

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

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

VOLUME II

FIRST REGULAR SESSION

May 10, 1989 to June 14, 1989

report out a bill "An Act Regarding Governmental Ethics" to the House.

Was read and passed and sent up for concurrence.

On motion of Representative Duffy of Bangor,
Adjourned until Friday, June 9, 1989, at
one-thirty in the afternoon.

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

In Senate Chamber
Thursday
June 8, 1989

Senate called to Order by the President.

Prayer by Father John Skehan of Notre Dame Catholic Church in Waterville.

FATHER SKEHAN: Let us pray. Creator God, as we begin this day we do so giving You thanks. We thank You for the opportunity to serve our fellow human beings, we thank You for the chance to care for them and for the world around us. We thank You for the wisdom and insight that enables us to make proper decisions. We thank You for this day. Be with these men and women today and guide them in their role as leaders, so that all may benefit from their dedication and service. Empower them to care for all people, the poor, the homeless, the widowed, the orphaned, those who are lacking in any of the basic human needs, and for all the people of this state. Bless these leaders in their work. We make our prayer in Your name. Amen.

Reading of the Journal of Yesterday.

PAPERS FROM THE HOUSE
Non-concurrent Matter

Bill "An Act to Improve Compliance with Truck Weight Limits"

H.P. 36 L.D. 36
(S "A" S-169 to C
"A" H-277)

In House, May 25, 1989, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-277).

In Senate, May 26, 1989, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-277) AS AMENDED BY SENATE AMENDMENT "A" (S-169) thereto in NON-CONCURRENCE.

Comes from the House PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-277) AS AMENDED BY HOUSE AMENDMENT "A" (H-420), thereto in NON-CONCURRENCE.

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

Non-concurrent Matter

Bill "An Act to Provide Public Access to Records and Proceedings of Local and County Government Associations"

S.P. 314 L.D. 819
(C "A" S-187)

In Senate, June 2, 1989, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-187).

Comes from the House PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-187) AS AMENDED BY HOUSE AMENDMENT "A" (H-401), thereto in NON-CONCURRENCE.

The Senate RECEDED and CONCURRED.

Non-concurrent Matter

Bill "An Act to Require the Licensure of Ambulatory Surgical Facilities"

H.P. 891 L.D. 1235

(H "A" H-315 to C "A" H-289)

In Senate, June 1, 1989, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-289) AS AMENDED BY HOUSE AMENDMENT "A" (H-315), thereto, in concurrence.

Comes from the House PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-289) AS AMENDED BY HOUSE AMENDMENT "B" (H-419), thereto in NON-CONCURRENCE.

The Senate RECEDED and CONCURRED.

House Papers

Bill "An Act to Authorize a General Fund Bond Issue in the Amount of \$19,110,600 for the Maine Vocational-Technical Institute System"

H.P. 1235 L.D. 1727

Comes from the House referred to the Committee on APPROPRIATIONS AND FINANCIAL AFFAIRS and ORDERED PRINTED.

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

COMMUNICATIONS

The Following Communication:

STATE OF MAINE
HOUSE OF REPRESENTATIVES
AUGUSTA 04333

June 7, 1989

Honorable Joy J. O'Brien
Secretary of the Senate
114th Legislature
Augusta, Maine 04333
Dear Madam Secretary:

The House today voted to Insist and Join in a Committee of Conference on RESOLUTION, Proposing an Amendment to the Constitution of Maine to Provide for 4-Year Terms for Senators and Representatives (H.P. 808) (L.D. 1120).

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

Which was READ and ORDERED PLACED ON FILE.

THE PRESIDENT: In reference to the action of the Senate on June 7, 1989, whereby it INSISTED AND ASKED FOR A COMMITTEE OF CONFERENCE:

The Chair appointed as conferees on the part of the Senate.

Senator BERUBE of Androscoggin
Senator ESTY of Cumberland
Senator CARPENTER of York.

The Following Communication:

COMMITTEE ON FISHERIES AND WILDLIFE
ONE HUNDRED AND FOURTEENTH LEGISLATURE
June 7, 1989

The Honorable Charles P. Pray
President of the Senate of Maine
State House
Augusta, Maine 04333
Dear Mr. President:

In accordance with 3 M.R.S.A., Chapter 6, Section 151, and with Joint Rule 38 of the 114th Maine Legislature, the Joint Standing Committee on Fisheries and Wildlife has had under consideration the nomination of Ogden E. Small, O.D. of Caribou, for reappointment to the Inland Fisheries and Wildlife Advisory Council.

After public hearing and discussion on this nomination, the Committee proceeded to vote on the

motion to recommend to the Senate that this nomination be confirmed. The Committee Clerk called the roll with the following result:

YEAS: Senators 2
Representatives 10
NAYS: 0

ABSENT: 1 Sen. Esty, Jr. of Cumberland

Twelve members of the Committee having voted in the affirmative and none in the negative, it was the vote of the Committee that the nomination of Ogden E. Small, O.D. of Caribou, for reappointment to the Inland Fisheries and Wildlife Advisory Council be confirmed.

Sincerely,

S/Edgar E. Erwin S/Paul F. Jacques
Senate Chair House Chair

Which was READ and ORDERED PLACED ON FILE.

THE PRESIDENT: The Joint Standing Committee on FISHERIES AND WILDLIFE has recommended the nomination of Ogden E. Small, O.D. of Caribou, for reappointment to the Inland Fisheries and Wildlife Advisory Council, be confirmed.

The pending question before the Senate is: "Shall the recommendation of the Committee on FISHERIES AND WILDLIFE be overridden?"

In accordance with 3 M.R.S.A., Chapter 6, Section 151 and with Joint Rule 38 of the 114th Legislature, the vote will be taken by the Yeas and Nays.

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

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

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

ROLL CALL

YEAS: Senators None
NAYS: Senators ANDREWS, BERUBE, BOST, BRANNIGAN, BROWN, BUSTIN, CAHILL, CARPENTER, CLARK, COLLINS, DILLENBACK, DUTREMBLE, EMERSON, ERWIN, ESTES, ESTY, GAUVREAU, GILL, GOULD, HOBBS, HOLLOWAY, KANY, LUDWIG, PEARSON, PERKINS, RANDALL, THERIAULT, TITCOMB, TWITCHELL, WEBSTER, WEYMOUTH, WHITMORE, THE PRESIDENT - CHARLES P. PRAY

ABSENT: Senators BALDACCI, MATTHEWS
No Senators having voted in the affirmative and 33 Senators having voted in the negative, with 2 Senators being absent, and None being less than two-thirds of the Membership present, it was the vote of the Senate that the Committee's recommendation be ACCEPTED and the nomination of Ogden E. Small, O.D., for reappointment to the Inland Fisheries and Wildlife Advisory Council, was CONFIRMED.

The Secretary has so informed the Speaker of the House.

The Following Communication:

COMMITTEE ON FISHERIES AND WILDLIFE
ONE HUNDRED AND FOURTEENTH LEGISLATURE
June 7, 1989

The Honorable Charles P. Pray
President of the Senate of Maine
State House
Augusta, Maine 04333
Dear Mr. President:

In accordance with 3 M.R.S.A., Chapter 6, Section 151, and with Joint Rule 38 of the 114th Maine Legislature, the Joint Standing Committee on Fisheries and Wildlife has had under consideration the nomination of Eugene L. Churchill of Orland, for

appointment to the Inland Fisheries and Wildlife Advisory Council.

After public hearing and discussion on this nomination, the Committee proceeded to vote on the motion to recommend to the Senate that this nomination be confirmed. The Committee Clerk called the roll with the following result:

YEAS: Senators 2
Representatives 10

NAYS: 0

ABSENT: 1 Sen. Esty, Jr. of Cumberland

Twelve members of the Committee having voted in the affirmative and none in the negative, it was the vote of the Committee that the nomination of Eugene L. Churchill, for appointment to the Inland Fisheries and Wildlife Advisory Council be confirmed.

Sincerely,

S/Edgar E. Erwin
Senate Chair

S/Paul F. Jacques
House Chair

Which was READ and ORDERED PLACED ON FILE.

THE PRESIDENT: The Joint Standing Committee on FISHERIES AND WILDLIFE has recommended the nomination of Eugene L. Churchill of Orland, for appointment to the Inland Fisheries and Wildlife Advisory Council, be confirmed.

The pending question before the Senate is: "Shall the recommendation of the Committee on FISHERIES AND WILDLIFE be overridden?"

In accordance with 3 M.R.S.A., Chapter 6, Section 151 and with Joint Rule 38 of the 114th Legislature, the vote will be taken by the Yeas and Nays.

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

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

Is the Senate ready for the question?

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEAS: Senators None

NAYS: Senators ANDREWS, BERUBE, BOST, BRANNIGAN, BRAWN, BUSTIN, CAHILL, CARPENTER, CLARK, COLLINS, DILLENBACK, DUTREMBLE, EMERSON, ERWIN, ESTES, ESTY, GAUVREAU, GILL, GOULD, HOBBS, HOLLOWAY, KANY, LUDWIG, PEARSON, PERKINS, RANDALL, THERIAULT, TITCOMB, TWITCHELL, WEBSTER, WEYMOUTH, WHITMORE, THE PRESIDENT - CHARLES P. PRAY

ABSENT: Senators BALDACCI, MATTHEWS

No Senators having voted in the affirmative and 33 Senators having voted in the negative, with 2 Senators being absent, and None being less than two-thirds of the Membership present, it was the vote of the Senate that the Committee's recommendation be ACCEPTED and the nomination of Eugene L. Churchill, for appointment to the Inland Fisheries and Wildlife Advisory Council, was CONFIRMED.

The Secretary has so informed the Speaker of the House.

SENATE PAPERS

Bill "An Act Concerning the Workers' Compensation Laws"

S.P. 638 L.D. 1730

Presented by Senator CLARK of Cumberland

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27.

Which was referred to the Committee on LABOR and ORDERED PRINTED.

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

COMMITTEE REPORTS

House

Ought Not to Pass

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

The Committee on ENERGY AND NATURAL RESOURCES on Bill "An Act to Prohibit Possession of Improperly Labeled Beverage Containers"

H.P. 1029 L.D. 1435

The Committee on TAXATION on RESOLUTION, Proposing an Amendment to the Constitution of Maine Allowing for Variation in Property Tax Valuations

H.P. 581 L.D. 785

The Committee on TAXATION on Bill "An Act To Make Benefits Under the Household Tax and Rent Refund Program More Accessible" (Emergency)

H.P. 775 L.D. 1087

The Committee on TAXATION on RESOLUTION, Proposing an Amendment to the Constitution of Maine to Require the State to Pay Property Taxes on State-owned Property

H.P. 851 L.D. 1183

Leave to Withdraw

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

The Committee on AGING, RETIREMENT AND VETERANS on Bill "An Act to Provide an Opportunity to Claim Medical Benefits for Persons Previously Covered under a Spouse's Policy"

H.P. 1128 L.D. 1571

The Committee on LABOR on Bill "An Act to Eliminate the Dual Minimum Wage Scheme"

H.P. 1208 L.D. 1680

The Committee on TAXATION on Bill "An Act to Exclude Public Pension Payments to Persons 65 Years of Age and Older from Taxable Income"

H.P. 835 L.D. 1167

The Committee on TAXATION on Bill "An Act to Amend the Open Space Laws"

H.P. 1110 L.D. 1543

Change of Reference

The Committee on LABOR on Bill "An Act to Increase the Priority of Wage Claims Against Insolvent Employers"

H.P. 998 L.D. 1387

Reported that the same be REFERRED to the Committee on JUDICIARY.

Comes from the House with the Report READ and ACCEPTED and the Bill REFERRED to the Committee on JUDICIARY.

Which Report was READ and ACCEPTED, in concurrence.

The Bill REFERRED to the Committee on JUDICIARY, in concurrence.

Ought to Pass As Amended

The Committee on APPROPRIATIONS AND FINANCIAL AFFAIRS on Bill "An Act to Appropriate Funds for Advocacy Activities for Severe and Prolonged Mentally Ill Persons"

H.P. 616 L.D. 839

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-390).

Comes from the House, with the Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-390).

Which Report was READ and ACCEPTED, in concurrence.

The Bill READ ONCE.

Committee Amendment "A" (H-390) READ.

Senate at Ease

Senate called to order by the President.

Committee Amendment "A" (H-390) ADOPTED, in concurrence.

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

The Committee on HUMAN RESOURCES on Bill "An Act to Clarify the Authority of Personal Care Assistants under the Supervision of Persons in a Consumer-directed Services Program"

H.P. 884 L.D. 1228

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-394).

Comes from the House, with the Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-394).

Which Report was READ and ACCEPTED, in concurrence.

The Bill READ ONCE.

Committee Amendment "A" (H-394) READ and ADOPTED, in concurrence.

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

The Committee on HUMAN RESOURCES on Bill "An Act to Provide Flexibility in the Laws on Residential Placement of Young Adults"

H.P. 1087 L.D. 1509

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-392).

Comes from the House, with the Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-392).

Which Report was READ and ACCEPTED, in concurrence.

The Bill READ ONCE.

Committee Amendment "A" (H-392) READ and ADOPTED, in concurrence.

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

The Committee on JUDICIARY on Bill "An Act to Facilitate the Establishment and Enforcement of Child Support and Health Insurance Obligations and to Clarify the Law Concerning the Modification of Child Support Orders"

H.P. 953 L.D. 1321

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-385).

Comes from the House, with the Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-385) AS AMENDED BY HOUSE AMENDMENT "A" (H-402) thereto.

Which Report was READ and ACCEPTED, in concurrence.

The Bill READ ONCE.

Committee Amendment "A" (H-385) READ.

House Amendment "A" (H-402) to Committee Amendment "A" (H-385) READ and ADOPTED, in concurrence.

Committee Amendment "A" (H-385) as Amended by House Amendment "A" (H-402) thereto, ADOPTED, in concurrence.

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

Senate

Leave to Withdraw

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

Senator THERIAULT for the Committee on BANKING AND INSURANCE on Bill "An Act Related to Medical Liability Insurance"

S.P. 209 L.D. 487

Senator ESTY for the Committee on LABOR on Bill "An Act to Ban the Use of Tape Recorders for Reporting Work Delinquency"

S.P. 565 L.D. 1593

Senator ESTY for the Committee on LABOR on Bill "An Act Relating to Vocational Rehabilitation under the Workers' Compensation Act"

S.P. 307 L.D. 806

Ought to Pass

Senator HOBBS for the Committee on BUSINESS LEGISLATION on Bill "An Act to Amend Maine's Unclaimed Property Act"

S.P. 602 L.D. 1688

Reported that the same Ought to Pass.

Which Report was READ and ACCEPTED.

The Bill READ ONCE.

The Bill LATER TODAY ASSIGNED FOR SECOND READING.

Ought to Pass As Amended

Senator COLLINS for the Committee on BANKING AND INSURANCE on Bill "An Act to Clarify the Application of Insurance Holding Company Laws to Holding Companies of Domestic Insurers"

S.P. 399 L.D. 1043

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (S-223).

Which Report was READ and ACCEPTED.

The Bill READ ONCE.

Committee Amendment "A" (S-223) READ and ADOPTED.

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

Senator HOBBS for the Committee on BUSINESS LEGISLATION on Bill "An Act to Establish a State Arbitration Program for Lemon Motor Vehicles"

S.P. 517 L.D. 1413

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (S-222).

Which Report was READ and ACCEPTED.

The Bill READ ONCE.

Committee Amendment "A" (S-222) READ and ADOPTED.

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

Divided Report

The Majority of the Committee on JUDICIARY on Bill "An Act Providing Confidentiality for Public Sector Job Applicants" (Emergency)

S.P. 486 L.D. 1328

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (S-232).

Signed:

Senators:

GAUVREAU of Androscoggin
HOLLOWAY of Lincoln

Representatives:

CONLEY of Portland
RICHARDS of Hampden
HASTINGS of Fryeburg
ANTHONY of South Portland
STEVENS of Bangor
MACBRIDE of Presque Isle
COTE of Auburn
HANLEY of Paris
FARNSWORTH of Hallowell

The Minority of the same Committee on the same subject reported that the same Ought to Pass as Amended by Committee Amendment "B" (S-233).

Signed:

Senator:

HOBBINS of York

Representative:

PARADIS of Augusta

Which Reports were READ.

Senator GAUVREAU of Androscoggin, moved to ACCEPT the Majority OUGHT TO PASS AS AMENDED Report.

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

Senator HOBBINS: Thank you Mr. President. Mr. President, men and women of the Senate. You can see that five years away from the Body has made my parliamentary skills a little rusty, in that I do not jump to my feet to move for the Acceptance of the Minority Report, which I am proud to have signed on with the House Chair of the Judiciary Committee. Last summer, Maine started a new, and very important, trial period for local government. The law court of our state, in a decision involving the Bangor Daily News and the city of Bangor, decided that citizens had a right to learn something about people who were under consideration by their local governments for important local jobs. In this particular case, in the city of Bangor, it involved the selection of the Bangor Chief of Police. Before that decision was handed down, local governments had routinely refused to provide any information about candidates for important municipal and county jobs. The refusal, I believe is contrary to law that we now know. The L.D. that is presented, L.D. 1328, was introduced to cut off that experiment that presently exists as a result of the Bangor Daily News versus the city of Bangor case. The Majority Report of the Committee would do the same thing as outlined in L.D. 1328, as written.

In our public hearing before the Judiciary Committee, no one testified about any case, the Maine Municipal Association couldn't provide any evidence that the law courts decision had actually made it difficult to recruit public employees. I provided the Senate with a memo regarding the experience of the town of Brunswick, which in it described a successful search for an important local managers position and it showed that it can be conducted with properly limited public access. The process by which was involved in Brunswick is outlined in the Minority Report of this L.D. The Minority Report would give us some time to find out whether the limited public access to the process of selecting local government officials works. It would allow governments to keep applications for public employment confidential until the preliminary screening process had been completed. The Report which I signed on, along with the House Chair, would only make the application

public when the candidate had been invited for the interview. That is an important aspect of the Minority Report. At that point, the local government and the candidate know serious consideration is going on in regards to that application.

If you look at the Majority Report, sponsored by my good friend from York, Senator Carpenter, that Report has several defects, which I would ask you to consider. It goes all the way. It would shut off all public access to the process of choosing local public officials. The only concession which the Majority Report makes would be to allow the access to the public of the credentials of the winning candidate, once that choice has been made. It even provides, in the Majority Report, that applications for employment at the state level are confidential.

I have never heard of anyone being concerned about a premature disclosure of interest in a state job. The State of Maine needs this Bill about as badly as John Tower needs to appear in a Johnny Walker ad. If we Adopt the Majority Report, we will not know whether a reasonable amount of public access to the process of choosing public employees would have worked. The evidence, if we Pass this Bill in the Majority form, will simply not be available.

Other states have allowed even more public access to the selection of public officials, then we have even suggested in the Minority Report. Research done on the other fifty states, demonstrated that more states open the selection process than close the selection process. The open states include such liberal states as Texas and Georgia. This is a quote that came out of a debate in public decision and is reported by the Georgia Supreme Court about two months ago in discussing public access to applications for the post of President of the Georgia State University. They, too, had a controversy which was litigated regarding this matter. "It would make for a strange rule, indeed, to hold that a person who applies for a public position, to serve the public, and to be paid by the public, has the right to keep secret from the public the very existence of such an application."

The Minority Report, as written, Adopts essentially the rule of thumb used in our sister state of Massachusetts according to a memo on Massachusetts law. The applications and resumes of finalists in the selection process will be open to the public. The other applications will be confidential. This works in many other states. This approach apparently worked in the town of Brunswick, in their process. I believe that we should at least give it a try. I urge you to vote against the pending motion, so that we may Accept the Minority Report. I believe that making decisions involving public issues and public officials should be done in the spirit of openness and those decisions should not be private. Thank you.

Senator HOBBINS of York requested a Division.

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

Senator CARPENTER: Thank you Mr. President. Mr. President, men and women of the Senate. Not having a sharp legal mind, all I have to support my position as a sponsor of L.D. 1328 is logic and knowledge. I have had a direct experience with the process of hiring public sector personnel as six years on the Board of Selectmen in the town of Sanford. Contrary to what my good friend, the Senator from York, Senator Hobbins, stated, I did testify at the Committee hearing on first-hand knowledge of where it became a real problem. My own police chief had applied for a job elsewhere and it did become public knowledge, it was printed in the newspaper. He

withdrew his application, as a result. Also, the Superintendent of Schools in Sanford had the same problem.

I see this Bill more as a projection of your personal rights to seek to improve your own employment position, maybe increase your salary, get a better job, a better place for families to live. In the private sector, you never have that problem. In the public sector, it wouldn't be particularly difficult if you were applying for a job in the State of Maine and you were living in California. It is a real problem if you are living within the State of Maine applying for another job within the State of Maine.

The good Senator from York, Senator Hobbins, was absolutely correct in his State Supreme Court decision. That is the correct way that the law is written now, but what he failed to also read or state into the Record is that the State Supreme Court went on to state, "the concern expressed by the city for the public disclosure of names and addresses of job applicants may inhibit its efforts to recruit the best available people for its openings." It then said, "it is more properly addressed to the Legislature." What they are really saying, the way the law is, that they had no choice. That was the decision that they had to make. What they also are saying is that perhaps it should be looked into, perhaps it should be tightened up.

Committee Amendment "A" (S-232), means that the person selected for the position would then make public his records. I strongly support the Majority Report with Committee Amendment "A" (S-232). Thank you.

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

Senator GAUVREAU: Thank you Mr. President. Mr. President, men and women of the Senate. I rise in support of the pending motion to Accept the Majority Ought to Pass as Amended Report. This legislation basically is the direct result of a law court decision, as was mentioned by the preceding speakers. That decision being Bangor Daily News versus the city of Bangor. Just by brief way of history, what happened in the city of Bangor was; in 1987 the city was embarked in the process of selecting a new police chief to serve that municipality. There was a request filed by a reporter, on behalf of the Bangor Daily News, to access the resumes and applications of all applicants for the particular position. The city of Bangor had advertised for a new police chief and had, in fact, in its written advertisement, indicated that all resumes would be treated in a strictly confidential fashion. The Superior Court, in Penobscot County, found that under the Maine Freedom of Information Statute there is an exception, called a working papers exception, for applicants for state and municipal positions. The Superior Court had found that the applications and resumes of candidates for public positions should, in fact, be confidential. The law court, however, overruled that decision.

Now, it should be pointed out that until 1979, Maine law had ceded confidentiality in the hiring process solely to state employees. It was in order to address that disparity that the Legislature sought uniformity in the hiring process for state, municipal, and county employees. However, it is apparent from the reading of the statute, as interpreted by our law court, that the Legislature some ten years ago by the 1979 Amendments, removed the cloak of confidentiality from applicants who do, in fact, aspire to positions either in state, local, or municipal government. The law court felt

constrained in interpreting Maine State Law, in fact, to allow routine access through the Freedom of Information Statute to the names of applicants for state, local, or municipal positions. I will quote from the majority decision of Chief Justice McKusick in this area. He stated, "we note the concern expressed by the city that public disclosure of the names and addresses of job applicants may inhibit the efforts to recruit the best available people for its openings." That concern, which apparently led to the city's advertised guarantee of confidentiality, is more properly addressed to the Legislature than to the Judiciary. So, what the court was stating here was that in interpreting Maine State law, it felt compelled to allow the removal of the cloak of confidentiality from the application process. This is an experiment only because it has been judicially ordained that the hiring process no longer may proceed with some guarantee of confidentiality. Clearly, it is the function of this Body to decide whether that makes appropriate public sense. As has been mentioned by the Senator from York, Senator Carpenter, there is a genuine concern that if we were to open up the hiring process to public disclosure that may well have a chilling effect upon some applicants who may not tender their names for consideration for position either in state, county, or local employment.

It is curious to note that in the Minority Report, the signers of that suggest that we ought to effect a modified removal of confidentiality that we ought to, in fact, allow individuals who file applications to have their names, applications, and resumes, and papers of nomination be confidential. However, in the event those those nominees should make the final round of consideration, then that cloak of confidentiality should be removed. Clearly, when one tenders his or her name to an employer for possible employment, one does not know whether or not his or her name will make the final round of consideration. So, if the concerns of the majority signers of the Report that there would be a chilling effect by allowing disclosure of applications to go forth, it seems to me that concern is not addressed by the Minority Report which would have this modified cloak of confidentiality, but would still allow the public, the press, and whomever should file appropriate requests of Title I of our statutes, to access the names of applicants for state, local, or municipal positions. In that sense, I think the logic manifested in the Minority Report can be open to certain question. Ultimately, I think we have to make a basic policy decision and that is whether the people of Maine are poorly served by the system, which until the Bangor Daily News decision came down, has been in effect in this state. That is, are we securing qualified, appropriate, talented individuals to apply to positions at state, local, and municipal offices. It seems to me that the public, obviously, does have an important role to play in criticizing or assessing the appropriateness of people hired for governmental positions. That role can be played best, by removing public officials who hire individuals who are clearly not qualified or competent to discharge their particular positions. It seems to me that is a process which has worked very well in our state for many years. There is no compelling need whatsoever at this time to change that system. We certainly, all of us on the Committee on Judiciary, recognize the critical and vital role which the press plays in a free and open society to carefully monitor activities of government to insure that decisions are made in an open, honest, and straightforward fashion. We ought to be

conservative in crafting exceptions to this basic policy. However, in this particular area, where we are talking about hiring individuals, I think this is a legitimate area when we can erect some meaningful and responsible limitations on routine and public access to records of state government. It is for this reason that the signers of the Majority Report felt that we should basically continue a system which has worked so well in our state for many years. Thank you.

On motion by Senator HOBBS 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 Kennebec, Senator Kany.

Senator KANY: Thank you Mr. President. Mr. President, men and women of the Senate. I rise to support the position of the Senator from York, Senator Hobbins. I hope that you would vote against the pending motion. I believe that the Minority Report is a better balance for public policy. It allows more sunshine into the decision on the hiring policy and the hiring decisions in the public sector and yet it does not intrude all the way down the line. It is only the finalists, those that are actually chosen to have an interview that their applications and resumes would be released to the public. It would allow the public to have some input into that decision. I hope you reject the Majority Report. I hope you reject the pending motion, and go with the Minority Report, which is that which is embraced by Senator Hobbins, of York.

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

A vote of Yes will be in favor to ACCEPT the Majority OUGHT TO PASS AS AMENDED Report.

A vote of No will be opposed.

Is the Senate ready for the question?

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

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEAS: Senators BERUBE, BRAWN, CAHILL, CARPENTER, COLLINS, DILLENBACK, EMERSON, ERWIN, ESTY, GAUVREAU, GILL, GOULD, HOLLOWAY, LUDWIG, PERKINS, RANDALL, THERIAULT, TITCOMB, WEBSTER, WEYMOUTH, WHITMORE, THE PRESIDENT - CHARLES P. PRAY

NAYS: Senators ANDREWS, BOST, BRANNIGAN, BUSTIN, DUTREMBLE, ESTES, HOBBS, KANY, PEARSON, TWITCHELL

ABSENT: Senator MATTHEWS

PAIRED: Senators BALDACCI, CLARK

22 Senators having voted in the affirmative and 10 Senators having voted in the negative, with 2 Senators having paired their votes and 1 Senator being absent, the motion by Senator GAUVREAU of Androscoggin, to ACCEPT the Majority OUGHT TO PASS AS AMENDED Report, PREVAILED.

The Bill READ ONCE.

Committee Amendment "A" (S-232) READ and ADOPTED.

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

Divided Report

The Majority of the Committee on LABOR on Bill "An Act to Limit the Granting of Injunctions in Labor Disputes"

S.P. 372 L.D. 996

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (S-231).

Signed:

Senators:

ESTY of Cumberland
MATTHEWS of Kennebec

Representatives:

PINEAU of Jay
TAMMARO of Baileyville
RAND of Portland
MCHENRY of Madawaska
MCKEEN of Windham
LUTHER of Mexico
RUHLIN of Brewer

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

Signed:

Senator:

WHITMORE of Androscoggin

Representatives:

REED of Falmouth
BUTLAND of Cumberland
MCCORMICK of Rockport

Which Reports were READ.

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

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

Senator WHITMORE: Thank you Mr. President. Mr. President, men and women of the Senate. I guess I am just following through with my statement last week that I would be on my feet more this session than I care to be, but here we go. L.D. 996, really proposes three things. One, no injunction may be used in labor disputes unless the complainant demonstrates and competes that they are unable or unwilling to furnish adequate protection to the complainants property. Two, that no injunction may be issued for any party who has failed to comply with a law involved with the labor dispute, or who has failed to make every reasonable effort to settle a dispute. Three, that no union or official of the union may be found liable for acts performed by individual union members, unless clear proof is shown that the union has participated in, authorized, or ratified the illegal acts.

Clearly, as you can see, this is some of the fall out from the incident in Jay a couple of years ago. References made during the Committee hearing to the Norris-Laguadia Act, which was passed in 1932. At that time it came about as a result of the formation of unions. That is the period of time when unions were just getting together and organizing. There are a lot of bitter attitudes and negative sentiments and again over zealous acts on both sides. Although, the proponents feel that this is an extension to the state level of the Norris-Laguadia Act, it really has a different purpose. State law currently covers the damage of property within the state statutes and enforcement of that.

A couple problems I have with the Bill is that one, they are requesting that clear and convincing evidence that an eminent danger is about to occur. I think that is really requesting it prior to the act taking place. That is saying that there is a threat of a storm, but the storm hasn't hit yet. Secondly, that no officer or member of the organization or association can be held responsible for acts of their members. I think, clearly, that in any association that binds together, that the officers, particularly

in those situations, have to be held responsible. We heard stories about organized vandalism and what this is saying is that we condone the vandalism and malicious mischief, just don't get caught. I don't think that does anything to restore peace and tranquility to any volatile situation. Therefore, I would request that you vote against the pending motion.

Senator WHITMORE of Androscoggin requested a Division.

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

Senator ESTY: Thank you Mr. President. Mr. President, men and women of the Senate. I would like to thank the Senator from Androscoggin for shortening my comments. Some of the information that he shared with you, I also planned on sharing with you. So, he is certainly correct. This Bill is patented after the federal Norris-Laguadia Act in three areas. The three areas that he had mentioned, so I won't do that. I would point out that the second area regarding failure to comply with the law involved in the labor dispute says only if reasonable effort has been made to settle the dispute. If the employer refuses to negotiate, the "clean-hand" document that this refers to, no injunction can be granted. It asks and begs that negotiation and talking continue. By Adopting the Norris-Laguadia Act, Congress intended to take the federal courts out of the labor injunction business, except in very limited circumstances. This is precisely what this Bill proposes to do. Congress preferred the Resolution of labor disputes by negotiations unhampered by federal or judicial interference. Under the Norris-Laguadia Act, injunctions are the last line of defense, not the first used by either party, available only after all other legally required methods have been used and discussed. The state statute that is being proposed is patented and is reasonable after this. There are eighteen states that incorporate all or some of these three proposals. There are twenty-five states, including the eighteen, that have some type of labor injunction language.

The prime purpose of this Bill is to encourage negotiations to prevent the courts from interfering in the collective bargaining process. In fact, the Committee, to bend over backwards to be reasonable, the original motion saying that every reasonable effort has to be made, eliminated the word every and said that some reasonable effort needs to be made to settle a labor dispute before granting injunctive relief. The Labor Committee refused to have this apply retroactively and said that this could only apply after the effective date of the Bill. So, we did limit it in those areas. This Bill will help to encourage discussions and negotiations between the two parties. Current law treats the symptoms and not the diseases involved in the lack of discussions. Angry employees, because they don't have any contract, become more angry when discussions end. When you slap an injunction on that simply says, don't be angry anymore, you can't be angry, it tends to cause more problems, not less. This Bill says, you keep talking and before we grant an injunction you have to show us that you have made a reasonable effort to settle this. No one condones vandalism. There are remedies available when it is shown that union officials have condoned it, or approved of it. This Bill doesn't change that at all. Thank you.

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

A Division has been requested.

Will all those Senators in favor of the motion by Senator ESTY of Cumberland, to ACCEPT the Majority OUGHT TO PASS AS AMENDED Report, please rise in their places and remain standing until counted.

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

17 Senators having voted in the affirmative and 14 Senators having voted in the negative, the motion by Senator ESTY of Cumberland, to ACCEPT the Majority OUGHT TO PASS AS AMENDED Report, PREVAILED.

The Bill READ ONCE.

Committee Amendment "A" (S-231) READ and ADOPTED.

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

SECOND READERS

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

House

Bill "An Act to Amend the Maine Tort Claims Act" H.P. 1083 L.D. 1505

Bill "An Act Concerning School Social Workers" H.P. 1135 L.D. 1578

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

House As Amended

Bill "An Act Making Unified Appropriations and Allocations for the Expenditures of State Government and Highway Funds Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 1990 and June 30, 1991" (Emergency) H.P. 114 L.D. 151

(C "A" H-384)

Bill "An Act to Impose a Tax on Capital Gains from Speculative Land Sales" H.P. 184 L.D. 249

(C "A" H-382)

Resolve, to Establish a Commission to Study Town Supervision of Private Roads (Emergency) H.P. 950 L.D. 1318

(C "A" H-386)

Bill "An Act to Fund the Maine State Retirement System for Certain Employees Previously Covered by the County Retirement System" H.P. 1062 L.D. 1484

(C "A" H-372)

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

Bill "An Act to Establish Municipal Cost Components for Services to be Rendered in Fiscal Year 1989-90" (Emergency) H.P. 1112 L.D. 1545

(C "A" H-381)

Which was READ A SECOND TIME.

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

ENACTORS

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

An Act to Improve Regulatory Oversight of Health Maintenance Organizations

H.P. 205 L.D. 285

(C "A" H-259;S "A" S-197)

An Act to Protect Public Access to Intertidal and Submerged Lands

H.P. 415 L.D. 558
(C "A" H-331)
An Act Concerning Teacher Employment

H.P. 486 L.D. 666
(H "B" H-298 to C "A" H-163)
An Act to Amend the Wrongful Death Laws to Encompass Associated Claims

S.P. 297 L.D. 795
(C "A" S-176)
An Act to Require Labeling of Produce Treated with Post-harvest Treatments

S.P. 340 L.D. 901
(C "A" S-173)
An Act to Provide Dealership Protection to Farm Equipment and Machinery

S.P. 358 L.D. 959
(C "A" S-137; S "A" S-168)
An Act to Allow the Consideration of Foreign Convictions in Drug Cases

H.P. 741 L.D. 1024
(C "A" H-335)
An Act to Provide a Fee Adjustment for Civil Process Servers

H.P. 781 L.D. 1093
(C "A" H-327)
An Act to Provide Final Price Disclosure to Potato Growers

H.P. 841 L.D. 1173
(C "A" H-330)
An Act Concerning the Rights of a Father to Bring a Paternity Action

H.P. 847 L.D. 1179
(C "A" H-326)
An Act to Amend the Maine Administrative Procedure Act

H.P. 883 L.D. 1227
(C "A" H-328)
An Act to Amend the Charter of the Rangeley Water District

S.P. 528 L.D. 1445
(C "A" S-179)
An Act to Regulate Water Flowage over Dams

H.P. 1086 L.D. 1508
(C "A" H-332)
An Act to Change the Listing Procedure on Town Warrants

H.P. 1132 L.D. 1575
An Act to Clarify Provisions of the Subdivision Law

H.P. 1159 L.D. 1613
(C "A" H-314; S "A" S-205)
An Act to Revise the Asbestos Certification Law

H.P. 1179 L.D. 1634
(S "A" S-196 to C "A" H-300)
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 Require Country of Origin Labeling on Fresh Produce

H.P. 591 L.D. 809
(C "A" H-329)
On motion by Senator PEARSON of Penobscot, placed on the SPECIAL APPROPRIATIONS TABLE, pending ENACTMENT.

An Act to Increase Educational Opportunities for Economically and Educationally Disadvantaged Residents

S.P. 450 L.D. 1212
(C "A" S-174)

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

Resolves

Resolve, to Study the Use of the Bangor Mental Health Institute Grounds for Open Space and Recreation

H.P. 981 L.D. 1359
(C "A" H-343)

Resolve, Concerning Grant of Easement

S.P. 516 L.D. 1412
(C "A" S-181)

Resolve, Authorizing and Directing the Bureau of Public Lands to Convey Title to a Certain Parcel of Land in Augusta to the Maine Veterans' Homes Subject to Certain Conditions

H.P. 1212 L.D. 1684
(S "A" S-208)

Resolve, Authorizing the Conveyance of Certain Public Lands

H.P. 1213 L.D. 1685
(S "A" S-207)

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

Emergency

An Act Concerning Municipal Regulation of Shellfish Resources

S.P. 354 L.D. 955
(H "C" H-364 and S "A" S-151 to C "A" S-141)

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

Senate at Ease

Senate called to order by the President.

On motion by Senator CLARK of Cumberland, RECESSED until 10:30 this morning.

After Recess
Senate called to order by the President.

Emergency

An Act Relating to Licensing of State Social Workers

S.P. 465 L.D. 1250
(C "A" S-178)

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.

Emergency

An Act to Create the Individual Income Tax
Windfall Fund

S.P. 306 L.D. 805
(H "A" H-369 to C "A"
S-128)

Comes from the House FAILING OF PASSAGE TO BE
ENACTED.

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

Senator ANDREWS: Thank you Mr. President. Mr.
President, men and women of the Senate. This is a
Bill that we debated at some length last week
regarding the creation of the individual income tax
windfall fund. I have no illusions about where this
Bill will be going today, given the emergency nature
of this Bill and the partisanship that has emerged
around this particular issue. Before we take our
vote on it this morning, I simply wanted to reiterate
the purpose behind this Bill and the reason why the
majority of the Taxation Committee has this Bill
before you.

We have two essential purposes in mind. One, to
increase public confidence in our income tax system,
in light of the serious over-collection problem that
we have experienced over the past year. The
withholding problems and other tax problems have
exacerbated that over-collection issue and problem,
but at least we are trying to reduce the credibility
gap that exists between Maine taxpayers and our tax
system, by establishing this fund and assuring the
voters and the taxpayers of this state that we are
going to be setting that windfall aside for the
purpose of making certain that is not spent anywhere
but in terms of returning that money to our
taxpayers. Secondly, we promoted this Bill to
increase the clarity of our income tax revenue
picture. I described on the floor last week just how
unclear it is, the great confusion that has been
created among many in this Chamber and around state
government about exactly how much are we
over-collecting in our income tax system. There has
been in the debate and subsequent to passing this
Bill, expressions of skepticism as to whether or not
we can achieve these two objectives; increasing
credibility for our tax system and increasing clarity
among the people of this Chamber. To that skepticism
may I simply ask this question. What is wrong with
trying to reach those two objectives? What is it
that we have to lose in trying to reach those two
objectives? We certainly have a lot to gain, both in
terms of public credibility for our tax system and
clarity among those of us who work everyday in this
Legislature. What do we have to lose? What are we
afraid of? I hope that you will join me in
supporting this measure and vote to Enact it on the
floor this morning. Thank you.

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

Senator WEBSTER: Thank you Mr. President. Mr.
President, men and women of the Senate. I would hope
that you would oppose Enactment of this fund. This
is the classic example of the fox guarding the
chicken coop, in my opinion. It is creating a fund
which is unnecessary. It gives, in my opinion, the
Legislature another chance to redistribute the
wealth, as we have been doing for years here. It
seems to me that this Bill is unnecessary,
particularly in light of the crisis situation that we
are now faced with, with the lack of state dollars.
There has been a commitment from the beginning, by a
number of us here in the Legislature, to return by
realigning the tax code or doing in some manner to

see that the taxpayers of this state who have paid
more than they should have without our raising the
taxes should have that money returned. We have
agreed to do that. I see no reason to establish a
fund. As a matter of fact, in the last debate
several days ago, it was mentioned that this money
should be set up in a fund so that somebody here in
the Legislature, in his wisdom, could decide where
that money ought to go. The decision has already
been made, we have committed to returning the
windfall, that we did not ask for back to those
people who paid it. I am not about to vote to give a
fund to this Legislature so that we can decide later
that we want to take that money that isn't ours and
use it for property tax relief or some other
purpose. I am committed and people in my party are
committed to property tax relief and we will be
supporting that when the time comes. But, I am not
going to support this fund, it doesn't make sense to
me. I would urge you to vote against Enactment.
Thank you.

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

Senator DUTREMBLE: Thank you Mr. President. Mr.
President, men and women of the Senate. More than
ever if we ever needed this Bill, I think we need it
now. We have had a one half of a billion dollars
proposal of increase to the budget of this state.
Just recently we have had a report that we are one
hundred and six million dollars short of what we are
suppose to have. As long as we continue to receive
these funny money reports, we are going to have to
make sure that the people are protected as to where
their money is going to be so that they can get it
back. They deserve our trust and the way we can show
that is by putting this money in an account for
everyone to see and for everyone to get back, every
penny that belongs to them. It seems that every time
my party brings out their concerns on the important
issues facing this state, we are charged with being
political. Well, let me tell you one thing, this is
one issue, the tax issue, income tax, the reports
that we are getting, the miscalculating, these are all
issues that you are not going to be able to sweep
under the political rug. This Bill is going to put
the money out front for everybody to see and that is
where it belongs. We want to return it and if it is
in the fund, you know the people will be watching as
to where it is going to go. We don't need people
looking at this money now because they see we are
short one hundred and six million dollars. Let's
raid that money. No, let's put it in a fund and
protect it so that we can send it back to the people
who it belongs to.

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

Senator ANDREWS: Thank you Mr. President. Mr.
President, men and women of the Senate. I simply
would like to clarify before all of you the essence
of this Bill, in light of what I consider to be a red
herring that is swimming around the floor right now.
The red herring is that this Bill would allegedly
give us a chance to "redistribute the wealth." On
page one of the Bill, it says "the Individual Income
Tax Windfall Fund: There is established the
Individual Income Tax Windfall Fund which shall be
maintained for the sole purpose of mitigating the
impact of overcollections of individual income taxes
by the State." That is the sole purpose, it is in
the Bill, there is nothing about doing anything other
than providing some fairness and justice and clarity
to those people who have fallen victim to a tax
system that has been over-collecting from them. That
is the issue before us. As far as the clarity is

concerned, I think it is very important for the members of this Senate to have as clear a picture as possible of our tax revenue projections and its impact on what we do here. If you simply go by these monthly reports, ladies and gentlemen of the Senate, you will have no idea. You will be more confused than ever. If you think I am saying something that is not true, I would ask anybody in this Chamber to look at the latest figures that we have and tell me how much money in the individual income tax line we have over-collected since the original budget was established for this biennium. I would defy anybody to be able to give me that figure from these projections. It took me several days to get the information and then sitting down with a calculator and adding up the figures, I could come up with a total. But, it was only after that process that I have some figures that I could work with. This windfall fund would not only allow me to save some time in having to do that, but would have before everyone in this Chamber and everyone out in the State of Maine an accurate figure as to how much money we have over-collected in that individual income tax line. What is wrong with that? What harm does that do?

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

Senator DILLENBACK: Thank you Mr. President. Mr. President, men and women of the Senate. This is a rather interesting discussion. I can't believe that there is any question that the state knows how much money has come into its coffers from overpaid income taxes. I can't believe that anybody distrusts the Governor when he says that he is going to return that money to the people who paid it. What more do you want? I personally do not know how much is there and I really don't care at this point, as long as it goes back to where it is suppose to go. There was an inference when the first discussion was made that perhaps that we could do something with the money for the people of this state. That isn't what I want to see done. I want the money to go back to the people who paid it. That is what we are going to do; that is what the Governor said he was going to do. I am sure we have competent people handling the figures and they will come up with the exact figures. When the time comes, we will be happy to give them to you. Thank you.

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

Senator DUTREMBLE: Thank you Mr. President. Mr. President, men and women of the Senate. I would like to pose a question to anybody who would care to respond. The good Senator from Cumberland just mentioned that we could get accurate and exact figures and my question is when are we going to get those exact and accurate figures?

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

Senator WEBSTER: Thank you Mr. President. Mr. President, men and women of the Senate. I would like to add two brief comments to this debate. The first thing is that the good Senator from York County has made some comments and I would like to respond briefly that his comments are well-founded and his concern regarding the income tax and the problems that this Legislature has faced with the income tax situation in the state. I would only like to add that the blame for the income tax problem can be equally shared and should be shared by all of us here. Obviously, the administration belongs to one party, the control of this Legislature belongs to the other, everyone should share and must share in the problems associated with this issue. I am sure that

this may, in the future, become a political issue and I welcome that, because I think everybody is to blame for the situation here and the public should know that.

In reference to the comments made by the good Senator from Cumberland, Senator Andrews, I would only add that my reason for bringing to the light of the Senate today about this issue, the money being redistributed, is I am only referring to the debate of the Senator from Cumberland, Senator Andrews, during the last debate here several weeks ago, when he said in the floor debate that we ought to set this money aside so that we can decide what to do with it. There is one decision for me on what we are going to do with this money. This money, that we know has been over-collected, is going to be returned to the taxpayers and we don't need some magical fund here so that we can see that redistributed in some other manner. For that reason, I would ask you to oppose this measure when we vote. Thank you.

Off Record Remarks

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

Senator KANY: Thank you Mr. President. Mr. President, men and women of the Senate. I just wanted to point out to the Senator from Franklin, Senator Webster, that actually 5.1 percent of whatever we collected in income taxes has monthly gone out to individual municipalities. We have already been doing that under the State Municipal Revenue Sharing Program.

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

Senator BALDACCI: Thank you Mr. President. Mr. President, men and women of the Senate. One very important reason for supporting this legislation is that we all agree that the money, which has been over-collected from the income taxes, should go back to the people. We all agree on that. We can all share in the situation in regards to this particular area in making sure people get it back as a top priority. The reason why it is important to have the fund is that the determination by the office of Financial Administration, not the Legislative office of Finance, but the Executive Branch's Finance office, is going to make a determination as to what is over-collected and what is actual growth. There can be a very good debate in that particular area as to what is over-collection and what is growth. I think it is important that if we are going to give the money back to the people that we separate those funds that have been over-collected and then begin a dialogue with the administration and the Executive Branch in determining what has been over-collected. I would hate to abrogate our responsibilities in this particular area, given the ability of those who are in those offices to make determinations. I think it is important as far as the Legislature is concerned and the people who are home in our districts to get back what they did pay in. I would hope that we would be able to do this as a Legislature. Thank you.

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

Senator ANDREWS: Thank you Mr. President. Mr. President, men and women of the Senate. Not to prolong the debate, but I feel I must respond to the Senator from Franklin, Senator Webster. The nature of red herrings in this Chamber it seems as soon as you fish one out, you have another one swimming around and they seem to get bigger and bigger. I

want to clarify my comments in the original debate regarding this issue. I was stating a matter of fact and that is - when we set this money aside and we have it available, we as a Body, are going to have to make a choice as to where that is going to go. That isn't a matter of opinion, that is a matter of fact. My point was, and I continued on by saying, that anybody who would vote to do anything other than to return this money to the people would have to do it in the clear light of day. There would be a separate fund, it would be called the Windfall Tax Fund, it is clear why it is there, it is clear what happened, and there is a clear anticipation that is going back. And, anybody who wanted to do anything else but to return that money to the taxpayers would have to do it in the clear light of day.

I only answer the question that I asked earlier, how much money we would have had in this line if we had stuck with our original budget projections? We wouldn't have the ten million dollars in the April figures, we would have 57.5 million dollars. The question is, where is that money? The question is, who knows where that money is and who knows where that money went to? That money went into the budget process, it was allocated, but the point is if you look at these figures, it is impossible to tell how much money we have over-collected above and beyond projections in the individual income tax line. By establishing a windfall account, we will know exactly how much is there. The point is, and let me just fish this red herring out of this Chamber, if you are going to vote or do anything else but returning that money to the people of the State of Maine, you are going to do it in the clear light of day with this individual windfall tax account. That is the point to this Bill.

I still have yet to hear anyone explain to me why. What is wrong with that objective? What is wrong with trying, what harm is done in making this issue clear for us and restoring credibility to the taxpayers of this state? No one has been able to answer that question.

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

Senator PEARSON: Thank you Mr. President. Mr. President, men and women of the Senate. This particular Bill is in a unique parliamentary situation and it normally would go on the Appropriations Table, if you so desired. But, I want to tell you that it has a fiscal note on it only because it commits money to a fund that is to be returned to people. I just wanted to say that because I have always indicated to you whether a Bill was headed that way or not. I favor the motion of Senator Andrews, but I just wanted to make that clear.

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

Senator CLARK: Thank you Mr. President. Mr. President, men and women of the Senate. The Senator from Cumberland has asked a question, what more do you want? The answer is clear. Some of us would establish an individual Income Tax Windfall Fund, that is the answer to the question. The Senator from Franklin, Senator Webster, has suggested that all of us are to blame for the current conditions. While there is merit to that statement, it does warrant a closer review. The Legislature shares the blame with the Executive Department in this administration only to the extent that it must depend and believe the administration figures as developed and received and presented by the administration. For we do not, as a Legislature, have the facility to balance that function, nor have we energized with great vigor to acquire the same, acknowledging the inherent costs on

the Legislative budget. So we are dependent on the administration and that dependency has created none other than distrust. Distrust on behalf of the citizens of this state who wonder why the conditions continue to exist, particularly in light of recent revelations of this week. First we have money coming out our ears, so to speak, and now we are in distress, because our revenue projections and estimates have not been realized. It is important to reestablish trust between what happens here in Augusta and the lives of the citizens we serve. A vehicle to achieve that admirable goal is the individual income tax windfall fund. Thank you Mr. President.

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 ENACTMENT.

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, BALDACCI, BERUBE, BOST, BRANNIGAN, BUSTIN, CLARK, DUTREMBLE, ERWIN, ESTES, ESTY, GAUVREAU, HOBBS, KANY, PEARSON, THERIAULT, TITCOMB, TWITCHELL, THE PRESIDENT - CHARLES P. PRAY

NAYS: Senators BRAWN, CAHILL, CARPENTER, COLLINS, DILLENBACK, EMERSON, GILL, GOULD, HOLLOWAY, LUDWIG, PERKINS, RANDALL, WEBSTER, WEYMOUTH, WHITMORE
Senator MATTHEWS

ABSENT:

19 Senators having voted in the affirmative and 15 Senators having voted in the negative, with 1 Senator being absent, and 19 being less than two-thirds of the entire elected Membership of the Senate, the Bill FAILED OF ENACTMENT, in concurrence.

ORDERS OF THE DAY
Unfinished Business

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

The Chair laid before the Senate:

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:

Senator EMERSON for the Committee on TAXATION on Bill "An Act Amending the Tree Growth Tax Law to Dedicate Penalty Proceeds to Purchase Public Parks and Open Space"

S.P. 505 L.D. 1393

Senate

Ought to Pass As Amended

Senator TITCOMB for the Committee on AGING, RETIREMENT AND VETERANS on Bill "An Act to Extend the Eligibility of Retired Teachers for Group Health Insurance"

S.P. 337 L.D. 898

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (S-221).

Which Report was READ and ACCEPTED.

The Bill READ ONCE.

Committee Amendment "A" (S-221) READ and ADOPTED.
The Bill as Amended, LATER TODAY ASSIGNED FOR
SECOND READING.

Senate
Ought to Pass As Amended

Senator GILL for the Committee on EDUCATION on
Bill "An Act Regarding Reimbursement for
Out-of-district Special Education Placements"
(Emergency)

S.P. 283 L.D. 729

Reported that the same Ought to Pass as Amended
by Committee Amendment "A" (S-215).

Which Report was READ and ACCEPTED.

The Bill READ ONCE.

Committee Amendment "A" (S-215) READ and ADOPTED.
The Bill as Amended, LATER TODAY ASSIGNED FOR
SECOND READING.

Senate
Ought to Pass As Amended

Senator MATTHEWS for the Committee on LEGAL
AFFAIRS on Bill "An Act to Require Written Leases for
Long-term Tenancies"

S.P. 351 L.D. 933

Reported that the same Ought to Pass as Amended
by Committee Amendment "A" (S-216).

Which Report was READ and ACCEPTED.

The Bill READ ONCE.

Committee Amendment "A" (S-216) READ and ADOPTED.
The Bill as Amended, LATER TODAY ASSIGNED FOR
SECOND READING.

Senate
Ought to Pass As Amended

Senator BERUBE for the Committee on STATE AND
LOCAL GOVERNMENT on Bill "An Act to Protect the
Integrity of the Civil Service System and to Set
Standards for the Contracting of Service by the
State"

S.P. 391 L.D. 1036

Reported that the same Ought to Pass as Amended
by Committee Amendment "A" (S-220).

Which Report was READ and ACCEPTED.

The Bill READ ONCE.

Committee Amendment "A" (S-220) READ and ADOPTED.
The Bill as Amended, LATER TODAY ASSIGNED FOR
SECOND READING.

Senate
Ought to Pass As Amended

Senator BOST for the Committee on UTILITIES on
Bill "An Act Concerning the Regulation of Cable
Television"

S.P. 401 L.D. 1045

Reported that the same Ought to Pass as Amended
by Committee Amendment "A" (S-213).

Which Report was READ and ACCEPTED.

The Bill READ ONCE.

Committee Amendment "A" (S-213) READ and ADOPTED.
The Bill as Amended, LATER TODAY ASSIGNED FOR
SECOND READING.

Off Record Remarks

Senate
Divided Report

The Majority of the Committee on EDUCATION on
Bill "An Act to Amend the Law Concerning the
Reimbursement Rates for General Adult Courses Offered
by Adult and Community Education Programs"

S.P. 612 L.D. 1707

Reported that the same Ought Not to Pass.

Signed:

Senators:

ESTES of York
BOST of Penobscot
GILL of Cumberland

Representatives:

O'GARA of Westbrook
CROWLEY of Stockton Springs
HANDY of Lewiston
PARADIS of Frenchville
OLIVER of Portland
NORTON of Winthrop
O'DEA of Orono
AULT of Wayne
KILKELLY of Wiscasset

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

Signed:

Representative:

SMALL of Bath

Which Reports were READ.

Senator ESTES of York, moved to ACCEPT the
Majority OUGHT NOT TO PASS Report.

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

Senator CAHILL: Thank you Mr. President. Mr.
President, men and women of the Senate. Just briefly
I would ask you not to Accept the pending motion so
that we can go ahead and Accept the Minority Ought to
Pass Report. L.D. 1707 is under my sponsorship along
with the good Senator from Penobscot, Senator
Pearson. I will take just a minute to explain it to
you, because I believe despite the twelve to one
report, this Bill does have merits. The Bill deals
with how adult education monies are spent.
Currently, courses provided to the general public in
vocational and leisure program skills qualify to be
reimbursed by the state at either seventy-five or
fifty percent. I agree and I am sure you will agree
that adult education is a very, very important
program that we offer.

I believe firmly that the state should continue
to reimburse for courses that help develop a persons
personal or professional life skills. I am equally
firm in my belief that leisure courses, just as
aerobic dancing, cake decorating, woodworking, are
recreational in nature and I think that we should
preserve our precious adult education money and it
should not be spent on these types of programs,
unless of course those people are using cake
decorating as a vocation.

Many school districts who do offer these courses
charge for them and they are self sustaining. Some,
however, do not. The reduction to the general fund
is minimal, it is a ninety thousand dollar a year
reduction, but I think today ninety thousand dollars
is very important.

Senator CAHILL of Sagadahoc requested a Division.

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

Senator ESTES: Thank you Mr. President. Mr.
President, men and women of the Senate. When this
Bill first came before us last Friday morning, it did
open a few eyes because the original fiscal note was
something over six hundred thousand dollars for the
biennium that would be de-appropriated as originally
estimated. However, at the hearing, there was
identification that a clerical error had been made

and that the actual savings would only be ninety thousand dollars per year. There were some other conflicts with the Bill that I think cast a shadow of doubt over whether this was the time to make this change. One of them was the fact that the realization of the education subsidy for leisure programs was only fifty percent of the cost of the instructional salaries and fringe benefits that were required for salary costs. It is not fifty percent reimbursement of the cost of the course to the individual taking it. I think that has been a real growing awareness of the importance of adult education and it was admitted in the testimony by Associate Commissioner Cassidy that it is sometimes very difficult to draw the line in determining a course's proper identity, whether it is general leisure, or vocational, or a life skills program. It was also recognized by the Associate Commissioner that the Department believes that recreational and leisure courses are a vital component of adult offerings. We believe that keeping the subsidy as it current is, is really a good public relations move for adult education. If there is a way of keeping fees lower for a leisure course, such as cake decorating, or book binding, we are encouraging more citizens to participate in leisure programs. What you are doing is you are getting them inside the door of these adult education programs and many of them will potentially come back and take a life skills or a vocational or an adult education general high school or college course that might be offered. Or perhaps they might even get involved in a G.E.D. course.

We believe that it is an enticement for people to continue their formal education. I think there is another plus, it is good public relations for the one hundred and forty school districts that offer adult education programs. I think it also gives a very positive public perception, because adult programs and serving the needs and interests of the adult community. I think it also demonstrates that public schools do more than just educate K-12 students and that they are only open from seven to three. I urge you to support the Majority Ought Not to Pass Report. Thank you.

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

Senator PEARSON: Thank you Mr. President. Mr. President, men and women of the Senate. I think that the positions taken by Senator Estes of York are all true and we debated those in the Appropriations Committee for probably three or four years. What was happening in adult education was while a lot of accounts were growing like this, adult education was going like this. What we were faced with was we were always paying for what they had for a cost the previous year. So, we would come in and find out that gosh, adult education had grown tremendously and the Bill this year was going to be thousands and thousands of dollars more than it was last year. So, we began to look at adult education, and charged with the responsibility being fiscally prudent and all of that, we think that we ought to subsidize adult education as much as possible for those courses that are going to lead to a G.E.D. or life skills, but aerobic dancing and things like that we think are recreational and we shouldn't be paying people to take that course. The people taking that course should pay for it. Of course, the argument came up that well, they come in for aerobic dancing or some other thing, it might entice them to come back for a course. That is true, there is no denying that. It was simply one of those things that we were trying to

do to put a handle on something that was growing rather rapidly.

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

Senator BOST: Thank you Mr. President. Mr. President, men and women of the Senate. I urge you to support the twelve to one Ought Not to Pass Report. The problem with this Bill is that it presumes that certain courses offered in the adult education programs throughout the state are somehow less worthy than others and that someone enrolled in a course on chair caning is not as deserving as someone taking a class on auto maintenance. The Committee, the twelve to one majority of the Committee, felt somewhat uncomfortable making these kinds of arbitrary distinctions, particularly in light of the fact that many of the people enrolled in these courses are eventually compelled to enroll in other adult education courses, as has been indicated by the good Senator from York, Senator Estes. Adult education, by its very nature, promotes access by individuals who want to better themselves perhaps to acquire new skills and to broaden their perspective. I know that in my own community, adult education is a thriving enterprise and justifiably so. We should be enhancing adult education, ladies and gentlemen of the Senate, not cutting programs within this sector.

To respond to the good Senator from Penobscot, Senator Pearson, to use this ninety thousand dollars for anything else, I think, would be a disservice to those people in this state who have used these courses to their own benefit. We must admit in the grand scheme of budgetary deliberations, ninety thousand dollars is not a great deal of money. I would urge the men and women of this Chamber to support the Majority Report.

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

Senator CAHILL: Thank you Mr. President. Mr. President, men and women of the Senate. Just very briefly I would like to respond that ninety thousand dollars is ninety thousand dollars. I don't care who we are talking it about, it is real money. I shared some of the concerns that the good Senators have raised about which courses would be considered recreational and which courses would be considered life skills. I have talked to the Department of Education and they are more than willing to sit down and work very closely with the adult education people so that some kind of consensus on what skills are brought up. I know this isn't a huge issue before the Senate, when we have such important issues yet to come before us, but I think it is just philosophy. I believe that the adult education courses, whether they are leisure or if they do contribute to ones life skills are very important. I think they do go a long way to helping people to become interested and further pursuing an education. I don't believe that the state should be in the market of paying for these leisure courses when we have to scrape for our adult education monies every year. Maybe we are talking about eliminating courses that are educational in nature instead of recreational. Thank you.

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

A Division has been requested.

Will all those Senators in favor of the motion by Senator ESTES of York, to ACCEPT the Majority OUGHT NOT TO PASS Report, please rise in their places and remain standing until counted.

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

20 Senators having voted in the affirmative and 13 Senators having voted in the negative, the motion by Senator ESTES of York, to ACCEPT the Majority OUGHT NOT TO PASS Report, PREVAILED.

Sent down for concurrence.

Off Record Remarks

Senate
Divided Report

The Majority of the Committee on LEGAL AFFAIRS on Bill "An Act Related to State Preemption of Firearms Regulation"

S.P. 370 L.D. 994

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (S-218).

Signed:

Senators:

MATTHEWS of Kennebec
BALDACCII of Penobscot
DILLENBACK of Cumberland

Representatives:

PRIEST of Brunswick
LAWRENCE of Kittery
LAPOINTE of Auburn
PAUL of Sanford
MURPHY of Berwick
STEVENS of Sabattus
JALBERT of Lisbon

The Minority of the same Committee on the same subject reported that the same Ought to Pass as Amended by Committee Amendment "B" (S-219).

Signed:

Representatives:

PLOURDE of Biddeford
BEGLEY of Waldoboro
TUPPER of Orrington

Which Reports were READ.

In absence of a motion from the floor, the Chair moved to ACCEPT the Majority OUGHT TO PASS AS AMENDED Report.

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

Senator KANY: Thank you Mr. President. Mr. President, men and women of the Senate. I would like to ask any member from the Committee what are the compelling reasons for needing to preempt municipalities right here to develop ordinances? I would also like to add that I neither have proposed nor would I support any local ordinance, but I do not understand why there is a need for such legislation as this.

Senator KANY of Kennebec requested a Division.

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

Senator MATTHEWS: Thank you Mr. President. Mr. President, men and women of the Senate. I hope you will support all three Senators of this Body in supporting the Majority Ought to Pass as Amended Report. Let me just basically tell you what L.D. 994, as Amended, does. This Bill will preempt local regulation of firearms. The Legislature has occupied and preempted the field of firearms regulation. We had a Constitutional Amendment not too long ago which was reaffirmed by the vast majority of the citizens of this state. This Bill just establishes that state firearms prevention and policy. There are two exemptions in this Amended Bill. One, would allow municipalities to enact ordinances that conform exactly with statutory provisions of the concealed weapons law. The second would allow municipalities to regulate the discharge of firearms within

municipal boundaries. Both of those areas, from the testimony that we received and we worked on this Bill for quite a period of time and had quite a lengthy public hearing, these tow areas were the biggest concerns of municipalities.

The legislation was sought by many citizens of this state and many law abiding gun owners and sportsmen to establish some uniformity across the state, with respect to our gun laws and Constitutional rights therein. I would urge the Passage of this Bill. We listened to probably one hundred people that day, there were only a couple opponents to the Bill, and the vast majority of the members of the Legal Affairs Committee saw it as an important issue. I believe it is very important and it just reaffirms our Constitutional right to bear arms and establishes a state uniform policy throughout the state. Thank you Mr. President.

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

Senator PEARSON: Thank you Mr. President. Mr. President, men and women of the Senate. I would like to pose a question to anybody who might care to answer it. First, the built up section of the city of Old Town is located on Marsh Island, which is also the location of the University of Maine. Part of the University of Maine is located in the city of Old Town. Old Town has had an ordinance on its local ordinance books for quite a number of years that forbids the discharge of firearms hunting on the section of Old Town that is in Marsh Island. We have now located in Old Town the caribou pens and we have had deer pens in the past who had the barns and agriculture areas of the University and of course the built up section. Would the ordinance that the city has with regard to the discharge of firearms and hunting on the Marsh Island portion of Old Town now be invalid?

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

The Chair recognizes the Senator from Penobscot, Senator Baldacci.

Senator BALDACCII: Thank you Mr. President. Mr. President, men and women of the Senate. To answer the question of the good Senator from Penobscot, Senator Pearson, this Bill exempts the discharge issue so that communities throughout the state can draw lines of banning the discharge of firearms even after this passes. It does not preempt those local discharge ordinances.

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

Senator DILLENBACK: Thank you Mr. President. Mr. President, men and women of the Senate. This Bill is a Bill that I went on that I thought was a rather important issue. I think if we are going to have laws in this state, they ought to be uniform throughout the state, they shouldn't have separate laws in each community and each town. I know that my town has a law that wouldn't conform to this, but let the people bring the request to the Legislature and let us set the laws. I think that is the important jest of the whole Bill. I don't want somebody traveling through one town and then being arrested in the next town because they don't conform to that town's rules or laws.

On motion by Senator DILLENBACK 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 pending question before the Senate is the motion by the Chair to ACCEPT of the Majority OUGHT TO PASS AS AMENDED Report.

LEGISLATIVE RECORD - SENATE, JUNE 8, 1989

A vote of Yes will be in favor to ACCEPT the Majority OUGHT TO PASS AS AMENDED Report.

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, BERUBE, BOST, BRAWN, BUSTIN, CAHILL, CARPENTER, CLARK, COLLINS, DILLENBACK, DUTREMBLE, EMERSON, ERWIN, ESTES, GILL, GOULD, HOBBS, HOLLOWAY, LUDWIG, MATTHEWS, PEARSON, PERKINS, RANDALL, THERIAULT, TITCOMB, TWITCHELL, WEBSTER, WEYMOUTH, WHITMORE, THE PRESIDENT - CHARLES P. PRAY

NAYS: Senators ANDREWS, BRANNIGAN, ESTY, GAUVREAU, KANY

ABSENT: Senators None

30 having voted in the affirmative and 5 Senators having voted in the negative, with No Senators being absent, the motion by the Chair to ACCEPT the Majority OUGHT TO PASS AS AMENDED Report, PREVAILED.

The Bill READ ONCE.

Committee Amendment "A" (S-218) READ and ADOPTED.

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

Senate
Divided Report

The Majority of the Committee on STATE AND LOCAL GOVERNMENT on Bill "An Act to Reorganize the Duties of the Board of the Maine Children's Trust Fund"

S.P. 302 L.D. 800

Reported that the same Ought Not to Pass.

Signed:

Senator:

ESTY of Cumberland

Representatives:

LARRIVEE of Gorham

ROTONDI of Athens

DAGGETT of Augusta

WENTWORTH of Wells

HEESCHEN of Wilton

JOSEPH of Waterville

The Minority of the same Committee on the same subject reported that the same Ought to Pass as Amended by Committee Amendment "A" (S-214).

Signed:

Senators:

BERUBE of Androscoggin

CARPENTER of York

Representatives:

BEGLEY of Waldoboro

HANLEY of Paris

MCCORMICK of Rockport

Which Reports were READ.

On motion by Senator CLARK of Cumberland, Tabled 1 Legislative Day, pending ACCEPTANCE OF EITHER REPORT.

ENACTORS

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

An Act to Strengthen Penalties for Furnishing Liquor to Minors

H.P. 95 L.D. 130
(C "A" H-287; H "A" H-316)

An Act to Amend the Continuing Care Retirement Law

S.P. 120 L.D. 186
(C "A" S-163)

An Act to Clarify the Applicability of the Maine Tort Claims Act to the Consumer Advisory Board

S.P. 171 L.D. 328
(C "A" S-162)

An Act Concerning the Operation of Motor Vehicles on Private Lands

H.P. 274 L.D. 386
(C "A" H-318)

An Act to Amend the Law Concerning the Maine High-Risk Insurance Organization

H.P. 354 L.D. 473
(C "A" H-306)

An Act to Amend the Maine Insurance Code

S.P. 203 L.D. 481
(C "A" S-170)

An Act to Conform Maine Water Quality Law with Federal Requirements

H.P. 376 L.D. 507
(C "A" H-294)

An Act to Amend the Animal Welfare Laws

H.P. 397 L.D. 528
(H "A" H-368 to C "A" H-251)

An Act to Increase the Residence Exemption for Elderly and Disabled Persons

H.P. 484 L.D. 664
(C "A" H-303)

An Act to Clarify the Immunity Provisions for Nonprofit Corporations

S.P. 274 L.D. 720
(C "A" S-164)

An Act to Clarify the Affirmative Defense of Breach of Warranty of Habitability

H.P. 596 L.D. 814
(C "A" H-304)

An Act Regarding Political Party Enrollment

H.P. 709 L.D. 970
(H "A" H-347 to C "A" H-246)

An Act to Create the Local Government Records Board

S.P. 410 L.D. 1076
(H "A" H-367)

An Act to Strengthen the Law Pertaining to Taking or Defacing Political Campaign Signs

H.P. 791 L.D. 1103
(C "A" H-262)

An Act to Clarify the Exempt Status of a Bona Fide Lienholder under the Forfeiture of Assets Act

H.P. 802 L.D. 1114
(C "A" H-296)

An Act Concerning Bed and Breakfast Establishments

H.P. 803 L.D. 1115
(C "A" H-313)

An Act to Increase the Penalties for Tampering With a Juror or a Victim

H.P. 807 L.D. 1119
(C "A" H-302)

An Act to Provide for Consent of Minors to Health Services

H.P. 828 L.D. 1160
(C "A" H-301)

An Act to Amend the Law Relating to Property Insurance

H.P. 858 L.D. 1190
(C "A" H-308)

An Act to Protect the State's Ownership of Public Records

S.P. 479 L.D. 1277
(C "A" S-160)

An Act to Amend the Penalties for Violations of Laws Administered by the Department of Environmental Protection and of Municipal Planning and Zoning Laws
H.P. 929 L.D. 1295
(C "A" H-307)

An Act to Allow Intervenor Funding in Public Utilities Proceedings
H.P. 944 L.D. 1312
(C "A" H-305)

An Act Concerning Insurance Required of Wreckers
H.P. 971 L.D. 1349

An Act to Clarify Reporting Requirements for Induced and Spontaneous Abortions
S.P. 500 L.D. 1374

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 Amend the Child and Family Services and Child Protection Act
H.P. 623 L.D. 846
(C "A" H-310)

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

Resolve

Resolve, to Establish the Taxpayers' Bill of Rights
S.P. 582 L.D. 1644

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

Emergency

An Act to Provide Assistance to Vietnam Veterans and Atomic Veterans and to Establish the Commission on Vietnam and Atomic Veterans
H.P. 33 L.D. 33
(H "B" H-365 to C "A" H-235)

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

Emergency

An Act Regarding Sludge Spreading
H.P. 830 L.D. 1162
(C "A" H-293)

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

Emergency

An Act to Clarify that Municipal Police Officers Need Not Be Residents of the State
H.P. 1019 L.D. 1420
(H "A" H-366)

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

presented by the Secretary to the Governor for his approval.

Emergency Resolve

Resolve, to Establish the Commission to Study the Preservation of Volunteer Ambulance Crews and Volunteer Fire Departments
H.P. 624 L.D. 847
(C "A" H-299)

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

The Chair laid before the Senate the Tabled and Specially Assigned matter: (6/7/89)

An Act Relating to State Personnel Administration
S.P. 100 L.D. 119
(H "A" H-271 to C "A" S-104)

Tabled - June 6, 1989, by Senator CLARK of Cumberland.

Pending - ENACTMENT

(In Senate, May 30, 1989, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-104) AS AMENDED BY HOUSE AMENDMENT "A" (H-271), thereto, in concurrence.)

(In House, June 1, 1989, PASSED TO BE ENACTED.)

On motion by Senator BUSTIN of Kennebec, 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-104) as Amended by House Amendment "A" (H-271) thereto.

On further motion by same Senator, Senate Amendment "C" (S-235) to Committee Amendment "A" (S-104) READ and ADOPTED.

Off Record Remarks

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

On further motion by same Senator, the Senate RECONSIDERED whereby it ADOPTED House Amendment "A" (H-271) to Committee Amendment "A" (S-104).

On further motion by same Senator, House Amendment "A" (H-271) to Committee Amendment "A" (S-104) INDEFINITELY POSTPONED in NON-CONCURRENCE.

Committee Amendment "A" (S-104) as Amended by Senate Amendment "C" (S-235) thereto, ADOPTED in NON-CONCURRENCE.

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

Sent down for concurrence.

The Chair laid before the Senate the Tabled and Specially Assigned matter: (6/7/89)

Bill "An Act to Establish State Guidelines for Child Support Awards"
H.P. 706 L.D. 967
(C "A" H-349)

Tabled - June 6, 1989, by Senator CLARK of Cumberland.

Pending - PASSAGE TO BE ENGROSSED AS AMENDED, in concurrence

(In Senate, June 6, 1989, READ A SECOND TIME.)
(In House, June 2, 1989, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-349).)

On motion by Senator HOBBS of York, the Senate SUSPENDED THE RULES.

On further motion by same Senator, the Senate RECONSIDERED whereby it ADOPTED Committee Amendment "A" (H-349).

On further motion by same Senator, Senate Amendment "A" (S-226) to Committee Amendment "A" (H-349) READ and ADOPTED.

Committee Amendment "A" (H-349) as Amended by Senate Amendment "A" (S-226) thereto, ADOPTED in NON-CONCURRENCE.

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

Sent down for concurrence.

The Chair laid before the Senate the Tabled and Specially Assigned matter: (6/7/89)

Bill "An Act to Prevent, Punish and Remedy Violations of Constitutional Rights"

H.P. 896 L.D. 1253
(H "A" H-363; C "A" H-325)

Tabled - June 6, 1989, by Senator CLARK of Cumberland.

Pending - PASSAGE TO BE ENGROSSED AS AMENDED, in concurrence

(In Senate, June 6, 1989, READ A SECOND TIME.)
(In House, June 2, 1989, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-325) AND HOUSE AMENDMENT "A" (H-363).)

On motion by Senator GAUVREAU of Androscoggin, Tabled 1 Legislative Day, pending PASSAGE TO BE ENGROSSED AS AMENDED, in concurrence.

The Chair laid before the Senate the Tabled and Specially Assigned matter: (6/7/89)

An Act Regulating the Sale of Grave Markers by Funeral Establishments

H.P. 434 L.D. 599
(C "A" H-241)

Tabled - June 6, 1989, by Senator CLARK of Cumberland.

Pending - ENACTMENT
(In Senate, May 25, 1989, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-241).)

(In House, May 30, 1989, PASSED TO BE ENACTED.)
On motion by Senator BALDACCI of Penobscot, 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" (H-241).

On further motion by same Senator, Senate Amendment "A" (S-224) to Committee Amendment "A" (H-241) READ.

THE PRESIDENT: The Chair recognizes the same Senator.

Senator BALDACCI: Thank you Mr. President. Mr. President, men and women of the Senate. For the purposes of information, this is a clarifying Amendment for the sale of the grave markers.

On further motion by same Senator, Senate Amendment "A" (S-224) to Committee Amendment "A" (H-241) ADOPTED.

Committee Amendment "A" (H-241) as Amended by Senate Amendment "A" (S-224) thereto, ADOPTED in NON-CONCURRENCE.

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

Sent down for concurrence.

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

HOUSE REPORTS - from the Committee on LABOR on Bill "An Act Concerning Unemployment Benefits for Lockouts"

H.P. 456 L.D. 621

Majority - Ought to Pass as Amended by Committee Amendment "A" (H-353)

Minority - Ought Not to Pass

Tabled - June 7, 1989, by Senator ESTY of Cumberland.

Pending - Motion of same Senator to ACCEPT the Majority OUGHT TO PASS AS AMENDED Report, in concurrence (Division Requested)

(In Senate, June 7, 1989, Reports READ.)

(In House, June 6, 1989, Majority OUGHT TO PASS AS AMENDED Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-353).)

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

Senator COLLINS: Thank you Mr. President. Mr. President, men and women of the Senate. I hope that you will join me in opposing the Acceptance of the Majority Ought to Pass as Amended Report. I would like to remind this Body that the unemployment tax, which is levied upon all employers in the State of Maine, has been a tax that has been used very cautiously. It has been used to pay for people who are unemployed. At the last session, we had a proposal that was known as the STAR Bill. You may recall that in its original form it suggested that this program be funded by payments from this particular fund. That program was designed to help both employees and employers through a retraining process that would prepare workers for new jobs and thereby help employers who were seeking people for those jobs. The Legislature, in its wisdom, rejected that notion. It seems to me that in this instance, we have a proposal that benefits only employees in those situations where they are engaged in strike and we are talking about a relatively few plants in the whole State of Maine that would be involved in this type of procedure. Yet, all of our farmers, fishermen, and shop keepers, and small businesses throughout the state would be contributing to this fund. It seems to me that if we are to keep this a pure fund, which as I continue to remind you, which is produced entirely by the employers that we ought to continue to restrict its use. I would urge you to reject the pending motion. Thank you.

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

Senator ESTY: Thank you Mr. President. Mr. President, men and women of the Senate. I would just like to mention that regarding the unemployment compensation insurance fund that it presently has between seventy and hundred million dollars in it. The last lockout that occurred in the Augusta area would have cost the fund in the area of twenty-three thousand dollars. The unemployment compensation insurance fund is an experienced rated fund so as you use it you are experience rating does, in fact, go up. It does not completely cover all of the costs, but experience is a factor in the rating so that the

employers who do lock people out will be directly charged through higher experienced rating.

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

Senator WHITMORE: Thank you Mr. President. Mr. President, men and women of the Senate. The good Senator from Cumberland, Senator Esty's, comments about it being experience rated so therefore those who use it pay, but let me remind you that it was not too many years ago when this fund was in deep trouble and the state had to go forth and borrow federal funds. The repayment of those federal funds in order to pay those federal funds a surcharge was levied on all employers in this state. So, it may be experience rated, but if the fund does get into trouble it is gone. Based on some numbers that were provided to us at the time, I think even at the health the current fund enjoys, based on the 1983, and that was only six years ago, unemployment levels it would take something like eighteen months to completely drain the fund. It sounds like a lot of money, but it goes quickly. I would also remind you as I look at the states and the information provided to us that currently there are only two states in New England with lockout provisions. Those are the two southern most states, those most greatly influenced by the New York and Pennsylvania market, and those are Connecticut and Rhode Island. Our nearest competitors, those in northern New England, Vermont, New Hampshire, and Massachusetts currently do not have this provision. Although I realize that it is tough enough to argue, I would hope and I would like to clear up the Senator from Aroostook, Senator Collins, statement and urge you to not support the pending motion.

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

A Division has been requested.

Will all those Senators in favor of the motion of Senator ESTY of Cumberland, to ACCEPT the Majority OUGHT TO PASS AS AMENDED Report, please rise in their places and remain standing until counted.

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

13 Senators having voted in the affirmative and 16 Senators having voted in the negative, the motion of Senator ESTY of Cumberland, to ACCEPT the Majority OUGHT TO PASS AS AMENDED Report, FAILED.

Senator WHITMORE of Androscoggin, moved to ACCEPT the Minority OUGHT NOT TO PASS Report.

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 Kennebec, Senator Matthews.

Senator MATTHEWS: Thank you Mr. President. Mr. President, men and women of the Senate. I would just try to reiterate a little bit about the efforts that are being made in the Labor Committee. It is not always an easy task to get unanimity and certainly the Labor Committee's issues are very complex and complicated and tough ones to call at times, but I think this one is not so tough as many that we see. Again, we have a situation where people who want to work are not allowed to work primarily because the employer locks the doors. There is no strike, at many times negotiations are still waging as they should through the collective bargaining process, employees want to continue to work, they want to continue to clothe and feed their families. During the recent situation, which I alluded to the other day, I had some constituents of mine who called me repeatedly that were employees of that company and

had bills to pay and mouths to feed and clothes to put on their kids backs and they wanted to do that and they were not allowed to do that. The unemployment compensation fund offers a subsistence level of money to people who are unemployed, people who are not working because of lay offs, and I hope not through their own fault, a lockout. This is a fair and equitable measure. It has been worked on very hard by the good Senator from Cumberland, Senator Esty in trying to forge some unanimity, but that doesn't always happen at times. I respect the good Senator from Androscoggin, Senator Whitmore, we worked hard on many issues. There will be other Divided Reports and other issues that we couldn't find some agreement, but this is one which merits the support of this Chamber. I would urge the Body not to Accept the pending motion. Thank you.

THE PRESIDENT: The pending question before the Senate is the motion of Senator WHITMORE of Androscoggin, to ACCEPT the Minority OUGHT NOT TO PASS Report.

A vote of Yes will be in favor to ACCEPT the Minority OUGHT NOT TO PASS Report.

A vote of No will be opposed.

Is the Senate ready for the question?

Senator BALDACCI of Penobscot who would have voted YEA requested and received Leave of the Senate to pair his vote with Senator BERUBE of Androscoggin who would have voted NAY.

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEAS: Senators BRAWN, CAHILL, CARPENTER, COLLINS, DILLENBACK, EMERSON, GILL, GOULD, HOLLOWAY, LUDWIG, PERKINS, RANDALL, TWITCHELL, WEBSTER, WEYMOUTH, WHITMORE

NAYS: Senators ANDREWS, BOST, BRANNIGAN, BUSTIN, CLARK, DUTREMBLE, ERWIN, ESTES, ESTY, GAUVREAU, HOBBS, KANY, MATTHEWS, PEARSON, THERIAULT, TITCOMB, THE PRESIDENT - CHARLES P. PRAY

ABSENT: Senators None

PAIRED: Senators BALDACCI, BERUBE

16 Senators having voted in the affirmative and 17 Senators having voted in the negative, with 2 Senators having paired their votes and No Senators being absent, the motion of Senator WHITMORE of Androscoggin, to ACCEPT the Minority OUGHT NOT TO PASS Report, FAILED.

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

The Bill READ ONCE.

Committee Amendment "A" (S-353) READ and ADOPTED.

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

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

Bill "An Act to Establish Municipal Cost Components for Services to be Rendered in Fiscal Year 1989-90" (Emergency)

H.P. 1112 L.D. 1545
C "A" H-381)

Tabled - June 8, 1989, by Senator CLARK of Cumberland.

Pending - PASSAGE TO BE ENGROSSED AS AMENDED, in concurrence

(In Senate, June 8, 1989, READ A SECOND TIME.)

(In House, June 6, 1989, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-381).)
Which was PASSED TO BE ENGROSSED, as Amended, in concurrence.

HELD BILL

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

Senator CLARK: Thank you Mr. President. Mr. President, is the Senate in possession of L.D. 1015?

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 Relating to the Director of the Bureau of Health"

S.P. 379 L.D. 1015
(S "A" S-155 & H "A"
H-407 to C "A" S-146)

(In Senate, June 7, 1989, RECEDED and CONCURRED to PASSAGE TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-146) AS AMENDED BY SENATE AMENDMENT "A" (S-155) AND HOUSE AMENDMENT "A" (H-407) thereto.)

(In House, June 6, 1989, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-146) AS AMENDED BY SENATE AMENDMENT "A" (S-155) AND HOUSE AMENDMENT "A" (H-407) thereto, in NON-CONCURRENCE.)

On further motion by same Senator, Tabled 1 Legislative Day, pending motion to RECEDE and CONCUR.

Off Record Remarks

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

PAPERS FROM THE HOUSE
House Papers

Bill "An Act to Promote Greater Access to Health Screening"

H.P. 1238 L.D. 1729

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

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

Resolve, Authorizing the Secretary of State to Release Certain Ballots to the Municipal Officers of the Town of Jay

H.P. 1237 L.D. 1728

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

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

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 Study the Feasibility of Establishing a Piscataqua River Basin Compact between Maine and New Hampshire

S.P. 496 L.D. 1370
(C "A" S-185)

On motion by Senator ESTES of York, Tabled 1 Legislative Day, pending FINAL PASSAGE.

Senate at Ease

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 Improve Compliance with Truck Weight Limits"

H.P. 36 L.D. 36
(S "A" S-169 to C "A"
H-277)

Tabled - June 8, 1989, by Senator CLARK of Cumberland.

Pending - FURTHER CONSIDERATION

(In House, May 25, 1989, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-277).)

(In Senate, May 26, 1989, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-277) AS AMENDED BY SENATE AMENDMENT "A" (S-169) thereto in NON-CONCURRENCE.)

(In House, June 7, 1989, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-277) AS AMENDED BY HOUSE AMENDMENT "A" (H-420), thereto in NON-CONCURRENCE.)

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

Off Record Remarks

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

SECOND READERS

House As Amended

Bill "An Act to Appropriate Funds for Advocacy Activities for Severe and Prolonged Mentally Ill Persons"

H.P. 616 L.D. 839
(C "A" H-390)

Bill "An Act to Clarify the Authority of Personal Care Assistants under the Supervision of Persons in a Consumer-directed Services Program"

H.P. 884 L.D. 1228
(C "A" H-394)

Bill "An Act to Facilitate the Establishment and Enforcement of Child Support and Health Insurance Obligations and to Clarify the Law Concerning the Modification of Child Support Orders"

H.P. 953 L.D. 1321
(H "A" H-402 to C "A"
H-385)

Bill "An Act to Provide Flexibility in the Laws on Residential Placement of Young Adults"

H.P. 1087 L.D. 1509
(C "A" H-392)

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

Senate

Bill "An Act to Amend Maine's Unclaimed Property Act"

S.P. 602 L.D. 1688

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

Sent down for concurrence.

Senate As Amended

Bill "An Act to Clarify the Application of Insurance Holding Company Laws to Holding Companies of Domestic Insurers"

S.P. 399 L.D. 1043
(C "A" S-223)

Bill "An Act to Establish a State Arbitration Program for Lemon Motor Vehicles"

S.P. 517 L.D. 1413
(C "A" S-222)

Bill "An Act Providing Confidentiality for Public Sector Job Applicants" (Emergency)

S.P. 486 L.D. 1328
(C "A" S-232)

Bill "An Act to Limit the Granting of Injunctions in Labor Disputes"

S.P. 372 L.D. 996
(C "A" S-231)

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

Sent down for concurrence.

Bill "An Act to Extend the Eligibility of Retired Teachers for Group Health Insurance"

S.P. 337 L.D. 898
(C "A" S-221)

Bill "An Act Regarding Reimbursement for Out-of-district Special Education Placements" (Emergency)

S.P. 283 L.D. 729
(C "A" S-215)

Bill "An Act to Require Written Leases for Long-term Tenancies"

S.P. 351 L.D. 933
(C "A" S-216)

Bill "An Act to Protect the Integrity of the Civil Service System and to Set Standards for the Contracting of Service by the State"

S.P. 391 L.D. 1036
(C "A" S-220)

Bill "An Act Concerning the Regulation of Cable Television"

S.P. 401 L.D. 1045
(C "A" S-213)

Bill "An Act Related to State Preemption of Firearms Regulation"

S.P. 370 L.D. 994
(C "A" S-218)

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

Sent down for concurrence.

Off Record Remarks

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

Off Record Remarks

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

On motion by Senator KANY of Kennebec, ADJOURNED until Friday, June 9, 1989, at 1:00 in the afternoon.

ONE HUNDRED AND FOURTEENTH MAINE LEGISLATURE
FIRST REGULAR SESSION
80th Legislative Day
Friday, June 9, 1989

The House met according to adjournment and was called to order by the Speaker.

Prayer by Reverend Edward Hatch, Palermo Christian Church.

The Journal of Thursday, June 8, 1989, was read and approved.

Quorum call was held.

PAPERS FROM THE SENATE

The following Communication:

Maine State Senate
Augusta, Maine 04333

June 8, 1989

The Honorable John L. Martin

Speaker of the House

114th Legislature

Augusta, Maine 04333

Dear Speaker Martin:

In accordance with Joint Rule 38, please be advised that the Senate today confirmed, upon the recommendation of the Joint Standing Committee on Fisheries and Wildlife, the Governor's nomination of Ogden E. Small, O.D. of Caribou for reappointment and Eugene L. Churchill of Orland for appointment to the Inland Fisheries and Wildlife Advisory Council.

Sincerely,

S/Joy J. O'Brien

Secretary of the Senate

Was read and ordered placed on file.

The following Communication:

Maine State Senate
Augusta, Maine 04333

June 8, 1989

Honorable Edwin H. Pert

Clerk of the House

State House Station 2

Augusta, Maine 04333

Dear Clerk Pert:

Please be advised that the Senate today appointed the following conferees to the Committee of Conference on the disagreeing action of the two branches of the Legislature on Resolution, Proposing an Amendment to the Constitution of Maine to Provide for 4-Year Terms for Senators and Representatives (H.P. 808) (L.D. 1120):

Senator BERUBE of Androscoggin

Senator ESTY of Cumberland

Senator CARPENTER of York

Sincerely,

S/Joy J. O'Brien

Secretary of the Senate

Was read and ordered placed on file.

Unanimous Leave to Withdraw

Report of the Committee on Taxation reporting "Leave to Withdraw" on Bill "An Act Amending the Tree Growth Tax Law to Dedicate Penalty Proceeds to Purchase Public Parks and Open Space" (S.P. 505) (L.D. 1393)

Report of the Committee on Banking and Insurance reporting "Leave to Withdraw" on Bill "An Act Related to Medical Liability Insurance" (S.P. 209) (L.D. 487)

Report of the Committee on Labor reporting "Leave to Withdraw" on Bill "An Act to Ban the Use of Tape Recorders for Reporting Work Delinquency" (S.P. 565) (L.D. 1593)