

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

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

In Senate Chamber
Monday
June 1, 1987

Senate called to Order by the President.

Prayer by Father Thomas Heath of St. George Orthodox Church in Bangor.

FATHER HEATH: Let us pray for the Lord. O God, who are great from eternity, who guides and controls all things by the gentle movement of Your will. You have made us citizens of a glorious nation and a noble state, as well as inheritors of a valiant freedom. Look down from heaven and bless the hearts, minds and actions of these, Your humble servants of this august Body. Kindle in them the true love of peace, the burning desire for justice, guide them as they counsel for the benefit of our most noble state. Deliver them from false choices that come from self-interest, cowardice or lack of faith in You. Give us the vision and strength to do Your will for the good of Your people whom are represented by us, that the splendor of this state of Maine may shine forth in our nation and in the world. Enhance them with Your grace and power so that they may faithfully serve, conscientiously attend to the tasks set before them, that they may be constant in advancing the mercy and love of Your justice and compassion for the benefit and welfare of the citizens whom you have entrusted unto us. We ask this of You who are a good and merciful God, the King of peace, who loves all of humanity and to You we give glory and praise forever and unto the ages of ages. Amen.

Reading of the Journal of Friday, May 29, 1987.

Off Record Remarks

PAPERS FROM THE HOUSE

House Papers

Bill "An Act to Amend Laws Relating to Certain Licensing Boards"

H.P. 1255 L.D. 1713

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

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

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

H.P. 1256 L.D. 1714

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

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

COMMUNICATIONS

The Following Communication:

STATE OF MAINE
HOUSE OF REPRESENTATIVES
AUGUSTA 04333

May 29, 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 accepted the Minority "Ought Not to Pass" Report of the Committee on Labor on Bill "An Act to Amend the Municipal Employees Labor Relations Law" (S.P. 132) (L.D. 337).

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

Which was READ and ORDERED PLACED ON FILE.

SENATE PAPERS

Bill "An Act to Protect Existing Essential Public and Private Ground Water Supplies"

S.P. 573 L.D. 1715

Presented by Senator LUDWIG of Aroostook
Cosponsored by: Senator USHER of Cumberland,
Representative MICHAUD of East Millinocket,
Representative HOLLOWAY of Edgecomb

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

Sent down for concurrence.

ORDERS

Joint Resolution

On motion by Senator LUDWIG of Aroostook (Cosponsored by: Senator COLLINS of Aroostook, Representative INGRAHAM of Houlton, Representative POULIOT of Lewiston) (Approved for Introduction by the Legislative Council pursuant to Joint Rule 35) the following Joint Resolution:

S.P. 574

JOINT RESOLUTION MEMORIALIZING THE 100TH CONGRESS OF THE UNITED STATES TO TAKE ACTION TO ADDRESS THE CLAIMS OF THE AROOSTOOK BAND OF MICMACS AS A RESULT OF THEIR OMISSION FROM THE MAINE INDIAN CLAIMS SETTLEMENT ACT OF 1980

WE, your Memorialists, the Senate and House of Representatives of the State of Maine in the First Regular Session of the One Hundred and Thirteenth Legislature, now assembled, most respectfully present and petition the members of the 100th Congress of the United States of America, as follows:

WHEREAS, the Micmac Tribe was part of the historic Wabanaki Confederacy of Tribes which functioned from the late 17th through the mid-19th centuries in Maine and to which the Penobscot, Passamaquoddy and Maliseet Tribes also belonged; and

WHEREAS, the Aroostook Band of Micmacs and its members are the sole remaining band of the Micmac Tribe now residing in the United States; and

WHEREAS, the Aroostook Band of Micmacs has always maintained a presence in Aroostook County, Maine; and

WHEREAS, the State of Maine has recognized the tribal status of the Aroostook Band of Micmacs through the provision of free hunting and fishing licenses, the North American Indian Scholarship Program and other programs and benefits for tribal members which were provided through the State Department of Indian Affairs; and

WHEREAS, the Maine Indian Claims Settlement Act of 1980 recognized and included all of the tribal groups in Maine except for the Aroostook Band of Micmacs; and

WHEREAS, after 1980, the Aroostook Band of Micmacs was the only remaining tribe in Maine which did not have federal recognition of its tribal status and whose members were therefore not eligible for the

programs and benefits of the Bureau of Indian Affairs; and

WHEREAS, the State Department of Indian Affairs was closed in January of 1981, ending most programs and benefits then available to the members of the Aroostook Band of Micmacs as a state-recognized tribe; and

WHEREAS, severe poverty and related problems confront the members of the Aroostook Band of Micmacs in a disproportionate manner to the rest of the populace in Aroostook County. Notwithstanding those problems, the Aroostook Band of Micmacs has worked to promote federal recognition of the band and to promote the economic self-sufficiency of its members through regular participation in meetings of the Northern Maine Regional Planning Commission, the Presque Isle Chamber of Commerce, the New England Indian Task Force and related activities; and

WHEREAS, many of the economic and recognition efforts now underway by the Aroostook Band of Micmacs may be jeopardized by language in the Maine Indian Claims Settlement Act of 1980, to which they were not party and under which they received no benefits; and

WHEREAS, the Aroostook Band of Micmacs is currently seeking a legislative reference of their claims against the United States as a result of their omission from the Maine Indian Claims Settlement Act. This legislative reference will not affect any other aspects of the settlement nor overturn the Act itself; and

WHEREAS, traditional principles of fairness and justice dictate that such action is warranted to allow the Aroostook Band of Micmacs to obtain a remedy for their omission from the Maine Indian Claims Settlement Act. This remedy is expected to include federal recognition of the tribal status of the Aroostook Band of Micmacs and sufficient funds to purchase a small land base in Aroostook County; now, therefore, be it

RESOLVED: That We, your Memorialists, respectfully urge and request that the 100th United States Congress take prompt action to make the legislative reference of claims of the Aroostook Band of Micmacs to the United States Claims Court; and be it further

RESOLVED: That suitable copies of this Resolution, duly authenticated by the Secretary of State, be transmitted to the President of the Senate and Speaker of the House of Representatives of the Congress of the United States and to each member of the Maine Congressional Delegation.

Which was READ.

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

Senator LUDWIG: Thank you Mr. President, men and women of the Senate. I appreciate the opportunity to explain the importance of the Resolution now before us. The Aroostook Band of Micmacs consists of almost four hundred tribal members. Lacking reservation lands or federal recognition as a tribe, its members live in poverty scattered around the country. Micmacs have continuously occupied and jointly used the lands which fall within the water shed of the St. John River, which borders Aroostook County, for at least four hundred years. Micmacs were allies with the other three tribes of Maine the Penobscot, Passamaquoddy and Maliseet for two hundred years, as the Wabanaki Confederacy. And allied with the Americans during the Revolutionary War. As part of Maine Indian Lands Claim Settlement Act of 1980, Congress extinguished all aboriginal title, held by any Indian Tribe or individual to all lands in the state of Maine. The three larger tribes received

recognition and compensation as a result of the Act, the Micmacs did not, they became the forgotten tribe and were left in the state of limbo. They received nothing in the settlement and lost various services and privileges which had been there in the past. How did this come about? The Micmacs had state recognition as a tribe in 1973, however, their only formal political advocate laws, the Association of Aroostook Indians and organization formed in 1969 to represent the interest of both the Micmac and Maliseet Indians in the County.

The organization was headquartered in Houlton, where the Indian population is predominately Maliseet. Over time they came to control the group, thus when very limited research funds became available in 1978, the association understandably chose to expend those funds on research of the Maliseet history and claims. The Micmacs had no resources to hire an ethno-historian until later in 1981. By that time, they had already lost their right to go to court to enforce their land rights. They had also lost almost all benefits of their status as a state organized tribe, because the state closed its' Department of Indian Affairs in January of that year. The documentary of historical evidence gathered in the last five years conclusively shows that Micmac nation jointly owned and occupied lands in Maine which were never transferred or sold. This is the proof they needed. The Aroostook Band of Micmacs is now seeking a legislative reference of its' claims to the U.S. Claims Court in Washington, following a hearing and the recommendation by the court, legislation resolving those claims would be introduced in both houses of Congress.

The Claims Court is expected to recommend an amount of money, damages and compensation for the loss of the Aroostook Bands Aboriginal lands, as well as the loss of other benefits, resulting from the Bands exclusion from the Maine Indian Claims settlement of 1980. However, the Band is prepared to negotiate a settlement of all its claims in return for federal recognition of its status as a tribe and sufficient funds to purchase a small land base in Aroostook County. I trust you will agree that they deserve their day in court. Thank you.

Which was ADOPTED.

Sent down for concurrence.

COMMITTEE REPORTS
House

Ought to Pass

The Committee on HUMAN RESOURCES on Bill "An Act to Require Minimum Evacuation Standards for Boarding Care Facilities"

H.P. 1100 L.D. 1491

Reported that the same Ought to Pass.

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

Which Report was READ and ACCEPTED, in concurrence.

The Bill READ ONCE.

The Bill LATER TODAY ASSIGNED FOR SECOND READING.

The Committee on HUMAN RESOURCES on Bill "An Act to Require Rulemaking by the Department of Mental Health and Mental Retardation Regarding Administration of Cardiopulmonary Resuscitation in State Institutions"

H.P. 1158 L.D. 1584

Reported that the same Ought to Pass.

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

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

The Committee on LABOR on Bill "An Act to Amend the Duties of the Commissioner of Labor"
H.P. 1199 L.D. 1634
Reported that the same Ought to Pass.
Comes from the House with the Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED.
Which Report was READ and ACCEPTED, in concurrence.
The Bill READ ONCE.
The Bill LATER TODAY ASSIGNED FOR SECOND READING.

Ought to Pass As Amended
The Committee on STATE AND LOCAL GOVERNMENT on Bill "An Act to Clarify the Rights of Former State Employees who were Transferred to the Maine Vocational-Technical Institute System"
H.P. 458 L.D. 613

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-208).
Comes from the House, with the Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-208)
Which Report was READ and ACCEPTED, in concurrence.
The Bill READ ONCE.
Committee Amendment "A" (H-208) READ and ADOPTED, in concurrence.
The Bill as Amended, LATER TODAY ASSIGNED FOR SECOND READING.

The Committee on TAXATION on Bill "An Act Concerning Tax on Cargo Trailers"
H.P. 940 L.D. 1263
Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-209).
Comes from the House, with the Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-209)
Which Report was READ and ACCEPTED, in concurrence.
The Bill READ ONCE.
Committee Amendment "A" (H-209) READ and ADOPTED, in concurrence.
The Bill as Amended, LATER TODAY ASSIGNED FOR SECOND READING.

Divided Report
The Majority of the Committee on JUDICIARY on Bill "An Act Relating to the Uniform Premarital Agreement Act"
H.P. 538 L.D. 722
Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-200).

Signed:

Senators:

BRANNIGAN of Cumberland
GAUVREAU of Androscoggin
BLACK of Cumberland

Representatives:

PARADIS of Augusta
VOSE of Eastport
MARSANO of Belfast
HANLEY of Paris
THISTLE of Dover-Foxcroft
COTE of Auburn

MACBRIDE of Presque Isle
CONLEY of Portland
WARREN of Scarborough
The Minority of the same Committee on the same subject reported that the same Ought Not to Pass.
Signed:

Representative:

BEGLEY of Waldoboro

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-200).

Which Reports were READ.
The Majority OUGHT TO PASS AS AMENDED Report was ACCEPTED, in concurrence.
The Bill READ ONCE.

Committee Amendment "A" (H-200) READ and ADOPTED, in concurrence.
The Bill as Amended, LATER TODAY ASSIGNED FOR SECOND READING.

Divided Report

The Majority of the Committee on STATE AND LOCAL GOVERNMENT on Resolve, Requiring a Legislative Study of County Budget Procedures (Emergency)
H.P. 463 L.D. 618

Reported that the same Ought to Pass in New Draft under same title (Emergency).
H.P. 1240 L.D. 1692

Signed:

Senators:

TUTTLE of York
BALDACCI of Penobscot
GOULD of Waldo

Representatives:

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

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

Signed:

Representatives:

BICKFORD of Jay
STROUT of Windham
WENTWORTH of Wells

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

Which Reports were READ.
The Majority OUGHT TO PASS IN NEW DRAFT Report was ACCEPTED, in concurrence.

The Bill in NEW DRAFT READ ONCE.

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

Divided Report

The Majority of the Committee on STATE AND LOCAL GOVERNMENT on Bill "An Act to Amend the Civil Service Law to Set Standards for the Creation of Job Classification Specifications"
H.P. 534 L.D. 718

Reported that the same Ought to Pass in New Draft under New Title Bill "An Act to Require that Job Classifications and Specifications be Determined by Collective Bargaining"
H.P. 1236 L.D. 1688

Signed:

Senators:

TUTTLE of York
GOULD of Waldo
Representatives:
STROUT of Windham
BICKFORD of Jay
ROTONDI of Athens
WENTWORTH of Wells
LOOK of Jonesboro

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

Signed:
Senator:

BALDACCI of Penobscot

Representatives:

LACROIX of Oakland
HUSSEY of Milo
CARROLL of Gray
BOUTILIER of Lewiston
ANTHONY of South Portland

Comes from the House the Minority OUGHT TO PASS IN NEW DRAFT Report READ and ACCEPTED and the Bill in NEW DRAFT PASSED TO BE ENGROSSED.

Which Reports were READ.

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

Senate

Ought Not to Pass

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

Bill "An Act to Require Notice of Possible Radon Exposure"

S.P. 195 L.D. 552

Bill "An Act to Facilitate the Advertising of Local Businesses under the Maine Traveler Information Services Act"

S.P. 370 L.D. 1104

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

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 Exempt a Homestead Percentage of Property Tax"

S.P. 396 L.D. 1215

Bill "An Act Relating to State Involvement in Inspections and Enforcement Activities of Nuclear Power Plants and Evacuation Plans"

S.P. 429 L.D. 1309

Resolve, to Promote On-site Day Care

S.P. 445 L.D. 1359

Bill "An Act to Clarify Reporting of Induced and Spontaneous Abortions"

S.P. 478 L.D. 1441

Bill "An Act to Establish a Certificate of Public Convenience and Necessity Requirement for Railroads"

S.P. 493 L.D. 1501

Ought to Pass As Amended

Senator WHITMORE for the Committee on BUSINESS LEGISLATION on Bill "An Act to Establish a Voluntary Statewide Building Code and Require Basic Written Contracts for Home Construction Work"

S.P. 352 L.D. 1044

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (S-108).

Which Report was READ and ACCEPTED.

The Bill READ ONCE.

Committee Amendment "A" (S-108) READ and ADOPTED.

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

Ought to Pass in New Draft

Senator ESTES for the Committee on MARINE RESOURCES on Bill "An Act to Clarify the Organization of the Maine Sardine Council"

S.P. 507 L.D. 1531

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

S.P. 572 L.D. 1707

Which Report was READ and ACCEPTED.

The Bill in NEW DRAFT READ ONCE.

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

Ought to Pass in New Draft under New Title

Senator BALDACCI for the Committee on BUSINESS LEGISLATION on Bill "An Act to Limit the Time Allowed to Complete an Investigative Consumer Report"

S.P. 468 L.D. 1428

Reported that the same Ought to Pass in New Draft under New Title Bill "An Act to Expedite the Process of Resolving Disputes Involving the Accuracy of Information in Consumer Reports"

S.P. 575 L.D. 1716

Which Report was READ and ACCEPTED.

The Bill in NEW DRAFT under NEW TITLE READ ONCE.

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

SECOND READERS

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

House

Bill "An Act to Create Minimum Safety Standards for Firefighters"

H.P. 1234 L.D. 1686

Which was READ A SECOND TIME.

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

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.

ORDERS OF THE DAY

The following matters in the consideration of which the Senate was engaged at the time of Adjournment, have preference in the Orders of the Day and continue with such preference until disposed of as provided by Senate Rule 29.

The Chair laid before the Senate the Tabled and Later Assigned matter: (5/29/87)

HOUSE REPORTS - from the Committee on AGRICULTURE on Bill "An Act to Encourage Investment in the Development of Potato Varieties"

H.P. 678 L.D. 911

Majority - Ought to Pass as Amended by Committee Amendment "A" (H-183)

Minority - Ought to Pass as Amended by Committee Amendment "B" (H-184)

Tabled - May 29, 1987, by Senator CLARK of Cumberland.

Pending - ACCEPTANCE OF EITHER REPORT

(In House, May 28, 1987, 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-183).)

(In Senate, May 29, 1987, Reports READ.)

Senator MATTHEWS of Kennebec moved to ACCEPT the Minority OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "B" (H-184) Report.

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

Senator COLLINS: Thank you Mr. President, men and women of the Senate. I would oppose the pending motion and would speak to you about this Bill, which seems to have a substantial difference of opinion among the Legislature. I think I should, perhaps, identify myself as an Aroostook County Senator who lives in District 2, where about two-thirds of my district is comprised in people interested in the potato business. Aroostook County, as you all know, produces probably in the neighborhood of 90% of all the potatoes produced in the state of Maine. When I was a younger man, I recall where we produced, in this state, some two hundred thousand acres of potatoes. Since 1950, we have gradually reduced the acreage and we have gradually reduced the number of people engaged in the production of potatoes. Until this year we will produce perhaps 85 thousand acres of potatoes. It is very important to the survivors in Aroostook County that we adopt any and all means to enhance our economic well being.

It seems to me that the Bill that is before us today does one of two very important things. First of all, it encourages the private development of new varieties of potatoes. It seems to me that is a very important thing. We have had for some time a state plan whereby it was a state farm that produced seed potatoes and did a certain amount of development work. The private sector has done very little with respect to producing new and better varieties. It has happened that recently one company who spends about 3 million dollars a year in research and development has produced a variety that is extremely valuable to the potato chip industry. I suspect that this is perhaps one of the reasons why this Bill is before us today. It seems to me that when you build a better mouse trap, or a new variety of potato, you ought to have, because of your efforts, some competitive advantage. This Bill seeks to provide some protection to those people who will give of their own private funds, research, time and energy to develop something that is advantageous to the industry. It is for this reason that I will oppose the pending motion and vote for the Majority Ought to Pass Report. One of the Companies most involved in this whole process is Frito Lay. The other Company is Humpty Dumpty potato chips. Frito Lay has developed a new superior variety for chip stock and in 1986 contracted for 698,000 hundred weight for potatoes with Maine growers as well as 154,000 pounds of seed stock.

Quite naturally, Frito Lay would like to have some advantage of using the variety that it has developed to its competitive advantage. Humpty Dumpty, which is another chip company and is located in Maine, is currently using the variety developed by Frito Lay without permission or any other arrangement with the developer. While Humpty Dumpty is a Maine based company and a contributor to the Maine economy, it does have some other options available to it, in terms of potato supplies not developed by Frito Lay. This is a difficult decision for the Legislature to

resolve. However, the Maine Potato Council, the Commissioner of Agriculture and the industry in general support the idea that a private developer who invests research facilities, money and time in the breeding process, ought to have some protection. It seems to me that passage of this Bill, would provide that protection. Thank you Mr. President.

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

Senator MATTHEWS: Thank you Mr. President, men and women of the Senate. First, let me just say that I respect the good comments of the Senator from Aroostook, Senator COLLINS. I do want to mention to all of my colleagues in this Body, no matter how the Senate goes on this Bill, I respect your decision. It is a complicated and complex issue. But, I think it is important that I explain the position of the three members of this Body that serve of the Agriculture Committee. L.D. 911 is a Bill created and designed to change the system and really institute a new system in Maine with respect to issuing patents on certain varieties of seed potatoes. Once the Commissioner of Agriculture issues a patent of a certain variety, no Maine farmer can plant that variety without a release from the patent holder.

This Bill, L.D. 911, and the amendment "A" concerns one particular business and that is Frito Lay. One of the nations largest potato chip processors. Two potato varieties developed by Frito Lay in the past are now available in the open market, the free enterprise system that we believe in very strongly, in various parts of the country are now being grown by the same Maine farmers. Frito Lay wants to stop Maine farmers from using these varieties and so L.D. 911 was introduced.

In addition, some of these Maine farmers sell potatoes to Humpty Dumpty potato chip company of Scarborough, which is Maine's only potato chip processor and a competitor of Frito Lay. Passage of this Bill would cut off Maine's processors supply of these potatoes. Thus, the two reports. Some facts for all of you in this Body to think about today. Two of the Frito Lay seed potato varieties have been available for purchase in the open market from growers in many parts of the United States. Several Maine farmers have purchased these varieties in the open market at a considerable cost. Some as recently as a few months ago. If these Maine potato farmers cannot get recently purchased plants, certified after next July, they will suffer significant losses. Maine's only potato chip processor will have its supply of these particular varieties shut off with serious financial consequences if we do not support Committee Amendment "B".

Even though they have contracted for a supply of these potatoes from farmers who own them, Frito Lay does not presently own the rights to these particular varieties. If they did, they would not need this Bill. They could sue Maine farmers if those farmers had infringed on Frito Lay's property rights. Some years ago, when Frito Lay developed these particular varieties, they could have entered into contracts, like any one else, to protect any property rights they thought they had. They chose not to. The federal plant variety protection act offers federal plant patent mechanisms. Frito Lay did not choose to attempt to patent under the federal law. The varieties in question are bought and sold in the public commerce in other states, yet there is not evidence that Frito Lay is seeking the same action any where else other than Maine. Committee Amendment "B", which we will be voting on today, is a compromise. It gives Frito Lay protection for future

variety development, but it grandfathers those varieties that are already in the public domain and that many farmers have already purchased in good faith in the open market. The position of my good colleague from Aroostook, Senator Collins, with respect to Committee Amendment "A", which we should not be debating today, is a retroactive provision. It reaches back in time, to correct a mistake, that solely must be born by the company, Frito Lay, but ask the Legislature to redress that mistake. Committee Amendment "A", if adopted, will have significant adverse impact on Maine farmers who already have purchased these varieties in the open market and it will have significant adverse impact on one of Frito Lay's only competitors in Maine, Humpty Dumpty.

I would ask you very strongly today to support Committee Amendment "B", which is truly a compromise. This Body, the Senate and the Legislature, must be the court of last resort, when all other opportunities and all other procedures have been exhausted. Let it not be said today that the Maine Legislature will be the court of first resort for anyone, especially in the business world, where we want competition as part of this system. Let's not let Frito Lay change the ball game. Thank you.

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

Senator COLLINS: Thank you Mr. President, men and women of the Senate. I would like to tell you a little bit more about the history of the potato industry, so perhaps you can get a better understanding of this Bill. Some years ago, the number of varieties of potatoes grown in Maine were very limited and they were in large part developed by the state potato farm, by the University of Maine, the Extension Service and private industry really wasn't very much involved in research and development. This Bill recognizes a change that has occurred. In fact, if you want to think of it in this manner you might characterize it as an economic development Bill. Because it encourages the private sector to use its own money in research and development and it encourages them to compete in a market place that is very intense.

As you all know, the west is now engaged in production in potatoes to the point where Maine has lost it's pre-eminence in the industry. In the far west they have irrigation projects that enable their growers out there to produce greater quantities per acre than we can hope to do. We have to use everything that we can think of in order to continue to make this industry go. This little proposal addresses the situation as it is now, not as it was, but as it is now. It seems to me that if we don't give private enterprise an opportunity to do their bit and to encourage them, we will be in sad shape. So, I encourage you, once again, to reject this Committee Report and to go on to Pass the other Report. Thank you.

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

Senator DILLENBACK: Thank you Mr. President, ladies and gentlemen of the Senate. I have a great deal of respect for the potato farmers in Aroostook County, I understand the problems that they have there. But, I also understand the problem of probably one of the last potato chip manufacturers in the state of Maine. To me, this is a simple problem. That have a patent and the only reason they have a patent is because the law was recently passed that they could patent this type of thing. So if they have a patent, let them use it, but they use it on any new varieties that they now produce or grow.

The people in Scarborough, desperately need the potatoes they are now using. As I understand it, it is a simple thing. They have been using this 945 potato variety for a number of years, it has been out there and people have been using it. Now that they have the patent and they are trying to get the patent on this, they want to cut these people off and I don't think that is fair.

The other thing that bothers me is that Frito Lay is now threatening the people in Aroostook County. If you don't do what we are asking you to do, we may pull out of Aroostook County. I don't think that is good business either, to threaten people. So, I hope you go along with Committee Amendment "B", I think it is a good one and will protect the little Maine business, if you talk freedom of business or economic development, let's keep what we have right here in the state of Maine. Thank you.

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

Senator EMERSON: Thank you Mr. President, men and women of the Senate. I urge you to reject the Minority Report and accept the Majority Report. I remind you that the Majority Report is the report favored by the Maine Potato Board, which is the Potato Industry Board, the one commodity committee for the potato business. I heard the word compromise used a while ago, as I view it, the Majority Report is a compromise between the original Bill and what would be the Minority Report. During the past few days, I suppose, most of us have heard more and learned more about the potato industry then we really wanted to know.

I have learned that the development of new varieties is complex and expensive and is continued to be carried on by public institutions, USDA, state funded programs and the private sector. I have also learned that probably the Frito Lay Company has the best, most successful, program for the development of varieties for shipment purposes and has probably invested more money than any other entity in this. I have also learned that there are three Frito Lay varieties in the state today. One is called the 657, another the 945 and the last one is a 1207. Two of these varieties, the 945 and the 1207, seem to be directly involved in this legislation today. However, the subject is much larger than these two varieties. I think it has potential for a great impact on the future of the potato industry in the state of Maine, especially the chip industry. It seems that if you remember two years ago, we had a seed potato Bill before us and at that time the 657 was the board of contention. Since then, the Frito Lay company has released that variety to the state for public use. Apparently the 945 and the 1207 have escaped or been set free inadvertently, at least they are out of control of the Frito Lay people. Members of the public are using these potatoes without permission from the developer.

I guess I would like to briefly explain the difference between these two reports as I see it. The Majority Report, the one which I favor, would release one variety, the 945, for public use for two growing seasons. This season and the next season. This would give the people who are using that an opportunity to adjust their programs to other varieties and there are other varieties available which they use. The Minority report would release the 945 and the 1207 from now on, they would be free. I wouldn't be particularly concerned about the adoption of the Minority Report if I thought that would be the end of it, if that was all there was to consider. I am not concerned about the welfare of Frito Lay, I am not really concerned about the

welfare of Humpty Dumpty or any individual that is involved, but I am concerned about the future of the potato industry as a whole. The potato industry is very important to the state of Maine. Frito Lay continues to develop new and better varieties. Maine farmers will need these varieties to compete in the future. I can't believe that this company or any other company would be willing to introduce any new variety into this state if we prove here today that the Maine Legislature is more inclined to respond to the interests of a hand full of politically powerful people than the interest of the potato industry as a whole. Are we not likely to send a message to every person concerned that applied political pressure would be apt to release any newly introduced variety in the future. I think so.

I do not believe that the Frito Lay Company needs production of the farmers in the state of Maine half as bad or any where near as bad as the farmers in the state of Maine need Frito Lay and other processors. There are farmers all over the country anxious to produce for these people, they don't need the farmers in the state of Maine, but we need them. We need any company that has national and regional marketing systems and has access to national markets.

As you have been told, and you know that, the potato industry is a declining industry. It has been said that at one time there was 200,000 acres. In 1985, there was 85,000 acres and I understand that there will be even less than 80,000 acres. The frozen french fry business, which actually began on a commercial basis in a little town in central Maine, where I live, provided a market for some farmers in four or five county areas. This business has long since gone from my community, it has gone to the near west and the far west, with very little business left in Aroostook County. The frozen french fry business is not in the state of Maine, it is gone just about. Maine's share of the fresh market continually gets less each year. The one segment of the potato industry seems to have a bright future is the chip business. This business began in my area about twenty years ago. It has grown and expanded from there to northern Penobscot and into Aroostook. There are many farmers involved in this segment of the business. Chip producer growers, seed growers, foundation seed growers and there exists a potential for even greater growth. The farmers that are involved in this business have developed a good relationship with Frito Lay and other processors with regional and national marketing systems. It is extremely important to have access to these marketing systems. If there is to be any growth or expansion. Maine markets are limited.

As I see it, the question before us today is, will we encourage a good relationship that has developed over these last twenty years between Frito Lay, other processors and Maine farmers, will we let this continue and allow this business to continue to expand? Or will we jeopardize a potential for greater growth in this segment of the industry to protect the self-interest of a very few people? I urge you to reject the Minority Report and Accept the Majority Report. Thank you.

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

Senator KERRY: Thank you Mr. President, ladies and gentlemen of the Senate. I rise to support the good Senator from Kennebec, Senator Matthew's motion, because I think it is eminently fair that we address this issue in a forthright fashion. First of all, I would like to relate to you that I think the issue is an issue of equity and of fairness. I think it is important that we, in this Senate, recognize that we

do support the Maine Potato Industry, even those of us from southern Maine and central Maine, and I think it is important that we recognize that fairness has been a mark of this Senate and this Legislature for quite some time. I happen to know, personally, one of the former owners of Humpty Dumpty and he is my next door neighbor. He has never called me on this issue and I was rather surprised because I have supported the good Senator from Kennebec, Senator Matthews, in support for the Minority Report since it has entered the Senate. Just the other night, I was out on our street, which is a somewhat rural road in Saco, and my next door neighbor, who happens to be a farmer as well as a former employee of Humpty Dumpty, heard me calling my boys, who were getting to close to the road.

He came out to the street and he said in his own down Maine attitude, he said, 'want to keep the noise down in the neighborhood and keep these kids off my back lawn' he was kind of kidding me, and he said, 'you've ruined my supper' and you are doing all of these various things and I am saying to myself, this man has never once mentioned to me the issue of Frito Lay or the seed potato issue. I said to him, 'George, we have been debating the seed potato issue in the Senate.' He still didn't comment and finally he just said, 'John, it just ain't fair, I didn't want to call you, I didn't want to bother you on it, but it just ain't fair. Why should a big company come into the state of Maine and then take over some of the business or at least one of the essential products in Humpty Dumpty processing component through the Legislature, it just ain't fair.' It was the retroactivity that he was referring that 'it just ain't fair.' I think he said it well. I think we are all concerned about the potato industry, I think as the good Senator from Penobscot, Senator Emerson, stated, that we are concerned about it and we don't want to see the Maine potato industry decline, we want to see it go forward, but we also do not want to draw down working industries in the state of Maine and Humpty Dumpty is going to be disadvantaged by this move. They have been working on this variety of seed potatoes for quite some time, they have employed, it would cost them approximately \$100,000 and I think that means a lot, it means a lot to me because I know the people that work at the plant, I have visited the plant in the past and I know the good Senator from Cumberland, Senator Gill, I believe it is very close to her district as well and she has people in her district who work there and I just don't think it is fair.

I think that many of the people from northern Maine should know that we in southern and central Maine support the potato industry quite heavily, but we do not want to see an industry in this state drawn down because a large national and international company comes into the state and begins to maneuver. I appreciate and respect their opportunity to do so, and I hope Frito Lay expands in the state of Maine, but as the good works of George Doody, my good friend and neighbor, 'it just ain't fair'. Therefore, I will support the Minority Report.

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

Senator COLLINS: Thank you Mr. President, men and women of the Senate. It is very difficult for many of you, I am sure, to separate the fact from the fiction in this debate. Since it is rather complex it is something like my listening to debate of fishermen and lobstermen regarding size and other problems that they have in their particular industry and I generally have to be guided by the people who are closest to that industry. It seems to me that we

have made a very clear case here that the potato industry, the growers, through all of their organizations, have come out loud and clear in support of this Bill. I think perhaps that we ought to forget the two particular companies that are engaged in the struggle and focus our attention on the larger purpose of the Bill.

That very simply put, as I have suggested several times, is an attempt to get the private sector more competitively involved in the industry through research and development. In order to do this, when they produce something, invent something, discover something, it is unique and different and of advantage to the industry they ought to have some competitive advantage because of it. Now, I don't think that there is going to be a real amount of suffering by one of the potato companies, it seems that the amended version of report A does provide, as the good Senator from Penobscot, Senator Emerson, has pointed out, a two year period of time in which they may make other arrangements and there are other varieties that are available in the market place. It isn't as if anybody was going to be pushed out of business by passage of this legislation. So, I would urge you once again to remember that this is for the benefit for the potato industry at large, the growers, not the processors and manufacturers, but the growers in the state of Maine. Keep in mind that they are in a very fragile position. In 1985 and 1986 an additional hundred growers went out of business and the potato market, at that time, reached an all time low that compared only with 1931. Fortunately this year was a better year for the survivors and if we are going to continue to have survivors, we have got to do everything that we possibly can to encourage the industry and this Bill, set aside the two giants that are fighting look to the basic part of this Bill, which encourages the private sector in research development of new varieties that can compete in the marketplace. That is the entire thrust of this legislation. Thank you Mr. President.

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

Senator DUTREMBLE: Thank you Mr. President, I would like to pose a question through the Chair. I would like to know that the process that Maine is undergoing now with this Bill, whether it is going on with other states in the country? Second, if other farmers in other states are also growing this same seed potato not under the direction of Frito Lay? And, third, if the legislation is not happening in those states like it is here, why not?

THE PRESIDENT: The Senator from York, Senator Dutremble, has posed a series of questions through the Chair to any Senator who may care to respond.

The Chair recognizes the Senator from Kennebec, Senator Matthews.

Senator MATTHEWS: Thank you Mr. President and members of the Senate. The answer to all three questions is yes. If the Maine Legislature does this today, it will put Maine processors, Humpty Dumpty and others, out of fair competition with other states. Because other states can use the varieties in question and Frito Lay is not seeking the same redress anywhere else to my knowledge.

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

Senator BLACK: Thank you Mr. President and fellow Senators. The state of Maine has a law on the books that says if you plant potatoes they have to be certified. We have what is known as the Home Certification Seed Potato Law and the flush out program, which is a program that Senator Carpenter,

when he was a Senator here, elaborated on in quite length. But it is a program where they start the seed and it grows five years and cleans the disease out of it. The state of Wisconsin, also has a similar program, only the program there, as I understand it I could be wrong on this, but it allows certain varieties put out by companies such as Frito Lay, we'll just use that for instance, that the varieties they have perfected that they are more or less patented. What this law does essentially is patent varieties. The U.S. Department of Agriculture is in the process of adjusting their regulations to patent varieties and they don't at the present time. As I understand it, this 945 variety has grown some in Massachusetts, I don't know where else, but Maine and Wisconsin are the primary producers of seed potatoes. I don't know if that answers your question or not, but it is quite involved. This is a complex issue, perhaps Senator Collins or Senator Emerson might also help.

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

Senator COLLINS: Thank you Mr. President, men and women of the Senate. I appreciate the opportunity to rise one more time and I will be very brief. As I indicated earlier, I thought it was very difficult to tell the difference between fact and fiction in this discussion. I am under the impression that other states do have, in some cases, a policy identical to that of the L.D. 911, which we are discussing. I would like to call the Senate's attention to just a brief comment that was made by Ralph Hookes he is a foundation seed potato grower from Winn Maine. He is a member of the Maine Potato Board and he is Chairman of the Maine Potato Board Seed Assembly. He says, 'two years ago at the annual meeting of the National Potato Council, they adopted a resolution to work to develop legislation to protect potato varieties, developed by private breeders. I believe this resolution, by a national potato organization, demonstrates that Maine isn't the only state that has concern about this problem. For the last two years I have served as Chairman of the Committee appointed by the National Potato Council, to address this resolution. This Committee has spent considerable time researching patent laws and legislation pertaining to potato varieties.' He goes on to say, 'in more detail country wide, the industry is in support of this type of legislation.' Thank you Mr. President.

THE PRESIDENT: The pending question before the Senate is the motion of Senator MATTHEWS of Kennebec, to ACCEPT the Minority OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "B" (H-184) Report.

The Chair will order a Division. 20 Senators having voted in the affirmative and 13 Senators having voted in the negative, the motion by Senator MATTHEWS of Kennebec, to ACCEPT the Minority OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "B" (H-184) Report in NON-CONCURRENCE, PREVAILED.

The Bill READ ONCE.

Committee Amendment "B" (S-184) READ and ADOPTED in NON-CONCURRENCE.

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

Senate at Ease

Senate called to order by the President.

The Chair laid before the Senate the Tabled and Later Assigned matter: (5/29/87)

An Act to Improve the Teacher and Administrator Certification Law

H.P. 1195 L.D. 1629
(S "A" S-78)

Tabled - May 29, 1987, by Senator CLARK of Cumberland.

Pending - ENACTMENT

(In House, May 28, 1987, PASSED TO BE ENACTED.)

(In Senate, May 21, 1987, PASSED TO BE ENGROSSED AS AMENDED BY SENATE AMENDMENT "A" (S-78).)

THE PRESIDENT: The Pending question before the Senate is PASSAGE TO BE ENACTED.

Senator WEBSTER of Franklin requested a Division.

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

Senator ESTES: If I looked back to a year ago, never in my wildest dreams, would I have thought that I would be standing here in front of you this morning as the Senate Chair of the Education Committee, and also embroiled in an issue that is rumored to face the same fate as the "drug testing" and "lockout" bills. Neither did I think that I would be so soon on the subject of direct and indirect attacks by the media because of my position on an education issue.

As a high school teacher and coach for 15 years and chairman of the social studies department for the last 5, I can honestly say that education has been near and dear to my heart and my slim wallet, I might add.

I have actively followed the acts of previous legislatures that are reforming our public education system with great interest and enthusiasm. To many of you, credit must be given to the undertaking of such a noble task, and great investment in the future of this State. But mind you, more still needs to be done in the name of education reform, ladies and gentlemen of the Senate, that is in part why this issue is before us today.

It was reason and not rhetoric that prevailed when the Education Committee voted 10-3 to support the Majority Report to implement a two-tiered teacher certification process, along with the recommendations for administrator certification. I believe the Majority Report is responsible and honorable in carrying out the requirements of the original 1984 law, which required the Committee to review the effects of the law and the pilot projects, and the recommendations of the State Board of Education, and then make to this Legislature, recommendations for appropriate statutory changes.

The claims by editors and columnists of several major Maine newspapers, and even commentary by WCSH Channel 6, that the majority of the members of the Education Committee have shown total disregard for the future of Maine, have put the skids under Maine's far reaching 1984 education reforms, have caved in to political pressure from the MTA and have set a pattern of knuckling under to pressure, that other school related special interests will capitalize on, is blatantly false and offensive.

It is beginning to border on a near hysterical fanaticism as these editorial writers continue to tout merit pay and career ladders in the context of a master teacher tier, or professional level 2.

Instead of listening to this shrill rhetoric and the now catchy and fashionable buzz word "master teacher", the Education Committee made a thorough study and review over two months of the effects of the law. It looked at the successes and failures of the pilot projects and it listened to hundreds of educators across the State who attended the public hearings and work sessions, as well as listening to educators back in our home districts.

We, the majority, then voted to carry forward the positive lessons learned from the pilots by supporting a two-tiered system of certification for provisional and professional teachers.

In doing so, we voted to provide a nurturing environment for new teachers, to revitalize careers and reduce isolation in the classroom, and to enhance educators' knowledge of the profession and continue professional growth.

We voted to eliminate the third tier for master teacher and put that idea on hold because we recognized that most local school units are not ready for it yet, and that they will need a practical period of time and energy to implement other positive aspects of the certification law. They will need to get their support systems and teacher action plans in place before the new law goes into effect in July of 1989.

We also recognized the need of most school units to design appropriate staff development programs, based on their own assessed needs, to serve as a firm foundation for the new certification measures to become effective. Those systems that have had success with the piloting of master teacher, or those who are interested, can continue that third tier, if they so choose, as a local option.

But let me inform you, the concept of master teacher that has evolved to date, is not appropriate to the certification law and it is a long way from its original conception. Master teacher is being politicized and glamorized by the press as the best thing for education reform and the teaching profession since jam on toast.

Clearly, the purposes of licensing and certification are to establish minimum qualifications for entrance and continuance in professional practice. It has never been the function of teacher certification to reward teachers.

Rather than turning back progress, as the Governor claimed in his press release a week and a half ago, I believe the elimination of the third-tier will serve to successfully reopen the discussion on reasonable, workable alternatives. The Education Committee is working toward such an alternative. The new certification law, as proposed, will have a tremendous impact on the morale and professional commitment of teachers involved in working with beginning teachers and in working with their colleagues. It will increase the intrinsic rewards of teaching immeasurably.

The next step for this Bill is to put it into law so that all school units in this State can draw from its strength. Ladies and gentlemen, I urge you to consider your constituencies, your local school systems and your teachers when you vote this morning. I ask that you conscientiously stand by our previous vote. Thank you.

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

Senator ERWIN: Thank you Mr. President, I would like to pose a question through the Chair to any Senator who may care to respond. What did Senator Estes of York mean when he said the master teacher concept today is a long way from it's initial conception?

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

The Chair recognizes the Senator from York, Senator Estes.

Senator ESTES: Thank you Mr. President, ladies and gentlemen of the Senate. The question of teacher certification has been around for a number of years, approximately ten years. About that time, the State

Board of Education became very concerned about two issues. The poor in-service training and the lack of supervision of teachers. It voted to explore those areas and it contacted a firm called the Thomas Associates. The initiators of that action were Representative Nault of Washington County and Representative Foster of Dresden. The Thomas Associate report became the basis for the discussion that led to the certification law. One of the things that is interesting in the Thomas report is that it referred to a two tiered teacher certification and it also made reference to master teacher or lead teacher as those who would be responsible for aiding new people entering the profession and helping to oversee the teacher action plans of those who were continuing in the profession. The Thomas Associate report also led to two white papers that were done by the Maine Teacher's Association. The first one received very little attention, but the second one was the basis of a statewide press release. This white paper called for three levels of certification coupled with a three tiered system of job assignments in the schools. It also very strongly emphasized that certification and compensation should never be linked. This was the reason that the M.T.A. worked with the State Board of Education on numerous drafts of the proposed law. During discussions of the drafts at least twenty drafts in fact, the focus was on the probationary teacher and staff development. The terms used for the third level was mentor teacher and referred to the individuals who would be qualified to train student teachers and beginning educators. Everyone at that time recognized that compensation was to be established by collective bargaining. Another thing that is interesting as you look back into the history of certification is to go back to the original law in 1984, which the press claims is part of the Education Reform Act. This law actually came out in the spring of 1984, the Education Reform Act was in September of 1984. In the statement of fact in the original law, it makes reference to the three levels of the proposed certification and says that they do not in themselves constitute a career ladder, but do provide a framework in which local districts can construct viable career advancement opportunities for Teachers. There have been a number of memoranda and back ground information that the Education Committee has had available to them, that they have carefully researched in coming to their conclusions as to what the condition of certification should be for the future of this state. I might also add that often misquoted has been the Carnegie Report on a Nation Prepared. It refers to lead teachers and it also refers to that third tier of lead teachers as being a local option. I hope that answers the question from the good Senator. Thank you.

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

A Division has been requested. 20 Senators having voted in the affirmative and 15 Senators having voted in the negative, the Bill was PASSED TO BE ENACTED and having been signed by the President, was presented by the Secretary to the Governor for his approval.

The Chair laid before the Senate the Tabled and Later Assigned matter: (5/29/87)

HOUSE REPORTS - from the Committee on LABOR on Bill "An Act to Increase the Minimum Wage"

H.P. 869 L.D. 1170

Majority - Ought to Pass

Minority - Ought Not to Pass

Tabled - May 29, 1987, by Senator CLARK of Cumberland.

Pending - ACCEPTANCE OF EITHER REPORT

(In House, May 28, 1987, the Majority OUGHT TO PASS Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "A" (H-188).)

(In Senate, May 29, 1987, Reports READ.)

Senator DUTREMBLE of York moved to ACCEPT the Majority OUGHT TO PASS Report, in concurrence.

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

Senator COLLINS: Mr. President. I oppose the pending motion. I have to kind of get my breath again, having exhausted most of my comments on the potato bill. My remarks will be rather brief. I would like to suggest to you that it is not the appropriate time to increase the minimum wage in the State of Maine. While minimums mean very little to larger industries such as the paper industry, Bath Iron Works, they are of concern to many small businesses. In particular to the restaurant and fast food industry.

Minimum wages are most frequently paid to entrance level employees without experience or skills, to part time employees such as students or retired people or to the second member of the household, who may be available for only part time work.

In addition, new industries starting up, frequently pay minimum wage as they seek to travel up in the market place. At the present time, Maine has the highest minimum wage of any state in the Continental United States. In Maine, we are actively seeking economic development. An increase in the minimum wage at this time would not encourage some of the industries that are looking at Maine, to enter into our State. Finally, it appears, that Congress will enact some new minimum wage act within the year. I would suggest to you that perhaps Maine should wait until that happens before making any further adjustments in the minimum wage law. Thank you, Mr. President.

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

Senator DUTREMBLE: Mr. President, members of the Senate. Sometimes it seems that people feel that it is never the appropriate time to increase the minimum wage. We have heard that argument over and over again.

It seems that every year that I have been in the Legislature, when the minimum wage was addressed, it has been that way. There are some who would like us to listen the arguments that Maine has the highest minimum wage in the contiguous United States. At the same time they would also like us to ignore the fact that some of Maine's people have the lowest standard of living in the contiguous United States. We have people who like to us to look at the fact that we have to improve our business climate and yet these same people would like us to ignore the working climate of those people who work at minimum wage. You have those people who tell us that we have to keep our minimum wage low so that we can appeal to other businesses to come into the State and to make sure that these businesses will be making a profit. Yet, at minimum wage, we are telling our workers that you must work for \$146.00 per week.

Then you have people telling us that they would like to spend 3 or 4 million dollars to improve our tourism industry in this State, and yet they oppose giving those people who work in that same industry 4 dollars more per week. It is unfortunate that we cannot find a good middle ground on this. One side

looks at the business and the other side looks at working people. It would be nice to find a good middle ground. It appears that we haven't been able to in the past, it appears that we can't now. When are we going to start paying the working people in this State what they are worth? I'm talking about the people who are making just minimum wage. I think that a lot of us take for granted some things that we do, like going to the movie, going to a restaurant, taking our kids out to the amusement park, all of those things. I don't think people who work for a minimum wage can afford to do that.

You know we have to dispel the notion that poorly paid, unprotected working people are somehow good for Maine and its' economy. When single mothers benefit from the minimum wage increase, they reduce their reliance on government assistance programs. The retired man who bags groceries at the Shop and Save to make ends meet benefits from an increase in minimum wage, his ability to live independently enhance and his quality of life has improved. If the poor wage earner receives and increase in minimum wage, his or her children will have a better chance in life itself. When a teenager who works at McDonalds to save for a college education receives a pay raise, we are making an investment in our future.

So, those are all statements that are real and actual. We just cannot continue support Maine people on \$3.65 per hour and expect these people to live comfortably. The only time they seem to get a wage increase is when we give it to them. It is just not happening out there in the workplace by itself. Today's Portland Press Herald talks about housing costs in the State of Maine. I would just like to quote you a couple of paragraphs in here that clearly drove this whole issue home. [Today's welfare recipients include the working poor whose minimum wage salaries cannot cover a high cost of housing and mothers receiving aid to families with this kind of choice.] This is a problem that is going on throughout the whole State of Maine.

Not just in the Southern part or the Central part but in the whole State. People on minimum wage just can't afford to live. I think they need help and I think we should give it to them. Thank you.

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

Senator SEWALL: Thank you, Mr. President and members of the Senate. I stand in opposition to this Bill for one simple reason. I think one of the hardest things you face in the economy is what you do with people who have no training, no education and no skills in the job force. If we raise the minimum wage to \$5.00 per hour, will those people be hired? No, they wouldn't. There has to be an entrance level to give these people training. Lots of them are also eligible for social benefits until they bring their skills up. Sometimes people trying to do the best for the poorest do the worst and I think that is what this Bill is doing. What you are doing if you raise the minimum wage to a rate where these people are no longer employable, you have done nothing but hurt them.

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

Senator BUSTIN: Thank you, Mr. President. Men and women of the Senate. I have resisted on this issue. I have thought and thought about it and what I would say because as all of you know, I am a business woman. I know how to face paying the wages that we are all talking about. I know what they are saying on the business side. I understand that. I am struggling to make it.

I am not taking any salary out of that business. Do you know what? I have the potential to bring that business up to speed, to bring out a good salary. My minimum wage workers do not. I repeat, my minimum wage workers do not have that potential. Even now, I would rather pay minimum and above and get them up as fast as I can, than I would to take something out of that business. I have worked on both sides of the issue. I have worked for those poor people of the State of Maine to raise their benefits so they can at least have a quality of life that is very, very minimal. So, I know what I am talking about when I have to weigh what I am paying out as a tax payer, what you're paying out as a tax payer, to support those people who do not even get minimum wage, who live off the system. Those people who get minimum wage and also have to live off the system. Are we pinching pennies to save dollars or are we pinching dollars to save pennies?

What are we doing here? If we pay our workers enough to get off the system, aren't we saving money in the long run? Think about what you are doing in this economy. You are asking people to work, to put out 8 hours of work per day for an amount of money that they can't possibly live on. They can't do it. So, they go and they work at other jobs in order to make ends meet. Other minimum wage jobs. When do they get the chance to educate themselves? When do they get the change to upgrade themselves? When do they do that?

Let's talk about the good Senator from York, Senator Dutremble's suggestion of where is the middle ground. Where is the compromise, what can we do here? I'll suggest a compromise. I would hope that you would pass this Bill and then work on the compromise. That compromise is assisting those fledgling businesses to meet the requirements of the wages. Give them the assistance to get started so that they can pay good wages to those minimum wage workers. That is one way that you can help this economy out. You would be doing a number of things. You would be putting people to work at a decent wage. You would be getting them off the welfare roles. You would be giving them some feeling that they are contributing to society and not sitting home wondering what is happening to themselves. You would also be assisting small businesses to get going in this State. I think that is the kind of compromise that you can work for. Sure, we get Federal dollars to assist small businesses, and sure, we try to help in the State, but let's not cut those workers while we are going it. Let's find a more creative way to do it. Thank you.

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

Senator BALDACCI: Mr. President and members of the Senate. This is an issue which was very difficult for me, as an individual, when we took it up several years ago. The Legislature finally came up with a compromise which I supported, which was a 10 cent increase over a 3 year period. The claims that are being made today to increase the minimum wage were the claims that were being made back then. One of the most telling points that needs to be reviewed and studied were the number of single women household that were dependent upon their wage and how much of a percentage they represented of a total work force.

That is something that really did bother me an awful lot at that time. I remember how the Executive Branch, at that time, the initial reaction was that of 'No, I am not in favor of raising it to be the highest in the country. It is not a good message to be sent out.' At that time, we had a study that was

done by the State Planning Office, along with the Leadership had appointed certain individuals to study the issue. They did quite a comprehensive review that took place right after enactment, I think, just before the signature, that time period in between.

Now, my reaction is that Maine is the highest in the Country as far as the minimum wage but one of the lowest per capita incomes. So, there is no relationship or there appears to be very little relationship between those two. What I would like to know is what has happened since the minimum wage has been in effect over the last 3 years, in those categories that have been discussed here today. I am trying to be as objective as possible because my reaction is that the minimum wage is a moot point. I read the Sunday Telegram yesterday and they are offering employees 6 and 7 dollars per hour to wash dishes, they are giving them several hundred dollar bonuses to employees who stay through the season, bonuses to employees who bring in other employees, day care services for the staff's children, flexible working hours. I think that what is going on is the market itself through supply and demand is setting into motion things that are going to make it more appealing to the people to be under their employ. I think that is what's going on.

My concern is not so much with raising the wages of that individual who is a single household earner as it is to make sure that they have child care services or day care services available to them. That they have proper health care services available to them. We expound so much energy on raising it 10 cents per hour but we forget the basic points of all the other things that are required to go to work. I think until there is a discussion and a debate in those areas, I think we're venturing into this without addressing the situation that exists here in the State of Maine.

They cannot find people to work in Portland for the minimum wage. There was no problem in Skowhegan in employing people. It was a different cost of living, a different standard of living, there was a different ethic in that particular area, as it is in Bangor. To develop a State-wide minimum wage, in theory, is no different than trying to develop a State-wide anything else, when you tried to develop the State-wide moratorium on trash. What is going on in Southern Maine was not the same kind of problem that was going on in Northern and Eastern Maine. We tried to develop amendments to take care of those differences. My first reaction to raise it up even higher was in opposition. I just didn't think it was appropriate at this point with the discussion in Washington and everything else. If I am going to support this, I am going to need the documentation, the updating that took place in that period of time, since it has been enacted and what has gone on. The data base should be there. We've have 3 ten cent increases in over the past 3 years. The data base should be available, it should be reviewed.

I would like to know more about that before we get into another 3 years and why it is 3 years and ten cents. Maybe it should be fifty cents and maybe it should be five cents. I don't know. It just can't be something like throwing a dart at a dart board blindfolded to see where it ends up. So, I think it is more important than that. Thank you, Mr. President.

On motion by Senator DUTREMBLE of York, the Majority OUGHT TO PASS Report was ACCEPTED, in concurrence.

The Bill READ ONCE.

The Bill LATER TODAY ASSIGNED FOR SECOND READING.

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

Bill "An Act Relating to Adult Education"
H.P. 893 L.D. 1194
(C "A" H-201)

Tabled - May 29, 1987, by Senator CLARK of Cumberland.

Pending - PASSAGE TO BE ENGROSSED AS AMENDED
(In House, May 28, 1987, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-201).)
(In Senate, May 29, 1987, READ A SECOND TIME.)
Which was PASSED TO BE ENGROSSED, as Amended, in concurrence.

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

SECOND READERS

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

House

Bill "An Act to Require Minimum Evacuation Standards for Boarding Care Facilities"

H.P. 1100 L.D. 1491

Bill "An Act to Require Rulemaking by the Department of Mental Health and Mental Retardation Regarding Administration of Cardiopulmonary Resuscitation in State Institutions"

H.P. 1158 L.D. 1584

Bill "An Act to Amend the Duties of the Commissioner of Labor"

H.P. 1199 L.D. 1634

Resolve, Requiring a Legislative Study of County Budget Procedures (Emergency)

H.P. 1240 L.D. 1692

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

House As Amended

Bill "An Act to Clarify the Rights of Former State Employees who were Transferred to the Maine Vocational-Technical Institute System"

H.P. 458 L.D. 613
(C "A" H-208)

Bill "An Act Relating to the Uniform Premarital Agreement Act"

H.P. 538 L.D. 722
(C "A" H-200)

Bill "An Act Concerning Tax on Cargo Trailers"

H.P. 940 L.D. 1263
(C "A" H-209)

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

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

SECOND READERS

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

Senate

Bill "An Act to Clarify the Organization of the Maine Sardine Council"

S.P. 572 L.D. 1707

Bill "An Act to Expedite the Process of Resolving Disputes Involving the Accuracy of Information in Consumer Reports"

S.P. 575 L.D. 1716

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

Sent down for concurrence.

Senate As Amended

Bill "An Act to Establish a Voluntary Statewide Building Code and Require Basic Written Contracts for Home Construction Work"

S.P. 352 L.D. 1044
(C "A" S-108)

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

Sent down for concurrence.

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

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

SECOND READERS

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

House As Amended

Bill "An Act to Encourage Investment in the Development of Potato Varieties"

H.P. 678 L.D. 911
(C "B" H-184)

Which were READ A SECOND TIME.

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

Senator THERIAULT: Thank you Mr. President and members of the Senate. Being from Aroostook, I do have a certain amount of interest, in fact, I have a lot of interest in this Bill. As I feel that the issue before us is really the future of the Maine potato. I think the whole industry is at stake. I also feel that the issue goes beyond Frito Lay or Humpty Dumpty. The issue is if the Maine potato going to adapt to the demands of the future.

Maine excelled a few years ago in the growing of potatoes primarily because the emphasis was on table stock. The picture is different today. The emphasis is on the processed potato, anything that can be placed in the microwave, it can be cooked a matter of a few moments. We have some popular varieties in this country, such as the Russet Burbanks, the Belrus, those are wonderful bakers, but there is only one problem with them, as far as growing them in Maine, they don't grow well. We have very little yield, consequently, the return is so small that the farmers are not encouraged to plant those potatoes.

Our farmers need to diversify and grow potatoes that they can sell. Right at the moment, the most popular brand that has grown in my part of the state is the potato that does not taste that good.

Consequently, they are having a difficult time in selling them. We need to develop new varieties. I understand that the seed farm presently has a chipper under development which should hit the market next year. Some say that this is not so, that it might be two years, from the best source that I can come up with this variety should hit the market next year. This would take care of the problem that has been mentioned here with one of our local chippers who might not have a sufficient stock on hand to take care of their needs.

Of course, Frito Lay has been mentioned a number of times here and I think they should be because they were the leader in developing this potato that is under consideration today. I think we need to encourage this, we cannot paint a picture of disrespect for research and development, that has been going on, because I really feel that probably our future lies in this new variety that has not been

developed yet. So I would hope, as a state, we would encourage this research and development and defeat the motion before us and accept the Majority Report of the Committee. Thank you.

Off Record Remarks

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

Senator LUDWIG: Thank you Mr. President, men and women of the Senate. When my grandfather was a member of this Body, some sixty years ago, Aroostook County was known as the potato capital of the world. Those of us from the county, still believe that our farmers are capable of producing some of the best potatoes in the world. At this time, I would join my Honorable colleague, Senator Theriault, from Aroostook, in urging that you do what we have found from talking with our constituents, do what is right for the industry as a whole. I know I have spoken over the past few months for hours at a time with different groups of people engaged in the farming business. They don't all agree, farmers rarely do, but the majority of them fall right in line with the report which you received earlier in a letter from the Maine Potato Board and you will notice that 95% of the people engaged in growing and processing and transporting potatoes favor Committee Amendment "A" the Majority Report. I would ask you defeat the pending motion.

Off Record Remarks

On motion by Senator COLLINS of Aroostook, 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 BY COMMITTEE AMENDMENT "B" (H-184).

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.

Senator BLACK of Cumberland who would have voted YEA requested and received Leave of the Senate to pair his vote with Senator CLARK of Cumberland who would have voted NAY.

Subsequently, Senator BLACK of Cumberland requested and received Leave of the Senate to withdraw his motion to pair with Senator CLARK of Cumberland.

The Secretary will call the Roll.

ROLL CALL

YEAS: Senators ANDREWS, BALDACCI, BLACK, BUSTIN, DILLENBACK, DOW, DUTREMBLE, ERWIN, GAUVREAU, GILL, KANY, KERRY, TUTTLE, TWITCHELL, USHER

NAYS: Senators BERUBE, BRANNIGAN, BRAWN, CAHILL, CLARK, COLLINS, EMERSON, ESTES, GOULD, LUDWIG, MATTHEWS, MAYBURY, PEARSON, PERKINS, RANDALL, SEWALL, THERIAULT, WEBSTER, WHITMORE, THE PRESIDENT - CHARLES P. PRAY

ABSENT: Senators None

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

15 Senators having voted in the affirmative and 20 Senators having voted in the negative, with No

Senators being absent, the Bill FAILED of PASSAGE TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "B" (H-184).

Senator MATTHEWS of Kennebec, moved to RECONSIDER whereby the Bill FAILED of PASSAGE TO BE ENGROSSED AS AMENDED.

Senate at Ease

Senate called to order by the President.

Senator DUTREMBLE of York moved to TABLE until Later in Today's Session.

Senator COLLINS of Aroostook requested a Division. 19 Senators having voted in the affirmative and 13 Senators having voted in the negative, the motion by Senator DUTREMBLE of York to TABLE until Later in Today's Session, pending the motion of Senator MATTHEWS of Kennebec to RECONSIDER whereby the Bill FAILED of PASSAGE TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "B" (H-184), PREVAILED.

Off Record Remarks

On motion by Senator DUTREMBLE of York, RECESSED until 5:00 this afternoon.

After Recess

Senate called to order by the President.

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

PAPERS FROM THE HOUSE

Non-concurrent Matter

HOUSE REPORTS - from the Committee on BUSINESS LEGISLATION on Bill "An Act Relating to Radon Gas"

H.P. 714 L.D. 965

Majority - Ought Not to Pass

Minority - Ought to Pass

In House, May 27, 1987, the Minority OUGHT TO PASS Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED.

In Senate, May 28, 1987, the Majority OUGHT NOT TO PASS Report READ and ACCEPTED in NON-CONCURRENCE.

Comes from the House, that Body ADHERED.

In absence of a motion from the floor, the Chair moved to RECEDE and CONCUR.

On motion by Senator CLARK of Cumberland, Tabled until Later in Today's Session, pending the motion of the Chair to RECEDE and CONCUR.

Off Record Remarks

Joint Resolution

The Following Joint Resolution: H.P. 1257

JOINT RESOLUTION MEMORIALIZING THE CONGRESS OF THE UNITED STATES TO DISAPPROVE ANY USE OF DEDICATED FUNDS FOR GENERAL FUND PURPOSES

WE, your Memorialists, the Senate and House of Representatives of the State of Maine in the First Regular Session of the One Hundred and Thirteenth Legislature, now assembled, most respectfully present and petition the Congress of the United States, as follows:

WHEREAS, the Congress of the United States is searching for \$18,000,000,000 in new revenue needed under budget resolutions passed by both the House and Senate; and

WHEREAS, the State of Maine has particular concern over a proposed increase of 10 cents per gallon in the federal gasoline tax to raise \$9,000,000,000; and

WHEREAS, the passage of this or some other type of excise tax is likely as finance committee members refuse to touch income tax or alter the 1987 tax bill; and

WHEREAS, it could start a dangerous precedent for Congress to take an additional \$9,000,000,000 of funds dedicated for highway programs and place them in the General Fund as proposed; now, therefore, be it

RESOLVED: That we, you Memorialists, do hereby respectfully urge the members of the Congress of the United States to refrain from using dedicated funds for General Fund purposes as proposed currently under a gas tax and to find other means of obtaining the necessary revenue; and be it further

RESOLVED: That suitable copies of this Memorial, duly authenticated by the Secretary of State, be transmitted to the President of the Senate and the Speaker of the House of Representatives in the Congress of the United States and to each Member of the Maine Congressional Delegation.

Comes from the House READ and ADOPTED.

Which was READ and ADOPTED, in concurrence.

COMMITTEE REPORTS

House

Leave to Withdraw

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

Bill "An Act to Improve the Quality of Information Available to the Department of Human Services on Radioactive Emissions from Nuclear Power Plants"

H.P. 895 L.D. 1196

Divided Report

The Majority of the Committee on TAXATION on Bill "An Act to Provide Municipalities with the Option of Assessing Service Charges on Tax-exempt Property".

H.P. 811 L.D. 1085

Reported that the same Ought Not to Pass.

Signed:

Senators:

TWITCHELL of Oxford

SEWALL of Lincoln

Representatives:

SEAVEY of Kennebunkport

CASHMAN of Old Town

SWAZEY of Bucksport

DUFFY of Bangor

DORE of Auburn

ZIRNKILTON of Mount Desert

JACKSON of Harrison

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

Signed:

Senator:

DOW of Kennebec

Representatives:

INGRAHAM of Houlton

MAYO of Thomaston

NADEAU of Saco

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

Which Reports were READ.

Senator TWITCHELL of Oxford moved to ACCEPT the Majority OUGHT NOT TO PASS Report, in concurrence.

On motion by Senator CLARK of Cumberland, Tabled until Later in Today's Session, pending the motion of Senator TWITCHELL of Oxford to ACCEPT the Majority OUGHT NOT TO PASS Report, in concurrence.

Senate
Ought Not to Pass

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

Bill "An Act to Improve the Effectiveness of Existing State Land Use Laws and to Promote Consistency Among Them"

S.P. 528 L.D. 1580

Bill "An Act to Strengthen the Site Location of Development Law in the Shoreland Zone"

S.P. 545 L.D. 1647

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 Providing Collective Bargaining Rights to Legislative Employees"

S.P. 432 L.D. 1312

Bill "An Act Relating to the Definition of Full-time Corrections Officer"

S.P. 506 L.D. 1530

Divided Report

The Majority of the Committee on LEGAL AFFAIRS on Bill "An Act Giving the State Fire Marshal, Deputy and Inspectors Full Law Enforcement Powers"

S.P. 307 L.D. 886

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (S-109).

Signed:

Senators:

KANY of Kennebec
ESTES of York
DILLENBACK of Cumberland

Representatives:

PRIEST of Brunswick
HARPER of Lincoln
PERRY of Mexico
PAUL of Sanford
STEVENS of Sanford
MARTIN of Van Buren
JALBERT of Lisbon
TUPPER of Orrington
STEVENSON of Unity

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

Signed:

Representative:

MURPHY of Berwick

Which Reports were READ.

The Majority OUGHT TO PASS AS AMENDED Report was ACCEPTED.

The Bill READ ONCE.

Committee Amendment "A" (S-109) 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:

House

Bill "An Act to Increase the Minimum Wage"

H.P. 869 L.D. 1170

Which was READ A SECOND TIME.

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.

On motion by Senator CLARK of Cumberland, Tabled until Later in Today's Session, pending PASSAGE TO BE ENGROSSED in NON-CONCURRENCE. (Roll Call ordered)

ENACTORS

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

An Act to Expedite the Processing of Environmental Permits

S.P. 81 L.D. 167

(C "A" S-87)

An Act to Require Candidates Requesting Ballot Inspection to Pay for this Service

H.P. 792 L.D. 1064

(H "A" H-179 to C

"A" H-147)

An Act Concerning Proof of Insurance on School Buses

H.P. 863 L.D. 1164

(C "A" H-130)

An Act to Require Financial Institutions to Furnish Copies of Real Estate Appraisals to Prospective Buyers upon Request

H.P. 1024 L.D. 1382

(C "A" H-174)

An Act to Extend the Period for Filing Birth Records

H.P. 1045 L.D. 1408

An Act to Clarify the Taking of Property by the Department of Transportation

H.P. 1047 L.D. 1410

An Act to Simplify Fees for Certified Copies of Divorce Reports

S.P. 464 L.D. 1421

(H "A" H-177)

An Act Concerning the Authority of the Attorney General to Request Telephone Records

H.P. 1068 L.D. 1451

An Act to Authorize Evaluation of Vital Statistics

H.P. 1088 L.D. 1479

An Act to Amend the Child and Family Services and Child Protection Act as it Relates to Judicial Reviews

H.P. 1089 L.D. 1480

An Act to Clarify Abrogation of Confidentiality of Communicable Disease Information for Child and Adult Protection Purposes

H.P. 1090 L.D. 1481

An Act to Clarify Existing Federal Compensation and Care as the Primary Resource to an Injured Service Member before Seeking Benefits under the Workers' Compensation Act

H.P. 1096 L.D. 1487

An Act to Clarify the Laws Pertaining to Payment for Medical Services

S.P. 499 L.D. 1516

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)

An Act to Define Reference to Standard Premium" in the Workers' Compensation Self-Insurance Laws"

H.P. 1123 L.D. 1526

(C "A" H-175)

An Act Relating to Nonrenewal of an Automobile Insurance Policy Due to Accidents Involving Property Damage

H.P. 1124 L.D. 1527
 An Act to Amend the Maine Juvenile Code
 S.P. 521 L.D. 1573
 An Act to Amend the Maine Emergency Medical
 Services Act of 1982
 H.P. 1165 L.D. 1591
 An Act to Exempt Liquid Asphalt from the Ground
 Water Oil Clean-up Fee
 H.P. 1173 L.D. 1599
 (S "A" S-93)
 An Act to Hold Employees of Licensees Civilly
 Liable for Knowingly Selling Liquor to Minors
 H.P. 1224 L.D. 1669
 (S "A" S-96)
 An Act to Modify the Electric Fuel Clause
 H.P. 1225 L.D. 1672
 (H "A" H-182)
 An Act Concerning Liability Insurance Coverage
 for Amusement Devices
 S.P. 560 L.D. 1673
 Which were PASSED TO BE ENACTED and having been
 signed by the President, were presented by the
 Secretary to the Governor for his approval.

An Act to Provide State Funding Necessary to
 Match Federal Funds for Home and Community Based
 Services for Older Citizens
 S.P. 84 L.D. 170
 On motion by Senator PEARSON of Penobscot, placed
 on the SPECIAL APPROPRIATIONS TABLE, pending
 ENACTMENT.

An Act to Improve the Assessment of Floods,
 Droughts, Ground Water Contamination, Stream Water
 Quality and Hydropower Potential in this State
 H.P. 612 L.D. 830
 On motion by Senator PEARSON of Penobscot, placed
 on the SPECIAL APPROPRIATIONS TABLE, pending
 ENACTMENT.

An Act to Provide Substance Abuse Treatment to
 Youths at the Maine Youth Center
 H.P. 1220 L.D. 1663
 On motion by Senator PEARSON of Penobscot, placed
 on the SPECIAL APPROPRIATIONS TABLE, pending
 ENACTMENT.

An Act to Continue Insurance Coverage for Mental
 Health, Alcohol and Substance Abuse Treatment
 Services for Maine Citizens
 S.P. 561 L.D. 1674
 On motion by Senator PEARSON of Penobscot, placed
 on the SPECIAL APPROPRIATIONS TABLE, pending
 ENACTMENT.

An Act Concerning Mental Stress Claims Under the
 Workers' Compensation Act

H.P. 1223 L.D. 1668
 THE PRESIDENT: The Chair recognizes the Senator
 from York, Senator DUTREMBLE.

Senator DUTREMBLE: Thank you Mr. President, men
 and women of the Senate. I would just like to read
 something into the record to show what the
 Legislative intent of this Bill was, so that there is
 no question in the future. There has been some
 concern that this Bill will eliminate all Workers'
 Compensation Claims based upon mental injury caused
 by mental stress. This is not true. We are
 adjusting the standard of proof and requiring that

claims be based upon objective proof. We are
 tightening eligibility under our law and making it
 consistent with the practices in other states.

A particular concern was raised by the reference
 to stress caused by discipline of an employee taken
 in good faith by the employer. The final paragraph
 of the Bill on page two states that "a mental injury
 is not considered to arise out of and in the course
 of employment if it results from" such disciplinary
 action. This does not mean that cases involving
 stress from discipline are necessarily precluded from
 coverage under the Act. Cases where stress is caused
 by employee discipline will not be provided coverage
 under the Act, but where other work stress, as
 defined by this Bill, in the predominant cause of the
 mental injury, there will be coverage. This is true
 even where stress caused by good faith employee
 discipline has contributed to the work stress of the
 employee.

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

Resolve

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

Resolve, Authorizing the State Tax Assessor to
 Convey the Interest of the State in Certain Real
 Estate in the Unorganized Territory

H.P. 1112 L.D. 1506
 Which were FINALLY PASSED and having been signed
 by the President, were presented by the Secretary to
 the Governor for his approval.

Resolve, to Provide Funds for the Maine Partners
 of the Americas, Inc.

H.P. 425 L.D. 570
 (C "A" H-171)
 On motion by Senator PEARSON of Penobscot, placed
 on the SPECIAL APPROPRIATIONS TABLE, pending FINAL
 PASSAGE.

Resolve, Creating a Watershed District Commission
 S.P. 261 L.D. 742
 (H "A" H-180 to C
 "A" S-65)

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

Emergency

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

H.P. 511 L.D. 684
 (C "A" H-126; H "B"
 H-189)

Senate at Ease

Senate called to order by the President.

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

presented by the Secretary to the Governor for his approval.

Emergency

An Act Establishing the Commission to Study the Impact of Game and Nongame Species on Maine's Economy
H.P. 1219 L.D. 1662
(H "A" H-173)

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

Emergency Resolve

Resolve, to Direct a Comprehensive Examination of the Health Threat of Radon and its Derivatives upon Maine Citizens

H.P. 760 L.D. 1023
(C "A" H-168)

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

Emergency Resolve

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

H.P. 1111 L.D. 1505
(H "B" H-181)

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

Constitutional Amendment

RESOLUTION, Proposing an Amendment to the Constitution of Maine Requiring Residency of Candidates at the Time of Nomination for Placement on the Ballot

H.P. 427 L.D. 572
(C "A" H-178)

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

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

COMMUNICATIONS

The Following Communication: S.P. 577
113th MAINE LEGISLATURE

June 1, 1987

Senator Ronald E. Usher
Representative Michael H. Michaud
Chairpersons

Joint Standing Committee on
Energy and Natural Resources
113th Legislature
Augusta, Maine 04333

Dear Chairs:

Please be advised that Governor John R. McKernan, Jr. has nominated Edward S. Rendall, M.D. of Blue Hill for appointment to the Board of Environmental Protection.

Pursuant to Title 38, M.R.S.A. Section 361, this nomination will require review by the Joint Standing Committee on Energy and Natural Resources and confirmation by the Senate.

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

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

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

The Following Communication: S.P. 578
113th MAINE LEGISLATURE

June 1, 1987

Senator Edgar E. Erwin
Representative Paul F. Jacques
Chairpersons

Joint Standing Committee on Fisheries and Wildlife
113th Legislature

Augusta, Maine 04333

Dear Chairs:

Please be advised that Governor John R. McKernan, Jr. has nominated Carroll York of West Forks for reappointment to the Inland Fisheries and Wildlife Advisory Council.

Please be advised that Governor John R. McKernan, Jr. has nominated Alanson B. Noble of Oxford for appointment to the Inland Fisheries and Wildlife Advisory Council.

Pursuant to Title 12, M.R.S.A. Section 7033, these nominations will require review by the Joint Standing Committee on Fisheries and Wildlife and confirmation by the Senate.

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

Which was READ and referred to the Committee on FISHERIES AND WILDLIFE.

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

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

COMMITTEE REPORTS

Senate

Leave to Withdraw

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

Bill "An Act to Repeal the Certificate of Need Act of 1978"

S.P. 281 L.D. 791

Ought to Pass

Senator KERRY for the Committee on HUMAN RESOURCES on Bill "An Act to Extend the Sunset Provision of the Maine Revised Statutes, Title 5, section 17004"

S.P. 498 L.D. 1515

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 BLACK for the Committee on JUDICIARY on Bill "An Act Authorizing Restitution in Civil Penalty Actions"

S.P. 323 L.D. 951

Reported that the same Ought to Pass.

Which Report was READ and ACCEPTED.

The Bill READ ONCE.

The Bill TOMORROW ASSIGNED FOR SECOND READING.

ORDERS OF THE DAY

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

HOUSE REPORTS - from the Committee on STATE AND LOCAL GOVERNMENT on Bill "An Act to Amend the Civil Service Law to Set Standards for the Creation of Job Classification Specifications"

H.P. 534 L.D. 718

Majority - Ought to Pass in New Draft under New Title Bill "An Act to Require that Job Classifications and Specifications be Determined by Collective Bargaining"

H.P. 1236 L.D. 1688

Minority - Ought to Pass in New Draft under same title.

H.P. 1237 L.D. 1689

Tabled - June 1, 1987, by Senator CLARK of Cumberland.

Pending - ACCEPTANCE OF EITHER REPORT

(In House, May 29, 1987, the Minority OUGHT TO PASS IN NEW DRAFT Report READ and ACCEPTED and the Bill in NEW DRAFT PASSED TO BE ENGROSSED.)

(In Senate, June 1, 1987, Reports READ.)

Senator TUTTLE of York moved to ACCEPT the Majority OUGHT TO PASS IN NEW DRAFT under NEW TITLE Report. (H.P. 1236) (L.D. 1688)

Senator BALDACCI of Penobscot requested a Division.

On motion by Senator WEBSTER of Franklin, the Secretary READ the Committee Reports.

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

A Division has been requested. 29 Senators having voted in the affirmative and 5 Senators having voted in the negative, the motion by Senator TUTTLE of York, to ACCEPT the Majority OUGHT TO PASS IN NEW DRAFT under NEW TITLE (H.P. 1236) (L.D. 1688) Report in NON-CONCURRENCE, PREVAILED.

The Bill in NEW DRAFT under NEW TITLE READ ONCE.

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

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

Bill "An Act to Encourage Investment in the Development of Potato Varieties"

H.P. 678 L.D. 911

(C "B" H-184)

Tabled - June 1, 1987, by Senator DUTREMBLE of York.

Pending - Motion of Senator MATTHEWS of Kennebec to RECONSIDER whereby the Bill FAILED OF PASSAGE TO BE ENGROSSED AS AMENDED

(In House, May 28, 1987, 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-183).)

(In Senate, June 1, 1987, the Minority OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "B" (H-184) Report READ and ACCEPTED in NON-CONCURRENCE and the Bill READ A SECOND TIME. Subsequently, FAILED OF PASSAGE TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "B" (H-184).)

THE PRESIDENT: The pending question before the Senate is the motion of Senator MATTHEWS of Kennebec to RECONSIDER whereby the Bill FAILED OF PASSAGE TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "B" (H-184).

Senator COLLINS of Aroostook requested a Division.

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

Senator MATTHEWS: Thank you Mr. President, men and women of the Senate. I hope that you will not oppose this motion to reconsider and will allow me the opportunity to offer an amendment. If you have a problem with my amendment, then vote against my amendment. But in all fairness, I would ask for the opportunity to present that amendment.

THE PRESIDENT: The pending question before the Senate is the motion of Senator MATTHEWS of Kennebec to RECONSIDER whereby the Bill FAILED OF PASSAGE TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "B" (H-184).

A Division has been requested. 18 Senators having voted in the affirmative and 17 Senators having voted in the negative, the motion by Senator MATTHEWS of Kennebec to RECONSIDER whereby the Bill FAILED OF PASSAGE TO BE ENGROSSED AS AMENDED, PREVAILED.

On motion by Senator MATTHEWS of Kennebec, the Senate RECONSIDERED whereby it ADOPTED Committee Amendment "B" (H-184).

On further motion by same Senator, Senate Amendment "A" (S-111) to Committee Amendment "B" (H-184) READ.

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

Senator MATTHEWS: Thank you Mr. President, men and women of the Senate. Thank you for giving me the opportunity to put my amendment before you. My amendment is a very simple one. First, it entirely strikes the provisions in Committee Amendment "B" and replaces it with Senate Amendment "A" and I will read the Statement of Fact: 'The purpose of this amendment is to entirely remove Committee Amendment "B" and replace it with language which extends the sunset provision by 4 years.'

Men and women of the Senate, if the spirit of compromise is really truly an issue of merit before this Body, then the spirit of compromise is embodied in this amendment. We have had, in the Committee on this Bill, a number of people from the Department from the industry, all sides, state emphatically of this Bill that unless the provision of four years is allowed for the development of new seed varieties there will not be time for those that are using the 945's and the 1207's to adequately propagate a new seed variety. If the intent is not by the L.D. 911 to drive out competition, that that is truly the intent of L.D. 911, not to drive out the competitors, then I would urge you to support this amendment. Four years will provide enough time to try to develop a new variety out of the state seed farm. Five years is considered the normal amount of time to propagate a new seed variety. This amendment today is no guarantee that it will be successful in the development of this new variety. You have disease and all kinds of complications that can arise. I would urge you very, very strongly to support this amendment. As I said earlier and I tried to state my case and the members, I think, of the Senate side that supported the Minority Report, that Frito Lay is asking for the Legislature to stifle competition, to retroactively go back into time to correct a mistake that they made and to provide, the only word that I can come up with is, protectionism. The word protectionism, that is an interesting phrase today because we hear a lot of protectionism.

I favor protectionism for american workers, forms of it, to balance the playing field so that we can have fair and free competition in trade. The Bill before us, the Frito Lay L.D. 911 Bill, asks for protectionism at the detriment of the competitor, not

allowing them on the playing field whatsoever. Who is this competitor? Humpty Dumpty, a Maine company, employing Maine people, we seek to keep Maine business here. Ladies and gentlemen, I hope you will support my amendment. It makes a bad Bill a little better, it gives the competitors a chance and it will somewhat lessen the blow of having Maine becoming now the new patent office. There is a federal patent office in Washington, I guess the Maine Legislature now wants to make us a patent Body. Ladies and gentlemen, I hope you will support this amendment. It is offered in good faith, it is offered in the spirit of compromise and it is offered to keep Maine businesses here that employ Maine people. Thank you.

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

Senator EMERSON: Thank you Mr. President, ladies and gentlemen of the Senate. I guess I am thoroughly confused to exactly what this amendment does, but I would ask to ask a question through the Chair. Does this in effect increase the five year flush out program to a nine year flush out program of this one variety?

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

The Chair recognizes the Senator from Penobscot, Senator Emerson.

Senator EMERSON: Thank you Mr. President, I thought someone on the Agriculture Committee would be able to answer that question, it is quite important. If it does, and I believe it does, it would make kind of a shamble of the flush out program, as far as I am concerned. You all have a letter on your desk which is two pages and I won't read it all, you can probably read as well as I can maybe even better. I would like to read at least one paragraph. 'In 1983, the Maine Legislature passed a law allowing seed lots to be certified as seed for only five years. This program was called a generation or flush out program and was initiated as part of a long range strategy to improve the quality and thus the reputation and sales of Maine seeds.' I believe if you pass this amendment, it would sort of make a shamble of that and I think it would be very damaging to a seed business, because although there is only one variety involved, one of the reasons, and I am certainly not an expert on seed production, they have the five year flush out program is on account of disease. That is the principle reason because even though potatoes are certified they still pick up some diseases and viruses that don't come out with the certification program. If you allow that variety of potatoes to reproduce nine years there will be diseased potatoes around which will effect neighboring farms and it would be very damaging I believe. Also, some of the other seed producers would wonder why they couldn't extend the flush out on their particular variety. So, I think it would very damaging.

One other thing I heard was about this great giant company centered in Dallas Texas opposing a little company in Maine and if the Maine company couldn't have this particular variety of potatoes they would go out of business. That is not the only variety of potatoes that they use in the shipping process. One of the most popular varieties in the country is the Winona and that is a public variety and all chippers use that, even Humpty Dumpty I guess. They all do use it, it is a very popular variety, so don't think for a moment that, that person is going to go out of business because this potato is not available to them. Thank you.

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

Senator COLLINS: Thank you Mr. President and members of the Senate. I concur with the good Senator from Penobscot, Senator Emerson. It seems to me that the amendment is an attempt to put into shambles the whole Bill and not only does it do that but it destroys the whole certification problem as the good Senator has told you. The reason that was enacted a few years ago, was to improve the quality of Maine's seed and to encourage to make better the whole potato program, which we have mentioned to you earlier in the day. I think that the good Senator from northern Aroostook indicated to you that our state seed farm in Masardis was developing a new species which would probably be available to the marketplace within a year. It seems to me that the idea of an extension program, such as outlined in the amendment, is beyond the realm of compromise. The present Bill in the A Report does provide for a two year period in which to phase out the present program. If this is way and beyond any attempt to compromise and I would urge that you defeat this motion. Thank you Mr. President.

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

Senator THERIAULT: Thank you Mr. President and members of the Senate. I would like to make a few brief comments. As far as I know, the Potato Board represents the potato industry in the state of Maine. And the Potato Board supports L.D. 911 as amended by Committee Amendment "A". We have roughly four hundred seed growers in Maine, eleven of those growers grow seed for Frito Lay. This Bill is before us because of three growers who grow this particular seed which is not authorized by the developer to be used in this process. Somewhere in this debate we have been led to believe that this Bill is before us because of Frito Lay. As a matter of fact, this Bill was put together by the Potato Board in conjunction with the Department of Agriculture. I would like to cite to you some of the information I have here as to why this L.D. is before us. 'L.D. 911, arose when the Department learned that a certified potato seed grower was requesting an import permit to bring in ten thousand FL 945 nuclear seed platelets from a tissue culture lab in Florida. By sending these to the tissue culture lab, the grower was able to circumvent the generation program by bringing into the state nuclear seed platelets of a non-released variety.'

At this point, no other means were available to correct the non-release variety problem except for new legislation. Thence, the advent of 911. This Bill is before us because the industry thinks that we need it. What is at stake here, is the potential future of the potato industry versus three farmers who are growing seed that has not been authorized by the company. I think that the choice is easy to make when you look at it in the true prospective that it is. So, I would urge you to defeat the amendment and to adopt Committee Amendment "A". Thank you.

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

Senator MATTHEWS: Thank you Mr. President, I will try very briefly to answer the question from the good Senator from Penobscot, Senator Emerson. I don't fully understand the entire flush out program, I don't fully understand all of the intricacies of agriculture. I will admit that, I have been learning, I guess it is the school of hard knocks, but I do know that the flush out program, if the concern, as voiced by the good Senator, is with disease and extending that flush out program than I would ask him what difference is it with the Committee Amendment offered by the gentlelady from

Aroostook County in the other Body to extend a two year sunset provision versus my amendment which extends it four years?

THE PRESIDENT: The Chair would caution the Senator making reference to action in the other Body.

The Chair recognizes the Senator from Penobscot, Senator Emerson.

Senator EMERSON: Thank you Mr. President, I would be very glad to answer that. According to my arithmetic, if you subtract two from four you have two, so it would be two years difference. But in my presentation this morning, I remarked that I would rather have the Bill L.D. 911 without any amendments.

On motion by Senator COLLINS of Aroostook, 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 the motion of Senator MATTHEWS of Kennebec to ADOPT Senate Amendment "A" (S-111) to Committee Amendment "B" (H-184).

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 ANDREWS, BALDACCI, BUSTIN, DILLENBACK, DOW, DUTREMBLE, ERWIN, ESTES, GAUVREAU, GILL, KANY, KERRY, MATTHEWS, TUTTLE, TWITCHELL, USHER, THE PRESIDENT - CHARLES P. PRAY

NAYS: Senators BERUBE, BLACK, BRANNIGAN, BRAWN, CAHILL, CLARK, COLLINS, EMERSON, GOULD, LUDWIG, MAYBURY, PEARSON, PERKINS, RANDALL, SEWALL, THERIAULT, WEBSTER, WHITMORE

ABSENT: Senators None

17 Senators having voted in the affirmative and 18 Senators having voted in the negative, with No Senators being absent, the motion of Senator MATTHEWS of Kennebec, to ADOPT Senate Amendment "A" (S-111) to Committee Amendment "B" (H-184), FAILED.

Senate at Ease

Senate called to order by the President.

On motion by Senator PERKINS of Hancock, the Senate RECONSIDERED whereby it ACCEPTED the Minority OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "B" Report.

THE PRESIDENT: The pending question before the Senate is the motion of Senator MATTHEWS of Kennebec, to ACCEPT the Minority OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "B" (H-184) Report.

On motion by Senator MATTHEWS of Kennebec, 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 Dillenback.

Senator DILLENBACK: Thank you Mr. President, ladies and gentlemen of the Senate. I am going to be very brief, but it seems to me that when you pass a law in this state, it shouldn't be retroactive. It seems to me that common law says when you pass a law it should go forward. That is what Committee Amendment "B" does. Anything that happens after this time, would be protected under the law. Why should we go back and try to protect something that happened several years ago, or even ten years ago? It doesn't seem fair to me. Thank you.

THE PRESIDENT: The pending question before the Senate is the motion of Senator MATTHEWS of Kennebec

to ACCEPT the Minority OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "B" (H-184) 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, BLACK, BUSTIN, DILLENBACK, DOW, DUTREMBLE, ERWIN, ESTES, GAUVREAU, GILL, KANY, KERRY, MATTHEWS, TUTTLE, TWITCHELL, USHER

NAYS: Senators BALDACCI, BERUBE, BRANNIGAN, BRAWN, CAHILL, CLARK, COLLINS, EMERSON, GOULD, LUDWIG, MAYBURY, PEARSON, PERKINS, RANDALL, SEWALL, THERIAULT, WEBSTER, WHITMORE, THE PRESIDENT - CHARLES P. PRAY

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 MATTHEWS of Kennebec, to ACCEPT the Minority OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "B" (H-184) Report, FAILED.

Senator TWITCHELL of Oxford moved the INDEFINITE POSTPONEMENT of the Bill and Accompanying Papers.

On motion by Senator COLLINS of Aroostook, 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 Oxford, Senator Twitchell.

Senator TWITCHELL: Thank you Mr. President and members of the Senate. The only reason this Bill is before the Senate is because Frito Lay thought they could pass it. This Bill should have gone to the courts and Frito Lay knows it. We have L.D. 911 in this Body today and we are acting as a judge and a jury and that is not right. The only place this Bill should have gone, and the good Senator from Aroostook knows it, is to the courts to let them fight it out there. I have talked to Mr. Cole, who owns Humpty Dumpty, and he said he wished that the state would stay out of it and let he and Frito Lay go to court to take care of this.

That is what we should do, we should have no part of this Bill, it should never have been before us, it is a bad piece of legislation and I suggest that you support my motion to Indefinitely Postpone this Bill. Thank you.

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

Senator THERIAULT: Thank you Mr. President and members of the Senate. I would like to reiterate that this Bill is not before us because of Frito Lay. This Bill is before us because the potato industry and the Department of Agriculture brought it before us because there was a problem that had developed that needed to be addressed. I hope that you will vote against the motion to Indefinitely Postpone this Bill.

THE PRESIDENT: The pending question before the Senate is the motion of Senator TWITCHELL of Oxford to INDEFINITELY POSTPONE the Bill and Accompanying Papers.

A vote of Yes will be in favor of INDEFINITE POSTPONEMENT.

A vote of No will be opposed.

Is the Senate ready for the question?

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEAS: Senators ANDREWS, BALDACCI, BUSTIN, DILLENBACK, DOW, DUTREMBLE, ERWIN,

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

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
 TWITCHELL of Oxford, to INDEFINITELY POSTPONE the the
 Bill and Accompanying Papers, FAILED.

The Majority OUGHT TO PASS AS AMENDED BY
 COMMITTEE AMENDMENT "A" (H-183) Report was ACCEPTED,
 in concurrence.

The Bill READ ONCE.

Committee Amendment "A" (H-183) READ and ADOPTED,
 in concurrence.

The Bill as Amended, TOMORROW ASSIGNED FOR SECOND
 READING.

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

HOUSE REPORTS - from the Committee on BUSINESS
 LEGISLATION on Bill "An Act Relating to Radon Gas"
 H.P. 714 L.D. 965

Majority - Ought Not to Pass

Minority - Ought to Pass

Tabled - June 1, 1987, by Senator CLARK of
 Cumberland.

Pending - motion by the Chair to RECEDE and
 CONCUR.

(In House, May 27, 1987, the Minority OUGHT TO
 PASS Report READ and ACCEPTED and the Bill PASSED TO
 BE ENGROSSED.)

(In Senate, May 28, 1987, the Majority OUGHT NOT
 TO PASS Report READ and ACCEPTED in NON-CONCURRENCE.)

(In House, June 1, 1987, that Body ADHERED.)

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

Senator BALDACCI: Thank you Mr. President, I
 would like to pose a parliamentary inquiry. Would a
 motion to adhere be precedent over a motion to Recede
 and Concur?

THE PRESIDENT: The Chair would answer in the
 negative.

Senator BALDACCI of Penobscot requested a
 Division.

THE PRESIDENT: The pending question before the
 Senate is the motion of the Chair to RECEDE and
 CONCUR.

A Division has been requested. 1 Senator having
 voted in the affirmative and 31 Senators having voted
 in the negative, the motion by the Chair to RECEDE
 and CONCUR, FAILED.

On motion by Senator BALDACCI of Penobscot, the
 Senate ADHERED.

Senator BALDACCI of Penobscot moved that the
 Senate RECONSIDER whereby it ADHERED.

A Viva Voce Vote being had, the motion of Senator
 BALDACCI of Penobscot to RECONSIDER whereby the
 Senate ADHERED, FAILED.

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

HOUSE REPORTS - from the Committee on TAXATION on
 Bill "An Act to Provide Municipalities with the
 Option of Assessing Service Charges on Tax-exempt
 Property"

H.P. 811 L.D. 1085

Majority - Ought Not to Pass.

Minority - Ought to Pass.

Tabled - June 1, 1987, by Senator CLARK of
 Cumberland.

Pending - motion of Senator TWITCHELL of Oxford
 to ACCEPT the Majority OUGHT NOT TO PASS Report.

(In House, June 1, 1987, the Majority OUGHT NOT
 TO PASS Report READ and ACCEPTED.)

(In Senate, June 1, 1987, Reports READ.)

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

Senator BRANNIGAN: Thank you Mr. President, men
 and women of the Senate. As cosponsor of this Bill,
 I am glad to say a few words about it. This Bill
 would allow local communities to make a decision on
 their own on how they would treat the tax exemption
 for certain types of non-profit entities. I believe
 strongly that we should defeat the pending motion of
 Ought Not to Pass and we should accept the Ought to
 Pass Report. It seems to me that it is time we made
 some changes in the way property tax is done in the
 state of Maine. We have talked about it for years
 and years. We have a commission to study it for a
 year or more, the so-called Cashman Commission and
 the Ought to Pass Report is a Majority Report out of
 the Cashman Commission. As you can see by the
 Report, the Chair of that Commission did not agree,
 but that commission was made up of lots of people,
 some of them from the Legislature, but many of them
 from communities. The majority of that Committee
 said that people should have the right within their
 communities to make decisions on how they treat
 certain types of tax exempt property. I realize that
 the Taxation Committee has wrestled with this
 approach, some of them for many years, but I don't
 see any changes coming.

I don't see any changes from these studies at
 this point. Here is what? there was a slight
 change, that gave communities a chance, especially of
 those who are service centers, who have many
 hospitals, many services as I provide. I stand here
 criticized by some of my peers in the service
 industry, the human service providers, but I stand
 here first as a Senator from Portland and I stand
 here saying that we need to deal with this issue.
 Property tax should not be just for a portion, we
 should make some changes, this is an option.

It only gives us an option, it requires that each
 municipality will have to have a referendum on how
 they are going to handle it, if they wish to make a
 change from the present system.

It allows only for the services that a group
 uses, trash collection, snow plowing, police and
 fire, that is all. My organization pays that
 voluntarily. The more we grow the more we pay and we
 do that willingly. Few other organizations in my
 community do that, most do not. I understand that
 many organizations who are very brick and mortar
 rich, or brick and mortar poor, which ever you want
 to call it, we have big buildings and they are
 concerned. The city can decide, the town can decide
 how they want to handle that. Let us have some
 opportunity to have control of our own destiny.

Senator BRANNIGAN of Cumberland requested a
 Division.

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

Senator BALDACCI: Thank you Mr. President and
 members of the Senate. This piece of legislation
 represents some hope to the city of Bangor, which of
 all its property values, 50% of it is tax exempt, for
 one reason or another. It is a tremendous drain on
 the population to continually try to come up with the
 services for a large city where 50% of that is tax

exempt. If this can offer the community an opportunity to decide amongst themselves to hold hearings and then implement a procedure where they would be paying for basic services, basic municipal services, that are provided to them. They wouldn't be able to pick and choose, but it would be done to all. That is what all the service groups have always said, if you do it to us, do it to all of the service organizations or the tax exempts, don't pick and choose. Basic municipal services are provided, like snow removal, fire and protection and trash pick up. If they were used like a user fee to help defray those costs, it would help so much in the operations of a city like Bangor, where 50% of it is tax exempt. I don't know what the statistics are in a city like Portland, but you are not saying this is going to be the policy for the state of Maine, the city of Bangor, the city of Portland, or where ever, will decide for itself whether it wanted in fact to do it. You are just allowing them to have that option. So, I would hope that you would support the Minority Report. Thank you.

THE PRESIDENT: The pending question before the Senate is the motion of Senator TWITCHELL of Oxford, to ACCEPT the Majority OUGHT NOT TO PASS Report.

A Division has been requested. 23 Senators having voted in the affirmative and 10 Senators having voted in the negative, the motion by Senator TWITCHELL of Oxford, to ACCEPT the Majority OUGHT NOT TO PASS Report, PREVAILED, in concurrence.

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

Bill "An Act to Increase the Minimum Wage"

H.P. 869 L.D. 1170

Tabled - June 1, 1987, by Senator CLARK of Cumberland.

Pending - PASSAGE TO BE ENGROSSED in NON-CONCURRENCE (Roll Call ordered)

(In House, June 1, 1987, PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "A" (H-188).)

(In Senate, June 1, 1987, READ A SECOND TIME.)

Senate at Ease

Senate called to order by the President.

On motion by Senator DUTREMBLE of York, Senate Amendment "A" (S-115) READ.

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

Senator DUTREMBLE: Thank you Mr. President, this is a fiscal note for the minimum wage Bill.

On motion by Senator DUTREMBLE of York, Senate Amendment "A" (S-115) ADOPTED.

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

Off Record Remarks

On motion by Senator PERKINS of Hancock, 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 BALDACCII: Thank you Mr. President and members of the Senate. It has been a very busy day here in the Legislature as all of you know. Our Committee just finished working around five o'clock

and I have been trying to go through documentation on the minimum wage. I did not receive in the data that I had asked for earlier in regards to its impact, but I am reviewing the debate that the Committee had and the testimony that was supplied to the Committee and no documentation or data that has been come across as far as the last three impacts. I am not voting for this until I have had an opportunity to at least try to find out what has happened since we have increased it the last three years and to see what its impact was. I am very concerned about that and I don't intend to vote on that until I have had that opportunity. Thank you very much.

The President requested the Sergeant-At-Arms escort the Senator from Cumberland, Senator CLARK to the Rostrum where she assumed the duties as President Pro Tem.

The President then took a seat on the floor of the Senate.

Senate called to order by the President Pro Tem.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Penobscot, Senator Pray.

Senator PRAY: Thank you Madam President, ladies and gentlemen of the Senate. To respond to the inquiry this morning by the good Senator from Penobscot, Senator Baldacci. Following this mornings session, through my office, we contacted the individuals, David Vail, the professor of economics at Bowdoin College, who had done a study in 1984 on the economic impact of Maine's minimum wage law.

The basic information we have is that why there are raw numbers out there that are relevant to the various studies and indicators that were done at that time, there have been no subsequent studies done. The facts and figures that were predicted in that report have pretty much followed through and have come through. In the report, they had suggested that there would be a net gain of approximately 30,000 jobs by the year 1988, as of 1986 there has been an increase of 31,400 and at the present rate, if we continue in the report on the impact of minimum wage of Maine's economy will be negligible, that we will have exceeded that by a fair margin, by several percentage points.

In that same report, the evaluation of the estimation of the buying power of minimum wage and its impact, in reference to the jobless unemployment benefit and to the subsequent impact on other areas, has basically proved that those are kind of moving figures and an individual can interpret anything that they would want to, to them. The number of people that are earning minimum wage has basically stayed the same in percentage with the states average to that study that was done before, if we look at just the statistical information that is available. So, while there has not been any additional studies or evaluations done, only to look at the raw data, material and numbers that were presented in that report and one looks at the predictions then the predictions proved that they were pretty much on target. The recommendation of the report was that there would be no adverse economic impact based on the minimum wage to the business climate or to the economic impact status of the state and that report, from those figures, would show that this type of increase would not have any type of a different impact then that of the study done in 1984.

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

Senator BALDACCI: Thank you Madam President, men and women of the Senate. I do appreciate the good Senator from Penobscot, Senator Pray, eluding to the study and to the information on the study and further making the contact. It is trying to be handled in the most constructive way possible because I think it is important that the documentation be available as far as updating that study. The documentation that was at the hearing, I think, according to the "New York Times" editorials, according to testimony by minority counsels that maybe money would be better spent if it got off the minimum wage debate and on to job training and day care and that sort of thing to supplement the wage earner, which was brought out, and is an interesting point. Rather than get into that kind of discussion, I think it is very important to be able to have the study updated so we do know what the actual impact was.

It is something that I would really like to know because instead of being able to debate what is going to happen or what everybody thinks, we actually have some documentation that should be available because it has been implemented for three consecutive years, it should be available to be able to update the study from that actual population.

We have heard the arguments that it is going to get people off welfare, if you pay them a decent wage they won't have to go to the AFDC for assistance. They were going to raise it to get them over that particular level, we have heard about that and I would like to see some documentation in that area, I would like to see that it is working. It is an important area and I think just generally before we act on this sort of thing, I think it is important. It is something that if you want to do it right and you get the information to go along with it, it is just not going out there like a shooting match in the dark. So, I appreciate the constructiveness and I would like to continue that. If the members are concerned about doing this or for some other reason.

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

Senator BUSTIN: Thank you Madam President, ladies and gentlemen of the Senate. I can't help rising in response to the good Senator from Penobscot, Senator Baldacci, regarding day care and all the other services that are needed by those who work, whether they be men or women, mothers or fathers. I can't believe that we can talk about minimum wage and raising it and not think that is going to help. The working women or the working man to help support the families or to help to find the appropriate day care. I can't believe that raising peoples wages aren't going to assist them in that process. I don't think you need documentation to show you that raising wages is going to help them get those services.

Further than that, even if you raise the wages their still not going to be able to afford the quality day care, we are still going to have to pitch in for that, we are still going to have to ask the employers to help with that. We are still going to have to put out a smorgasbord of benefits for people to pick and choose from. Those people who need day care will have to choose a day care service, for those people who need the higher insurance coverage, will have to pick the higher insurance coverage, any of those benefits will have to be chosen by those individuals. They will still have to be provided and you still, even if you raise the minimum wage, will find people who are not going to be able to afford to live in this society without help from us. I have to bring to your attention that I had an on-site day

care Bill up in the Human Resources Committee and I was asked if I wanted a Leave to Withdraw or Ought Not to Pass that Bill, because the Human Resources Committee opted not to do anything on day care except to send a letter to the Human Services, because they have hired a new person to look at day care, I have been trying for six years in this Legislature to get something done on day care. I hear the good Senator from Penobscot, Senator Baldacci, talk to me about providing day care services instead of giving them money for minimum wage.

I think it was about time we started paying people to get these services themselves along with the help that I think is rightfully theirs to provide those services. There is a high percentage of people, both mothers and fathers, who are working in this state now and they have to be able to support themselves. I think it is time we faced the music and accepted the fact of life.

THE PRESIDENT PRO TEM: 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, BERUBE, BRANNIGAN, BUSTIN, DOW, DUTREMBLE, ERWIN, ESTES, GAUVREAU, KANY, KERRY, MATTHEWS, PEARSON, PRAY, THERIAULT, TUTTLE, USHER, THE PRESIDENT PRO TEM - NANCY RANDALL CLARK

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

ABSENT: Senators None

Senator KANY of Kennebec requested and received Leave of the Senate to change her vote from NAY to YEA.

18 Senators having voted in the affirmative and 17 Senators having voted in the negative, with No Senators being absent, the Bill was PASSED TO BE ENGROSSED, as Amended in NON-CONCURRENCE.

Sent down for concurrence.

President PRAY of Penobscot was granted unanimous consent to address the Senate off the Record.

On motion by President PRAY of Penobscot, ADJOURNED until Tuesday, June 2, 1987, at 9:00 in the morning.