

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

***One Hundred and Ninth
Legislature***

OF THE

STATE OF MAINE

Volume I

FIRST REGULAR SESSION

January 3, 1979 to May 4, 1979

STATE OF MAINE
One Hundred and Ninth Legislature
JOURNAL OF THE SENATE

April 5, 1979
Senate called to Order by the President.

Prayer by Reverend Leon R. Strout, Calvary Congregational Church of Andover.

Reverend STROUT: We come to Thee in the name which is above every name, that name before which every knee shall bow, of things in heaven and things under the earth. We come to thee as a thankful people. We come to thee, Our Father, expecting that thou art a God that hears and answers prayer.

We desire this morning, thy blessing upon these men and women as they deliberate in the Senate. We ask, Our Father, that thou wilt remember that we are but humans, we have our human frailties. We pray that thou will take these frailties, as thou art able to do, and work miracles.

Help us in the decisions that need be made this day, that we might have thy mind, and thy wisdom, that we may enact wise Legislation that will benefit the peoples that we represent.

We praise thee for the privilege that is ours, for this Nation in which we live and the State which thou has given to us. With joyful and thankful hearts we thank thee, again we trust thy leading and thy guiding. In Jesus' precious name, Amen.

Reading of the Journal of yesterday.

(Off Record Remarks)

Papers from the House
Non-concurrent Matter

Bill, "An Act to Clarify the Application of Military Service Credits to Retirement Benefits for Policemen, Firemen, Local District Employees, Sheriffs and Full-time Deputy Sheriffs." (S. P. 147) (L. D. 324)

In the Senate, March 30, Passed to be Engrossed as amended by Committee Amendment "A" (S-57), as amended by Senate Amendment "A" (S-72), thereto.

Comes from the House, Bill and Papers re-committed to the Committee on Aging, Retirement and Veterans, in non-concurrence.

The PRESIDENT: The Senator from Somerset, Senator Teague, moves that the Senate Recede and Concur, with the House.

Is this the pleasure of the Senate?
The Motion Prevailed.

Non-concurrent Matter

Bill, "An Act to Eliminate the Dependency Disqualification for Persons Receiving Survivor's Benefits from the State Retirement System." (S. P. 203) (L. D. 535)

In the Senate, April 2, Passed to be Engrossed as amended by Senate Amendment "A" (S-79).

Comes from the House, Passed to be Engrossed as amended by Senate Amendment "A" as amended by House Amendment "A" (H-169), thereto, in non-concurrence.

The PRESIDENT: The Senator from Somerset, Senator Teague, moves that the Senate Recede and Concur, with the House.

Is this the pleasure of the Senate?
The Motion Prevailed.

House Papers

Bill, "An Act to Protect the Retirement Benefits of Employees and Former Employees of the Greater Portland Public Development Commission." (H. P. 1252) (L. D. 1522)

Comes from the House, referred to the Committee on Aging, Retirement and Veterans and Ordered Printed.

Which was referred to the Committee on Aging, Retirement and Veterans and Ordered Printed, in concurrence.

Bill, "An Act to Allocate Money from the

Federal Revenue Sharing Fund for the Fiscal Years Ending June 30, 1980, and June 30, 1981." (Emergency) (H. P. 1266) (L. D. 1524)

Comes from the House, referred to the Committee on Appropriations and Financial Affairs and Ordered Printed.

Which was referred to the Committee on Appropriations and Financial Affairs and Ordered Printed, in concurrence.

Bill, "An Act Altering the Organization and Governance of Community School Districts." (H. P. 1081) (L. D. 1517)

Comes from the House, referred to the Committee on Education and Ordered Printed.

Which was referred to the Committee on Education and Ordered Printed, in concurrence.

Bill, "An Act to Provide for a Self-insurance Fund for State Elementary and Secondary School Property." (H. P. 1183) (L. D. 1525)

Committee on Education suggested.
Comes from the House, referred to the Committee on Business Legislation and Ordered Printed.

Which was referred to the Committee on Business Legislation and Ordered Printed, in concurrence.

Bill, "An Act to Merge the Septage and Hazardous Waste Law into the Solid Waste Law and to Conform them with the Requirements of the Federal Resource Recovery and Conservation Act." (H. P. 1139) (L. D. 1518)

Comes from the House, referred to the Committee on Energy and Natural Resources and Ordered Printed.

Which was referred to the Committee on Energy and Natural Resources and Ordered Printed, in concurrence.

Bill, "An Act Relating to the Employment of Minors and Overtime Pay." (H. P. 1214) (L. D. 1520)

Bill, "An Act to Improve the Administration of the Second Injury Fund under the Workers' Compensation Laws." (H. P. 1260) (L. D. 1521)

Comes from the House, referred to the Committee on Labor and Ordered Printed.

Which were referred to the Committee on Labor and Ordered Printed, in concurrence.

Bill, "An Act to Make Allocations from the Maine Coastal Protection Fund for the Fiscal Years Ending June 30, 1980 and June 30, 1981." (Emergency) (H. P. 1282) (L. D. 1530)

Committee on Marine Resources suggested.
Comes from the House, referred to the Committee on Energy and Natural Resources and Ordered Printed.

Which was referred to the Committee on Energy and Natural Resources and Ordered Printed, in concurrence.

Bill, "An Act to Revise the Medical Examiner System." (H. P. 1151) (L. D. 1533)

Bill, "An Act to Establish a State Bank to Encourage and Promote the Development of Agriculture, Commerce and Industry." (H. P. 1150) (L. D. 1519)

Comes from the House, referred to the Committee on State Government and Ordered Printed.

Which were referred to the Committee on State Government and Ordered Printed, in concurrence.

Bill, "An Act to Impose a Tax on Timber at Harvest to Provide for Reimbursement to Communities for Loss from the Tree Growth Tax Law." (H. P. 1270) (L. D. 1523)

Comes from the House, referred to the Committee on Taxation and Ordered Printed.

Which was referred to the Committee on Taxation and Ordered Printed, in concurrence.

Bill, "An Act to Authorize Bond Issue in the Amount of \$22,000,000 for Highway and Bridge

Improvements." (H. P. 1277) (L. D. 1529)

RESOLVE, to Further Study Feasibility of Cargo Port Facilities. (Emergency) (H. P. 1278) (L. D. 1526)

Come from the House, referred to the Committee on Transportation and Ordered Printed.

Which were referred to the Committee on Transportation and Ordered Printed, in concurrence.

Order

An Expression of Legislative Sentiment recognizing that: Maude Wing of New Flagstaff, on March 29, 1979, celebrated her 99th birthday... (S. P. 493) is presented by Senator O'Leary of Oxford, cosponsored by Representative Dexter of Kingfield.

Which was Read and Passed.

Sent down forthwith for concurrence.

Committee Reports
House

The following Ought Not to Pass reports shall be placed in the legislative files without further action pursuant to Rule 22 of the Joint Rules:

Bill, "An Act to Authorize a Limited Hunting Season for Hunters Using Crossbows." (H. P. 484) (L. D. 620)

Bill, An Act Requiring the Public Utilities Commission to Order a Community of Interest Study upon Petition by 10% of the Service Customers in a Telephone Exchange and to Promulgate Rules Relating to the Establishment of Extended Area Service. (H. P. 379) (L. D. 486)

Leave to Withdraw

The Committee on Education on, Bill, "An Act to Permit a Vocational Center to Bill Other Communities Sending Students to the Center in the Year of Actual Service." (H. P. 541) (L. D. 672)

Reported that the same be granted Leave to Withdraw.

Comes from the House, the Report Read and Accepted.

The Committee on Election Laws on, Bill, "An Act to Require Voters to Show Proof of Residence When They Register to Vote." (H. P. 625) (L. D. 767)

Reported that the same be granted Leave to Withdraw.

Comes from the House, the Report Read and Accepted.

The Committee on Energy and Natural Resources on, Bill, "An Act Relating to Recording of Land Subdivision Plans." (H. P. 241) (L. D. 286)

Reported that the same be granted Leave to Withdraw.

Comes from the House, the Report Read and Accepted.

The Committee on Energy and Natural Resources on, Bill, "An Act to Prevent Sludge from being Deposited within 1,000 feet of any Residency." (H. P. 490) (L. D. 632)

Reported that the same be granted Leave to Withdraw.

Comes from the House, the Report Read and Accepted.

The Committee on Energy and Natural Resources on, Bill, "An Act to Establish a Pilot Van Pool Transportation Project under the Office of Energy Resources." (H. P. 44) (L. D. 55)

Reported that the same be granted Leave to Withdraw.

Comes from the House, the Report Read and Accepted.

The Committee on Energy and Natural Resources on, Bill, "An Act to Regulate Odors." (H. P. 888) (L. D. 1078)

Reported that the same be granted Leave to Withdraw.

Comes from the House, the Report Read and Accepted.

The Committee on Fisheries and Wildlife on, Bill, "An Act Establishing an Experimental

Open Season on Moose." (H. P. 74) (L. D. 83)
Reported that the same be granted Leave to Withdraw.

Comes from the House, the Report Read and Accepted.

Which Reports were Read and Accepted, in concurrence.

Ought to Pass — As Amended

The Committee on Aging, Retirement and Veterans on, Bill, An Act to Limit Additional Retirement Benefits under the Maine State Retirement System. (H. P. 331) (L. D. 430).

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-137).

Comes from the House, the Bill Passed to be Engrossed as amended by Committee Amendment "A".

Which Report was Read and Accepted in concurrence and the Bill Read Once. Committee Amendment "A" was Read and Adopted in concurrence, and the Bill, as amended, Tomorrow Assigned for Second Reading.

Divided Report

The Majority of the Committee on Fisheries and Wildlife on, Bill, "An Act to Establish a Bounty on Coyote." (H. P. 78) (L. D. 86)

Reported that the same Ought Not to Pass.

Signed:

Senators:

REDMOND of Somerset
USHER of Cumberland
PIERCE of Kennebec

Representatives:

JACQUES of Waterville
MASTERMAN of Milo
VOSE of Eastport
DOW of West Gardiner
TOZIER of Unity
MacEACHERN of Lincoln
CHURCHILL of Orland
PETERSON of Caribou

The Minority of the same Committee on the same subject matter Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-166).

Signed:

Representative:

PAUL of Sanford

Comes from the House, the Majority Report Read and Accepted.

Which Reports were Read.

The Majority Ought Not to Pass Report of the Committee. Accepted, in concurrence.

Divided Report

The Majority of the Committee on Labor on, Bill, An Act to Relate the Qualifying Wage Levels for Unemployment Compensation to the Average Weekly Wage. (H. P. 437) (L. D. 554)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-157)

Signed:

Senators:

SUTTON of Oxford
LOVELL of York

Representatives:

FILLMORE of Freeport
WYMAN of Pittsfield
DEXTER of Kingfield
MARTIN of Brunswick
BEAULIEU of Portland
BAKER of Portland
CUNNINGHAM of New Gloucester
LEWIS of Auburn
TUTTLE of Sanford

The Majority of the same Committee on the same subject matter Reported that the same Ought Not to Pass.

Signed:

Senator:

PRAY of Penobscot

Representative:

McHENRY of Madawaska

Comes from the House, the Majority Report

Read and Accepted and the Bill Passed to be Engrossed as amended by Committee Amendment "A".

Which Reports were Read. The Majority Ought to Pass, as amended, Report of the Committee, Accepted in concurrence, and the Bill Read Once. Committee Amendment "A" Read and Adopted, in concurrence, and the Bill, as amended, Tomorrow Assigned for Second Reading.

Divided Report

The Majority of the Committee on Labor on, Bill, "An Act Relating to Negotiations Involving State Employees under the Labor Laws." (H. P. 246) (L. D. 291)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-160).

Signed:

Senators:

SUTTON of Oxford
LOVELL of York
PRAY of Penobscot

Representatives:

FILLMORE of Freeport
DEXTER of Kingfield
MARTIN of Brunswick
BEAULIEU of Portland
CUNNINGHAM of New Gloucester
WYMAN of Pittsfield
LEWIS of Auburn
TUTTLE of Sanford

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

Signed:

Representatives:

McHENRY of Madawaska
BAKER of Portland

Comes from the House, the Majority Report Read and Accepted and the Bill Passed to be Engrossed as amended by Committee Amendment "A".

Which Reports were Read. The Majority Ought to Pass, as amended, Report of the Committee, Accepted, in concurrence.

The Bill Read Once. Committee Amendment "A" Read and Adopted, in concurrence.

The Bill, as amended, Tomorrow Assigned for Second Reading.

Divided Report

Seven members of the Committee on Labor on, Bill, An Act to Provide an Effective Penalty under the Labor Laws for Violation of the Statute Requiring a Written Statement of Reason for Termination of Employment. (H. P. 176) (L. D. 210)

Reported in Report A that the same Ought to Pass as amended by Committee Amendment "A" (H-161).

Signed:

Senator:

PRAY of Penobscot

Representatives:

WYMAN of Pittsfield
BAKER of Portland
BEAULIEU of Portland
MARTIN of Brunswick
McHENRY of Madawaska
TUTTLE of Sanford

Five members of the same Committee on the same subject matter Reported in Report B that the same Ought to Pass as amended by Committee Amendment "B" (H-162).

Signed:

Senators:

SUTTON of Oxford
LOVELL of York

Representatives:

CUNNINGHAM of New Gloucester
FILLMORE of Freeport
DEXTER of Kingfield

One member of the same Committee on the same subject matter Reported in Report C that the same Ought Not to Pass.

Signed:

Representative:

LEWIS of Auburn

Comes from the House, Report A Read and Accepted and the Bill Passed to be Engrossed as amended by Committee Amendment "A".

Which Reports were Read.

The PRESIDENT: The Chair recognizes the Senator from Oxford, Senator Sutton.

Senator SUTTON: Mr. President, I move that the Senate Accept Report "B" Ought to Pass.

The PRESIDENT: The Senator from Oxford, Senator Sutton, now moves that the Senate Accept Report "B" Ought to Pass, as amended by Committee Amendment "B" Report of the Committee.

Report "B" as amended, Accepted, in non-concurrence. The Bill Read Once. Committee Amendment "B" Read and Adopted in non-concurrence. The Bill, as amended, Tomorrow Assigned for Second Reading.

Senate

Leave to Withdraw

Senator Clark for the Committee on Business Legislation on, Bill, "An Act to Require Insurance Claim Payments Because of Motor Vehicle Damage to Include Payment for the Reduction in the Trade-in Value of the Motor Vehicle." (S. P. 266) (L. D. 807)

Reported that the same be granted Leave to Withdraw.

Senator Collins for the Committee on Judiciary on, Bill, "An Act to Establish the Descent of Real Estate in Intestate Succession when, Prior to Death, a Parent has been Cared for by a Child or Children." (S. P. 241) (L. D. 690)

Reported that the same be granted Leave to Withdraw.

Which Reports were Read and Accepted.

Sent down for concurrence.

Ought to Pass — As Amended

Senator Usher for the Committee on Fisheries and Wildlife on, Bill, "An Act to Ensure the Safety of Minors Participating in Trip Camping." (S. P. 79) (L. D. 168)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (S-85).

Senator Shute for the Committee on Marine Resources on, Bill, "An Act to Repeal the License Requirement for Taking Certain Clams." (S. P. 166) (L. D. 373)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (S-86).

Senator Shute for the Committee on Marine Resources on, Bill, "An Act to Regulate the Number of Lobster Traps in Certain Waters of Kittery." (S. P. 159) (L. D. 334)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (S-87).

Which Reports were Read and Accepted and the Bills Read Once. Committee Amendments "A" were Read and Adopted and the Bills, as amended, Tomorrow Assigned for Second Reading.

Divided Report

The Majority of the Committee on Fisheries and Wildlife on, Bill, "An Act to Permit Deer Hunting with Muzzle-loading Rifles." (S. P. 39) (L. D. 25)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (S-84).

Signed:

Senators:

REDMOND of Somerset
USHER of Cumberland
PIERCE of Kennebec

Representatives:

PAUL of Sanford
JACQUES of Waterville
MASTERMAN of Milo
CHURCHILL of Orland

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

Signed:

Representatives:

MacEACHERN of Lincoln
TOZIER of Unity
VOSE of Eastport
PETERSON of Caribou
DOW of West Gardiner
GILLIS of Calais

Which Reports were Read.

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

Senator PRAY: I move the Minority Ought Not to Pass Report.

The PRESIDENT: The Senator from Penobscot, Senator Pray, now moves that the Senate Accept the Minority Ought Not to Pass Report of the Committee.

The Chair recognizes the Senator from Somerset, Senator Redmond.

Senator REDMOND: I request a Division.

The PRESIDENT: A Division has been requested.

The Chair recognizes the Senator from Androscoggin, Senator Trafton.

Senator TRAFTON: Mr. President and Members of the Senate: I would just raise a few questions on this Bill. Just last week I received a newsletter from the commissioners' office from the Maine Department of Inland Fisheries and Wildlife, dated March 1979.

I read it with great interest, because in this it describes the present status of the deer herd in the State of Maine. I am quoting from that newsletter now, "we are concerned over the low deer population in this area and have been directing our attention to this matter, since it became evident that the population is not recovering from the general decline that accompanied the severe winters of the late 1960's and early 1970's."

The letter goes on to suggest many ways that the state might pursue, in order to improve the condition of the deer herd.

Now this Bill that is before us today, not only deals with the aspect of muzzle loading rifles, which I think is a separate issue, but it also expands the deer hunting season, for those muzzle loading rifles, for 3 days following the open season, on deer in any area of the state, open to the hunting of deer.

In this newsletter which was very concerned about the status of the deer, one of the suggestions was not to increase the hunting season in any way or form, because they are concerned right now that maybe in some sections of the state the present deer hunting season is too long.

So I would like to hear some more information from members of the committee as to why this bill, seems to be in direct opposition to a direction that the commissioner is suggesting, we move in to improve the condition of our deer herd.

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

Senator PERKINS: Mr. President and Ladies and Gentlemen of the Senate: Since this is my Bill, I would have to respond to the Gentlemen.

The amendment to this Bill, directly states that open season will be at the discretion of the department. This Bill was in here last year, and these people who have muzzle loaders are very interested in some sort of season. Last year's bill requested that it be at the start of the season, which I did not necessarily agree with, because I felt that this was giving them first crack at the harvest which may be diminishing. They then were very agreeable to have the harvest at the end of the season, so that if indeed there was a big harvest, and the product was being overly diminished then they would be willing to sacrifice, at the discretion of the department. They're asking only that they be given 3 days which we have set a price on the

fee that will compensate the department adequately for their services and should give them some more revenues.

It also deals with the fact, that if there is an over kill or the department feels that they will not be able to support it. The other factor of the bill, which I think is a protective factor, is that these licenses have to be purchased prior to November 1st. They cannot, indeed, extend their hunting season later than usual by waiting to see if they got a deer or not, and then on November 20th buy a license to extend their season purposely.

So I would present to you that the people interested in this have tried in every manner to cooperate with the department, and would be happy in any other way that someone saw fit, because they too are interested in this resource.

The PRESIDENT: The Chair recognizes the Senator from Androscoggin, Senator Trafton.

Senator TRAFTON: It's my understanding that hunting with muzzle loaders is already permitted during the full regular hunting season. Again, I guess, expressing my concern for the deer herd in Maine, I feel that any extension of the deer hunting season could be disastrous for our herd. In particular regard to the muzzle loader hunting, whatever they are, I feel since they already have that option during the whole hunting season, extending it 3 days, even if it is at the discretion of the commissioner, is needless.

The PRESIDENT: The Chair recognizes the Senator from Somerset, Senator Redmond.

Senator REDMOND: Mr. President, I would like to add to the discussions here, that I was present at the public hearing, and a great number of the muzzle loading enthusiasts were there, and I would like to state, that I would dare say that they are more conservation minded than anyone in this Body of Government.

In the Amendment it is also specified and I will read out from the Amendment, under Section 2524, Registration for Deer in the second part, "if a person kills a deer at any time prior to the muzzle loading rifle deer season, he may not kill a deer under this chapter."

Therefore, these people, I repeat, are more conservation minded than anyone in this Body of Government, and I dare anyone to try and contradict this statement I just made.

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

Senator PRAY: Mr. President, I would like to pose a question to the Chair, to the Chairman of the Fisheries and Wildlife Committee or any member of that Committee who may care to answer. We presently have an Archery Season. Is it not true that if an individual takes a deer under the Archery Law, that he can not take one during the Rifle Season? So we also have conservation minded individuals there. Is that correct?

The PRESIDENT: The Senator from Penobscot, Senator Pray, has posed the question through the Chair, to any member of the Fisheries and Wildlife Committee who may care to answer.

The Chair recognizes the Senator from Cumberland, Senator Usher.

Senator USHER: In answer to the good Senator from Penobscot, yes, that is true, you're only allowed one deer.

In response to the good Senator from Androscoggin, Senator Trafton, everyone is concerned about the deer herd, Statewide, we are concerned also. The illegal kill takes a big part in knocking the deer herd down. No way will it hurt the deer herd, it is going to be fully controlled by the Advisory Council, and the Department. The illegal kill is what's hurting the deer herd, not the legal killers.

The PRESIDENT: The Chair recognizes the Senator from Androscoggin, Senator Minkowsky.

Senator MINKOWSKY: Mr. President, I'd

like to pose a question through the Chair, to the good Senator from Hancock, Senator Perkins, to give us an evaluation of the distance between a rifle shooting at a deer and a muzzle loading rifle. What was the range, or how close does a person have to be to a deer with a muzzle loading rifle to more or less accurately get a deer?

The PRESIDENT: The Senator from Androscoggin, Senator Minkowsky has posed an additional question through the Chair for anyone who may care to answer.

The Chair recognizes the Senator from Hancock, Senator Perkins.

Senator PERKINS: Not being a muzzle loader myself, and not having that much real authority, my information is that from 75 to 80 yards with a muzzle loader, I'm told they are very accurate. The question is not the accuracy or the wounding, because I would object to that also. My question is that they have a season of their own, with which to hunt and they're trying to do it within the resource. The accuracy, I think, maybe some member of the Committee may be able to respond to more adequately, than I.

The PRESIDENT: The Chair recognizes the Senator from Somerset, Senator Redmond.

Senator REDMOND: In response to the good Senator from Androscoggin, according to the information that I received during the hearing and my limited knowledge of the capability of trajectory travel on the muzzle loader. I would say that the muzzle loader is difficult to compare, with the regular conventional type rifle, for the simple reason that the person who is charging his muzzle loader, it depends on how much black powder he will put in while he's charging muzzle loader. Therefore, there is really no answer to the question of the good Senator from Androscoggin.

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

Senator PRAY: Mr. President, and Members of the Senate. I think my objections to the bill come from the comments that the sponsor of the bill, the good Senator from Hancock, Senator Perkins, stated when he said it was for a season of their own.

Now, I work pretty hard during the year, and there's four weeks that I take off during the year, and that's the month of November, hunting season. The first two weeks of that season I hunt with a 44 Magnum Pistol, and perhaps we ought to give myself, or I should come down here and sponsor a piece of Legislation to give me 3 additional days, also, just to hunt with a 44 Magnum Pistol, or perhaps a 308 or a 30-30, or whatever rifle some other individual hunts with.

Presently, an individual with a muzzle loader who wants to hunt with a muzzle loader, can go out during the regular deer season. Individuals that hunt with any choice of their firearms can hunt during that deer season that we presently have. The start at this time to establish a special season for different types of firearms, and that's what we're talking about, you can call it a muzzle loader, call it a rifle, call it a pistol whatever you want, it's a firearm, and when we start enacting Legislation that would allow a special season for different types and particular calibre firearms, then I think we're going down the wrong path. So I would hope that we would accept the Minority Ought Not to Pass Report.

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

Senator PERKINS: If I'm not mistaken, Mr. President, and Ladies and Gentlemen of the Senate, I think we have a bow and arrow season now, and I asked our muzzle loading people if they wished to deprive them of some of their hunting season. They said No, they thought that was unfair. So they requested that they be put last in the order of the hunting, that if they get a deer during the regular season, that their license be voided. So I don't view this as any extra special privilege, that has not been granted.

ed to others before.

The PRESIDENT: The Senator from Penobscot, Senator Pray, asks leave of the Senate to speak a fourth time.

Is there objection?

The Senator has the floor.

Senator PRAY: Mr. President and Members of the Senate, in response to the comments by the previous speaker, we do have an archery season, and the last time I checked, bows and arrows were not listed under firearms, but also under archery we do disallow the use of the crossbow, which I would say pretty much falls into a similar category. Say for example, muzzle loaders compared to rifles, and establishing different particular seasons.

So I think, to throw up the argument that we are stating we establish a special season for archery in relationship to the firearm season is a small argument in the desire to protect the deer herd, and to provide a recreational use of our resource, and that is the deer herd.

The PRESIDENT: The Chair recognizes the Senator from Somerset, Senator Redmond.

Senator REDMOND: With regards to the Archery Season, those very honorable people, do not object to going hunting during the archery season, if the Commissioner would grant them that permission. They would have no objection, they were asked and they wouldn't mind that.

The only reason they want a separate season is because they do not have much tolerance for the automatic rifles and the bang, bang, bang, all around when their in the woods. They are a group of people whose muzzle loaders date back to a couple hundred years ago, and they're trying to enjoy living the way our pioneers lived in those days. So the archery season they wouldn't mind that, but the committee chose not to let them interfere with the archers, because the archers also do not like to hear the sound of a rifle in the woods, it disturbs them. This is why they got these 3 days, a maximum of 3 days after the season.

The PRESIDENT: Is the Senate ready for the question?

A Division has been requested.

Will all those Senators in favor of Accepting the Ought Not to Pass Report of the Committee, please rise in their places to be counted.

Will all those Senators opposed, please rise in their places to be counted.

10 Senators having voted in the affirmative and 15 Senators in the negative, the Motion to Accept the Minority Ought Not to Pass Report does not prevail.

The Majority Ought to Pass, as amended, Report of the Committee, Accepted.

The Bill Read Once.

Committee Amendment "A" Read and Adopted.

The Bill, as amended, Tomorrow Assigned for Second Reading.

Second Readers

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

House

Bill, "An Act Relating to Interest on Benefits under the Workers' Compensation Act." (H. P. 420) (L. D. 533)

RESOLVE, to Repeal Certain Provisions Requiring the Construction of a Fishway on the Dam Obstructing the Kennebec River at Augusta. (H. P. 559) (L. D. 706)

Bill, "An Act Concerning Workers' Compensation for Fire Personnel." (H. P. 397) (L. D. 504)

Bill, "An Act Extending the Time for Apportionment of County Taxes from March to March, April or May in the Year 1979." (Emergency) (H. P. 1275) (L. D. 1478)

Which were Read a Second Time and Passed to be Engrossed, in concurrence.

Bill, "An Act Concerning Issuance and Renewals of Liquor Licenses." (H. P. 316) (L. D.

382)

Which was Read a Second Time and Passed to be Engrossed, in non-concurrence.

Sent down for concurrence.

House - As Amended

Bill, "An Act Concerning Cruelty to Animals." (H. P. 119) (L. D. 129)

Bill, "An Act Concerning Euthanasia of a Sick or Injured Dog Brought to a Veterinarian, to a Humane Society or to a Shelter." (H. P. 77) (L. D. 85)

Bill, "An Act Concerning the Maine Property Insurance Cancellation Control Act." (H. P. 208) (L. D. 257)

Bill, "An Act to Extend the Time in which Appeals from Deputies' Decisions may be Taken in Unemployment Compensation Cases." (H. P. 343) (L. D. 442)

Bill, "An Act Concerning the Governor and Council of the Penobscot Indian Tribe." (H. P. 827) (L. D. 1025)

Bill, "An Act to Include the Cost of Processing and Collecting Real Estate Tax Liens within the Amount of the Lien Itself." (H. P. 571) (L. D. 719)

Which were Read a Second Time and Passed to be Engrossed, as amended, in concurrence.

Bill, "An Act to Provide Time for the Employee and Employer to Consider Payment of Compensation by Agreement." (H. P. 141) (L. D. 161)

Bill, "An Act to Amend the Workers' Compensation Laws." (H. P. 312) (L. D. 428)

Which were Read a Second Time and Passed to be Engrossed, as Amended, in non-concurrence.

Senate

Bill, "An Act Concerning the Continuation of Pilot Projects for more Effective and Efficient Delivery of Services to Preschool Handicapped Children." (Emergency) (S. P. 75) (L. D. 165)

Bill, "An Act to Repeal Mandatory Public Meetings by the State Liquor Commission." (S. P. 289) (L. D. 848)

Bill, "An Act to Provide Malt and Table Wine Licenses for Ship Chandlers." (Emergency) (S. P. 288) (L. D. 851)

Which were Read a Second Time and passed to be Engrossed.

Sent down for concurrence.

Bill, "An Act to Permit Juvenile Offenders who are Deaf or Mute, or Both, to be Committed to the Maine Youth Center." (Emergency) (S. P. 207) (L. D. 580)

Which was Read a Second Time.

On Motion by Senator Pierce of Kennebec, Tabled until later in today's session, pending Passage to be Engrossed.

Senate - As Amended

Bill, "An Act to Clarify Standards for Consumer Membership under the Health Facilities Information Disclosure Act." (Emergency) (S. P. 141) (L. D. 317)

Which was Read a Second Time and Passed to be Engrossed, as amended.

Sent down for concurrence.

Enactors

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

"An Act Concerning Dismissal of Municipal Police Chiefs." (S. P. 122) (L. D. 231)

"An Act to Increase the Legally Authorized Length of a Combination Tractor-trailer Operating Upon the Roadways of the State of Maine." (H. P. 328) (L. D. 383)

"An Act to Facilitate the Treatment of Minors for Alcohol and Drug Abuse Problems." (H. P. 592) (L. D. 736)

Which were Passed to be Enacted and having been signed by the President, were by the Secretary presented to the Governor for his approval.

"An Act to Allow Prorated Benefits for Times when a Person is Available for Work but Cannot Work for Important Personal Reasons" (H. P. 345) (L. D. 444)

The PRESIDENT: The Chair recognizes the Senator from Knox, Senator Collins.

Senator COLLINS: Mr. President, I would direct some questions through the Chair to any member of the Labor Committee, or to the Senator from Hancock, Senator Perkins, who has had an interest in L. D. 444.

I would like to know what the predictions are about the costs of this item to the Unemployment Fund? We hear a lot about how, badly in debt we are on that fund, and yet this seems to be a measure which will affect the fund and I would like very much to know how much it will take out of the fund, that we do not, say, now take out of it.

The second thing that disturbs me about this Bill, is that whenever we adopt a policy, of paying people for not working, when they are able to work and when they are offered a job that is acceptable, I think that we ought to have some pretty concrete reasons, as to why we think that it is important to the State to do this.

Now the title says important personal reasons, and that to me sounds like a very dangerous set of words, one that can cause a great deal of litigation.

When I read the Bill itself, I am not quite as much disturbed about the personal reasons, the words that we have been living with were necessitous and compelling nature. I am not sure what that means either, but it sounds a little stronger than important reasons. I am assuming that since no one else is bothered by this that probably the commissioner has been living with those words and not having trouble with them.

The other thing is, as I read this act, and it says that when you are offered a job, and you do not accept it, or you are able to accept, now you are going to get paid for the part of the week for which you were able to accept it, these personal reasons being involved. I am not clear, but it almost seems to me as I read it that you could do this week after week. The eight week situation wouldn't really be a deterrent that you could find one or two reasons one or two days of a personal nature that would prevent you from accepting a job, but you get paid the rest of the time.

I would hope that people much more knowledgeable than I would put into the Legislative Record their views about what they really do intend here, so that when this comes to the courts someday, we may know whether we are just throwing money away or whether we really have some serious and definable reasons for what we are doing.

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

Senator PERKINS: Mr. President and Ladies and Gentlemen of the Senate: With regard to the Senator from Knox, questions from the Commissioner this year, there would have been 99 claimants and the costs figure on the 99 claimants would have been \$4,000.

With regard to his second and third questions, this particular Bill has dealings with those who are employed seasonally in the sardine industry. The sardine industry being a very sporadic harvest along our coasts and not knowing when and where they may have to work or when they will in fact be able to get this harvest, the people do not know until the actual day when they will be asked for employment.

Because we are dealing with a rural community also along these coasts, the ability to get dental or eye appointments becomes very questionable and has to be done well in advance of the day of the appointment. Therefore it becomes very possible and it has happened in many cases that an eye appointment or an important dental appointment would be on the very day that they would call up in the morning

and say we have fish today, please come to work. Having waited four to six months for this one appointment, it does not seem feasible that you should give up this appointment because it is indeed necessary, for the 1 day's work and yet the other days of the week if there were fish or there are fish they are perfectly capable and able to work.

With regard to the third question, I would assume and be very happy to state in the Legislative Record that these important personal reasons could not and I would not expect them to be one or two days per season.

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

Senator PRAY: I request that the Secretary read the report.

The Report was Read.

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

Senator PRAY: Mr. President and Members of the Senate: I think that just to refresh your memory with the Bill. When it came out of Committee, there were some reservations that those of us in the Labor Committee had about the Bill; but by the time that it reached the floor, I think that we all felt very comfortable with the Bill.

I know that none of us opposed the Motion by Senator Perkins at that time to accept the Majority Ought to Pass Report. I share many of the concerns that the Senator from Knox, Senator Collins shared, but I guess I, in the end, decided to put my faith in the commission which has to make a decision on these for compelling and necessary reasons. I believe that from the hearing that there was a legitimate problem with the existing law, particularly with the industry that was related to by the good Senator from Hancock, Senator Perkins.

I would hope that the good Senator from Knox, Senator Collins would also share, while I share those concerns that he does, would feel assured that I do not think that this would open up the unemployment benefits to any future abuses.

Which was Passed to be Enacted and having been signed by the President, was by the Secretary presented to the Governor for his approval.

Orders of the Day

The President laid before the Senate the First Tabled and specially assigned matter:

Bill, "An Act Exempting Certain Nonconsumer, Industrial Uses of Aerosols from the Statute Prohibiting Certain Aerosols." (S. P. 160) (L. D. 335)

Tabled—April 4, 1979 by Senator Katz of Kennebec

Pending—Passage to be Engrossed

Which was Passed to be Engrossed.

Sent down for concurrence.

The President laid before the Senate the Second Tabled, and specially assigned matter.

HOUSE REPORTS — from the Committee on Education — Bill, "An Act Relating to the Advisory Board to the Firemen's Training Program of the Department of Educational and Cultural Services." (H. P. 173) (L. D. 223) Majority Report — Ought to Pass as Amended by Committee Amendment "A" (H-132); Minority Report — Ought to Pass as Amended by Committee Amendment "B" (H-133)

Tabled—April 4, 1979 by Senator Perkins of Hancock

Pending—Acceptance of Either Report

On motion by Senator Perkins of Hancock, Retabled for 2 Legislative Days.

The President laid before the Senate the Third Tabled, and specially assigned matter:

Bill, "An Act Relating to Constables and Special Police Officers." (H. P. 250) (L. D. 295)

Tabled—April 4, 1979 by Senator Katz of Kennebec

Pending—Enactment

On Motion by Senator Pierce, of Kennebec, Retabled for 1 Legislative Day.

The PRESIDENT: The Chair would direct the Senate's attention to Bill "An Act to Permit Juvenile Offenders who are Deaf and Mute or Both, to be Committed to the Maine Youth Center." (Emergency) (S. P. 207) (L. D. 580) tabled earlier in today's session, pending Passage to be Engrossed.

On Motion by Senator Pierce of Kennebec, Tabled for 2 Legislative Days, pending Passage to be Engrossed.

The PRESIDENT: The Chair recognizes the Senator from York, Senator Farley.

Senator FARLEY: Mr. President, in regard to L. D. 444 having voted on the prevailing side, I now move reconsideration and I urge that you vote against me.

The PRESIDENT: The Senator from York, Senator Farley, now moves that the Senate reconsider its action whereby "An Act to Allow Prorated Benefits for Times when a Person is Available for Work but Cannot Work for Important Personal Reasons." (H. P. 345) (L. D. 444), was Passed to be Enacted.

A Viva Voce Vote being had.

The Motion to Reconsider does not Prevail.

(Off Record Remarks)

On Motion by Senator Pierce of Kennebec, Recessed until the sound of the Bell.

Recess

After Recess

The Senate called to order by the President.

Out of Order and Under Suspension of the Rules, the Senator voted to consider the following.

Papers from the House Committee Reports House Ought to Pass

The Committee on Appropriations and Financial Affairs on, Bill, "An Act to Fund and Implement Agreements between the State and the Maine State Employees Association and to Fund and Implement Benefits for Managerial and Other Employees of the Executive Branch Excluded from Coverage under the State Employees Labor Relations Act." (H. P. 1263) (L. D. 1447)

Reports that the same Ought to Pass.

Comes from the House, the Bill Passed to be Engrossed.

Which Report was Read.

The Ought to Pass Report of the Committee Accepted in concurrence. The Bill Read Once. Under Suspension of the Rules, the bill Read a Second Time.

On Motion by Senator Katz of Kennebec, tabled until later in today's session, pending Passage to be Engrossed.

Ought to Pass - As Amended

The Committee on Appropriations and Financial Affairs on, Bill, "An Act to Provide Compensation and Benefits Agreed to by the State and the Maine Teacher's Association for Employees in the Bargaining Unit of Instructors at the Vocational-Technical Institutes and the School of Practical Nursing." (H. P. 1119) (L. D. 1284) (Emergency)

Reports that the same Ought to Pass as amended by Committee Amendment "A" (H-173).

Comes from the House, the Bill Passed to be Engrossed as amended by Committee Amendment "A"

Which Report was Read.

The Ought to Pass Report of the Committee, Accepted in concurrence. The Bill Read Once. Committee Amendment "A" Read and

Adopted.

Under Suspension of the Rules, the Bill, as amended Read a Second Time.

On Motion by Senator Katz of Kennebec, tabled until later in today's session, pending Passage to be Engrossed.

On Motion by Senator Pierce of Kennebec, Recessed until 5 o'clock this afternoon.

Recess

After Recess

The Senate called to Order by the President. Senator Pray of Penobscot was granted unanimous consent to address the Senate, Off the Record.

On Motion by Senator Pierce of Kennebec, Recessed until the sound of the bell.

Recess

After Recess

The Senate called to order by the President.

The Chair laid before the Senate the First Tabled, and specially assigned matter:

Bill, "An Act to Provide Compensation and Benefits Agreed to by the State and the Maine Teachers' Association for Employees in the Bargaining Unit of Instructors at the Vocational-Technical Institutes and the School of Practical Nursing." (H. P. 1119) (L. D. 1284) (Emergency).

Tabled—earlier in the day by Senator Katz of Kennebec.

Pending—Passage to be Engrossed.

The PRESIDENT: The Chair recognizes the Senator from Kennebec, Senator Katz.

Senator KATZ: Mr. President, the Republican Caucus fully supports this piece of Legislation, and urges its speedy enactment, so that the economic benefits can go into place at once and I move the pending question.

The Bill, Passed to be Engrossed, As Amended in concurrence.

The Chair laid before the Senate the Second Tabled and specially assigned matter:

Bill, "An Act to Fund and Implement Agreements between the State and the Maine State Employees Association and to Fund and Implement Benefits for Managerial and Other Employees of the Executive Branch Excluded from Coverage under the State Employees Labor Relations Act." (Emergency) (H. P. 1263) (L. D. 1447)

Tabled—April 5, 1979 by Senator Katz of Kennebec.

Pending—Passage to be Engrossed.

The President would ask the Sergeant-at-Arms to escort the Senator from Kennebec, Senator Katz, to the rostrum to assume the duties of President Pro-Tem.

The Sergeant-at-Arms escorted the Senator from Kennebec, Senator Katz to the rostrum, where he acted as President Pro-Tem.

The Sergeant-at-Arms escorted the President to a seat on the floor of the Senate.

The PRESIDENT Pro-Tem: The Chair recognizes the Senator from Penobscot, Senator Sewall.

Senator SEWALL: Mr. President, I offer Senate Amendment "A" to L. D. 1447, under filing number S-88.

The PRESIDENT Pro-Tem: The Senator from Penobscot, Senator Sewall, offers Senate Amendment "A" to L. D. 1447, under filing number S-88 and moves its Adoption.

Senate Amendment "A" (S-88) Read.

The PRESIDENT Pro-Tem: The Senator has the floor.

Senator SEWALL: Mr. President and Members of the Senate, I rise today to offer Senate

Amendment A to this piece of Legislation. My purpose in so doing is clear from the language of the Amendment which in essence restricts the effectiveness of the Appropriations bill until such time as the so-called "fair share" requirement is removed from the tentative agreement. The decision to adopt this position has not been easily arrived at, but the overwhelming majority of Republican Senators have made it clear to their leadership that they cannot in good conscience as Republicans or indeed as representatives of their constituents, vote for any contract settlement which makes support of a union a condition of public employment.

It is our intent then to hold this bill until such time as this requirement is removed from the contract by the parties involved. We do not feel that by so doing that we are injecting ourselves into the bargaining process but rather removing a provision which by our understanding should never have been bargainable in the first place.

We support the pay plan and other economic benefits negotiated in this package, and we certainly do not want to deny any longer than necessary those rewards to which state employees are fully entitled and richly deserving. We congratulate state employees for the patience, fortitude and good judgment they have shown over the past months.

On the other hand, we believe that the vast majority of state employees will understand that we cannot, and will not, deprive upwards of two thousand of their friends and co-workers of their freedom of choice — in fact what we believe to be a fundamental constitutional right merely to reach an expeditious settlement.

Previous legislatures have clearly indicated that state employees should be guaranteed the freedom of choice to join or not to join a union.

When an individual accepts employment with the State of Maine, that employment should be based upon his or her qualifications and ability to perform the work required and his or her continued employment must be based upon performance and not merely union membership if that employee and indeed the taxpayers of the State of Maine are to each get their "fair share."

If the leaders of the M.S.E.A want union security, let them achieve it through service to their membership and not by using any Legislative act as a club to hold over the heads of state employees.

For over two hundred years our society has grown and matured by protecting the rights of the minority as well as the majority. We have no intention of taking any step backward here today by abandoning the rights of a minority of state employees.

We simply do not buy the argument that we have no right to question any terms of this contract. For those who hide behind this argument would no doubt do the same the next time when they propose a union shop or even a closed shop. No. We prefer to take our stand here where it should be taken — on principle and conscience.

Let us make no mistake as to what passage of this bill in its present form, would mean. Any state employee who did not join the M.S.E.A. or pay 80 percent of the regular union dues would be terminated. We find that totally unacceptable now or in the future.

I now hope and move that Senate Amendment "A" will be adopted, Thank you, Mr. President.

The President Pro-Tem would ask the Sergeant-at-Arms to escort the Senator from Penobscot, Senator Sewall to the rostrum to assume the duties of President.

The Sergeant-at-Arms escorted the Senator from Penobscot, Senator Sewall to the rostrum where he assumed his duties as President.

The Sergeant-at-Arms escorted the Senator from Kennebec, Senator Katz to his seat on the

floor of the Senate.

The PRESIDENT: The Chair thanks the Senator from Kennebec, Senator Katz.

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

Senator PRAY: Mr. President, I would ask the question to the Chair for a ruling as to the germaneness of the Amendment?

The PRESIDENT: The Senator from Penobscot has posed a question to the Chair, as to the germaneness of this Amendment. The Chair would advise the Senator, that in the judgment of the Chair, this Amendment is germane.

The Chair recognizes the Senator from Penobscot, Senator Pray.

Senator PRAY: Mr. President and Members of the Senate: I become concerned as to the intention of the Amendment, as I understand it, and as to the Legislative intent of the Maine State Employees Labor Relations Act, and perhaps a conflict of the legal opinion, of the Legislative intent, when that Act was passed.

I'd like to read to you out of the Statutes in Title 26, sub-section 979A under sub-paragraph 5, where it identifies public employers. It states that as to what the Legislative role is in the Labor Relations Act. I quote, "It is the responsibility of the Legislative Branch to act upon those portions of tentative agreements negotiated by the Executive Branch which requires Legislative Action."

The question clearly comes as to what requires Legislative action? What is the Legislative role in negotiated contracts? To answer that question, under the same title, under the same section, sub-section 979D, sub-paragraph E-3, it states and I quote, "Cost items, shall be submitted for inclusion in the Governor's next operating budget, within 10 days after the date in which the agreement is ratified by the parties. If the Legislature rejects any of the Cost Items submitted to it, all Cost Items submitted shall be returned to the parties for further bargaining."

The issue that is before us today, in Senate Amendment S-88, as presented by the Senator from Penobscot, Senator Sewall, does not deal with the Cost Items of the negotiated contract. In the remarks that the Senator made in presenting his Amendment, he talked about a position that the Republican Party had taken, that this was an issue not negotiable.

In 1974, when the Labor Relations Act was passed, and I'd like to quote from the records of March 20, when the Senator from Kennebec, Senator Katz had offered Senate Amendment "C" under filing number S-413. Senator Katz states at that time, "Mr. President, this Amendment takes out the provisions for collection of dues on a mandatory basis, from those not members of the bargaining unit. I suggest that there are two roads for the proponents to follow, to get a check-off on dues. One through Legislative action and one through Collective Bargaining."

It is clear that the process followed the recommendations of the Senator from Kennebec, Senator Katz, and it was negotiated in a contract, Legislative intent. Mr. President, I would ask for a Roll Call on the acceptance of this amendment.

The PRESIDENT: The Chair recognizes the Senator from Kennebec, Senator Katz.

Senator KATZ: Mr. President, I think that for all of us, this has probably been as hard an issue as we would ever care to tackle. We hope that we have defined it, so that everyone clearly understands, that we are completely supportive of the pay plan. We are completely supportive of the retroactive feature.

In 1974, I said, I presumed that this was bargainable in a Collective Bargaining situation. I imagine that if it ended up in a Court suit, the court would consider this a feather on the scale one way or another, but as a judge said to me one day, indirectly in a letter, when I had expressed an opinion as to Legislative intent, that

he found my remarks interesting: but not of any great consequence in the law suit that was currently underway.

The Section of the State Employees Bargaining Law that the Senator from Penobscot, quoted accurately, when he quoted it. He quoted what it did say, but he didn't say what it doesn't say. There is nothing in statute that will cause any conscientious member of this Legislature to give up his sworn responsibility to pursue his job as he sees it.

In the Legislation which the President has attempted to suggest an amendment to, I call the Senate's attention to the language which precedes it. In section 6, it says, "notwithstanding any other provisions of the Law. The provisions of the agreements between the State and the Maine State Employees Association shall prevail." This is pretty heavy language, and it says in effect, let's not worry about what other provisions of the law say, the contract shall prevail.

That is the section which we propose to amend, and we propose to amend it under the umbrella of the language that we did not write, that says "notwithstanding any other provisions of law."

A little earlier today, I received one of the many phone calls that I'm getting, and it's really a mixed bag, I haven't answered any of my mail yet, because until the last day or so, I didn't know how I was going to vote on this, but my mail is a mixed bag. The State Employee who called me up today, really wasn't a State Employee, but a person who has previously been a State Employee, and said she would like to become one and she's thinking of applying for State employment. She was obviously offended by the fact that she'd have to pay some form of tribute.

There are states in the United States today, where in order to hold government jobs, one must pay tribute to a political boss. Thank God, Maine is not one of them. There are states in the United States today, where in order to hold a job, one must pay a tribute to a Union. Thank God, the State of Maine is not among them.

The issue here is so overriding, I represent thousands of State Employees, and hundreds of them, literally hundreds, my constituents, have decided not to join any union. Whose interests should I represent? Should I take a popularity contest? Should I add up my mail and throw it up in the air, and see which comes down in the larger bundle? Should I support the Majority, and ignore the rights of the Minority? What happens in the overzealousness of a future Collective Bargaining Contract, because it seems to be expedient, the rights of one majority group are superimposed over the rights of another, whether they're white, or black, or Indian, or whatever, or male or female, and in that Collective Bargaining Contract it says notwithstanding all the provisions of Law, this contract must prevail? How do you feel about that? Would you vote for it? Would you vote for something that was absolutely contrary to what the intent of law was, or what you felt inside was appropriate? Would you say I've got no voice in the matter, we turned it all over to the Executive Department? The very state employees today who are supportive of this or the inclusion of any other contract because of their deep concern to get this pay scale into effect right now, may in years to come have a different union in here? Union that's not only local that you have to support, but the national that you have to support, or the international that you have to support, and the dues won't be \$1.50, they might be \$9.00 a month or \$10.00 a month, or \$20.00 a month.

I guess the important issue that bugs me most, is the freedom of the state employee, to be a first class citizen, not to pay tribute, not to pay tribute to the Republican party, not to pay tribute to a Democratic Party, and not to pay tribute to any union if that's their decision.

The PRESIDENT: The Chair recognizes the

Senator from Knox, Senator Collins.

Senator COLLINS: Mr. President, I too support the economic provisions of this bill and this contract. The Bill first came to my desk this noon as it came before us from the other body. I read it, I came to Section 6, and I saw these words, "notwithstanding any other provision of law, the provisions of the agreement," agreements plural. "between the State, and the Maine State Employees Association shall prevail."

In my experience with legal matters we would call this, "incorporation by reference." In other words I would take it to be the intent of this bill, that the entire contract negotiated, between the Executive Department and the Union become a part of our statute law. I have never seen that contract, so I inquired if I might see one because I hate to vote into law many, many pages of an agreement without even seeing them I did not feel it would be living up to my duty if I did not inquire.

At 5 o'clock today, I was handed this document I have in my hands, some 60 pages, stamped "Draft," and penciled on the front April 2, 1979. When I started to look through that Draft, and I reached page 5, I found there this paragraph that has been written up in our newspapers. "It shall be a condition of employment that, on or after the 30th day following the execution of this agreement all employees covered by this agreement or who thereafter become covered by the agreement and who are not and do not become members of the MSEA shall pay a service fee equal to 80% of the MSEA dues as a contribution towards the cost of MSEA of Collective Bargaining Contract Administration and the Adjustment of Grievances."

I read further in the bill and I found some other sections that puzzle me, and possibly some member of the Appropriations Committee or possibly the Minority Leader Acting can tell me the answers to these questions.

I found in Section 5 of the bill that the salary plan to be adjusted, to reflect the salary provisions of these negotiated agreements, that these plans for "other employees not in any bargaining unit, shall be similarly adjusted." Will these employees be subject to 80% mandatory contribution?

I have the same question under Section 7, with reference to people who are excluded from a bargaining unit. Will they be subject to 80% mandatory contribution?

The same questions had already been raised with respect to Section 9, where the Governor may make equitable treatment consistent with the salary provisions of certain unclassified employees. Will those people who also have the benefits of this contract be required to have the 80% mandatory contribution?

I don't know the answer to these things, but I submit to the Senate that it would be a grave mistake, not only to adopt a contract with this sort of thing in it, that become part of our statute law by incorporation, but I think, it is important that the Senate has the opportunity to read this entire document, which has just become available to me, at least, and I think that's true of most of us, within this very last hour. Mr. President, I would submit that I think the stand of the Republican Caucus is sound, that we ought to be on record as supporting the economic conditions, but not as supporting this mandatory contribution, that seeks to be written into law, in this hasty manner.

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

Senator PRAY: Mr. President and Members of the Senate. I would just like to point out, although I am not a lawyer like the Senator from Knox, it is my understanding that the language that was used in Section 6, is standard language in the statutory law as it is presently, where we refer to notwithstanding other sections or provisions of the law, and that this section would not diminish the rights of public employees. It

allows those employees the right to sue, through the courts and I think that those that oppose the negotiated contract as far as this section of the law pertains to, that that is their course of action.

I also, like the Senator from Knox, Senator Collins, have a number of questions that are left unanswered as to the comments, in reference that I made as to the present statutes in reading into the Legislative Record as to the intent of those who did away with the agency fee, in 1974, in the 106th, when the labor Relations Act was passed.

I am also concerned as to reference, as to whether or not, if we do have any type of legal opinion, or if the sponsor of this amendment had sought the legal opinion of anybody on the second floor, as to how this does pertain to present statutes?

The PRESIDENT: The Chair recognizes the Senator from Kennebec, Senator Katz.

Senator KATZ: With respect to the questions raised by the Senator from Knox, Senator Collins, he has unerringly placed his finger on several sections of this bill, that I would venture to say, might offend some state employees, if they knew about it.

What this contract and this Bill says, is that if you are a member of the bargaining unit, either you pay union dues or you pay 80% in lieu of union dues.

If you take a look at Section 9 in particular, it says that members of the Executive Department, who work for the Governor and who are not in this bargaining unit, are encouraged to be considered for exactly the same benefits, but they won't be required to pay the 80%. Take a look at Section 9, because we set up another special little group of people who are not required to pay 80%, and they are the so-called confidential employees who might have been involved in collective bargaining. If you read that it says, "that we encourage that you consider them for the same benefits, but we are not going to attempt to collect 80% from them."

Now I am in no respect demeaning the importance and the loyalty of these employees. I am confident, in that I urge no one in any respect to feel I am being critical of the people involved, who have labored so hard to bring this contract to fruition, but you are setting up three classes of State Employees. Those who chose to join the union, those who chose not to join the union and are forced to pay 80%, and a third class that are not involved in the bargaining unit at all, and they are going to get the money and not going to be asked to pay anything.

Gee, I do not think that this is good policy. There is one class of State Employee and they ought to be equally protected under the law, and I am confused as to why this language is in here.

Incidentally, I want to say that I for one am terribly supportive of the speed with which Governor Brennan and his administration took four years of frustration and brought it to a point where a contract is in front of us. I never would have dreamed that it could be done this quickly. I think all of us here have a feeling of complete satisfaction that Governor Brennan and his team stepped in and accomplished this.

Let me report to you the actions of the Republican caucus. It was a very somber caucus just a while ago. Unanimously, Republican Senators voted to support the economic package, no hesitation. Unanimously, the Republican Senators present voted to support the amendment. It is the intention of the Republican Party in the Senate, if this amendment is adopted to put it on the table. We will then attempt to have immediate access to the Governor, who I understand is in the Blaine House, and in the spirit of cooperation, we expect to tell him exactly where the Republican Senators stand, and ask his cooperation in solving this dilemma, so that the situation can be amicably

settled, so that we can move forward to effect this pay plan for the State Employees with a minimum of delay and God knows they have waited long enough for it.

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

Senator PRAY: I move that this item lie on the Table, pending Acceptance of the Senate Amendment.

The PRESIDENT: The Chair recognizes the Senator from Kennebec, Senator Katz.

Senator KATZ: I request a Division.

The PRESIDENT: A Division has been requested.

The Chair recognizes the Senator from Penobscot, Senator Pray.

Senator PRAY: I withdraw my motion.

The PRESIDENT: The Senator from Penobscot, Senator Pray, requests leave of the Senate to withdraw his motion to table.

Is it the pleasure of the Senate to Grant this Leave?

It is a vote.

The Chair recognizes the Senator from Penobscot, Senator Pray.

Senator PRAY: I move the Indefinite Postponement of this Amendment.

The PRESIDENT: The Senator from Penobscot, Senator Pray, now moves that Senate Amendment "A" be Indefinitely Postponed.

The Chair recognizes the Senator from Kennebec, Senator Katz.

Senator KATZ: I request a Division.

The PRESIDENT: A Division has been requested.

The Chair recognizes the Senator from Penobscot, Senator Pray.

Senator PRAY: Mr. President and Members of the Senate: My intentions of tabling the motion a moment ago, were only in response to what I had heard from the good Majority Floor-leader in reference to the comment that he had made, that perhaps we should let this item lie on the table, possibly talk to the Chief Executive about it.

A few moments ago, the Senator from Knox, Senator Collins, had also stated or made reference to the fact that he had just received the report, roughly around 5 o'clock, roughly around 5:30 this evening I received a copy of the Senate Amendment as the bell was ringing and we were going in, as to what we were discussing, and the attempts that are going to be made in reference to the Bill.

I still am concerned as to the Legislative intent. When the Maine Labor Relations Act was passed, it was to take politics out of it, to leave it up to the parties to negotiate, to bargain. Here we are today with what I feel is a sham of putting politics back into it. Mr. President, I would request a Roll Call on my motion.

The PRESIDENT: A Roll Call has been requested.

The Chair recognizes the Senator from Penobscot, Senator Trotzky.

Senator TROTZKY: Mr. President and Members of the Senate. The good Senator from Penobscot, Senator Pray, talked about intent. I want to talk about intent, because I remember back in the 108th Legislature where that Legislature sustained Governor Longley's veto of an Agency Shop Bill, which would have meant compulsory unionism in the State of Maine.

You had to belong to the Union, pay a fee to the Union, in order to work for the State of Maine. That was the intent of this Legislature and this Legislature also represents the people of this State. I believe that Governor Brennan and his negotiating team, violated the will of the people of the State of Maine, as expressed by the 108th Legislature when they agreed to this Agency Shop Clause.

I think that the people of the State of Maine, I know my constituents feel State employees of this State, should be paid decent wages and it has been too long that they have had to wait for this. Tonight I think, this Senate is going to strike a blow for liberty, against tyranny of

compulsory unionism which is coming over and over again in the political process. I am proud of the stand today, which I hope, will be taken by the Republican Party.

The PRESIDENT: The Chair recognizes the Senator from Aroostook, Senator Carpenter.

Senator CARPENTER: Mr. President and Ladies and Gentlemen of the Senate: Just very briefly, I can remember back in the good old days, which were not really so good, when the Legislature got involved in pay raise business for State Employees. I can also remember my pleasure when the State Employees Labor Relations Act was passed, to take the Legislative process, if you will, and politics, if you will, out of the collective bargaining process.

I can remember some of the discussions centered around this particular Bill, and I believe my acting floorleader has already quoted to you from the Bill, but it is the responsibility of the Executive Branch to negotiate collective bargaining agreements.

I will inform you right now that there are things; I have not seen a copy of the contract, I do not believe members of the Democratic Caucus received copies, I am sure there are things in there I do not like. I think the law is very clear, that we are authorized, we are supposed to act on the cost items, involved in a negotiated settlement.

I wasn't present during negotiations, there were some very bright people there. I am sure they all were very well aware of what they were putting in the package. The Federal Mediator was there. I am sure he was well aware of what was going in the package.

I am just a little bit concerned here tonight that either the State of Maine decide; the Legislature of the State of Maine decide; to get in or get out of the collective bargaining process.

I heard the good Senator from Penobscot, Senator Trotzky, just mention legislative intent, 5 years that I have been in this Legislature, Legislative Intent has always been decided in the courts. Legislative Intent is something we read into the horse blanket everyday, so that the court will have no question as to which way we want this bill to go, that is Legislative Intent. In the 5 years that has always been determined by the courts, by the judicial branch of government.

I would just say that I heard my good friend the Senator from Kennebec, Senator Katz, say that the Republican Caucus was unanimously in favor of the money part of this Bill. I submit to you under existing statutes that is the only thing we can be concerned with. We ought to get on and vote on that. Thank you.

The PRESIDENT: Is the Senate ready for the question?

A Roll Call has been requested.

Under the Constitution, in order for the Chair to order a Roll Call it requires the affirmative vote of at least one-fifth of those Senators present and voting.

Will all those Senators in favor of ordering a Roll Call please rise and remain standing until counted.

Obviously more than one-fifth having arisen a Roll Call is ordered.

The pending question before the Senate is the Motion by the Senator from Penobscot, Senator Pray that Senate Amendment "A" be Indefinitely Postponed.

A Yes vote will be in favor of Indefinite Postponement.

A No vote will be opposed.

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEA — Carpenter, Clark, Cote, Farley, Martin, Minkowsky, Najarian, O'Leary, Pray, Silverman, Trafton, Usher

NAY — Ault, Chapman, Collins, Devoe, Emerson, Gill, Huber, Katz, McBreairty, Perkins, Pierce, Redmond, Sutton, Teague, Trotzky

ABSENT — Conley, Danton, Hichens, Lovell,

Shute

A Roll Call was had.

12 Senators having voted in the affirmative and 15 Senators in the negative, with 5 Senators being absent the Motion to Indefinitely Postpone Senate Amendment "A" does not prevail.

The PRESIDENT: Is it now the pleasure of the Senate to Adopt Senate Amendment "A"?

A Roll Call has been requested.

Under the Constitution, in order for the Chair to order a Roll Call it requires the affirmative vote of at least one-fifth of those Senators present and voting.

Will all those Senators in favor of ordering a Roll Call please rise and remain standing until counted.

Obviously more than one-fifth having arisen a Roll Call is ordered.

The pending question before the Senate is the Adoption of Senate Amendment "A" to L. D. 1447.

A Yes vote will be in favor of Adoption.

A No vote will be opposed.

The Doorkeepers will secure the Chamber.

The Secretary will call the roll.

YEA — Ault, Chapman, Collins, Devoe, Emerson, Gill, Huber, Katz, McBreairty, Perkins, Pierce, Redmond, Sutton, Teague, Trotzky, Sewall.

NAY — Carpenter, Clark, Cote, Farley, Martin, Minkowsky, Najarian, O'Leary, Pray, Silverman, Trafton, Usher.

ABSENT — Conley, Danton, Hichens, Lovell, Shute.

A Roll Call was had.

16 Senators having voted in the affirmative and 12 Senators in the negative, with 5 Senators being absent, Senate Amendment "A" (S-88) Adopted.

On Motion by Senator Huber, of Cumberland, Tabled, pending Passage to be Engrossed.

On Motion by Senator Pierce of Kennebec, adjourned until 12 noon tomorrow.