may adopt, it seems to me the Congress and the President have to address the real issue in trying to effect a balanced budget. For these concerns, I really think that it is not appropriate for us to be recommending or lending the State's name to those other states which have called for a Constitutional Convention. I can't help but feel that although, in this particular case, the previous speakers' remarks certainly are noble and their intent is valid, I just can't help but feel that there are political overtures to this whole debate. We certainly have to subordinate political gain to the overriding interests of all the people in our Country, that we preserve the Constitutional heritage that we have today. It for these reasons, I would go along with recommending the adoption of the Majority Report. Thank you.

THE PRESIDENT PRO TEM: The pending question before the Senate is the motion of Senator TUTTLE of York that the Senate ACCEPT the Majority OUGHT NOT TO PASS Report. A Roll Call has been ordered.

A vote of Yes will be in favor of ACCEPTANCE.

A vote of No will be opposed.

At this time, the Chair noted the absence of the Senator from Penobscot, Senator PRAY and further excused the same Senator from today's Roll Call votes.

Is the Senate ready for the question?
The Doorkeepers will secure the Chamber.
The Secretary will call the Roll.

ROLL CALL

YEAS: Senators ANDREWS, BERUBE, BRANNIGAN, BUSTIN, CLARK, DOW, ERWIN, ESTES, GAUVREAU, KANY, KERRY, MATTHEWS, THERIAULT, TUTTLE, TWITCHELL, USHER, THE PRESIDENT PRO TEM - DENNIS L. DUTREMBLE

NAYS: Senators BLACK, BRAWN, CAHILL, COLLINS, DILLENBACK, EMERSON, GILL, GOULD, LUDWIG, MAYBURY, PERKINS, RANDALL, SEWALL, WEBSTER, WHITMORE

ABSENT: Senators BALDACCI, PEARSON

EXCUSED: Senator PRAY

17 Senators having voted in the affirmative and 15 Senators having voted in the negative, with 2 Senators being absent, and 1 Senator having been excused, the motion by Senator TUTTLE of York, to ACCEPT the the Majority OUGHT NOT TO PASS Report, in concurrence, PREVAILED.

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

Senator CLARK: Mr. President, having voted on the prevailing side, I now move reconsideration and I would urge you to vote against my motion.

Senator CLARK of Cumberland moved to RECONSIDER ACCEPTANCE of the Majority OUGHT NOT TO PASS Report.

A Viva Voce vote being had, the motion of Senator CLARK of Cumberland to RECONSIDER ACCEPTANCE of the Majority OUGHT NOT TO PASS Report, FAILED.

Senate

Ought Not to Pass

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

LEGISLATIVE RECORD - SENATE, APRIL 10, 1987

Bill "An Act to Clarify the Description of Crooked River in Cumberland County and to Extend Special Protection to Outstanding Rivers to the Crooked River"

S.P. 38 L.D. 26

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 Enhance the Penalties for Engaging in Prostitution"

S.P. 125 L.D. 330

Change of Reference

Senator PEARSON for the Committee on APPROPRIATIONS AND FINANCIAL AFFAIRS on Bill "An Act to Expand the Medicaid Dental Program to Include Adults"

S.P. 163 L.D. 467

Reported that the same be REFERRED to the Committee on HUMAN RESOURCES.

Which Report was READ and ACCEPTED.

The Bill REFERRED to the Committee on HUMAN RESOURCES.

Sent down for concurrence.

Ought to Pass in New Draft

Senator BUSTIN for the Committee on BANKING AND INSURANCE on Bill "An Act to Amend the Bank Holding Company Law"

S.P. 105 L.D. 278

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

S.P. 388 L.D. 1208

Which Report was READ and ACCEPTED.

The Bill in NEW DRAFT READ ONCE.

The Bill in NEW DRAFT TOMORROW ASSIGNED FOR SECOND READING.

Senator TUTTLE for the Committee on STATE AND LOCAL GOVERNMENT on Bill "An Act to Require State Compliance with Municipal Ordinances"

S.P. 115 L.D. 288

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

S.P. 399 L.D. 1239

Which Report was READ and ACCEPTED.

The Bill in NEW DRAFT READ ONCE.

The Bill in NEW DRAFT TOMORROW ASSIGNED FOR SECOND READING.

SECOND READERS

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

House

Bill "An Act to Amend Implementation of the International Registration Plan and Apportioned Fees for Certain Commercial Vehicles"

H.P. 820 L.D. 1108

Resolve, for Laying of the County Taxes and Authorizing Expenditures of Franklin County for the Year 1987 (Emergency)

H.P. 858 L.D. 1152

(See Action Later Today)

Resolve, for Laying of the County Taxes and Authorizing Expenditures of Hancock County for the Year 1987 (Emergency)

H.P. 860 L.D. 1153

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

House As Amended

Bill "An Act to Clarify Enforcement of Insurance Coverage Requirements of the Workers' Compensation Law" (Emergency)

H.P. 304 L.D. 390

(C "A" H-52)

Bill "An Act to Amend Provisions of the Maine Insurance Code Dealing with Capital and Surplus Requirements of Insurers"

H.P. 359 L.D. 462

(C "A" H-53)

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

Senate As Amended

Bill "An Act Relating to Active Retired Judges in the Administrative Court"

S.P. 190 L.D. 517

(C "A" S-27)

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

Sent down for concurrence.

ENACTORS

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

An Act Concerning Mandatory Workfare Participants

H.P. 798 L.D. 1070

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

Emergency

An Act Relating to the Debt Limits which may be incurred by a Municipality for Water Purposes

S.P. 378 L.D. 1143

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

On motion by Senator CLARK of Cumberland, the Senate RECONSIDERED its action whereby it PASSED TO BE ENGROSSED:

Resolve, for Laying of the County Taxes and Authorizing Expenditures of Franklin County for the Year 1987 (Emergency)

H.P. 858 L.D. 1152

(In Senate, April 10, 1987, PASSED TO BE ENGROSSED, in concurrence.)

(In House, April 8, 1987, PASSED TO BE ENGROSSED.)

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

ORDERS OF THE DAY

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

Bill "An Act to Amend the Civil Commitment Procedures to Protect the Health and Safety of Certain Mentally Ill Individuals"

S.P. 387 L.D. 1204

Tabled - April 9, 1987, by Senator CLARK of Cumberland.

Pending - REFERENCE

(Committee on HUMAN RESOURCES suggested and ORDERED PRINTED.)

On motion by Senator CLARK of Cumberland, referred to the Committee on JUDICIARY and ORDERED PRINTED.

Sent down for concurrence.

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

COMMUNICATIONS

The Following Communication: S.P. 400

113th MAINE LEGISLATURE

April 10, 1987

Senator Ronald E. Usher

Representative Michael H. Michaud

Chairpersons

Joint Standing Committee on Energy and Natural Resources

113th Legislature

Augusta, Maine 04333

Dear Chairs:

Please be advised that Governor John R. McKernan, Jr. has nominated Linda I. Alverson of Oxbow and Robert C. Hazelwood of Grand Lake Stream for appointment to the Land Use Regulation Commission.

Pursuant to Title 12, M.R.S.A. Section 683, this nomination will require review by the Joint Standing Committee on Energy and Natural Resources and confirmation by the Senate.

Sincerely,
S/Charles P. Pray
President of the Senate
S/John L. Martin
Speaker of the House

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

Sent down for concurrence.

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

COMMITTEE REPORTS

Senate

Ought to Pass As Amended

Senator BRANNIGAN for the Committee on JUDICIARY on Bill "An Act Providing for Judicial Review of Agency Refusals to Consent to Adoptions"

S.P. 62 L.D. 129

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (S-28).

Which Report was READ and ACCEPTED.

The Bill READ ONCE.

Committee Amendment "A" (S-28) READ and ADOPTED.

The Bill as Amended, TOMORROW ASSIGNED FOR SECOND READING.

On motion by Senator WHITMORE of Androscoggin, ADJOURNED until Monday, April 13, 1987, at 10:00 in the morning.

ONE HUNDRED AND THIRTEENTH MAINE LEGISLATURE

FIRST REGULAR SESSION

47th Legislative Day

Monday, April 13, 1987

The House met according to adjournment and was called to order by the Speaker.

Prayer by Reverend Eli Smith, Green Memorial A.M.E. Zion Church, Portland.

National Anthem by the Limestone High School Band. The Journal of Friday, April 10, 1987, was read and approved.

Quorum call was held.

SENATE PAPERS

Bill "An Act to Establish a Comprehensive Service Delivery System for Survivors of Head Injuries" (S.P. 391) (L.D. 1210)

Bill "An Act to Appropriate Funds for the Support of Musical Performances in this State" (S.P. 395) (L.D. 1214)

Came from the Senate, referred to the Committee on Appropriations and Financial Affairs and Ordered Printed.

Were referred to the Committee on Appropriations and Financial Affairs in concurrence.

Bill "An Act to Enhance Educational Opportunity for Disabled Students" (S.P. 390) (L.D. 1209)

Bill "An Act to Provide Assistance to Parents of Exceptional Students" (S.P. 392) (L.D. 1211)

Came from the Senate, referred to the Committee on Education and Ordered Printed.

Were referred to the Committee on Education in concurrence.

Bill "An Act to Implement Certain Recommendations of the Judicial Council's Committee on the Collection of Fines" (S.P. 397) (L.D. 1216)

Bill "An Act to Improve Court Security" (S.P. 398) (L.D. 1217)

Came from the Senate, referred to the Committee on Judiciary and Ordered Printed.

Were referred to the Committee on Judiciary in concurrence.

Bill "An Act to Amend the Civil Commitment Procedures to Protect the Health and Safety of Certain Mentally Ill Individuals" (S.P. 387) (L.D. 1204)

Came from the Senate, referred to the Committee on Judiciary and Ordered Printed.

(The Committee on Reference of Bills had suggested reference to the Committee on Human Resources.)

Was referred to the Committee on Judiciary in concurrence.

Bill "An Act to Exempt a Homestead Percentage of Property Tax" (S.P. 396) (L.D. 1215)

Came from the Senate, referred to the Committee on Taxation and Ordered Printed.

Was referred to the Committee on Taxation in concurrence.

RESOLVE, to Adjust Utility Rates to Reflect the Change in the Rate of Federal Corporate Income Tax (S.P. 393) (L.D. 1212)