

MAINE STATE LEGISLATURE

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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

House Amendment "A" (H-511) to Committee Amendment "A" (S-243) was read by the Clerk and adopted.

Committee Amendment "A" as amended by House Amendment "A" thereto was adopted.

The Bill was passed to be engrossed as amended by Committee Amendment "A" as amended by House Amendment "A" thereto in non-concurrence and sent up for concurrence.

The following items appearing on Supplement No. 21 were taken up out of order by unanimous consent:

CONSENT CALENDAR

First Day

In accordance with House Rule 49, the following items appeared on the Consent Calendar for the First Day:

(H.P. 1064) (L.D. 1486) Bill "An Act Increasing Indebtedness of Berwick Sewer District" (EMERGENCY) Committee on Utilities reporting "Ought to Pass" as amended by Committee Amendment "A" (H-509)

(H.P. 866) (L.D. 1205) Bill "An Act to Create a Minimum Lot Size for Mobile Home Parks Not Located on Public Water and Sewer Lines" Committee on Legal Affairs reporting "Ought to Pass" as amended by Committee Amendment "A" (H-510)

Under suspension of the rules, Second Day Consent Calendar notification was given, the House Papers were passed to be engrossed as amended and sent up for concurrence.

The Chair laid before the House the following matter: An Act Regarding Confirmation of Nominees to the Adaptive Equipment Loan Program Board (S.P. 650) (L.D. 1745) (Emergency) which was tabled earlier in the day and later today assigned pending passage to be enacted.

This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 104 having voted in the favor of same and none against, and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

(Off Record Remarks)

On motion of Representative Strout of Corinth. Adjourned until Wednesday, June 14, 1989, at eight-thirty in the morning.

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

In Senate Chamber
Tuesday
June 13, 1989

Senate called to Order by the President.

Prayer by Pastor Ronald Patnaude, Jr. of the United Baptist Church in Clifton.

PASTOR PATNAUDE: Good morning. Let us bow our heads together in prayer. Father, we just ask right now that You would temper us with Your wisdom, that You would guide and direct us as You see fit to guide and direct. And, that You would allow us a simple prayer that goes, "O my God, through Jesus' heart we give to You this day. We offer up to You our thoughts, our words, our work, our play, our little acts to prayers we say. God bless them all and bless us too, and let us often think of You this whole day through." Amen.

Reading of the Journal of Yesterday.

PAPERS FROM THE HOUSE

Non-concurrent Matter
Bill "An Act Regarding the Maine Vocational-Technical Institute System" H.P. 660 L.D. 902

RECALLED from the Legislative Files pursuant to Joint Order H.P. 1245, in concurrence.

Comes from the House with the Bill and Accompanying Papers RECOMMITTED to the Committee on EDUCATION in NON-CONCURRENCE.

The Senate RECEDED and CONCURRED.

COMMUNICATIONS

The Following Communication:
COMMITTEE ON BANKING AND INSURANCE
ONE HUNDRED AND FOURTEENTH LEGISLATURE
June 12, 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 Banking and Insurance has had under consideration the nomination of Donald DeMatteis of Litchfield, for reappointment as the Superintendent of the Maine Bureau of Banking.

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	3
	Representatives	10
NAYS:		0
ABSENT:		0

Thirteen 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 Donald DeMatteis of Litchfield, for reappointment as the Superintendent of the Maine Bureau of Banking be confirmed.

Sincerely,

S/Sen. Raynold Theriault S/Rep. Charlene
Rydell
Senate Chair House Chair
Which was READ and ORDERED PLACED ON FILE.

Off Record Remarks

THE PRESIDENT: The Joint Standing Committee on BANKING AND INSURANCE has recommended the nomination of Donald DeMatteis of Litchfield, for reappointment as the Superintendent of the Maine Bureau of Banking, be confirmed.

The pending question before the Senate is: "Shall the recommendation of the Committee on BANKING AND INSURANCE 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, BALDACCI, BERUBE,
 BOST, BRAWN, CAHILL, CARPENTER,
 CLARK, COLLINS, DILLENBACK,
 DUTREMBLE, EMERSON, ERWIN, ESTES,
 GILL, GOULD, KANY, LUDWIG, PEARSON,
 PERKINS, THERIAULT, TWITCHELL,
 WEBSTER, WEYMOUTH, WHITMORE, THE
 PRESIDENT - CHARLES P. PRAY

ABSENT: Senators BRANNIGAN, BUSTIN, ESTY,
 GAUVREAU, HOBBS, HOLLOWAY,
 MATTHEWS, RANDALL, TITCOMB

No Senators having voted in the affirmative and 26 Senators having voted in the negative, with 9 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 Donald DeMatteis, for reappointment as the Superintendent of the Maine Bureau of Banking, was CONFIRMED.

The Secretary has so informed the Speaker of the House.

The Following Communication:
COMMITTEE ON JUDICIARY
ONE HUNDRED AND FOURTEENTH LEGISLATURE
June 12, 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 Judiciary has had under consideration the nomination of Beth I Warren of Peaks Island, for appointment to the Human Rights Commission.

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 1
 Representatives 7

NAYS: 0
ABSENT: 5 Sen. Hobbins of York,
 Sen. Holloway of Lincoln,
 Rep. Conley of Portland,
 Rep. Anthony of South Portland,
 Rep. Hastings of Fryeburg

Eight 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 Beth I Warren of Peaks Island, for appointment to the Human Rights Commission be confirmed.

Sincerely,

S/Sen. Barry Hobbins S/Rep. Patrick
Paradis House Chair
Senate Chair Which was READ and ORDERED PLACED ON FILE.

THE PRESIDENT: The Joint Standing Committee on JUDICIARY has recommended the nomination of Beth I. Warren of Peaks Island, for appointment to the Human Rights Commission, be confirmed.

The pending question before the Senate is: "Shall the recommendation of the Committee on JUDICIARY 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, BALDACCI, BERUBE,
 BOST, BRANNIGAN, BRAWN, CAHILL,
 CARPENTER, CLARK, COLLINS,
 DILLENBACK, DUTREMBLE, EMERSON,
 ERWIN, ESTES, GILL, GOULD, KANY,
 LUDWIG, PEARSON, PERKINS, THERIAULT,
 TITCOMB, TWITCHELL, WEBSTER,
 WEYMOUTH, WHITMORE, THE PRESIDENT -
 CHARLES P. PRAY

ABSENT: Senators BUSTIN, ESTY, GAUVREAU,
 HOBBS, HOLLOWAY, MATTHEWS,
 RANDALL

No Senators having voted in the affirmative and 28 Senators having voted in the negative, with 7 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 Beth I. Warren, for appointment to the Human Rights Commission, was CONFIRMED.

The Secretary has so informed the Speaker of the House.

SENATE PAPERS

Bill "An Act Relating to Public Fish Piers, Airports and Other Transportation Facilities" (Emergency)

S.P. 652 L.D. 1749

Presented by Senator BRANNIGAN of Cumberland
Cosponsored by Senator ANDREWS of Cumberland,
Representative OLIVER of Portland and
Representative RAND of Portland
Which was referred to the Committee on
TRANSPORTATION and ORDERED PRINTED.
Sent down for concurrence.

COMMITTEE REPORTS

Senate
Ought Not to Pass

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

Senator CARPENTER for the Committee on STATE AND LOCAL GOVERNMENT on Bill "An Act to Establish the Whistleblower Hotline"

S.P. 593 L.D. 1670

Ought to Pass

Senator EMERSON for the Committee on TAXATION on Resolve, Reimbursing Certain Municipalities for Taxes Lost Due to Lands being Classified under the Maine Tree Growth Tax Law (Emergency)

S.P. 624 L.D. 1721

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

Ought to Pass As Amended

Senator TITCOMB for the Committee on AGING, RETIREMENT AND VETERANS on Bill "An Act Amending the Law Governing the Maine Committee on Aging"

S.P. 544 L.D. 1515

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (S-251). Which Report was READ and ACCEPTED. The Bill READ ONCE. Committee Amendment "A" (S-251) READ. On motion by Senator CLARK of Cumberland, Tabled until Later in Today's Session, pending ADOPTION of Committee Amendment "A" (S-251).

Senator BUSTIN for the Joint Select Committee on CORRECTIONS on Bill "An Act to Require Counties to Accept Prisoners with Sentences up to One Year in Length and to Provide Assistance to Counties in Developing Community Corrections Programs"

S.P. 277 L.D. 723

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (S-255). Which Report was READ and ACCEPTED. The Bill READ ONCE. Committee Amendment "A" (S-255) READ and ADOPTED. The Bill as Amended, LATER TODAY ASSIGNED FOR SECOND READING.

Senator MATTHEWS for the Committee on LEGAL AFFAIRS on Bill "An Act to Amend the Liquor Laws Relating to Wine Tasting"

S.P. 485 L.D. 1327

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (S-252). Which Report was READ and ACCEPTED. The Bill READ ONCE. Committee Amendment "A" (S-252) READ and ADOPTED. The Bill as Amended, LATER TODAY ASSIGNED FOR SECOND READING.

Senator GAUVREAU for the Committee on JUDICIARY on Bill "An Act to Provide Additional Protection in Cases of Domestic Abuse"

S.P. 553 L.D. 1556

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (S-254). Which Report was READ and ACCEPTED.

The Bill READ ONCE. Committee Amendment "A" (S-254) 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 Include Salaries, Pensions and Insurance for Binding Arbitration under the Municipal Public Employees Labor Relations Law"

S.P. 300 L.D. 798

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (S-253).

Signed:
Senator:
MATTHEWS of Kennebec
Representatives:

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

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

Signed:
Senators:
ESTY of Cumberland
WHITMORE of Androscoggin

Representatives:
MCCORMICK of Rockport
BUTLAND of Cumberland
TAMMARO of Baileyville
REED of Falmouth

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

On motion by Senator DUTREMBLE of York, Tabled until Later in Today's Session, pending the motion of Senator WHITMORE of Androscoggin, to ACCEPT the Minority OUGHT NOT TO PASS Report.

SECOND READERS

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

House
Bill "An Act to Limit Municipalities' Responsibility to Reopen an Abandoned Road"
H.P. 1138 L.D. 1581
Which was READ A SECOND TIME and PASSED TO BE ENGROSSED, in concurrence.

House As Amended

Bill "An Act to Increase the Motor Vehicle Inspection Fees"
H.P. 49 L.D. 70
(C "A" H-470)

Bill "An Act to Clarify the Responsibilities of School Boards" (Emergency)
H.P. 385 L.D. 516
(C "A" H-457)

Bill "An Act Concerning Potato Varieties"
H.P. 586 L.D. 790
(C "A" H-449)

Bill "An Act Granting Student Rights and Requiring School Boards to Adopt Written Policies Regarding Student Rights and Responsibilities"
H.P. 827 L.D. 1159
(H "A" H-471 to C "A" H-443)

Resolve, to Request that the Board of Trustees of the University of Maine System Determine the Cost of Establishing a Training Program for Nurse Practitioners in Northern Maine

H.P. 935 L.D. 1300
(C "A" H-464)

Bill "An Act Relating to the Status of Nursing Professions in Maine"

H.P. 956 L.D. 1324
(H "A" H-475 to C "A" H-453)

Bill "An Act to Strengthen Maine's Restaurant Smoking Law"

H.P. 966 L.D. 1344
(C "A" H-409)

Bill "An Act to Increase the Authority of the Department of Human Services to Assess the Medical and Active Treatment Needs of Individuals Applying for Admission to Nursing Homes"

H.P. 1012 L.D. 1410
(H "A" H-474 to C "A" H-461)

Bill "An Act to Simplify the Process by Which People with Disabilities Are Able to Acquire Information and Apply for Services"

H.P. 1032 L.D. 1438
(H "A" H-473 to C "A" H-391)

Bill "An Act to Promote Landowner Relations"

H.P. 1057 L.D. 1479
(C "A" H-452)

Resolve, to Establish the Commission to Study Real Estate Appraiser Certification and Licensing

H.P. 1069 L.D. 1491
(C "A" H-465)

Bill "An Act Regarding the Handicap Parking Privilege to Veterans with Disabled Veterans License Plates"

H.P. 1161 L.D. 1615
(C "A" H-469)

Bill "An Act Creating the St. Francis Water District"

H.P. 1200 L.D. 1667
(C "A" H-456)

Bill "An Act to Increase the Borrowing Authority of the Ogunquit Sewer District"

H.P. 1209 L.D. 1681
(C "A" H-455)

Bill "An Act to Create the Quantabacook Water District" (Emergency)

H.P. 1227 L.D. 1706
(C "A" H-454)

Resolve, Creating the Special Commission to Study Instructional Time in Schools (Emergency)

H.P. 131 L.D. 175
(C "A" H-479)

Bill "An Act to Reduce the Potential for Violence During Labor Disputes"

H.P. 292 L.D. 404
(C "A" H-417)

Bill "An Act to Amend the Natural Resources Protection Act"

H.P. 813 L.D. 1125
(C "A" H-399)

Bill "An Act to Increase Funding of Legal Services for the Elderly"

H.P. 888 L.D. 1232
(C "A" H-411)

Bill "An Act Regarding the Review of the Workers' Compensation Denials"

H.P. 919 L.D. 1285
(C "A" H-439)

Bill "An Act to Continue Recodification of the Railroad Laws"

H.P. 1073 L.D. 1495
(C "A" H-478)

Bill "An Act to Establish a Commission on State Finance" (Emergency)

H.P. 1113 L.D. 1546
(C "A" H-423)

Bill "An Act Relating to Periodic Justification of Departments and Agencies of State Government under the Maine Sunset Laws" (Emergency)

H.P. 1217 L.D. 1689
(C "A" H-476)

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

ENACTORS

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

An Act Regulating the Sale of Grave Markers by Funeral Establishments

H.P. 434 L.D. 599
(S "A" S-224 to C "A" H-241)

An Act to Reform the Maine Board of Professional Surveyors Law

H.P. 513 L.D. 693
(H "B" H-432 & H "A" H-320 to C "A" H-311)

An Act Regarding the Exclusion of Family Members under a Motor Vehicle Liability Insurance Policy

S.P. 267 L.D. 695
(C "A" S-206)

An Act to Require the Attorney General to Develop a Model Lease for Residential Tenancies

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

An Act Related to State Preemption of Firearms Regulation

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

An Act to Limit the Granting of Injunctions in Labor Disputes

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

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)

An Act Concerning the Regulation of Cable Television

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

An Act to Amend Maine's Unclaimed Property Act

S.P. 602 L.D. 1688

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

An Act Relating to State Personnel Administration

S.P. 100 L.D. 119
(S "C" S-235 to C "A" S-104)

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. This is the State Personnel Bill that has been in and out of this Chamber for several weeks now. I feel that this Bill should not become law because of section two of the Bill, which requires specific legislative approval for the reclassification of certain appointed major policy-influencing positions. That is seventy-six

people that this Bill effects. The Legislature got out of direct involvement of major policy reclassification positions in the early 1970's and, in my opinion, they should stay out of this process. Currently, the Legislature is involved in funding reclassification of employees only if funds are not otherwise available by downgrading or abolishing positions, or through dedicated revenues. The most recent amendment to this Bill, which was put on in this Body, limits specific legislative approval to only appointive major policy-influencing positions and it is an improvement, but it still does discriminate against seventy-six state employees. These are professional, career, state employees, forty-two of which were here prior to this administration. So, I don't think this Bill should become law.

Senator CAHILL of Sagadahoc requested a Division.

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

Senator BUSTIN: Thank you Mr. President. Mr. President, men and women of the Senate. As a clarification, these are the unclassified, higher level positions. There is no attempt in this Bill to make those people come back for their step increases within their ranges. The reason that you want them back when they change their range is because it has an impact on your budget. So, that when Appropriations gets it, we don't have a chance to make a determination as to whether those job changes should be made or not, as to whether we have the budget to do it with. They are unclassified people. One of the things that wanted to be done in this legislature, was to take all confidential employees, whether they were classified or unclassified, and put them under this. The amendment does not do that. The amendment only takes the higher level people who are unclassified. I think that is an appropriate thing to do and I would appreciate your support.

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. As we have gone over the Part II Budget downstairs, some of the increases in range changes that have been brought to our attention are unreal. They are going up four or five ranges at a time. So, I think this is a good Bill and I support it.

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

A Division has been requested.

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

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

17 Senators having voted in the affirmative and 13 Senators having voted in the negative, the Bill was PASSED TO BE ENACTED and having been signed by the President, was presented by the Secretary to the Governor for his approval.

An Act to Establish a Comprehensive Service Delivery System for Persons with Head Injuries
S.P. 350 L.D. 927
(C "A" S-211)

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

An Act Relating to Smoking in Nursing Homes and Boarding Care Facilities

H.P. 920 L.D. 1286
(H "A" H-433 to C "A" H-288)

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

An Act to Amend the Laws Concerning the Use of Seat Belts

S.P. 491 L.D. 1333
(C "A" S-212)

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

Senator TWITCHELL: Thank you Mr. President. Mr. President, men and women of the Senate. This Bill, L.D. 1333, is "An Act to Amend the Laws Concerning the Use of Seat Belts." We had this Bill before us in the last two sessions and we have it again this session. We thought that we were going to have a big turnout for the seat belt Bill and come to find out we only had about twenty people who showed up at the hearing. The Bill started out to mandate the use of seat belts and that would take everybody. Then, the Committee felt that probably wouldn't pass, so they amended the Bill and brought it down to the age of fifteen and younger. Can you imagine if you had two children in the car and one was fifteen and one was sixteen and the fifteen year old had to wear a seat belt and the sixteen year old didn't have to. I don't think this is a good piece of legislation. It is another mandate and I don't think the Bill is needed.

Senator TWITCHELL of Oxford requested a Division.

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

Senator BRANNIGAN: Thank you Mr. President. Mr. President, men and women of the Senate. We have the same problem if the Senator from Oxford, Senator Twitchell, feels that it is a problem that a brother thirteen and a sister twelve, one does and one does not have to wear a seat belt. Some of us might feel that everyone would be safer and everyone both on the road and in cars would be safer if seat belts were worn by everyone. We now require that people learn to wear seat belts through the gradual process of first infants and then we raised it to twelve years old. Now we are making, I believe, a sensible increase to the age, if all goes as predicted, fifteen. So, the fifteen year old will have to wear his or her seat belt by law. The sixteen year old, just beginning to drive, we hope will then wear his or her seat belt, because they have been properly trained. We, therefore, as sponsors and supporters of this Bill, ask you to vote with us to pass this Bill to raise the age to fifteen for mandatory seat belts.

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. As the Senator from Franklin County, I would ask you to vote against this and support the position of the good Senator from Oxford, Senator Twitchell. It seems to me that if it isn't broken, you don't need to fix it. This is definitely not broken. I want to tell you a story. I have a six year old little girl, who has been in a car seat since she was first born. She now, of course, wears a seat belt. I used to be proud of the fact that I didn't wear a seat belt, because I didn't think I needed to wear one and I didn't want to wear one, so I didn't. Unfortunately, my six year old has brow beaten me enough so that every time I jump in the car with her, I wear one. I

think that is good and I guess it doesn't hurt me to do that. I feel very strongly that this is a foot in the door. It is unnecessary and most young people from the very beginning, from the time they are old enough to know what is going on, wear a seat belt and I think they will continue to do that right up to the age of twelve. At that point, you will find that most of them will. This Bill is unnecessary, it is a mandate that we don't need.

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

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

Senator COLLINS: Thank you Mr. President. Mr. President, men and women of the Senate. I rise today in support of the seat belt proposition. As many of you know, we have discussed this many times and the evidence is overwhelming that those people who wear seat belts have a better chance of surviving an accident, than those who do not. Furthermore, the evidence suggests that the severity of the accidents is diminished among those who wear seat belts, in terms of their treatment at hospitals. It seems to me that we ought to continue this forward movement and I would indeed be supportive of a mandatory seat belt that required everybody to wear it. But, we make these steps in small steps, not giant steps, and I think we should remember that this Body has supported this on our prior votes here and I would hope today that we would again do that and Enact this Bill, so that those young people coming along, when they begin driving at sixteen, will automatically wear seat belts because they have from childhood had the opportunity and were required to do it, so it would become habit. I think it will save lives. Unlike much other legislation, it will cost nothing. Thank you Mr. President.

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

Senator TWITCHELL: Thank you Mr. President. Mr. President, men and women of the Senate. The law is not being enforced now and by passing this piece of legislation it won't change a thing. All we are going to do is move it up to fifteen, next time around it will be up to twenty, and the next time around it will be up to thirty, and eventually it will be all of us. This piece of legislation won't change a thing.

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?

Senator DUTREMBLE of York who would have voted NAY requested and received Leave of the Senate to pair his vote with Senator GAUVREAU of Androscoggin who would have voted YEA.

Senator KANY of Kennebec who would have voted NAY requested and received Leave of the Senate to pair her vote with Senator HOBBS of York who would have voted YEA.

The Doorkeepers will secure the Chamber.
The Secretary will call the Roll.

ROLL CALL

YEAS: Senators ANDREWS, BALDACCI, BERUBE, BOST, BRANNIGAN, BRAWN, BUSTIN, CARPENTER, CLARK, COLLINS, ESTES, ESTY, GILL, GOULD, PERKINS, THERIAULT, TITCOMB, WEYMOUTH

NAYS: Senators CAHILL, DILLENBACK, EMERSON, ERWIN, LUDWIG, PEARSON, RANDALL, TWITCHELL, WEBSTER, WHITMORE, THE PRESIDENT - CHARLES P. PRAY
ABSENT: Senators HOLLOWAY, MATTHEWS
PAIRED: Senators, DUTREMBLE, GAUVREAU, HOBBS, KANY

18 Senators having voted in the affirmative and 11 Senators having voted in the negative, with 4 Senators having paired their votes and 2 Senators being absent, the Bill was PASSED TO BE ENACTED and having been signed by the President, was presented by the Secretary to the Governor for his approval.

Emergency
An Act Regarding Reimbursement for
Out-of-district Special Education Placements
S.P. 283 L.D. 729
(C "A" S-215)

On motion by Senator BRANNIGAN of Cumberland, placed on the SPECIAL APPROPRIATIONS TABLE, pending ENACTMENT.

Emergency Resolve
Resolve, to Direct the Executive Branch to
Develop a Special Review Process to Monitor Personal
Services Contracts

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

This being an Emergency Measure and having received the affirmative vote of 29 Members of the Senate, with No Senators having voted in negative, and 29 being more than two-thirds of the entire elected Membership of the Senate, was FINALLY PASSED and having been signed by the President, was presented by the Secretary to the Governor for his approval.

Senate at Ease
Senate called to order by the President.

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

Senator WEBSTER of Franklin was granted unanimous consent to address the Senate off the Record.

Off Record Remarks

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

The Following Communication:
114TH LEGISLATURE
LEGISLATIVE COUNCIL
STATE HOUSE STATION 115
AUGUSTA, MAINE 04333
June 13, 1989

Honorable Joy J. O'Brien
Secretary of the Senate
114th Maine Legislature
State House Station 3
Augusta, Maine 04333
Dear Secretary O'Brien:

This is to notify you that pursuant to its authority under Chapter 15 of the Resolves of Maine,

1989, the Legislative Council has unanimously agreed to appoint the following as Chairs of the Advisory Committee on Legislative Structure and Operations:

Senator Nancy Randall Clark, Cumberland
Kenneth P. MacLeod, Brewer

Sincerely,
S/John L. Martin
Chair
Legislative Council

Which was READ and ORDERED PLACED ON FILE.

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

SECOND READERS

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

Senate

Resolve, Reimbursing Certain Municipalities for Taxes Lost Due to Lands being Classified under the Maine Tree Growth Tax Law (Emergency)

S.P. 624 L.D. 1721

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

Sent down for concurrence.

Senate As Amended

Bill "An Act to Require Counties to Accept Prisoners with Sentences up to One Year in Length and to Provide Assistance to Counties in Developing Community Corrections Programs"

S.P. 277 L.D. 723

(C "A" S-255)

Bill "An Act to Provide Additional Protection in Cases of Domestic Abuse"

S.P. 553 L.D. 1556

(C "A" S-254)

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

Sent down for concurrence.

Bill "An Act to Amend the Liquor Laws Relating to Wine Tasting"

S.P. 485 L.D. 1327

(C "A" S-252)

Which was READ A SECOND TIME.

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

Senator CLARK: Thank you Mr. President. I would like to pose a question through the Chair to any Senator who would care to respond. On Committee Amendment "A" (S-252) there is an addition around line 32 which reads, "no wine will be served to persons under seventeen years of age." Am I to understand that, while alcoholic beverages are prohibited or illegal for sale to those citizens in our state who are less than twenty-one years of age, that people under seventeen years of age may participate in wine tasting?

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

The Chair recognizes the Senator from Sagadahoc, Senator Cahill.

Senator CAHILL: Thank you Mr. President. Mr. President, men and women of the Senate. I appreciate the good Senator from Cumberland, Senator Clark, bringing that to the attention of the Legislature. This Bill is my Bill and in no way did we intend for wine to be served for those seventeen years or under. I would appreciate it if someone would Table this until we could get this cleared up.

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

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

PAPERS FROM THE HOUSE

Non-concurrent Matter

Bill "An Act to Preserve the Integrity of the Land for Maine's Future Program"

S.P. 651 L.D. 1746

In Senate, June 12, 1989, referred to the Committee on STATE AND LOCAL GOVERNMENT and ORDERED PRINTED.

Comes from the House referred to the Committee on ENERGY AND NATURAL RESOURCES and ORDERED PRINTED in NON-CONCURRENCE.

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

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

PAPERS FROM THE HOUSE

Non-concurrent Matter

Bill "An Act to Establish State Guidelines for Child Support Awards"

H.P. 706 L.D. 967

(S "A" S-226 to C "A"

H-349)

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

In Senate, June 8, 1989, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-349) AS AMENDED BY SENATE AMENDMENT "A" (S-226) thereto, in NON-CONCURRENCE.

Comes from the House PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-349) AS AMENDED BY HOUSE AMENDMENT "A" (H-499) thereto, in NON-CONCURRENCE.

The Senate RECEDED and CONCURRED.

Non-concurrent Matter

Resolve, to Establish a Commission to Study Town Supervision of Private Roads (Emergency)

H.P. 950 L.D. 1318

(C "A" H-386)

In Senate, June 8, 1989, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-386), in concurrence.

Comes from the House PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-386) AS AMENDED BY HOUSE AMENDMENT "A" (H-488) thereto, in NON-CONCURRENCE.

The Senate RECEDED and CONCURRED.

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

PAPERS FROM THE HOUSE

House Papers

Bill "An Act to Amend the Laws Pertaining to the Commission on Biotechnology and Genetic Engineering" (Emergency)

H.P. 1252 L.D. 1751

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

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

Bill "An Act to Establish Finance Committee Districts and Procedures for Aroostook County" H.P. 1251 L.D. 1750

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

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

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

COMMITTEE REPORTS

House

Divided Report

The Majority of the Committee on LABOR on Bill "An Act to Encourage Family Unity"

H.P. 917 L.D. 1283

Reported that the same Ought Not to Pass.

Signed:

Senators:

MATTHEWS of Kennebec
WHITMORE of Androscoggin

Representatives:

REED of Falmouth
RUHLIN of Brewer
TAMMARO of Baileyville
BUTLAND of Cumberland
MCCORMICK of Rockport

The Minority of the same Committee on the same subject reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-484).

Signed:

Senator:

ESTY of Cumberland

Representatives:

PINEAU of Jay
RAND of Portland
MCHENRY of Madawaska
MCKEEN of Windham
LUTHER of Mexico

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

Which Reports were READ.

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

ORDERS OF THE DAY

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

Bill "An Act Amending the Law Governing the Maine Committee on Aging"

S.P. 544 L.D. 1515

Tabled - June 13, 1989, by Senator CLARK of Cumberland.

Pending - ADOPTION OF COMMITTEE AMENDMENT "A" (S-251)

(In Senate, June 13, 1989, Committee Amendment "A" (S-251) READ.)

On motion by Senator CLARK of Cumberland, Tabled until Later in Today's Session, pending ADOPTION of Committee Amendment "A" (S-251).

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

SENATE REPORTS - from the Committee on LABOR on Bill "An Act to Include Salaries, Pensions and Insurance for Binding Arbitration under the Municipal Public Employees Labor Relations Law"

S.P. 300 L.D. 798

Majority - Ought to Pass as Amended by Committee Amendment "A" (S-253).

Minority - Ought Not to Pass.

Tabled - June 13, 1989, by Senator DUTREMBLE of York.

Pending - the Motion of Senator WHITMORE of Androscoggin, to ACCEPT the Minority OUGHT NOT TO PASS Report

(In Senate, June 13, 1989, Reports READ.)

On motion by Senator CLARK of Cumberland, Tabled until Later in Today's Session, pending the motion of Senator WHITMORE of Androscoggin, to ACCEPT the Minority OUGHT NOT TO PASS Report.

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

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

S.P. 486 L.D. 1328

(C "A" S-232)

Tabled - June 12, 1989, by Senator CLARK of Cumberland.

Pending - FURTHER CONSIDERATION

(In Senate, June 8, 1989, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-232).)

(In House, June 12, 1989, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-232) AS AMENDED BY HOUSE AMENDMENT "A" (H-468) thereto, AND HOUSE AMENDMENT "A" (H-472) in NON-CONCURRENCE.

On motion by Senator HOBBS of York, the Senate RECEDED from PASSAGE TO BE ENGROSSED AS AMENDED.

House Amendment "A" (H-472) READ.

Senator HOBBS of York, moved to INDEFINITELY POSTPONE House Amendment "A" (H-472) in NON-CONCURRENCE.

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. House Amendment "A" takes the emergency off this Amendment. I would rather have House Amendment "A" on the Bill and remove the emergency. Maybe this is a good chance to elaborate a little more on this Bill.

It was brought to the attention of the Senate, during the first debate, that the town of Brunswick did, in fact, have a successful job search and no problems. I now have a letter from the Chairman of the Brunswick Town Council and this letter states, "it has come to my attention that during the debate and discussion regarding L.D. 1328, 'An Act Providing Confidentiality for Public Sector Job Applicants', the Maine Press Association is citing Brunswick's recent Town Managers search as an example of how well the existing disclosure law works. Unfortunately, such is not the case. Joseph Seymour, current city manager in New York, a very strong candidate for the Brunswick position, withdrew from the field of three candidates citing the public disclosure as his major reason. The media in his community benefiting from a Maine law that creates openness not available under New York law and was able to generate an incredible amount of local interest and exposure regarding his candidacy. Such exposure led to extreme pressure on Mr. Seymour and his family to remain in New York, while jeopardizing, to some extent, his ability to perform there effectively. As a result, Mr. Seymour withdrew as a candidate in Brunswick."

The same Mr. Seymour wrote a letter to the Brunswick Town Council and this confirms it. "This letter is to confirm our conversation on Monday afternoon, June 5, 1989, whereby I advised you that I am respectively withdrawing my candidacy for the Town Manager of Brunswick, Maine. I enjoyed my meetings with you and the council members. I find the

Brunswick position to be challenging, one in an attractive community. I find, however, that the extraordinary media publicity that I received with my candidacy has placed me in an embarrassing situation with my current employer, who I am very fond of. With the numerous calls from my employees, employers, colleagues, and community leaders, I find it increasing difficult to evaluate the equities of a job change. My best wishes to the council and thank you for the time you spent considering my application." Thank you.

Senator CARPENTER of York requested a Division.

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 request a point of information. Is the motion pending before this Body that House Amendment "A" (H-472) be Indefinitely Postponed, is that in fact the pending motion?

THE PRESIDENT: The Chair would answer in the affirmative.

The pending question before the Senate is the motion of Senator HOBBS of York, to INDEFINITELY POSTPONE House Amendment "A" (H-472).

A Division has been requested.

Will all those Senators in favor of the motion of Senator HOBBS of York, to INDEFINITELY POSTPONE House Amendment "A" (H-472), please rise in their places and remain standing until counted.

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

16 Senators having voted in the affirmative and 18 Senators having voted in the negative, the motion of Senator HOBBS of York, to INDEFINITELY POSTPONE House Amendment "A" (H-472), FAILED.

Senator CAHILL of Sagadahoc, moved to CONCUR.

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

Senator HOBBS: Thank you Mr. President. Mr. President, men and women of the Senate. I would hope that the Senate does not pass the pending motion, so that I may offer an Amendment. If I may ask a point of parliamentary inquiry? Given the last motion made by Senator Cahill, from Sagadahoc, is it still appropriate for me to offer an Amendment at this time?

THE PRESIDENT: The Chair would advise the Senator that if the Amendment is to the Bill, the answer would be yes. If the Amendment is to Committee Amendment "A" (S-232), then he would need to Recede from the Adoption of Committee Amendment "A" (S-232).

The Chair recognizes the Senator from York, Senator Hobbins.

Senator HOBBS: Thank you Mr. President. Mr. President, men and women of the Senate. The Amendment which I propose is a Senate Amendment to the Committee Amendment. Therefore, as a matter of courtesy to at least allow for the discussion of this Senate Amendment, I would urge the Senate to oppose the pending motion to Concur.

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

Senator CAHILL: Thank you Mr. President. I would like to pose a parliamentary inquiry. If I withdrew my motion to Concur, then would the gentleman be able to discuss his Amendment?

THE PRESIDENT: The Chair would advise the Senator, that the Senator would have the right to discuss the motion to Concur, or not to Concur.

On motion by Senator HOBBS of York, the Senate RECEDED from ADOPTION of Committee Amendment "A" (S-232).

House Amendment "A" (H-468) to Committee Amendment "A" (S-232) READ.

Senator HOBBS of York, moved to INDEFINITELY POSTPONE House Amendment "A" (H-468) to Committee Amendment "A" (S-232).

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

Senator CAHILL: Thank you Mr. President. I would like to pose a parliamentary inquiry. Would you clarify where we are, please. I don't think one person in this Senate, including myself, knows.

THE PRESIDENT: The Senator from York, Senator Hobbins, has moved that the Senate Indefinitely Postpone House Amendment "A" (H-468) to Committee Amendment "A" (S-232). The confusion may be that the Senator from York, Senator Hobbins, had also moved the Indefinite Postponement of House Amendment "A" (H-472) to the Bill, which has failed. He has now made the motion to Indefinitely Postpone House Amendment "A" (H-468) to Committee Amendment "A" (S-232).

The Chair recognizes the Senator from Androscoggin, Senator Gauvreau.

Senator GAUVREAU: Thank you Mr. President. Mr. President, men and women of the Senate. I suspect that the ultimate issues, which my good colleague and esteemed Chair of the Committee on Judiciary, the Senator from York, Senator Hobbins, wants to address are not set forth fully in House Amendment "A" (H-468) to Committee Amendment "A" (S-232). House Amendment "A" (H-468) was offered in the other Body by the Committee on Second Reading, which is a technical Amendment. I cannot define any rational purpose advanced by Postponing this particular technical measure. The body of the Amendment we are referring to would allow for, under certain discreet circumstances, representatives of unions, pursuant to what the bargaining agreements, to have limited access to applications for public sector positions.

Since it is not clear to me why we should effect a repeal of that language from the legislation under consideration, I would ask that the Body vote in opposition to the present motion, which is to Postpone House Amendment "A" (H-468) to Committee Amendment "A" (S-232). I would oppose that motion. Thank you.

Senator CAHILL of Sagadahoc requested a Division.

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. I believe that the remarks of the good Senator from Androscoggin, Senator Gauvreau, are right on target. But, I have a parliamentary inquiry. If, and the Senate has already extended a courtesy to the Senator from York, Senator Hobbins, to allow him to access the Amendment process, because he has an Amendment under filing number S-256, which he wishes to offer. I believe, ultimately, the disposition of this measure will not change one bit, perhaps we can for the sake of parliamentary exercise, allow the good Senator to proceed, for this exercise in backing up a Bill to extend to a member of this Body a courtesy, might be beneficial to all of us. Again, I say that while we are extending an extraordinary courtesy to this good Senator, I do believe that the eventual outcome will not change one bit. Thank you Mr. President.

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. I concur with the good Senator from Cumberland, Senator Clark. I would like to extend to the good Senator

from York, Senator Hobbins, the courtesy of talking to his amendment. I don't understand, however, the motion which is before us, which is to Indefinitely Postpone. I was wondering if we might approach you, Mr. President, to get a clarification on this.

THE PRESIDENT: For the purpose of providing the clarification to all involved, House Amendment "A" (H-468) to Committee Amendment "A" (S-232) and Senate Amendment "A" (S-256), if presented and adopted, would conflict. Senate Amendment "A" (S-256), it is the belief of the Chair, takes care of House Amendment "A" (H-468) to Committee Amendment "A" (S-232) and would correct the concerns that some individuals have of the Indefinite Postponement of House Amendment "A" (H-468) to Committee Amendment "A" (S-232).

Senate at Ease
Senate called to order by the President.

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. It is my understanding on further review on this matter that I expect the Senator from York, Senator Hobbins, to shortly be offering an Amendment to the legislation under consideration, which, if Adopted, would pick up and embrace the technical language in House Amendment "A" (H-468). Therefore, I will, at this time, withdraw my objection to the pending motion, which is the motion of the Senator from York, Senator Hobbins, that House Amendment "A" (H-468) to Committee Amendment "A" (S-232) be Indefinitely Postponed. Thank you.

Senator CAHILL of Sagadahoc, requested and received Leave of the Senate to withdraw her motion for a Division.

On motion by Senator HOBBSINS of York, House Amendment "A" (H-468) to Committee Amendment "A" (S-232) INDEFINITELY POSTPONED in NON-CONCURRENCE.

On further motion by the same Senator, Senate Amendment "A" (S-256) to Committee Amendment "A" (S-232) READ.

THE PRESIDENT: The pending question before the Senate is the motion of Senator HOBBSINS of York, to ADOPT Senate Amendment "A" (S-256) to Committee Amendment "A" (S-232).

Senator GAUVREAU of Androscoggin requested a Division.

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

Senator HOBBSINS: Thank you Mr. President. Mr. President, men and women of the Senate. I want to thank my fellow Senators for the courtesy that they have extended to me to get to the position where I could present this Senate Amendment to the Committee Amendment. If you will look at your printed Amendment (S-256), you will see that this Amendment allows the disclosure of information regarding applicants interviewed for major policy-influencing decisions and positions. What it does, if you look at the Amendment, is it extends for public review those decisions of major policy-influencing positions. It excludes the other positions from consideration and for disclosure. I believe that this is a moderate step. It is a step that does not drastically change the status quo that has resulted from the city of Bangor case. It gives us an opportunity to see whether or not, in a modified limited fashion, the experiment will work regarding the disclosure of public jobs, paid for by the

public, by the communities. I would urge fellow members of this Body to support my Amendment. 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. It is with some degree of reluctance that I A, debate this issue at all and B, demur from the position taken by my esteemed colleague from York, Senator Hobbins. I think that Senator Hobbins, by trying to narrow the range of records and documents which are subject to routine disclosure under the states Freedom of Information Act, is on the right track. As a member of the Majority Report from the Committee on Judiciary, which recommended complete confidentiality, I wish you would come a little further over to our side of the aisle on this issue. Basically, the majority on the Judiciary Committee, recognized that there is a significant public interest regarding the qualifications and names of those people who do apply to serve in public positions. It was our judgement, however, that in order to attract the broadest field of qualified candidates, that we ought to accord confidentiality to people who apply for public positions. The majority of the Committee believed that the hiring authorities at the local, county, or state level, in the event those hiring authorities exercise a poor judgement in choosing people who perhaps ought not to serve in those public positions, that there would, in fact, be an appropriate degree of accountability in the form of subsequent elections or public condemnation of choices of hiring authorities. Having reviewed the Amendment being offered by the good Senator from York, Senator Hobbins, I do respect his purpose, which is to further narrow the areas of disclosure. I must say in all candor that I recognize that we have a balancing process involved here. I certainly respect the right and obligation of the press in a free society to ferret out all legitimate issues regarding public officials so that the public interest in having a knowledgeable bureaucracy and having competent women and men to serve in public positions in advance. I respect that goal and we are not talking about a black and white issue here. We are talking about a continuing question of reasonableness. It seems to me that striking all of the equities before us, we are still better served by allowing the process of confidentiality, which has served this state well, and there was no major reason for that process to be disturbed. The only reason we are discussing this issue today is because of a recent law court decision regarding the Bangor Daily News. The law court, I think, engaged in a technically appropriate interpretation of Maine statute. It is for us, policy makers, to decide whether we should reinstate the degree of confidentiality in the hiring process and public officials, who we had observed previously. I would recommend we do that. For these reasons, I would urge the Body to respectfully vote against proposed Senate Amendment "A" (S-256). Thank you.

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. I would like to pose a few questions through the Chair if I may to the members of the Judiciary Committee. If I lodged a complaint with the Human Rights Commission that I was being discriminated against by some governmental agency, under this confidentiality statute that is here, would they be allowed to look at those records

and be able to review those records with the statute that you put forward for proposal?

The other question I have is if I am a city manager and I am going to be hiring a police chief and I have three applicants that I have whittled it down to, if I start contacting their references and asking them about this particular person, because they have applied for a job, would I, in fact, be guilty of breaking the confidentiality of this particular statute, because the information pertained, if this becomes law, is confidential? I think I would be breaching it, but not being a lawyer. I would be willing to yield to those members of the legal community that may want to respond to those two inquiries.

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

The Chair recognizes the Senator from York, Senator Hobbins.

Senator HOBBS: Thank you Mr. President. Mr. President, men and women of the Senate. The good Senator from Penobscot, Senator Baldacci, raises an excellent question regarding the issue of whether or not the Human Rights Commission could receive that type of information, if, in fact, this Bill as proposed and amendment, without the amendment which I offered, is enacted. I believe it is a gray area. The Human Rights Commission has subpoena power in many areas in order to procure those particular records in order to determine whether or not there has been discriminatory practices with an employer.

However, I could not give you, at this time, a legal opinion whether or not that is a yes or a no answer. I think it is more in the gray area. I think that is another good reason why we should not pass the Bill without this amendment. Thank you.

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. I think it is time to get back to basics on this Bill. The Committee that heard the Bill came out eleven to two in favor of the Bill. Last week we voted twenty-two to ten in favor of the Bill. It seems to me we are getting an awful lot of smoke screens or other amendments placed on the Bill trying to confuse the issue. The issue is still the same. It is confidentiality in the public sector job. It is a right that everybody should have. I understand why an elected official should be looked at carefully, wide open to any of their problems or past history to the press. We are elected to do the job of hiring officials, whether it is us, town selectmen, or county commissioners. I think that the individual should retain their right and be allowed to apply for their employment and not be subjected to it being printed in the newspaper or in the media. I would reread the letters that I do have here, it certainly has deterred qualified candidates applying for jobs. If they have applied for jobs, it has caused them to withdraw from these positions. In another vein, it also sometimes appears that some people do apply for employment with state, municipal, or county government that they really don't have the qualifications for that job. The job qualifications are stated in the press and they do apply and it is printed. I think that is embarrassing to certain individuals. I hope you defeat the Amendment that is now on the floor. 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. With all

humility, I respect the questions posed by my good colleague and friend from Penobscot, Senator Baldacci. I must point out to the Body that there is nothing within the confines of proposed Amendment S-256, which would address the Senators concerns. With respect to his first question, posited to the Chair, the question was hypothetically, in the event there was a complaint lodge with the Maine Human Rights Commission alleging some type of suspect discrimination visited upon an applicant for municipal employment, would the applicant have the right to review the working papers, letters, what not, which were involved in the decision of the municipal body. I asked the same question at work session on this matter and I wanted to be assured that in the event there was a question of discrimination or other unlawful purpose in denying employment, that an applicant have recourse through our legal system to access those records. We call that pre-trial discovery. It is very important to me that the applicant who was rejected and who felt that he or she might have been unlawfully rejected have recourse to those working papers.

It is my recollection this morning that the Committee was apprised that, in fact, under the current system that discovery is allowed and that was a significant factor for me in deciding that we did not need to repeal the cloak of confidentiality which currently does protect municipal bodies in the hiring process. I hope I have addressed the initial concern of my colleague from Penobscot.

With respect to the second question, which was, if an officer in a municipality which had received an application for employment in a public position, if that municipal officer should contact the applicants present employer for a reference, would that be unlawful. I can certainly indicate that I have not had time in the last ten minutes to research that issue. However, I would point out that, to my knowledge, there was no indication that in the proceeding history of the State of Maine any such municipal officer calling for a reference was ever questioned as far as the legality of requesting the reference. There is nothing in case law, nothing in Maine law, which I am aware of, which would in any way prevent the municipal officer from making that request.

I would underscore, once again, to the Body that there is nothing whatsoever in proposed Amendment S-256, which would address either of the concerns posited by the Senator from Penobscot, Senator Baldacci. Thank you.

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. I appreciate the good Senator from York, Senator Carpenter, giving me the recent history of this particular legislative proposal and the vote that went along with it. Sometimes in the Legislature it is not a bad idea to ask particular questions about legislation to know exactly what its impact is going to be. It isn't necessarily to muddy the waters, but it is to more clearly refine the issue and its impact. The intent of this Legislature is to make more confidential the applicants that are finally selected for key positions in municipalities. In doing such, we are thinking of it from the hiring process, but at the same time we are setting into motion a whole machination of laws that go on after that. It is good to know about the impact.

Some of the concern that I have is that I have a brother-in-law who is a Town Manager of a small coastal town in Maine and he was going to be hiring a

police chief. In that selection process he was able to whittle it down to three people and all of a sudden there was an editorial that said, "From Ryan to Rambo" and he didn't appreciate that in going through the selection process. At the same time, thinking that this Bill makes a pretty good idea and clamps down on that supposed information being out there to the public. The problem is, is that the information was gotten by some newspaper in that community and knew that the person was one of the leading applicants, he happened to be from San Francisco and was on a SWAT team, that is why they nicknamed him Rambo, I think.

The point is, the information is going to get out there. That information is going to be released, you are just going to be making it worse. You are going to be locking up the process for the selection and making it open for people to go around saying this is what the council has got it down to. They have got it down to these last three and here are the names and here is the one they are most likely going to select. What is the problem with allowing the public to be aware of it? I wasn't here for your original debate on this particular issue and all I can say to you is the frustration that grew out of dealing with this confidentiality in our own Committee when we dealt with licensees, when it came to making them more confidential in proceedings before boards and commissions. Now, we are coming up with another confidentiality statute that pertains to hirings. It is so frustrating to watch and see the people getting massacred in China and trying to have a free press and know what is actually going on and to see the Soviet Union coming around and allowing for a more open press, and here we are in the State of Maine, and we are taking care of it as far as licensees in front of boards and commissions. If anybody files a complaint, no member of the public will ever know about it, unless the board sets a hearing up for it. Nobody will ever know about it.

Now we are setting up a process that your town is paying forty, fifty, or sixty thousand dollars for a police chief. That community, their property taxes that are going towards that, is never going to know about who the selections were, down to the finalists, until a city manager has made that appointment. Is that right? Isn't the public suppose to be involved? You elect people, I served on a town council, it is an aggravation to deal with the media, it is an aggravation to allow them to be there at these meetings, there is no question about it. You could probably talk a lot looser if they weren't there, but it is the people's business. You are elected to do the people's business. What is the problem with allowing the people to see your decision-making process? What does the community know about the selections that were made for that particular position, other than the particular council or board saying that was the best one we had? How is the public suppose to know? You are shutting them out from the process, you are forcing more and more of the politicians that you think you are helping in doing their public business so they don't have to worry about the press, you are putting them more and more on the firing line. That is the problem I see.

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

Senator GAUVREAU of Androscoggin requested and received Leave of the Senate to speak a third time.

Senator GAUVREAU: Thank you Mr. President. Mr. President, men and women of the Senate. I do not want to elongate what has already been a lengthy

debate on this matter. There was a poster, a sign, which was draped across the building in China. The sign said, "It is not that the people are without a government, it is that the government is without people."

In this society, in this country, we are a people who has a government. We have a lawful, democratic process, by which issues are publicly aired and discussed and resolved. I do not, for a moment, worry that if we were to reinstate a particular degree of confidentiality attendant to the public hiring process, which had existed until the Bangor Daily News decision of last year, I do not for a second worry that we would suffer any erosion whatsoever in our degree of liberty and our degree of faith in our public institutions and our public officials to make reasonable and rational decisions in selecting men and women for public positions. It is for those reasons that I would urge the Body to resist Adoption of Senate Amendment "A" (S-256), so that we can go on to Adopt this measure as it was originally styled. Thank you.

THE PRESIDENT: The pending question before the Senate is the motion of Senator HOBBS of York to ADOPT Senate Amendment "A" (S-256) to Committee Amendment "A" (S-232).

A vote of Yes will be in favor to ADOPT Senate Amendment "A" (S-256) to Committee Amendment "A" (S-232).

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, BOST, BRANNIGAN, BUSTIN, DUTREMBLE, ESTES, HOBBS, KANY, TWITCHELL, THE PRESIDENT - CHARLES P. PRAY

NAYS: Senators BERUBE, BRAWN, CAHILL, CARPENTER, CLARK, COLLINS, DILLENBACK, EMERSON, ERWIN, ESTY, GAUVREAU, GILL, GOULD, HOLLOWAY, LUDWIG, MATTHEWS, PEARSON, PERKINS, RANDALL, THERIAULT, TITCOMB, WEBSTER, WEYMOUTH, WHITMORE

ABSENT: Senators None

11 Senators having voted in the affirmative and 24 Senators having voted in the negative, with No Senators being absent, the motion of Senator HOBBS of York, to ADOPT Senate Amendment "A" (S-256) to Committee Amendment "A" (S-232), FAILED.

Senator GAUVREAU of Androscoggin, moved to RECONSIDER whereby House Amendment "A" (H-468) to Committee Amendment "A" (S-232) was INDEFINITELY POSTPONED.

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

Senator CLARK of Cumberland, moved to TABLE until Later in Today's Session, pending the motion of Senator GAUVREAU of Androscoggin, to RECONSIDER whereby House Amendment "A" (H-468) to Committee Amendment "A" (S-232) was INDEFINITELY POSTPONED.

Senator WEBSTER of Franklin requested a Division.

THE PRESIDENT: The pending question before the Senate is the motion by Senator CLARK of Cumberland, to TABLE until Later in Today's Session.

A Division has been requested.

Will all those Senators in favor of the motion by Senator CLARK of Cumberland, to TABLE until Later in

Today's Session, 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 15 Senators having voted in the negative, the motion by Senator CLARK of Cumberland, to TABLE until Later in Today's Session, PREVAILED.

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

Bill "An Act Making It Illegal to Possess Lobsters Caught Illegally"

H.P. 693 L.D. 945

Tabled - June 12, 1989, by Senator BRANNIGAN of Cumberland.

Pending - Motion of same Senator to INDEFINITELY POSTPONE Committee Amendment "A" (H-458) in NON-CONCURRENCE

(In Senate, June 12, 1989, Committee Amendment "A" (H-458) READ.)

(In House, June 12, 1989, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-458).)

On motion by Senator BRANNIGAN of Cumberland. Committee Amendment "A" (H-458) INDEFINITELY POSTPONED in NON-CONCURRENCE.

The Bill LATER TODAY ASSIGNED FOR SECOND READING.

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

HOUSE REPORTS - from the Committee on JUDICIARY on Bill "An Act to Allow Recovery for Wrongful Death of Unborn Children"

H.P. 408 L.D. 551

Majority - Ought to Pass as Amended by Committee Amendment "A" (H-429).

Minority - Ought Not to Pass.

Tabled - June 12, 1989, by Senator CLARK of Cumberland.

Pending - ACCEPTANCE OF EITHER REPORT

(In Senate, June 12, 1989, Reports READ.)

(In House, June 9, 1989, the Majority OUGHT TO PASS AS AMENDED Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-429).)

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

Senator HOLLOWAY of Lincoln, moved the INDEFINITE POSTPONEMENT of the Bill and Accompanying Papers in NON-CONCURRENCE.

THE PRESIDENT: The Chair recognizes the same Senator.

Senator HOLLOWAY: Thank you Mr. President. Mr. President, men and women of the Senate. I rise today in opposition to the Majority Report, with many mixed feelings and with some ambivalence. I want to state on the Record for all of us who oppose the Majority Report that we do so not without deep sympathy and compassion for any couple who has suffered the loss of pregnancy, as a result of a criminal or negligent act. Such loss is very real and their right to recover for that loss, for that sorrow and despair, is a right that no one in this Body would deny them. But, those of us who signed the Minority Report propose that this Bill is not the answer. The right to recover for medical expenses, emotional trauma, and mental anguish, all the very real costs of loss and suffering, already exist under Maine present law. This Bill is not the solution, because it raises far more disturbing questions than it answers.

I am not a lawyer and I am not in the business of having all of the answers, but I am a mother and a grandmother who asks what kind of extra protection, what kind of additional insurances would this grant my daughters against negligent medical care during her pregnancy?

I am also a Legislator who must ask, whenever I vote on a Bill, does this really serve the problem that we are facing, or does it create more problems than it solves? This Bill doesn't satisfy either of those questions for me. Granted, many of the questions that some of us raised in Committee work sessions have been addressed in the amendments that are before us, but many questions remain. Even the lawyers that I have talked to do not have the answers.

Basically, this Bill, for purposes of wrongful death claims would create a cause of action allowing a so-called interested party to recover damages for the stillbirth of a viable fetus. It would essentially create an estate for every stillborn viable fetus. First of all, those of us who have expressed concern about malpractice suits and the escalating costs of liability insurance to take note here, we are basically opening another door to permit additional tort claims. Where fault and liability exists, that is appropriate, but what happens when so many questions remain unanswered and what happens when the possibility of abuse is so great? Let me give you a few examples.

One of the first questions I have that I keep getting different answers on is, who can qualify as an interested party in the estate of a fetus? Certainly the mother, if she survives and if she is married, her husband, who under law is presumed to be the father. But, what about when the woman who dies, or both she and her husband died, are the interested parties then the grandparents? Are they the siblings? Or a distant aunt, or an uncle, or a cousin, if there is no immediate family? Who in this case has the right to file a claim? What if all of these individuals claim an interest? Let's take a more simple case. Presuming that the prospective father and mother both survive and they are the only interested parties able to file for recovery, what happens when there is disagreement or conflict on the issue of who the natural father is? For example, does an unwed father have a right to file a claim? What about the case where the husband, who is not the natural father, tries to file a claim? Does he have the right not as the natural father, but as a legal father as recognized by the law, to file a claim? What about another man claiming to be the natural father comes along and he challenges that claim? If the mother is still alive, then we may or may not have some ability to settle that question, but what happens if she also dies? How is parentage then determined? Who then has the right as the interested party? I have asked these questions and there is a lot of theories, but there are no answers. That is when you have almost unlimited possibilities for litigation. If there ever was a lawyers Bill, this one is it. I know we toss that around in this Chamber very frequently, but this time it is really true and we can test it out. We can go out into that hallway and ask ten different lawyers what will happen in these hypothetical parentage suits, and we will get ten different answers. I can't believe that there is not a better way to find justice for that young couple who has suffered such a devastating loss. I can't believe that we can't find a better way to recognize the multitude of their grief. I can't believe we can't find a better way to insure them the right to have a safe pregnancy and to have a healthy child.

My heart does go out to these people. They were wronged. There is no question about it, this Bill will not make it right for them, or for any other young couple that is faced with this tragedy in the future. I would strongly urge this Body to join me in Indefinitely Postponing this Bill and its Accompanying Papers. There are just too many questions that have no answers. Thank you.

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 urge this Body not to support the pending motion to Indefinitely Postpone this Bill and to support the Majority Report. The particular individual that has gotten so much attention happens to be a constituent of mine in the town of Fairfield. The issue of abortion is one which we have debated before and we will probably continue to debate in this Chamber and in other forums and that is fine. But, think of the tragedy that occurred to this young lady. Eight months pregnant, a young child in that womb. The loss of that young baby and no redress under the law. Something is wrong, something is fundamentally wrong with that void, that lack of protection that each of us have under the Constitution. I respect every member of the Judiciary Committee, but this Bill goes to simple justice under the law. It doesn't allow a person who was drinking and driving and negligent to callously commit murder on our highways. It doesn't allow for people to callously run amuck in our state and in our society. It grants a special limited protection for a viable fetus. My God, eight months pregnant, eight months. I hope you will defeat the pending motion and support the majority members of the Judiciary Committee that have labored and worked extremely hard given all the tough controversial issues and I commend them and support them. Thank you Mr. President.

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

Senator HOBBS: Thank you Mr. President. Mr. President, men and women of the Senate. As you can see from the Committee Report, this issue was thoroughly debated by the Judiciary Committee. Those who signed the Majority Report, differed in many philosophical ways. Those who signed the Minority Report, differed in many philosophical ways. The members who signed the Minority Report had some logical, sincere arguments why this particular Bill should not pass. However, after weighing this issue very heavily, having been involved in the redraft of this particular Bill, I feel that the Majority Report is a cogent one. As the good Senator from Kennebec, has mentioned, in 1988 the Maine Supreme Court denied damages for the wrongful death of an unborn viable fetus, basing its ruling at that time on the interpretation of the language of our probate code which gave the word person "a common sense meaning of one born alive." The original Bill came before us as an attempt to outline and articulate the justices of the Maine Supreme Courts position in the interpretation of that particular provision of the probate code, which would allow for damages if the unborn viable fetus was injured in the womb, but not if the child died.

This Amendment is an attempt to revise the Bill to apply to only viable but unborn fetuses rather than any fetus. Whether the fetus was viable is always a question of fact that is subject to proof in each individual case. The Majority Report attempted, and the members in drafting and crafting this particular amendment, to limit who could be held liable for the wrongful death of a viable fetus by

providing that the mother cannot be held liable for any actions that result in the death of her viable fetus. This was a very important revision that the Judiciary Committee and the Majority Report outlined, which differed from the original Bill. The Committee Amendment, which is essentially replacing the Bill, does not create a cause of action against any health care practitioner or health care provider for any abortion permitted by law and for which the required consent was lawfully given. Again, the Judiciary Committee wanted to specify in this particular amendment and clarify any ambiguity that might arise from the interpretation of the original Bill, as drafted. In addition, there is no cause of action if the health care practitioner or health care provider did not know of the pregnancy and under the applicable standard of care, had no medical reason to know of the pregnancy for any alleged professional negligence.

Again, we have defined in the Committee Amendment the terms health care provider, health care practitioner, and professional negligence. What we did is we borrowed from the language of the Maine Health Security Act. This Amendment, unlike the original Bill, does not apply to the loss of a unviable fetus and has no relevance to abortions of nonviable fetuses. Again, a very important narrow interpretation which differs from the original Bill. In Enacting this particular Amendment that is before you in the Majority Report, the Legislature, I don't believe, intends to effect the interpretation or enforcement of any criminal statute. Again, the Committee was very cognizant of insuring that a pregnant woman with an unborn viable fetus would not be charged sanction criminally.

This Amendment is also not intended to provide grounds for a doctor, a hospital, or any other person to compel a pregnant woman to undergo any kind of medical treatment for the benefit of the viable fetus. Again, the Judiciary Committee, felt very strongly that we should not have ourselves in a situation that we saw in the State of New York this past February, which made national news as you know. Again, the Majority Report, as the Judiciary Committee has done in the Amendment, provides that the wrongful death of an unborn viable fetus does not require the medical examiner to complete an investigation or to issue a certificate. Again, the Committee attempted to carefully structure and define the perimeters of this particular Bill, so as not to lead any other interpretation that could have been the case if the original Bill, as drafted, was passed.

As many of you know, this issue is a very emotional, philosophical issue. I respect all of the members of this Body for whatever position they take on this issue or the related issues regarding unborn viable fetuses. Again, please look to see what the Committee attempted to do. We attempted not to have the law liberally construed. It was not an attempt to make this Bill to be wrapped in what is known as a right to life Bill.

It was an attempt, by the Committee, to acknowledge that damages should be recovered in those instances as the case that happened tragically in Fairfield, that those individuals, that mother, that father, be compensated for the wrongful death of an unborn viable fetus. It doesn't attempt to define that unborn viable fetus as a person. If you will notice the Committee Amendment replaces the title of the Bill to reflect "An Act to Allow Recovery for Wrongful Death of an Unborn Viable Fetus". The Committee was cognizant that we must change the title to reflect the strict construction of this particular

amendment. I urge passage of the Majority Report. Thank you.

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 for the Record I would like to say that this is not an abortion Bill. This Bill does not discuss the debate surrounding abortion. Unfortunately, this Bill whether it passes or fails, will never address the pain and the suffering that the couple from Fairfield has gone through. I do feel for those people and I do feel for the good Senator from Kennebec, Senator Matthews, because I know as only a parent knows, that the pain and suffering must be the very worst. This Bill would entitle the mother and father or interested parties to recover damages for the wrongful death of a viable fetus. While this, at first glance, would appear probably like the right thing to do, the acceptable thing to do, upon closer inspection it raises far too many questions in my mind. The first question is of interested party. Could an interested party be a mother? The legal father? The biological father? What happens if there are two people claiming to be the biological father? In Maine, the issue of surrogate parenting has not been made illegal, so would a surrogate parent be an interested party? Would the contract, the person that had the contract with the surrogate parent, would that be an interested party? It also raises the question of viability. Even though the courts have agreed that viability occurs sometimes after twenty-four weeks, there is still major disagreement about whether the definition of viability can really be captured through the letter of the law. Viability, for example, in a rural hospital could be very different from a hospital with access to the most modern, state of the art medical equipment. There are already laws in Maine statute that permit parents suffering from a stillbirth, resulting from negligent medical treatment, to recover emotional distress and medical expenses. This Bill opens a whole new door of litigation by creating a whole new area. It creates an estate for every viable fetus. Only two states have statutes that give fetuses this standing, thirty states allow for recovery for the death of a fetus, but they have done so not through legislation, but through the judicial process. Again, ladies and gentlemen, the loss to the mother and father from the stillbirth must be a devastating experience, one I hope I will never have to go through with my grandchildren, but I see the possibility of abuse of this particular piece of legislation should it pass, compounding the loss and the pain of those parents, not reducing it. Thank you.

Off Record Remarks

Senator MATTHEWS of Kennebec requested a Division.

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

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

Senate called to order by the President Pro Tem.

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

Senator ANDREWS: Thank you Madam President. Madam President, men and women of the Senate. I just have a question for anyone who cares to answer it. Frankly, I am confused about the issue of redress and recovery. We have heard in the debate that it is possible for parents to receive redress and recovery under the law. We have also heard that it is not possible under current law. I would like someone to please clarify that issue one way or another.

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

Senator HOBBSINS: Thank you Madam President. Madam President, men and women of the Senate. To answer the good gentleman from Cumberland's question, the status of the law now is the denial of damages for the wrongful death of an unborn viable fetus. There cannot be a wrongful death action for damages recoverable by a parent or by the estate.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Lincoln, Senator Holloway.

Senator HOLLOWAY: Thank you Madam President. Madam President, men and women of the Senate. I would like to also answer the gentleman from Cumberland. It is my understanding that you can recover for pain, anguish, and medical, but not for a viable fetus.

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

Senator DILLENBACK: Thank you Madam President. Madam President, men and women of the Senate. I haven't been concerned with this Bill greatly, but one thing bothers me about the debate that has been going on today. There isn't one reason that has been stated that this would prevent any accidents that might occur. We heard about the tragedy in Fairfield. Do you think passing this Bill is going to stop any of this that happens?

It sounds to me as though this is a lawyers Bill, can you imagine the cases that will come from this. I think it is ridiculous to put a law like this on the books at this time. We have ample laws, they have ample coverage, and certainly I feel very sorry for the people who had to go through the tragedies, but let's not make a mess of this thing. Thank you.

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

Senator DUTREMBLE: Thank you Madam President. Madam President, men and women of the Senate. I don't know if we should pass this law or not, but it seems to me that without passing this law we are saying to people who do drink and drive on the road that we are not going to abuse you, but we are going to protect you people and those people who may have lost a child have no recourse. I guess my question would be if a husband and wife are going to the hospital on the way to delivery and they get hit by a drunk driver and the woman loses the baby on the way, is there any recourse?

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

Senator KANY: Thank you Madam President. Madam President, men and women of the Senate. I, too, wanted to respond to Senator Dillenback, the good Senator from Cumberland's, comment. It would seem that today if one were involved in such an accident, that one would be able to sue for losing one's arm, but because one is losing a viable fetus, one could not sue under current law. Therefore, I support the Majority Report of the Judiciary Committee.

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

Senator CAHILL: Thank you Madam President. Madam President, men and women of the Senate. Just a further clarification for my own mind. It is my understanding that this legislation would not allow recovery for the criminal, as the case asked by the good Senator from York, Senator Dutremble, it does not allow for the criminal aspect of that. Current law does allow recovery for emotional distress to the parents caused by the tragedy and current law does allow for recovery for medical expenses leading up to the event and after the event, including prenatal care and then for psychological counseling and whatever is necessary after the tragedy.

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

THE PRESIDENT PRO TEM: The pending question before the Senate is the motion of Senator HOLLOWAY of Lincoln to INDEFINITELY POSTPONE the Bill and Accompanying Papers in NON-CONCURRENCE.

A vote of Yes will be in favor of INDEFINITELY POSTPONE the Bill and Accompanying Papers.

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, BOST, BUSTIN, CAHILL, CARPENTER, DILLENBACK, EMERSON, ESTES, ESTY, HOLLOWAY, LUDWIG, PERKINS, WEYMOUTH, WHITMORE, THE PRESIDENT PRO TEM - NANCY RANDALL CLARK

NAYS: Senators BALDACCI, BERUBE, BRANNIGAN, BRAWN, COLLINS, DUTREMBLE, ERWIN, GAUVREAU, GILL, GOULD, HOBBS, KANY, MATTHEWS, PEARSON, PRAY, RANDALL, THERIAULT, TITCOMB, TWITCHELL, WEBSTER

ABSENT: Senators None

15 Senators having voted in the affirmative and 20 Senators having voted in the negative, with No Senators being absent, the motion of Senator HOLLOWAY of Lincoln, to INDEFINITELY POSTPONE the Bill and Accompanying Papers, FAILED.

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

The Bill READ ONCE.

Committee Amendment "A" (H-429) READ.

On motion by Senator PRAY of Penobscot, Tabled until Later in Today's Session, pending ADOPTION of Committee Amendment "A" (H-429).

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

An Act to Increase the Penalties for Repeat Violations of the Prostitution Laws

H.P. 757 L.D. 1061
(C "A" H-338)

Tabled - June 12, 1989, by Senator CLARK of Cumberland.

Pending - ENACTMENT

(In Senate, June 5, 1989, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-338), in concurrence.)

(In House, June 8, 1989, PASSED TO BE ENACTED.)

On motion by Senator HOBBS of York, 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-338), in concurrence.

On further motion by same Senator, Senate Amendment "A" (S-259) to Committee Amendment "A" (H-338) READ and ADOPTED.

Committee Amendment "A" (H-338) as Amended by Senate Amendment "A" (S-259) 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:

An Act to Prohibit the Sale of Unlawful Drugs in or near Schools

H.P. 816 L.D. 1144
(C "A" H-342)

Tabled - June 12, 1989, by Senator CLARK of Cumberland.

Pending - ENACTMENT

(In Senate, June 5, 1989, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-342), in concurrence.)

(In House, June 8, 1989, PASSED TO BE ENACTED.)

On motion by Senator HOBBS of York, 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-342), in concurrence.

On further motion by same Senator, Senate Amendment "A" (S-257) to Committee Amendment "A" (H-342) READ and ADOPTED.

Committee Amendment "A" (H-342) as Amended by Senate Amendment "A" (S-257) thereto, ADOPTED in NON-CONCURRENCE.

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

Sent down for concurrence.

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

On motion by Senator DUTREMBLE of York, RECESSED until 4:00 this afternoon.

After Recess

Senate called to order by the President.

HELD BILL

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

Senator CLARK: Thank you Mr. President. Is the Senate in possession of L.D. 404?

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 PASSED TO BE ENGROSSED AS AMENDED:

Bill "An Act to Reduce the Potential for Violence During Labor Disputes"

H.P. 209 L.D. 404

(C "A" H-417)

(In Senate, June 13, 1989, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-417), in concurrence.)

(In House, June 9, 1989, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-417).)

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

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

COMMITTEE REPORTS

Senate

Ought to Pass As Amended

Senator BUSTIN for the Committee on BANKING AND INSURANCE on Bill "An Act Relating to Workers' Compensation Insurance"

S.P. 122 L.D. 188

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (S-264).

Which Report was READ and ACCEPTED.

The Bill READ ONCE.

Committee Amendment "A" (S-264) READ and ADOPTED.

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

Senator BUSTIN for the Committee on BANKING AND INSURANCE on Bill "An Act Relating to Certain Proprietary Information of Insurance Agents and Brokers"

S.P. 519 L.D. 1426

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (S-263).

Which Report was READ and ACCEPTED.

The Bill READ ONCE.

Committee Amendment "A" (S-263) READ and ADOPTED.

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

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

COMMITTEE REPORTS

Senate

Ought to Pass As Amended

Senator GILL for the Committee on EDUCATION on Resolve. Creating the Special Commission to Study and Evaluate the Status of Education Reform in Maine (Emergency)

S.P. 561 L.D. 1564

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (S-266).

Which Report was READ and ACCEPTED.

The Resolve READ ONCE.

Committee Amendment "A" (S-266) READ and ADOPTED.

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

Senator KANY for the Committee on ENERGY AND NATURAL RESOURCES on Bill "An Act to Amend the Mandatory Shoreland Zoning Law"

S.P. 585 L.D. 1647

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (S-267).

Which Report was READ and ACCEPTED.

The Bill READ ONCE.

Committee Amendment "A" (S-267) READ and ADOPTED.

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

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

COMMITTEE REPORTS

Senate

Ought to Pass As Amended

Senator MATTHEWS for the Committee on LEGAL AFFAIRS on Bill "An Act to Require Liquor Sellers' Permits"

S.P. 151 L.D. 271

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (S-265).

Which Report was READ and ACCEPTED.

The Bill READ ONCE.

Committee Amendment "A" (S-265) READ and ADOPTED.

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

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

COMMITTEE REPORTS

House

Divided Report

The Majority of the Joint Select Committee on CORRECTIONS on Bill "An Act to Transfer Jurisdiction over County Jails from County Government to the Department of Corrections"

H.P. 857 L.D. 1189

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-445).

Signed:

Senators:

BUSTIN of Kennebec

MATTHEWS of Kennebec

Representatives:

MELENDY of Rockland

MAYO of Thomaston

ANTHONY of South Portland

DORE of Auburn

SMITH of Island Falls

GREENLAW of Standish

MANNING of Portland

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

Signed:

Senator:

PERKINS of Hancock

Representatives:

STROUT of Windham

LIBBY of Kennebunk

HEPBURN of Skowhegan

Comes from the House the Majority OUGHT TO PASS AS AMENDED Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-445).

Which Reports were READ.

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

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

PAPERS FROM THE HOUSE

Non-concurrent Matter

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

S.P. 517 L.D. 1413

(C "A" S-222)

In Senate, June 8, 1989, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-222).

Comes from the House PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-222) AS AMENDED

BY HOUSE AMENDMENT "A" (H-500) thereto, in NON-CONCURRENCE.

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

House Papers

Bill "An Act Concerning Reduction of Speed Limits in Inclement Weather" (Emergency)

H.P. 1253 L.D. 1752

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

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

COMMITTEE REPORTS

House

Ought Not to Pass

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

The Committee on TAXATION on Bill "An Act Concerning Payments in Lieu of Taxes to Municipalities with State-owned Property"

H.P. 52 L.D. 73

Ought to Pass

The Committee on STATE AND LOCAL GOVERNMENT on Bill "An Act to Clarify the Maine Municipal Bond Bank's and the Maine Public Utility Financing Bank's Ability to Hold, Own and Sell Real and Personal Property" (Emergency)

H.P. 1097 L.D. 1530

Reported that the same Ought to Pass.

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

Which Report was READ and ACCEPTED, in concurrence.

The Bill READ ONCE.

The Bill LATER TODAY ASSIGNED FOR SECOND READING.

Ought to Pass As Amended

The Joint Select Committee on CORRECTIONS on Bill "An Act to Establish the Bureau of Juvenile Corrections"

H.P. 1147 L.D. 1590

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-496).

Comes from the House, with the Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-496).

Which Report was READ and ACCEPTED, in concurrence.

The Bill READ ONCE.

Committee Amendment "A" (H-496) READ and ADOPTED, in concurrence.

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

The Committee on EDUCATION on Bill "An Act Concerning Educational Enhancement"

H.P. 762 L.D. 1066

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-501).

Comes from the House, with the Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-501).

Which Report was READ and ACCEPTED, in concurrence.

The Bill READ ONCE.

Committee Amendment "A" (H-501) READ and ADOPTED, in concurrence.

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

The Committee on EDUCATION on Bill "An Act to Authorize a Cooperative Agreement for the Construction and Operation of a Vocational Center Located in School Administrative District No. 33" (Emergency)

H.P. 1171 L.D. 1625

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-482).

Comes from the House, with the Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-482).

Which Report was READ and ACCEPTED, in concurrence.

The Bill READ ONCE.

Committee Amendment "A" (H-482) READ and ADOPTED, in concurrence.

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

The Committee on ENERGY AND NATURAL RESOURCES on Bill "An Act to Amend the Overboard Discharge Laws"

H.P. 855 L.D. 1187

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-502).

Comes from the House, with the Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-502).

Which Report was READ and ACCEPTED, in concurrence.

The Bill READ ONCE.

Committee Amendment "A" (H-502) READ and ADOPTED, in concurrence.

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

The Committee on ENERGY AND NATURAL RESOURCES on Bill "An Act to Ensure Notification and Participation by the Public in Licensing and Relicensing of Hydroelectric Dams and to Further Ensure the Equal Consideration of Fisheries and Recreational Uses in Licensing and Relicensing"

H.P. 1167 L.D. 1621

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-497).

Comes from the House, with the Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-497).

Which Report was READ and ACCEPTED, in concurrence.

The Bill READ ONCE.

Committee Amendment "A" (H-497) READ and ADOPTED, in concurrence.

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

The Committee on FISHERIES AND WILDLIFE on Bill "An Act Concerning Agents Selling Hunting and Fishing Licenses"

H.P. 181 L.D. 246

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-483).

Comes from the House, with the Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-483).

Which Report was READ and ACCEPTED, in concurrence.

The Bill READ ONCE.

Committee Amendment "A" (H-483) 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 Ensure the Continuity of Mental Health Services" (Emergency)

H.P. 1211 L.D. 1683

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-494).

Comes from the House, with the Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-494).

Which Report was READ and ACCEPTED, in concurrence.

The Bill READ ONCE.

Committee Amendment "A" (H-494) READ and ADOPTED, in concurrence.

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

The Committee on JUDICIARY on Bill "An Act to Amend the Laws Relating to Sex Offenses"

H.P. 763 L.D. 1067

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-503).

Comes from the House, with the Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-503).

Which Report was READ and ACCEPTED, in concurrence.

The Bill READ ONCE.

Committee Amendment "A" (H-503) READ and ADOPTED, in concurrence.

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

The Committee on JUDICIARY on Bill "An Act to Increase the Penalty for Destruction of Law Enforcement Canines"

H.P. 1092 L.D. 1525

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-487).

Comes from the House, with the Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-487).

Which Report was READ and ACCEPTED, in concurrence.

The Bill READ ONCE.

Committee Amendment "A" (H-487) READ and ADOPTED, in concurrence.

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

The Committee on JUDICIARY on Bill "An Act to Authorize a Probation Officer to Bring an Ex Parte Motion to Change the Conditions of Probation"

H.P. 1214 L.D. 1686

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-486).

Comes from the House, with the Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-486).

Which Report was READ and ACCEPTED, in concurrence.

The Bill READ ONCE.

Committee Amendment "A" (H-486) READ and ADOPTED, in concurrence.

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

The Committee on MARINE RESOURCES on Bill "An Act to Restrict the Use of Lobster Trap Dipping Solutions"

H.P. 823 L.D. 1155

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-485).

Comes from the House, with the Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-485).

Which Report was READ and ACCEPTED, in concurrence.

The Bill READ ONCE.

Committee Amendment "A" (H-485) READ and ADOPTED, in concurrence.

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

The Committee on TRANSPORTATION on Bill "An Act to Authorize Department of Transportation Bond Issues in the Amount of \$21,000,000 to Match Available Federal Funds for Highway, State and Local Bridges, Harbor and Airport Improvements"

H.P. 1223 L.D. 1695

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-493).

Comes from the House, with the Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-493).

Which Report was READ and ACCEPTED, in concurrence.

The Bill READ ONCE.

Committee Amendment "A" (H-493) READ and ADOPTED, in concurrence.

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

Divided Report

The Majority of the Committee on BUSINESS LEGISLATION on Bill "An Act to Prohibit Cemetery Corporations and Associations from Soliciting Prearranged Burials and Burial Business"

H.P. 1127 L.D. 1570

Reported that the same Ought Not to Pass.

Signed:

Senators:

BALDACCI of Penobscot

HOBBINS of York

WHITMORE of Androscoggin

Representatives:

TELOW of Lewiston

GURNEY of Portland

REED of Falmouth

STEVENS of Sabattus

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

Signed:

Representatives:

ALLEN of Washington

CONSTANTINE of Bar Harbor

LIBBY of Kennebunk

MARSTON of Oakland

GRAHAM of Houlton

SHELTRA of Biddeford

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

Which Reports were READ.
The Majority OUGHT NOT TO PASS Report was
ACCEPTED in NON-CONCURRENCE.
Sent down for concurrence.

Divided Report

The Majority of the Committee on HUMAN RESOURCES
on Bill "An Act to Clarify the Liability of Relatives
for Support"

H.P. 1196 L.D. 1663

Reported that the same Ought to Pass as Amended
by Committee Amendment "A" (H-495).

Signed:

Senators:

GAUVREAU of Androscoggin
TITCOMB of Cumberland
RANDALL of Washington

Representatives:

MANNING of Portland
ROLDE of York
BOUTILIER of Lewiston
CLARK of Brunswick
BURKE of Vassalboro
PEDERSON of Bangor
CATHCART of Orono
PENDLETON of Scarborough

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

Signed:

Representatives:

DELLERT of Gardiner
HEPBURN of Skowhegan

Comes from the House the Majority OUGHT TO PASS
AS AMENDED Report READ and ACCEPTED and the Bill
PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE
AMENDMENT "A" (H-495).

Which Reports were READ.

The Majority OUGHT TO PASS AS AMENDED Report was
ACCEPTED, in concurrence.

The Bill READ ONCE.

Committee Amendment "A" (H-495) READ and ADOPTED,
in concurrence.

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

Divided Report

The Majority of the Committee on LABOR on Bill
"An Act Concerning Compensation for Sunday
Employment"

H.P. 1040 L.D. 1451

Reported that the same Ought to Pass as Amended
by Committee Amendment "A" (H-498).

Signed:

Senator:

ESTY of Cumberland

Representatives:

PJNEAU of Jay
TAMMARO of Baileyville
MCKEEN of Windham
LUTHER of Mexico
RAND of Portland
MCHENRY of Madawaska

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

Signed:

Senators:

MATTHEWS of Kennebec
WHITMORE of Androscoggin

Representatives:

BUTLAND of Cumberland
MCCORMICK of Rockport
REED of Falmouth

RUHLIN of Brewer

Comes from the House the Majority OUGHT TO PASS
AS AMENDED Report READ and ACCEPTED and the Bill
PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE
AMENDMENT "A" (H-498).

Which Reports were READ.

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

Divided Report

The Majority of the Committee on MARINE RESOURCES
on Bill "An Act to Amend the Lobster and Crab Fishing
License Law"

H.P. 1215 L.D. 1687

Reported that the same Ought to Pass as Amended
by Committee Amendment "A" (H-459).

Signed:

Senators:

BRANNIGAN of Cumberland
ESTES of York
BRAWN of Knox

Representatives:

MITCHELL of Freeport
HOLT of Bath
COLES of Harpswell
RUHLIN of Brewer
CONSTANTINE of Bar Harbor
SKOGLUND of St. George
LOOK of Jonesboro
TOWNSEND of Eastport

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

Signed:

Representatives:

HUTCHINS of Penobscot
MARSH of West Gardiner

Comes from the House the Majority OUGHT TO PASS
AS AMENDED Report READ and ACCEPTED and the Bill
PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE
AMENDMENT "A" (H-459).

Which Reports were READ.

The Majority OUGHT TO PASS AS AMENDED Report was
ACCEPTED, in concurrence.

The Bill READ ONCE.

Committee Amendment "A" (H-459) READ and ADOPTED,
in concurrence.

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

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 COLLINS for the Committee on BANKING AND
INSURANCE on Bill "An Act to Require Proration of
Workers' Compensation Rates for Employees Who Perform
Work Falling Under More than One Classification"
S.P. 623 L.D. 1720

Ought to Pass

Senator BERUBE for the Committee on STATE AND
LOCAL GOVERNMENT on Bill "An Act Modifying the
Territory of the Lucerne-in-Maine Village
Corporation" (Emergency)

S.P. 628 L.D. 1722

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 GILL for the Committee on EDUCATION on Resolve, to Establish the School Organization Study Committee

S.P. 534 L.D. 1469

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (S-270).

Which Report was READ and ACCEPTED.

The Resolve READ ONCE.

Committee Amendment "A" (S-270) READ and ADOPTED.

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

Divided Report

The Majority of the Committee on LABOR on Bill "An Act to Clarify the Definition of State Employee under the State Employee Labor Relations Act"

S.P. 442 L.D. 1195

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (S-269).

Signed:

Senators:

ESTY of Cumberland

MATTHEWS of Kennebec

Representatives:

PINEAU of Jay

MCHENRY of Madawaska

MCKEEN of Windham

LUTHER of Mexico

RUHLIN of Brewer

TAMMARO of Baileyville

RAND of Portland

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.

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

SECOND READERS

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

House

Bill "An Act Making It Illegal to Possess Lobsters Caught Illegally"

H.P. 693 L.D. 945

Which was READ A SECOND TIME.

On motion by Senator BRANNIGAN of Cumberland, Senate Amendment "A" (S-261) READ and ADOPTED.

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

Sent down for concurrence.

ORDERS OF THE DAY

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

An Act to Provide for the Forfeiture of Firearms Used to Commit Crimes

H.P. 820 L.D. 1148

(C "A" H-337)

Tabled - June 12, 1989, by Senator CLARK of Cumberland.

Pending - ENACTMENT

(In Senate, June 5, 1989, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-337), in concurrence.)

(In House, June 8, 1989, PASSED TO BE ENACTED.)

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

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

An Act to Strengthen Criminal Drug Laws in the State by Allowing Forfeiture of Firearms and Other Dangerous Weapons

H.P. 826 L.D. 1158

(C "A" H-336)

Tabled - June 12, 1989, by Senator CLARK of Cumberland.

Pending - ENACTMENT

(In Senate, June 5, 1989, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-336), in concurrence.)

(In House, June 8, 1989, PASSED TO BE ENACTED.)

On motion by Senator HOBBS of York, 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, Senate Amendment "A" (S-258) READ and ADOPTED.

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:

SENATE REPORTS - from 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

Majority - Ought Not to Pass.

Minority - Ought to Pass as Amended by Committee Amendment "A" (S-214).

Tabled - June 12, 1989, by Senator CLARK of Cumberland.

Pending - Motion of Senator BERUBE to ACCEPT the Minority Ought to Pass as Amended Report

(In Senate, June 8, 1989, Reports READ.)

On motion by Senator CLARK of Cumberland, Tabled until Later in Today's Session, pending the motion of Senator BERUBE of Androscoggin, to ACCEPT the Minority OUGHT TO PASS AS AMENDED Report.

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

An Act to Provide a Secure Treatment Facility at the Maine Youth Center

S.P. 90 L.D. 95

Tabled - June 12, 1989, by Senator PEARSON of Penobscot.

Pending - ENACTMENT

(In Senate, June 5, 1989, PASSED TO BE ENGROSSED.)

(In House, June 9, 1989, PASSED TO BE ENACTED.)

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

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

Bill "An Act Amending the Law Governing the Maine Committee on Aging"

S.P. 544 L.D. 1515

Tabled - June 13, 1989, by Senator CLARK of Cumberland.

Pending - ADOPTION OF COMMITTEE AMENDMENT "A" (S-251)

(In Senate, June 13, 1989, Committee Amendment "A" (S-251) READ.)

Senate at Ease

Senate called to order by the President.

On motion by Senator CLARK of Cumberland, Tabled until Later in Today's Session, pending ADOPTION of Committee Amendment "A" (S-251).

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

COMMITTEE REPORTS

House

Ought Not to Pass

The following Ought Not to Pass Report 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 Reclaim Small Ponds"

H.P. 1232 L.D. 1717

Ought to Pass As Amended

The Committee on AGRICULTURE on Resolve, to Assess the Needs of the Equine Industry and to Establish a Commission to Study the Creation of a Statewide Horse Council

H.P. 878 L.D. 1221

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-506).

Comes from the House, with the Report READ and ACCEPTED and the Resolve PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-506).

Which Report was READ and ACCEPTED, in concurrence.

The Resolve READ ONCE.

Committee Amendment "A" (H-506) READ and ADOPTED, in concurrence.

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

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

COMMITTEE REPORTS

House

Ought to Pass As Amended

The Committee on APPROPRIATIONS AND FINANCIAL AFFAIRS on Bill "An Act to Amend the Budget to Fund a Position in the Department of Environmental Protection to Review Hydropower Applications"

H.P. 748 L.D. 1052

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-505).

Comes from the House, with the Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-505).

Which Report was READ and ACCEPTED, in concurrence.

The Bill READ ONCE.

Committee Amendment "A" (H-505) READ and ADOPTED, in concurrence.

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

The Committee on EDUCATION on Bill "An Act to Enhance the Status of Vocational-technical Education in Maine"

H.P. 815 L.D. 1127

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-507).

Comes from the House, with the Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-507).

Which Report was READ and ACCEPTED, in concurrence.

The Bill READ ONCE.

Committee Amendment "A" (H-507) READ and ADOPTED, in concurrence.

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

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

COMMITTEE REPORTS

House

Ought to Pass As Amended

The Committee on JUDICIARY on Bill "An Act to Grant the Power of Equitable Jurisdiction to the Maine District Court"

H.P. 167 L.D. 232

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-508).

Comes from the House, with the Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-508).

Which Report was READ and ACCEPTED, in concurrence.

The Bill READ ONCE.

Committee Amendment "A" (H-508) READ and ADOPTED, in concurrence.

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

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

ENACTORS

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

An Act to Provide for the Forfeiture of Firearms Used to Commit Crimes

H.P. 820 L.D. 1148

(C "A" H-337)

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

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

ENACTORS

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

Emergency

An Act Regarding Confirmation of Nominees to the Adaptive Equipment Loan Program Board

S.P. 650 L.D. 1745

This being an Emergency Measure and having received the affirmative vote of 32 Members of the Senate, with No Senators having voted in the

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.

Under suspension of the Rules, ordered sent forthwith.

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:

HOUSE REPORTS - from the Joint Select Committee on CORRECTIONS on Bill "An Act to Transfer Jurisdiction over County Jails from County Government to the Department of Corrections"

H.P. 857 L.D. 1189

Majority - Ought to Pass as Amended by Committee Amendment "A" (H-445).

Minority - Ought Not to Pass.

Tabled - June 13, 1989, by Senator CLARK of Cumberland.

Pending - ACCEPTANCE OF EITHER REPORT

(In Senate, June 13, 1989, Reports READ.)

(In House, June 12, 1989, the Majority OUGHT TO PASS AS AMENDED Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-445).)

Senator BUSTIN of Kennebec, moved to ACCEPT the Majority OUGHT TO PASS AS AMENDED Report, in concurrence.

Senator PERKINS of Hancock requested a Division.

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

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

Senator BUSTIN: Thank you Mr. President. Mr. President, men and women of the Senate. This Bill, as everyone knows, is the Bill that would transfer the county jails from county government to the Department of Corrections. This is a Bill that I, quite frankly, have been very ambivalent about and I think for a lot of good reasons. For the same reasons that people are considering it now. We have worked for a long time on this. I was ambivalent because I thought at first this was something that nobody would consider. When it first came before the Committee, I had said to the Committee, are they willing to work on this Bill if I put together a coalition of those people who would be effected by it, i.e. the Department, the sheriffs, and the jail administrators, and the Legislators, etc. To my surprise, a good many of the Committee wanted to work that Bill, so I sent the Department of Corrections back to rework the Bill in a way that would make a transition easier and equitable and be able to make the transition so that it was a lot smoother than it may have been had we not done that. They came back with that and that is the Report which you have before you.

The other thing that I did when we were working that Bill is knowing the effect that it would have on the county or on those people who may have, and I will use the word somewhat loosely, an emotional attachment to the jail, if you can ever have an emotional attachment to a jail. I wanted to make sure that if this event took place that the sheriffs were assured of having their "place in history". In other words, they would be assured of not being

kicked out of their home and having to find other office space.

The other thing that I was concerned about was making sure the those very good programs, and one of the reasons I was ambivalent about the whole thing was because, in fact, in Kennebec County we have an excellent sheriff in the form of Frank Hackett, who has done so much in developing programs and finding alternative ways of addressing the social issues and that made me ambivalent about the Bill.

What makes me go for the Bill is that, and I wanted to make sure Sheriff Hackett had his place in our county jails, because we are one of the counties who have put out a bond issue, have gotten it passed, and now need to go out and get those bonds funded, and we are in the process of building that jail. In that plan of the Kennebec County jail is the Sheriff's office put in that same historic building that the Sheriff's office was in when that building was built one hundred and thirty-nine years ago. So, I did not want to see that loss either and I knew there were other counties who had that same kind of problem, that sheriff's offices and dispatch services were in the same building as the jails were. So, what we did was make it so the sheriffs have the option of making the determination as to whether they are going to remain in those facilities or not. Once we got those solved and mandated that the alternative sentencing, the community type programs, would continue.

It seemed to me that it made a whole lot of sense to have the state take over. There are a lot of reasons for that. For one thing, it said that it will cost us more to have a state system with the jails. Of course it will cost more. Why do we think that will cost more? Because we will treat our employees better, they will get paid what they are worth, and you will be able to get better employees because of it. It is traditional for my county, and I suspect for yours, that what happens with the employees is that they stay for a little bit of time and then they leave, because the conditions are not conducive to keeping them there. Under the state system, I believe, it would be much better for them. If you create an atmosphere where it is much better for the employees to work, then you are going to have better employees. I can't imagine that there is anyone here who doesn't know that or doesn't understand that. That was an important issue for me.

The other issues are that we do not have consistency throughout the state for our county jails. You can see that when you read about your different jails. In point of fact, we do not have the consistency we need and I understand a lot of us like that kind of control, but in fact it works against us too many times. It doesn't give us a fair way of treating prisoners throughout the state. I think that could happen if we took it over as state facilities. One of the major things that happened and created a lot of time and expense is that when your jail is out of bed space, they have to call each and every other county to find out if they have the jail space, so that you are constantly doing that shift of prisoners, only you are doing it with sixteen different entities. What you would do in this instance is that you would have one entity making a decision as to where that person went. Right now you are already housing state prisoners in your jails, under the Community Corrections Act that we passed four years ago. All this is, as I look at it, is an extension of that Community Corrections Act and understanding that we do need to make that shift between the jails and the state. If you are going to do that, and we already took that first step, then I

think it is important that one entity answer to that and answer to the prisons in this state. I think that it will create a better atmosphere for delivering services and make a better overall system. You will have better control of it in that instance. I ask for your support of the Majority Report.

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. This legislation is being disguised to all of us as property tax relief. It is going to relieve the property taxes in the seventeen different counties by shifting that responsibility and cost to the state. In the Committee Amendment, which is being proposed by the Committee, the fiscal note is 25.6 million dollars annually to take over the cost and control of county jails. Right now that cost is at sixteen or seventeen million dollars. The Taxation Committee has proposed, in its package, to reimburse for the cost of running the county jails to the communities as obligated to pay for that cost of operation. To go beyond that and seek to control the county jails is to increase the cost. We do not have the money to do that, presently, as all of you are aware of the certain budget restrictions that we do have.

The second point is that it doesn't make good policy sense. The reason it doesn't make good policy sense is to just give you a little example of what goes on at the state level. At the state level in the Bangor Pre-release Center, we have had a gallon of paint on requisition for over three months, because the inmates stove up the wall and it has taken us three months and it hasn't even been approved yet for a gallon of paint to fix the mess. At Bucks Harbor, which is a state facility, we had a girlfriend of one of the inmates cut through the wire, go in and get her boyfriend and then come out with her boyfriend. Three or four days later all of a sudden they are picked up. What did the state do to fix the fence? The state didn't do it as required by the standard. What the state did was they sort of took a rope and wired the fence together.

We had a riot at Thomaston, ten inmates were segregated in that block and two of those inmates were taken to different counties. Then inmates were taken to different county prisons throughout the area. We had a suicide at the state prison, it is not the best avenues to say the state control for uniformity and conformity, it isn't going to work. You've got local control, you have local concerns. The property tax package, developed by the Taxation Committee, is going to pay for the cost of operating those jails. In this package, it isn't just taking over the cost of running the jails, it isn't just increasing the state bureaucracy, it is increasing it by thirty-seven new positions on top of the five hundred and seventy-seven positions. There are ladies and gentlemen here today, who are working on the county programs, that are fighting this proposal. Why are they fighting this proposal if they are to be paid so much better? Why are they fighting it? Because presently they are one out of sixty-four, with the new system they are going to be one out of six hundred. Their retirement benefits that they built up within, those county programs, get thrown right out that window and they have to start in all over again. That is why they are fighting this proposal. That is why this proposal doesn't make sense. I am not willing to increase the sales and income tax to the citizens of the State of Maine so that we don't have as much property tax to run the

county jails. The Taxation Committee report will take care of the costs of running the county jails.

If you want people in the State of Maine who are upset about paying more and more income taxes, as indicated on polls I have seen on television stations from here to Kittery and as far north as Fort Kent, people are upset about the amount of money they paid in income taxes, they hope they never experience those levels again. And, all you are doing here is guaranteeing those people that not only are they going to pay the same level, but they are going to pay more. That is all you are looking for here, because it has happened in every single state that has proposed it and now states are trying to go back and get away from state control to the prisons, because they just cost more and more money. You are not solving one darn thing with this proposal, other than to have it run out of a state bureaucracy. If the state is doing such a fine job we can start listing the different institutions that are being run by the state that there may be certain questions about and to add one more to it may be the straw that broke the camel's back.

I hope today before we go ahead and try to pursue this, that we at least note that there are two counties that their buildings are paid for, the state is taking them over. Is there any reimbursement to those counties for the taxpayers who have paid for those buildings? No, because those counties are creatures of the state. That is what the Attorney General's office says, but there is nothing to prevent a class action suit by the taxpayers of those counties to sue the state for taking of their property without any reimbursement. What about the counties who have already paid for the jails or are undergoing their jails expansions? What about the costs that those communities have already paid. Nothing is being said.

Our people want property tax relief and we are going to give them property tax relief, but we are going to do it in an economical way, which is paying for the costs of operation. That is what we propose to do, not for taking over the control. God knows we have enough to work with here without encouraging more and more participation here and believe me, two years is not going to be enough to take over these particular situations. So, I would hope that you would support the Ought Not to Pass Report. Thank you.

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

Senator BUSTIN: Thank you Mr. President. Mr. President, men and women of the Senate. There are a number of things that have been said by the good Senator from Penobscot, Senator Baldacci, and I appreciate his depth that he presents his arguments with. I think the most telling one, as to the money is, that we are not going to pay for the bonds that are already out on these jails. In fact, we are. L.D. 1189 requires that the state assume full responsibility for that indebtedness remaining on any of the county jail bond issues. That was a question that I was particularly concerned about, because here I am, in effect, actually building a jail for the state. There is a reason why I continue to build that jail and why I continue every Friday afternoon going to that jail committee, that is because I want the best facility; just as I Chair the Joint Select Committee on Corrections, because what we want are the best facilities in the state.

The reason that Kennebec County, itself, is so far behind in building a jail, (remember they were the first county that was approached to build a new jail - they are almost the last county to begin

building a new jail. Why?) because we had commissioners, we had all kinds of people who were saying, 'no, we are not going to take care of our prisons in that way'. It took me two times, this time on the bond issue, twice before the people, before I could get that bond issue passed. Constantly on the Kennebec County budget, I am even proposing that we move as a budget committee instead of it coming to the delegation, because it is such a long, arduous, painful, incredible process for us to do that. Do you know what always holds us up? The jail budget. That is always what holds us up, the jail and the sheriff. Well, I propose to remove that issue of the jail budget from that discussion, because I propose that this state take that over, as they should.

One of the things that was said by the good Senator from Penobscot, Senator Baldacci, was that when we had a riot at the Maine State Prison, we had to move prisoners into the jails. Good argument, for the state to have control of those facilities, absolutely, if they are going to move their inmates into it, we move them under the Community Corrections Act, we move them out when we have riots. Every facility like that when you have somebody institutionalized are going to have those problems. I think that history proves that Commissioner Don Allen has been absolutely great in administering his Department and keeping those things under control. The lockup that we had, I think a lot here sitting in this Chamber remember that lockup. You did not lose one person in that lockup and that is a very volatile situation. It was taken care of and it was taken care of appropriately. That does not mean to say that the county people can't do the same. What it means to say is that we do have a lot of things that have happened in the counties, in my own county before Sheriff Hackett took over, we have to depend on those people and sixteen counties to do that. In the Legislature we have a process where we confirm the Commissioner of the Department of Corrections. We have some control over that. We have a Committee in the Legislature, whether it is the Human Resources Committee, or it is the Joint Select Committee on Corrections, we have a Committee that oversees that. What do we have at the county level? It is important that we have that kind of overseeing.

It was mentioned that there were two counties who have already paid for their jails and that they weren't going to be reimbursed. In fact, that is true, but it was also stated that the counties are a creature of state government. As such, they are at the whim of state government. And, in fact, you are not taking away the jail, what you are going is taking away the function of the jail. You are giving it to the state. The function is what is important for that property, not the property itself. The property is already there.

One of the other issues that was brought up is the retirement issue. When we negotiated and worked on this compromise, which you see before you, we had one of the unions come to an agreement as to what that retirement package was going to be. No, you don't wipe out everything that county employees have earned for their retirement.

However, what you do is split off the two so that what they earned as employees of the county in their retirement, they will get and then they will start as state employees and they will earn that. Otherwise, you would have a very huge, unfunded liability, as you had years ago with the teachers, and we do not want to create that kind of a thing. Besides, I don't think it is that big of an issue, simply because you do not have enough county employees

spending enough time to earn their retirement in any case. So, as a state worker, they just might get better benefits in that regard.

We all can have all kinds of war stories for all of our jails and all of the prisons and all of that. What I can tell you is that we have now worked for almost two years as a Joint Select Committee on Corrections, I can tell you that the Commissioner of Corrections is doing an excellent job with getting that system under control and I appreciate what he has done, I think he has done a great job doing that. I believe he will do that same job with administering the county jails. I think that it should happen and it should happen now.

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. Just a point of clarification. The issue was not who would cover the remaining indebtedness to the county and it is covered for in the legislation, but the cost and expenses that the people of the counties have already put into their facility. That is not addressed in the legislation and it probably isn't intended to because of the cost.

As far as the employees and the reason that the employees, at least the people who were willing to take time off to come down here today to oppose this legislation, the amount of time that they have worked for the counties is thrown right out that window.

With this Bill they are starting from scratch, they are one year probationary state employees. That is their categorization, and as was alluded to by the good Senator from Kennebec, too much of an increase in the unfunded liability of the retirement system. I submit to you that the people who are working within the county facilities are very capable, competent people. The sheriff that runs our county was on the Bangor Police Department for twenty-two years. He has been sheriff for a good number of years, he has done a terrific job, he has been recognized by the Federal Bureau of Investigation. The State of Maine sends their people to Penobscot County for certain types of training in correctional facilities. We have a good running facility in Penobscot County and I would hate to see the state come in and take it over and ruin that for the employees and for the operations. Thank you Mr. President.

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

A vote of Yes will be in favor of 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 ANDREWS, BALDACCI, BERUBE, BOST, BRANNIGAN, BUSTIN, CLARK, DUTREMBLE, ERWIN, ESTES, ESTY, GAUVREAU, HOBBS, KANY, MATTHEWS, PEARSON, THERIAULT, TITCOMB, THE PRESIDENT - CHARLES P. PRAY

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

ABSENT: Senator TWITCHELL

Senator BALDACCI of Penobscot requested and received Leave of the Senate to Change his vote from NAY to YEA.

19 Senators having voted in the affirmative and 15 Senators having voted in the negative, with 1 Senator being absent, the motion by Senator BUSTIN of Kennebec, to ACCEPT the Majority OUGHT TO PASS AS AMENDED Report, in concurrence, PREVAILED.

The Bill READ ONCE.

Committee Amendment "A" (H-445) READ and ADOPTED, in concurrence.

The Bill as Amended, TOMORROW ASSIGNED FOR SECOND READING.

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

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

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

Tabled - June 13, 1989, by Senator CLARK of Cumberland.

Pending - FURTHER CONSIDERATION
(In Senate, June 8, 1989, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-222).)

(In House, June 13, 1989, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-222) AS AMENDED BY HOUSE AMENDMENT "A" (H-500) thereto, in NON-CONCURRENCE.)

The Senate RECEDED and CONCURRED.

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

HOUSE REPORTS - from the Committee on LABOR on Bill "An Act Concerning Compensation for Sunday Employment"

H.P. 1040 L.D. 1451

Majority - Ought to Pass as Amended by Committee Amendment "A" (H-498).

Minority - Ought Not to Pass.

Tabled - June 13, 1989, by Senator CLARK of Cumberland.

Pending - ACCEPTANCE OF EITHER REPORT
(In Senate, June 13, 1989, Reports READ.)

(In House, June 13, 1989, the Majority OUGHT TO PASS AS AMENDED Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-498).)

The Minority OUGHT NOT TO PASS Report was ACCEPTED in NON-CONCURRENCE.

Sent down for concurrence.

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

SENATE REPORTS - from the Committee on LABOR on Bill "An Act to Clarify the Definition of State Employee under the State Employee Labor Relations Act"

S.P. 442 L.D. 1195

Majority - Ought to Pass as Amended by Committee Amendment "A" (S-269).

Minority - Ought Not to Pass.

Tabled - June 13, 1989, by Senator CLARK of Cumberland.

Pending - ACCEPTANCE OF EITHER REPORT
(In Senate, June 13, 1989, Reports READ.)

Senator MATTHEWS of Kennebec, 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. Currently, this measure addresses some reclassification or declassifying some five hundred employees that would

be involved in this particular change, out of fourteen thousand, plus or minus, employees. Currently, these positions are supervisory in nature and thus are in an advisory capacity in the area of negotiations and some of them senior administrative staff, but all the five hundred positions are in the supervisory capacity. They are currently not part of that bargaining unit and under this legislation would fall under or be shifted from an exempt status to be placed under nonexempt status. I believe that any employee who is in a position of being privy to the information, helping the administration or the department gather and place that information and doing the research to negotiate, should not be put in the compromising position. I believe to change them and to change their status would, in fact, be requesting that they are compromising themselves. Therefore, I would ask that you not support the Majority Ought to Pass as Amended Report at this time. Thank you.

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 that you will support the Majority Report and I would like to give you a little bit of information about this Bill and why this Bill is here. L.D. 1195, if you get the Bill and look at the statement of fact, "the language repealed in this bill has been relied upon as a basis for attempting to remove hundreds of state positions from collective bargaining units through unit clarification petitions before the Maine Labor Relations Board. The law already excludes major policy-influencing positions from state bargaining units, as well as confidential positions with major roles in collective bargaining and contract administration. Excluding these other positions from collective bargaining serves no governmental purpose, increases patronage and substantially curtails career ladders within bargaining unit job series. This bill also requires the State to receive board approval before establishing new confidential positions." As has been alluded by the good Senator from Androscoggin, Senator Whitmore, five hundred of employees. There are hundreds of people that are now good state employees, living in a state of limbo, because they don't know whether or not they are protected as state employees or what their situation is. If you think that the positions are going to be resolved in these conflicts are going to be resolved by the Maine Labor Relations Board, ladies and gentlemen, these conflicts and these people have been petitioned and sitting in limbo since 1982. I have some of those hundreds of people right before me, their petitions. They are a lot of good, hard-working people who work for the state. I took out the statute to find out how the change came about and what it says. Let's look at Title 26, under definition of state employee. "State employee means any employee of the State of Maine performing serves within the Executive Department, except any person elected by popular vote, appointed to office pursuant to statute, ordinance or resolution, whose duties necessarily imply a confidential relationship with respect to matters subject to collective bargaining, as between such person and the Governor who is a Department or Division head, appointed to office pursuant to statute, who has been employed less than six months, who is temporary or seasonal, who is serving as a member of the State Militia, who is a staff attorney, who is appointed as a major policy-influencing position", and here we have the problem J, "who substantially participates in the formulation and effectuation of policy in a

Department or Agency." I have never seen such language that could be termed generalistic and confusing and I guess could serve just about any purpose that an executive wants to use it for. We know what happened last year with six members of the Department of Environmental Protection, in that attempt to reclassify those positions. We are not just talking about pieces of paper. These are hard-working state employees. This change does not impact in a negative way the administration and the Executive Department from carrying out its policy-influencing and its state purpose. What it does is allow good, hard-working employees to continue doing the job that we are proud of and have the same kinds of protections afforded to other state employees. It is a good Bill and it is a necessary change and I hope you will support the majority members of the Committee.

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 would like to go back to a couple of the remarks that were made by the good Senator from Kennebec, Senator Matthews, when he made reference to Title 26, subsection J. The part that has troubled me on this particular piece of legislation from the beginning is that the language he makes reference to was enacted in 1981, which clearly identifies that as being enacted under the previous administration. It seems to me that is language that was put in there that was convenient at the time and that now the motive is to remove it because it is now not convenient. I don't know how else I can interpret that.

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. It was wrong in 1981 and it is wrong now and we ought to change the law.

Senator CAHILL of Sagadahoc requested a Division. On motion by Senator MATTHEWS of Kennebec, supported by a Division of at least one-fifth of the Members present and voting, a Roll Call was ordered.

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

Senator BUSTIN: Thank you Mr. President. Mr. President, men and women of the Senate. I just wanted to clear up a couple of things I thought I heard. In fact, these positions are already in the bargaining unit and already are part of the classified positions. All we are trying to do is make sure that these people who are already in those positions are not held under the gun that they have been held under since 1982, not knowing whether they are fish or fowl, because of the petitions that have been there to get them out of their classified positions. What you are really looking at is more political patronage jobs, that is what you are really looking at and that is what we have tried to stop for all of these years and we haven't been able to do it. We send the Bill down, it has been vetoed, hopefully we can send this Bill down again and hopefully it will not be vetoed.

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 pose a question to any member of the Committee. I am a little confused by the debate from the Senator from Androscoggin, Senator Whitmore. I would like to have somebody clear that up. It seems to me that this Bill was passed in 1981 and that was when Governor Brennan was here and I assumed it was a bad

idea then. It passed so why should we change it now? Perhaps his comments have some merit if we have a different administration now and we want to change the rules. I am wondering if it is such a bad idea now, how did this law become enacted when the same people who seem to be opposing it are now supporting repealing it? I would like to have someone respond to that. Thank you.

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

The Chair recognizes the Senator from Kennebec, Senator Matthews.

Senator MATTHEWS: Thank you Mr. President. Mr. President, men and women of the Senate. I was elected in 1983 and I just wanted to say, as I recall when we changed the office downstairs and our current Governor, Governor McKernan, ran for office as Governor, one of his promises to the people of this state and to the state employees was that he would set the tone for a new administration. One that would attempt to work wholeheartedly and above board with state employees and cherish the hard work that they provide. So, all I can tell you is we have an opportunity to set the Record straight and to do what the our current Governor said he wanted to do. We went too long with problems between state employees in our union and the administration in years past. Let's really set the new agenda and let's have a kinder and gentler new few years. Thank you Mr. President.

THE PRESIDENT: The pending question before the Senate is the motion by Senator MATTHEWS of Kennebec, 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 TWITCHELL of Oxford who would have voted NAY.

The Doorkeepers will secure the Chamber.
The Secretary will call the Roll.

ROLL CALL

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

NAYS: Senators BALDACCI, BRAWN, CAHILL, CARPENTER, COLLINS, DILLENBACK, EMERSON, GILL, GOULD, HOLLOWAY, LUDWIG, PEARSON, PERKINS, RANDALL, WEBSTER, WHITMORE

ABSENT: Senators None

PAIRED: Senators CLARK, TWITCHELL

17 Senators having voted in the affirmative and 16 Senators having voted in the negative, with 2 Senators having paired their votes and No Senators being absent, the motion by Senator MATTHEWS of Kennebec, to ACCEPT the Majority OUGHT TO PASS AS AMENDED Report, PREVAILED.

The Bill READ ONCE.

Committee Amendment "A" (S-269) READ and ADOPTED.

The Bill as Amended, TOMORROW ASSIGNED FOR SECOND READING.

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

SENATE REPORTS - from 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

Majority - Ought Not to Pass.

Minority - Ought to Pass as Amended by Committee Amendment "A" (S-214).

Tabled - June 13, 1989, by Senator CLARK of Cumberland.

Pending - Motion of Senator BERUBE to ACCEPT the Minority OUGHT TO PASS AS AMENDED Report (In Senate, June 8, 1989, Reports READ.)

On motion by Senator CLARK of Cumberland, Tabled Unassigned, pending the motion of Senator BERUBE of Androscoggin, to ACCEPT the Minority OUGHT TO PASS AS AMENDED Report.

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

An Act to Provide a Secure Treatment Facility at the Maine Youth Center

S.P. 90 L.D. 95

Tabled - June 12, 1989, by Senator PEARSON of Penobscot.

Pending - ENACTMENT

(In Senate, June 5, 1989, PASSED TO BE ENGROSSED.) (In House, June 9, 1989, PASSED TO BE ENACTED.)

Senate at Ease

Senate called to order by the President.

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.

On further motion by same Senator, Senate Amendment "A" (S-272) READ and ADOPTED.

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

Sent down for concurrence.

Senate at Ease

Senate called to order by the President.

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

Bill "An Act Amending the Law Governing the Maine Committee on Aging"

S.P. 544 L.D. 1515

Tabled - June 13, 1989, by Senator CLARK of Cumberland.

Pending - ADOPTION OF COMMITTEE AMENDMENT "A" (S-251)

(In Senate, June 13, 1989, Committee Amendment "A" (S-251) READ.)

On motion by Senator CLARK of Cumberland, Senate Amendment "A" (S-268) to Committee Amendment "A" (S-251) READ and ADOPTED.

Committee Amendment "A" (S-251) as Amended by Senate Amendment "A" (S-268) thereto, ADOPTED.

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

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

Bill "An Act to Amend the Liquor Laws Relating to Wine Tasting"

S.P. 485 L.D. 1327 (C "A" S-252)

Tabled - June 13, 1989, by Senator CLARK of Cumberland.

Pending - PASSAGE TO BE ENGROSSED AS AMENDED (In Senate, June 13, 1989, READ A SECOND TIME.)

On motion by Senator CAHILL of Sagadahoc, the Senate RECONSIDERED whereby it ADOPTED Committee Amendment "A" (S-252).

On further motion by same Senator, Senate Amendment "A" (S-271) to Committee Amendment "A" (S-252) READ and ADOPTED.

Committee Amendment "A" (S-252) as Amended by Senate Amendment "A" (S-271) thereto, ADOPTED.

Which was PASSED TO BE ENGROSSED, as Amended. Sent down for concurrence.

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

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

Senator WEBSTER of Franklin was granted unanimous consent to address the Senate off the Record.

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

After Recess

Senate called to order by the President.

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

COMMITTEE REPORTS

House

Ought to Pass

The Committee on STATE AND LOCAL GOVERNMENT on Bill "An Act to Amend the Procedure for Approval of the Lincoln County Budget"

H.P. 1250 L.D. 1748

Reported that the same Ought to Pass.

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

Which Report was READ and ACCEPTED, in concurrence.

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

Ought to Pass in New Draft under New Title

The Committee on LABOR on Bill "An Act Concerning Unemployment Benefit Eligibility"

H.P. 1134 L.D. 1577

Reported that the same Ought to Pass in New Draft under New Title Bill "An Act to Permit a 7-day Recall to Work Period"

H.P. 1254 L.D. 1753

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

Which Report was READ and ACCEPTED, in concurrence.

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

ORDERS OF THE DAY

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

Bill "An Act to Reduce the Potential for Violence During Labor Disputes"

H.P. 292 L.D. 404
(C "A" H-417)

Tabled - June 13, 1989, by Senator CLARK of Cumberland.

Pending - PASSAGE TO BE ENGROSSED AS AMENDED, in concurrence

(In Senate, June 13, 1989, RECONSIDERED PASSAGE TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-417).)

(In House, June 9, 1989, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-417).)

On motion by Senator ESTY of Cumberland, Senate Amendment "A" (S-262) READ.

THE PRESIDENT: The pending question before the Senate is the ADOPTION of Senate Amendment "A" (S-262).

Senator WEBSTER of Franklin requested a Division.

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 would say this is catching me by surprise, as I have not seen this before. I guess I would like to the good Senator from Cumberland, Senator Esty, to explain the Amendment to those present.

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

The Chair recognizes the Senator from Cumberland, Senator Esty.

Senator ESTY: Thank you Mr. President. Mr. President, men and women of the Senate. This Amendment more clearly defines Section 1, in L.D. 404, "An Act to Reduce the Potential for Violence During Labor Disputes", that we gave first reading and passed yesterday.

It more clearly defines that Section, in which it discusses the types of companies, partnerships, corporations that may perform strikebreaking activities. It defines it more clearly than what the present Bill had done and it was the intent of the majority of the Labor Committee to define it in the fashion that the Amendment so does. Thank you.

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. As I read this, in going back to the time that we discussed it in Committee, it seemed that at that time it was set aside or Tabled for a period of time, so that both sides could get together and work out some language. If I remember correctly, the language from those Representatives that were representing what appears to be the majority of the Committee, I thought they couldn't come to some type of agreement between there and the administration, that something would be palatable. The last thing I heard for a figure that was being used was three times within the last five years for twenty-five employees, as opposed to one hundred. Clearly, when you tighten it up to read twice in ten years for ten people, I would say that tightens it up about as well as you could lock the door on anything. I would urge the Body present to reject the pending motion.

THE PRESIDENT: The pending question before the Senate is the motion by Senator ESTY of Cumberland, to ADOPT Senate Amendment "A" (S-262).

A Division has been requested.

Will all those Senators in favor of the motion by Senator ESTY of Cumberland, to ADOPT Senate Amendment "A" (S-262), please rise in their places and remain standing until counted.

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

19 Senators having voted in the affirmative and 15 Senators having voted in the negative, the motion by Senator ESTY of Cumberland, to ADOPT Senate Amendment "A" (S-262), PREVAILED.

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. Before this Senate routinely Passes this Bill to be Engrossed, I sat through all of these labor Bills out of the Committee that are diversified on philosophy and the things we have heard about this Bill and some of the other Bills coming out of the Labor Committee. I find it interesting, to say the least, that we continue to deal with the strikebreaker Bill. There are very few people in this Chamber, and people in this State, who actually agree that a company ought to be able to mass lay off people and replace them. The problem is, what say do we have here in Maine, when we come right down to it. The federal government says, 'you can only go sixty-five miles an hour in the country.' Maine can't pass a law you can go one hundred miles per hour. It is very simple.

You don't have to be a Philadelphia lawyer to know that federal government has jurisdiction over labor relation laws. Why are we dealing with this issue? Why do we continue to posture and pass laws, so we can sustain vetoes, when they are unnecessary? Everybody agrees that the law ought to be changed. What we ought to be doing is going down and calling our Congressmen and getting them to change this law in Washington. It ought to be changed, but it ought to be done where the jurisdiction lies, in Washington. Let Mr. Brennan and Mrs. Snowe and all of those people down in Washington do what they should be doing, do what we want them to do, if that is what we want. Why are we presenting this Bill? Why do we continue to pass these Bills, that we know are going to end up not being passed and we know are going to end up being vetoed? It ought to be vetoed, it is unconstitutional. My four year old could figure that out. Why are we dealing with this? I suggest that we ought to stop wasting the people's time, do the business we are elected to do, and go home. I am opposing this measure and I hope in the future you will do the same.

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. In response to the questions and the statements by the good Senator from Franklin, our good Congressman, Joseph E. Brennan, is pursuing legislation and we are very thankful for that, but we are here to do a job and let's let the voters make that decision.

I would submit that the constituents in the good Senator from Franklin's district and mine and across the state, don't particularly appreciate what strikebreakers do. Let's let them decide.

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. Seldom does the Senator from Franklin, Senator Webster, get to his feet to pontificate that it doesn't prompt me to get to my feet to pontificate.

Suffice it to say, at this hour after a rather long and challenging and demanding day, that labor laws are not the exclusive purview of the United States government. If that were the case, then we would, indeed, find ourselves in a mass of bureaucracy from which it would be difficult to extricate ourselves. It is not unconstitutional within the realm of state control to pass laws addressing labor issues. That is why we are here. And, four year olds can understand that too. 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 listened to the debate and this time after I had spoken and the Senator from Cumberland has risen, I will respond. I haven't done that yet, but I am ready to do that. I would hope that what we might do is Table this Bill, what I would do, if we really think this is Constitutional, and we will ask the courts to look at this and see if it is Constitutional.

If that is what everybody believes here, we don't need to waste the time of the people here. I will have an Amendment drafted and we will ask the courts to look at this Bill and see whether it is Constitutional. If that is what we really believe, if we are not just posturing and playing politics and trying to show the good guys and the bad guys and all the foolishness that goes along with it, then I suggest that we ought to ask the courts whether this is something we can do. I suggest it isn't something we can do and I suggest that members of this Body know that. If you think we can do it, then I would suggest that you Table this Bill and I will draft an Amendment, or we will ask the courts to decide. To tell us whether this Bill, which we are prepared to Enact, is Constitutional and whether we can Enact a law like this.

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 have been here a number of years, and I know it takes to make a solemn occasion. One of the things it takes to make a solemn occasion to ask the courts, is that your Bill has to be matured enough in the process in order to be able to do that. In order to be able to do that, you have to have it right next to being signed into law by the Governor. If the Senator from Franklin is really sincere in this, I ask him to join with the rest of us in voting for the Bill, to get it to that mature point and then we could consider whether we wanted to ask for a solemn occasion or not.

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. For some reason we are reliving here the whole Jay situation from a couple of years ago. I don't believe we can send an Amendment to the courts and ask them to rule on a Bill that is before us. But, I would venture to guess that if we sent that over to the court, and if every judge on the court would tell us, 'yes, you can do this', I would be willing to bet you that the good Senator from Franklin, still wouldn't support this.

We are not the ones making this political, we are not the ones who caused the problems at Jay a few years ago. We are not the ones that brought those people up from the south and replaced all the workers in Maine so that they could go home and not be able to feed their families. We are not the ones who did that. If that is what you call being political, than by all means, I don't mind being political, because I

was elected here to protect the people of the State of Maine, whether they are the workers or the business owners. For the most part, I think, we do a pretty good job at being balanced. Unfortunately, on some cases we don't do that and this one here and a lockout Bill is an example, where we are allowing injustices to the workers of the State of Maine to continue as long as we sit down and say, 'this is Constitutional'. If you want to know if it is Constitutional or not, pass it, and then let someone challenge it, and bring it to the courts, as is the normal process for any law that is passed by government. Thank you.

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

Sent down for concurrence.

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

HOUSE REPORTS - from the Committee on LABOR on Bill "An Act to Encourage Family Unity" H.P. 917 L.D. 1283

Majority - Ought Not to Pass.

Minority - Ought to Pass as Amended by Committee Amendment "A" (H-484).

Tabled - June 13, 1989, by Senator CLARK of Cumberland.

Pending - ACCEPTANCE OF EITHER REPORT

(In Senate, June 13, 1989, Reports READ.)

(In House, June 13, 1989, the Majority OUGHT NOT TO PASS Report READ and ACCEPTED.)

The Majority OUGHT NOT TO PASS Report was ACCEPTED, in concurrence.

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

SENATE REPORTS - from the Committee on LABOR on Bill "An Act to Include Salaries, Pensions and Insurance for Binding Arbitration under the Municipal Public Employees Labor Relations Law" S.P. 300 L.D. 798

Majority - Ought to Pass as Amended by Committee Amendment "A" (S-253).

Minority - Ought Not to Pass.

Tabled - June 13, 1989, by Senator CLARK of Cumberland.

Pending - Motion of Senator WHITMORE of Androscoggin to ACCEPT the Minority Ought Not to Pass Report

(In Senate, June 13, 1989, Reports READ.)

On motion by Senator WHITMORE of Androscoggin, the Minority OUGHT NOT TO PASS Report was ACCEPTED.

(See Action Later Today)

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

Bill "An Act Providing Confidentiality for Public Sector Job Applicants" (Emergency) S.P. 486 L.D. 1328

(C "A" S-232)

Tabled - June 13, 1989, by Senator CLARK of Cumberland.

Pending - Motion of Senator GAUVREAU of Androscoggin to RECONSIDER whereby the Senate INDEFINITELY POSTPONED House Amendment "A" (H-468) to Committee Amendment "A" (S-232)

(In Senate, June 8, 1989, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-232).)

(In House, June 12, 1989, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-232) AS

AMENDED BY HOUSE AMENDMENT "A" (H-468) thereto, AND HOUSE AMENDMENT "A" (H-472) in NON-CONCURRENCE.

(In Senate, June 13, 1989, RECEDED from PASSAGE TO BE ENGROSSED AS AMENDED. House Amendment "A" (H-472) READ and ADOPTED. (Motion to INDEFINITELY POSTPONE House Amendment "A" (H-472) FAILED.) RECEDED from ADOPTION of Committee Amendment "A" (S-232). House Amendment "A" (H-468) to Committee Amendment "A" (S-232) READ and INDEFINITELY POSTPONED in NON-CONCURRENCE. Senate Amendment "A" (S-256) to Committee Amendment "A" (S-232) READ and FAILED ADOPTION.)

On motion by Senator GAUVREAU of Androscoggin, the Senate RECONSIDERED whereby it INDEFINITELY POSTPONED House Amendment "A" (H-468) to Committee Amendment "A" (S-232).

House Amendment "A" (H-468) to Committee Amendment "A" (S-232) ADOPTED, in concurrence.

On further motion by same Senator, the Senate CONCURRED.

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

Bill "An Act to Allow Recovery for Wrongful Death of Unborn Children"

H.P. 408 L.D. 551

Tabled - June 13, 1989, by Senator PRAY of Penobscot.

Pending - ADOPTION OF COMMITTEE AMENDMENT "A" (H-429), in concurrence

(In Senate, June 13, 1989, Committee Amendment "A" (H-429) READ.)

(In House, June 9, 1989, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-429).)

On motion by Senator CLARK of Cumberland, Tabled 1 Legislative Day, pending ADOPTION of Committee Amendment "A" (H-429), in concurrence.

Senator MATTHEWS of Kennebec, moved to RECONSIDERED whereby the Senate ACCEPTED the Minority OUGHT NOT TO PASS Report on:

Bill "An Act to Include Salaries, Pensions and Insurance for Binding Arbitration under the Municipal Public Employees Labor Relations Law"

S.P. 300 L.D. 798

(In Senate, June 13, 1989, the Minority OUGHT NOT TO PASS Report was ACCEPTED.)

Senator FRANKLIN of Franklin requested a Division. Senator MATTHEWS of Kennebec, moved to TABLE for 1 Legislative Day.

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

On motion by Senator WEBSTER of Franklin, Tabled until Later in Today's Session, pending the motion of Senator MATTHEWS of Kennebec, to RECONSIDER whereby it ACCEPTED the Minority OUGHT NOT TO PASS Report.

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

Bill "An Act to Include Salaries, Pensions and Insurance for Binding Arbitration under the Municipal Public Employees Labor Relations Law"

S.P. 300 L.D. 798

Tabled - June 13, 1989, by Senator WEBSTER of Franklin.

Pending - Motion of Senator MATTHEWS of Kennebec, to RECONSIDER whereby it ACCEPTED the Minority OUGHT NOT TO PASS Report

(In Senate, June 13, 1989, the Minority OUGHT NOT TO PASS Report was ACCEPTED. Subsequently, the Senator from Kennebec, Senator MATTHEWS moved to RECONSIDER whereby it ACCEPTED the Minority OUGHT NOT TO PASS Report.)

On motion by Senator CLARK of Cumberland, Tabled until Later in Today's Session, pending the motion of Senator MATTHEWS of Kennebec, to RECONSIDER whereby it ACCEPTED the Minority OUGHT NOT TO PASS Report.

On motion by Senator WEBSTER of Franklin, RECESSED until the sound of the bell.

After Recess

Senate called to order by the President.

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

SECOND READERS

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

House

Bill "An Act to Clarify the Maine Municipal Bond Bank's and the Maine Public Utility Financing Bank's Ability to Hold, Own and Sell Real and Personal Property" (Emergency)

H.P. 1097 L.D. 1530

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

House As Amended

Bill "An Act Concerning Agents Selling Hunting and Fishing Licenses"

H.P. 181 L.D. 246

(C "A" H-483)

Bill "An Act Concerning Educational Enhancement"

H.P. 762 L.D. 1066

(C "A" H-501)

Bill "An Act to Amend the Laws Relating to Sex Offenses"

H.P. 763 L.D. 1067

(C "A" H-503)

Bill "An Act to Restrict the Use of Lobster Trap Dipping Solutions"

H.P. 823 L.D. 1155

(C "A" H-485)

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

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

SECOND READERS

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

House As Amended

Bill "An Act to Amend the Overboard Discharge Laws"

H.P. 855 L.D. 1187

(C "A" H-502)

Bill "An Act to Increase the Penalty for Destruction of Law Enforcement Canines"

H.P. 1092 L.D. 1525

(C "A" H-487)

Bill "An Act to Establish the Bureau of Juvenile Corrections"

H.P. 1147 L.D. 1590

(C "A" H-496)

Bill "An Act to Ensure Notification and Participation by the Public in Licensing and Relicensing of Hydroelectric Dams and to Further

Ensure the Equal Consideration of Fisheries and Recreational Uses in Licensing and Relicensing"

H.P. 1167 L.D. 1621
(C "A" H-497)

Bill "An Act to Authorize a Cooperative Agreement for the Construction and Operation of a Vocational Center Located in School Administrative District No. 33" (Emergency)

H.P. 1171 L.D. 1625
(C "A" H-482)

Bill "An Act to Clarify the Liability of Relatives for Support"

H.P. 1196 L.D. 1663
(C "A" H-495)

Bill "An Act to Ensure the Continuity of Mental Health Services" (Emergency)

H.P. 1211 L.D. 1683
(C "A" H-494)

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

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

SECOND READERS

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

House As Amended

Bill "An Act to Authorize a Probation Officer to Bring an Ex Parte Motion to Change the Conditions of Probation"

H.P. 1214 L.D. 1686
(C "A" H-486)

Bill "An Act to Authorize Department of Transportation Bond Issues in the Amount of \$21,000,000 to Match Available Federal Funds for Highway, State and Local Bridges, Harbor and Airport Improvements"

H.P. 1223 L.D. 1695
(C "A" H-493)

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

Bill "An Act to Amend the Lobster and Crab Fishing License Law"

H.P. 1215 L.D. 1687
(C "A" H-459)

Which was READ A SECOND TIME.
On motion by Senator BRANNIGAN of Cumberland, Tabled 1 Legislative Day, pending PASSAGE TO BE ENGROSSED AS AMENDED, in concurrence.

Senate

Bill "An Act Modifying the Territory of the Lucerne-in-Maine Village Corporation" (Emergency)

S.P. 628 L.D. 1722

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

Sent down for concurrence.

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

SECOND READERS

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

Senate As Amended

Bill "An Act Relating to Workers' Compensation Insurance"

S.P. 122 L.D. 188
(C "A" S-264)

Bill "An Act to Require Liquor Sellers' Permits"

S.P. 151 L.D. 271
(C "A" S-265)

Bill "An Act Relating to Certain Proprietary Information of Insurance Agents and Brokers"

S.P. 519 L.D. 1426
(C "A" S-263)

Resolve, to Establish the School Organization Study Committee

S.P. 534 L.D. 1469
(C "A" S-270)

Bill "An Act Amending the Law Governing the Maine Committee on Aging"

S.P. 544 L.D. 1515
(S "A" S-268 to C "A" S-251)

Resolve, Creating the Special Commission to Study and Evaluate the Status of Education Reform in Maine (Emergency)

S.P. 561 L.D. 1564
(C "A" S-266)

Bill "An Act to Amend the Mandatory Shoreland Zoning Law"

S.P. 585 L.D. 1647
(C "A" S-267)

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

Sent down for concurrence.

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

Bill "An Act to Include Salaries, Pensions and Insurance for Binding Arbitration under the Municipal Public Employees Labor Relations Law"

S.P. 300 L.D. 798

Tabled - June 13, 1989, by Senator CLARK of Cumberland.

Pending - Motion of Senator MATTHEWS of Kennebec, to RECONSIDER whereby it ACCEPTED the Minority OUGHT NOT TO PASS Report

(In Senate, June 13, 1989, the Minority OUGHT NOT TO PASS Report was READ and ACCEPTED.)

THE PRESIDENT: The pending question before the Senate is the motion of Senator MATTHEWS of Kennebec, to RECONSIDER whereby it ACCEPTED the Minority OUGHT NOT TO PASS Report.

A Division has been requested.

Will all those Senators in favor of the motion of Senator MATTHEWS of Kennebec, to RECONSIDER whereby it ACCEPTED the Minority 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.

15 Senators having voted in the affirmative and 17 Senators having voted in the negative, the motion of Senator MATTHEWS of Kennebec, to RECONSIDER whereby it ACCEPTED the Minority OUGHT NOT TO PASS Report, FAILED.

On motion by Senator BOST of Penobscot, ADJOURNED until Wednesday, June 14, 1989, at 9:00 in the morning.