

MAINE STATE LEGISLATURE

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

VOLUME II

FIRST REGULAR SESSION

May 26, 1987 to June 30, 1987

Index

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

The Chair appointed the following members on the part of the House to wait upon His Excellency, Governor John R. McKernan, Jr., and inform him that the House has transacted all business before it and is ready to adjourn without day.

- Representative CARTER of Winslow
- Representative CHONKO of Topsham
- Representative LISNIK of Presque Isle
- Representative NADEAU of Lewiston
- Representative McGOWAN of Canaan
- Representative HIGGINS of Scarborough
- Representative FOSTER of Ellsworth
- Representative DAVIS of Monmouth
- Representative FOSS of Yarmouth

Subsequently, the Committee reported that they had delivered the message with which they were charged.

(Off Record Remarks)

The Chair recognizes the Representative from Wells, Representative Wentworth.

Representative WENTWORTH: Mr. Speaker and Members of the House: I want to take one minute to wish you all a very happy summer and good luck on your trip, John.

I now move the House stand adjourned sine die.

The SPEAKER: The Representative from Wells, Representative Wentworth, moves that the House stand adjourned sine die. Is this the pleasure of the House?

The motion prevailed and at 10:40 p.m., Eastern Daylight Savings Time, Tuesday, June 30, 1987, the Speaker declared the House adjourned without day.

In Senate Chamber
Tuesday
June 30, 1987

Senate called to Order by the President.

Prayer by the Honorable Dennis L. Dutremble of York.
SENATOR DUTREMBLE: Let us pray. Dear Lord, grant us the courage to change what can be changed, the serenity to accept what can not be changed and the wisdom to know one from the other. Amen.

Reading of the Journal of Thursday, June 18, 1987.

Off Record Remarks

COMMUNICATIONS

The Following Communication:
DEPARTMENT OF ADMINISTRATION
BUREAU OF EMPLOYEE RELATIONS
STATE HOUSE STATION 79
AUGUSTA, MAINE 04333

June 10, 1987

Charles Pray, President of the Senate
State of Maine
State House Station #3
Augusta, ME 04333

RE: Administration of the State of Maine
Self-Insured Workers' Compensation Program

Dear Senator Pray:

Attached please find a copy of the Administration of the State of Maine Self-Insured Workers' Compensation Program for your review and information. Documented therein are: a synopsis of the history of the administration of the workers' compensation program in State government; a compilation of statistics detailing numbers and categories of injuries (7/1/81-6/1/86) and payments made on claims (7/1/82-6/30/86); and individual State departmental reports.

Should you have any questions regarding this report, please call Roger H. Willette at 289-4440.

Sincerely,
S/Kenneth A. Walo,
Director, Bureau of
Employee Relations

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

The Following Communication:
STATE OF MAINE
OFFICE OF THE GOVERNOR
AUGUSTA, MAINE 04333

June 29, 1987

TO: The Honorable Members of the 113th Legislature
I am returning, without my signature or approval, S.P. 643, L.D. 1871, "AN ACT to Prohibit Random or Arbitrary Substance Abuse Testing of Employees."

My decision to veto this bill is based on my strongly held belief that the nature of L.D. 1871 makes it an inappropriate issue for the legislature to put before the people of Maine in a referendum vote this November.

Referenda issues are understandably the exception to the legislative rule and are reserved for those unusual situations that are of profound importance to

all citizens of this State. The issues subject to the referendum process should be of such broad sweep that the Legislature is unable adequately to represent those who charged it with the task of representation. This bill does not rise to that level. Rather, it involves an extremely narrow definitional task which more properly falls under the province of the Legislature, by virtue of its elective duty and representative nature. Asking the voters to decide the issue of employer testing of employees for the use of substances of abuse would, in my judgment, abuse the referendum process.

For example, L.D. 1871 calls for the definition of various terms to be used in the random testing of employees for substance abuse. It is highly unorthodox, in my opinion, to seek from the people of Maine as a whole a legal definition for the term "employee," "employer" or "substance abuse test." L.D. 1871 asks the voters of Maine to do such a legislative task. It is precisely for the thorough, informed and competent performance of such specialized legislative duties that Maine citizens elect their representatives to the Legislature.

One need only contrast this parochial proposed referendum subject with that of another issue properly slated to be voted on this fall -- the issue of whether nuclear energy should continue to exist in Maine -- to understand my rationale for this veto. I believe that I must firmly block this unwise and transparent attempt by the Legislature to avoid its legislative duties of careful and responsible lawmaking by throwing a difficult issue to the people instead of hammering it out through the legislative process.

It is for these reasons that I oppose L.D. 1871 and urge you to sustain my veto.

Sincerely,
S/John R. McKernan, Jr.
Governor

Which was READ and ORDERED PLACED ON FILE.

The Accompanying Bill:

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

S.P. 643 L.D. 1871

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

The Chair recognizes the Senator from York, Senator Dutremble.

Senator DUTREMBLE: Mr. President and members of the Senate. I guess I just have to say something before we vote on this. It is unfortunate that we have to vote on this veto. Two different reasons. First of all, it is unfortunate that we could not have come up with some kind of compromise during the hard time that we have had, and we have attempted that. Secondly, it is unfortunate that the Governor still vetoed the referendum question when we could not come to an agreement. Obviously, I believe in the legislative process as strongly as the Governor does. It has failed two times and where we have had bipartisan support both of those two times and he has vetoed both times, it left us with no choice but to send it to referendum and let the people decide. I would hope that we would vote to override the Governor's veto. Thank you.

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

Senator COLLINS: Mr. President and members of the Senate. I would urge upon you today, that you sustain the veto. I think we had the opportunity to pass a piece of legislation that would have gained executive approval and we failed to do it.

It does not seem to me that it is appropriate to send this legislation to the public in referendum. I think that we're acting hastily, we are among a very few states that have entertained legislation in this matter. We will, in due course, have an opportunity to pass legislation that is acceptable to the Legislature and to the Executive Department. Today, I hope that you will join me in sustaining the veto of the Governor. Thank you, Mr. President.

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

Senator DUTREMBLE: Mr. President and members of the Senate. I guess that I really didn't want to get into this today, but I guess I will now. I just want to stress that the good Senator from Aroostook said that we could have had something passed and the Executive Branch would have finally accepted it. The problem has been this right along, is that the majority of the Legislature, Democrats and Republicans have voted to pass a drug testing bill. There has just been one block, really, in the whole process and that has been the Governor. We're talking about a person who was not involved in the process, whose people were not involved in the process, who really didn't know as much about the issue as those of us who worked in the Committee and came out with a pretty good report. So, if we're talking about passing a bill that only he could accept, then we're talking about a person who doesn't get his own way, is going home during the ball game. We've all heard that little phrase before. He didn't want to let the Legislature do this work and now he doesn't want to let the people vote. One of the fundamental rights that the people in this Country have is the right to vote. Whether it is for an elected official or in a referendum, the fundamental right is the right to vote. When the Legislature can't come up with a law that they have overwhelmingly supported, then I think its time to let the people decide whether or not the legislature was right or the Governor was right. In this case, the Governor of the State of Maine has taken away their fundamental right, the right to vote. I am really quite upset with that. I think the people of Maine should be, too.

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

Senator WEBSTER: Mr. President, ladies and gentlemen of the Senate. I would urge this Body to support the good Senator from Aroostook, Senator Collins on this matter. I have been here and have seen on various occasions, various issues that this Legislature, for whatever reason could not deal with. The final end result is that if we can't pass it here, then we send it to the voters. I remember, it was being suggested a couple of years ago, that we ought to send mandatory seat belts to the voters because Legislature wouldn't pass it so let's see if the voters will. I think the voters in this State are getting tired of referendums, to begin with. It seems to me, the people that I talk with, don't want the Legislature to continue to present more and more issues to them to vote on.

It seems to me that there is no, and I repeat no, overwhelming grounds for this issue, at least not in my district, and I don't believe in the State, and I'm not prepared to waste the tax payers money and send an issue to them that they're not asking for. In my opinion they don't need this. Thank you.

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

Senator BUSTIN: Thank you, Mr. President. Ladies and gentlemen of the Senate. I had not planned to speak on this issue. I also had not read

the Governor's message. I am quite displeased with at least the last paragraph, where it indicates that the Legislature hasn't made every effort to try to resolve this issue in this Legislative Body. As the good Senator from York, Senator Dutremble, has stated, there was tremendous effort. I watched that effort all through this Session, of trying to come to a compromise that everybody could agree on. They worked it, reworked it. We've had this Bill before three times. It is incredible the amount of work that this Bill has had. If you can't satisfy both branches of Government in getting an agreement for an issue that is as important as this one, then it seems to me you only have one recourse and that is to the people of the State of Maine. Let them decide. As to the statement from the Senator from Franklin, Senator Webster, indicating that the people are tired of referendums. I have to disagree because I am out there in my district too. What the people want is an explanation of what those referendums mean. I can't believe for the number of employees that there are in this State, who will be affected by either our action or our inaction, wouldn't want to have something to say in what is going to happen to their bodies. I can't believe that there aren't more employees in this State than there are employers. I think the statistics would very clearly point this out. There are a great many more employees than there are employers. Therefore, for something that is going to affect me as an employee, I certainly am going to be interested and I certainly am going to want to have a vote and I may not want to give that vote to a representative of the Legislature. I may just want to vote on it myself. I don't hope to change any minds on the vote today on sustaining or overriding this veto. I had to speak on the Record, that this is a travesty of justice and it ought not to pass. Thank you.

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

Senator CLARK: Thank you, Mr. President. Well, well, well, here we go again. This Legislature, particularly this chamber, has passed measures in a bipartisan fashion, not once, not twice, but three times during this legislative session. In summary, the support for the measures has been bipartisan and the opposition to the measures has been partisan.

To suggest boldly and in writing that sending this issue, which deals with a constitutional issue of privacy, a judicial policy that has been embraced by our State for probably cause, to the citizens of this State, is unwise and an apparent or transparent attempt by this Legislature to avoid its' legislative duties, suggests lack of respect of the legislative process and perhaps I might submit, even fear on behalf of our Chief Executive that the people might affirm the legislature's position on random drug testing. It is rather an appropriate issue for a referendum vote in November of 1987, for indeed, the citizens of our State will be facing a number of bond issues and a referendum at the same time. It is an efficient exercise of participatory government that the citizens of our State be afforded an opportunity to express their positions on this issue that has crowded the electronic media and the printed media for six months now. Yes, in a sense I concur with the remark of the good Senator from Franklin, Senator Webster in that the citizens of this State would rather have the Legislature act upon issues rather than continually, as we have, over the last fifteen years, send them to the voters. The Legislature has acted, It has exercised a patient enduring legislative process for six whole months. The Legislature has passed drug testing legislation. The

Chief Executive has vetoed, not once, not twice but three times. To suggest that we are shirking our legislative duties by finally sending the issue to the people, is a travesty. A travesty, and I would ask the Governor, what is he afraid of? Thank you, Mr. President.

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

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

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

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

Is the Senate ready for the question?

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

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

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

ABSENT: Senators ESTES, KANY

19 Senators having voted in the affirmative and 14 Senators having voted in the negative, with 2 Senators being absent, and 19 being less than two-thirds of the membership present and voting the veto is SUSTAINED.

Off Record Remarks

Senate at Ease

Senate called to order by the President.

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:

PAPERS FROM THE HOUSE

Joint Orders

The following Joint Order: H.P. 1375

ORDERED, the Senate concurring, that Bill, "AN ACT to Implement the Recommendations of the Driver Education Evaluation Program Study," H.P. 962, L.D. 1291, be recalled from the Governor's desk to the House.

Comes from the House READ and PASSED.

Which was READ and PASSED, in concurrence.

The following Joint Order: H.P. 1376

ORDERED, the Senate concurring, that Bill, "AN ACT to Establish Greater Communication in the Rule-making Process and to Provide Better Standards for the Adoption of Rules," H.P. 1210, L.D. 1651, be recalled from the Governor's desk to the House.

Comes from the House READ and PASSED.

Which was READ and PASSED, in concurrence.

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

PAPERS FROM THE HOUSE
House Papers

Bill "An Act to Clarify the Applicability of Social Worker Licensure Requirement to State Employees" (Emergency)

H.P. 1377 L.D. 1876

Committee on BUSINESS LEGISLATION 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.

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

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

Off Record Remarks

On motion by Senator USHER of Cumberland, 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:

ENACTORS

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

Emergency

An Act to Clarify the Applicability of Social Worker Licensure Requirement to State Employees

H.P. 1377 L.D. 1876

This being an Emergency Measure and having received the affirmative vote of 27 Members of the Senate, with No Senators having voted in negative, and 27 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:

PAPERS FROM THE HOUSE
Non-concurrent Matter

Bill "An Act to Implement the Recommendations of the Driver Education Evaluation Program Study" (Emergency)

H.P. 962 L.D. 1291
(H"A" H-393 to C
"B" H-389)

In Senate, June 18, 1987, PASSED TO BE ENACTED, in concurrence.

RECALLED from the Governor's Desk pursuant to Joint Order H.P. 1375, in concurrence.

Comes from the House PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "B" (H-389) AS AMENDED BY HOUSE AMENDMENT "B" (H-405), thereto in NON-CONCURRENCE.

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

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:

SENATE PAPERS

Bill "An Act to Clarify the Authority for Judicial Suspension of Motor Vehicle Licenses" (Emergency)

S.P. 656 L.D. 1879

Presented by Senator GAUVREAU of Androscoggin
Approved for Introduction by a Majority of the Legislative Council pursuant to Joint Rule 27
Committee on JUDICIARY suggested and ORDERED PRINTED.

Senate at Ease
Senate called to order by the President.

Which was referred to the Committee on JUDICIARY 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:

SENATE PAPERS

Bill "An Act Relating to Study and Other Commission or Agency Schedules" (Emergency)

S.P. 657 L.D. 1880

Presented by President PRAY of Penobscot
Cosponsored by: Senator CLARK of Cumberland, Speaker MARTIN of Eagle Lake, Senator PERKINS of Hancock
Approved for Introduction by a Majority of the Legislative Council pursuant to Joint Rule 27
Committee on STATE AND LOCAL GOVERNMENT 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.

On motion by Senator PEARSON of Penobscot, RECESSED until 1:15 this afternoon.

After Recess
Senate called to order by the President.

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

PAPERS FROM THE HOUSE
Non-concurrent Matter

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

H.P. 1210 L.D. 1651
(S "A" S-256)

In Senate, June 18, 1987, PASSED TO BE ENACTED, in concurrence.

RECALLED from the Governor's Desk pursuant to Joint Order H.P. 1376, in concurrence.

Comes from the House Bill and Accompanying Papers RECOMMENDED to the Committee on STATE AND LOCAL GOVERNMENT in NON-CONCURRENCE.

The Senate RECEDED and CONCURRED.

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

PAPERS FROM THE HOUSE

House Papers

Bill "An Act to Make a Technical Correction in the Chapter Dealing with AIDS" (Emergency)

H.P. 1379 L.D. 1878

Committee on HUMAN RESOURCES 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.

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 Reallocate Certain Funds in the Arostook County Unorganized Territory Budget for Services to be Rendered in Fiscal Year 1987-88" (Emergency)

H.P. 1378 L.D. 1877

Committee on STATE AND LOCAL GOVERNMENT 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.

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:

COMMUNICATIONS

The Following Communication:

STATE OF MAINE
HOUSE OF REPRESENTATIVES
AUGUSTA 04333

June 30, 1987

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

House Paper 1238, Legislative Document 1690, AN ACT to Provide Civil Enforcement of the Anti-strikebreaker Law to Encourage the Settlement and Peaceful Resolution of Labor Disputes, having been returned by the Governor together with his 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 54 against, and accordingly it was the vote of the House that the Bill not become a law and the veto was sustained.

Respectfully,
S/Deborah Bedard Wood
Assistant 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 30, 1987

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

House Paper 1345, Legislative Document 1839, AN ACT to Amend the Teacher Certification Law, having been returned by the Governor together with his 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?' 80 voted in favor and 53 against, and accordingly it was the vote of the House that the Bill not become a law and the veto was sustained.

Respectfully,
S/Deborah Bedard Wood
Assistant 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 Clarify the Authority for Judicial Suspension of Motor Vehicle Licenses" (Emergency)

S.P. 656 L.D. 1879

In Senate, June 30, 1987, referred to the Committee on JUDICIARY and ORDERED PRINTED.

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

The Senate ADHERED.
Sent down for concurrence.

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 30, 1987

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

House Paper 485, Legislative Document 652, AN ACT to Provide State Reimbursement to Municipalities for Property Tax Losses Due to State-owned Property, having been returned by the Governor together with his 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?' 80 voted in favor and 54 against, and accordingly it was the vote of the House that the Bill not become a law and the veto was sustained.

Respectfully,
S/Deborah Bedard Wood
Assistant 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:

ENACTORS

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

Emergency

An Act to Implement the Recommendations of the Driver Education Evaluation Program Study

H.P. 962 L.D. 1291

(H "A" H-393; H "B"

H-405 to C "B" H-389)

This being an Emergency Measure and having received the affirmative vote of 15 Members of the Senate, with No Senators having voted in negative, and 15 being less than two-thirds of the entire elected Membership of the Senate, FAILED of ENACTMENT in NON-CONCURRENCE.

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

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

After Recess

Senate called to order by the President

The Chair ordered a Quorum Call.

The Roll being called, the following Senators answered to their name:

Senators ANDREWS, BERUBE, BRANNIGAN, BRAWN, BUSTIN, CLARK, COLLINS, DOW, DUTREMBLE, ERWIN, ESTES, GAUVREAU, GILL, PEARSON, THERIAULT, TUTTLE, TWITCHELL, USHER, THE PRESIDENT - CHARLES P. PRAY
19 Senators having answered the Call, the President declared that a quorum was present.

On motion by Senator BERUBE of Androscoggin, RECESSED until the sound of the bell.

After Recess

Senate called to order by the President.

SENATE PAPERS

Bill "An Act to Amend a Section of the Motor Vehicle Law"

S.P. 658 L.D. 1881

Presented by Senator DOW of Kennebec

Approved for Introduction by a Majority of the Legislative Council pursuant to Joint Rule 27

Committee on TRANSPORTATION 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.

Senate at Ease

Senate called to order by the President.

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 Reallocate Certain Funds in the Aroostook County Unorganized Territory Budget for Services to be Rendered in Fiscal Year 1987-88

H.P. 1378 L.D. 1877

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

An Act to Make a Technical Correction in the Chapter Dealing with AIDS

H.P. 1379 L.D. 1878

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 Relating to Study and Other Commission or Agency Schedules

S.P. 657 L.D. 1880

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:

ORDERS

Joint Order

On motion by Senator CLARK of Cumberland the following Joint Order:

S.P. 659

ORDERED, the House concurring, that the following specified matters be held over to the next special or regular session of the 113th Legislature:

COMMITTEE

Judiciary

BILL

(S.P. 656) (L.D. 1879) - AN ACT to Clarify the Authority for Vehicle Licenses.

Which was READ and PASSED.

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:

ORDERS

Joint Resolution

On motion by Senator MATTHEWS of Kennebec (Cosponsored by: President PRAY of Penobscot,

Speaker MARTIN of Eagle Lake, Senator DUTREMBLE of York) the following Joint Resolution:

S.P. 638

JOINT RESOLUTION COMMEMORATING
THE 100TH ANNIVERSARY OF THE

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES

WHEREAS, throughout the history of this great nation of ours, the major role that railroads played in its development is clearly recorded; and

WHEREAS, railroads symbolize progress and out of such progress emerged one of the greatest industrial societies the world has ever known; and

WHEREAS, the men who devoted their skills and their strength in building and maintaining the track, bridges and structures of the American railroads must take their place as the true pioneers of that progress; and

WHEREAS, these men who were native Americans, those of Spanish descent or immigrants from the British Isles, Italy, Ireland, China and many lands were required to endure many hardships; and

WHEREAS, out of necessity 100 years ago in the spring of 1887, a small group of section foremen who envisioned a better way of life for the people working on American railroads, gathered on a riverbank in Demopolis, Alabama and conceived a fraternal society that would be chartered under Alabama law as the Order of Railway Trackmen; and

WHEREAS, in the years that followed, its obligations became those of a labor organization, although fraternalism remains to this day one of its basic principles; and

WHEREAS, meeting the challenges of growth and progress in the years following 1887, there were amalgamations with other similar organizations of railway workers, affiliation with its Canadian Brothers resulting in its emerging an International Union of the Brotherhood of Maintenance of Way Employees; and

WHEREAS, the Brotherhood of Maintenance of Way Employees, as the organization is now known, has for a century embodied the principles and ideals of true trade unionism; and

WHEREAS, that union has continued to build on the century of achievement by standing firmly behind its membership at times when the rail industry has undergone drastic changes; and

WHEREAS, the union and its leadership stand ready for the challenge of the future awaiting the organization in its 2nd century; therefore, be it

RESOLVED: That the Senate and House of Representatives of the 113th Legislature of the State of Maine here assembled, duly recognize the significant accomplishments of the Brotherhood of Maintenance of Way Employees as they celebrate their 100th anniversary; and be it further

RESOLVED: That this legislative body extend its official best wishes to the Brotherhood of Maintenance of Way Employees for continued growth and progress built upon tested and proven foundations that have been formulated throughout the last century; and be it further

RESOLVED: That suitable copies of this resolution, duly authenticated by the Secretary of State, be transmitted to the officials of the Brotherhood of Maintenance of Way Employees.

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:

PAPERS FROM THE HOUSE

Non-concurrent Matter

Emergency

An Act to Implement the Recommendations of the Driver Education Evaluation Program Study

H.P. 962 L.D. 1291
(H "A" H-393; H "B"
H-405 to C "B"
H-389)

In House, June 30, 1987, PASSED TO BE ENACTED.

In Senate, June 30, 1987, FAILED OF ENACTMENT in NON-CONCURRENCE.

Comes from the House, that Body INSISTED.

The Chair moved the Senate RECEDE and CONCUR.

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

Senate at Ease

Senate called to order by the President.

Off Record Remarks

On motion by Senator PERKINS of Hancock, 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:

PAPERS FROM THE HOUSE

House Papers

Bill "An Act to Clarify the Hazardous Waste Lien Law" (Emergency)

H.P. 1381 L.D. 1883

Committee on ENERGY AND NATURAL RESOURCES suggested and ORDERED PRINTED.

Comes from the House, under suspension of the Rules, READ TWICE and PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "A" (H-406), without reference to a Committee.

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

House Amendment "A" (H-406) READ and ADOPTED, in concurrence.

Under suspension of the Rules, READ A SECOND TIME and PASSED TO BE ENGROSSED, as Amended, without reference to a Committee and ORDERED PRINTED, 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:

ORDERS

Joint Order

On motion by Senator CLARK of Cumberland the following Joint Order:

S.P. 661

ORDERED, the House concurring, that the Joint Standing Committee on Judiciary report out H.P. 1051, L.D. 1414 Bill "AN ACT Relating to Aggravated Trafficking or Furnishing Scheduled Drugs Under the Maine Criminal Code" to the House.

Which was READ and PASSED.

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

Off Record Remarks

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

COMMITTEE REPORTS
House

Ought to Pass in New Draft

The Committee on JUDICIARY on Bill "An Act Relating to Aggravated Trafficking or Furnishing Scheduled Drugs under the Maine Criminal Code"

H.P. 1051 L.D. 1414

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

H.P. 1380 L.D. 1882

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

Which Report was READ and ACCEPTED, in concurrence.

Under suspension of the Rules, the Bill in NEW DRAFT READ TWICE.

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

Senator PEARSON: Mr. President, men and women of the Senate. In the very final days of last week, when we left here, this Bill was brought to our attention and by our attention I mean the members of the Appropriations Committee.

We had recommended that it be held over because it had a significant future cost. The fiscal note information that I received today from the Commissioner of Corrections, we were fearful that if this went into effect, it would cost a great deal of money with regard correction facilities because it would cause crowding problems and more pressure, but the fiscal note which is dated June 30, 1987, says that it will have no fiscal impact in this biennium but it would have some impact in the following biennium and it could have as much as an impact of a difference of an estimated low of seven hundred and forty six thousand dollars, to one million, one hundred and seventy one thousand dollars.

This bears out the original fiscal note which was significant in future costs. The Governor, in one of his letters said that he will take that into account when he prepares his budget in the future, for the second biennium of his term. I think that we all ought to know that when we go into this, that when you pass a Bill that calls for mandatory sentences, it does have an effect on the correction facilities and that effect is often is in space and a lot of money. Everybody ought to know that when they vote on this and I think we should do it on a Division and I will request one.

Senator PEARSON of Penobscot requested a Division.

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

Senator GAUVREAU: Mr. President. Men and women of the Senate. I appreciate the remarks of the good Senator from Penobscot, Senator Pearson. The area that we're discussing on mandatory drug sentencing and the fiscal consequences couples me a great deal. Actually, in many respects, I think that the information provided to the good Senator by the Department of Corrections probably is only the tip of the iceberg, because no where in that fiscal note is reflected the cost to be borne by the Judicial Department in terms of handling enhanced prosecution of drug trafficking in State courts. As you may be

aware, the vast majority of prosecutions for drug trafficking in the State of Maine occur in our Federal system. In fact, a fewer than 3% of inmates in the Maine State Prison System are there as a result of trafficking in control substances. Essentially, as those figures bear out, trafficking convictions or persons convicted of trafficking in drugs are prosecuted in the Federal system and housed in the Federal system. At some point, the system is simply going to break down. We have approximately twenty-nine thousand beds in the Federal prison system and forty-five thousand persons currently can find the in the Federal prison system. In Maine, we have one thousand beds and fourteen hundred and eighty people in our prison system. That situation is getting worse, not better.

There will be, in fact, a significant future cost related to housing inmates as a result of this legislation. I'm not saying that its good or bad, but very clearly we have to be aware of these matters. Beyond that, in discussions with the Commissioner of Public Safety, some one I have a great deal of respect for.

My understanding is that the State of Maine, in future years, intends to cooperate with and assist the Federal law enforcement authorities in the prosecution of aggravated trafficking cases and housing inmates. If that is the case, our share of inmates will rise significantly from three percent. If that is the case, we'll be looking at expenses in the millions of dollars for prosecuting and housing inmates in this area. I think we should be very mindful of this.

If we, at the Legislature feel strongly that we ought to mandate sentencing in this area and take on additional responsibility on what has previously be Federal inmates, we also have a responsibility, a legal obligation, in fact, to put the appropriate resources to our correction system. Thank you.

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

A Division has been requested.

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

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

26 Senators having voted in the affirmative and 2 Senator having voted in the negative, the Bill in NEW DRAFT was PASSED TO BE ENGROSSED, 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:

ORDERS

Joint Order

On motion by Senator CLARK of Cumberland the following Joint Order:

S.P. 660

ORDERED, the House concurring, that the following specified matters be held over to the next special or regular session of the 113th Legislature:

COMMITTEE	BILL
State & Local Government	(H.P. 1210) (L.D. 1651) -
	AN ACT to Establish
	Greater Communication in
	the Rule-making Process
	and to Provide Better
	Standards for the
	Adoption of Rules.

Which was READ and PASSED.

Sent down 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 Amend a Section of the Motor Vehicle Law

S.P. 658 L.D. 1881

Off Record Remarks

Which 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 USHER of Cumberland, RECESSED until 7:30 this evening.

After Recess

Senate called to order by the President.

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

PAPERS FROM THE HOUSE

Non-concurrent Matter

Bill "An Act to Amend the Civil Service Law to Set Standards for the Creation of Job Classification Specifications"

H.P. 1237 L.D. 1689

(S "A" S-127)

In House, May 29, 1987, PASSED TO BE ENGROSSED.

In Senate, June 3, 1987, PASSED TO BE ENGROSSED AS AMENDED BY SENATE AMENDMENT "A" (S-127) in NON-CONCURRENCE.

Comes from the House, that Body ADHERED.

The Senate RECEDED and CONCURRED.

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:

ENACTORS

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

Emergency

An Act to Clarify the Hazardous Waste Lien Law

H.P. 1381 L.D. 1883

(H "A" H-406)

This being an Emergency Measure and having received the affirmative vote of 25 Members of the Senate, with No Senators having voted in negative, and 25 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:

An Act Relating to Aggravated Trafficking or Furnishing Scheduled Drugs under the Maine Criminal Code

H.P. 1380 L.D. 1882

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

Off Record Remarks

On motion by Senator DOW of Kennebec, 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:

ENACTORS

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

An Act to Amend the Civil Service Law to Set Standards for the Creation of Job Classification Specifications

H.P. 1237 L.D. 1689

(S "A" S-127; H "C"

H-407)

Comes from the House RULED NOT PROPER BEFORE THE BODY, being in violation of Joint Rule 21.

On motion by Senator PEARSON, the Senate RECONSIDERED whereby the Bill was PASSED TO BE ENGROSSED

On further motion by same Senator, Senate Amendment "B" (S-296) READ and ADOPTED.

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.

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

After Recess

Senate called to order by the President.

Under direction of the President, the following Communication is entered:

The Following Communication:

STATE OF MAINE

OFFICE OF THE GOVERNOR

AUGUSTA, MAINE 04333

The Honorable Charles P. Pray

President of the Senate

State House Station #3

Augusta, Maine 04333

June 30, 1987

Dear President Pray:

As a follow-up to our conversation of earlier this evening, I want to confirm my commitment to absorb any additional costs that might be associated with the enactment of L.D. 1689 "AN ACT to Amend the Civil Service Law to Set Standards for the Creation of Job Classification Specifications" within the appropriation provided in the Part II Budget as a contingency for State Employee collective bargaining. It is my understanding that such additional costs may in fact be either nonexistent or extremely negligible between the effective date of the bill, in its present form, and the March, 1988 sunset date.

I hope this amendment is acceptable to you as an alternative to attempting to put a specific cost on the bill, and providing a corresponding appropriation for such a cost.

I appreciate your willingness to accept this form of commitment on my part as evidence of our efforts to proceed in good faith in accordance with this proposed amendment to the State Employee Collective Bargaining Statutes.

Sincerely,
S/John R. McKernan, Jr.
Governor

At this point, a message was received from the House of Representatives, borne by Representative DIAMOND of Bangor, informing the Senate that the House had transacted all business before it and was ready to Adjourn, with Day.

On motion by Senator EMERSON of Penobscot, at 10:38 p.m. on Tuesday, June 30, 1987, the Honorable CHARLES P. PRAY, President, declared the Senate of the First Regular Session of the 113th Legislature, ADJOURNED SINE DIE.

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 Civil Service Law to Set Standards for the Creation of Job Classification Specifications

H.P. 1237 L.D. 1689
(S "A" S-127; S "B"
S-296; H "C" H-407)

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

Off Record Remarks

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

ORDERS

On motion by Senator DOW of Kennebec the following Senate Order:

ORDERED, that a message be sent to the House of Representatives informing that Body that the Senate has transacted all the business which has come before it and is ready to Adjourn Without Day.

Which was READ and PASSED.

The President appointed Senator DOW of Kennebec to deliver the message to the House. The Sergeant-At-Arms escorted the Senator to the House of Representatives.

Subsequently, Senator DOW of Kennebec reported that he had delivered the message with which he was charged.

On motion by Senator CLARK of Cumberland the following Senate Order:

ORDERED, that a message be sent to His Excellency, the Governor, informing him that the Senate has transacted all business which has come before it and is ready to Adjourn Without Day.

Which was READ and PASSED.

The President appointed Senator CLARK of Cumberland to deliver the message to the Governor. The Assistant Sergeant-At-Arms escorted the Senator to the Governor's Office.

Subsequently, Senator CLARK of Cumberland reported that she had delivered the message with which she was charged.

Off Record Remarks

Senate at Ease
Senate called to order by the President.