

MAINE STATE LEGISLATURE

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

VOLUME II

FIRST REGULAR SESSION

May 26, 1987 to June 30, 1987

Index

(Off Record Remarks)

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

On motion of Representative Ruhlman of Brewer,
Adjourned until Wednesday, May 27 1987, at nine
o'clock in the morning.

In Senate Chamber
Tuesday
May 26, 1987

Senate called to Order by the President.

Prayer by Pastor Andrew Spohrer of the United Baptist
Church in Old Town.

PASTOR SPOHRER: Shall we pray. Heavenly Father,
we thank You this morning for the beauty of this
day. We thank You for our state. We thank You,
Father, for the opportunity for honoring those
yesterday who have given their lives in defense of
our country. Now, Father, as we start this day, we
pray that these Senators will know Your power, Your
wisdom and Your guidance. That they may build well
upon the foundation that was laid by those who gave
their lives for our country. That the laws they
pass, the decisions they make, will have the wisdom
of seeing in the future as well as the immediate
needs. We pray Your blessing upon them, in Jesus'
name. Amen.

Reading of the Journal of Friday, May 22, 1987.

Off Record Remarks

PAPERS FROM THE HOUSE
Non-concurrent Matter

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

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

In Senate, May 18, 1987, PASSED TO BE ENGROSSED
AS AMENDED BY COMMITTEE AMENDMENT "A" (H-131), in
concurrence.

Comes from the House PASSED TO BE ENGROSSED AS
AMENDED BY COMMITTEE AMENDMENT "A" (H-131) AS AMENDED
BY HOUSE AMENDMENT "A" (H-165), thereto in
NON-CONCURRENCE.

On motion by Senator USHER of Cumberland, the
Senate RECEDED and CONCURRED.

Non-concurrent Matter

Bill "An Act to Equalize Retirement Credits for
Air and Army National Guardsmen"

H.P. 1177 L.D. 1606
(H "A" H-142)

In Senate, May 19, 1987, PASSED TO BE ENGROSSED
AS AMENDED BY HOUSE AMENDMENT "A" (H-142), in
concurrence.

Comes from the House PASSED TO BE ENGROSSED AS
AMENDED BY HOUSE AMENDMENTS "A" (H-142) AND "B"
(H-166) in NON-CONCURRENCE.

On motion by Senator BERUBE of Androscoggin, the
Senate RECEDED and CONCURRED.

Non-concurrent Matter

Bill "An Act to Amend the Postgraduate Residency
Requirements for Certain Physicians" (Emergency)

H.P. 1180 L.D. 1609

In Senate, May 19, 1987, PASSED TO BE ENGROSSED,
in concurrence.

Comes from the House PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "A" (H-167) in NON-CONCURRENCE.

On motion by Senator CLARK of Cumberland, the Senate RECEDED and CONCURRED.

SENATE PAPERS

Bill "An Act to Establish a State Supplemental Insurance Program for Mentally Impaired Individuals"

S.P. 558 L.D. 1670

Presented by Senator GAUVREAU of Androscoggin
Which was referred to the Committee on APPROPRIATIONS AND FINANCIAL AFFAIRS and ORDERED PRINTED.

Sent down for concurrence.

Bill "An Act to Change the Operating Cost Millage and Provide Additional Funds for Public Schools in Fiscal Year 1987-88" (Emergency)

S.P. 556 L.D. 1664

Presented by Senator EMERSON of Penobscot
Cosponsored by: Representative LAWRENCE of Parsonfield
Committee on APPROPRIATIONS AND FINANCIAL AFFAIRS suggested and ORDERED PRINTED.

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

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

S.P. 559 L.D. 1671

Presented by Senator COLLINS of Aroostook
Cosponsored by: Speaker MARTIN of Eagle Lake, Representative LISNIK of Presque Isle, Representative PINES of Limestone
Which was referred to the Committee on STATE AND LOCAL GOVERNMENT and ORDERED PRINTED.

Sent down for concurrence.

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

Off Record Remarks

COMMITTEE REPORTS

House

Leave to Withdraw

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

Bill "An Act Relating to the Aquaculture Industry"

H.P. 601 L.D. 819

Bill "An Act to Provide Administrative Support Services to the Maine Job-start Loan Program Agencies"

H.P. 850 L.D. 1144

Bill "An Act to Allow Drunk Drivers to be Sued for Punitive Damages"

H.P. 879 L.D. 1180

Bill "An Act Concerning Child Support Payments and the Method Used by Courts in Setting Payment Levels"

H.P. 985 L.D. 1332

Bill "An Act Concerning the Requirements of Practicing Law"

H.P. 1056 L.D. 1426

Bill "An Act Relating to Refusal to Appear and Taxable Wages under the Workers' Compensation Act"

H.P. 1098 L.D. 1489

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 Authorize a General Fund Bond Issue in the Amount of \$15,000,000 for Capital Improvements, Major Repairs, Building Purchase Capital and other Special Needs of Community-based Nonprofit, Voluntary Social Services Organizations"

S.P. 346 L.D. 1038

Bill "An Act to Amend the Charitable Solicitations Laws"

S.P. 382 L.D. 1159

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 Establish a Fluctuating Credit Card Charge Relative to the Prime Rate"

S.P. 78 L.D. 164

Bill "An Act to Provide Statutory Authority for Alcohol and Drug Education in Maine"

S.P. 89 L.D. 210

Bill "An Act Relating to the Organization of School Administrative Districts"

S.P. 107 L.D. 280

Bill "An Act to Establish a Fluctuating Credit Card Charge"

S.P. 175 L.D. 490

Bill "An Act to Allow Organizations to Sell Insurance to a Limited Membership"

S.P. 341 L.D. 996

Bill "An Act Relating to Alcoholic Beverage Sales"

S.P. 376 L.D. 1141

Resolve, Authorizing Floris Doiron of Auburn to Bring a Civil Action Against the State of Maine

S.P. 379 L.D. 1157

Bill "An Act Concerning Comprehensive Drug Prevention Education in Maine's Public Schools"

S.P. 381 L.D. 1158

Bill "An Act to Require Manufacturers of Automobiles to Sell Parts to the Consumer or his Agent"

S.P. 451 L.D. 1378

Bill "An Act Concerning the Sale of Certain Firecrackers"

S.P. 481 L.D. 1444

Ought to Pass

Senator PEARSON for the Committee on APPROPRIATIONS AND FINANCIAL AFFAIRS on Bill "An Act to Provide State Funding Necessary to Match Federal Funds for Home and Community Based Services for Older Citizens"

S.P. 84 L.D. 170

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 ENERGY AND NATURAL RESOURCES on Resolve, Authorizing the Director of Parks and Recreation to Convey by Deed

the Interest of the State in Certain Parcels of Real Property

S.P. 489 L.D. 1471

Reported that the same Ought to Pass.
Which Report was READ and ACCEPTED.
The Resolve READ ONCE.
The Resolve LATER TODAY ASSIGNED FOR SECOND READING.

Ought to Pass As Amended

Senator BERUBE for the Committee on AGING, RETIREMENT AND VETERANS on Bill "An Act to Clarify the Law Regarding Prohibition of Employment Penalties or Interference Against State Military Force Members"

S.P. 501 L.D. 1518

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (S-85).
Which Report was READ and ACCEPTED.
The Bill READ ONCE.
Committee Amendment "A" (S-85) READ and ADOPTED.
The Bill as Amended, LATER TODAY ASSIGNED FOR SECOND READING.

Ought to Pass in New Draft

Senator BUSTIN for the Committee on BANKING AND INSURANCE on Bill "An Act to Continue Insurance Coverage for Mental Health, Alcohol and Substance Abuse Treatment Services for Maine Citizens"

S.P. 150 L.D. 404

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

S.P. 561 L.D. 1674

Which Report was READ and ACCEPTED.
The Bill in NEW DRAFT READ ONCE.
The Bill in NEW DRAFT LATER TODAY ASSIGNED FOR SECOND READING.

Senator BUSTIN for the Committee on BANKING AND INSURANCE on Bill "An Act Concerning Liability Insurance Coverage for Amusement Devices"

S.P. 374 L.D. 1111

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

S.P. 560 L.D. 1673

Which Report was READ and ACCEPTED.
The Bill in NEW DRAFT READ ONCE.
The Bill in NEW DRAFT LATER TODAY ASSIGNED FOR SECOND READING.

Divided Report

The Majority of the Committee on LABOR on Bill "An Act to Amend the Municipal Employees Labor Relations Law"

S.P. 132 L.D. 337

Reported that the same Ought to Pass in New Draft under New Title Bill "An Act to Amend the Municipal Public Employees Labor Relations Law"

S.P. 557 L.D. 1667

Signed:

Senators:

DUTREMBLE of York
ANDREWS of Cumberland

Representatives:

TAMMARO of Baileyville
MCHENRY of Madawaska
RUHLIN of Brewer
RAND of Portland
JOSEPH of Waterville

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

Signed:

Senator:

COLLINS of Aroostook

Representatives:

ZIRNKILTON of Mount Desert
WILLEY of Hampden
BEGLEY of Waldoboro
HALE of Sanford
HEPBURN of Skowhegan

Which Reports were READ.

Senator DUTREMBLE of York moved to ACCEPT the Majority OUGHT TO PASS IN NEW DRAFT under NEW TITLE Report.

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

Senator COLLINS: Thank you Mr. President, I hope the Senate will continue its historical stance on this issue and defeat this measure. The Bill is not new, it has been around the State Legislature for at least ten years that I am aware of and perhaps more. It seems to me that if we look at the record, we can find evidence that there is really no need for binding arbitration in our municipalities. The present method for bargaining appears to me to work rather well. In fact, Maine Labor Relations Board, which is sort of the neutral part has indicated that generally speaking our present act works extremely well without binding arbitration. There are of course, many things that are wrong with this approach, but I think the thing that is most important to all of us is that passage of this Bill would take away the control that municipal officials have over the budget making process. It seems to me that when you permit this to be done, by outsiders who have no interest in our particular communities, you are indeed giving away a right that ought to probably belong to elected officials.

I am sure that you are all aware that several states have questioned the constitutionality of this type of approach. Several of them that have taken the matter to court, have received indications in their state courts that it was in fact unconstitutional. So, I would hope today that you would join me in voting against the proposal that would provide for binding arbitration on matters relating to wages and economic benefits as a part of an amendment to our Public Relations Labor Act. Thank you Mr. President.

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

Senator BUSTIN: Thank you Mr. President, men and women of the Senate. This has my name on this Bill, as I think it has for a number of years now.

I understand what the good Senator from Aroostook, Senator Collins, is saying about it being historical stance and it being here for the last ten years. A few statistics before I tell you what the purpose of this Bill is. If this Bill works so well, why is it that in 1972, Maine's average teacher salaries ranked 32nd in the nation. If this Bill is working so well, in 1986, Maine's average teacher salaries ranked 48th in the nation. I don't think that is a good track record for the kind of arbitration we have in the state right now.

In 1969, Maine's Collective Bargaining law came into effect, it is not that the law doesn't work, it is that the impact of not being able to arbitrate wages, insurance and pensions. That is what doesn't work. The purpose of this legislation is to provide for last best offer, issue by issue, binding arbitration on all matters subject to collective bargaining. Under this Bill, salaries, insurance and pensions will be binding in arbitration. Last best offer, issue by issue, binding arbitration requires

the arbitrators to select the employers or employees last best offer proposals on each issue. The arbitrators are not committed to fashion a compromise somewhere between the last best offer of the employer and the employees. This scenario tried successfully in Connecticut for school employees, provides the impetuous for both parties to be responsible in fashioning their bargaining demands and to reach an agreement between themselves without resort to arbitration. It is an incentive for them to agree on wages, insurance and pension before they ever get to the binding arbitration position. I would appreciate your support on the Majority Report. Thank you.

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

Senator KANY: Thank you Mr. President and members of the Senate. First of all, I would like to say that this is the best binding arbitration Bill that I have seen before the Maine Legislature, but I still will not support it. I never have supported binding arbitration and I would just like to state for the record my reasons why I consider it an inappropriate delegation of legislative branch responsibility. An inappropriate delegating of the appropriations responsibility of a legislative branch of government at any level of government.

THE PRESIDENT: The pending question before the Senate is the motion of Senator DUTREMBLE of York to ACCEPT the Majority OUGHT TO PASS IN NEW DRAFT under NEW TITLE Report.

The Chair ordered a Division. 18 Senators having voted in the affirmative and 15 Senators having voted in the negative, the motion by Senator DUTREMBLE of York to ACCEPT the Majority OUGHT TO PASS IN NEW DRAFT under NEW TITLE Report, PREVAILED.

The Bill in NEW DRAFT under NEW TITLE READ ONCE.

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

SECOND READERS

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

House

Resolve, to Create Dispersed Recreational Opportunities on Public Lands at Pineland

H.P. 1209 L.D. 1650

Bill "An Act to Establish Greater Communication in the Rule-making Process and to Provide Better Standards for the Adoption of Rules"

H.P. 1210 L.D. 1651

Bill "An Act Authorizing the Use of Gill Nets by Department of Inland Fisheries and Wildlife Personnel for Scientific Purposes" (Emergency)

H.P. 1211 L.D. 1653

Bill "An Act to Amend Certain Laws Relating to the Department of Environmental Protection"

H.P. 1212 L.D. 1654

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

Bill "An Act to Require the Use of Seat Belts for Children 12 Years of Age and Younger"

H.P. 649 L.D. 877

Which was READ A SECOND TIME.

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

At the request of Senator WEBSTER of Franklin requested a Division. 19 Senators having voted in the affirmative and 12 Senators having voted in the negative, the Bill was PASSED TO BE ENGROSSED, in concurrence.

Bill "An Act to Extend Maine's Bottle Bill"

H.P. 662 L.D. 895

Which was READ A SECOND TIME.

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

ENACTORS

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

An Act to Assure Responsibility in Regulatory Decision Making

H.P. 59 L.D. 62

(C "A" H-141)

An Act to Promote the Coordination of State Crime Prevention Programs for Juveniles

H.P. 105 L.D. 115

An Act to Amend the Watercraft Excise Tax Law

H.P. 221 L.D. 273

(C "A" H-129)

An Act to Exempt Prisoners from the Provisions of the Workers' Compensation Act

H.P. 542 L.D. 726

(S "B" S-71)

An Act to Amend the Truck Size and Weight Laws

H.P. 654 L.D. 882

(C "A" H-139)

An Act to Permit the Annual Filing of Certain Fuel Use Reports

H.P. 681 L.D. 922

(C "A" H-135)

An Act to Facilitate the Transfer of Information Between the Department of Human Services and the Bureau of Taxation

H.P. 693 L.D. 934

(C "A" H-136)

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

S.P. 325 L.D. 953

An Act to Require Safety Engineering and Loss Control in Workers' Compensation Insurance Rate-Making Proceedings

H.P. 1011 L.D. 1364

An Act to Repeal Loyalty Oaths for Civil Emergency Preparedness Personnel

H.P. 1092 L.D. 1483

An Act to Clarify Existing Law Regarding the Loss of Military Property

H.P. 1094 L.D. 1485

An Act to Repeal the Removal of Ice Jams Provisions from the State Civil Emergency Preparedness Law

H.P. 1095 L.D. 1486

An Act to Save Medicaid Funds by Expanding the Ability of the Department of Human Services to Recover Funds from Other Payors

H.P. 1175 L.D. 1601

An Act Relating to the Availability of Rebate Forms for Manufacturers' Rebates

H.P. 1179 L.D. 1608

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 Continue the Pine Tree Partnership Fund Program

H.P. 207 L.D. 259

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

An Act Relating to the Cost-of-living Formula for Retirees under the Maine State Retirement System

H.P. 749 L.D. 1012

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

Emergency

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

S.P. 202 L.D. 559

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 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
(S "A" S-68)

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

ORDERS OF THE DAY

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

Bill "An Act Relating to Terms of Office for Trustees of the Kennebec Water District"

H.P. 1201 L.D. 1638

Tabled - May 21, 1987, by Senator CLARK of Cumberland.

Pending - PASSAGE TO BE ENGROSSED
(In Senate, May, 21, 1987, READ A SECOND TIME.)
(In House, May 20, 1987, PASSED TO BE ENGROSSED.)

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

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

Bill "An Act to Prohibit Smoking in Public Areas of Publicly Owned Buildings"

H.P. 270 L.D. 353
(C "A" H-151)

Tabled - May 22, 1987, by Senator CLARK of Cumberland.

Pending - PASSAGE TO BE ENGROSSED AS AMENDED
(In Senate, May 21, 1987, READ A SECOND TIME.)
(In House, May 20, 1987, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-151).)

On motion by Senator DOW of Kennebec, Senate Amendment "A" (S-81) READ.

On motion by Senator CLARK of Cumberland, Tabled until Later in Today's Session, pending the motion of Senator DOW of Kennebec to ADOPT SENATE AMENDMENT "A" (S-81).

Senate at Ease

Senate called to order by the President.

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

PAPERS FROM THE HOUSE
House Papers

Bill "An Act to Make Available State-owned Land for the Construction of Affordable Housing"

H.P. 1222 L.D. 1666

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

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

RESOLUTION, Proposing an Amendment to the Constitution of Maine to Increase the Aggregate Limit on Insured Mortgage Loans to \$95,000,000

H.P. 1221 L.D. 1665

Committee on ECONOMIC DEVELOPMENT suggested and ORDERED PRINTED.

Comes from the House referred to the Committee on STATE AND LOCAL GOVERNMENT and ORDERED PRINTED.

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

ORDERS OF THE DAY

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

Bill "An Act to Change the Operating Cost Millage and Provide Additional Funds for Public Schools in Fiscal Year 1987-88" (Emergency)

S.P. 556 L.D. 1664

Tabled - May 26, 1987, by Senator CLARK of Cumberland.

Pending - REFERENCE

(Committee on APPROPRIATIONS AND FINANCIAL AFFAIRS suggested and ORDERED PRINTED.)

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

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

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

Bill "An Act to Prohibit Smoking in Public Areas of Publicly Owned Buildings"

H.P. 270 L.D. 353
(C "A" H-151)

Tabled - May 26, 1987, by Senator CLARK of Cumberland.

Pending - Motion of Senator DOW of Kennebec to ADOPT SENATE AMENDMENT "A" (S-81)

(In Senate, May 26, 1987, SENATE AMENDMENT "A" (S-81) READ.)

(In House, May 20, 1987, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-151).)

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

Senator DOW: Thank you Mr. President and members of the Senate. I have introduced this amendment for one very simple, but very important, reason. The preservation of local control. Without this amendment to L.D. 353, the towns, cities and counties would be precluded from determining their own policy. It is one thing for the state to dictate smoking policies for state buildings, but it is quite another for the state to dictate policies for the towns. This Bill is really not a smoking issue. It

really is an issue of state authority over local authority or interfering with local government. I ask for your passage and I ask you take a look at the letter written by the County Commissioner of Kennebec County where they had asked me to put in this amendment. So, I had it distributed and put on your desk. Thank you for your attention and I ask for your support on this amendment to L.D. 353.

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

Senator GAUVREAU: Thank you Mr. President, ladies and gentlemen of the Senate. I am strongly opposed to the amendment, which was offered this morning by the good Senator from Kennebec, Senator Dow, and accordingly, I would urge you today to strongly reject the adoption of the amendment to L.D. 353. I think it was somewhat inevitable, if this Bill were around here long enough, that we would smoke out, so to speak, the opponents to this measure. I think we have succeeded in that endeavor. You should be aware that the proposed amendment, being offered by the good Senator, this morning, would essentially gut the Bill. It is on those grounds that I take a rather strong exception to its' proposed adoption today. Now L.D. 353 is designed, as you may be aware, to restrict, not to ban, to restrict the engaging of consumption or use of tobacco products in public buildings. In this regard, the Bill makes a very important distinction between public buildings, which are used primarily for governmental purposes, as opposed to public buildings which are used primarily for social purposes.

By this I refer to public buildings such as town halls, court houses, public registrars of deeds, clearly these are public buildings designed for the public to transact governmental affairs. In the two tier approach, which was adopted by the Committee on Human Resources in L.D. 353, we clearly restricted the use of tobacco products in public buildings designed primarily for governmental purposes by the public. We did make provisions and did make more modest restrictions on use of tobacco products in civic centers and auditoriums, public properties to be sure by and large are used for recreational purposes for the public. It can be argued, with some degree of force, that a person electing to use these public properties would have some expectation that persons would, in fact, consume tobacco products in the civic centers and what not, as they relaxed and watched whatever program was before them.

The critical point here, of course, is that with respect to public properties, which are designed for use primarily for governmental purposes, here we have a fundamental threshold issue of access. The people, obviously, have a right to use public properties to transact governmental affairs, that is the very core purpose in a democracy. Toward that end, the Committee was mindful of the effects of tobacco smoke upon certain people in our population. We do not want to restrict access of people who had severe respiratory or lung ailments from using public properties. Accordingly, we adopted this two tier approach that I just mentioned. Specifically, as regards public buildings, which are used primarily for governmental affairs, smoking will, in fact, be prohibited in public areas of those buildings. But, and it is important to note, that smoking will be allowed in private offices and it will also be allowed in areas leased to private parties in public buildings.

Furthermore, the Committee made no change whatsoever, with respect to current law regarding smoking in public meetings. I believe, as you are

aware, smoking will be allowed in town hall meetings, public meetings unless there is exception or objection taken. In that regard, the Committee is making no change at all in current law.

With respect to civic centers and auditoriums, smoking will be allowed under this Bill in hallways and lobbies, provided that the main exit or entrance to the auditorium is accessible without one smoke free corridor available, either to access or to leave the auditorium. Furthermore, in putting together the Bill, the Committee was very careful to tailor this law to the current law, regarding restaurants. Accordingly there is an exception in L.D. 353, which provides that restaurants and cafeterias, which happen to be located in an enclosed, indoor public buildings, will be exempt from this particular law, providing that those facilities comply with the law on smoking in restaurants. It is important to note that this Bill was considered very carefully by the Committee on Human Resources, we were certainly aware of the balance we are trying to strike between the rights of public to have unfettered access to public buildings along with the need to accommodate those members of our public who, in fact, use tobacco products.

In structuring this Bill, the Committee was aware that over 70% of the population in Maine does not smoke, does not use tobacco products. We are talking about a minority of individuals and, I might add, a dwindling number at that. Every year it seems that fewer people consume tobacco products. Furthermore, the Committee was aware that for many people the presence of tobacco smoke is, in fact, a significant health hazard. We are talking now about people who have respiratory ailments, lung ailments, it can be argued that for some of us, tobacco smoke might be a mere inconvenience, for others, it is, in fact, a significant health obstacle. You should also be aware that every year over 1800 persons die in Maine, due to cancer or other tobacco related diseases. So, we are dealing with a very significant health hazard. The Committee felt that it is time that this Legislature adopt reasonable measures to safeguard the public at large against a very real health hazard associated with the consumption and use of tobacco products.

Now there is substantial, in fact, overwhelming support for this measure and the public at large. One need only to look at the Committee Report. The Committee Report is 12 persons siding the Ought to Pass jacket, with only 1 opponent. But, more importantly than that, the Committee heard from several individuals and organization regarding this particular measure. This measure is supported by dozens of organizations including: The Maine Coalition on Smoking or Health, that consists of a host of professional organizations and consumer organizations, Blue Cross Blue Shield, The Maine Chiropractic Association, The Maine Dental Association, The Maine Department of Human Services, The Maine High Blood Pressure Council, The Maine Hospital Association, The Maine Labor Group on Health, we could go on and on and on. I could probably take up fifteen minutes reading the proponents on this measure. Now, I would contrast that to the list of opponents, or I should say opponent. There is exactly one, one opponent, which came before the Committee to offer testimony in opposition to this Bill and it is striking to note that one opponent, The Tobacco Institute, testified that there must be a reasonable accommodation made in our society to balance the rights of the non-smoking public with those individuals who, in fact, do consume tobacco products. The Committee attempted,

very carefully, to craft a responsible compromise in accommodation of these competing interests. Mindful of the fact though that the primary interest here is health. We ought not to subordinate the legitimate health interests of the people in our state in order that we might allow a certain minority to continue their habit of smoking tobacco products. Certainly, that concern becomes paramount when we start to restrict access to our public buildings to a significant population in the state of Maine. In spite of the rather overwhelming case to be made for reasonable and moderate regulation of smoking in our public buildings. The opponents of L.D. 353, invite us to subordinate the health interest of the Maine public under the rather simplistic manner of local control. We are told that yes, we do recognize the smoking does constitute a significant hazard for many people in Maine.

In fact, we are well aware of the recent medical evidence; surveys, studies conducted under the office of the Surgeon General, Everett Coop, indicating that second stream smoke, as it was referred to, is a very significant health hazard. That is people who do not smoke, but happen incidentally to consume smoke which is the result of other people who smoke tobacco products are at a significant risk. If we were to adopt the proposed amendment this morning, we would in fact, reject the philosophy which gave rise to our earlier significant legislation regarding smoking. I am referring, of course, to the 1981 Clean Air Act and the 1985 Smoking in the Workplace Act. In those particular pieces of legislation, this Legislature recognized that in order to regulate smoking we had to have a uniform statewide policy and not predicate individuals right to a smoke free environment upon ones particular residence or in the particular buildings that a person happens to transact his or her business in a given day.

If we, in fact, were to adopt the amendment being offered this morning, by the good Senator from Kennebec, we would create several anomalous situations for example, assume, if you will, a resident in the city of Portland is able to persuade his or her town council that there ought to be a rather strict regulation of smoking in municipal buildings. One would think the person, therefore, would have reasonable access to public buildings unencumbered by tobacco smoke. However, it that person happens to transact business in another community which has not adopted a similar type of control on tobacco products, that person is a significant risk. We are talking about people who are a significant risk, people who do have medically, verifiable respiratory ailments and for whom access to public buildings would be substantially impeded if the person had to encounter persons smoking tobacco products. It seems to me that although I respect the arguments of the Tobacco Institute, I certainly respect their right to offer opposition to L.D. 353. I would urge the Senate today not to fall prey to the rather simple argument here that this is really a matter of local control. I was giving some thought over the weekend of how I would best address this issue and best try to point out to the Senate exactly how meaningless the term local control is in this particular context.

If you will bear with me I will make an analogy. It seems to me, you have heard me refer in the past to a play on words to oxymorons, I always wanted to be able to introduce the term oxymoron in legislative debate and I certainly welcome this opportunity. As you know, an oxymoron is simply a deliberate self-contradictory statement. A few of my favorite oxymorons are: military intelligence, arctic summer,

legal ethnics or for the more cynical, Islamic justice and my favorite Red Sox pitching. To this proud list of oxymorons, we can add the concept of local control as it relates to protecting individuals who have respiratory ailments. Because, clearly the interests to be advanced here is not the so-called right of the municipality to adopt ordinances on consumption of tobacco products in public buildings. That isn't their right at all, the right clearly is an individual right. The right of the individual to use his or her public buildings in such a fashion as not to impair or impede that person health. So, it is a personal right.

When we introduce the term local, in this debate, somehow the opponents of this measure would argue that by advancing the term local we would be accommodating the individuals interest, but in fact, we are not doing that at all. If we were, in fact, to adopt the notion of local control and have each town in Maine adopt its' own smoking policy in public buildings, we would, in fact, do major injustice to the person who have health problems. Ironically, people with acute sensitivity to the consumption of tobacco products and who are adversely affected by inhalation of tobacco smoke, would lose their ability to freely access public buildings. So, if we do, in fact, adopt the amendment being offered by the good Senator from Kennebec, under the idea of local control, we will, in fact, be defeating individual rights doing exactly what we don't want to do, which is to protect the legitimate health interests of the majority of people in Maine to access public buildings freely. So, in conclusion, it seems to me that the significant health hazards associated with the consumption of second stream smoke that is incidental exposure to tobacco products are well documented. It is time for this legislature to take reasonable and moderate steps to regulate the use of tobacco products in public buildings. We must never forget that the right of Maine people to a healthy, smoke free environment should never be subordinated to a simplistic political doctrine, such as local control, because, in fact, we are talking about individual rights. The right of the individual to access public buildings throughout the state, without encountering a significant health hazard.

It is for these reasons that I would strongly urge the Senate, this morning, to reject the amendment offered by the good Senator from Kennebec, Senator Dow, so that we can go on to Engross and take a significant step to protecting the overwhelming majority of the Maine people who want and require a smoke free environment in public buildings. Thank you.

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

Senator ERWIN: Thank you Mr. President, ladies and gentlemen of the Senate. The Board of Selectman of the town of Rumford, adopted a Resolution, dated on May 21, 1987. With you permission, I would like to read the Resolution:

WHEREAS, the Maine Legislature is currently considering L.D. 353, "An Act to Prohibit Smoking in Public Areas of Publicly Owned Buildings"; and

WHEREAS, L.D. 353 would prohibit smoking in all municipal buildings; and

WHEREAS, decisions affecting the control and regulation of municipal buildings are the proper province of municipal government; and

WHEREAS, L.D. 353 would infringe on that province of municipal government; now, therefore, be it

RESOLVED: That we, the members of the Board of Selectmen of the Town of Rumford, respectfully oppose

L.D. 353 insofar as it pertains to municipal buildings; and be it further

RESOLVED: That certified copies of this Resolution be forwarded to Senator Edgar Erwin, Representative Phyllis Erwin and Representative Francis Perry.

Thank you, Mr. President.

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

Senator USHER: Thank you Mr. President and members of the Senate. I would like to address a different issue, let's stop and consider the effect of this Bill will have on our county jails. L.D. 353 would prohibit smoking in public areas of prisons. This means that prisoners and visitors would be unable to smoke in the visiting areas.

It is important to remember that, for many prisoners, smoking is one of the very few diversions or pastimes available to them. To deny prisoners this emotional outlet would have far more serious repercussions than the supposed evil this Bill is purportedly designed to eliminate.

As we are all well aware, our prisoners are extremely overcrowded, so much so, in fact, that we passed a bond resolution for the construction of a new facility. It seems silly, if not irrational, for the state to incur such a major expense in an effort to improve prison conditions while, at the same time, proceed to enact legislation which would create unnecessary tension within the prison environment.

Again, this is a problem best handled by those people who are closest to it, the people at the local level. Let the county and municipal officials manage their own buildings. They don't need a "big brother" looking over their shoulders and we have not business insisting on playing that role. I urge you to support the pending motion.

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

Senator GILL: Thank you Mr. President, men and women of the Senate. I rise to ask you to not support the pending amendment before us. A lot of you have worked long hours and have spent a lot of time dealing with cost containment in this Legislature. Senator Gauvreau has made an eloquent appeal to you to look at this Bill and the intent of the original Bill and ask you also to dismiss the amendment. The state of Maine and many municipalities have spent a lot of money, millions of dollars as a matter in fact, to make public buildings accessible to the handicap, we are talking about people who smoke really bothers, either they have asthma, they have medical conditions that their lungs just can't stand the smoke and going into facilities where smoking is going on. What we are doing is asking you to pass this legislation, it is not going to cost millions of dollars, as we have spent in the past for making places accessible to the handicap in public buildings.

This will make the public building accessible to the handicap at no cost to the general public. What we are asking is when people go in and pay for their hunting licenses and their fishing licenses and even in some communities as candidates go into large areas. I know in my community, in South Portland, we have access to the voting records the night of the vote, as the votes come in we all center around the voting place in the municipal building to see how we are doing in the election process. This would mean that it would be free of smoke. There is much business that people have to go into the municipal places and also public offices within smaller municipalities the only area that would be designated

there as non-smoking would be that area that business is conducted.

So, I would ask you not to support this amendment, but we in the past have done shore land zoning from the state level, we have done handicap legislation from the state level and I ask you also to look upon allowing public access to municipalities and public buildings without the fear of going into a smoke filled room.

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

Senator MATTHEWS: Thank you Mr. President, men and women of the Senate. I had to rise today, because this issue and I concur with the good Senator from Cumberland, Senator Gill and the good Senator from Androscoggin, Senator Gauvreau. The attempt is being made today to bring the issue of local control into this debate. I would ask every member of this Body to think about what would happen in this country if we were to raise the issue of local control on every important health care issue before this nation. Certainly today, and we should remember, the most important health care issue before the state of Maine and the country, the hazards of smoking. Don't forget, ladies and gentlemen, we have heard the stories, the fiction from the Tobacco Industry and the lobby. Men and women, citizens of this state are dying, everyday, from smoking and second-hand smoke and we know it. The facts are irrefutable. I will be voting against this amendment today and the ludicrous argument that this is a local control issue because this is a health care issue. Thank you.

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

Senator BRAWN: Thank you Mr. President, men and women of the Senate. I rise as a past volunteer for the American Cancer Society and I will be very brief. Presently, as a member of the Board to urge you to reject this amendment. The issue here is public health, the public has to traverse through the halls of public buildings to do their business and I feel it crucial that the air they breathe be smoke free. As has been said already, some are allergic to smoke, some have allergies, asthma, smokers have their rights, I do believe that very much when they are in their designated areas. But, I also believe that it is only common courtesy that the public have clean air when they transact their business. I urge you to vote no on the amendment and pass L.D. 353.

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 speak on this issue because, first of all, I completely sympathize with those persons who frame this issue in terms of local control. I think it is a local control issue, I think it does have ramifications for the governmental activities of the municipalities and the county governments. But, I also think the state has to, as we often do, decide what is the most compelling state interest. Local control is a very important issue and those who support this amendment have fashioned it in such a manner that we are debating local control. I think it is prudent and legitimate, it is something that we should definitely consider and I certainly respect the amendment offered by the good Senator from Kennebec, Senator Dow. But, I would like to relate to you a very brief story, brief happening that recently happened to me over this past week. I was very much divided on this issue, because I believed that the local municipalities should determine their own destiny on this issue. I really felt that even though I felt overwhelmingly that this was a health issue. But,

when I was contacted by my local officials, they wanted local control and they made a very compelling argument for it. Not only were they making a compelling argument for it, they were my good friends and they spoke rationally about it, they tried to push the issue of local control. Then, I tried to see what they were really talking about, they were talking about, in particular, that the lure of the local control issue was their personal right to smoke and I appreciated that as well. I do understand that.

But, subsequent to the discussion with this individual, I told him I would think about it very seriously, I told him I had voted this out of committee, but I said, in reality I thought they had a very good argument. Then on Tuesday or Wednesday of this week, my daughter had a very severe health set back. She developed acute pneumonia which the doctors were baffled as to how it happened. Come to find out she had a collapsed lung, was rushed to the hospital was in the hospital for five or six days. She was judged to be an asthmatic. Now I started thinking about that as I walked through the pediatric ward of the Maine Medical Center, and looked at the children that were there that had cancer and various forms of debilitating diseases and if I might add, very severe diseases and I was fortunate enough to receive a report at the courtesy of Senator Gill, which relates to the National Surgeon General's report on the consequences of involuntary smoking. This made me think once again. I know many of you may have made up your minds on this issue and may have made them up because of health issues or you might have made them up because of local control issues. Both of the issues are compelling issues and they are legitimate positions to take. We are setting the state policy for the health of all the men, women and children of this state. Many people are dying from known carcinogens, many people are dying, good friends and family members of ours are dying from inhaling of smoke due to smoking cigarettes.

They know it and we know it, we can't really stop adults from smoking individually, if they so desire, and I don't think we should try unless you sincerely care about them and say it is for your own best health. I understand that, but smoking does effect the other person. The principal we are debating here is a health principal, as well as a local control issue. We have a responsibility to protect the children of this world. From now on my child, who is an asthmatic, the doctor said forever, she is going to be impacted with various types of allergies as well as smoke and other things. It was actually mentioned to me that there are virtually tens of thousands of other people throughout the state who suffer from a variety of diseases that Senator Gill, the good Senator from Cumberland, has pointed out to us. I would just say, and my point is, I want to support Senator Gauvreau, the good Senator from Androscoggin, Senator Gill, the good Senator from Cumberland and Senator Matthews, the good Senator from Kennebec, on the basis of framing the issue. Let's frame the issue for what it really is. It is a health issue. It is a more compelling position than the issue of local control, even though the local control issue is an important issue. Let me speak to those of you who have received letters from their County Commissioners, letters and calls from their town municipal officials, I have received them as well. It is a compelling argument, but I would say this. We must set the example and it is the best example. It is in this case the better example between local control. I would suggest that we defeat this amendment.

Off Record Remarks

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

Senator GAUVREAU: Thank you Mr. President, ladies and gentlemen of the Senate. Two brief points, first of all, we have heard extensive discussion or at least some discussion on concerns focusing around local control. It should be reiterated that there was only one opponent testifying before the Human Resources Committee regarding this Bill and that was the Tobacco Institute. The Maine Municipality Association has no position on this legislation.

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

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

Senator BALDACCI: Mr. President and members of the Senate. I don't think the issue today is whether you are against smoking or you are for smoking, or if you are for local control or against local control. I think the real issue here today is that the state is taking a tremendously innovative step. It is going to mandate within state institutions that there be no smoking. That is a tremendous step, but the Legislature in the years gone by has always had a developing close relationship with the communities. It is a good policy. You have done tremendous things on smoking in the restaurants and smoking where ever else and public education, there are tremendous in roads that are going on. But, I think in this particular area where you are making those steps and those in roads it would only be wise to go slowly forward. That is all that is being suggested by the amendment, slowly forward. You know, we have dealt with mandatory seatbelts, which were good for health cost, but we have decided in the past that those issues were more important to work with individuals and communities not to try to shove things down people's throat. It was alluded to earlier that the Maine Health Care Finance Commission and its mandates and cost control within that particular profession were very worthy goals, but we know that problems that has created in the community. You have heard today about Sheriff's Association and local communities and their particular concerns. Yesterday, the city of Bangor banned smoking at the High School and now it is discussing it's labor policy with the teachers, because in that contract with teachers they have it specifically geared so that they may have smoking areas. So, now the students are saying why can the teachers have it and the students can't, well it's because of local negotiations and local contracts.

So, I think before you step into what seems to be a very easy area, I think you should go very slowly and I think that is only the recommendations. This is not going to gut the Bill, you are talking about all of these state institutions and agencies and you are saying to the local communities that it is better if they develop it at that level. Basically, smoking isn't very good and I agree with that, I mean it has been a long time, but our committee has dealt with several bills in that regard and I think we are making progress and I appreciate the comments of the good Senator from Androscoggin, Senator Gauvreau, but I hope that you would support the amendment as a step in the right direction.

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

Senator GILL: Mr. President, men and women of the Senate. We have already attempted to open up areas for the handicap. As I indicated before, we have spent millions of dollars in that area to make places accessible to the handicap. Here we have a piece of legislation before us, that is going to discriminate against a group of people who have one disease. Who have asthma, who have problems with breathing and we are going to limit their access to buildings, buildings where they have to do business. They have to pay for their taxes, they have to notaries sign things sometimes, they have to get their fishing license so they can go out into the great outdoors and fish. They have to do many things in public buildings and all we are trying to do is allow them access to those same public buildings that we have allowed the handicap access to, by providing accessibility to it.

I was moved by what Senator Kerry of York, had to say about his own daughter, because I think that unless a family or unless you have become acutely aware of someone with a problem, that you just don't recognize that it is a problem. It is wonderful for all of us to go around in a healthy state and say that it doesn't bother me, smoking doesn't bother me. But, it does bother a group of people in our society and there is no money attached in making these places accessible. We have spent millions of dollars in the past and here we have an opportunity to allow people in public buildings and we are saying let's think it over, let the locals do it. We, on the state level have, in fact, passed legislation many times allowing the state to set up some rules and regulations and usually they are in the area of health. I think we should continue along this and leave those public areas so that you, I and John Kerry's daughter and anyone else who may have a disability go in and do their business.

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

Senator DILLENBACK: Thank you Mr. President, ladies and gentlemen of the Senate. I agree with every word the good Senator from Cumberland has just said, but the thing that bothers me is that apparently you people think that our local officials do not have the intelligence to agree with her also. I am sure these people know what should be done, I am sure they are very concerned about the other people and I am going to give them credit for knowing something. Thank you.

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

Senator BALDACCI: Thank you Mr. President and members of the Senate. I think that one of the issues that seems to be of concern is between local and state control and it hasn't to do with smoking and it shouldn't be interpreted with that. It should be on just local and state issues here. I remember one incident we had here four years ago where a horse was shot in a community and that all of a sudden we were going to have a state law against the discharge of fire arms.

In a lot of communities they go through a lot of controls, a lot of hearings to decide where that line will be and they hold public hearings and finally come to some resolution of that particular issue, rather than the state coming in and saying no discharge at all in that particular area. I always return to that as an issue between the states and the local governments. Here is another one and it just happens to be in smoking. All we are saying is let them have a chance to develop it because there may be

some things there that we don't see now, rather than coming back with amendments and changing the law constantly, lets see what happens and hopefully things will work out better. So, I would hope that you would support the amendment.

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

Senator PERKINS: Thank you Mr. President, ladies and gentlemen of the Senate. Speaking as the Senator from Senate District 12, I would point out to you that the issue here is second-hand smoke. Now, in many cases in our society second-hand is perfectly acceptable. The second-hand car, I have had several and thought them to be very adequate. As a member of a four children family, second hand clothes, while not always acceptable as a child, were again perfectly adequate. And I think in many other areas, second-hand furniture and second-hand other things grow up to be antiques and I know those are perfectly adequate and increase in value. But, second-hand smoke is not acceptable and becomes less acceptable as your health becomes more impaired. I would ask you today to follow the lead of this Committee which has done a tremendous amount of work in this area and I am hopeful that you would reject the amendment and go for something that would reject the second-hand in this area.

THE PRESIDENT: The pending question before the Senate is the motion of Senator DOW of Kennebec to ADOPT Senate Amendment "A" (S-81).

A vote of Yes will be in favor of ADOPTION.

A vote of No will be opposed.

Is the Senate ready for the question?

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEAS: Senators BALDACCI, CAHILL, CLARK, DILLENBACK, DOW, DUTREMBLE, ERWIN, MAYBURY, SEWALL, THERIAULT, TUTTLE, TWITCHELL, USHER, WEBSTER, WHITMORE, THE PRESIDENT - CHARLES P. PRAY
 NAYS: Senators ANDREWS, BERUBE, BLACK, BRANNIGAN, BRAWN, BUSTIN, COLLINS, EMERSON, ESTES, GAUVREAU, GILL, GOULD, KANY, KERRY, LUDWIG, MATTHEWS, PEARSON, PERKINS, RANDALL

ABSENT: Senators None

16 Senators having voted in the affirmative and 19 Senators having voted in the negative, with No Senators being absent, the motion of Senator DOW of Kennebec, to ADOPT Senate Amendment "A" (S-81), FAILED.

On motion by Senator BUSTIN of Kennebec, Senate Amendment "B" (S-88) READ.

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

Senator BUSTIN: Thank you Mr. President, I would like to explain what this amendment is all about. I discovered, as I was reading this Bill last week, that perhaps what we were doing was, and it is basically when I deliver sandwiches to the DOT building down here, I find employees outdoors smoking. I don't mind that because I obviously support this Bill and I would like no one to smoke. But I think you have a real problem when you are forcing employees out into the open air and in Maine it gets rather cold during the winter. So, I said to the MSEA, I think what you are going to do is force everybody out into the cold to smoke their cigarettes, not that I object to that, maybe that is a good thing to do and maybe that is what we should do, but for good public policy I don't really think that it is. All that this amendment does, is put a section in there that says, "if public employees'

rights provided in collective bargaining agreements are affected by this section, the employees shall have the right to reopen negotiations for the purpose of bargaining for smoking areas in nonpublic areas of publicly owned buildings." If you want to give them a small room to smoke and to get all of the second-hand smoke and just let it come down over their heads, give it to them, at least you have to give them the space to do it in.

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

Senator PEARSON: Thank you Mr. President, men and women of the Senate. A little small room isn't a public section of a public building, is it? And consequently, it wouldn't be necessary to have the amendment.

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

Senator BUSTIN: Thank you Mr. President, from what we can determine, we need to have this amendment to just clarify. The statement of fact simply says that this amendment, "assures that public employees may reopen collective bargaining to deal with the impact of this law", reopen collective bargaining is the impact of this amendment.

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

Senator PEARSON: Thank you Mr. President, I would like to pose a question through the Chair to any one who may care to respond. Would the reopening of this negotiation, by collective bargaining, allow them to smoke in halls of public buildings? If that were so negotiated.

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

The Chair recognizes the Senator from Kennebec, Senator Bustin.

Senator BUSTIN: Thank you Mr. President, it is my understanding that it does not affect the public areas, it does not gut the Bill that we are considering passing.

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

Senator PEARSON: Thank you Mr. President, men and women of the Senate. I am confused, I don't know what the amendment does. The good Senator from Kennebec, says that it allows negotiations on the smoking issue in the buildings where they work. What portions of the building do they work? She started out by saying that it was a small room, because of the weather perhaps, that could be one of the things they are worried about. As the Bill, as I understand it, only calls for public areas of public buildings. So, I proceeded to ask, what about hallways in public areas of public buildings, the response was, from the good Senator, that it didn't effect that, so I want to know what it does effect.

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

Senator CLARK: Thank you Mr. President. Senate Amendment "B" (S-88), addresses an issue which may result from the passage of this Bill. By that, I would submit, that public employees may be precluded from smoking in those public areas of the buildings where they are now smoking. This amendment allows public employees to open collective bargaining agreements and negotiate space to provide, as I understand the amendment, smoking areas that are not currently provided. Because public employees currently smoke in many areas of our state buildings in what are called public areas. Since they can no longer smoke there, this law, should it eventually be enacted, will effect working conditions. And, that,

members of the Senate, is a legitimate item for collective bargaining. I would support the adoption of this amendment.

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

Senator KERRY: Mr. President, ladies and gentlemen of the Senate. I think that many of us, we have debated the issue of local control, we have framed the issue in accordance with the proponent and opponents of this legislation and those who have some serious concerns.

I have some legitimate concerns, I think, about this issue because having worked in the State Office Building and having negotiated various agreements with various individuals and employees within state government, I found this to be a very sensitive issue and a very critical issue.

Many people certainly want to smoke in various areas and it created heated arguments and it really effect morale at times, and in addition to that it brought out some very difficult decision making processes and stretched the negotiations between labor and management in many ways. I think we have made a statement here this morning in defeating the amendment that was proposed by the good Senator from Kennebec, Senator Dow. I think this amendment, submitted by the other good Senator from Kennebec, Senator Bustin, would create confusion and I think secondly, it would open us up to a questionable state policy. As I understand the original Bill, as was passed and would be that those who are smoking in nonpublic areas right now would be able to continue to smoke in nonpublic areas. It was state during the debate that there may be various offices off from the reasonably publicly accessible areas that people could continue to smoke. I fear that this particular amendment would create confusion and may ultimately undermine the purpose of the previously passed Bill. I think at this stage if you did accept this amendment, you would create confusion and I think it would lie bear the opportunity for a major debate after we pass it. They would not have a clear statement from the Legislature on this issue. I think if we are going to be clear, let's be clear. If we are not going to be clear, let's not be clear and I think this it the case where we are going to confuse people.

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

Senator BUSTIN: Thank you Mr. President, men and women of the Senate. I will try to clear up the unclear issue here, if I may. What has happened is that you are in negotiations now. With this Bill, which I will be supporting, whether or not anyone supports my amendment. I think the amendment is an important one and in all fairness. But, I will be supporting the Bill no matter what happens here. What I am telling you is that you are cutting out every area now, other than a private office for that person occupying that office, in all of the state municipal buildings. That is probably good, I am not saying that is not good, what I am saying is that you have a lot of smokers in the world, in Maine, or good or bad. I just bought a new house, I just moved into it and I am having a terrible time with my friends because I am not allowing smoking in my new apartment. I will do not it because I cannot stand it. So, I am telling you this because I am not going to offer an amendment that is going to gut the Bill. What you are doing is you are doing away with those nonpublic and public areas where employees were able to go and smoke. It is a good thing to get rid of those areas. It is not a good thing to not give them some office to smoke in that is a nonpublic office.

If it was my office it would not be open to the public. Of course, you wouldn't have it when you walk into the Deputy Secretary of State's office, that wouldn't be a designated smoking area.

What I am saying is, give the employees an opportunity to negotiate where they will smoke. Let's keep it out of the public areas, that is what the amendment is all about. Thank you.

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

Senator CAHILL: Thank you Mr. President, I would like to pose a question through the Chair. Now I am confused, would passage of this amendment allow union employees a smoking area and non-union employees, such as our staff perhaps, not to have a smoking area?

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

The Chair recognizes the Senator from Kennebec, Senator BUSTIN.

Senator BUSTIN: Thank you Mr. President, from what I understand, the answer is no. I also have passed this amendment by both sides of this issue. Both of them seem to agree that it is a reasonable amendment. There does not seem to be a disagreement from either the proponents or opponents of this particular Bill.

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

Senator TWITCHELL: Thank you Mr. President and members of the Senate. If I don't understand a Bill, I usually do one of two things. I either sent it out for study or I Indefinitely Postpone it. And I don't understand this amendment.

Senator TWITCHELL of Oxford moved the INDEFINITE POSTPONEMENT Senate Amendment "B" (S-88).

At the request of Senator BUSTIN of Kennebec, A Division was had. 15 Senators having voted in the affirmative and 19 Senators having voted in the negative, the motion of Senator TWITCHELL of Oxford, to INDEFINITELY POSTPONE Senate Amendment "B" (S-88), FAILED.

On motion by Senator BUSTIN of Kennebec, Senate Amendment "B" (S-88) ADOPTED.

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

Sent down for concurrence.

On motion by Senator TWITCHELL of Oxford, RECESSED until 4:45 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 Amend the Charter of the Lubec Port Authority"

H.P. 412 L.D. 546

In Senate, May 22, 1987, RECALLED from the Legislative files, pursuant to Joint Order (H.P. 1207), in concurrence.

Comes from the House, PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "A" (H-153) in NON-CONCURRENCE.

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

Non-concurrent Matter

Bill "An Act Concerning the Maine Railroad Excise Tax"

H.P. 531 L.D. 715
(C "A" H-140)

In House, May 18, 1987, the Majority OUGHT NOT TO PASS Report READ and ACCEPTED.

In Senate, May 22, 1987, 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-140) in NON-CONCURRENCE.

Comes from the House, that Body INSISTED.

On motion by Senator CLARK of Cumberland, Tabled 1 Legislative Day, pending FURTHER CONSIDERATION.

Non-concurrent Matter

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

S.P. 536 L.D. 1619

In Senate, May 18, 1987, PASSED TO BE ENGROSSED.

Comes from the House PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "A" (H-172) in NON-CONCURRENCE.

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

COMMUNICATIONS

The Following Communication:

STATE OF MAINE
HOUSE OF REPRESENTATIVES
AUGUSTA 04333

May 26, 1987

Honorable Joy J. O'Brien
Secretary of the Senate
113th Legislature
Augusta, Maine 04333
Dear Madam Secretary:

The House voted today to adhere to its former action whereby it indefinitely postponed RESOLUTION, Proposing an Amendment to the Constitution of Maine to Change the Terms of Members of the Senate from 2 Years to 4 Years (S.P. 87) (L.D. 173).

Sincerely,
S/Edwin H. Pert
Clerk of the House

Which was READ and ORDERED PLACED ON FILE.

The Following Communication:

STATE OF MAINE
HOUSE OF REPRESENTATIVES
AUGUSTA 04333

May 26, 1987

Honorable Joy J. O'Brien
Secretary of the Senate
113th Legislature
Augusta, Maine 04333
Dear Madam Secretary:

The House voted today to adhere to its former action whereby the Minority "Ought Not to Pass" Report of the Committee on State and Local Government was read and accepted on RESOLUTION, Proposing an Amendment to the Constitution of Maine to Provide for Staggered 4-year Terms for Representatives (S.P. 82) (L.D. 168).

Sincerely,
S/Edwin H. Pert
Clerk of the House

Which was READ and ORDERED PLACED ON FILE.

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 Regulate Electrical Wiring" H.P. 883 L.D. 1184
- Bill "An Act Relating to Bottle Clubs" H.P. 1110 L.D. 1504

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 Assure that State Agencies follow the Requirements of the Maine Administrative Procedure Act Prior to Adopting Fishery Restoration and Management Plans or Introducing new Species into Public Waters" (Emergency)

H.P. 305 L.D. 391

Bill "An Act to Consolidate Family Cases in a Family Court within the District Court and to Establish Full-time Appointed Probate Judges"

H.P. 725 L.D. 976

Bill "An Act to Expand the Blaine House Scholars Program"

H.P. 816 L.D. 1090

Bill "An Act Concerning the Sale of Deferred Compensation"

H.P. 830 L.D. 1121

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

H.P. 866 L.D. 1167

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

H.P. 888 L.D. 1189

Bill "An Act Relating to the Maine State Ferry Service"

H.P. 932 L.D. 1248

Bill "An Act to Provide Remuneration for Physician Services for Involuntary Commitment of Patients for Psychiatric Hospital Care"

H.P. 949 L.D. 1278

Bill "An Act to Limit the Authority of the Public Utilities Commission to Regulate Municipal or Quasi-municipal Water Utilities with Less than 1,000 Customers"

H.P. 994 L.D. 1340

Bill "An Act Regarding Certain Solid Waste Disposal Facilities"

H.P. 1065 L.D. 1448

Bill "An Act to Ensure Safe Transportation of Special Solid Wastes"

H.P. 1077 L.D. 1464

Bill "An Act to Provide Fair Pricing in Moving Telephone Lines"

H.P. 1109 L.D. 1503

Ought to Pass As Amended

The Committee on APPROPRIATIONS AND FINANCIAL AFFAIRS on Bill "An Act to Increase State Funding for Homemaker Services"

H.P. 210 L.D. 262

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-164).

Comes from the House, with the Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-164)

Which Report was READ and ACCEPTED, in concurrence.

The Bill READ ONCE.

Committee Amendment "A" (H-164) READ and ADOPTED, in concurrence.

The Bill as Amended, TOMORROW ASSIGNED FOR SECOND READING.

Ought to Pass in New Draft

The Committee on APPROPRIATIONS AND FINANCIAL AFFAIRS on Bill "An Act to Provide Substance Abuse Prevention, Education and Treatment Services for County Jail Inmates and their Families"

H.P. 436 L.D. 589

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

H.P. 1218 L.D. 1661

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 Property Abandoned by Tenants"

H.P. 342 L.D. 441

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

H.P. 1214 L.D. 1656

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 to Amend the Liquor Laws as they Pertain to State Brewers"

H.P. 629 L.D. 852

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

H.P. 1213 L.D. 1655

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 EDUCATION on Bill "An Act to Provide for School Approval for Hurricane Island Outward Bound School"

H.P. 593 L.D. 804

Reported that the same Ought to Pass in New Draft under New Title Bill "An Act to Provide School Approval for Nontraditional Limited Purpose Schools"

H.P. 1217 L.D. 1660

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 Jacqueline A. Caron, Personal Representative of the Estate of Alpee Caron, to Sue the State for Wrongful Death and for Personal Injuries on Behalf of Herself and Her Minor Child, Jeffrey Caron, in Excess of Statutory Limits of Recovery

H.P. 845 L.D. 1136

Reported that the same Ought to Pass in New Draft under New Title Resolve, to Compensate Jacqueline A. Caron, Personal Representative of the Estate of Alpee Caron, for Wrongful Death and for Personal Injuries on Behalf of Herself and her Minor Child, Jeffrey Caron, in Excess of Statutory Limits of Recovery

H.P. 1215 L.D. 1657

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 AGING, RETIREMENT AND VETERANS on Bill "An Act to Divest State Pension Funds from those Businesses or Corporations doing Business in the Republic of South Africa and Namibia"

H.P. 83 L.D. 86

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-163).

Signed:

Senators:

BERUBE of Androscoggin
CLARK of Cumberland

Representatives:

MCSWEENEY of Old Orchard Beach
RICHARD of Madison
HICKEY of Augusta
PERRY of Mexico
JALBERT of Lisbon
DUTREMBLE of Biddeford
MATTHEWS of Caribou

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

Signed:

Senator:

RANDALL of Washington

Representatives:

DELLERT of Gardiner
HARPER of Lincoln
STEVENSON of Unity

Comes from the House the Majority OUGHT TO PASS AS AMENDED Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-163).

Which Reports were READ.

Senator CLARK of Cumberland moved to ACCEPT the Majority OUGHT TO PASS AS AMENDED Report.

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

Senator RANDALL: Thank you Mr. President, men and women of the Senate. We have before us today, a proposal that state retirement funds be divested from companies doing business in South Africa. While I do not question the idealism or the motives of those who

have adopted such a course, I cannot find within my conscience the enthusiasm for such policy. Last week, I distributed to the members of this Senate Chamber, copies of an article, a twenty minute briefing on South Africa, offered by Martin Porter. While I do not find it necessary to agree with all of Mr. Porter's arguments to formulate an opinion, I do feel that it is essential for all of us to be exposed to some of those arguments, pro and con, for such a public policy proposal as the one before us today. The press in this state and in this nation abound with statements of moral condemnation in regard to the situation of racism that exists in South Africa. I do not stand in support of this racism, however seldom or rarely do we have the opportunity to review documentation which presents the other side of the picture. The other side includes the great natural resources which are present in South Africa and the necessity for the established governments ability to govern to assure the stability of the area. The other side includes the lack of support for divestiture which exists from black leaders from the largest segments of black african society. The other side includes the fact that apartheid can be used as a vehicle to bring about the downfall for prowestern regime in South Africa and establish a foot hole for communism on the african continent.

For all of the above reasons, I cannot support divestiture for the retirement system. It presents a solution and assistance too easily accomplished and for what gain to the black of south africans plight.

Supporters of this legislation will argue that there is no economic impact to Maine's Retirement System funds, if this is so, what economic impact on South Africa will be accomplished, if there is no impact on Maine's retirees. A moral statement at no cost, a big bang for zero dollars. I suggest to you, ladies and gentlemen of the Senate, that this moral statement has a hollow core. If we are, as a state, dedicated to the situation on the african continent, we come to a more thoughtful effort then this hollow gesture which is before us today.

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

Senator MATTHEWS: Thank you Mr. President, men and women of the Senate. I won't be very long today, I sense there will be some other speakers after I sit down, but I do believe that it is important for this Legislature to look at the history of South Africa, look at the history of our own Body, the Senate and the Legislature. We have given the regime in South Africa all the time necessary to correct their ways and they have not chosen to correct their ways. South Africa, in fact, today is more oppressive regime, more extremist a regime, for anti-democracy a regime today than it was a year ago.

My good friend from the other side of the Chamber tells you that divestiture is not the way to go. I submit to the members of this Body, that any involvement with dollars of the state or monies invested by corporations of our country in South Africa is blood money. Blood money, ladies and gentlemen of the Senate. In South Africa today, they have gone for almost a year of military curfew, thousands have been imprisoned, children have been killed, in the name of racial segregation, any American standing up in this Body, supporting that regime must fully understand what that regime is all about. Today, I read through the Martin Luther King speech, "I have a Dream", that dream was not just for America, ladies and gentlemen of the Senate, but that dream was for any struggling peoples around the world that seek freedom, justice and fairness.

I just got off the telephone with the President of Colby, President Cotter, Colby divested, ladies and gentlemen of the Senate. That vote will be officially cast Saturday, but they have already voted to divest. They gave South Africa a chance and South Africa has become, as I mentioned earlier, more extremist, more ultra-conservative. Closing down any avenues of social mobility. It is time for the Maine Legislature to act prudently and act as it should in accordance with the virtues and the beliefs that we hold. So, I would ask this Body to support divestiture today. Support divestiture because we are concerned about millions of blacks in South Africa that have no access to that government that are being disenfranchised as I speak today. I hope you will vote for divestiture.

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 feel compelled to explain my opposition of this Bill, as I am not going to vote for it. No one is in favor of apartheid. Education and time are needed to solve the problem. Many forget that the United States had the same problem just forty years ago in our southern states, and I know because I went to the University of Alabama. I firmly believe America cannot extend its' influence in South Africa by moving out. Apartheid can only be brought to an end by strong economic involvement from the west inside South Africa. We have to stay there or we will not be a stabilizing force. Our state department through the agency for international development is investing in numerous black causes that are bearing fruit. The end of an apartheid is inevitable in South Africa. Apartheid can come to a close in a peaceful way for the western corporations leading the way toward economic prosperity or the alternative of a blood bath accompanied by economic despair. American corporations, by staying in South Africa, can only help the blacks. They cannot bring the end of apartheid by staying, but can bring pressure against the Pretoria Government by giving blacks jobs and economic power. This in turn will help blacks and whites in the transition to a post apartheid South Africa. The neighboring black countries all use the rand as their currency and are fully dependent on the success of the South African economy, thus all those deprived areas will suffer.

As to the black "leaders" of South Africa that demand economic sanctions, we know black public opinion is mixed. David Thebehali, the former black mayor of Sowetos said, "if Americans what to help us, why do they want us to suffer first? Sanctions will increase unemployment which will increase poverty." The blacks who want the American corporations to leave only want to increase the instability of the country. This, they hope, will bring about a blood bath, in which they hope to take control of the country and form a Marxist Government. Knowledgeable people say that government is too strong for this to happen.

This Bill requiring the state retirement trustees to divest from any companies doing business with South Africa, I believe, will hurt the blacks just as much if not more that it will the Pretoria Government. Why make a law for bidding investments in South Africa when no new money is going in there in the first place? It is useless to make such a

law. Imposing such sanctions against the South Africans will only hurt any sort of operational relationship we have with their government and push them deeper into the trenches against ending apartheid. At the same time, this will end any hopes we have in influencing any change.

The sad news is, as our companies pull out, the Germans, Italians, Japanese and others will fill the void. When Kodak left, the next day the Japanese film was on the shelves.

We cannot build an airplane or a modern automobile without the strategic minerals that come from South Africa or Russia, platinum, chromium, magnesium. As an example, 85% of our platinum comes from South Africa. Russia sells about 8%. Every automobile in the United States has a catalytic converter containing platinum. The Maremont Corporation in Saco, cannot build a machine gun unless they have cobalt, we need that for our defense. When there is a dollar to be made, the world will still do business with South Africa, whether it be diamonds or gold. Just as Iran is presently doing in military equipment. A good analog of what could happen to South Africa is to look back when Emperor Haile Selassie was running Ethiopia. Under his rule, the blacks were certainly not living in the best of conditions. When they overthrew his monarchy, the succeeding government was run by communist. Starvation, murder and destruction by political forces is rampant today and the country sixteen years later is in worse shape. If you want to talk about children being murdered, they are murdered in Ethiopia. You many not agree with me on this Bill, but time will tell whether I am correct. Thank you.

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

Senator KERRY: Thank you Mr. President, men and women of the Senate. The apartheid issue and the divestiture issue is a very difficult issue. It is one that those of us in the State Senate or Bodies throughout the country only reflect upon where you have ardent believers in the Constitutional form of government that we have and persons who believe deeply in social justice. I guess I reflect upon people like, the former Representative Laurence Connolly and the present Representative Harlan Baker of Portland. But, as we reflect upon two hundred years of our Constitutional protections here in the United States and the anniversary of our Constitution, we think of the Constitutional privileges that we all enjoy. I think this issue here is a economic issue, but it is also a legal issue. It is very much a political issue and it is also a moral issue. I respect the views of the good Senator from Cumberland, Senator Dillenback, because I think his arguments have merit. If we do look upon the Jew political development of the world since the World War II, there have been some very severe set backs to democracies throughout the world due to communist infiltrations of nations, but I think also we must reflect upon the fact that South Africa has stood out among all as the example to the world for mans inhumanity to man. More importantly, this nation along with great Britain, have invested more dollars in South Africa then all the other nations of the world. The question before us today, is are we going to allow our state government retirement funds to be invested in corporations that do business in South Africa?

The question is, are there other areas where we might invest these funds to secure that investment portfolio, I say there is. The United States has a three trillion dollar economy, there are many

investments that could be made and I think that our retirement system funds will be very well protected if prudent investments are made. But we, as a Legislature, must invest our own, if you will, monetary and ethnical funds in this issue as well. We can speak out only in this manner. Granted it may be extenuated, it may be a long way from the injustices that are being perpetrated in South Africa, but is it not real to us? Is it not real to the families in South Africa? Is it not real to those of us who believe in a connection with these people? I don't think we should base everything on the economic investments throughout the world, we should base it on what we think is right and just. If social justice does have a place in our democracy, we should be exporting our form of democracy to other countries of the world, not importing products, purely for economic benefit. Even if it is for our retirement system.

I think there are many people throughout the world that now support Bishop Desmond Tutu's position, that he has said, "even after winning the noble prize for peace, he has said that the injustices that are perpetrated in that country are so real and are so pervasive that it is immoral to invest in that nation. We are not going to resolve all of the internal problems of South Africa. But we can, as a state and as a nation, make a statement and back up our statement with action. I believe that the South Africans are evolving a policy that is more just for their citizens, although the ruling government in South Africa seems to have become more recalcitrant, has seemed to become more ingrained in their conservative policies to repress the needs of poor black people in that nation. Only because of their color. It is very difficult for us to stand here in 1987 to think that the world and certainly this nation and this state will tolerate such injustice.

I for one know, and the good Senator from Cumberland, Senator Dillenback, indicated that Maremont Corporation of Saco invests and does produce products that are made from products from South Africa. I surmise that one would think twice, coming from that district, to vote on this issue. I also believe, ladies and gentlemen of the Senate, that it is important that the people of my district know that I think there are higher priorities in economics and I believe if they are going to work and have jobs that they maintain not only their dignity, but the dignity of other people throughout the world. Thank you.

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

Senator MATTHEWS: Thank you Mr. President, men and women of the Senate. After the good Senator from Cumberland, Senator Dillenback, comments I think that it is important to mention on the Record. When we debated this Bill a year ago, those and I know that there were a lot of members of this Body that were having a hard issue of divestiture, but the other side and the other argument was we don't need to support divestitures because we have the Sullivan principals. Reverend Leon Sullivan and his policy of being able to support companies that hire blacks, that work for social change, supporting U.S. companies that agree with the Sullivan principals. That was a fair argument a year ago. Today it is important to remember before we vote that Reverend Leon Sullivan today supports divestiture, full divestiture. Socially, responsible investment in South Africa has not worked by the leading proponent and the architect, Mr. Sullivan himself. There is no defensible argument against full divestiture today.

As I understand it, Reverend Sullivan will be making every attempt to lead the cry for divestiture, because South Africa refuses to change.

Also in response to the good Senator from Cumberland remarks, during the time of racial unrest in American and in the deep south, proponents for segregation said give us time to bring about change. Blacks are working in our system of segregation in the south. I am reminded of the remarks by Congressman William Gray from Pennsylvania who said, "to those who make the arguments about South Africa and discrimination, give the system time, they have got jobs. In slavery everybody had a job, but they didn't have the right of citizenship. To every American who believes in the Constitution, the right to citizenship is first and foremost." That right also belongs to those who are disenfranchised all across the globe. Slavery gave everybody a job, but it didn't give them the rights of man. I urge you strongly to support divestiture today.

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

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

Senator CLARK: Thank you Mr. President, men and women of the Senate. I would call your attention on this late afternoon to the Committee Amendment which is filed in your books under filing number H-163, and read if you would please the statement of fact. The Committee on Aging, Retirement and Veterans deliberated very consciously and sincerely on L.D. 86. It was one of the Bills that we heard in public hearing earlier in this session and worked on for a number of hours and days within Committee.

As you read the Committee Report, which is embodied in this Committee Amendment, I am sure you will recognize the sharp contrast between this Committee Report and the Committee Report from the Committee in an earlier legislative session. As a matter of fact, quite candidly, I am much more enthusiastic hearing earlier in this session and worked on for a number of hours and days within Committee, and in fact, enthusiastic about the results of our deliberations within that Committee during this session. I am proud of our Committee Report, it is an extremely conservative position. It has been accepted by the majority of the Committee and you would be interested to know that during an administrative meeting this day, that there are those within the Executive Branch who feel very comfortable with the Committee Report and can live with it quite nicely.

The integrity of the retirement system and the funds therein, upon which so many of our retired state employees, are not challenged by this Committee Report. Some of you who served in an earlier Legislative Session, namely the 112th, probably remember that my position was to comfortably pair in the negative with other members of my caucus and Body who needed a pair on this measure. I was less than enthusiastic about it. I feel very secure in my position this afternoon in supporting the majority report. The question has been asked, what is gained by the action as embodied by the Committee Report. First, it does not threaten the integrity, as I have mentioned, of the retirement system and that was my first consideration and I would assume the consideration that concerns all of you. Second, we continue to adhere in large measure to the prudent man rule as embraced by the Sullivan principals and we do send a message which has been reflected of other actions of other responsible agencies and institutions and corporations in our state who have

chosen the divestiture route. What is gained? Let me share with you in part what is gained, by our action here this afternoon if we accept the pending motion. One, the integrity of the system is retained, it is not in jeopardy and I am sure you will agree with that. But, secondly and perhaps most important, the divestment movement will have taken one small step forward in that the retirement funds will no longer be attached to it if we follow the Committee recommendation. It does, however, send a powerful message to the apartheid rulers in South Africa that the people in the state of Maine, as represented by the members of this Legislature, will no longer allow their dollars to prop up the vicious system of apartheid. That, in fact, summarizes the position of the Majority Report. I would hope this afternoon on this Roll Call that you would support the majority Report. Thank you Mr. President.

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

Senator BUSTIN: Thank you Mr. President, men and women of the Senate. I am sorry to hold up the Roll Call, but I feel constrained to speak very briefly. My message is short and simple. We are a nation who has spent our history trying to do away with discrimination.

We have done it with civil rights, but civil rights did not come about until the white population became involved in the issue. We have done it with voting rights for women, but that did not come about until the men joined the fight for voting rights for women. We have done it with women's rights, but that did not come about until the men got involved in the issue. That is when things get done, we are a nation who does not want to discriminate. We cannot stand here and vote against a Bill that sends a message to a nation that is discriminating in the worse possible manner. We cannot do that as a nation, we cannot do that as a state, we cannot do that as individuals if we believe that the United States of America and our responsibility to its' citizenship. It is imperative that we, as whites and as any other race who is not discriminated against in South Africa. Stand up and let our voice be heard, that we do not tolerate discrimination in any form.

I always quote my mother, who said to all of her children, "there, but for the grace of God, go you, Beverly". And, what I say to you people, there, but for the grace of God, go you, you cannot afford to discriminate.

THE PRESIDENT: The pending question before the Senate is the motion of Senator CLARK of Cumberland to ACCEPT the Majority OUGHT TO PASS AS AMENDED Report.

A vote of Yes will be in favor of ACCEPTANCE.

A vote of No will be opposed.

Is the Senate ready for the question?

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

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

NAYS: Senators BRAWN, DILLENBACK, GOULD, LUDWIG, PERKINS, RANDALL, SEWALL, WEBSTER, WHITMORE

ABSENT: Senators None

26 Senators having voted in the affirmative and 9 Senators having voted in the negative, with No

Senators being absent, the motion by Senator CLARK of Cumberland, to ACCEPT the Majority OUGHT TO PASS AS AMENDED Report, PREVAILED, in concurrence.

The Bill READ ONCE.

Committee Amendment "A" (H-163) READ and ADOPTED, in concurrence.

The Bill as Amended, TOMORROW ASSIGNED FOR SECOND READING.

Senate
Ought to Pass

Senator BRANNIGAN for the Committee on JUDICIARY on Bill "An Act to Clarify the Laws Pertaining to Payment for Medical Services"

S.P. 499 L.D. 1516

Reported that the same Ought to Pass.

Which Report was READ and ACCEPTED.

The Bill READ ONCE.

The Bill TOMORROW ASSIGNED FOR SECOND READING.

Senator BRANNIGAN for the Committee on JUDICIARY on Bill "An Act to Amend the Maine Juvenile Code"

S.P. 521 L.D. 1573

Reported that the same Ought to Pass.

Which Report was READ and ACCEPTED.

The Bill READ ONCE.

The Bill TOMORROW ASSIGNED FOR SECOND READING.

Ought to Pass As Amended

Senator LUDWIG for the Committee on ENERGY AND NATURAL RESOURCES on Bill "An Act to Expedite the Processing of Environmental Permits"

S.P. 81 L.D. 167

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (S-87).

Which Report was READ and ACCEPTED.

The Bill READ ONCE.

Committee Amendment "A" (S-87) READ and ADOPTED.

The Bill as Amended, TOMORROW ASSIGNED FOR SECOND READING.

SECOND READERS

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

Senate

Bill "An Act to Provide State Funding Necessary to Match Federal Funds for Home and Community Based Services for Older Citizens"

S.P. 84 L.D. 170

Resolve, Authorizing the Director of Parks and Recreation to Convey by Deed the Interest of the State in Certain Parcels of Real Property

S.P. 489 L.D. 1471

Bill "An Act Concerning Liability Insurance Coverage for Amusement Devices"

S.P. 560 L.D. 1673

Bill "An Act to Continue Insurance Coverage for Mental Health, Alcohol and Substance Abuse Treatment Services for Maine Citizens"

S.P. 561 L.D. 1674

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

Sent down for concurrence.

Bill "An Act to Amend the Municipal Public Employees Labor Relations Law"

S.P. 557 L.D. 1667

Which was READ A SECOND TIME.

On motion by Senator BUSTIN of Kennebec, Senate Amendment "A" (S-95) READ.

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

Senator BUSTIN: Thank you Mr. President, men and women of the Senate. In relation to the amendment that I am proposing, the purpose of this amendment is to provide that the May 1 deadline shall apply only to teachers bargaining units as that time frame is not workable to the other units. It is just making the teachers May 1 and the other ones having some flexibility.

On motion by Senator BUSTIN of Kennebec, Senate Amendment "A" (S-95) ADOPTED.

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

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

A vote of Yes will be in favor of PASSAGE TO BE ENGROSSED AS AMENDED.

A vote of No will be opposed.

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, KERRY, MATTHEWS, MAYBURY, PEARSON, RANDALL, THERIAULT, TUTTLE, USHER, THE PRESIDENT - CHARLES P. PRAY

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

ABSENT: Senators None

Senator BLACK of Cumberland requested and received Leave of the Senate to change his vote from YEA to NAY.

20 Senators having voted in the affirmative and 15 Senators having voted in the negative, with No Senators being absent, the Bill was PASSED TO BE ENGROSSED AS AMENDED.

Sent down for concurrence.

Senate As Amended

Bill "An Act to Clarify the Law Regarding Prohibition of Employment Penalties or Interference Against State Military Force Members"

S.P. 501 L.D. 1518
(C "A" S-85)

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

Sent down for concurrence.

ENACTORS

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

An Act to Amend the Law to Allow Security Officers to be on Duty for Dances at Which Minors are Admitted

H.P. 257 L.D. 340
(C "A" H-148)

An Act to Revise the Maine Medical Laboratory Act

S.P. 191 L.D. 518
(H "A" H-155 to C "A" S-61)

An Act to Require that Candidates' Petitions be Sworn

H.P. 517 L.D. 690
(C "A" H-150)

An Act to Limit the Penalty a Landlord can Charge a Tenant for Late Payment of Rent

H.P. 626 L.D. 849
(C "A" H-149)

An Act to Require the Use of Seat Belts in Driver Education Programs

H.P. 657 L.D. 890

An Act Requiring Evaluation of New England Electric Power Pool Membership

S.P. 360 L.D. 1095
(C "A" S-69)

An Act Amending the Service of Process Laws

S.P. 377 L.D. 1142
(C "A" S-70)

An Act to Create a Statewide Reservation System for State Parks that have Overnight Camping Facilities

H.P. 915 L.D. 1227
(C "A" H-146)

An Act to Modify the Statute of Limitations' Provision of the Maine Criminal Code and Maine Juvenile Code so they Clearly Cross-reference One Another

S.P. 425 L.D. 1305

An Act to Update References to Immunities of State Military Forces under the State Tort Claims Act

H.P. 1097 L.D. 1488

An Act Relating to Assignment of Group Health Insurance Benefits

H.P. 1119 L.D. 1522

An Act to Amend the Law Concerning Appeals by Parties Aggrieved by Acts of the Superintendent of Insurance

H.P. 1120 L.D. 1523

An Act Pertaining to the Placing of Bear Bait

H.P. 1189 L.D. 1620

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 Relating to the Disposition of Surplus Real Estate

H.P. 1152 L.D. 1567
(H "A" H-152)

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

Emergency

An Act to Clarify Eligibility for the Group Accident and Sickness or Health Insurance Program

S.P. 500 L.D. 1517

This being an Emergency Measure and having received the affirmative vote of 30 Members of the Senate, with No Senators having voted in negative, and 30 being more than two-thirds of the entire elected Membership of the Senate, was PASSED TO BE ENACTED and having been signed by the President, was presented by the Secretary to the Governor for his approval.

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

COMMITTEE REPORTS

Senate

Change of Reference

Senator PEARSON for the Committee on APPROPRIATIONS AND FINANCIAL AFFAIRS on Bill "An Act to Provide Funds for the Hazardous Materials Response Training Program at Southern Maine Vocational-Technical Institute"

S.P. 484 L.D. 1461
Reported that the same be REFERRED to the
Committee on ENERGY AND NATURAL RESOURCES.
Which Report was READ and ACCEPTED.
The Bill REFERRED to the Committee on ENERGY AND
NATURAL RESOURCES.
Sent down for concurrence.

Off Record Remarks

On motion by Senator BALDACCI of Penobscot,
ADJOURNED until Wednesday, May 27, 1987, at 8:45 in
the morning.

ONE HUNDRED AND THIRTEENTH MAINE LEGISLATURE
FIRST REGULAR SESSION
75th Legislative Day
Wednesday, May 27, 1987

The House met according to adjournment and was
called to order by the Speaker.
Prayer by Reverend Russell Chase, North
Vassalboro, Methodist, Retired.
The Journal of Tuesday, May 26, 1987, was read
and approved.
Quorum call was held.

SENATE PAPERS

Refer to the Committee

on Energy and Natural Resources

Report of the Committee on Appropriations and
Financial Affairs on Bill "An Act to Provide Funds
for the Hazardous Materials Response Training Program
at Southern Maine Vocational-Technical Institute"
(S.P. 484) (L.D. 1461) reporting that it be referred
to the Committee on Energy and Natural Resources.

Came from the Senate with the report read and
accepted and the bill referred to the Committee on
Energy and Natural Resources.

Report was read and accepted and the bill
referred to the Committee on Energy and Natural
Resources in concurrence.

Ought to Pass in New Draft

Report of the Committee on Banking and Insurance
on Bill "An Act to Continue Insurance Coverage for
Mental Health, Alcohol and Substance Abuse Treatment
Services for Maine Citizens" (S.P. 150) (L.D. 404)
reporting "Ought to Pass" in New Draft (S.P. 561)
(L.D. 1674)

Came from the Senate, with the report read and
accepted and the New Draft passed to be engrossed.

Report was read and accepted, the New Draft given
its first reading and assigned for second reading
later in today's session.

Ought to Pass in New Draft

Report of the Committee on Banking and Insurance
on Bill "An Act Concerning Liability Insurance
Coverage for Amusement Devices" (S.P. 374) (L.D.
1111) reporting "Ought to Pass" in New Draft (S.P.
560) (L.D. 1673)

Came from the Senate, with the report read and
accepted and the New Draft passed to be engrossed.

Report was read and accepted, the New Draft given
its first reading and assigned for second reading
later in today's session.

Divided Report

Majority Report of the Committee on Labor on Bill
"An Act to Amend the Municipal Employees Labor
Relations Law" (S.P. 132) (L.D. 337) reporting "Ought
to Pass" in New Draft under New Title Bill "An Act to
Amend the Municipal Public Employees Labor Relations
Law" (S.P. 557) (L.D. 1667)

Signed:

Senators: DUTREMBLE of York
ANDREWS of Cumberland
Representatives: TAMMARO of Baileyville
McHENRY of Madawaska
RUHLIN of Brewer
RAND of Portland
JOSEPH of Waterville

Minority Report of the same Committee reporting
"Ought Not to Pass" on same Bill.