

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
Monday
May 18, 1987

Senate called to Order by the President.

Prayer by Reverend Alan Mather of the First Baptist Church in East Machias.

REVEREND MATHER: Our Father in heaven. I would like to thank You for these men and women who are giving of their time, of the energies and the gifts You have given them for the administration of the duties of this State. I would like to ask Your blessing upon them this morning and this afternoon as they go about their duties. Give them wisdom that Your spirit might be upon them. I would like to remember them personally in their lives, that they might know You and love You as a law giver, as their guide and maker and father. I would also like to ask Your blessing upon their families and loved ones that You might be with them this day and keep them in Your loving grace. We commit ourselves unto You, in Your name, Amen.

Reading of the Journal of Friday, May 15, 1987.

Off Record Remarks

SENATE PAPERS

Bill "An Act to Establish the Aroostook Water and Soil Management Board"

S.P. 535 L.D. 1610

Presented by Senator COLLINS of Aroostook
Cosponsored by: Speaker MARTIN of Eagle Lake,
Representative LISNIK of Presque Isle,
Representative PINES of Limestone
Submitted by the Department of Agriculture, Food
and Rural Resources pursuant to Joint Rule 24
Which was referred to the Committee on STATE AND
LOCAL GOVERNMENT and ORDERED PRINTED.

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

Off Record Remarks

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:

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

H.P. 871 L.D. 1172

Ought to Pass

The Committee on EDUCATION on Resolve, to
Establish the Special Commission to Study
School-entrance Age and Preschool Services
(Emergency)

H.P. 1111 L.D. 1505

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

Which Report was READ and ACCEPTED, in
concurrence.

The Resolve READ ONCE.

The Resolve LATER TODAY ASSIGNED FOR SECOND
READING.

The Committee on ENERGY AND NATURAL RESOURCES on
Bill "An Act to Require Recording of Certain
Subdivision and Zoning Variances"

H.P. 990 L.D. 1336

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 LATER TODAY ASSIGNED FOR SECOND READING.

The Committee on ENERGY AND NATURAL RESOURCES on
Bill "An Act to Clarify the Laws Relating to Forest
Insect and Disease Control"

H.P. 1029 L.D. 1387

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 LATER TODAY ASSIGNED FOR SECOND READING.

The Committee on STATE AND LOCAL GOVERNMENT on
Resolve, for Laying of the County Taxes and
Authorizing Expenditures of York County for the Year
1987 (Emergency)

H.P. 1178 L.D. 1607

Reported that the same Ought to Pass, pursuant to
Joint Order H.P. 23.

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

Which Report was READ and ACCEPTED, in
concurrence.

The Resolve READ ONCE.

The Resolve LATER TODAY ASSIGNED FOR SECOND
READING.

Ought to Pass As Amended

The Committee on ENERGY AND NATURAL RESOURCES on
Bill "An Act Creating the St. Croix International
Waterway Commission"

H.P. 733 L.D. 985

Reported that the same Ought to Pass as Amended
by Committee Amendment "A" (H-131).

Comes from the House, with the Report READ and
ACCEPTED and the Bill PASSED TO BE ENGROSSED AS
AMENDED BY COMMITTEE AMENDMENT "A" (H-131)

Which Report was READ and ACCEPTED, in
concurrence.

The Bill READ ONCE.

Committee Amendment "A" (H-131) READ and ADOPTED,
in concurrence.

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

The Committee on HUMAN RESOURCES on Bill "An Act
Concerning Interdepartmental Coordination of Services
to Children and Families"

H.P. 276 L.D. 359

Reported that the same Ought to Pass as Amended
by Committee Amendment "A" (H-133).

Comes from the House, with the Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-133)

Which Report was READ and ACCEPTED, in concurrence.

The Bill READ ONCE.

Committee Amendment "A" (H-133) READ and ADOPTED, in concurrence.

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

Senate
Ought Not to Pass

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

Bill "An Act to Require the Use of Seat Belts in all Motor Vehicles"

S.P. 240 L.D. 659

Bill "An Act to Recodify the Animal Welfare Laws"

S.P. 285 L.D. 811

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 Relating to Requirements for a Master Electrician License"

S.P. 85 L.D. 171

Bill "An Act to Establish Hospital and Nursing Home Policies for Staff and Practice Privileges"

S.P. 164 L.D. 468

Bill "An Act to Create the Maine Business Advisory Board"

S.P. 258 L.D. 730

Bill "An Act to Establish a State Business Advocate in the Governor's Office"

S.P. 298 L.D. 848

Bill "An Act Regarding Disposal of Waste Matter"

S.P. 359 L.D. 1094

Bill "An Act to Identify the Potential Hazards of Paint Removal by Means of Heat"

S.P. 383 L.D. 1160

Change of Reference

Senator BRANNIGAN for the Committee on BUSINESS LEGISLATION on Bill "An Act to Recodify the First-Lien Real Estate Secured Lending Provisions Relating to Nonbanks in the Maine Consumer Credit Code"

S.P. 517 L.D. 1560

Reported that the same be REFERRED to the Committee on BANKING AND INSURANCE.

Which Report was READ and ACCEPTED.

The Bill REFERRED to the Committee on BANKING AND INSURANCE.

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

Ought to Pass

Senator BRANNIGAN for the Committee on BUSINESS LEGISLATION on Bill "An Act to Provide Increased Penalties for Door-to-door Fraud"

S.P. 325 L.D. 953

Reported that the same Ought to Pass.

Which Report was READ and ACCEPTED.

The Bill READ ONCE.

The Bill LATER TODAY ASSIGNED FOR SECOND READING.

Senator USHER for the Committee on FISHERIES AND WILDLIFE on Bill "An Act Making Unified Appropriations and Allocations for the Expenditures of State Government, Inland Fisheries and Wildlife Funds and Changing Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 1988 and June 30, 1989" (Emergency)

S.P. 202 L.D. 559

Reported that the same Ought to Pass.

Which Report was READ and ACCEPTED.

The Bill READ ONCE.

The Bill LATER TODAY ASSIGNED FOR SECOND READING.

Ought to Pass in New Draft under New Title

Senator GAUVREAU for the Committee on HUMAN RESOURCES on Bill "An Act to Require the Department of Human Services to Implement Certain Recommendations Regarding the Recruitment, Training and Staffing Levels for Certified Nursing Assistants"

S.P. 118 L.D. 313

Reported that the same Ought to Pass in New Draft under New Title Bill "An Act to Establish a Statewide Training Program for Staff of Long-term Care Facilities"

S.P. 536 L.D. 1619

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.

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

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

On motion by Senator DUTREMBLE of York, RECESSED until the sound of the bell.

After Recess

Senate called to order by the President.

Divided Report

The Majority of the Committee on TAXATION on Bill "An Act to Clarify Just Value as it Relates to Property Assessment"

S.P. 52 L.D. 93

Reported that the same Ought Not to Pass.

Signed:

Senator:

DOW of Kennebec

Representatives:

CASHMAN of Old Town

MAYO of Thomaston

DORE of Auburn

SWAZEY of Bucksport

DUFFY of Bangor

NADEAU of Saco

The Minority of the same Committee on the same subject reported that the same Ought to Pass as Amended by Committee Amendment "A" (S-67).

Signed:

Senators:

TWITCHELL of Oxford

SEWALL of Lincoln

Representatives:

SEAVEY of Kennebunkport

JACKSON of Harrison

ZIRNKILTON of Mount Desert

INGRAHAM of Houlton
Which Reports were READ.
The Majority OUGHT NOT TO PASS Report was
ACCEPTED.
Sent down for concurrence.

Divided Report
The Majority of the Committee on TRANSPORTATION
on Bill "An Act to Amend the Law Regarding the
Violation of Imprudent Speed"

S.P. 362 L.D. 1097

Reported that the same Ought Not to Pass.

Signed:

Senator:

CAHILL of Sagadahoc

Representatives:

MILLS of Bethel

CALLAHAN of Mechanic Falls

REEVES of Pittston

SOUCY of Kittery

STROUT of Corinth

SALSBURY of Bar Harbor

MACOMBER of South Portland

MCPHERSON of Eliot

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

Signed:

Senators:

DOW of Kennebec

THERIAULT of Aroostook

Representatives:

MOHOLLAND of Princeton

POULIOT of Lewiston

Which Reports were READ.

On motion by Senator DOW of Kennebec, the
Minority OUGHT TO PASS Report was ACCEPTED.

The Bill READ ONCE.

The Bill LATER TODAY ASSIGNED FOR SECOND READING.

SECOND READERS

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

House

Resolve, to Publicize the State Police Toll-free
Number for Emergencies to Outdoor Recreationists

H.P. 785 L.D. 1057

Resolve, Changing the Name of Jewett Hall at the
Maine Criminal Justice Academy in Waterville to
Nichols Hall

H.P. 835 L.D. 1126

Bill "An Act to Authorize the Creation of the
Position and the Salary Range of an Executive
Director of the Board of Registration in Medicine"

H.P. 1150 L.D. 1565

Bill "An Act to Permit a Reconsideration of
Parental Rights and Responsibilities Upon the
Relocation of Children of Divorced or Separated
Parents from this State to Another State"

H.P. 1151 L.D. 1566

Bill "An Act Relating to the Disposition of
Surplus Real Estate"

H.P. 1152 L.D. 1567

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

House As Amended

Bill "An Act Pertaining to a Training Season for
Bear Dogs"

H.P. 299 L.D. 385
(C "A" H-123)

Bill "An Act to Further Protect Bald Eagles and
Other Endangered Species" (Emergency)

H.P. 506 L.D. 679
(C "A" H-124)

Bill "An Act to Enhance the Activities of the
Maine Highway Safety Committee"

H.P. 511 L.D. 684
(C "A" H-126)

Bill "An Act Relating to the Membership of the
Waldo County Budget Committee"

H.P. 840 L.D. 1131
(C "A" H-125)

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

Senate

Bill "An Act to Require Principles of
Reimbursement for Intermediate Care Facilities for
the Mentally Retarded to Include Provisions for
Covering Increases in Insurance Premiums"

S.P. 532 L.D. 1603

Bill "An Act to Provide Qualified Nursing
Assistant Services"

S.P. 533 L.D. 1604

Bill "An Act Concerning the Use of Safety Devices
in Public Swimming Pools"

S.P. 534 L.D. 1605

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

Sent down for concurrence.

Bill "An Act to Establish a Presidential Primary
in Maine"

S.P. 531 L.D. 1595

Which was READ A SECOND TIME.

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

Senator DILLENBACK: Thank you, Mr. President.
L. D. 1595 is a Bill that I did not approve of, did
not vote for, to establish a Presidential Primary in
Maine. My reasons are very simple. This Bill really
does nothing. It is there if somebody wants to use
it. I am very much in favor of the two party system
and I think the strength we have in that system in
the State of Maine is that we have caucuses.

The reason we have caucuses is for the people to
get together, the grass roots, meet and talk and meet
the candidates, then discuss what they want to do.
We would spend a great deal of money if we have a
Presidential Primary in this State. We would not see
the candidates unless we were the first or second in
the country. All you would have is T. V. programs.
The people would probably put them together in New
York of Chicago. It would be a tremendous amount of
money wasted. I just don't see any sense in this and
I would like to have you support my position. I ask
for a Division.

Senator DILLENBACK of Cumberland requested a
Division.

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

Senator KANY: Mr. President and members of the
Senate. I hope that you vote in favor of this Bill,
which is a bipartisan Bill. It had strong
bi-partisan support in the Legal Affairs Committee
with a 9 to 4 Ought to Pass Report. It does allow a
party in State Committee, particularly, if it chooses
to have a presidential primary. It reflects, really,
what the U. S. Supreme Court has stated, that really
party rules do prevail. So, the party could choose.
This Bill would put the structure in place in case a

party or the parties choose to have a presidential primary in Maine.

My reason for wanting a presidential primary in stead of a caucus, is that almost nobody comes to caucuses. The last presidential election year, only 4% of the enrolled Democrats turned out for the presidential caucus. We have done worse in prior years. That is absolutely terrible. It is my understanding that the Republican party in this State has had even a worse turn out. So really, caucuses have failed. Even the widely known Iowa caucus only gets a 15% turn out in 1984 compared to a 67% turn out for New Hampshire. I would hope we allow our citizens to have the opportunity to vote and to vote in private. Both former Governors - Brennan and Curtis have indicated that one reason that they support the primary is they would like to see the privacy and move away from the intimidation that can be a part of caucus, even though that is not the intent of those who are present. It is also my understanding that Governor McKernan certainly would be willing to sign such a Bill, if it does pass. So, I hope we will put it in law, to allow those that are currently disenfranchised by the caucus system. Those who are working shift work or working their small store, or where ever, that would allow them to be able to vote. It would allow those, who normally vote absentee because they are ill, or out of state, it would give them that opportunity and also allow the older people a better opportunity to vote in privacy.

Off Record Remarks

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

Senator DILLENBACK: Thank you, Mr. President. Ladies and gentlemen of the Senate. I know that caucuses are not attended in great numbers, usually, except under the presidential election. At that time in a small town such as ours, several hundred come. I have had questionnaires, as many of you people have done and my questionnaire opposed a presidential primary. So, all I am doing is representing my constituents and I admit that I represent small towns, perhaps, not large cities, but I think it is important that we keep the system that we have here today. I was sadden to see the town meetings go in many instances. I would be sorry to see the caucus go because that is the grass roots of your state. That is where the people participate in politics. That is where the people become informed and that is probably is where they run from to come to the Legislature. Thank you.

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

Senator CLARK: I would pose a question through the Chair. Would this Bill, in its' present form, L. D. 1595, negate the current caucus system that both Republican and Democratic parties employ? Or is this Bill simply providing a structure whereby if those parties choose to participate in a presidential primary, it would provide a structure for same?

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

The Chair recognizes the Senator from Kennebec, Senator Kany.

Senator KANY: It certainly would just allow the party the option of having a presidential primary, if it chose. Even then, it could additionally have caucuses to choose the delegates to the State

Convention and ultimately the National Convention. Also, I am sure that if the parties did, indeed, choose to have a primary, they would still have the great organizing tool of getting people out to the presidential primary, just as we have the organizing tool now of getting our voters out for the gubernatorial elections.

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

Senator ANDREWS: Thank you, Mr. President. Mr. President, men and women of the Senate. Very briefly, I would like to state for the Record that I think the Senator from Cumberland, Senator Dillenback has made some very good points and I like the caucus system for the very reasons that he stated on the floor. But, I am going to be voting for the majority position, today, because I really do think that is an issue to be taken up by the parties and I will be arguing to my own party to stick with the caucus system for those same reasons, including addressing the concerns that were addressed by the Senator from Kennebec, Senator Kany.

The concern for intimidation, the concern for the lack of opportunity for absentee balloting. In both of those instances, the party can have a caucus system that allows for privacy in voting, secret ballots, and can also establish a system under current law to allow for absentee balloting, or proxy balloting. Those issues can be dealt with but they can be dealt with by the parties, themselves. I think that is exactly where they belong, so I will be supporting the majority position. Thank you.

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

A Division has been requested.

Will all those Senators in favor of PASSAGE TO BE ENGROSSED, please rise in their places and remain standing until counted.

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

20 Senators having voted in the affirmative and 15 Senators having voted in the negative, the Bill was PASSED TO BE ENGROSSED.

Sent down for concurrence.

Senate at Ease

Senate called to order by the President.

Off Record Remarks

ENACTORS

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

An Act to Provide for a Self-sufficiency Trust of Funds for the Developmentally Disabled

H.P. 331 L.D. 430
(C "A" H-101)

An Act Relating to Bail Commissioners

H.P. 341 L.D. 440
(C "A" H-109)

An Act to Amend the Registration Laws Concerning Antique Motor Vehicles

H.P. 439 L.D. 592
(H "A" H-113 to C "A" H-100)

An Act to Allow the Maine Maritime Academy to Award an Associate of Science Degree

H.P. 530 L.D. 714
(H "A" H-114 to C "A" H-98)

LEGISLATIVE RECORD - SENATE, MAY 18, 1987

An Act to Amend the Charter of the Bath Water District

S.P. 328 L.D. 956
(C "A" S-56)

An Act Relating to Political Committees under the Campaign Financing Laws

H.P. 715 L.D. 966
(C "A" H-95)

An Act to Appropriate Funds to Index Decisions of the Maine Labor Relations Board

H.P. 740 L.D. 1003
(C "A" H-104)

An Act to Protect Landowners from Damage or Destruction of Trees by Hunters Maintaining Ladders or Observation Stands

H.P. 776 L.D. 1048

An Act to Amend the Hunting Laws Concerning Vinalhaven

H.P. 778 L.D. 1050

An Act to Clarify the Procedure for Voter Registration by Postcard

H.P. 823 L.D. 1114

An Act to Amend the Notice Provisions Concerning Write-in Candidates in Primary Elections

H.P. 872 L.D. 1173

An Act Relating to Criminal Restraint under the Kidnapping and Restraint Laws

H.P. 930 L.D. 1246

An Act to Amend the Liquor Licensing Laws

S.P. 486 L.D. 1466

An Act to Amend the Deadline for Submission of Questions Under the Local Liquor Option

H.P. 1079 L.D. 1467

An Act to Amend the Retirement Law Regarding Schools

H.P. 1101 L.D. 1492

An Act to Allow the Use of Electronic Recording in Superior Court Cases in Limited Circumstances

S.P. 494 L.D. 1510

An Act to Extend the Time for Trust Land Designation

S.P. 495 L.D. 1511
(S "A" S-60)

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

An Act to Regulate Motor Vehicles on Lakes, Ponds or Reservoirs Used to Supply Drinking Water

S.P. 474 L.D. 1437
(S "A" S-57)

On motion by Senator ERWIN of Oxford, placed on SPECIAL FISHERIES AND WILDLIFE TABLE, pending ENACTMENT.

An Act to Fund the Cleanup of Fish Kills in the Coastal Waters

H.P. 596 L.D. 807
(C "A" H-102)

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

An Act to Provide for Rural Community Fire Protection

H.P. 631 L.D. 854
(C "A" H-103)

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

An Act to Provide Funds for Epilepsy Education and Support of Satellite Service Centers

S.P. 342 L.D. 997
(C "A" S-55)

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

An Act to Provide Funding to Accelerate Collection of Geologic Information Relating to Hazardous Waste Disposal and Geologic Resources and Hazards Assessment

S.P. 367 L.D. 1102

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

An Act to Continue the Agricultural Viability Program

H.P. 944 L.D. 1267

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

An Act to Allow Political Parties to Determine the Qualifications of Voters in Primary Elections

H.P. 1080 L.D. 1468

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

Under suspension of the Rules, the following matters were considered inclusively:

Emergency

An Act Relating to the Town of York School District

H.P. 848 L.D. 1139
(C "A" H-99)

Emergency

An Act to Fund and Implement Collective Bargaining Agreements with Vocational-technical Institute System Employees Represented by the Maine Teachers Association, the Maine State Employees Association and the American Federation of State, County and Municipal Employees and to Fund and Implement Benefits for Certain Vocational-technical Institute System Employees Excluded from Bargaining

H.P. 922 L.D. 1234

Emergency

An Act to Make Allocations from the Maine Nuclear Emergency Planning Fund for the Fiscal Years Ending June 30, 1988, and June 30, 1989

H.P. 1102 L.D. 1493

Emergency

An Act to Make Allocations from Various Funds of the Department of Environmental Protection for the Fiscal Years Ending June 30, 1988, and June 30, 1989

H.P. 1103 L.D. 1494

Emergency

An Act to Establish Maine Merchant Marine Day

H.P. 1105 L.D. 1497

These being Emergency Measures and having received the affirmative vote of 34 Members of the Senate, with No Senators having voted in negative, and 34 being more than two-thirds of the entire elected Membership of the Senate, were PASSED TO BE ENACTED and having been signed by the President, were presented by the Secretary to the Governor for his approval.

Emergency

An Act to Strengthen the Lobster Hatchery Program

H.P. 1055 L.D. 1425
(H "A" H-121)

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

Emergency Resolve

Resolve, Establishing the Special Commission to Study the Use of State Valuation in Allocation of State Funding Among Municipalities

H.P. 1115 L.D. 1509

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

ORDERS OF THE DAY

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

COMMUNICATION - from the Committee on ENERGY AND NATURAL RESOURCES regarding Confirmation of Hervey M. Triplett of Bangor, for appointment to the Board of Environmental Protection.

Tabled - May 15, 1987, by Senator USHER of Cumberland.

Pending - CONSIDERATION
(In Senate, May 15, 1987, READ.)
Which was ORDERED PLACED ON FILE.

THE PRESIDENT: The Joint Standing Committee on ENERGY AND NATURAL RESOURCES has recommended the nomination of Hervey M. Triplett of Bangor for appointment to the Board of Environmental Protection 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 113th Legislature, the vote will be taken by the Yeas and Nays.

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

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

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

ROLL CALL

YEAS: Senators None
NAYS: Senators ANDREWS, BALDACCI, BERUBE, BLACK, BRANNIGAN, BRAWN, BUSTIN, CAHILL, CLARK, COLLINS, DILLENBACK, DOW, DUTREMBLE, EMERSON, ERWIN, ESTES, GAUVREAU, GILL, GOULD, KANY, KERRY, LUDWIG, MATTHEWS, MAYBURY, PEARSON, PERKINS, RANDALL, SEWALL, THERIAULT, TUTTLE, TWITCHELL, USHER, WEBSTER, WHITMORE, THE PRESIDENT - CHARLES P. PRAY

ABSENT: Senators None

No Senators having voted in the affirmative and 35 Senators having voted in the negative, with No 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 Hervey M. Triplett for appointment to the Board of Environmental Protection, was CONFIRMED.

The Secretary has so informed the Speaker of the House.

Off Record Remarks

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

An Act to Ensure Confidential and Reliable Substance Abuse Testing of Employees and Applicants and the Rehabilitation of Substance Abusing Employees
S.P. 457 L.D. 1400

Tabled - May 15, 1987, by Senator DUTREMBLE of York.

Pending - CONSIDERATION
(In Senate, May 15, 1987, Veto message READ and ORDERED PLACED ON FILE.)

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

Senator DUTREMBLE: Thank you Mr. President, Ladies and Gentlemen of the Maine Senate. I guess one of the things I know how to do best, is count. I am still counting 21 to 14 on a vote that was taken a couple of weeks ago on this issue. I think it would be wrong for me to sit back and just vote on this issue without saying a few words about exactly what we are voting on. One of the unfortunate things about the whole vote is that I don't think it should have reached this point. I think a lot of you would liked to have voted for this Bill in the first place. Now we're here voting to either override or sustain a veto.

When we took the oath of office 4 months ago, we all stood up here and said that we would uphold and protect the Constitution of the United States and the State of Maine. I believe the Governor took the same oath. In doing so, I believe we all have accepted the responsibilities that go along with taking that oath.

I know I have taken that responsibility very seriously. I think everybody has. So, before you vote on this issue, today, I hope that every one of you has searched deep inside before taking this vote and you're not just taking it because of loyalty. There are two kinds of loyalty. Loyalty to a party and then there is loyalty to people who elected the various members of a party.

We deal with issues here every year. Hundreds of issues and they are all important to various people in this State, but every now and then there is an issue that comes around that affects every single person in the State of Maine. The drug testing issue is such a Bill. Everyone is affected by this. Sooner or later, every person in this State could be tested because of this Bill, because of the way the law is now. If you sustain the veto, that is the way it will remain. You know, I did a lot of my own searching since the time we voted on this Bill to the time we have reached now. I have asked myself certain questions. At first I was so angry when I heard about this veto that I said I would attack the Governor as a Republican. I am not going to do that because Republicans and Democrats worked together on this Committee for this Bill. We worked together and we came out with a very good Bill. It was Republicans along with Democrats who voted for the Bill last week and passed it. It was not a partisan issue and I will not make it a partisan issue today. I still think it is very important that we talk about the Governor and why he would have vetoed this Bill.

During his campaign for governor, the Governor stated more than one time that he was opposed to random drug testing in a work place. Even when talking about safety sensitive positions, he even stated there would have to be causal reasons to test. This is how we approached it when we were working on it during the work on the Committee. The Governor's people were there. For 6 or 7 weeks while we worked on this, not one time did they say that the

Governor was having a problem with what we were doing. Not once! If he had, maybe we would have addressed it and maybe not. But, at least we would have known and it would have been discussed at that particular time. It was only at the end that the Governor came in. Up until the time on that Monday that we voted this Bill out or at the time the Governor came out with his own proposal, it seemed that we had a near unanimous vote in that Committee. I say unanimous because there was always the possibility that one member would have voted for a total ban altogether. From the period over that weekend, something happened. I think that the Governor has been misled and I think the Governor was misinformed.

I do not mean that in a derogatory sense. I really believe that the Governor was misled and was misinformed on this drug testing thing. We went over tons of information for 6 or 7 weeks on this. It is impossible for the Governor to have heard and read and assimilated everything there is to know about drug testing, over that period of time. I think the people who were talking to the Governor had concerns and wanted their own ideas met with this Bill and they weren't totally addressed.

I don't know of anybody who was happy with the way we compromised on this Bill. I think some people went and spoke with the Governor and he listened to them. He was misinformed.

During the process, many of us, including myself asked the Governor's people "Where does he stand on this issue?" We asked if we were going in the right direction according to the Governor. The Republican members of our caucus even went up and asked him personally and yet we still heard nothing. So, we proceeded in a manner that we thought was acceptable to everyone.

When I look deep inside, I also looked at whether or not I had become too sensitive to the issue. The good Senator from Aroostook, Senator Collins mentioned that perhaps we had become too sensitive to the issue and I questioned myself on that. Had I become too sensitive to the issue and maybe I wasn't seeing everything clearly? I always came back with the same answer, always. Constitutional rights guaranteed to us. Individual rights. No matter how I addressed it, I always came back to that. I thought, do I want to stand up in the middle of the Senate and debate this on these rights and have people say that I was exaggerating or I was throwing rhetorical information at us? Whatever I came up with, it was always the same. Somebody has to get up and do it.

The Constitution is celebrating 200 hundred years this year. I am proud of the people who wrote the Constitution, proud of the people who fought for it and now we're doing things to challenge it. Some people say the Constitution was written to protect us from our government. The Constitution was written to protect people from our government and with instances like this.

I would like to go over the veto message. The first paragraph: [This bill, in my judgment, conflicts with this State's strong public policies on drug abuse and safety in the workplace and represents an unacceptably broad regulation of private employment relationships.] Make no mistake about it, there is not a person in the Maine Senate, there is not a person on the Labor Committee who favors drug abuse. Nobody condones it. I abhor people who use drugs. People who push drugs on our children. By the Bill that was passed in our Committee, we have sent out a strong message to drug users that it will not be condoned in the workplace. The catch is our

Bill addressed drug users. Random testing addresses everyone. Whether you've never touched the stuff in your whole life and never plan to, you could be fingered out.

In the second part of that statement the Governor made in his message was workplace safety. I have been here 9 years and have talked about workplace safety and tried to address that situation. We know we have dealt with other issues that have addressed workplace safety. It has gone to deaf ears to some people.

In another part of the Governor's message: [I already have expressed support publicly for legislation which would require written testing policies, probably cause for the testing of employees who do not hold safety sensitive positions, reliable testing procedures and the confidential treatment of test results.]

The people of the State need more than a Governor's message in a veto letter. They need action. The Governor, himself, has said that if this veto is sustained, he does not plan to introduce legislation, legislation that could possibly protect people in this State from the types of testing that will go on if nothing is done.

We need action. The last part of his message, the Governor states [Maine can, and perhaps should, take the lead in regulating substance abuse testing in the workplace.] Governor McKernan, Maine is taking the lead in testing. Unfortunately, you are standing in our way. We need a leader at a time like this, not someone who stands in our way. It is an important issue. It is a national issue that every state is taking up. We need someone to lead us, not to sit back and say "Yes we will or perhaps should." We need it now. [There exists, in my opinion, a lack of compelling evidence that Maine employers are abusing their right to strive for a safe and productive workplace.] There is so much information on drug testing, there are so many people complaining about the drug testing that is done, there have been so many articles written about drug testing. There is all kinds of evidence about drug testing. It all leads back to this document here, the Constitution. Written in the Constitution of Maine, under Article I, section 5: [The people shall be secure in their persons, houses, papers and possession from all unreasonable searches and seizures; and no warrant to search any place, or seize any person or thing, shall issue without a special designation of the place to be searched, and the person or thing to be seized, nor without probable cause.] Probable cause. There has been questions on whether or not the Constitution applies to the private sector. Well, I hope so. I really hope so, because I think whether you work in the public sector or the private sector, the Constitution was written for people, to protect them.

This little booklet "State Legislatures", that we received, as Legislators, had an interesting comment. The booklet was dealing with the constitutional question on random drug testing. [Most courts considering questions have ruled that mandatory testing is unconstitutional based upon a reasonable expectation of privacy, unless the demand for the test is based upon a reasonable suspicion.] Again, probable cause. The Labor Committee did everything right on target. Governor McKernan was right on target when he ran his campaign and campaigned on probable cause testing. We should not even have this veto before us today. I know that right now, even though some of you will be voting to sustain this veto, you would rather be voting against it. Deep down, I have to believe that. Again, I can

count numbers. I would hope that just one of you, or more of you would see where we are coming from. Where the Labor Committee came from when we worked so hard on this issue. I hope you would vote to override. Thank you.

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

Senator MAYBURY: Thank you Mr. President, men and women of the Senate. I agree with the good Senator from York, Senator Dutremble, that this is not a partisan issue.

This is a people issue. Having been associated with various groups that are opposed to drug and alcohol abuse, over the past few years, I have gained a lot of knowledge of the medical and physical damage that illegal drugs and excessive alcohol consumption can do to our bodies. Simple education is not the sole answer. Society needs to actively object to the use and misuse of drugs and alcohol. We need a safe workplace. We do not need the threat of random testing. I have reservations on the benefit of employee paid assistance programs. It will be a burden to the employer. I would have preferred that the employee would have to pay part of those costs for treatment. Perhaps, after the Bill has had a chance to be instituted, some modifications on this section will be addressed. I will be voting to override. I urge my fellow Senators to join me. Thank you.

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

Senator COLLINS: Thank you Mr. President, men and women of the Senate. I commend the good Senator from York, Senator Dutremble, for his compassionate discourse on the merits of the Bill. I know that he feels this very deeply and I know that all of us are aware of his leadership on the Committee on Labor and the considerable work that he has been engaged in. However, some time ago, I learned from the medical profession, that it was always advisable in certain cases, to ask for a second opinion. I guess I would like to review my second opinion with you. This weekend, when I was at home, I had the occasion to drive from Presque Isle to Caribou on the U. S. Route 1, which is our only highway. I, all of a sudden, saw a bunch of flashing lights and all of the cars along the line that I was in were stopped. It was a sobriety check by the Maine State Police. It occurred to me that perhaps there was an analogy here that we might consider. It seemed to me that this was in fact, a random test of everybody. There were no people selected for particular reasons. Probably cause, you may substitute for that term. We were all checked. It occurred to me that there was, perhaps, another similarity. That was they were concerned about whether we had had alcohol and I am sure that the Committee that worked on this Bill, is very much aware that alcohol was considered a drug and is considered a drug. It seemed to me that we had a very interesting analogy here, which is, in fact, existing State policy. Then it occurred to me that all of those people who were being stopped, were sort of in a safety sensitive position. They were driving on Maine highways. On Maine highways, it is very important to drive in a sober fashion. Accidents take place, and indeed, it is a very safety sensitive position.

I would suggest to the Senate that they should consider that, as they vote on this issue. The good Senator has also mentioned my objection to the cost of rehabilitation treatment. I think in previous debate, I indicated to you that a great many small employers who might, on occasion, want to do drug testing under this Bill, would not. They would not

be able to afford the cost of rehabilitation. Some \$4,700 for a typical 28 day treatment program. It seems to me that here we have created a detriment to testing in the workplace.

It seems to me that if it is so important to keep drugs out of the workplace, and we agree that it is, that we must not get into a position where we have in effect, prohibited drug testing. This morning, I would urge that you support the Governor's veto and that you would vote No. Thank you, Mr. President.

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

Senator CAHILL: Thank you Mr. President and members of the Senate. Probably one of the most overwhelming reasons for living in this country are the right of freedoms granted to us under the Constitution. I am referring to the Federal Constitution. I think, as Legislators, each one of us has played a part in securing these rights and freedoms. Does drug testing actually interfere with the rights and freedoms, or is it more of a moral than Constitutional issue? The Federal Constitution recognizes no specific right to privacy, although the Supreme Court has applied such a right in certain situations by combining several provisions in the first, ninth and fourteenth amendments of the Constitution. The Bill of Rights protects an individual from government intrusion but most

employers establish drug policies as private businesses and therefore no government action exists. Finally, the courts have specifically said that the use and possession of illegal drugs are not fundamental rights, protected under the United States Constitution. I am not sure that drug testing does violate individual rights and as far as morality is concerned, I believe businesses have a moral obligation to protect the rights of non-users and the public.

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

Senator DUTREMBLE: Thank you Mr. President, men and women of the Senate. I guess I just want to read into the Record again, [Most courts considering the question, have ruled that mandatory drug testing is unconstitutional based upon a reasonable expectation for privacy, unless the demand for the test is under reasonable suspicion.] Those are not words from some organization or some doctor. This comes from courts. Courts have made these decisions. I really cannot stand here and say, as a person, that the courts are wrong. I just can't. The good Senator is probably correct when she says that no one should be protected who is involved in drugs. No one should be protected if they are involved in drugs.

That is not what random testing does. Random testing affects 100% of the people. People have been hurt already by it. We know of at least 2 cases, before our Committee, where people lost their jobs because of random testing. I think that just 1 case is 1 case too many.

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

Senator WEBSTER: Thank you Mr. President and members of the Senate. It has been mentioned today that some of us may be voting on this issue on drug testing on party loyalty or for some other reason.

I want to indicate to the Senate and to anyone listening that my vote should not be construed on this issue to be party loyalty, to the Governor or anyone else. I am not convinced that this law is necessary. I am not even sure that a drug testing law of any kind is necessary in this State. No one has convinced me that we need it. We come down here and we get ivy fever. That is a term which we have

heard before when we get ourselves wrapped around an issue like this. We come here, debate, discuss and amend and we get locked up in the committee process. The working people in this State that I talk with do not want this law. Sure, let's not forget that some of the labor unions are asking for this law. But, let's remember that the labor unions only represent a small percentage of the workers in this State. I say a very, very small percentage of the workers in this State. Maine's working people want a safe working environment and if we need a law, if we have to have a law, perhaps a law that has safety sensitive positions tested, then that makes sense. I find this process very frustrating because I think all of us come here, some of us come from areas which are highly unionized, some of us come from areas that are very rural, some of us come from cities. Each of us represent our own areas and our own districts in what we think is best. I would question, sincerely question the need for this. I think the people in Maine want a safe working environment and anything we can do here to keep Maine's working people in a safe environment and keep the public safe is in the best interest of all the people.

Passing this law, the law we passed 2 weeks ago, would not assure safety for everyone. I would suggest you should support the Governor today, and vote against the override.

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

Senator KANY: Thank you Mr. President, men and women of the Senate. It is my understanding that the right to privacy really is being flushed out. It is being developed more fully with each passing month. Really the right to privacy is an interpretation, really is reaching a consensus that it does develop primarily, first of all, from the 1st Amendment with the freedom of speech and then the freedom to keep quiet and then the freedom to control information about one's self. It really has developed into a full-fledged right to privacy. I just ask you, what could be more intrusive into one's privacy that to have one's body fluids tested?

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

Senator MATTHEWS: Thank you Mr. President, men and women of the Senate. First of all, I will apologize for my voice, but the issue is too important so, I will take my chances that I may lose my voice in the middle of this statement, but I will try anyway. The first comment I want to make is in response to the good Senator from Aroostook, Senator Collins, that brought his analogy of testing on the roadside by the officer with the breathalyzer test. That really is mandatory drug testing and that it wasn't so bad.

I hope that the good Senator from Aroostook is not implying that we ought to have random drug testing by house across the state of Maine. The other comment deserves some argument from my colleague to the left, the Senator from Franklin, Senator Webster, who tries to paint this argument and this debate of drug testing into a union, non-union issue. That is very, very unfortunate. I am concerned about union workers from Kittery to Fort Kent and across the other side of the state and I am also concerned about those who are not unionized. That is exactly why the Legislature is here, to protect every citizen, union and non-union. This issue is not a union, non-union issue at all. I hope my good colleague from Franklin is concerned about the union employees employed by the state of Maine, the Maine State Employees Association.

I have some real grave concerns about the Governor's action and I do believe that he is leaving this issue up in the air, and that is not in keeping with the responsibilities that I believe he has taken. I would like to quote to you an article from "Maine Today", in January when he was taking office. "How is the McKernan Administration going to greet legislation that bans drug testing in the workplace?" Governor McKernan said, "I have the same kind of mixed feelings that most people do about mandatory drug testing. In some instances, it may be warranted, but it is a situation right for abuse. At this point, it really is not a problem in Maine that needs to be addressed by the Legislature. Assuming that there will probably be legislation, and if the legislation looks like it will pass, then I will have to get involved to make sure that it strikes a balance. Employer's rights should not be preempted, but, at the same time, some type of probable cause, or some type of triggering mechanism should be required before drug testing becomes a condition of employment."

That statement was from Governor McKernan when he took office. Where is Governor McKernan today? Is there an issue out there Governor McKernan? I believe there is, if you are concerned about drug abuse, then you also should be concerned about the issue of drug testing in the workplace, the right of privacy and the Constitutional rights that we all enjoy as citizens. I see a mixed message here and I wish the Governor would clarify his position.

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

Senator BALDACCI: Thank you Mr. President and members of the Senate. It isn't easy that I vote to override the Governor on this particular issue. I sometimes feel that the Governor's office, has the people, the information, the expertise to deal with these particular issues and try to work with the Governor in the best interest of the state of Maine. I think overall in the Senate and House we try to make that a reality because we are not representing a political interest here, we are representing the people and trying to do what is best for the people.

On this particular issue, I think that a mistake has been made. I think that rather than have any individual rights, any probable cause would now allow employers throughout the state to conduct random drug test for whatever reason or whim they feel an urge to do. A very heavy hand for an employer and it was likened by the good Senator from Aroostook, Senator Collins that there are road blocks who stop every motorist, there are police officers that pick up people for driving while under the influence. Employers are not empowered in the state of Maine, to my knowledge, to be able to be law enforcement officers. They don't have legal standing to be law enforcement officers. It is bothersome to me to take the position that there is an ability or right that I have to take anybody aside and to say that you are going to take this test. There should be some protections to that individual so that their individual rights are not abrogated.

At the same time, I should have some probable cause, they are not doing their work probably, they are causing a situation to occur where there is danger to other workers around them. There should be that before you take people aside and do this sort of thing. I think that it is very onerous for employers not to be able to have a little bit of standard on their side. It can't all be in their direction. There are problems with drugs and drugs in the workplace, but I think that you have to have a balanced approach here and I think that is what is

being called for. I hope after this particular situation settles itself, that we would be able to work on something that does protect those individual rights. I was very disturbed to see that there is no alternate proposal behind this, which means basically, random testing will be in effect for a period of two years, at least. I think that to employers that is a dangerous precedent here in that there is an opportunity for abuse that I think as an employer, I don't want to see other employers subjugated to, because they are not empowered by the state.

As I said before, I think in this one particular area of all the legislation that we have dealt with, I think that it would be better if we could sit down among the Executive Branch and the Legislative Branch and talk about this particular issue, because there should be some sort of balance and it shouldn't be in one direction or the other. I will be urging you to support the override of this particular legislation.

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

Senator CLARK: Thank you Mr. President, men and women of the Senate. All elected officials in this Chamber approach this first gubernatorial veto with mixed feelings, not reluctance, to exercise our responsibilities, but with the seriousness and the sincerity as expounded by the Senator from Penobscot, Senator Baldacci. It is the first in this administration and Governor McKernan, as the Republican Governor of this state, is still our Governor. The Governor of all of us. This is my message relative to his veto of L.D. 1400.

If I, as an employee, and by the way I am an employee of the state in a sense and in my other profession, a classroom teacher in a public school system, were placed in the position of being one of those who happened to be randomly selected for my position as a teacher, might be construed under no law at all and under my own interpretation as a safety sensitive position. If I were asked to tinkle in a cup under circumstances that provide for observation by another party, my response would be an empathically, no thank you. First, whatever trusting working relationship I had enjoyed with my employer, would have been destroyed and my body is my property and there are those, among the vast citizenry of our state, that take medications that would automatically under any general drug testing procedure result in a positive diagnosis. That my friends goes on your working record. That is why, with no safe guards, people in our state have already lost positions and have had their character and their reputation maligned.

L.D. 1400 which has been vetoed by our Governor, provided for structure, fairness, a specific test, which proves 99% accurate and an avenue of remediation. It in no way decreases the repugnancy of drug use in our state and drug use by all employees whether they are union or non-union. It is an attempt, on behalf of one of our Joint Standing Committees, to provide for the safe guards that Maine citizens that learned to expect from the laws that we, in these Chambers, enact. That is in summation why, this afternoon, I will be voting to override the Governor's veto. Thank you Mr. President.

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

Senator PERKINS: Thank you Mr. President, ladies and gentlemen of the Senate. First, I would like to express my appreciation to the Joint Standing Committee on Labor for the work that they have put in on behalf of this Bill and the time they put in on the research that they have done for it. I think my

Governor is appreciative of that also. Elsie would not have spelled out so many conditions in last Friday's calendar for the reasons for his veto, but I think he feels a greater responsibility and that responsibility is for all the working people in the state of Maine. He feels that this responsibility is to the people whose spouses, whose mothers, whose uncles, whose aunts who are close by a Maine Yankee, who fly our airlines, who are ride our buses and are in safety sensitive positions.

The Governor feels, and I concur, that these positions warrant a degree and there is an implied safety factor for those who participate and ride with these airlines and with these buses and have these spouses and relatives work with these people. After all, we are talking about people who, by the very utilization of these materials, are breaking the law. And, thus, by breaking the law, we find ourselves trying to defend their rights. There is nothing wrong with that and I commend the leadership of this Senate for putting this on the calendar as soon as they did after the veto. Because in doing so, they will, by its relationship today, reestablish a line of communication between the Governor's office and the Committee on Labor. So if it is possible, within this session, there can still be a piece of legislation enacted which will deal with the problem.

With these things in mind, and probable cause being one of the factors that is really one of the sticking points, I must remind you that I have said in the debate and it was brought out that probable cause could indeed mean to late, because if probable cause is given, then some mannerism has been given to show that the employee is impaired. Visible in his work, in his demeanor, therefore, let us go on with our proceedings today and lets give us the vehicle to reestablish the lack of communication between these two Body's and find a better means for dealing with the problem.

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

Senator DUTREMBLE: Thank you Mr. President and members of the Senate. I do want to prolong this debate, I think it is much too important to say we are not going to prolong the debate because we have some other place to go. It is much too important. The good Senator from Hancock, Senator Perkins, says that working people of the state of Maine are breaking the law, or words to that effect. They are not, some of them are, but the greatest majority of the people of this state are not and that is why probable cause is in there so that those who are breaking the law will have to face drug testing. We are going to go after those people. Random testing goes after innocent people, those who never intended on breaking the law, never did and never will random testing goes after them.

We can throw up red flags and try to lose focus of the issue of random testing versus probable cause by talking about school bus children, school buses, airline pilots and other jobs in safety sensitive position, unions and non-unions. That is all they are, red flags. I would like to know how many school boards have gone down to the Governor of this state and told him that they are testing the school bus drivers. I haven't heard of one, maybe they are, but I haven't heard of one and whether we pass this Bill or not, I don't think that is going to change. The airline pilots are regulated by the FAA and they were already drug tested, so whatever we do here doesn't make any difference. Some people talked to the Governor, but it wasn't school bus drivers and it wasn't airline pilots.

There are some other corporations in this state who are testing and I think what people really want here is no laws at all. No laws regulating drug testing. That is going to happen after this Bill is sustained. You are going to have employers out there using tests that have great margins of error and the people will be stigmatized with being drug users when they have never even touched the stuff.

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

Senator BUSTIN: Thank you Mr. President, ladies and gentlemen of the Senate. I have listened, both at my seat and while I was doing some work in the Senate President's office, to all of the debate. All of it very good debate, all of it very well taken. In the wee morning hours, I sometimes put those tapes on that we get from the National Council of State Legislators and coincidentally enough the tape I listened to this morning was one of drug testing and it stated very well the pros and cons of that. One of the things that was on that tape, that would be on the pro side of this Bill, was all of the different things that have been said here for one of the things that hasn't been said today is the one of treatment and rehabilitation. I understand that rehabilitation is one of the things that the Governor said he had some problems with. It really is easy and if you remember correctly that I am the Senate Chair of the Joint Select Committee on Corrections and I hear it all the time, it is real easy to take the easy way out. Put them in jail and lock them up, don't worry about rehabilitating them, don't worry about the humanity behind there. I think we found that we can't just lock them up, that we have to for simple human rights to do something with them.

It is the same thing on this Bill, it is real simple to say, have every employee tested, test at random and catch who you can, no matter whether the test is fair or accurate or what it is, it is real easy to say that. But that ignores the fact that there are real people out there having real problems and that you are involving innocent along with the guilty. We can no longer, as a society, take the easy way out. We can no longer do that, we have to sit down and we have to be deliberate in what we do. We have to be deliberative in how we approach the problem. The thing is you have a person, if, in fact you have a problem out there, which I suspect there is because I have worked in the field for a long time, then there is another way of approaching it. It is called the Employees Assistance Program, for one. It is called the hard work that the Labor Committee has done on this Bill, for two. It is called all the rehabilitation and treatment centers that you see and hear about throughout the state. They have touched your lives, I know they have, because I know how intrusive alcohol and drug abuse is in this society. You are not going to solve it by shoving people behind cages, locking the door or simply saying that test everybody and catch the guilty and catch the innocent.

You can't do that, it isn't going to work. You can try it, we have done it, historically, and it hasn't worked. Let's try something different. This is a way to approach the problem. Approach it in a very reasoned manner. I urge you to override the veto.

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

Senator ANDREWS: Thank you Mr. President, men and women of the Senate. I sat and listened to this debate, as I sat and listened to the debate in the Joint Standing Committee on Labor for about seven weeks and thirteen work sessions.

The frustration and anger that might be underlying some of the debate and discussions by those who were directly involved in those discussions, reflect a fundamental frustration with this wholesale breakdown in communication between the Legislative and Executive Branches. Obviously, this is a very volatile subject, it is a very difficult one. There is common ground to be struck, no one in this Chamber or anyone in the Labor Committee condones or supports drug abuse, but no one also is supportive of the kind of wholesale abuse to employees that we have seen happen. So we spent day, after day, afternoon after afternoon, working on that common ground on a bipartisan basis and what frustrates me particularly when I see the work of the Chair of that Committee, the good Senator from York, Senator Dutremble, work so hard on forging this compromise is to have one of the major parties responsible for this veto debate today, sit on his hands, throughout that debate and not offer those concerns, those questions and those problems while that dialogue was being conducted, while that debate was being waged, while that common ground was being forged. That is the frustration that underlies this debate and that is a problem that goes well beyond this particular issue and this particular veto, because if the two Branches are going to work constructively together, particularly in areas that are controversial and difficult, we have to both be willing to meet each other half way and to sit down and talk during the course of the process of forging compromise positions. That simply wasn't done here.

So, it is a wholesale breakdown of communication between the two Branches and it is a veto that reflects, not only the difficulty on coming together on a difficult issue, but a failure of the process of the two Branches working out a solution to a difficult problem. The Committee was there, the Chair of that Committee was there, but, I submit to you, the administration was not there when it counted. Finally, I have heard in this debate a question, both from the Executive Branch and from some members of this assembly, why is this necessary? We heard from the good Senator from Franklin, Senator Webster, that no one, he complained, has proven to him that this legislation is necessary. We have heard that also coming from the Executive Branch.

The question I have to anyone who asks that question is, "where have you been? Where have you been?" It is very frustrating to hear those arguments after hearing the testimony of employee after employee coming before our Committee and laying clearly before our Committee and before this Legislature the abuse that is going on out there in terms of drug abuse testing.

Ladies and gentlemen of the Senate, as long as there are cheap dime store drug testing administered with 60% accuracy, as long as employees are being wrongfully accused of drug abuse, as long as our workers in this state are facing firings, indignity and assaults on their basic rights and a fundamental sense of what is just and fair, this legislation is necessary and I urge you to override this veto. Thank you.

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

Senator KERRY: Thank you Mr. President, ladies and gentlemen of the Senate. I would like to compliment the Senator from Cumberland, Senator Andrews, for his remarks. I think they are very telling and very important for all of us to think about. I would like to add to his comments and to the comments of the Senator from York, Senator

Dutremble, in a sense that I know the Labor Committee has addressed this issue over a great deal of time and that many of us, as employers as well as employees, are concerned. I think the issue that concerns me most is reconciliation. We are trying to reconcile a human problem through a legislative process. This is a very difficult process and we have seen it here this morning and we are debating it this afternoon. As we go through our process, we try to reconcile moral values with constitutional values, we try to reconcile family values with compelling right of a state interest to protect other families from abuse from a person who may be abusing a specific substance. It is never easy to reconcile differences, it is our job, as a Legislature, to reconcile and balance these differences.

As I listen to the debate, I have a great deal of admiration for Governor McKernan, I think he has taken a tough stand, because he made this a major issue of his campaign. He has tried to reconcile the interest of the employers to that of the employees. He took a tough stand on a tough issue against great odds. He knew many opposed his position, but I give him the credit for his courage for his convictions and I agree for the good Senator from Hancock that he does have the interest of the people at heart.

On the other hand, as I look at the Senators who sat on the Labor Committee and the Representatives who forged a balanced solution to the problem, which included written documentation, which included a process, a format, a structure to reconcile the balancing interests of the employer and the employee. I happened to be listening to this debate on both occasions to the good Senator from Aroostook, Senator Collins, when he said, "what about the employers who can't afford this rehabilitation program? What about the employers who are at Bath Iron Works, who aren't the big companies?

What about the small employer?" Well I am a small employer, and I say that we cannot afford not to have a structure, we cannot afford not to have a law in this area. It is very important to think about the human suffering and hardship that will endure if we do not take the leadership in this area and reconcile our differences here in the Senate.

This is not a partisan issue, it may seem that way and I am going to wait and take a look at the vote to see if, in fact, it is. I can appreciate the position of the Governor on this issue, I can appreciate the leadership of this Senate who spoke here today who may have a diverse opinion. The key issue is the reconciliation. We have to bring into this debate a spirit of compromise, a spirit of cooperation, because, in fact, as we listened to the debate early this morning that we do involve the first, the fourth, the ninth and thirteenth amendment, we know that it is important.

Everybody knows that this is an important issue, how can we reconcile the differences? The way to reconcile the differences is to say yes, the state will take a leadership position we will not back in through the back door and have no law. We will have no structure because the individual rights of various citizens and employers will be abused. I will vote to override, not because I don't think the Governor has the proper intention, not that I don't think he is trying to serve the people of Maine, but I think we have devised a solution that is more balanced, and it does reconcile the interests of both employers and employees. More importantly, I think it represents the true spirit of the people of Maine and the leadership of this state. Thank you.

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

Senator WEBSTER: Thank you Mr. President, men and women of the Senate. Before this debate ends today I would like to leave one last point that I think is important and that is, enactment of this law, that was passed through here last week, essentially overriding this Bill today, in my opinion, would leave to chance the future, for example, of school children who ride a bus who might be in a safety sensitive position. It would leave to chance that that worker might be tested under just cause, rather than randomly. I would feel much better about having a law on the books which would do what Governor McKernan says and that is very simply, whether in safety positions someone ought to be able to be tested randomly. It makes sense to me, and if we are going to have to have a law it ought to be in statute, that in a position where someone is dealing with the safety on Maine citizens, whether it be the worker or the citizenry at large, they ought to be allowed to randomly take the test in those positions. Thank you.

THE PRESIDENT: The pending question before the Senate is: "Shall this Bill become law notwithstanding the objections of the Governor?"

In accordance with Article 4, Part 3, Section 2, of the Constitution, the vote will be taken by the Yeas and Nays.

A vote of Yes will be in favor of the Bill.

A vote of No will be in favor of sustaining the Veto of the Governor.

Is the Senate ready for the question?

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEAS: Senators ANDREWS, BALDACCI, BERUBE, BRANNIGAN, BUSTIN, CLARK, DOW, DUTREMBLE, ERWIN, ESTES, GAUVREAU, KANY, KERRY, MATTHEWS, MAYBURY, PEARSON, THERIAULT, TUTTLE, TWITCHELL, USHER, THE PRESIDENT - CHARLES P. PRAY

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

ABSENT: Senators None

21 Senators having voted in the affirmative and 14 Senators having voted in the negative, with No Senators being absent, and 21 being less than two-thirds of the membership present and voting, the Veto was SUSTAINED.

The Secretary has so informed the Speaker of the House.

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

PAPERS FROM THE HOUSE

House Papers

Bill "An Act to Continue the Potato Marketing Advisory Program"

H.P. 1183 L.D. 1613

Bill "An Act to Lower Milk Prices by Regulating Maximum Retail Milk Pricing Margins"

H.P. 1184 L.D. 1614

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

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

Bill "An Act to Amend the Maine Vocational-Technical Institute System Laws" (Emergency)

H.P. 1185 L.D. 1615
 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.

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

PAPERS FROM THE HOUSE

House Papers

Bill "An Act to Extend and Strengthen the State's Mandatory Shoreland Zoning Laws"

H.P. 1187 L.D. 1617

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

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

Bill "An Act to Authorize Hospitals to Use Magnetic Resonance Imaging Devices Located in Private Physicians' Facilities"

H.P. 1181 L.D. 1611

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

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

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

PAPERS FROM THE HOUSE

House Papers

Bill "An Act to Clarify the Offense of Driving under the Influence of Illegal Drugs"

H.P. 1188 L.D. 1618

Committee on LEGAL AFFAIRS suggested and ORDERED PRINTED.

Comes from the House RULED NOT PROPERLY BEFORE THE BODY, being in violation of Joint Rule 24.

Senate at Ease

Senate called to order by the President.

Which was RULED NOT PROPERLY BEFORE THE BODY, being in violation of Joint Rule 24, in concurrence.

Bill "An Act to Clarify the Organizational Status of the Bureau of Lottery within the Department of Finance"

H.P. 1186 L.D. 1616

Committee on STATE AND LOCAL GOVERNMENT suggested and ORDERED PRINTED.

Comes from the House RULED NOT PROPERLY BEFORE THE BODY, being in violation of Joint Rule 27.

Which was RULED NOT PROPERLY BEFORE THE BODY, being in violation of Joint Rule 27, in concurrence.

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

PAPERS FROM THE HOUSE

House Papers

Bill "An Act to Exempt the York Water District from Payment for Certain Improvements"

H.P. 1182 L.D. 1612

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.

ORDERS OF THE DAY

The Chair laid before the Senate the Tabled matter:

An Act to Deny Certain State Funds to Any Person Who Refused to Register Under the United States Military Selective Services Act

H.P. 13 L.D. 11

(H "A" H-83)

Tabled - May 6, 1987, by the President Pro Tem, Senator USHER of Cumberland.

Pending - RULING OF THE CHAIR.

(In House, May 5, 1987, PASSED TO BE ENACTED.)

(In Senate, May 1, 1987, PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "A" (H-83), in concurrence.)

Senator CLARK of Cumberland requested and received Leave of the Senate to withdraw her inquiry to the Chair, as to whether or not this Bill was properly before the Body.

Senator ERWIN of Oxford moved ENACTMENT.

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

Senator BALDACCI: Thank you Mr. President and members of the Senate. This is one of those issues that could be debated at length, but I think one of the basic problems with this particular measure is the fact that if somebody goes to the University of Maine, which is supported by the taxpayers of this state, to the tune of about 55% to 60%, are not required to prove that they are registered for the draft or in violation of federal law, but if somebody needs some state aid, student loan money, then they have to show that they are registered for the draft. I think it is establishing to classes of students. I don't see any differentiation at all, between student aid and going to a state funded university and I would appreciate that if we are going to do this wrap around the flag, that it be done at least equability across the board, because there are many institutions which sit in front of the Appropriations Committee and request state funding. If we are going to grant state funding, at least we should require that the students attended that facility have signed up for the draft and that it is, in fact, a federal law and the federal government has penalties to that avail.

I realize that there is a tremendous concern because the percentages have dropped off, as far as those who have been signing up for the draft, but let's do it across the board, not just on those who need the student aid. If I can afford to go to the University of Maine at Orono and not register for the draft, they can't stop me from going to Orono. If I need student aid money to go to the University Maine at Orono, I have to have registered for the draft. I think it is establishing a very poor precedent if you are not going to do it across the board. That is the point with this particular legislation. I know that I am standing against a formidable opponent in trying to alleviate the concern that I have, the good Senator from Oxford, Senator Erwin. I don't feel comfortable in the position, but at the same time, I know we have had this issue before use in the past and we have dealt with it in expeditious fashion and it has continued to come before us. I just think that you have to be responsible.

Senator BALDACCI of Penobscot requested a Division.

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

Senator PEARSON: Thank you Mr. President, men and women of the Senate. I must say that I find myself in agreement with the Senator from Penobscot, Senator Baldacci. I would like to further tell the Senate that the State of New York has this very measure in front of it and has Tabled it Indefinitely, I guess, because they take the position that they don't want to be in the position of enforcing federal law, with the state money. Everybody, as Senator Baldacci has pointed out, who attends the University of Maine does so with state money, everybody does, to the tune of 50-60%, paid for by all the taxpayers. But, Senator Erwin, has chosen to single out only those people who need financial aid to comply with this particular item.

THE PRESIDENT: The pending question before the Senate is the motion of Senator ERWIN of Oxford for PASSAGE TO BE ENACTED.

A Division has been requested. 18 Senators having voted in the affirmative and 12 Senators having voted in the negative, on motion by Senator ERWIN of Oxford, the Bill was PASSED TO BE ENACTED and having been signed by the President was presented by the Secretary to the Governor for his approval.

The Chair laid before the Senate the Tabled matter:

Bill "An Act to Provide Special License Plates and Decals for People with Hearing Impairments"

H.P. 1106 L.D. 1498

Tabled - May 14, 1987, by the Chair.

Pending - RULING OF THE CHAIR

(In House, May 12, 1987, PASSED TO BE ENGROSSED.)

(In Senate, May 14, 1987, Senate Amendment "A" (S-63) READ.)

Senator CAHILL of Sagadahoc, requested and received Leave of the Senate to withdraw her inquiry as to whether the Amendment was germane.

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

Senator CAHILL: Thank you Mr. President, ladies and gentlemen of the Senate. What the good Senator from Cumberland, Senator Andrew's, amendment would do would be to allow for handicap license plates or decals. As you probably know, the Transportation Committee and the full Legislature voted to remove handicap license plates to eliminate them. It was not a malicious intention, it was a unanimous report from the Transportation Committee. No one appeared in opposition the day of the public hearing. In fact, the representative from handicap organizations testified in favor of the legislation. It does appear that the Legislature has made an error, now I ask you to support Senator Andrew's amendment.

Senate Amendment "A" (S-63) ADOPTED in NON-CONCURRENCE.

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

Sent down for concurrence.

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

On motion by Senator TWITCHELL of Oxford, RECESSED until 5:00 this afternoon.

After Recess

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

Non-concurrent Matter

Bill "An Act to Establish the Aroostook Water and Soil Management Board"

S.P. 535 L.D. 1610

In Senate, May 18, 1987, referred to the Committee on STATE AND LOCAL GOVERNMENT and ORDERED PRINTED.

Comes from the House RULED NOT PROPERLY BEFORE THE BODY, being in violation of Joint Rule 24.

Which was RULED NOT PROPERLY BEFORE THE BODY, being in violation of Joint Rule 24, in 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 Expand the Number of Elder Volunteers Working in Areas of Literacy and In-home Support for Families in the Retired Senior Volunteer Programs, Foster Grandparent Programs and Senior Companion Program"

H.P. 107 L.D. 117

Bill "An Act Concerning the Liability for Damages of Persons Operating a Truck with an Uncovered Load"

H.P. 302 L.D. 388

Bill "An Act to Amend the Laws Relating to Cosmetology License Requirements"

H.P. 508 L.D. 681

Bill "An Act to Amend the Law Pertaining to Labeling Medication Prescriptions"

H.P. 583 L.D. 794

Bill "An Act to Exempt Certain Restaurants from Restroom Requirements"

H.P. 695 L.D. 936

Bill "An Act to Require Public Rest Rooms in Certain Businesses"

H.P. 753 L.D. 1016

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 Create a Small Business Ombudsman"

H.P. 126 L.D. 152

Bill "An Act Authorizing a Study to Determine the Feasibility of Seat Belts in School Buses"

H.P. 215 L.D. 267

Bill "An Act to Assure Full Funding for Home-based Family Services"

H.P. 319 L.D. 418

Bill "An Act to Require Retail Sellers of Gasoline to Post both Full-service and Self-service Prices"

H.P. 469 L.D. 636

Bill "An Act to Exempt Certain Signs from the Billboard Law"

H.P. 516 L.D. 689

Bill "An Act to Promote Sex Offender Treatment for Persons Convicted of Sex Offenses"

H.P. 578 L.D. 776

Bill "An Act to Establish a Bakery and Milk Products Container Law"

H.P. 603 L.D. 821

Bill "An Act Relating to the Labeling of Milk"

H.P. 620 L.D. 839

Bill "An Act to Lengthen the Period of Probation for Persons Convicted of Sex Offenses"

H.P. 658 L.D. 891

Bill "An Act to Clarify the Law Concerning Secondary Education Course Requirement Facilities"

H.P. 783 L.D. 1055

Bill "An Act to Reduce the Burden of Property Taxes on Persons Who are Elderly and to Count the Years 1983, 1984 and 1985 when the Income Allowance was not Increased with the Increase in Social Security"

H.P. 827 L.D. 1118

Bill "An Act Pertaining to Breast Cancer Treatment"

H.P. 868 L.D. 1169

Bill "An Act to Amend the Charter of Searsport Water District"

H.P. 874 L.D. 1175

Bill "An Act Regarding Posting of Private Land"

H.P. 910 L.D. 1222

Bill "An Act to Assure that the State Income Tax does not Increase Due to Changes in the Federal Income Tax Code"

H.P. 965 L.D. 1294

Bill "An Act to Create an Agricultural Market Research and Development Fund Program"

H.P. 1134 L.D. 1544

Ought to Pass As Amended

The Committee on AGING, RETIREMENT AND VETERANS on Bill "An Act to Clarify and Amend the Maine State Retirement Law"

H.P. 750 L.D. 1013

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-134).

Comes from the House, with the Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-134)

Which Report was READ and ACCEPTED, in concurrence.

The Bill READ ONCE.

Committee Amendment "A" (H-134) READ and ADOPTED, in concurrence.

The Bill as Amended, TOMORROW ASSIGNED FOR SECOND READING.

The Committee on ENERGY AND NATURAL RESOURCES on Bill "An Act to Amend the Laws Relating to and Administered by the Department of Environmental Protection"

H.P. 641 L.D. 864

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-132).

Comes from the House, with the Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-132) AND HOUSE AMENDMENT "A" (H-137).

Which Report was READ and ACCEPTED, in concurrence.

The Bill READ ONCE.

Committee Amendment "A" (H-132) READ and ADOPTED, in concurrence.

House Amendment "A" (H-137) READ and ADOPTED, in concurrence.

The Bill as Amended, TOMORROW ASSIGNED FOR SECOND READING.

Ought to Pass in New Draft

The Committee on BANKING AND INSURANCE on Bill "An Act to Develop a Managed Care Insurance Plan

Demonstration for Uninsured Individuals and Repeal of the Catastrophic Illness Program Law"

H.P. 428 L.D. 573

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

H.P. 1169 L.D. 1574

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.

The Committee on HUMAN RESOURCES on Bill "An Act to Save Medicaid Funds by Expanding the Ability of the Department of Human Services to Recover Funds from Other Payors"

H.P. 395 L.D. 529

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

H.P. 1175 L.D. 1601

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.

The Committee on HUMAN RESOURCES on Resolve, Reestablishing the Maine Commission on the Role of State Government in Providing Independent Living Opportunities and Services to Disabled Persons

H.P. 677 L.D. 910

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

H.P. 1176 L.D. 1602

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

Which Report was READ and ACCEPTED, in concurrence.

The Resolve in NEW DRAFT READ ONCE.

The Resolve in NEW DRAFT TOMORROW ASSIGNED FOR SECOND READING.

The Committee on LEGAL AFFAIRS on Bill "An Act to Amend Certain Election Laws"

H.P. 308 L.D. 407

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

H.P. 1154 L.D. 1569

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.

The Committee on LEGAL AFFAIRS on Bill "An Act Relating to the Purchase of Alcoholic Beverages by Minors"

H.P. 512 L.D. 685

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

H.P. 1156 L.D. 1571
 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.

The Committee on LEGAL AFFAIRS on Bill "An Act Concerning Prizes Awarded by Charitable Organizations"

H.P. 663 L.D. 896

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

H.P. 1172 L.D. 1598

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.

The Committee on MARINE RESOURCES on Bill "An Act Concerning the Taking of Smelts"

H.P. 572 L.D. 770

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

H.P. 1153 L.D. 1568

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 ENERGY AND NATURAL RESOURCES on Bill "An Act to Exempt Liquid Asphalt Terminal Licenses from Certain Fee Payments"

H.P. 172 L.D. 216

Reported that the same Ought to Pass in New Draft under New Title Bill "An Act to Exempt Liquid Asphalt from the Ground Water Oil Clean-up Fee"

H.P. 1173 L.D. 1599

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

Which Report was READ and ACCEPTED, in concurrence.

The Bill in NEW DRAFT under NEW TITLE READ ONCE.

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

The Committee on ENERGY AND NATURAL RESOURCES on Bill "An Act to Establish the Water Well Information Law"

H.P. 213 L.D. 265

Reported that the same Ought to Pass in New Draft under New Title Bill "An Act to Establish the Well Water Information Law"

H.P. 1171 L.D. 1597

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

Which Report was READ and ACCEPTED, in concurrence.

The Bill in NEW DRAFT under NEW TITLE READ ONCE.

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

The Committee on ENERGY AND NATURAL RESOURCES on Bill "An Act to Change the Water Quality Classification of the Carrabassett River to Class A"

H.P. 710 L.D. 961

Reported that the same Ought to Pass in New Draft under New Title Bill "An Act to Change the Water Quality Classification of the Carrabassett River and certain of its Tributaries"

H.P. 1170 L.D. 1596

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

Which Report was READ and ACCEPTED, in concurrence.

The Bill in NEW DRAFT under NEW TITLE READ ONCE.

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

The Committee on HUMAN RESOURCES on Bill "An Act Concerning Smoking in Public"

H.P. 228 L.D. 296

Reported that the same Ought to Pass in New Draft under New Title Bill "An Act Concerning Smoking in Restaurants"

H.P. 1174 L.D. 1600

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

Which Report was READ and ACCEPTED, in concurrence.

The Bill in NEW DRAFT under NEW TITLE READ ONCE.

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

The Committee on LEGAL AFFAIRS on Resolve, to Permit Reginald and Alice Huard to Sue the State for Compensation for Losses Suffered as a Result of False Claims of Child Abuse Instituted by the State

H.P. 385 L.D. 519

Reported that the same Ought to Pass in New Draft under New Title Resolve, to Permit Reginald and Alice Huard to Sue the State for Compensation for Losses Claimed to have been Suffered as a Result of Claims of Child Abuse Instituted by the State

H.P. 1155 L.D. 1570

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

Which Report was READ and ACCEPTED, in concurrence.

The Resolve in NEW DRAFT under NEW TITLE READ ONCE.

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

Divided Report

The Majority of the Committee on TRANSPORTATION on Bill "An Act Concerning Proof of Insurance on School Buses"

H.P. 863 L.D. 1164

Reported that the same Ought Not to Pass.

Signed:

Senators:

DOW of Kennebec

CAHILL of Sagadahoc
THERIAULT of Aroostook

Representatives:

MACOMBER of South Portland
REEVES of Pittston
MCPHERSON of Eliot
POULIOT of Lewiston
CALLAHAN of Mechanic Falls
SALSURY of Bar Harbor

The Minority of the same Committee on the same subject reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-130).

Signed:

Representatives:

MILLS of Bethel
MOHOLLAND of Princeton
STROUT of Corinth
SOUCY of Kittery

Comes from the House the Minority OUGHT TO PASS AS AMENDED Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-130).

Which Reports were READ.

The Majority OUGHT NOT TO PASS Report was ACCEPTED in NON-CONCURRENCE.

Sent down for concurrence.

Senate

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 Provide Funds to Encourage the Maine Family Farm"

S.P. 368 L.D. 1109

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 Revise the Allocations for the Alcohol Premium Fund"

S.P. 426 L.D. 1306

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 Ensure Consumer Input in Insurance Rate Making"

S.P. 235 L.D. 629

Bill "An Act to Provide Funding for Drug Task Forces"

S.P. 334 L.D. 989

Bill "An Act Relating to the Use of Antbackflow Devices on Public Water Supply Systems"

S.P. 337 L.D. 992

SECOND READERS

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

House

Bill "An Act to Require Recording of Certain Subdivision and Zoning Variances"

H.P. 990 L.D. 1336

Bill "An Act to Clarify the Laws Relating to Forest Insect and Disease Control"

H.P. 1029 L.D. 1387

Resolve, to Establish the Special Commission to Study School-entrance Age and Preschool Services (Emergency)

H.P. 1111 L.D. 1505

Resolve, for Laying of the County Taxes and

Authorizing Expenditures of York County for the Year 1987 (Emergency)

H.P. 1178 L.D. 1607

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

House As Amended

Bill "An Act Concerning Interdepartmental Coordination of Services to Children and Families"

H.P. 276 L.D. 359
(C "A" H-133)

Bill "An Act Creating the St. Croix International Waterway Commission"

H.P. 733 L.D. 985
(C "A" H-131)

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

Senate

Bill "An Act Making Unified Appropriations and Allocations for the Expenditures of State Government, Inland Fisheries and Wildlife Funds and Changing Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 1988 and June 30, 1989" (Emergency)

S.P. 202 L.D. 559

Bill "An Act to Provide Increased Penalties for Door-to-door Fraud"

S.P. 325 L.D. 953

Bill "An Act to Amend the Law Regarding the Violation of Imprudent Speed"

S.P. 362 L.D. 1097

Bill "An Act to Establish a Statewide Training Program for Staff of Long-term Care Facilities"

S.P. 536 L.D. 1619

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

Sent down for concurrence.

ENACTORS

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

An Act to Establish Pilot Indigency Screening Units for Court-appointed Counsel

H.P. 324 L.D. 423
(C "A" H-110)

An Act Regarding the Maine Agricultural Marketing and Bargaining Act of 1973

H.P. 679 L.D. 912
(S "A" S-62 to C "A" H-107)

An Act to Extend the Freeze on Maximum Weekly Benefits Under the Workers' Compensation Act

S.P. 314 L.D. 916
(C "A" S-59)

An Act to Regulate Discharges from Vehicular Holding Tanks

H.P. 730 L.D. 982
(C "A" H-120)

An Act Relating to the Narcotics Laws

H.P. 821 L.D. 1112

An Act to Modify the Definition of Sexually Explicit Conduct

S.P. 402 L.D. 1242

An Act to Modify Certain Criminal Appeal Laws

S.P. 406 L.D. 1257

An Act Relating to a Court Granting Continuance under the Corrections Law

S.P. 410 L.D. 1261

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

An Act to Provide Funds for Respite Care
H.P. 92 L.D. 101
(C "A" H-111)

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

An Act to Continue Statewide Standards for the Identification and Management of Child Abuse and Neglect

H.P. 162 L.D. 203
(C "A" H-115)

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

An Act to Develop a Pilot Community Reintegration Program for Youth Returning to their Homes from the Maine Youth Center

H.P. 756 L.D. 1019
(C "A" H-112)

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

Emergency

An Act to Expand the Maine Conservation Corps
H.P. 487 L.D. 654
(C "A" H-116)

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

Emergency

An Act to Ensure Timely Adoption of Revised Solid Waste Rules

H.P. 890 L.D. 1191
(S "A" S-54)

This being an Emergency Measure and having received the affirmative vote of 33 Members of the Senate, with No Senators having voted in negative, and 33 being more than two-thirds of the entire elected Membership of the Senate, was PASSED TO BE ENACTED and having been signed by the President, was presented by the Secretary to the Governor for his approval.

Emergency

An Act to Clarify the Law Relating to Restitution for Victims of Crime by Expressly Providing that Cities, Counties and other Governmental Entities can be Victims and that Organizations may be Ordered to Pay Restitution

S.P. 403 L.D. 1243

This being an Emergency Measure and having received the affirmative vote of 32 Members of the Senate, with No Senators having voted in negative, and 32 being more than two-thirds of the entire elected Membership of the Senate, was PASSED TO BE ENACTED and having been signed by the President, was presented by the Secretary to the Governor for his approval.

Emergency

An Act to Recodify the Public Utilities Law

H.P. 1075 L.D. 1458

This being an Emergency Measure and having received the affirmative vote of 32 Members of the Senate, with No Senators having voted in negative, and 32 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.

ORDERS OF THE DAY

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

Emergency Resolve

Resolve, Establishing the Special Commission to Study the Use of State Valuation in Allocation of State Funding Among Municipalities

H.P. 1115 L.D. 1509

Tabled - May 18, 1987, by Senator CLARK of Cumberland.

Pending - FINAL PASSAGE

(In House, May 15, 1987, FINALLY PASSED.)

(In Senate, May 13, 1987, PASSED TO BE ENGROSSED, in concurrence.)

On motion by Senator CLARK of Cumberland, Tabled 1 Legislative Day, pending FINAL PASSAGE.

Off Record Remarks

Senator MATTHEWS of Kennebec was granted unanimous consent to address the Senate off the Record.

Senator TWITCHELL of Oxford was granted unanimous consent to address the Senate off the Record.

Off Record Remarks

On motion by Senator MATTHEWS of Kennebec, ADJOURNED, in memory of the sailors of the USS Stark, until Tuesday, May 18, 1987, at 9:00 in the morning.