

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

full price, when you are in business, you pay half price. Not only that, but according to the agreement, the service stations are metering their tanks ever day and they have to send this off to Massachusetts to have them calibrate it and tell them how much they are, either plus or minus. I say that it is time that they got on the ball and the only way that we are going to shake them up a little bit is to reduce these fees. I ask you if you would vote with me on this.

I think it is only fair folks. It isn't right that one segment of the underground tank industry should be paying for this. We know there is spillage, we know there is work to be done. I hope that you will vote with me.

Subsequently, the House voted to adhere.

(Off Record Remarks)

On motion of Representative Ruhlin of Brewer, Adjourned until Wednesday, June 17, 1987, at ten o'clock in the morning.

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

In Senate Chamber
Tuesday
June 16, 1987

Senate called to Order by the President.

Prayer by the Honorable Ronald E. Usher of Cumberland.
SENATOR USHER: Oh Lord, give us guidance today, as we near the final days of this Legislature. Give us the strength to be responsible Senators. We thank you, Lord. God bless the strikers. Amen.

Reading of the Journal of Yesterday.

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 Provide Funds to Local School Administrative Units and to the Department of Educational and Cultural Services to Implement and Meet the Requirements of the Teacher and Administrator Certification Laws" (Emergency)
H.P. 1193 L.D. 1625

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 Change the Operating Cost Millage and Provide Additional Funds for Public Schools in Fiscal Year 1987-88" (Emergency)
S.P. 556 L.D. 1664

ENACTORS

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

An Act Providing for Administrative Changes in Maine Tax Laws

S.P. 512 L.D. 1536
(C "A" S-193)

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

ORDERS OF THE DAY

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

Bill "An Act Creating the Maine Low-level Radioactive Waste Authority" (Emergency)
S.P. 639 L.D. 1865

Tabled - June 15, 1987, by Senator CLARK of Cumberland.

Pending - PASSAGE TO BE ENGROSSED

(In Senate, June 15, 1987, READ A SECOND TIME.)

On motion by Senator USHER of Cumberland, Senate Amendment "A" (S-218) READ and ADOPTED.

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

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

Bill "An Act to Ensure Safe Management, Recycling and Disposal of Solid Waste and to Reorganize the Solid Waste Law" (Emergency)

H.P. 1360 L.D. 1862

Tabled - June 15, 1987, by Senator CLARK of Cumberland.

Pending - PASSAGE TO BE ENGROSSED

(In House, June 15, 1987, PASSED TO BE ENGROSSED.)

(In Senate, June 15, 1987, READ A SECOND TIME.)

On motion by Senator WEBSTER of Franklin, Senate Amendment "A" (S-219) READ.

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

Senator KANY: Mr. President. I will ask for a Division on the Adoption of this amendment. I do appreciate the reason why our good Senator from Franklin, Senator Webster, has offered this amendment. He represents the town of Norridgewock, which has really been the recipient of a great deal of waste of various types. Largely this is from out-of-state, and includes asbestos and other types of waste that most Maine people would not want to have deposited in their back yard. I did ask the Attorney General's Office about the constitutionality of this particular amendment and Cab Howard, who is in charge of the Opinions Division of the Attorney General's Office, has said that in his opinion that it is equivocally unconstitutional. He cited a number of cases. He wasn't ambivalent in his opinion. The most recent Maine case that people may remember had to do with truck laws, in which although there was a reciprocal clause in that law that our law court found that was unconstitutional. In addition to the unconstitutionality of this amendment, I have a second problem. Even if we did adopt it and it were constitutional, I'm afraid that other states, like Massachusetts might attempt to take a like action regarding hazardous waste. It is interesting because the hazardous waste, this is not the special waste such as asbestos, but hazardous waste, we do not have a single commercial hazardous waste disposal facility in this State.

What we do, we do treat and dispose of a lot of hazardous waste right on site wherever it is generated, let's say at one of the paper mills. Then, of that which is shipped to a commercial disposal facility, most of it goes to either Massachusetts or to Canada. Particularly, if we are attempting, in this amendment, to react against the asbestos and other special waste which originate in Massachusetts, you can see where the adoption of this amendment would create a problem and a likelihood that Massachusetts would attempt to do the same thing to us regarding the hazardous waste, which we now send there. Those are two major reasons why I oppose the Adoption of this amendment.

The third reason is that I believe that the Energy and Natural Resources Committee and all of the organizations, industry, the operators, the environmental groups and finally, of course, the decision maker, the Energy and Natural Resources Committee, did an absolute super job in developing this wonderful solid waste management system bill, which is before us.

I would hate to see us tamper with it because they did address fully, in my opinion, the very important part of trying to discourage out-of-state waste from coming in, understanding the U.S. Constitution's interstate clause and the fact that you can not just prohibit the importation of it.

What they did was require a public needs analysis before you develop any capacity or for a commercial

disposal of waste. You would have to show that the State of Maine, the need was there, in order to develop that. Also, you had to do that even if you were just expanding an existing facility, which is Norridgewock. I believe that is the appropriate way to handle this very tricky problem. I to urge and I ask for a Division. I urge you not to Adopt this amendment for those three reasons. I fully appreciate the good Senator's attempt to represent his constituents, very well, which is what he is trying to do. They do have a very difficult problem and I could not be more sympathetic.

Senator KANY of Kennebec requested a Division.

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

Senator USHER: Mr. President and members of the Senate. I echo the words from the good Senator from Kennebec, Senator Kany. This issue was brought before our Committee and our workshop many times. We had the representatives from the Attorney General's Office at many of our hearings and discussed this at great length. It was a concern. The constituents from Senator Webster's constituency were present at just about ninety nine percent of our meetings. I don't think they missed very many. They were very concerned about this and so it was discussed from both sides. We did agree, as a committee, and also through the workshop, that the policy that we had put into print, we would adopt. I would oppose the pending motion of Adoption of this amendment.

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

Senator WEBSTER: Mr. President and members of the Senate. First, I would like to thank the Senate and the members here for listening to the previous debate and what I have to say, today, on this matter. I want to commend the Energy and Natural Resources Committee. I was involved, at least as an observer, in the process. I think they did a good job and I believe this Bill is going to be doing good things for the State and for the people who I represent. I want to say, right up front, and this is a sincere amendment. I have no intention of trying to do anything to scuttle the legislation before us.

I do represent Norridgewock, and there are members of the Senate who represent other areas in the State that do have dumps. It is a concern to my constituency. It is a concern to some of yours that Maine does not become a dumping ground for New England when it comes to solid waste. My real frustration with current law, at least with what I see as a problem in this Bill.

I have a real frustration with what is going on out there is particularly asbestos, which is coming to Norridgewock in my district and through many of yours, to bring asbestos from Massachusetts. I see this amendment as being a common sense approach to deal with this issue. The amendment simply states and I would like to read part of it.

The intention of the amendment is to say that places like Massachusetts, where they do make it illegal to dump asbestos in their states, and I don't think it is logical that we have to accept theirs, if they won't accept ours. It is my understanding that Massachusetts, through the towns, have decided that we can't dump asbestos in the State of Massachusetts. Well, if they don't allow it to be dumped in their own state, it is hard for me to see why we should allow it in ours.

I feel very strongly that those of us who live in this State and are going to have grandchildren and great grandchildren who live here after us, should not have to be the dumping ground and should not have

to take this waste from all over New England. All of us remember the barge that no one wanted. I was pleased to know, first that we did not take it, I wasn't pleased to know that we were considered, we being Morrignewock. I just feel and I have been told today by several people and the good Senator speaking before me said that this Bill might be unconstitutional, this amendment. Well, I am not a lawyer and I guess that is quite well known throughout my area and by members of the Senate. I'm not a lawyer but I am a firm believer in common sense. This amendment makes common sense to me. I have the most respect for Mr. Howard, in his opinion. He is one man and he has the right to his opinion. I have had other lawyers tell me that it might not stand up in court. I would say that I would ask the Senate today to give the people in Maine a chance to test this in the court. If the other state dumpers want to come in here and dump waste and they want to argue that this is illegal, this law is unconstitutional, then let the courts throw this out. I happen to think it makes sense and I would ask members of the Senate to support me on this amendment. I would politely ask for a Division, if one hasn't already been requested. Thank you.

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

Senator TUTTLE: Mr. President, men and women of the Senate. As Senator Webster of Franklin, I have many areas which I represent that are concerned about this issue. In having offered similar ideas and amendments before the Committee on Energy and Natural Resources, I feel that a more appropriate time might be to present legislation, somewhere down the road, that really might be able to address this problem. My fear of adopting this amendment right now is that it might make the whole Bill and all the work that the Energy and Natural Resources Committee did, in vain, and put the whole issue in an unconstitutional posture. I will be supporting the motion against this amendment even though I do it with a heavy heart.

THE PRESIDENT: The pending question before the Senate is the motion of Senator WEBSTER of Franklin to ADOPT Senate Amendment "A" (S-219).

A Division has been requested.

Will all those Senators in favor of the motion of Senator WEBSTER of Franklin to ADOPT Senate Amendment "A" (S-219), please rise in their places and remain standing until counted.

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

11 Senators having voted in the affirmative and 17 Senators having voted in the negative, the motion of Senator WEBSTER of Franklin to ADOPT Senate Amendment "A" (S-219), FAILED.

Which was PASSED TO BE ENGROSSED, in concurrence.

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

Bill "An Act to Amend the State Retirement Laws"

S.P. 617 L.D. 1818

(H "A" H-335 to S

"A" S-184)

Tabled - June 15, 1987, by Senator CLARK of Cumberland.

Pending - Motion of same Senator to RECONSIDER RECEDING and CONCURRING

(In Senate, June 15, 1987, RECEDED and CONCURRED.)

(In House, June 12, 1987, PASSED TO BE ENGROSSED AS AMENDED BY SENATE AMENDMENT "A" (S-184) AS AMENDED BY HOUSE AMENDMENT "A" (H-335), thereto in NON-CONCURRENCE.)

(In Senate, June 11, 1987, PASSED TO BE ENGROSSED AS AMENDED BY SENATE AMENDMENT "A" (S-184).)

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

On further motion by same Senator, the Senate RECEDED from PASSAGE TO BE ENGROSSED AS AMENDED.

On further motion by same Senator, the Senate RECEDED from ADOPTION of Senate Amendment "A" (S-184) as Amended by House Amendment "A" (H-335), thereto.

On further motion by same Senator, the Senate RECEDED from ADOPTION of House Amendment "A" (H-335) to Senate Amendment "A" (S-184).

On further motion by same Senator, House Amendment "A" (H-335) to Senate Amendment "A" (S-184), INDEFINITELY POSTPONED in NON-CONCURRENCE.

On further motion by same Senator, Senate Amendment "A" (S-220) to Senate Amendment "A" (S-184) READ and ADOPTED.

Senate Amendment "A" (S-184) as Amended by Senate Amendment "A" (S-220), thereto ADOPTED in NON-CONCURRENCE.

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

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

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

Off Record Remarks

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

After Recess

Senate called to order by the President.

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

SENATE PAPERS

Bill "An Act to Amend the Laws Administered by the Department of Environmental Protection"

S.P. 641 L.D. 1868

Presented by Senator USHER of Cumberland
Cosponsored by: Senator PERKINS of Hancock,
Representative DEXTER of Kingfield,
Representative MICHAUD of East Millinocket
Committee on ENERGY AND NATURAL RESOURCES
suggested and ORDERED PRINTED.

Which was, under suspension of the Rules, READ TWICE and PASSED TO BE ENGROSSED, without reference to a Committee and ORDERED PRINTED.

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:

PAPERS FROM THE HOUSE

Non-concurrent Matter

Bill "An Act Relating to Boards and Commissions"

H.P. 959 L.D. 1288

(C "A" H-295; S "A"

S-212 to H "A"

H-336; H "C" H-365;

S "A" S-202)

In House, June 15, 1987, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-295) AND HOUSE AMENDMENT "C" (H-365).

In Senate, June 15, 1987, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-295) AND HOUSE AMENDMENT "A" (H-336) AS AMENDED BY SENATE AMENDMENT "A" (S-212) thereto, AND HOUSE AMENDMENT "C" (H-365) AND SENATE AMENDMENT "A" (S-202) in NON-CONCURRENCE.

Comes from the House, that Body ADHERED.
The Senate ADHERED.
(See Action Later Today)

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

COMMUNICATIONS

The Following Communication:

STATE OF MAINE
HOUSE OF REPRESENTATIVES
AUGUSTA 04333

June 16, 1987

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

Dear Madam Secretary:

The House voted today to adhere to its former action whereby it indefinitely postponed Bill "An Act to Prevent Criminals from Profiting as an Indirect Result of Their Crime" (H.P. 1297) (L.D. 1775).

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

Which was READ and ORDERED PLACED ON FILE.

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

COMMUNICATIONS

The Following Communication:

STATE OF MAINE
HOUSE OF REPRESENTATIVES
AUGUSTA 04333

June 16, 1987

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

Dear Madam Secretary:

The House voted today to adhere to its former action whereby it indefinitely postponed Bill "An Act to Transfer Administrative Authority over Traffic Infractions to the Secretary of State" (H.P. 1343) (L.D. 1835).

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

Which was READ and ORDERED PLACED ON FILE.

ORDERS OF THE DAY

On motion by Senator PEARSON of Penobscot, the Senate removed from the SPECIAL APPROPRIATIONS TABLE the following:

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

S.P. 532 L.D. 1603

Tabled - May 21, 1987, by Senator PEARSON of Penobscot.

Pending - ENACTMENT

(In House May 21, 1987, PASSED TO BE ENACTED.)

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

On motion by Senator PEARSON, the Bill and Accompanying Papers RECOMMITTED to the Committee on HUMAN RESOURCES in NON-CONCURRENCE.

Sent down for concurrence.

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

Senator PEARSON of Penobscot was granted unanimous consent to address the Senate off the Record.

On motion by Senator PEARSON of Penobscot, the Senate removed from the SPECIAL APPROPRIATIONS TABLE the following:

Emergency

An Act Establishing the Maine Commission on Outdoor Recreation

S.P. 427 L.D. 1307
(C "A" S-186)

(In House, June 15, 1987, ENACTED.)

(In Senate, June 12, 1987, PASSED TO BE ENGROSSED, AS AMENDED BY COMMITTEE AMENDMENT "A" (S-186).)

THE PRESIDENT: The Chair recognizes that same Senator.

Senator PEARSON: It is my understanding that the Committee that originally had the Bill wishes to amend it.

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

Senate at Ease

Senate called to order by the President.

On motion by Senator CLARK of Cumberland, the Chair laid before the Senate the Tabled and Later Today Assigned matter:

An Act Establishing the Maine Commission on Outdoor Recreation (Emergency)

S.P. 427 L.D. 1307
(C "A" S-186)

Tabled - June 16, 1987, by Senator CLARK of Cumberland.

Pending - ENACTMENT

(In House, June 15, 1987, PASSED TO BE ENACTED.)

(In Senate, June 12, 1987, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-186).)

On motion by Senator USHER of Cumberland, the Senate SUSPENDED THE RULES.

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

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

On further motion by same Senator, the Senate RECONSIDERED whereby it ADOPTED Committee Amendment "A" (S-186).

On further motion by same Senator, Senate Amendment "B" (S-222) to Committee Amendment "A" (S-186) READ and ADOPTED.

Committee Amendment "A" (S-186) as Amended by Senate Amendment "B" (S-222), thereto ADOPTED in NON-CONCURRENCE.

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

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

The Chair laid before the Senate the Tabled and Later Today Assigned matter:
 Bill "An Act Creating the Maine Low-level Radioactive Waste Authority" (Emergency)

S.P. 639 L.D. 1865
 (S "A" S-218)

Tabled - June 16, 1987, by Senator CLARK of Cumberland.

Pending - PASSAGE TO BE ENGROSSED AS AMENDED (In Senate, June 16, 1987, Senate Amendment "A" (S-218) READ and ADOPTED.)

On motion by Senator KANY of Kennebec, Senate Amendment "B" (S-221) READ.

THE PRESIDENT: The Chair recognizes that same Senator.

Senator KANY: Mr. President and members of the Senate. Just a brief explanation. The Amendment is purely technical. A few technical items including inclusion of which Committee has jurisdiction over the confirmation process. Of course that Committee is the Committee which has jurisdiction over Energy and Natural Resources.

On further motion by same Senator, Senate Amendment "B" (S-221) ADOPTED.

Which was PASSED TO BE ENGROSSED, as Amended.

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

HELD BILL

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

Senator DOW: Mr. President, is the Senate in possession of L.D. 1615?

THE PRESIDENT: The Chair would answer in the affirmative, having been held at the Senators request.

On motion by Senator DOW of Kennebec, the Senate RECONSIDERED whereby it PASSED TO BE ENGROSSED AS AMENDED:

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

H.P. 1185 L.D. 1615
 (C "A" H-361)

(In Senate, June 15, 1987, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-361), in concurrence.)

On further motion by same Senator, the Senate RECONSIDERED whereby it ADOPTED Committee Amendment "A" (H-361).

On further motion by same Senator, Senate Amendment "A" (S-223) to Committee Amendment "A" (H-361) READ and ADOPTED.

Committee Amendment "A" (H-361) as Amended by Senate Amendment "A" (S-223), thereto ADOPTED in NON-CONCURRENCE.

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

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

Senate at Ease

Senate called to order by the President.

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

COMMITTEE REPORTS

House

Ought to Pass As Amended

The Committee on APPROPRIATIONS AND FINANCIAL AFFAIRS on Bill "An Act to Authorize a General Fund

Bond Issue in the Amount of \$50,000,000 to Finance the Acquisition of Land for Conservation, Outdoor Recreation and Wildlife"

H.P. 764 L.D. 1027

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-366).

Comes from the House, with the Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-366)

Which Report was READ.

Senator PERKINS of Hancock requested a Division.

On motion by Senator CLARK of Cumberland, 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 Pearson.

Senator PEARSON: Mr. President. Men and women of the Senate. This is a forty million dollar bond issue for the acquisition of land, as per the actions of the Committee on Appropriations and Financial Affairs. This particular bond issue was balanced against other bond issues, some of which did not pass muster in the Committee, at least. This was passed out within what we thought was a reasonable frame work of the State's ability to bond. I would like to speak to the issue of the forty million dollar bond issue, if I could please have your attention.

This particular Bill had the longest hearing that the Committee on Appropriations and Financial Affairs held this year. It gathered the most interest and I think, rightly so. We have had a number of instances, this year, of people coming before this Senate and various committees in this Legislature talking about developments that are taking place, high priced developments and pressure that is taking place. Pressure on our dumps, pressure on water, resources of this State, pressure, particularly so along the coast in York and Cumberland Counties. Even in my own back yard if Mount Desert Island in Hancock County. In 1941, my father and mother were fortunate enough to be able to gather together one thousand dollars to purchase some land on a lake where we still have a cottage. That was in 1941. That land now sells for about eighty-five thousand dollars. That is a very short period of time. I am concerned as I'm sure everyone else is, that very rapidly now, the price of land is going to become so high that Maine citizens are not going to be able to enjoy the open spaces and the kind of environment, the kind of Maine that we have come to know and love.

This is an attempt, a timely attempt to try to get our feet on the ground and purchase some land while it is still in the ability of us to do so. There's nobody going to forced to sell this land. It is from willing buyers and hopefully it will provide the access to lakes, the ocean and that sort of thing. Outdoor recreations, wild life and those things which states in the title. It was originally fifty million dollars. It was pared back to forty million dollars. The reason for the amount of money being as high as it is, is because the land is going so fast and it is becoming so expensive and we can't wait forever before we do this. During our hearing, there were a number of people that evoked the name of the Honorable Percival Baxter, whose portrait is right outside the door here and whose bust is down stairs and whose park is in Piscataquis County. This is a man who did so much for the State of Maine. Rightly so, was his name evoked because of all the Governors this State has ever had, he was probably the greatest.

This is an opportunity for each one of us to be able to say when we leave the Maine Legislature for the last time, that all those temporary things we did

might be forgotten, but the acquisition of land so our grandchildren and great grandchildren will be able to have some quality of life, was made available because of somebody back in 1987 in the Maine Legislature, who had enough vision to sent it out to the voters. I believe they will approve it.

We had a small bond issue for Fisheries and Wildlife a while ago, and it passed by the people by 64% of the electorate. If they want us to be doing this, I know they want us to do this, and they are saying for us to do it as fast as you can. There isn't very much time left before it will not be available. There won't be any willing buyers. This is not a eminent domain bill, it is a willing buyer bill. I believe it is probably one of the most monumental things that this Legislature has ever done and can ever do, outside of the activities of Governor Baxter. I hope that each and every one of you will understand and reach into your souls and pass this bond issue. We took all the bond issues that we had, and I don't have the sheet in front of me so I don't remember how many different requests that went into the hundreds and millions of dollars. We had some for sewage treatment, some for dumps. A number of those that we sort of have become automatic and come before the voters time after time. There were quite a few that we rejected because we simply could not fit it in to our money picture.

We called the bonding houses in New York. The Governor, himself, did it. He was on the phone with the State Treasurer and the lady down there who sets up bond rating was asked if this would have any effect on our bond rating. She replied no, not whatsoever. This is going to be issued over a five year period and I would appreciate your support for it.

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

Senator WEBSTER: Mr. President, ladies and gentlemen of the Senate. I speak, very briefly to this issue. I am not going to debate the merits of purchasing land and the need to do that. My concern regarding this issue is very simple. I have some very strong reservations about the amendment which floats a bond for five years. I would argue that forty million dollars is more than is fiscally prudent, but I won't argue that. My real concern is the idea of bonding for five years. If we really want to do something to purchase land for the good of the State, if that is what the public wants to do, then they will vote for it in the referendum. I am concerned about this Legislature enacting a law which will bind future legislatures and that is what we're doing when we pass a bond for forty million over the next five years.

I would like to see a lesser amount, but I would like to see whatever the amount go just two years so the next legislature, two years from now, if it so wished could suggest a similar bond for whatever amount they wanted. That is my opposition to this and I wanted that for the record.

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

Senator PEARSON: Mr. President, men and women of the Senate. I have some history in here that perhaps a lot of people do not have. You may have had a cursory knowledge of it but I have first hand knowledge of it.

In the Indian Land Claims that was passed in this State, they were awarded a great deal of money to buy land. They were given a certain amount of time in which to do it. They found out that a smart buyer can not go out and buy twenty or thirty million dollars worth of land in one year or even in two

years. You have to hire some kind of a consulting company, like the James W. Sewall Company in Old Town, whom I highly recommend, or have somebody from out of state come in and cruise the land. Find out what it is you're buying and then you make your purchase. It has been suggested that, and I don't know how seriously, they take all kinds of shapes and sizes except the one we proposed. The latest suggestion is to put out a great deal of money in two years. I just would submit to you that if you are going to buy land in a smart way, you don't do it that way. The bonds are not issued until the need is there. You don't issue all of your bonds and then look around and find the land. I would submit to the good Senator from Franklin, Senator Webster, that the approach that he is suggesting has been found to be wanting by the Indians. They have asked to have their time extended several times in order to be able to cope with the marketing field. Why five years? Well, because five years is as long as we can go. After five years, they have to be re-issued and re-authorized. We think it is reasonable to be able to do it over a five year period at this amount, but not over a short period in the amount that the good Senator from Franklin, Senator Webster has suggested.

Further, we don't think this is the kind of bond issue that the people of Maine would want re-issued like sewerage treatment plants.

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

Senator PERKINS: Mr. President, ladies and gentlemen of the Senate. I think the Senator from Penobscot, Senator Pearson makes some valid points. Many of those points is within the realm of possibility for this Legislature to accommodate these. I think we've heard of non-lapsing funds and I suspect that it is within the realm of possibility for the Legislature to deal with non-lapsing bond issues. I also believe that it is within the realm of possibility of the Legislature to accommodate the bond issuance so it would be issued at the time of ratification by the Secretary of State, if the vote were a positive vote. I think these are talking of things that are within the realm of possibility of this Legislature and the intention of both sides is to reach an accommodation in this area. At this point, as my good colleague from Franklin, Senator Webster has pointed out, I have members within my caucus who have concerns over the magnitude and of the method.

I will still believe that this is in the realm of possibility and I am hopeful that the parties can communicate so that we both can reach something that will be to the benefit of all of us.

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

Senator MATTHEWS: Thank you, Mr. President, men and women of the Senate. I have been silent on this issue since the hearing in the Appropriations Committee but I do feel very strongly that I should stand up and speak on the Record, as a past member of Governor Brennan's and President Reagan's Commission on Outdoor Recreation.

That was an interesting experience for me. I think I share all of our love for the State that every member of this Body has. We live in Maine because we love the State very dearly, the uniqueness that it offers all of us. To travel with the Commission of Outdoor Recreation from Portland to Greenville, over to Ellsworth, to Farmington and to hear people all over this State talking to our Commission about the similar concerns that Maine remain ten years from now, a unique State, that offers the kinds of things that all of us enjoy,

growing up here in Maine. Access to the outdoors, being able to gain access to the coast, not seeing the land of this State and the resources of this State bought on the auction block by every rich interest from God knows where. That had a big impact on my decision making and on my final decision to support the fifty million dollars bond issue, and now that has been pared down to forty million dollars.

Ladies and gentlemen, it is a courageous and bold action but it is an action that I believe goes to the very essence of what we call Maine. And, preserving that essence and making sure that our children and their children will be able to partake in the beauty that this State offers. There are many important programs that the Appropriations Committee, in this Legislature has to deal with. God only knows, we have to deal with those issues, all of us. The good Senator from Penobscot, Senator Pearson has to deal with those issues each and every day. I ask for the strength of the good Lord on all of us, especially the Appropriations Committee. This issue is fundamental, it seems to me, to why we are Maine people. In a desire not to allow Maine to become New Jersey and some other states, that have allowed their state and their beauty to erode and be bought. Ladies and gentlemen, I hope that this Senate will support this bond issue. The price tag sounds enormous but when you look at the price of land, then it is not. It will buy us a future and a future for our children. Thank you.

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

Senator TUTTLE: Mr. President and members of the Senate. Maine is presently in a historic junction in timing which is critical. The State's population and external pressures of second homes, vacation properties is increasing quite rapidly and bringing sky-rocketing land values.

The ultimate opportunities for many people, that have chosen to settle here are diminishing at a disturbing rate. Growth is not relegated just to the southern coast or to my area, as has been widely publicized by many papers. Hancock County is the second fastest growing county in the State. Communities as far east as Cutler have proposed building moratoriums. Of the seventy-four miles of Maine's sand beaches, only sixteen miles are publicly accessible.

Acadia State Park is the second fiftieth national park in the country, but one of the smallest. The impact is not limited to the coast. Presently, paper companies are seeking access to huge tracts of land because of pressure from recreationalists. The actual costs of the Maine proposal with interest would be about five dollars per person per year, for fifteen years. It won't get any cheaper. If voters decide to postpone it, equally important, if the State waits too long, the right of land may no longer be available. I would support you to support this issue.

THE PRESIDENT: The pending question before the Senate is ACCEPTANCE of the OUGHT TO PASS AS AMENDED Report.

A vote of Yes will be in favor of ACCEPTANCE.

A vote of No will be opposed.

Is the Senate ready for the question?

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEAS: Senators ANDREWS, BERUBE, BRANNIGAN, BUSTIN, CLARK, DOW, DUTREMBLE, EMERSON, ERWIN, ESTES, GAUVREAU, KANY, KERRY, MATTHEWS, PEARSON, THERIAULT, TUTTLE, TWITCHELL, USHER,

THE PRESIDENT - CHARLES P. PRAY
 NAYS: Senators BLACK, BRAWN, CAHILL, COLLINS, DILLENBACK, GILL, GOULD, LUDWIG, MAYBURY, PERKINS, RANDALL, SEWALL, WEBSTER, WHITMORE

ABSENT: Senator BALDACCI
 20 Senators having voted in the affirmative and 14 Senators having voted in the negative, with 1 Senator being absent, the motion to ACCEPT the OUGHT TO PASS AS AMENDED Report, PREVAILED.

The Bill READ ONCE.

On motion by Senator PEARSON of Penobscot, Tabled until Later in Today's Session, pending READING of Committee Amendment "A" (H-366).

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

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

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

After Recess

Senate called to order by the President.

ORDERS OF THE DAY

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

Bill "An Act to Authorize a General Fund Bond Issue in the Amount of \$50,000,000 to Finance the Acquisition of Land for Conservation, Outdoor Recreation and Wildlife"

H.P. 764 L.D. 1027

Tabled - June 16, 1987, by Senator PEARSON of Penobscot.

Pending - READING of Committee Amendment "A" (H-366)

(In Senate, June 16, 1987, Report READ and ACCEPTED. Bill READ ONCE.)

(In House, June 16, 1987, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-366).)

Committee Amendment "A" (H-366) READ and ADOPTED, in concurrence.

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

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

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

COMMITTEE REPORTS

House

Ought to Pass As Amended

The Committee on APPROPRIATIONS AND FINANCIAL AFFAIRS on Bill "An Act to Increase the Appropriation to Municipal School Districts for the Purchase of School Buses"

H.P. 738 L.D. 1001

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-367).

Comes from the House, with the Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-367).

Which Report was READ and ACCEPTED, in concurrence.

The Bill READ ONCE.

Committee Amendment "A" (H-367) READ and ADOPTED, in concurrence.

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

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

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

COMMITTEE REPORTS

House

Ought to Pass As Amended

The Committee on APPROPRIATIONS AND FINANCIAL AFFAIRS on Bill "An Act to Authorize a General Fund Bond Issue in the Amount of \$40,000,000 to Protect Ground Water Quality and Public Health Through the Cleanup and Closure of Municipal and Abandoned Solid Waste Landfills"

H.P. 1009 L.D. 1356

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-368).

Comes from the House, with the Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-368).

Which Report was READ and ACCEPTED, in concurrence.

The Bill READ ONCE.

Committee Amendment "A" (H-368) READ and ADOPTED, in concurrence.

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

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

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

COMMITTEE REPORTS

House

Ought to Pass As Amended

The Committee on APPROPRIATIONS AND FINANCIAL AFFAIRS on Bill "An Act to Authorize a General Fund Bond Issue in the Amount of \$13,750,000 for Sewage Treatment and Water Quality Improvement Facilities"

H.P. 397 L.D. 531

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-369).

Comes from the House, with the Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-369).

Which Report was READ and ACCEPTED, in concurrence.

The Bill READ ONCE.

Committee Amendment "A" (H-369) READ and ADOPTED, in concurrence.

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

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

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

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

COMMITTEE REPORTS

House

Ought to Pass As Amended
The Committee on APPROPRIATIONS AND FINANCIAL AFFAIRS on Bill "An Act to Authorize a General Fund Bond Issue in the Amount of \$2,300,000 for Pier Reconstruction at the Maine Maritime Academy"

H.P. 1036 L.D. 1394

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-370).

Comes from the House, with the Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-370).

Which Report was READ.

On motion by Senator CLARK of Cumberland, Tabled Unassigned, pending ACCEPTANCE of Committee Report.

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

COMMITTEE REPORTS

House

Ought to Pass As Amended

The Committee on APPROPRIATIONS AND FINANCIAL AFFAIRS on Bill "An Act to Authorize a General Fund Bond Issue in the Amount of \$4,000,000 for Removal of Oil Storage Tanks and Related Ground Water Restoration"

H.P. 1048 L.D. 1411

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-371).

Comes from the House, with the Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-371) AND HOUSE AMENDMENT "A" (H-377).

Which Report was READ and ACCEPTED, in concurrence.

The Bill READ ONCE.

Committee Amendment "A" (H-371) READ and ADOPTED, in concurrence.

House Amendment "A" (H-377) READ and ADOPTED, in concurrence.

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

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

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

COMMITTEE REPORTS

House

Ought to Pass As Amended

The Committee on APPROPRIATIONS AND FINANCIAL AFFAIRS on Bill "An Act to Authorize a General Fund Bond Issue in the Amount of \$6,000,000 for Detection and Removal of Asbestos Hazards in State Facilities and Public Schools"

H.P. 1041 L.D. 1403

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-372).

Comes from the House, with the Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-372).

Which Report was READ and ACCEPTED, in concurrence.

The Bill READ ONCE.

Committee Amendment "A" (H-372) READ and ADOPTED, in concurrence.

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

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

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

COMMITTEE REPORTS

House

Ought to Pass As Amended

The Committee on APPROPRIATIONS AND FINANCIAL AFFAIRS on Bill "An Act to Authorize a General Fund Bond Issue in the Amount of \$8,000,000 for Capital Repairs and Improvements to State Facilities"

H.P. 1037 L.D. 1395

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-373).

Comes from the House, with the Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-373).

Which Report was READ.

On motion by Senator CLARK of Cumberland, Tabled Unassigned, pending ACCEPTANCE of Committee Report.

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

ENACTORS

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

Emergency

An Act to Establish a State Nuclear Safety Inspection and Monitoring Program for Commercial Nuclear Power Facilities in the State

H.P. 1053 L.D. 1416

(H "A" H-343 to C

"A" H-338)

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.

(See Action Later Today)

Emergency

An Act to Address Productivity and Wage Adjustments for Hospitals, to Sunset the Maine Health Care Finance Commission and to Establish a Blue Ribbon Commission to Study the Regulation of Health Care Expenditures

H.P. 222 L.D. 290

(S "A" S-203 to C

"A" H-324)

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.

(See Action Later Today)

Emergency

An Act Relating to Tax Exemptions

H.P. 1362 L.D. 1864

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.

On motion by Senator PEARSON of Penobscot, the Senate RECONSIDERED whereby it PASSED TO BE ENACTED:

Emergency

An Act to Establish a State Nuclear Safety Inspection and Monitoring Program for Commercial Nuclear Power Facilities in the State

H.P. 1053 L.D. 1416

(H "A" H-343 to C

"A" H-338)

(In Senate, June 16, 1987, PASSED TO BE ENACTED, in concurrence.)

On further motion by same Senator, placed on the SPECIAL APPROPRIATIONS TABLE, pending ENACTMENT.

On motion by Senator PEARSON of Penobscot, the Senate RECONSIDERED whereby it PASSED TO BE ENACTED:

Emergency

An Act to Address Productivity and Wage Adjustments for Hospitals, to Sunset the Maine Health Care Finance Commission and to Establish a Blue Ribbon Commission to Study the Regulation of Health Care Expenditures

H.P. 222 L.D. 290

(S "A" S-203 to C

"A" H-324)

(In Senate, June 16, 1987, PASSED TO BE ENACTED, in concurrence.)

On further motion by same Senator, placed on the SPECIAL APPROPRIATIONS TABLE, pending ENACTMENT.

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

ENACTORS

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

Emergency

An Act Making Allocations for the Expenditure of Funds Received by the State as a Result of a Federal Court Order in the Stripper Well Overcharge Case

S.P. 537 L.D. 1623

(C "A" S-213)

This being an Emergency Measure and having received the affirmative vote of 32 Members of the Senate, with 1 Senator having voted in negative, and 32 being more than two-thirds of the entire elected Membership of the Senate, was PASSED TO BE ENACTED and having been signed by the President, was presented by the Secretary to the Governor for his approval.

Emergency

An Act to Repeal the Mandatory Brucellosis Vaccination for Cattle

H.P. 775 L.D. 1047

(C "A" H-341)

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

Emergency

An Act to Amend the Charter of the Lincoln Water District

H.P. 1216 L.D. 1659
(C "A" H-339)

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

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

ENACTORS

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

Emergency

An Act to Ensure Safe Abatement of Asbestos Hazards

H.P. 1286 L.D. 1762
(H "A" H-278; H "C" H-344; S "A" S-150)

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

Emergency

An Act to Establish Municipal Cost Components for Services to be Rendered in Fiscal Year 1987-88

H.P. 1328 L.D. 1812
(H "A" H-331)

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

Emergency

An Act to Amend the Uniform Commercial Code Regarding Tribal Government

H.P. 1358 L.D. 1860

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.

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

ENACTORS

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

Emergency Resolve

Resolve, to Establish the Maine Commission to Review Overcrowding at the Augusta Mental Health Institute and the Bangor Mental Health Institute

S.P. 588 L.D. 1742

(H "A" H-348 to H "B" H-302)

This being an Emergency Measure and having received the affirmative vote of 33 Members of the Senate, with 1 Senators having voted in negative, and 33 being more than two-thirds of the entire elected Membership of the Senate, was FINALLY PASSED and having been signed by the President, was presented by the Secretary to the Governor for his approval.

Emergency Resolve

Resolve, to Reconstitute the 9-1-1 Study Commission

H.P. 1359 L.D. 1861

This being an Emergency Measure and having received the affirmative vote of 33 Members of the Senate, with 1 Senator having voted in negative, and 33 being more than two-thirds of the entire elected Membership of the Senate, was FINALLY PASSED and having been signed by the President, was presented by the Secretary to the Governor for his approval.

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

ENACTORS

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

An Act Relating to the Maine Transportation Capital Improvement Planning Commission

S.P. 598 L.D. 1758
(S "A" S-187)

An Act to Allow Increased Participation of State Employees in the Electoral Process

S.P. 606 L.D. 1796
(H "A" H-323)

An Act to Facilitate Access to In-home Services

H.P. 1062 L.D. 1445
(H "A" H-347 to C "A" H-308)

An Act to Amend the Title Laws of Maine

H.P. 1356 L.D. 1857

An Act to License Acupuncturists

S.P. 365 L.D. 1100
(C "A" S-214)

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 Make Adjustments in the School Finance Act

S.P. 405 L.D. 1256
(S "A" S-211 to C "A" S-172)

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

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

ENACTORS

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

An Act to Establish a Compliance Schedule for Owners and Operators of Salt Storage Areas

H.P. 1278 L.D. 1749
(H "A" H-357)

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

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

H.P. 1256 L.D. 1714
(H "A" H-356 to C
"A" H-312)

On motion by Senator CLARK of Cumberland, Tabled Unassigned, pending ENACTMENT.

An Act to Make Changes in the Laws Governing Public Utilities

H.P. 1361 L.D. 1863

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

Senator KERRY: Mr. President, ladies and gentlemen of the Senate. Just a brief comment regarding this legislation. It is a companion Bill to which we recodified the public utilities laws in the State this past year.

One of the major provisions of this Bill was to remove a sentence from Section 33-31 of title 35, which primarily dealt with where firm evidence exists on radio active emissions from a nuclear power plant, do or do not present a genetic long term impact or health risk on the society. It was not the intent of the Committee to reach a conclusion that the sentence was not, or is necessary. The key issue is the Committee felt the sentence was meaningless and therefore should not be included within the purpose of recodification. Therefore, since it was not necessary, we did not believe it belonged in the new code, so it was removed from the Bill. I am merely presented this as a matter for the Record. I move passage of the Bill.

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

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

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

PAPERS FROM THE HOUSE
House Papers

Bill "An Act to Temporarily Allow the Sale of Liquor on Sunday in Restaurants in Certain Municipalities" (Emergency)

H.P. 1365 L.D. 1869

Committee on LEGAL AFFAIRS suggested and ORDERED PRINTED.

Comes from the House, under suspension of the Rules, READ TWICE and PASSED TO BE ENGROSSED, without reference to a Committee and ORDERED PRINTED.

Which was, under suspension of the Rules, READ TWICE and PASSED TO BE ENGROSSED, without reference to a Committee and ORDERED PRINTED, in concurrence.

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

PAPERS FROM THE HOUSE
Non-concurrent Matter

Bill "An Act to Promote Equity in Determining Medicaid Eligibility for Institutionalized Care"

H.P. 313 L.D. 412
(C "A" H-307)

In Senate, June 11, 1987, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-307), in concurrence.

Comes from the House PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-307) AS AMENDED

BY HOUSE AMENDMENT "A" (H-374), thereto in NON-CONCURRENCE.

Senator CLARK moved that the Senate RECEDE and CONCUR.

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

Senator WEBSTER: Mr. President, ladies and gentlemen of the Senate. I have read the amendment and the amendment is very simple and clear. It deletes the Sunset and I would like for some one to explain to me what the Sunset did before we vote on it. Thank you.

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

The Chair recognizes the Senator from Androscoggin, Senator Gauvreau.

Senator GAUVREAU: Thank you, Mr. President. As I understand the question prompted by the good Senator from Franklin, Senator Webster, he has inquired as to the significance of the most recent amendment put forth from the other Body. As I understand it, that amendment would remove the Sunset provision which the Human Resources Committee had appended to this L.D. Under the Sunset language, the Bill would be reviewed by the Committee on Human Resources no later than March 1, 1988.

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

Non-concurrent Matter
Bill "An Act to Change the Basis of Telecommunication Taxation"

H.P. 1352 L.D. 1846

In Senate, June 12, 1987, PASSED TO BE ENGROSSED, in concurrence.

Comes from the House PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "A" (H-364) in NON-CONCURRENCE.

On motion by Senator TWITCHELL of Oxford, the Senate RECEDED and CONCURRED.

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

ENACTORS

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

An Act to Provide State Reimbursement to Municipalities for Property Tax Losses Due to State-owned Property

H.P. 485 L.D. 652
(C "A" H-358)

Senator PERKINS of Penobscot, requested a Division.

On motion by Senator PEARSON, placed on the SPECIAL APPROPRIATIONS TABLE, pending ENACTMENT. (Division requested)

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

SENATE PAPERS

Bill "An Act to Ensure Confidential and Reliable Substance Abuse Testing of Employees and Applicants"

S.P. 642 L.D. 1870

Presented by Senator DUTREMBLE of York
Cosponsored by: President PRAY of Penobscot,
Representative MCHENRY of Madawaska,
Representative RUHLIN of Brewer

Approved for Introduction by a Majority of the Legislative Council pursuant to Joint Rule 27
Committee on LABOR suggested and ORDERED PRINTED.

Under suspension of the Rules, READ TWICE, without reference to a Committee.

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

Senator COLLINS: Mr. President. Is the Bill now in position to be amended?

THE PRESIDENT: The Chair would answer in the affirmative.

Senate at Ease

Senate called to order by the President.

On motion by Senator USHER of Cumberland, RECESSED until the sound of the bell.

After Recess

Senate called to order by the President.

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

Senator COLLINS: Mr. President and members of the Senate. I present for your consideration this evening, an amendment that is, in fact, a substantive change, as opposed to the many technical changes that we have dealt with during the past few days. It is a proposal which would amend the present Bill before us. It seems to me that it is one that we ought to consider carefully if we are to pass a measure for drug testing in this State. As you all know, legislation requires approval of the Legislative body and it also requires approval of the Executive Branch. I think that the measure that I present to you this evening has the possibility of being approved at all levels.

It is a simple measure of about seven pages, as compared to the twenty-one pages that are a part of the basic Bill. Essentially, it does provide for random and arbitrary testing for safety-sensitive positions.

It leaves the determination of safety-sensitive to the Bureau of Labor, which is an appropriate place for that responsibility to lie. It does provide for safe-guards for confidentiality for appropriate testing measures. It does have language in the amendment that prohibits harassment of employees. It does provide for probable cause testing in those cases that are not safety-sensitive. If we are truly interested in this Legislature in passing a measure that will be acceptable and will become law, I commend to you this amendment. Thank you, Mr. President.

On motion by Senator COLLINS of Aroostook, Senate Amendment "A" (S-225) READ.

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

Senator DUTREMBLE: Mr. President and members of the Senate. This Bill that is before you, today again, is the drug testing Bill. The amendment offered by the Senator from Aroostook, Senator Collins is a classic example of what could happen if we left drug testing in the hands of inexperienced people. Those people who drafted this legislation left a lot of restrictions and protections that were included in the original draft. I see this amendment as nothing more than a quick fix thrown together to try to save face for the Governor of the State of Maine. I am sure that by this time that he is quite nervous by his position. I know that I would be if I were in his shoes. There was some kind of message sent up today, a veto message, and I don't know if you people picked it up, but do you realize in that message, the Governor actually said that the State

should have a strong policy against work place safety? Check it out. Somebody has to be real nervous down there to make a statement like that, to actually come out and say that the State should have strong policies against work place safety.

Just check it out. I'm sure it was a grammatical error when it was made. The amendment that has been offered is a classic, classic, classic example of why we needed the other Bill. Let me just go through what has been eliminated. The probable cause definition, the good Senator from Aroostook, Senator Collins has said that all people who are tested random can be tested by probable cause. Do you realize that probable cause, under their definition could mean a temperamental informant? An anonymous temperamental informant. We have received testimony in our hearings that has been done by people out there right now in some industries, an informant who said that this person was using drugs. Who was this person? The business people in the industry wouldn't tell. They could just say it, there was an informant, so we're going to test you for probably cause. Well, who was this person? Well, they're not going to tell you. That means that anybody could be random tested. Anybody at all.

Do you know that under the probable cause definition in this amendment, that all an employer has to do is go up to an employee and tell them that they have probable cause that you're using drugs and it doesn't have to say what the probable cause is, it doesn't have to put it into writing.

If an employee wants to fight that, he has to take it to court. I can just imagine what the fight would be with taking BIW to court.

The definition of safety-sensitive means an employment position or a work assignment which is designated by the Department of Labor in rules adopted under Title 5, chapter 375, on or before December 31, 1987. I think that somebody in the Governor's office, when they wrote this, should have checked to see if there was an unconstitutional delegation of legislative authority there.

As far as I know, we can't do that. We can't tell the Department of Labor, we can't delegate authority that is delegated to us and give it to them.

The Governor has mentioned that he wants something passed because he wants people who are tested, tested with good testing procedures. Under this amendment, false positive, which means a person has been proven to have taken drugs, even though he has not, the employer can find out about that, and by the way, there is nothing in this amendment that prevents the use of the Emit test. Remember, we talked awhile ago about the cheap test that had a 35% error rate. Well, that is in here. They say there has to be a confirmation test. In our Bill, we said that an employer could not find out, the results could not be given to an employer with a false positive test. With this amendment, it can. There is nothing in this amendment that talks anything about collective bargaining agreements that have been preempted. That if a collective bargaining unit in the business involved, wanted to agree to something, there is nothing in here that would allow that. If a person in here, is found to be positive after a drug test, he could be fired. If that is what the employer wants to do, then do it before the test. When we listened to all the testimony in our hearings, employer after employer, came down and told us that they want to test and find out who is taking drugs, so we can rehabilitate them. We didn't say that. The employers said that.

They said that they had an investment in these people, they had spent all kinds of money and they

didn't want to lose these people, after working with them all these years, they didn't want to lose them. They wanted to rehabilitate. Under the law that we had passed previously and worked on, we included that with input from the employers. This amendment didn't allow for that. If you're positive, you get fired.

No cut off levels. In our Bill, we have cut off levels for how many mamograms it takes before you can be declared as using drugs. It is possible to have passive ingestion and passive inhalation of drug, especially marijuana. If you are just sitting there you can be shown to be positive even though you have never touched the stuff in your life, because there is going to be a certain degree of material in your body, just like in smoking tobacco. We had set a cut off level that was high enough to protect these people, but low enough so if you're above this level, you're a user. That is not in this amendment. That is left up to the employer.

Do you want to hear a good one? They can take you off the line at any company that tests, and they can watch you as you give your specimen. They can do this. They didn't put the privacy section in this amendment, they left it out. The privacy section where an employer can designate a nurse or a company rep to follow you into the room. They can ask you to disrobe, which some companies have asked some employees to do. There are no protections against that in here.

There was a section in our Bill about confidentiality and having testing done on the site. It is not in this amendment. They can test right on site. The reason we had put off site is to protect the confidentiality of the employee. Just in case, if you test an employee and he doesn't use drugs, you don't want people to think he is using drugs just because he is tested. That is not in this Bill.

I'm ashamed at this amendment and I'm not even the one that put it in. Employers can have written policy concerning their drug testing programs, according to this amendment. They can consult with employees after the fact, which means that this is the testing policy, take it. In the other Bill, we had consultation during the process. There is no prohibition of consent form in this amendment. That means that an employer can ask an employee who wouldn't know any better, in some cases, to sign a consent form freeing the employer from liability. You could have a burst vein, loss of confidentiality, any number of things. That is not in this amendment.

According to this amendment, the employee is not allowed to have a portion of his own specimen so he can run his own test, with his own doctor. An employee is not allowed to run blood samples, to have a blood sample taken, which is the most accurate of all tests. It is late and I have pages and pages I could go into. I think you get the point of why we spent so much time working to protect people on this issue. By the way, something that I just found out. The cost of the test, according to this amendment, is paid by the employee. In other words, they are going to test you and you have to pay for it. An employee has no right to see his lab test. The employee takes a test and goes to a lab, it comes back and the employer says that it is positive. The employee would like to see it. The employer says they can't, take them to court if you want to see it, the test is positive and I don't have to show you, you have to take my word for it. That is in this amendment.

There is just more and more and more and more. I have my own amendment which will be offered after this one is defeated. It would put back in all of the stuff that the good Senator from Aroostook, Senator Collins is trying to take out. The reason

that I have to submit an amendment is because the wrong draft was brought up when I presented this Bill today. Do you realize that? We have gone through so many drafts in this drug testing law to try and appease that guy on the second floor, that we now have gotten confused as to what draft to offer. I understand that he sits there and he has the power to do certain things to prevent legislation from going through but I have to believe that I am still on the right side that I was on when I started six months ago on this.

At that time, a lot of people asked me why I was working on this so soon. The reason was that I didn't want this stuff caught up at the end of the Session. I want to get it done before we get to the end of the last few days of the Session. We started working on this in January and February, March and April. Here we are the last few days and we're still working on it. Mr. President, I would ask for a Roll Call on the Adoption of this Amendment.

On motion by Senator DUTREMBLE of York, 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 Aroostook, Senator Collins.

Senator COLLINS: Mr. President and members of the Senate. I know how deeply the good Senator from York, Senator Dutremble feels about this issue. I commend him for his sincerity and for his beliefs. However, there is a legitimate case on the other side of the issue. It seems to me that we must not categorically suspect that this type of legislation is intended to provide and promote harassment toward employees. It is not. I can assure you that employers will be very cautious if they attempt to engage in drug testing. He has indicated in several instances that the Legislature ought to be involved in making more of the details that are necessary and providing and writing those into the law. It seems to me that we delegate authority every day, to state departments. We provide for rule making and other measures by which they can implement policy decisions that we make. There is nothing very new about asking the Department of Labor to provide for rule making of the details that will be put into place. It seems to me that we use the term of probable cause in a great deal of legislation. I think there is sort of a definition that is standard in legislation and in the law and that definition is in this legislation. It says very simply: "Probable cause means a reasonable grounds for belief in the existence of facts which would induce the person to believe that an employee may be under the influence of a substance of abuse." I think if you look at a lot of our laws, you will find that probable cause is defined in a very similar manner.

I would urge you, this evening, to consider carefully when you vote, not to be swayed by rhetoric and emotion when you deal with this issue that is important to all of us that live in the State of Maine. Thank you, Mr. President.

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

Senator KANY: Mr. President and members of the Senate. I know that the good Senator from Aroostook, Senator Collins, is doing what he believes to be right. I appreciate that. It just seems to me, reading this amendment, that if the Maine Legislature believed that it were so important to allow random testing of safety-sensitive positions, that we should at least know what we deem to safety-sensitive, instead of delegating that definition to some one else.

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

Senator DUTREMBLE: Mr. President and members of the Senate. The good Senator from Aroostook, Senator Collins, is right. I do have strong feelings on this. I would hope that every one else does, too, because it is an important issue. I have asked myself why random has become such an important issue in the Governor's office.

As far as I know, there may be one company, or one and one half companies doing random testing right now. Maine Yankee and maybe a few people at Bath Iron Works.

They are the only ones that we know of. So, why is this so important to Governor McKernan? Senator Perkins of Penobscot talked about bus drivers, they are not being drug tested. The truck drivers of St. Johnsbury, they are not being drug tested. The doctors that cut you open, they are not being drug tested. All these people in safety-sensitive positions are not being drug tested, randomly. They may be for probable cause. Why, all of a sudden, is there this tremendous defense put up by the second floor, the Governor's Office? A defense of random testing. Why do they need it? Simply, because there are a lot of businesses who want to start random testing. If we put it into the law, it frees them from any liability that they may have from making a mistake under probable cause. They just want protection from the law and the Governor is willing to give it to them.

THE PRESIDENT: The pending question before the Senate is the motion of Senator COLLINS of Aroostook to ADOPT Senate Amendment "A" (S-225).

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

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

ABSENT: Senators None

14 Senators having voted in the affirmative and 21 Senator having voted in the negative, with No Senators being absent, the motion of Senator COLLINS of Aroostook to ADOPT Senate Amendment "A" (S-225), FAILED.

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

Senator DUTREMBLE: Mr. President. I have an amendment I would like to present. My question is may I speak to it before I present it, or must I wait until after it is read?

THE PRESIDENT: The Chair would advise the Senator that the proper procedure is to present the Amendment first.

On motion by Senator DUTREMBLE of York, Senate Amendment "B" (S-226) READ.

THE PRESIDENT: The Chair recognizes that same Senator.

Senator DUTREMBLE: Mr. President. I said possible adoption and possible passage. I didn't say that in jest because I really don't know if I want this amendment adopted or not, because it does deal

with random testing. It allows random testing in safety-sensitive positions, but defined in a way that is a little bit different and more stringent than what the good Senator from Aroostook, Senator Collins has offered.

It allows for any company that wants to do random testing in safety-sensitive positions, the mandate to them that they would have to do an OSHA inspection before they could conduct the test. An inspection from the Department of Labor Standards, so if we're really talking about safety-sensitive, then maybe we should do that. Secondly, it would create a commission to study exactly what safety-sensitive positions are. A commission created by the Governor, two from the Senate's President and two from the Speaker of the House, to study exactly what a safety-sensitive position is. They would make recommendations to Commissioner Fitzsimmons by January 1, 1988.

The real reason I want the amendment in is because, and you know that I am really opposed to random testing, is to get another posture where we could ask the courts for a solemn occasion, to decide whether or not random testing is unconstitutional. I don't want this amendment to pass except for that one reason. I want to get this Bill in a posture so that we can send this issue to the courts and ask them whether or not what we are doing is possible. From there on, we could do away, with what a lot of people have referred to as rhetoric. Let's find out once and for all. I can't see anybody wanting to oppose that. I think it is a good idea to get this whole thing straightened out.

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

Senator KANY: Mr. President and members of the Senate. I would like to pose a question to the Chair. Would it be necessary to adopt this amendment and have the Bill before us, in order to ask the court if it is a solemn occasion, and for its' advisory opinion? The reason I say that is because now the law does allow random testing.

Off Record Remarks

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

The Chair recognizes the Senator from York, Senator Dutremble.

Senator DUTREMBLE: Mr. President. I would like to pose a question to the Chair. Is the amendment in a posture right now where we are dealing with an option of sending a solemn occasion to the Supreme Court?

THE PRESIDENT: The Chair would respond to the Senator that it is in the opinion of the Chair that it would be a solemn occasion, but in the previous occasion when the Chair had that question, the Supreme Court said "No".

On motion by Senator BALDACCI of Penobscot, Tabled until Later in Today's Session, pending the motion of Senator DUTREMBLE of York to ADOPT Senate Amendment "B" (S-226).

Bill "An Act to Prohibit Random or Arbitrary Substance Abuse Testing of Employees"

S.P. 643 L.D. 1871

Presented by Senator DUTREMBLE of York

Cosponsored by: President PRAY of Penobscot, Representative MCHENRY of Madawaska, Representative JOSEPH of Waterville
 Approved for Introduction by a Majority of the Legislative Council pursuant to Joint Rule 27
 Committee on LABOR suggested and ORDERED PRINTED.
 Which was, under suspension of the Rules, READ TWICE and PASSED TO BE ENGROSSED, without reference to a Committee and ORDERED PRINTED.
 Sent down for concurrence.

objections to the same pursuant to the provisions of the Constitution of the State of Maine, after reconsideration the House proceeded to vote on the question: 'Shall this Bill become a law notwithstanding the objections of the Governor?'
 79 voted in favor and 65 against, and accordingly it was the vote of the House that the Bill not become a law and the veto was sustained.

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

Which was READ and ORDERED PLACED ON FILE.

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

PAPERS FROM THE HOUSE
 Non-concurrent Matter

Bill "An Act to Amend the Laws Administered by the Department of Environmental Protection"

S.P. 641 L.D. 1868

In Senate, June 16, 1987, READ TWICE and PASSED TO BE ENGROSSED, without reference to a Committee, and ORDERED PRINTED.

Comes from the House Bill and Accompanying Papers INDEFINITELY POSTPONED in NON-CONCURRENCE.

On motion by Senator TUTTLE of York, the Senate RECEDED and CONCURRED.

(See Action Later Today)

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

ORDERS
 Joint Resolution

On motion by Senator CLARK of Cumberland (Cosponsored by: Representative CLARK of Brunswick, Representative PRIEST of Brunswick, Representative RYDELL of Brunswick) the following Joint Resolution:
 S.P. 644

JOINT RESOLUTION IN HONOR
 OF THE BRUNSWICK NAVAL AIR STATION

WHEREAS, on the blueberry plains of the Town of Brunswick and land once designated for a town common by Pejepsco proprietors in 1719, a United States Naval Air Station was constructed and then commissioned on April 15, 1943; and

WHEREAS, under the motto "Built for Business" it began its historic mission by training Royal Canadian Air Force pilots in gunnery procedures, carrier landings and formation flying for the British Naval Command; and

WHEREAS, following World War II, when it was no longer considered necessary for our national defense, this station was deactivated in 1947, having trained 25 British squadrons and maintained vital patrol missions 24 hours a day; and

WHEREAS, in 1951, after brief control by the State, the United States Navy reactivated the station with a primary mission of antisubmarine warfare by personnel and equipment of Fleet Air Wing Three and later Wing Five; and

WHEREAS, today, the Brunswick Naval Air Station provides facilities, services and material support to 6 antisubmarine warfare patrol squadrons that fly P-30 Orion aircraft and deploy to sites throughout the world; and

WHEREAS, in addition, this important station supports various ships of the United States Atlantic Fleet and over 30 off-station and training activities and operates on approximately \$70,000,000 with 3,500 in military and civilian personnel; and

WHEREAS, the United States Naval Air Station, at Brunswick, has a proud history of achievement from its earliest beginnings and has long played a key note in defense of this country. Its men and women of varied origins in both military and civilian service have built a warm relationship with the citizens of Maine and helped the Brunswick community become the cultural and trading center of a wide area of inland, coastal and resort communities; now, therefore, be it

RESOLVED: That We, the members of the Senate and House of Representatives of this the 113th Legislature of the great and sovereign State of Maine, pause to recognize and commend officials and staff, both military and civilian, of the Brunswick Naval Air Station for their excellent record of achievement and extend to each our sincere hopes and best wishes for continual success in the future; and be it further

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

COMMITTEE REPORTS
 House

Ought to Pass in New Draft under New Title

The Committee on APPROPRIATIONS AND FINANCIAL AFFAIRS on Bill "An Act to Make Supplemental Appropriations and Allocations for the Expenditures of State Government and to Change Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 1988 and June 30, 1989" (Emergency)

H.P. 404 L.D. 538

Reported that the same Ought to Pass in New Draft under New Title Bill "An Act to Make Supplemental Appropriations and Allocations for the Expenditures of State Government and to Change Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 1987, June 30, 1988, and June 30, 1989" (Emergency)

H.P. 1364 L.D. 1867

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

Which Report was READ and ACCEPTED, in concurrence.

The Bill in NEW DRAFT under NEW TITLE READ ONCE.

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

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

COMMUNICATIONS

The Following Communication:

June 16, 1987

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

House Paper 1310, Legislative Document 1788, AN ACT to Ensure Confidential and Reliable Substance Abuse Testing of Employees and Applicants, having been returned by the Governor together with his

RESOLVED: That suitable copies of this resolution, duly authenticated by the Secretary of State, be transmitted for presentation to the Station Commander and the President of World War II Association of Members of Ship's Company Personnel in honor of the very special significance that the station deserves.

Which was READ and ADOPTED.

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:

ENACTORS

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

An Act to Regulate the Profession of Accounting
H.P. 644 L.D. 867
(C "A" H-353)

An Act to Amend Maine's Radiation Protection Law
H.P. 1081 L.D. 1472
(C "A" H-352)

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 Establish the Land for Maine's Future Fund

H.P. 995 L.D. 1341
(C "A" H-362)

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

An Act to Provide Comprehensive Protection for Ground Water

H.P. 618 L.D. 836
(H "A" H-359 to C
"A" H-350)

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

Senator WEBSTER: Mr. President, ladies and gentlemen of the Senate. I would ask the members of this Senate to look at L.D. 836 before we vote to enact this legislation. I have some real concerns, major concerns regarding further mandates from this Legislature without State funding. L.D. 836, under section 10 of Committee Amendment "A", requires removal of all steel oil tanks within the State in the next ten years. I am very supportive and I want to stress that I am very supportive of the concept of removing under ground tanks because we all know what they can do to the environment. I have some concerns. Let me stress to you that under ground tanks should be removed and should be done as soon as possible.

My concerns lie not with the removal of the tanks but in who pays for it. Let me give you some interesting facts. Most of you know that I install oil and wood furnaces for a living and because of the way I make my livelihood, I have some expertise on this subject. I would estimate that at least 15% of the population of this State would have an under ground fuel tank. A tank that they use to heat their homes to store their heating fuel in. Let me tell you that out of those 15%, I would estimate that at least half of those people are senior citizens who live in older homes on a fixed income and can not afford to change their tanks. They can not afford the cost associated with legislation like L.D. 836. The other half of those people, it has been my

experience with my customers, are young people who are just starting out, who bought an older home because they can't afford a nice new, shiny home. They bought an older home as a starter home. This Bill will have a similar impact on them. The concept of removing the tanks is a good concept. Requiring a minority of the public to pay the cost, in my opinion, is unfair.

As a member of the Senate, we must remember that we're not talking about leaking tanks. We all agree that leaking under ground oil tanks should be removed immediately. We're talking about existing tanks, in the ground, that are not leaking. Most of us here in the Senate can very much remember the Education Act of 1984 and the concerns that were expressed to us by our constituency regarding the mandates without funding. What does L.D. 836 do? It mandates without funding. Sure, if you're low income, really low income, you might qualify to have the State take your tank out. Or, you might qualify for some low interest loan. I'll bet you that most of us, most of our constituents, would not receive a loan, will not receive a grant for the removal of the tanks.

Another point I would like to bring up is that it doesn't seem fair to me that this Legislature should pass a law that would benefit every one. This is what we're talking about. Remember now, these tanks are not leaking. We're passing this law, we're saying they have to remove the tanks, but we're saying they have to pay for it. If every one is going to benefit by a law like this, and we all will, because we're going to have a cleaner environment and I'm not arguing that we should have a cleaner environment, but, if everybody is going to benefit, then everybody should pay. I believe the home owner should have to put a new tank in at a cost of three hundred dollars, at least three hundred dollars. But, I don't believe it is fair to ask the consumer, the 15% of the public, to take their residential oil tank out at a cost of fifteen-hundred dollars without compensation from the State.

Let me remind you that prior to 1985, any one, anywhere in this State could install an under ground oil tank for their home for residential use. It was done up until 1985, legally. Now, I have never been in a situation, personally, where I have installed an under ground tank. To me it just wasn't worth it. I will tell you there are a lot of them out there and they ought to be coming out. It is unfair, extremely unfair, to ask this small minority of the public to bear the brunt of the cost for cleaning up our environment.

One last point I would like to make is that I would have hoped to put an amendment on this Bill to exempt this portion of L.D. 836. It is a major concern to me. Unfortunately, the wording of this Bill, the title, was confusing and I was looking for the wrong Bill, and I'll admit that. Because of that mistake, I didn't catch this Bill in time. I would ask you to oppose this Bill at this time because it is the only way that we can do it. At a later date, I would like, if we can defeat this Bill, I would like to roll this Bill back and place an amendment on it which would remove section 10, which is a major concern to me and to another 15% of the population. If we are to enact this Bill, I would ask for a Roll Call.

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

Senator PEARSON: Mr. President, men and women of the Senate. I am sorry that I can't put my fingers right on it, I can't remember the L.D. number, but when we dealt, in the Appropriations Committee with this, I can't remember the exact figure but I think

it was well over one million dollars into the very program that Senator Webster from Franklin is concerned about. I think his points are well taken when made to us. We adopted them to spend a great deal of money, federal money, the largest amount of money that we could get our hands on, that wasn't had to have been raised by tax payers in Maine. We put a great deal of that money in the removal of under ground tanks. It had to be related to heat so we are going to be removing specifically, under ground tanks that are connected to heating systems of home. Some of that. and I think it was 26% of it, had to be allocated to people under the poverty line. A great deal of it was to people above that level. Couple that with the bond issue that we have going out, if we are successful in getting a bond package out, will be further addressing that very same thing. We recognize that as one of the greatest environmental threats that Maine now faces, so we have thrown a lot of money into the problem, this year. Again, I am sorry that I don't have the figures right here, but I think the good Senator from Franklin would be pleased if he saw it. I have just been given a note that it is L.D. 1623. You might want to check that.

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

Senator USHER: Thank you, Mr. President. In response to the good Senator from Franklin, Senator Webster, in regards to L.D. 836, the Committee worked very hard on this issue. They were very aware of the problem we have out there. The under ground issue is not going to go away, not this year. We just put in effect, a couple of years ago, and it is working very well. The recording is going on and there are over twenty thousand, estimated. This piece of legislation has money in it to help these people remove the tanks, which is the most costly of the tag. They estimate over fifteen hundred dollars to remove a tank. It only takes about five hundred dollars to put one in.

There is also money in the bond issue, I can't recall the figure, but I think we passed it earlier today. It awards up to five hundred thousand dollars to assist in the program. So, we have FAME and we have some money through the bond issue, if it passes.

There is plenty of help out there and we want to resolve the problem. Until we resolve the problem, I think we have to get on with the legislative business and pass this legislation.

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

Senator BERUBE: Thank you, Mr. President. To follow up on Senator Pearson's comment on financial aid. The Committee allocated three and one half million dollars toward removal of under ground storage tanks.

One million would go to commercial enterprises. One point five million would go to persons of low income and the other one million would be a free for all, if you wish. So, we have put three and one half million, plus three million in the proposed bond issue.

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

Senator WEBSTER: Mr. President, members of the Senate. I have no absolutely no intention, as I was trying to imply here earlier, in opposing the concept of taking these tanks out. I do think and I presented my concern to the Appropriations Committee about this issue and hoping the money would use to help pay for removal of tanks. I am not particularly concerned as to whether somebody is low income, high income or in between income. If we're passing this law, I think the State should have to pay for it. I

had hoped to put an amendment on this Bill to imply, not only to imply that but to put it into writing. It is a big concern of mine. You know, we're asking these people to pay to clean up, to remove these tanks and I just think it's unfair to do that without compensating them for that. One of the components of the bond issue, that is somewhere in this legislature, allows for low interest loans. As far as I'm concerned, that is absolutely not enough. A low interest loan is still paying back, adding another cost to the 15% of the people who are going to have to bear the brunt of this law. If the State was willing, if this Legislature was willing to pass a law to say that they would pay for the removal of the tanks, I would be the first one to support it. As a matter of fact, I would love to put a bond issue in to do just that. I am sincere when I say that we need to clean up this potential bomb shell that's out there. It could explode at any time. I still feel it is an issue of fairness. Asking these people to pay the cost of this is absolutely unfair when everybody is going to benefit. This little old lady who lives in an old Victorian home, that had a tank installed twenty five years ago, during the oil crisis, or even ten years ago. It is unfair to tell her that she has to take that tank out, even though it is not leaking.

Even though we're doing it because it is right, to require her to take that tank out, it is unfair to her, and since she is going to have no benefit, almost doubtful that she will receive benefit for removing that tank, except an additional two thousand cost. I say, make her put a new one in. I don't argue with that. The fifteen hundred to remove it is excessive, unfair and unreasonable for her to have to pay. Thank you.

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

Senator PEARSON: I think the Senator from Franklin, Senator Webster is correct in all that he says. We just simply had the problem of not being able to have as much money as we liked, with regard to that item. Not just that but just about any other item we had in the budget. We did the very best we could. I'm convinced, as an individual, that that particular issue, we've not seen the last of it and as somebody else has indicated, it will be under a bond issue that will go out.

I'm the first to admit that probably we're not going to be solving that particular problem. It is unfortunate. There are some bond issues, I think, by their very nature that if the public becomes aware of that can go out time and time again and be passed. I think the cleaning up of our dumps is one. Solid waste water treatment plants is another. I think asbestos removal is another. I think the removal of under ground tanks is another. There are some, however, that have to go up only once, and have to have larger on them.

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

Senator BALDACCII: Mr. President and members of the Senate. I introduced a Bill this Session, to the Energy and Natural Resources Committee that dealt with under ground storage tanks. It was my first hand observation that I think we were using tremendous amount of prevention for no problem at all. In fact, the way the law was written, it challenged the inspector of the under ground tank to tell the individual, this happened to be in the Bangor area. There was an old army installation point that had to be removed because of State law. Even though it was not effecting any ground water contamination, even though it was not going to effect

any of the agriculture or anything else, because of State law, it had to be removed because it had been abandoned. I thought that was very unfair because he probably is not going to fall into those guide lines that are established. As well we know, it usually is those people that never fall within those guide lines, but they're just above it. Nine out of ten times the guide lines haven't caught up with the people who really need the attention. It is a concern that I have because I had a gentleman from the Department of Environmental Protection sitting there telling me that this under ground tank wasn't going to hurt anybody's ground water, it wasn't near ground water and it really didn't have to be removed. It could be emptied out and filled with sand, but because the State law didn't provide for it, it had to be removed.

It was a tremendous hardship to this elderly couple. I think if the State is going to require them to take those tanks out, that the State ought to be prepared to compensate them. That is equity. That is all that is being asked for. The issue really could be fought on whether the tank should be taken out at all anyway. I think there is a tendency sometimes, to go over board in a particular area. I'm not speaking about any other issues here other than the under ground tanks. I think it is an important issue that we should deal with realistically. That is all that people are looking for. Thank you very much.

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

Senator PEARSON: Mr. President. It is the intention of the EPA to enlist the cooperation of the Maine National Guard to remove all under ground tanks in the Bangor Gardens at no cost.

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

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

A vote of Yes will be in favor of ENACTMENT.

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, BRAWN, BUSTIN, CAHILL, CLARK, COLLINS, DILLENBACK, DOW, DUTREMBLE, EMERSON, ERWIN, ESTES, GAUVREAU, GILL, GOULD, KANY, KERRY, LUDWIG, MATTHEWS, PEARSON, PERKINS, RANDALL, THERIAULT, TUTTLE, TWITCHELL, USHER, WHITMORE, THE PRESIDENT - CHARLES P. PRAY

NAYS: Senators BALDACCI, BLACK, MAYBURY, WEBSTER

ABSENT: Senators SEWALL

30 having voted in the affirmative and 4 Senators having voted in the negative, with 1 Senator being absent, 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.

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

ENACTORS

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

An Act to Amend the Maine Turnpike Authority Act
H.P. 1323 L.D. 1806

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

Senator ERWIN: Thank you, Mr. President. This legislation is one of the most important, if not the most important major pieces of legislation we will have to deal with this year. What will this Bill do that an emergency Bill in January won't do? In discussing this with some key people, with expertise in the area, the answer is, very little. Before we increase the tolls by 65% and increase the cost of doing business in the great State of Maine, we need some answers we do not have now. We are told that the Turnpike Authority will have a study completed in December that may provide some of the answers to the many questions surrounding this proposal.

I would like to discuss some of the questions related to this issue. The increase of the speed limit from 55 to 65 miles per hour will mean a 19% increase in the flow of traffic. This increase in the speed of the flow of traffic this summer and fall may be watched closely and we will know in January of 1988 how much this has helped the traffic problem. It doesn't take a 65% increase in tolls to get the answer. Those who travel the turnpike often and have observed where the bottlenecks are, have suggested that a third land in those areas would smooth the flow of traffic, have a major effect on the problem and would help to eliminate the need for a third land from Kittery to Portland. This does not require a 65% increase in tolls.

I have been told that this expansion is just the beginning. The Turnpike Authority eventually plans an additional eight lanes. This will be the foundation for later expansions. Will our southern counties eventually look the same as southern Connecticut, central New Jersey, and other congested freeway states? Cumberland County really thought through what a major increase in the flow of traffic is going to do to them. You already have problems with congested traffic on your roads. What will a third more traffic do to the already almost bumper to bumper present conditions? Where there are a lot of people and cars, you also usually have a change of scenery. We probably will be blessed with more fast food restaurants, gas stations, outlet stores and motels. When the people in your area realize you share in the responsibility for this, perhaps you may want an unlisted phone number.

How about the people on our lovely coast above Portland and beyond? You now have a four land road as good as any in New England to handle what you probably expected to be a small flow of traffic. From Exit Number 9 on the Turnpike over Route 95 to Gardiner, there is a very good four land highway that is not only shorter from Exit 9 to Gardiner than the turnpike, but is also toll free. There are people who are trying to convince us that the truckers are not going to use this shorter, just as good if not better, highway that is toll free. Despite the 65% increase in tolls, we are asked to believe that people will continue to use the toll roads. Do you believe this fairy tale? I have heard truckers say that they have to try to save every dollar that they can. They use, and will continue to use the toll free road.

What are your people going to say when they wake up at some point in the future to find an almost convoy of trucks and many, many more cars using what now is a very nice way to travel. What are they going to think when they find you not only voted to help create this problem, but were one of the leaders of the pack? Because of the geographical location of the State of Maine, most of the markets for our manufactured goods and farm products are south and west of us. Our business, particularly the smaller ones, face extremely fierce competition and they must

make every saving they possibly can. This proposed 65% increase in tolls may just be the straw that puts them out of business.

It will be of interest to see if those great defenders from Franklin County, defenders of the poor and the small business person, see if their actions match their words. The people from Aroostook don't need to be reminded that a large percentage of the markets for your farmer's potatoes and broccoli like to our south and west. My good friend, Senator Jim McBreairey has often told me that some times the price of potatoes doesn't cover the cost of raising them. But, then your truckers can always join that convoy of trucks on that toll free route from Gardiner to Exit 9 and perhaps enjoy our beautiful scenic coast.

I have been told that if the turnpike is left to operate as is, they can continue to work on the

additional exits and give the Department of Transportation 15 million dollars a year to use on other state roads. To those people who say this is not possible, how is New Hampshire using a fifty cent toll to maintain their beautiful toll road and also fund the cost of a large percentage of the highways? Perhaps our Governor may order our State Auditor to conduct a thorough audit of the Turnpike Authority in the fall. Ladies and gentlemen, what I have tried to point out to you is that there are many questions that need answers, answers we should have next January, answers we should have had before we place this added cost on our people.

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

Senator WHITMORE: Thank you, Mr. President. I guess I am kind of groping for the starting point. My remarks to the good Senator from Oxford, Senator Erwin. When we talk about studying things, it seems that if you don't know how to make a decision and you don't want to make a decision, you put it into a tail spin and throw a study at it, or throw it into a study. The Maine Turnpike, if you look at the design of it, in its' initiation back in 1964 and you look at a map of the State of Maine the Maine Turnpike is the aorta of the State of Maine. There are no two ways about it. That is where the blood flows from out of state as it comes north through the aorta into the heart of Maine. We all know what happens in today's miracle of wizardry when the arteries get plugged. Occasionally, they do get plugged due to bad usage, or over usage or just not being properly cared for. There is a constriction or a restriction and those arteries need to be opened up so the blood flows freely again.

So the economy of the State of Maine continues to grow. It is no different. We're talking about a restricted artery at the end of the State of Maine. The Maine Turnpike Authority has done its study prior to recommending that it be increased to three lanes. Now they are into phase two. Phase two is to get the authorization through the legislature to move forward with the study. There is no question about the problem. The problem is evident. The surveys, any one of you that travel on a regular basis, those of you that sit in this Senate that go to the very tip of the State of Maine, probably every weekend, can appreciate just how the traffic restrictions take place on the Maine Turnpike below the South Portland Exit. It is not uncommon today, to be traveling along the Maine Turnpike, even in the days of 55 miles per hour and be forced to slow down to 45 miles per hour because the traffic is so constricted.

The projected traffic demands by 1994, unless something is done, could be reduced to stop and go

traffic. In the last five years, the traffic alone has increased in that section 50%. In just five years. It is a serious problem and one that has to be addressed and not studied. I think even the casual user of the turnpike would agree and I think it is fairly obvious that as you head south on the turnpike when you reach the area, traveling along in two lanes southbound, then you reach the area where three lanes have already been constructed, traffic opens up again and it moves along freely. Isn't that a much safer and efficient way? In this piece of legislation we have just talked about earlier in the Session, there was some concern to people within the Androscoggin area, the Lewiston-Auburn area, and not once as I went around in my travels and when we had the delegation meeting, not once did any one say the southern part of the turnpike did not need to be expanded to six lanes. Not once.

There were questions about the tolls. Nobody likes to get hit in the pocketbook, but after all if you're going to have something, you're going to have to pay for it. Tolls are the method of payment. We went to the businesses in the Lewiston-Auburn area who are heavy users of the turnpike. Their market is all out of state, or a good part of it. All their products have to be shipped, about 98% by truck to the southern markets.

Yes, they are concerned about the high tolls. It is going to cost them some more. They are also looking at a safe road and the condition that the Maine Turnpike is maintained in and it is a real plus to their trucks and their products. They can release a truck from their dock, send it south and they don't have to worry about some one running out or a car running out in front of their truck, unable to stop because it is a restricted highway.

It allows the free movement of traffic. The thing that caused the most concern within our area is again, if you look back and harken to the map, is that section from South Portland and north has to compete with a free road, the free road of Route 295. If you really look at them, they run parallel to the same points and that is of great concern. The delegation was able to set aside and having discussed these things fully, discussed with the Maine Turnpike Authority.

The Maine Turnpike Authority did agree to do an economic impact study of any changes in that section of the road. There is already being a study done in the southern part of Cumberland County, the York County area, it is already completed. So, what do we want to study? Do you want to study the study? That doesn't make much sense to me.

I think that there has been a lot of effort to throw a chink in the gears, as I say, and see if we can grind this thing to a halt. Well, I suggest to you that it would not be good planning on your behalf, to draw this thing to a halt. The studies have been done, everything is there, everything is in place. Let's get on with the show. We spend millions of dollars in economic development and I think that I heard the good Senator from Oxford, Senator Erwin say something about the amount of traffic and all you people in the southern part of the State were going to get hit with this traffic. I thought we were trying to increase the amount of traffic into the State, to bring tourists in, to funnel tourists up to the interior part of the State, not to the coast. I think I'm getting lost in the shuffle of where we're spending the money and what we're trying to accomplish.

Now they're saying, "O.K gang, now we don't want you here because you bring cars and traffic and you're cluttering up our highway." Well, I suggest

to you that there is a element of confusion going on here that if I'm not able to understand it, I'd hate to think what the people who are coming in here as tourists feel. I would suggest to you that we vote for passage of this L.D. and let's get on with the program.

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

Senator DOW: Mr. President and members of the Senate. First, I move passage to be enacted and I ask for a Roll Call. Then I will answer a couple of questions that Senator Erwin from Oxford asked. One of them was why do we need have the Bill now. The answer to that is in order to go out with a bond issue, we have to have the Bill as soon as possible so that we can start constructing in 1988.

The other is, of course, is for the DEP permits. Also to bring up a couple other things. Everyone that was at the public hearing had some concerns, but everybody spoke in favor of widening the turnpike. There wasn't a soul in the public hearing that spoke against it. In the Committee, there was some concern about the Bill, so we tightened up the Bill about getting some information back to the Transportation Committee from the Turnpike Authority. As far as I'm concerned, the Bill needs passing and I would ask for your vote.

On motion by Senator DOW 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 Penobscot, Senator Baldacci.

Senator BALDACCII: Mr. President and members of the Senate. One of the things that disturbs me the most in driving and using the tolls from northern and eastern Maine, and realizing there is going to be a 65% increase in order to cross the border to get into other states, is that why is there a toll? We had a toll in our area on the Bangor-Brewer bridge that lasted for an amount of time until it was paid for. I understand that they have bridges in Kittery and they also have bridges in Augusta that were tolled until they were paid for. Well, why is it that we still have tolls and will for the next twenty five years, until the bonds are paid off, in a portion of southern Maine? Why do we have tolls would be my first question? The second question is, where is God's name are these people going to go? If you widen the road, they're still going to end up in a very over-used area of Route 1, which seems like the good Senator from Cumberland, Senator Usher's quote was "Rushing to go no where." The third concern is that the study that was done was done by the turnpike about the turnpike's livelihood for the next twenty five years, in like a make-work project. Why is it not a good idea for the Legislature to review something that is going to be costing the people of the northern and eastern Maine and the rest of Maine 65% in order to cross the border? Why is it not just a good idea to look at it?

Is that such a bad idea? For the next twenty five years of tolls?

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

Senator KERRY: Mr. President and members of the Senate. I would just like to briefly respond to the good Senator from Penobscot, Senator Baldacci. First of all about having a study and why isn't is a good idea, and why is it a bad idea, it really is a lousy idea. Second, I think it is important to note that the tolls, unfortunately, many of us in southern Maine have paid tolls for some time, those who travel through southern Maine to other parts of New England. The key reason being is the fact that the

Maine Turnpike is one of the finest maintained highways in the northeastern corner in terms of maintenance and I think many of us have been very pleased with the way the turnpike has been kept over the years.

I think many of us may seem to be somewhat onerous to pay a toll, to pay as you go. Those who use the turnpike have to maintain and pay for it rather than having it come from the general revenues of the State. Third, I would have to say, as I drove up this morning around 6 A.M. and I saw all these cars whizzing by me, not at 55, not at 65, but 70, 75 and over. We have to have a wider turnpike in the southern part of the State to keep the people from flying up to the northern part of the State, because they are just passing right through now. I think it is important to note that people believe that this is a fine economic boon for not only the southern part of the State, but for the central part. I would fully endorse that we pass this legislation.

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

Senator BALDACCII: Mr. President and members of the Senate. I appreciate the answer from the good Senator from York, Senator Kerry. In regards to a 65% increase in the tolls, I find it kind of hard to believe that because there is a slow down on the turnpike that we need to widen it and we need to keep the tolls going for another twenty five years, based upon the response that has been given in this Chamber. One hundred and five miles of turnpike cost an executive director and an assistant executive director to run, in their own little private sand box, contracting out most of the work, for one hundred and five miles, which seems that most of the people go around at the beginning and get back on at the end. It just seems like, and I think it was understood it is six miles shorter to go around it then it is to use it. It seems like that we ought to look over the situation a little bit more than just saying that it makes sense to do it because the Turnpike Authority studied it. I think that this body ought to look into this a little bit more instead of just enacting it. Maybe it is not a majority, maybe we're going to pay for what we use. The fact of the matter is, there are a lot of highway projects with what the Federal Government has been cutting back in Washington. When I sat in the Joint Session of the Legislature and saw the cuts from Washington at 10%, that we could be using that money in northern and eastern Maine for a East-West Highway, or for other programs that are being discussed. I think there is a tremendous concern that the money is not being well spent, that is being collected. All I'm saying here that there would be an ability for people to review the situation and see whether in fact, there are a better use for the tolls that are being collected on the turnpike. I will not accept the fact that the turnpike has studied and that's the way it is. I will not accept that and I think the Legislature has an obligation to the people in this State to explain to them why that for the next twenty five years, there is going to be a toll, as they go through the State of Maine. I'm not going to vote for that.

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

Senator CAHILL: Mr. President and members of the Senate. I just would like to address some of the good Senator from Penobscot, Senator Baldacci's concerns. I was concerned about the increase of tolls as well. The Turnpike Authority has agreed that the commuter passes for those men and women that travel back and forth on a regular basis, will remain

constant. It will not be an increase in tolls for men and women traveling back and forth to work.

Senator BALDACCI of Penobscot moved the INDEFINITE POSTPONEMENT of the Bill and Accompanying Papers.

On motion by Senator DUTREMBLE of York, 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 Erwin.

Senator ERWIN: Mr. President, ladies and gentlemen of the Senate. I don't really understand why the good Senator from Androscoggin, Senator Whitmore is confused about some of the points I made. Having listened to many members of the two southern counties of the State, the one thing that has been a drum beat is that they wish they could close off the area of the bridges down in Kittery. That they are getting to be overflowed with people. They have almost said that they do not want these people there. So, what about my remarks as confusing, they are going to get more of them faster. What many people probably haven't realized, the effective date of this proposed piece of legislation, is September 15th. Your basic field work season is almost gone. By the time they get organized and out there, how much good weather do you have left? Sometimes in October, we're beginning to get snow fall. Maybe we'll be lucky and it will be longer, but the effective date of this legislation is September 15. The point that I have tried to make is what will this Bill do that an emergency Bill in January will not do? We will have the benefit of what the 19% increase because of the speed limit raise, flow of traffic is going to do to help these congested areas, that we know we have. We all know that we have them. Then we can take a close look with that 19% increase in the flow of traffic. Where are the bottle necks? Then we can put the third lane where those bottle necks exist and increase the flow of traffic there. It is not going to take 65% increase in the tolls to do it.

Do you people realize what you are doing to our small business people? Also to the large businesses. Do you realize what you're doing with a 65% increase in the tolls? They are fighting for their existence. As I have pointed out, the farmers in Aroostook, where do they market. Sure, some in Maine but most of them ship out to the south and west of us. When there's many, many years, when they work and labor all year long for an existence grubbing out a living out of the dirt, we're going to add another 65% to that toll? Do you think your farmers are going to happy to find out that you did that to them?

I'm not one for studying something to death. I'm told there is a fifty thousand dollar Maine Turnpike Authority study that will be, I think Senator Dow from Kennebec, said there would be two studies, but I have heard that there is one, definitely, that is to report in December. There again, the members of Legislature would have the benefit of that to see if we want to saddle our people with a 65% increase in tolls. I don't understand why anybody wants to rush into this. What are we going to gain by rushing into this? We can have an emergency Bill in January, with more information to base our decision on. Thank you.

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

Senator WHITMORE: Thank you, Mr. President. I just felt a compulsion to respond to a couple of points that the good Senator from Oxford, Senator Erwin made. First, the study that he has heard about, the fifty thousand dollar study, that is the one that the Androscoggin County delegation

negotiated. It is to study that section of the turnpike from the South Portland Exit to the the end of the turnpike in Augusta. That would, in no way, reveal anything about the southern end of the turnpike. We can discount that one that we're going to wait for until December. The second thing, he made reference to a third lane where ever the congestion was. I guess that I would suggest that the congestion probably doesn't take place in the same place every day. On top of that, if any of you, and I'm sure you're all are familiar with an hour glass, I would suggest that is what the turnpike would look like with every place that there had been congestion, they would put a third lane in, and then flow back into two lanes. To me, that surely creates a very dangerous system. That is just like strangling one of those arteries that I talked about earlier.

THE PRESIDENT: The pending question before the Senate is the motion of Senator BALDACCI of Penobscot 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 BALDACCI, ERWIN, ESTES, KANY, THE PRESIDENT - CHARLES P. PRAY

NAYS: Senators ANDREWS, BERUBE, BLACK, BRANNIGAN, BRAWN, BUSTIN, CAHILL, CLARK, COLLINS, DILLENBACK, DOW, DUTREMBLE, EMERSON, GAUVREAU, GILL, GOULD, KERRY, LUDWIG, MATTHEWS, MAYBURY, PEARSON, PERKINS, RANDALL, SEWALL, THERIAULT, TUTTLE, TWITCHELL, USHER, WEBSTER, WHITMORE

ABSENT: Senators None

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

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

Senator PEARSON of Penobscot requested and received Leave of the Senate to change his vote from YEA to NAY,

5 Senators having voted in the affirmative and 30 Senators having voted in the negative, with No Senators being absent, the motion of Senator BALDACCI of Penobscot, to INDEFINITELY POSTPONE the Bill and Accompanying Papers, FAILED.

Senator DOW of Kennebec requested and received Leave of the Senate to withdraw his motion for a Roll Call on Enactment.

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

Senator ESTES: Mr. President and members of the Senate. I would like to speak just for a moment about my reservations in regards to this Bill being enacted tonight. First of all, I think that the Maine Turnpike Authority has been a controversial issue for many, many years. In part, I think it is because of the size that it has grown. I think there are a number of questions that still remain unanswered. They have been partly answered in my mind but I do not feel completely satisfied. I know that when the original expansion of the turnpike took place in the early 1970's, there was a lot of concern and in particularly about whether they were subject to the site selection law or not. That was challenged. Even though it was a position of the

Attorney General's office that they were subject to the site selection laws, to my knowledge, that has never been determined by any court. Nor, has that been adopted as the official position of the BEP. Furthermore, I am of the understanding that if any of the interchanges should be given to the DOT and called a State road, they would then be specifically exempted from the review of the BEP.

I guess another reservation that I have is when in-house studies are conducted to determine what should be done, and to my knowledge, there has not been a consulting firm separate from the Turnpike Authority that has reviewed this issue, and I don't know that there has been adequate consultation with the regional planning agencies in York and Cumberland counties. I think that one of the other concerns that I have is about not just about the environmental impact or expanding the turnpike and making changes in the interchanges, my other question is what is the cumulative impact going to be? What is the effect going to be on community businesses or is the effect going to be on land values. How is it going to effect growth and development patterns which have been a very hot issue in southern York County, in my district, now for five years. Then, I guess my concern is what is going to happen to the community identity of those towns that are going to be directly impacted? I have some real fears having seen the State of Connecticut and what has happened to that highway system there.

I'm afraid that we may be moving a little bit too fast. I do concur with the good Senator from Oxford, Senator Erwin that a little bit more time and a little bit more careful thought may be a good dose of medicine, so that we can make sure that we can have the adequate plans to deal with what our future needs are. I would request a Division.

Senator ESTES of York requested a Division.

THE PRESIDENT: The pending question before the Senate is ENACTMENT.

A Division has been requested.

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

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

27 Senators having voted in the affirmative and 5 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.

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

PAPERS FROM THE HOUSE

Non-concurrent Matter

Bill "An Act Creating the Maine Low-level Radioactive Waste Authority" (Emergency)

S.P. 639 L.D. 1865
(S "A" S-218; S "B"
S-221)

In Senate, June 16, 1987, PASSED TO BE ENGROSSED AS AMENDED BY SENATE AMENDMENTS "A" (S-218) AND "B" (S-221).

Comes from the House PASSED TO BE ENGROSSED AS AMENDED BY SENATE AMENDMENTS "A" (S-218) AND "B" (S-221) AND HOUSE AMENDMENT "A" (H-382) IN NON-CONCURRENCE.

Senator KANY of Kennebec moved that the Senate ADHERE.

THE PRESIDENT: The Chair recognizes that same Senator.

Senator KANY: Thank you, Mr. President. There is an amendment attached from the other Body, although I can't talk about that, which if we choose to Recede and Concur instead of to Adhere, would allow individual communities to decide if they would have a low level waste facility.

Sixty percent of their citizens would have to approve it. It sounds like a very appealing amendment. If I were not aware of the process that already is required under law, I am sure that it would appeal to me, as it may to many of you when you first hear of it. I would like you to know, first of all, that before any low level radio active waste disposal facility is sited in the State of Maine, that first the Board of Environmental Protection would have to approve of it and while voting for local people would also have a vote with that BEP, then after that, after the technical approval is made, then the Maine Legislature, both houses, have to approve of any facility. Then, the citizens of the State by a majority vote have to approve of that facility. That is an awful lot of steps in law today. In the mean time, we have other things occurring. For instance, as you are well aware, there is a vote coming up in November. If the people choose to keep Maine Yankee operating, that means more low level radio active waste, will be generated and when the de-commissioning finally occurs, there will be about five hundred thousand cubic feet of low level waste which would really come from the contaminated nuclear portion of the power plant. If the voters in November choose to shut down Maine Yankee, you immediately would be faced with five hundred thousand cubic feet of low level waste. Either way, under Federal law, the State of Maine has a responsibility to find disposal capacity for that waste.

I think we have to keep that in mind. The Authority Bill is a good faith effort to try and determine and to meet the next mile stone required under Federal law. What the implementing authority would be, it would allow the authority to develop a plan which would allow us to continue shipping some of our low level waste to the existing disposal facilities in South Carolina and Washington. Under the Federal law, we have to meet a series of several mile stones in order to continue the shipping of our low level waste out of state, for an interim period, until we have made this arrangement for a final disposal.

The states now could decide if we are not moving forward in a reasonable manner and making a good faith effort to do that. Supposedly, they could reject our waste even now. In my opinion, that House amendment would kind of put our entire process and make it look as if it were a sham that we are not making a good faith effort to move toward developing that capacity. I urge you to go along with this motion to Adhere and I really wouldn't have had to explain it, perhaps, but the reason why I wanted you to know what the process is. Thank you.

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

Senator ANDREWS: Thank you, Mr. President. I was unaware of the existence of this amendment before coming into the Chamber. I am certainly grateful to the Senator from Kennebec, Senator Kany for explaining her position on this matter. I understand what the Senator is saying and certainly there are several steps that one would have to go through before a site is decided upon for this waste.

I differ from the Senator from Kennebec, Senator Kany in her conclusion, in that my experience of localities who are faced with radio active waste

coming into their communities. It is one where they not only have great concern for those materials and for the process and safety, land values and a number of other concerns. They are also very concerned about having a maximum amount of input and being involved as directly as possible in the decision to site such a facility near their homes or in their communities. As I read this amendment, I think this is one further step to ensure those communities and those people who have those tremendous concerns, very justified concerns. It would assure those communities a direct role in deciding whether or not this facility is coming to their community. I think that the material that we're dealing with, and the issue that we're dealing with is so important and the implications from the municipalities are so great, that providing those communities with a direct role in whether or not they would like it sited in their community, is justified.

I am certain that there are many people outside of this state that would question that. They may think that we're not making a good faith effort with dealing with our problems responsibly. I would answer them by saying that we're making a good faith effort in keeping faith with our people, particularly those who might have to face this kind of facility, by providing them with this opportunity to vote up or down, whether they would like this to happen in their community. My conclusion is that I would support this amendment and I would move that we Recede and Concur with the House.

Senator ANDREWS of Cumberland moved that the Senate RECEDE and CONCUR.

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

Senator USHER: Thank you, Mr. President. I, too was just looking over the amendment because it was just accepted in the other end of the hall. I have to agree with the good Senator from Cumberland, Senator Andrews. We're not talking about solid waste here. We're talking about low level waste. When you stop and think of the type of stuff that we have in an agricultural state, farm state, rural state, and they decide up country somewhere, let's say the Town of Monson, or even down in southern Maine, that is they decide they want to put a low level waste dump site there, can you imagine what the people are going to think? Look at the problem that developed in southern Maine in York County, that somebody came in and just thought of putting a solid waste disposal there. Look what happened. The Legislature even returned to Augusta.

Can you imagine not having the authority or the input from a little town, and they say they are going to put a low level waste site in your town, I think that would sent the Legislature back to Augusta, also. I do support this amendment and I hope you will move to kill the proposal that is before us.

Senator KANY of Kennebec requested a Division.

THE PRESIDENT: The pending question before the Senate is the motion of Senator ANDREWS of Cumberland that the Senate RECEDE and CONCUR.

A Division has been requested.

Will all those Senators in favor of the motion of Senator ANDREWS of Cumberland to RECEDE and CONCUR, please rise in their places and remain standing until counted.

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

23 Senators having voted in the affirmative and 6 Senators having voted in the negative, the motion by Senator ANDREWS of Cumberland to RECEDE and CONCUR, PREVAILED.

ORDERS OF THE DAY
HELD BILL

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

Senator CLARK: Mr. President, is the Senate in possession of L.D. 1288?

THE PRESIDENT: The Chair would answer in the affirmative, having been held at the Senators request.

On motion by Senator CLARK of Cumberland, the Senate RECONSIDERED whereby it ADHERED on:

Bill "An Act Relating to Boards and Commissions"
H.P. 959 L.D. 1288
(C "A" H-295; S "A"
S-212 to H "A" (336;
H "C" H-365; S "A"
S-202)

(In House, June 15, 1987, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-295) AND HOUSE AMENDMENT "C" (H-365.)

(In Senate, June 15, 1987, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-295) AND HOUSE AMENDMENT "A" (H-336) AS AMENDED BY SENATE AMENDMENT "A" (S-212), thereto AND HOUSE AMENDMENT "C" (H-365) AND SENATE AMENDMENT "A" (S-202) in NON-CONCURRENCE.)

(In House, June 16, 1987, that Body ADHERED.)

(In Senate, June 16, 1987, ADHERED.)

On further motion by same, the Senate RECEDED and CONCURRED.

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

COMMITTEE REPORTS

Senate

Divided Report

The Majority of the Committee on STATE AND LOCAL GOVERNMENT on Bill "An Act to Authorize Kennebec County to Raise up to \$9,500,000 for Construction and Improvement of Jail Facilities for Kennebec County"

S.P. 614 L.D. 1809

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (S-227).

Signed:

Senators:

TUTTLE of York
BALDACCI of Penobscot
GOULD of Waldo

Representatives:

ROTONDI of Athens
BICKFORD of Jay
LACROIX of Oakland
ANTHONY of South Portland
BOUTILIER of Lewiston
STROUT of Windham
CARROLL of Gray

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

Signed:

Representatives:

WENTWORTH of Wells
LOOK of Jonesboro

(Representative HUSSEY of Milo Abstained)

Which Reports were READ.

On motion by Senator TUTTLE of York, the Majority OUGHT TO PASS AS AMENDED Report was ACCEPTED.

Committee Amendment "A" (S-227) READ and ADOPTED, in concurrence.

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

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

ORDERS OF THE DAY

On motion by Senator CLARK of Cumberland, the Senate removed from the Tabled and Later Today Assigned matter:

Bill "An Act to Ensure Confidential and Reliable Substance Abuse Testing of Employees and Applicants"

S.P. 642 L.D. 1870

Tabled - June 16, 1987, by Senator BALDACCI of Penobscot.

Pending - Motion by Senator DUTREMBLE of York to ADOPT Senate Amendment "B" (S-226)

(In Senate, June 16, 1987, under Suspension of the Rules, READ TWICE. Senate Amendment "A" (S-225) READ and FAILED ADOPTION. Senate Amendment "B" (S-226) READ.)

Senator DUTREMBLE of York moved the INDEFINITE POSTPONEMENT of Senate Amendment "B" (S-226).

THE PRESIDENT: The Chair recognizes that same Senator.

Senator DUTREMBLE Mr. President and members of the Senate. We would liked to have gotten this amendment in a posture where it could have been sent to the Supreme Court as a solemn occasion and ask them whether or not this whole idea of random testing is constitutional.

I guess after consulting with number of attorneys around here, it seems that we can't do that because of the lateness of the Session, since we are going to be adjourning tomorrow. If we do send it, we won't be in session to deal with it so the whole point is, we can't be doing it. We will have to wait until next year since there is a Bill that has been held. We'll carry over until next session and maybe we can address it at that particular point. I would say that for now, I hope that the Governor is proud that he has won this issue and the people of the State of Maine have lost. The hard working people of this State. The same people who put him into office. I would like to point out one thing to him. It took the people of this State twenty years to elect a Republican Governor and it has taken them less than six months to remember why they never did.

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

Senator WEBSTER: Mr. President. What is the prevailing motion at this time?

THE PRESIDENT: The pending motion is the motion of the Senator from York, Senator Dutremble, that Senate Amendment "B" (S-226) be Indefinitely Postponed.

Senator DUTREMBLE of York requested and received Leave of the Senate to withdraw his motion to INDEFINITELY POSTPONE Senate Amendment "B" (S-226).

Senator DUTREMBLE of York requested and received Leave of the Senate to withdraw Senate Amendment "B" (S-226).

On further motion by same Senator, the Bill and Accompanying Papers INDEFINITELY POSTPONED.

Sent down for concurrence.

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

Emergency

An Act to Provide Discretion to the State Liquor Commission to Establish a Temporary Agency Liquor Store in Response to a Natural Disaster

H.P. 1311 L.D. 1789
(H "A" H-309)

Tabled - June 15, 1987 by Senator DOW of Kennebec.

Pending - PASSAGE TO BE ENACTED

(In Senate, June 15, 1987, FAILED OF PASSAGE TO BE ENACTED. Subsequently, RECONSIDERED.)

(In House, June 15, PASSED TO BE ENACTED.)

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

Senator DOW: Mr. President and members of the Senate. Just a little reminder that this is just a temporary liquor store in the City of Gardiner that was destroyed by flood. I would urge passage. Thank you.

This being an Emergency Measure and having received the affirmative vote of 29 Members of the Senate, with 1 Senator having voted in the negative, and 29 being more than two-thirds of the entire elected Membership of the Senate, was PASSED TO BE ENACTED and having been signed by the President, was presented by the Secretary to the Governor for his approval.

HELD BILL

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

Senator CLARK Mr. President, is the Senate in possession of L.D. 1868?

THE PRESIDENT: The Chair would answer in the affirmative, the Bill having been held at the Senators request.

On motion by Senator CLARK of Cumberland, the Senate RECONSIDERED whereby it RECEDED and CONCURRED on:

Bill "An Act to Amend the Laws Administered by the Department of Environmental Protection"

S.P. 641 L.D. 1868

(Committee on ENERGY AND NATURAL RESOURCES suggested and ORDERED PRINTED.)

(In Senate, June 16, 1987, READ TWICE and PASSED TO BE ENGROSSED, without reference to a Committee.)

(In House, June 16, 1987, Bill and Accompanying Papers INDEFINITELY POSTPONED in NON-CONCURRENCE.)

(In Senate, June 16, 1987, RECEDED and CONCURRED.)

THE PRESIDENT: The pending motion is the motion of Senator TUTTLE of York to RECEDE and CONCUR.

The Chair recognizes the Senator from Cumberland, Senator Usher.

Senator USHER: Mr. President. I would ask the Senate to defeat this pending motion so that I can make a motion to Insist and ask for a Committee of Conference.

Senator TUTTLE of York requested and received Leave of the Senate to withdraw his motion to RECEDE and CONCUR.

On motion by Senator USHER of Cumberland, the Senate INSISTED and ASKED FOR A COMMITTEE OF CONFERENCE in NON-CONCURRENCE.

Sent down for concurrence.

ORDERS OF THE DAY

On motion by Senator CLARK of Cumberland, the Senate removed from the Unassigned Table the following:

HOUSE REPORTS - from the Committee on UTILITIES on Bill "An Act to Prohibit Initial Service Charges by Public Utilities"

H.P. 854 L.D. 1148

Majority - Ought to Pass in New Draft under New Title Bill "An Act to Limit Electric Hook-up Fee Requirements by Electric Utilities"

H.P. 1289 L.D. 1767

Minority - Ought to Pass in New Draft under same title

H.P. 1290 L.D. 1768

Tabled - June 11, 1987, by Senator CLARK of Cumberland.

Pending - ACCEPTANCE OF EITHER REPORT

(In House, June 11, 1987, the Minority OUGHT TO PASS IN NEW DRAFT (H.P. 1290) (L.D. 1768) Report READ and ACCEPTED and the Bill IN NEW DRAFT PASSED TO BE ENGROSSED.)

(In Senate, June 11, 1987, Reports READ.)

On motion by Senator BALDACCI of Penobscot, the Minority OUGHT TO PASS IN NEW DRAFT (H.P. 1290) (L.D. 1768) Report was ACCEPTED, in concurrence.

Under suspension of the Rules, the Bill in NEW DRAFT READ TWICE and the NEW DRAFT PASSED TO BE ENGROSSED, in concurrence.

On motion by Senator CLARK of Cumberland, the Senate removed from the Unassigned Table the following:

Bill "An Act to Alter the Fee on the Registration of Underground Tanks"

H.P. 1306 L.D. 1785

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

Pending - PASSAGE TO BE ENGROSSED

(In House, June 9, 1987, PASSED TO BE ENGROSSED.)

(In Senate, June 9, 1987, READ A SECOND TIME.)

On motion by Senator USHER of Cumberland, the Bill and Accompanying Papers INDEFINITELY POSTPONED in NON-CONCURRENCE.

Sent down for concurrence.

HELD BILL

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

Senator WHITMORE: Thank you Mr. President, is the Senate in possession of L.D. 1806?

THE PRESIDENT: The Chair would answer in the affirmative, having been held at the Senators request.

On motion by Senator WHITMORE of Androscoggin, the Senate RECONSIDERED whereby it PASSED TO BE ENACTED:

An Act to Amend the Maine Turnpike Authority Act
H.P. 1323 L.D. 1806

(In Senate, June 16, 1987, PASSED TO BE ENACTED, in concurrence.)

Off Record Remarks

Senator BALDACCI of Penobscot moved to TABLE 1 Legislative Day, pending the motion of Senator WHITMORE of Androscoggin, to RECONSIDER ENACTMENT.

Subsequently, the same Senator requested and received Leave of the Senate to withdraw his motion to TABLE 1 Legislative Day.

THE PRESIDENT: The pending question before the Senate is the motion of Senator WHITMORE of Androscoggin, to RECONSIDER whereby the Bill was PASSED TO BE ENACTED.

A Viva Voce Vote being had, the motion of Senator WHITMORE of Androscoggin, to RECONSIDER whereby the Bill was PASSED TO BE ENACTED, FAILED.

Senate at Ease

Senate called to order by the President.

HELD BILL

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

Senator BUSTIN: Thank you Mr. President, is the Senate in possession of L.D. 836?

THE PRESIDENT: The Chair would answer in the affirmative, having been held at the Senators request.

Senator BUSTIN of Kennebec, moved the Senate RECONSIDERED whereby it PASSED TO BE ENACTED:

An Act to Provide Comprehensive Protection for Ground Water

H.P. 618 L.D. 836
(H "A" H-359 to C
"A" H-350)

(In Senate, June 16, 1987, PASSED TO BE ENACTED, in concurrence.)

On motion by Senator DUTREMBLE of York, Tabled until Later in Today's Session, pending the motion of Senator BUSTIN of Kennebec, to RECONSIDER ENACTMENT.

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

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

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

After Recess

Senate called to order by the President.

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

COMMITTEE REPORTS

Senate

Divided Report

The Majority of the Committee on STATE AND LOCAL GOVERNMENT on Bill "An Act to Authorize Androscoggin County to Raise up to \$8,900,000 to Renovate and Expand Jail Facilities for Androscoggin County"

S.P. 623 L.D. 1830

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (S-228).

Signed:

Senators:

TUTTLE of York
BALDACCI of Penobscot
GOULD of Waldo

Representative:

BOUTILIER of Lewiston
ANTHONY of South Portland
LACROIX of Oakland
BICKFORD of Jay
CARROLL of Gray
ROTONDI of Athens
LOOK of Jonesboro
STROUT of Windham

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

Signed:

Representative:

WENTWORTH of Wells
(Representative HUSSEY of Milo Abstained)
Which Reports were READ.

On motion by Senator GAUVREAU of Androscoggin, Tabled 1 Legislative Day, pending ACCEPTANCE of the Majority OUGHT TO PASS AS AMENDED Report.

Senator TUTTLE of York was granted unanimous consent to address the Senate off the Record.

Senate at Ease

Senate called to order by the President.

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

Senator BRAWN of Knox was granted unanimous consent to address the Senate off the Record.

ORDERS OF THE DAY

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

Bill "An Act to Provide Comprehensive Protection for Ground Water"

H.P. 618 L.D. 836
(H "A" H-359 to C
"A" H-350)

Tabled - June 16, 1987, by Senator DUTREMBLE of York.

Pending - the Motion of Senator BUSTIN of Kennebec to RECONSIDER ENACTMENT

(In Senate, June 16, 1987, PASSED TO BE ENACTED, in concurrence.)

Senator KANY of Kennebec requested a Division.

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

Senator BUSTIN: Mr. President. Thank you, men and women of the Senate. The reason that I asked for Reconsideration of this Bill is because I was quite upset by the speeches that I heard on the floor when we discussed this Bill previously. I had some concerns and wanted them addressed and I did not think they were addressed adequately. In our caucus, I brought them up. I see little support for making any changes and I am unwilling to hold up the Body and the deliberations here because of the constraints of time. Having voted on the prevailing side of this Bill and not having spoken on the Record, I would like to speak on the Record of my concerns about it. My concerns are not that we not remove the under ground storage tanks. I think it is imperative that we do. The concerns have been stated before. People in residences who do not produce income from those storage tanks and who were allowed to put those storage tanks in, with the State remaining silent on their dangers should not have to now pay to have those tanks removed. If we're going to request those tanks to come out of the ground, then we ought to be able to pay the price for that. To pay the price for not having been forward thinking enough as a State to see that we never should have allowed them in the ground in the first place. So, that is my concern. You've had it stated that we are, as a State Government, providing some monies for this. That is true. How you're providing those monies is through the FAME, appropriation of one million three hundred thousand dollars, for commercial and governmental under ground tank removal and replacement program. I think that is very interesting, commercial. I don't mind governmental. Shouldn't that come out of the General Fund? Shouldn't we pay for that ourselves instead of putting it through the FAME? The Maine State Housing appropriations of five hundred thousand is for residential under ground tank removal and replacement. What that provides is a means tested grant program which means that's for the low income, if they are lucky enough to get their request early enough. A low interest loan program for those who don't qualify for the means test. The low interest loan program means that you're going to have to spend additional money. On top of all of that, what we do is tell them if they don't take care of the problem,

then we will take care of it for you, because we will acquire any property if we so desire.

On top of that, which I think is quite appropriate, it does impact on the value of your property, you must notified that there is an under ground storage tank there. No problem with that but it is going to cost somebody some money. I think it is a State problem, it is a State responsibility and the State should take care of it.

THE PRESIDENT: The pending question before the Senate is the motion of Senator BUSTIN of Kennebec that the Senate RECONSIDER ENACTMENT.

A Division has been requested.

Will all those Senators in favor of the motion of Senator BUSTIN of Kennebec that the Senate RECONSIDER ENACTMENT.

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

7 Senators having voted in the affirmative and 24 Senators having voted in the negative, the motion of Senator BUSTIN of Kennebec to RECONSIDER ENACTMENT, FAILED.

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 Make Supplemental Appropriations and Allocations for the Expenditures of State Government and to Change Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 1987, June 30, 1988, and June 30, 1989" (Emergency)

H.P. 1364 L.D. 1867

Which was READ A SECOND TIME.

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

Senator BUSTIN: Thank you, Mr. President, men and women of the Senate. Again, I apologize for holding up the proceedings at this late hour but I have a concern in this Appropriations Bill that did not really get addressed in my caucus and I would like to pose a question through the Chair. On page 141, what is the item referred to by title 35 MRSA section 935, subsection 1K: State Supervisor, Forest Fire Operation.

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

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

PAPERS FROM THE HOUSE

Non-concurrent Matter

Bill "An Act to Amend the Laws Administered by the Department of Environmental Protection"

S.P. 641 L.D. 1868

(H "B" H-383)

In Senate, June 16, 1987, under suspension of the Rules, READ TWICE and PASSED TO BE ENGROSSED, without reference to a Committee and ORDERED PRINTED.

In House, June 16, 1987, Bill and Accompanying Papers INDEFINITELY POSTPONED in NON-CONCURRENCE.

In Senate, June 16, 1987, RECEDED and CONCURRED. Subsequently, RECONSIDERED RECEDING and CONCURRING and INSISTED and ASKED FOR A COMMITTEE OF CONFERENCE.

Comes from the House PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "B" (H-383) in NON-CONCURRENCE.

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

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

PAPERS FROM THE HOUSE
Non-concurrent Matter

Bill "An Act to Create the Department of Economic and Community Development, to Establish Consistency among Economic Development Laws and to Establish a Capital Budgeting and Planning Process"

H.P. 1324 L.D. 1808
(S "B" S-201)

In House, June 11, 1987, under suspension of the Rules, PASSED TO BE ENGROSSED, without reference to a Committee and ORDERED PRINTED.

In Senate, June 12, 1987, PASSED TO BE ENGROSSED AS AMENDED BY SENATE AMENDMENT "B" (S-201) in NON-CONCURRENCE.

Comes from the House PASSED TO BE ENGROSSED AS AMENDED BY SENATE AMENDMENT "B" (S-201) AND HOUSE AMENDMENT "A" (H-386) in NON-CONCURRENCE.

On motion by Senator KANY of Kennebec, the Senate RECEDED and CONCURRED.

Non-concurrent Matter

Bill "An Act to Alter the Fee on the Registration of Underground Tanks"

H.P. 1306 L.D. 1785

In House, June 9, 1987, under suspension of the Rules, PASSED TO BE ENGROSSED, without reference to a Committee and ORDERED PRINTED.

In Senate, June 16, 1987, Bill and Accompanying Papers INDEFINITELY POSTPONED in NON-CONCURRENCE.

Comes from the House, that Body ADHERED.

On motion by Senator WEBSTER of Franklin, the Senate RECEDED and CONCURRED.

(See Action Later Today)

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

PAPERS FROM THE HOUSE
Non-concurrent Matter

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

H.P. 1185 L.D. 1615
(S "A" S-223 to C
"A" H-361)

In House, June 15, 1987, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-361).

In Senate, June 16, 1987, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-361) AS AMENDED BY SENATE AMENDMENT "A" (S-223) thereto in NON-CONCURRENCE.

Comes from the House PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-361) AS AMENDED BY HOUSE AMENDMENT "A" (H-384) AND SENATE AMENDMENT "A" (S-223), thereto in NON-CONCURRENCE.

The Senate ADHERED.

Sent down for concurrence.

Senator CLARK of Cumberland moved that the Senate RECONSIDER whereby the Senate RECEDED and CONCURRED on:

Bill "An Act to Alter the Fee on the Registration of Underground Tanks"

H.P. 1306 L.D. 1785

(In Senate, June 16, 1987, RECEDED and CONCURRED.)

(In House, June 16, 1987, ADHERED.)

(In Senate, June 16, 1987, Bill and Accompanying Papers INDEFINITELY POSTPONED in NON-CONCURRENCE.)

(In House, June 9, 1987, under suspension of the Rules, PASSED TO BE ENGROSSED, without reference to a Committee and ORDERED PRINTED.)

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

Senator WEBSTER: Mr. President. I would request a Division and would like to speak. Men and women of the Senate. If you take time to look at the Bill, which I have, it appears to me to be reasonable, so I would ask you to oppose the motion to Reconsider. Thank you.

Senator WEBSTER of Franklin requested a Division. On motion by Senator DUTREMBLE of York, 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 CLARK of Cumberland to RECONSIDER whereby it RECEDED and CONCURRED.

A vote of Yes will be in favor of RECONSIDERATION.

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, BLACK, BRANNIGAN, BUSTIN, CLARK, DOW, DUTREMBLE, ERWIN, ESTES, GAUVREAU, KANY, KERRY, LUDWIG, MATTHEWS, THERIAULT, TUTTLE, TWITCHELL, USHER, THE PRESIDENT - CHARLES P. PRAY

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

ABSENT: Senators BERUBE, PEARSON

20 Senators having voted in the affirmative and 13 Senators having voted in the negative, with 2 Senators being absent, the motion by Senator CLARK of Cumberland, to RECONSIDER whereby it RECEDED and CONCURRED, PREVAILED.

On further motion by same Senator, the Senate ADHERED.

Senate at Ease

Senate called to order by the President.

On motion by Senator DUTREMBLE of York, ADJOURNED until Wednesday, June 17, 1987, at 10:00 in the morning.