

# MAINE STATE LEGISLATURE

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



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

**LEGISLATIVE RECORD**

OF THE

***One Hundred and 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 12, 1979

Senate called to Order by the President.

Prayer by The Honorable Dana C. Devoe of Orono.

Senator DEVOE: Dearest Lord, this day we are privileged to return to our families and neighbors and join them in observing this Holy day of weeks.

As we assemble here, bless us in our sincere efforts to do the business of all the people of Maine.

Show your blessings on each Senator, let each of us be grateful for the sacrifices of our loved ones whose generous hearts and spirit enable us to do the people's work.

Help us in our own time of trial as your father helped you. Amen.

Senator Carpenter of Aroostook, was granted unanimous consent to address the Senate, Off the Record.

Out of Order and Under Suspension of the Rules:

On motion by Senator Pierce of Kennebec, ORDERED, the House concurring, that when the House and Senate adjourn, they adjourn to Tuesday, April 17, at eleven o'clock in the morning. (S. P. 502)

Which was Read and Passed.

Sent down forthwith for concurrence.

Reading of the Journal of yesterday.

**Papers from the House**  
**Non-concurrent 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." (H. P. 1263) (L. D. 1447)

In the House, April 5, Passed to be Engrossed.

In the Senate, April 11, Passed to be Engrossed as amended by Senate Amendment "A" (S-88), in non-concurrence.

Comes from the House, that Body Adhered.

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

Senator PRAY: Mr. President and Members of the Senate: The proposed state employee contract upon which we must now make a decision does, as everyone by now must be well aware, contain a so-called, "fair share" provision. This provision would, if we were to recede and concur with the other body, require that all state employees in this bargaining unit, and there are 9,300 of them, join the Maine state employee's association or pay eighty percent of the union dues as their fair share of the cost of negotiating a contract. Over 2,000 state

employees in this bargaining unit are not now members of the M. S. E. A. their freedom of choice would cease to exist — they must either join the union, pay 80 percent of the union's dues, or lose their jobs.

Our friends in the union leadership say, of course, it is fair to share the costs of negotiating a contract which benefits nonmembers equally with members of the union. Yes, says the Governor, I believe in state employees who are not union members paying their "Fair Share". But isn't there a strange inconsistency here on both the part of the union leadership and the Governor? There are over 300 Executive Department employees who are full beneficiaries of the fruits of this contract, but who are specifically exempted under the terms of L. D. 1447 from having either to join the union or to pay their so-called Fair Share which would amount to over \$75 per year. If discrimination is defined as providing different treatment on a basis other than individual merit, what are we to call this? I, for one, am opposed to creating favored classes of state employees based upon where they work rather than what type of work they perform.

I believe that I speak for the overwhelming majority of Republican Senators when I say we have no desire to interpose ourselves between the Executive Department and the unions in the negotiations of non-cost items. At the same time, we cannot as representatives of our constituents and our own beliefs approve, by implication, the enforcement of any provision which would make the support of a union a condition of public employment.

Let us make no mistake about it, the Fair Share Provision is a cost item. Not only will it cost those State employees affected over \$75 per year out of their pay checks, not only will it cost the State money to collect and turn over to union officials those funds, but it will cost the State in terms of resentment among fellow employees and lowered morale on the part of many employees who have given the State years of loyal service.

But these are minor costs compared to the long range implications of the "Fair Share" Provision. The issue here is Union Security and the increased flow of funds to the union coffers is going to generate its own bureaucracy. Let us not forget that state employees are a special interest group and have monetary concerns beyond the contract itself. How many M. S. E. A. lobbyists are we going to see in the halls now on every piece of Legislation that affects the State Retirement System and other matters of direct or indirect monetary interest to them. When the Judiciary Committee released its report on the Tort Claims Act two years ago, there were at least eight different state employee lobbyists trying to overturn the committee report at different times. No one wants to deny state employees what is rightfully theirs, but let us not forget either that a union has no responsibility to the taxpayers who are not their members — but we in this Senate do. The Legislation which created collective bargaining for state employees never contemplated that this Legislature should become a mere rubber stamp. Does anyone seriously believe that the 106th Legislature intended to convert the 109th Legislature into a bunch of puppets?

If we help to strengthen an already strong special interest lobby by the passage of Legislation which forces a certain class of people to involuntarily pay tribute to it, then the eventual cost to the taxpayers could make the financial portions of this contract pale in comparison.

I congratulate the union officials who negotiated this contract for having done well by their membership. Not only have they negotiated a sound financial package, but they have gotten concessions from management that it has taken other unions in this state many years to achieve. They have laid a firm foundation upon

which to come back year after year for more benefits and better conditions of employment for their membership.

Under this contract they have open access to state employees, management cooperation in distribution of union materials, use of state offices and meeting rooms, shop stewards allowed to do union business on state time, generous overtime provisions, liberal holiday and vacation provisions, leave with pay for one day per month for M. S. E. A. Board Members and one day per year for up to 200 M. S. E. A. Council Members.

There are strong seniority provisions in this contract and even a provision which says that if an employee is required to have a telephone at home the state must pay 5 dollars per month of the basic monthly charge.

This, from the employees' point of view, is a good, even an excellent, contract without the "Fair Share" Provision which is that most critical cost item that stands in the way of its being sent to the Governor for his signature.

The fact that the Republican Senators are willing to pass, even support, the provisions of this contract and the financial package that goes with it (other than "Fair Share") should stand as a monument to our good faith and concern for state employees.

There is, or should be among unions, a strong sense of gradualism; of doing well by your membership each time you negotiate without asking so much all at once that you make failure a self-fulfilling prophecy. I believe the state employee negotiators violated this principle when they included the Fair Share Provision in this contract.

Ask any management industrial relations expert and he will tell you without exception that the principal cost items in any contract are not the salary increases agreed upon but the working conditions and management prerogatives negotiated away in lieu of money.

We maintain in this case the Executive Branch has given away too much — more than it should have and more than by Legislative intent it had a right to.

Since the Maine Supreme Court has already ruled that agency shops in public employment are illegal, the union has negotiated a fair share provision. Since the statutes are not totally clear on this issue, it was the best union security provision they could have negotiated under the circumstances.

We do not believe that a Fair Share Provision belongs in public employment, this is a matter entirely distinct from the private sector. We do not feel that we should establish any favorable precedents that could be used in a court of law at a later date by approving this measure today, and we do not believe that we should Recede and Concur today and then try to pass a law making the Fair Share Provision illegal. That would be tantamount to nailing the barn door after the horse is long gone.

Why should a union which is not responsible to the taxpayer, whose interests are often at odds with those of the taxpayer, have such a disproportionate say as to who will be paid from the public purse.

Once again, Mr. President, I believe I speak for the overwhelming majority of the Republican Senate Caucus when I say that making support of a union a condition of public employment is too great a cost to the taxpayers of the State of Maine.

Mr. President, I move that the Senate Adhere, and request a Roll Call.

The PRESIDENT: The pending question before the Senate is the motion by the Senator from Penobscot, Senator Pray that the Senate Recede and Concur, with the House.

The Chair recognizes the Senator from Cumberland, Senator Najarian.

Senator NAJARIAN: Mr. President and Members of the Senate: I find it hard to understand why the Republican Members of the Senate, of all people, should be so concerned

and upset about the Fair Share Provision included in the Collective Bargaining Agreement. I'm reasonably certain that the Republican members of this Senate do not have the same objections or feel equal concern to the Fair Share Assessments of our Public Utilities, and yet there is basically no difference.

I find, to use Senator Collins's words, a strange inconsistency in your position. Each and every one of Central Maine Power's customers is charged or assessed \$5.86 per month, whether any electricity is used or not. Every one who has a telephone has to pay a monthly uniform charge, whether or not the phone is ever used, or regardless of the demands made upon the system.

There is no consideration in these instances given to individual choice whether I want to pay this or not I have to, and the penalty is to have my phone removed or the electricity cut off. The argument given in support of this utility service fee is that we derive a certain benefit from merely having ready access, to the phone or to the electricity. This charge is our fair share to cover basic operating costs, to provide for the salaries of its executives, to pay for the advertising to promote the utility, and to maintain the stockholders.

The practice of the utilities I just described is no different in reality than the issue which divides us today. The principle is the same. All those who derive benefits should contribute to the cost of those who provide those benefits, whether that is CMP or MSEA.

If the Senate is not too uptight to appreciate a little levity, relative to my previous remarks I'm willing to make a proposal that might bring about an end to this impasse. If you'll drop your objections to this issue before us, and Recede and Concur, Senator Trafton and I would be willing to withdraw our bill which prohibits utilities from assessing their customers this Fair Share Amount regardless of usage and whether we want to pay it or not.

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

Senator PRAY: Mr. President and Members of the Senate: I listened with great intensity to the Senator from Knox, Senator Collins and his concern about the present Contract that is before us and the Clause in relationship to Fair Share, and the remarks in reference to Union Security.

In this Senate Chamber on June 13, 1975, when the Legislature enacted the University of Maine Collective Bargaining Law, which in Statute has a Union Security Clause, along with the Senator from Knox, Senator Collins, Senator Hichens, and Senator Huber, Senator Katz, and Senator Trotzky, on a Roll Call vote, all joined with passing that piece of Legislation, with a Union Security Clause in it, clear for everybody to read in the statutes. I also understand and believe that they have a right to change their minds.

Perhaps State Employees should not be treated the same as University of Maine Employees, that State Employees should not be treated the same as citizens in the private sector, we've had that before on a number of other issues, but when we talk about freedom of choice, and we talk about Fair Share, it was in this Chamber also, that we mandated that employees would have to join the Retirement System, no choice.

I believe that there is a lack of consistency in this Chamber today, with the action that may take place. In my opening remarks when I asked to Recede and Concur, I talked about the grave and dark cloud that I feel is coming over the State, and it's a shame that that would happen on a beautiful day like today, as we do get ready to head home for a 4 day vacation from the Legislative process, and I'm happy that the issue is being dealt with today, one way or the other.

To do other than to Recede and Concur, we are only postponing the action. The Governor

of the State of Maine, who bargains for the people of the State of Maine, who has bargained this Contract, has stated that he will stand behind this Contract.

I would like to pose a question to the Chair, to any member of the Republican Party in here, as to what they see as an alternative if the Governor has stated his position, representing the people of the State of Maine, that he will not change that Contract, are we going to reject it again, and again, and again?

I believe that the action is clear today that we must take the action for the benefit of all the people of the State of Maine.

It is my belief that just a short while ago, it was expressed by the Republican Leadership in the Legislature there would be no problems with this Contract. It is even rumored that they directed the pay office to change over the computer sheets. It is rumored that it has cost a great deal of money to change those sheets back because this issue has been held up.

Read the Contract that goes back to April 1st, and as long as we delay it, there's going to be an additional cost to the people of the State of Maine. I want to make it perfectly clear right now, that the people of the State of Maine, not only work in the private sector, but they work for the State, and the towns, and the cities across this State as well. We are putting an additional burden on them, as long as we hold this issue up. The same list of categories that the Senator from Knox, Senator Collins, ran through, for the same reasons we passed the Collective Bargaining Law, to take those issues out of the political arena, and to give ourselves an input into the system by accepting or rejecting cost items.

The PRESIDENT: The Chair would advise the audience that we're very pleased to have you in here with us today, but the Chair would admonish, to refrain from applause either for or against an issue, so that we can have our deliberations in an atmosphere of quiet, calm deliberation. Thank you very much.

The PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Conley.

Senator CONLEY: Mr. President and Members of the Senate: I would assume that the battle-lines have been drawn, and I would almost suggest that perhaps things aren't going to change much more than they did yesterday.

But I would like, at least, to look back over a few years ago, when I sat in this Senate along with the good Senator from Kennebec, Senator Katz, and we debated the so-called Collective Bargaining Statute.

There was a great deal of confusion at that time, because the question in my mind seriously as to whether or not MSEA or ASME wanted to see a Collective Bargaining Statute passed in that session. If anyone takes the time to review the Legislative Record, they too will be somewhat surprised as to some of the questions that were raised by the alleged proponents of the statute. Needless to say, we did pass that law, and we passed it because the Maine Legislature was becoming sick and tired of having to be negotiators for State Employees.

If the good Senator from Knox, Senator Collins, thinks that people are being pressured on Retirement System, or on other pieces of Legislation, all we have to do is go back and recall how many State Employees were calling us for a pittance of \$7.00 a week increase in their salaries, back 7 or 8 years ago.

I know Mr. President that I served with you on the Appropriations Committee at that time, and we used to try to weigh exactly what the priorities were for the citizens of this State we used to also weigh the priorities of the so-called L. D.'s sitting on the Appropriations Table, and how much money we could put aside to fund those L. D.'s. We also then gave consideration to how much money we could afford to give a salary increase to our State Employees.

So we passed a Collective Bargaining Statute, then 18 months ago, MSEA started bargaining, and I recall that back in January 4th or shortly thereafter, when the present Governor became somewhat disturbed at the fact of work actions or so-called threatened strikes, and the Fact-Finders Report came to us, and I know that we as members of the Legislative Council were shocked at the cost of that package and the Governor ordered everyone back to the bargaining table. There was a great deal of concern, there was a great deal of anxiety on the part of State Employees and how upset they were to think that after all this period of time, that once again, they were forced back to the Bargaining Table.

Perhaps the fact that we had a change in the Chief Executive, in January, did open up the light and allow State Employees and negotiators on the part of the Executive Department to get back to the table, because I'm sure, or at least I have a very strong feeling, that had we not had a new Chief Executive this year, that this whole package would have gone to arbitration, and they'd be still wondering what would happen as far as the negotiated Contract.

What we see before us today, as the alleged "Red Herring" sticking out, the so-called Fair Share Provision. I look around this Chamber, as I've said many times, there aren't too many card-carrying union members. There's one, to my knowledge, in your party and there are 3 or 4 in mine. Although I don't find it offensive to be able to be in private business for yourselves, or that you enjoy professional jobs in society. I wonder though, many times, as to just how much weight and consideration is given by you as individuals as to what the working classes of this State have to go through. That bread costs him and me the same as it costs you, milk, electricity, telephones, hospitalization, whatever the case may be, it still costs.

I joined the Union back in 1952 in Chicago, and at that time you didn't have to belong to the Union. It was a voluntary thing, and I joined and there were probably 20% of the employees that did not belong. It was perhaps 4 or 5 years later, when through the American Railroad's Associations, it was negotiated for the Closed Shop or the Union Shop, and everyone had to belong. You know there was no furor, no one got dramatically upset. I'm sure some people may have been offended, but in all the vast majority were delighted to come on board. When they look at their paychecks today they can understand why, because there are some people in this country today who would take away from the unions the gains that have been made, that have been hardly fought for, over a period of years.

I personally see no difference whatsoever between the private sector and the public sector. I think people who work for the State those who volunteer to join a union fine, but I don't see any reason in the world why those who choose not to belong should not compensate union officials for representing them as they are obliged to, under the Federal law.

This is nothing to me more than a teapot scandal or issue, whatever you want to call it, it has no real concern of the citizens of this State, whether State Employees have to pay a Fair Share. I mean it's simply ludicrous to say that we the State Legislature is concerned as to whether or not State Employees have to pay a Fair Share.

I think if they are going to be represented by the unions then they should have to contribute something for that representation. If they have a grievance they have to be represented by the Union, if they are going to be fired for some frivolous charge, they have to be represented by the Union. Why shouldn't they compensate?

But most importantly, I think, Mr. President, and Members of the Senate is the statute that we enacted several years ago, that if this Senate fails to ratify this working agreement, then the Collective Bargaining Statute is not

worth the paper it's printed on.

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

Senator CARPENTER: Mr. President and Ladies and Gentlemen of the Senate: I heard my good friend from Knox, Senator Collins, talk about inconsistencies. I think the remarks that my floor leader, the good Senator from Penobscot, Senator Pray, the good Senator from Cumberland, Senator Najarian, had pointed out more than an ample number of inconsistencies in the position as espoused by the good Senator from Knox, Senator Collins, the Central Maine Power, the utility situation, the University of Maine situation, we all voted for it.

The good Majority Floor Leader, who is not here today, there was a statement read here the other night, where he thought that the Fair Share Union Security Agreement ought to be a negotiable item back when the Maine Labor Relations Act was first passed. I have seen the Attorney General's opinion, which says let's let it go to the Judicial Branch, let's let them decide whether it's fair or not, the process, the mechanism, has already been set up, as I understand it, by the union, so that the Fair Share money will be put in escrow, nobody would lose anything, if the court, in fact, ruled that it was not valid, nobody would lose a cent.

I've heard in the last week in this Chamber, and we've been just a week today since this issue first came before us, I've heard that we're going to go to the Governor and talk to him, and then we'll make a decision. I've heard, well, we want to read the Contract, after the Governor had given his decision, and now I hear the Fair Share.

I think, maybe the underlying problem here, was detected in some of the remarks the good Senator from Knox, Senator Collins, when he talked about gradualism. He talked about the Union ought to go slow and not come in and ask for a whole lot of things. Maybe the underlying issue that really is bothering some of the people who feel obligated to vote against this package is the fact that the Union did a very good job. The fact that the Contract that was negotiated was a good Contract. Maybe if this had been spread out over 10 years, in the spirit of the so-called gradualism, it would have been acceptable.

I mean, it took us a long while to go from the days of Samuel Gompers to get away from some of the sweatshop labor situations in this country, which we would still be in today, if it weren't for Unions. My record in voting for the Unions isn't all that good, I come from a District, probably per capita, percentage wise, more non-union people than any other District in the State of Maine.

This issue seems to be breaking down on party lines, and I'm very sorry for that. I was amazed because of the statements I read in the paper when the Contract was first announced. I was amazed to come in here and find out that it did break down on party lines.

I come from a District that is overwhelmingly Republican, the only claim to fame I've ever had is the fact that there hasn't been another Democrat elected from my town since 1914, and there may not be another one elected for another 60 years, I don't know.

I've gone back and I've talked to my people, public employees who don't happen to be union members, non-public employees, who aren't union members, and when you explain the situation to them, my Republicans, be they non-union or union don't have any problem with the Fair Share Clause.

I've heard people stand on the floor of this Body and talk about the hundreds of phone calls they've received from non-union employees, non-union State Employees who say that Fair Share is wrong, I don't want any part of it, and I haven't had a problem explaining it to my people at home.

I've received a lot of letters, a lot of cards, not a lot, but a few, from some of the people

back home who say we don't want union bosses pushing us around. I want to read you just part of one, I got this yesterday. It says, "in our opinion this is not what the people of the State of Maine, not what the State of Maine is all about, it does not reflect the independent thinking of most Maine citizens, to be pushed around by a union boss".

I talked to a non-union State Employee in this Chamber before we went into session today, who's here in support of the Contract, he has no problem with paying his Fair Share. The word independence, Maine's rugged individualism seems to be, those phrases seem to be coming up. Well I haven't found a Maine citizen yet, in my District, who violently objects to a person paying a Fair Share for benefits received, and I have found a lot of them, the Majority of them, even the ones who are writing to me after I talked to them, a vast majority of them, are against anybody freeload off the work and the labor of somebody else.

Mr. President, if it hasn't already been done, on the Motion to Recede and Concur, I would request a Roll Call.

The PRESIDENT: A Roll Call has been requested. Is the Senate ready for the question?

The Chair recognizes the Senator from Kennebec, Senator Ault.

Senator AULT: Mr. President and Members of the Senate: When this issue of the State Employees pay raise first appeared, I asserted my support for negotiated settlement with objection to the inclusion of the so-called "Fair Share Provision." The records show that I voted for the package, and the record also shows that I expressed my feelings on inclusion of the "Fair Share Provision" by joining with my Republican colleagues and voting for Senate Amendment "A", which calls for withdrawal of the clause.

I do not believe that any person should be forced to join a union or pay a fee in order to hold a job with the State of Maine. I will repeat what I have said to numerous State Employees this week, I for one would find it difficult to work closely with my fellow workers if I knew that I were not paying dues and they were, and that I was reaping the benefits that their union had negotiated, but even though I feel this way, I do not believe the Legislature should be mandating such a requirement.

My position has been clear, I support the pay raise, but I find inclusion of the "Fair Share Clause" objectionable. I have heard any number of times this week from what I consider reputable people that if this pay plan is approved as it is written, the "Fair Share Clause" will be challenged in the courts, and I hope so. I also hope that if the court looks in the Legislative Record, for Legislative intent, it will know that it is not my intent that any person be forced to join a union or pay dues in order to be employed by the State of Maine.

As I have said, my position has been clear and consistent. Like the rest of you I have been barraged with phone calls, cards and letters this past week, and all have not been favorable to the negotiated package. This barrage has not affected my position. I'm aware as anyone of the possibilities of influencing any position by starting a biased phone call or card campaign. If anyone of you believe in them, then the cards that I have been receiving, certainly indicated that 90% of the people in the State of Maine support Right To Work Legislation.

I would point out that I have been pleased with the manner and attitude of the State Employees that have contacted me, only 3 of my phone calls and 1 of my letters has been what I call, abusive. All other calls, though strongly opinionated were courteous. The caller stated his or her position, and let me state mine, and I felt we parted with mutual respect. My position has not been influenced by the MSEA, even though I was favorably impressed by John Oliver's presentation at the Republican caucus on Monday.

The MSEA chose to endorse my opponent in the last election and I have no reason to believe that I will endear myself to that organization during this session of the Legislature.

I believe we Republicans are right in adopting Senate Amendment "A", which would provide for the right to choose, and despite some of the comments I have heard, I am still proud to be a Republican.

Mr. President, I object to the "Fair Share Clause" in this Contract, but I support the pay plan, and I want the State workers to receive the pay raise which I believe they deserve. I support the Motion to Recede and Concur, and hope the rest of the Senate will vote with me.

The PRESIDENT: A Roll Call has been requested.

The Chair recognizes the Senator from Androscoggin, Senator Trafton.

Senator TRAFTON: Mr. President and Members of the Senate: I too was concerned by some of the remarks made by the Senator from Knox, Senator Collins. I have the privilege of serving with that Senator on the Judiciary Committee, and I have always been impressed with the respect that he has shown for Maine law.

In earlier testimony on this issue, I think, the Maine Law regarding this issue has been clearly outlined. Again before us today we have an Attorney General's opinion, which again says, and I quote, "under the present wording of the Selra, the Legislature's role with respect to Contracts negotiated with State Employees is limited to the approval or rejection of cost items".

It strikes me as strangely inconsistent that I don't see the same respect for this provision of the law illustrated in the Senator's remarks, but now we're going to go one step further.

The Senator has called into question the entire Collective Bargaining process, the Senator from Knox, Senator Collins, has given us a virtual laundry list of Contract Provisions which disturb him and his fellow Republicans.

I can only say that after listening to his remarks, I fear for the future of Collective Bargaining for public employees in this state. Certainly at the top of his list is the "Fair Share Provision." I think the Senator from Cumberland, Senator Conley and Senator Najarian have adequately addressed this provision, but another question and perhaps the real question remains unanswered. Why are we debating this issue today, when by statute it is really not before us? Why have we allowed this bitter political issue to intrude into the efforts of approving a Collective Bargaining Agreement?

All of us are very much aware by both mail and by the bills that come across our desk that we will have every opportunity to discuss this in a proper form at a later point.

Finally, I feel that the Senator from Knox, and by their silence, his Republican colleagues, have called into question the integrity of the Executive Branch, as our negotiator. For the record, and I am sure that I speak for my Democratic colleagues, we are proud of the manner in which our Governor, Governor Brennan, has conducted negotiations with State Employees. We are proud of the fact that he has negotiated in good faith, and we stand here today ready to approve the Collective Bargaining Agreement on the only grounds that we have statutorily, which is to approve the money items. Thank you.

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

Senator PIERCE: Mr. President and Members of the Senate: It has never been my practice in this body, to rise on issues when I feel that probably what I say, or what others are going to say, is not going to change a single vote.

I think that probably anything anybody has said today or anything I am going to say, is not going to change the vote today. I suspect we all had our minds pretty well made up whatever

that may be, before we entered this Chamber, however, I do think that there are some things that need to be said for the record.

I, too, as the previous speaker, have some concerns. I have some concerns when we have such a serious question as the problem before us, about the debate that I heard yesterday. How that the National Right-to-Work Committee was orchestrating the Republicans in this. Some person — I do not know who — runs the National Right-to-Work Committee, I have never heard from him unless it was in some leaflet. I have never talked with anybody from the National-Right-to-Work Committee. I think that such arguments are ridiculous.

Then I heard that this bill was being held as hostage, hostage for what? There is no other bill around here that we are going to hold this hostage for. This is a serious question and I think that all of us take it seriously.

Those arguments, as far as I am concerned, serve only to insight and not to solve any problems that we may have before us.

The State Employees have waited 4 long years, 4 long years through an administration, that obviously was very harsh to them, and none of us applaud that.

I think that it is significant to note, that when we are talking about a \$50,000,000. package as we are here today, I have not heard one single voice raised in this Legislature that says that the State Employees are getting too much money; we can not afford to pay them that much; the contract is too generous; nobody has said this, that is because I think that basically there are 184 members in this Legislature who are sympathetic to the State Employee cause.

I am not going to say anything here today, with this State Employee audience that I have not said for the last 5 years since I have been in this Legislature. I have always found the quality of the workers employed by the State, their dedication, their loyalty to be of the highest caliber, but the over-riding question today — the overriding question today is what is best for the State of Maine?

Now it just happens that there are several things that I do not particularly like about the contract. I just want to mention them to you, I do not like the fact that somebody who retired two or three weeks ago, is not going to get that retroactive pay for the last year that everybody else is going to end up getting. I do not think that that is very fair.

I do not like the fact that certain people who work for the Governor are going to be exempt from paying the 80% or exempt from joining the union, I do not like that.

It is not up to me to nit-pick this contract, it is not up to me to say, OK, because I do not like that I am not going to go along with it I am not going to do that.

But there are still three branches that run this government, and while I am not going to nit-pick, I can not put my head in the ground like an ostrich and just ignore everything either.

I will tell you I have to feel pretty darn strongly about something, before I would take the position that I have taken up to this point, with this contract.

Anyone who thinks that my position is because of some political game, because of some party, or because of any pressure put on me by anybody does not know me very well.

I suspect that there is no one in the Senate today, taking this position, this whole question, lightly. I think that we have all agonized over it. I think that we have thought about the situation, over many, many times, there is no easy answer, because either way we vote there are certain people who are not going to like it and there are certain people who are going to be hurt by it, either way we vote.

I am not complaining, I am not complaining about that, because nobody ever told me that all the decisions that I was going to have to make here in Augusta were going to be easy

ones. That is the job, that is the job that I have to face up to and that is the decision that I have to make, day after day.

When I look at State Employees particularly from my area, when I talk with them, it does not make my job any easier when you know that people who have become your friends, who need the dollars, who need them today, not a month from now, it does not make the job any easier to say, Yes we are going to give you those dollars, there is no doubt about it the State Employees are going to get those dollars, and they are going to be retroactive to April 1st, it does not make it any easier to say, perhaps because of the circumstances here and because of what some people believe you may have to wait a little longer.

I have found that the MSEA in all my dealings with them, have been honorable, upright, and I really find absolutely no fault with the union, I think that it is a good union. There are good unions and there are bad unions, just as there are good businesses, and bad businesses.

I also think that it is our responsibility to look beyond the John Olivers, to look beyond the Joe Mackeys to look beyond the MSEA's to future times, to see what the implications of this contract are.

It has been my position that the Governor was wrong when he tried to negotiate something which the Legislature has already turned down and which in fact is considering at least 3 bills this session, to make legal.

I do not applaud free-loaders any more than anybody else and there are x number of State Employees out there that free-load just for the sake of free-loading and then toss it in everybody's face. But there are also x number out there that just philosophically, and very strongly, and very truly, believe that to work for their own government, they should not have to pay dues to a union, they should not have to join a union, they honestly believe that with all their hearts.

I have to try to balance, my decision here, do I say wait a little longer on one hand, or on the other hand perhaps it is going to mean the end of a job, perhaps the end of a livelihood to others? It is a very difficult decision to make.

Despite the rhetoric you have heard, I think that the Governor, the MSEA and the Senate of the State of Maine, have acted in good faith. I do not think that it is fair, to portray these roles in any other light but that, for all these parties. There are honest differences of opinion here, between the men and women of the Senate, differences of opinion among members of my own party.

From the very beginning I know of no Republican Leader, who went to one Republican Senator and said I want you to vote this way. I know of no Republican Leader who lobbied a Republican Senators. I did not ask nor do I think that any other Republican Leader, today when they came in here, asked any Republican Senator how they are going to vote.

We held one caucus on this issue after we had taken a quiet poll on how people felt about it. We made it clear in that caucus that everyone in this Republican caucus, would not take a party position that they would vote their conscience. There would be absolutely no pressure put on them one way or the other however they want to vote. I want to reiterate that here again today, on what may or may not be our final vote on this Bill. Every Republican Senator is absolutely free, to vote exactly how they want to, I think that that is important to note.

I know that the reward for the decision that I make today, is not going to be more votes; and the reward that I make for my decision today is not to be more popular, but I think that the reward that I will have, is above all the emotionalism and all the rhetoric, above all that, I am going to vote and I am going to do, what I think is right. That really is the only reward that I need and people and time will have to judge my decision on that basis, in the future.

The PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Conley.

Senator CONLEY: Mr. President and Members of the Senate: I would like to state that the good Senator from Kennebec, Senator Pierce, has mentioned the fact that there are several bills before us in this session, that deal with Unions.

I would state that there is no legislation before us, dealing with the "Fair Share Provision." We do have a bill before us though that deals with binding arbitration. I wonder what the Maine Senate is going to feel, when that Bill comes before us, I saw how they felt in the past.

But more importantly, I think I want to express what I feel is the overall view of the Democratic Senate, and that is very clear we have absolutely no right whatsoever to get into anything within this agreement other than dollars.

When the good Senator from Kennebec, Senator Pierce has stated that there are three branches of government, one, the Executive Branch, has negotiated this contract. Secondly, the Legislature as stated by the Senator from Kennebec, Senator Pierce, is delighted with the dollars and cents that are being offered and thirdly, I would suggest, that if there is a problem, with one of these items that have been negotiated then let them go to the third branch of government, the Judiciary, to appeal as to whether or not it is legal.

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

Senator TROTZKY: Mr. President and Members of the Senate: I am concerned with the remarks made today by the Democratic Minority Leader and also by Senator Carpenter.

Today the Democratic Party of the State asks us to shackle all public employees of the State of Maine to a union. The Democratic Leaders ask that the burden of proof be put on the minority non-union member to take the union to court to regain their personal liberty. Traditionally, the Democratic Party has fought to protect the individual rights of the minority groups. It is a sorry day, when this respected political party abandons its principles for political expediency.

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 remind the good Senator from Penobscot, Senator Trotzky, that in this chamber he voted on those same principles when he voted and mandated that the State Employees join the Retirement system, for employment.

I would also point out to that same Senator that he is confusing the issue with the "Agency Fee Bill", which I have in this session and I have put in in the past, forcing them to join to pay a fee. I would also suggest to that same Senator that to clearly understand the issue that perhaps he should understand the difference between fair share and an agency fee.

The PRESIDENT: A Roll Call has been requested.

The Chair recognizes the Senator from Oxford, Senator Sutton.

Senator SUTTON: Mr. President and Ladies and Gentlemen of the Senate: I have mentioned before and I have never been more aware of it than right now; I wonder why I work so hard for 9 months to come down here at this point in time today.

I, too, agonized along with my colleagues over this situation, in fact, I could have stayed home today, I really could have, but I felt in conscience that I had to show up today, not only because of 33,000 people whom, I represent, but because of myself.

Very briefly notwithstanding our philosophical difference that we have been discussing: notwithstanding these 33,000 people that I represent, that may feel differently than some of those that we are addressing now, notwith-



standing the million people that we all represent here, many of which and maybe the majority of which, do not agree; notwithstanding the fact that I basically support the Collective Bargaining Position; notwithstanding the fact, that I think, that our Executive Branch has made a mistake and I think that it is incumbent upon us as being part of the check and balance system to react accordingly; notwithstanding all of these matters, the fact is there are 2,400 people that if we Recede and Concur, are liable to be out of work next week.

They may have hit the bricks. Now I have been told that if we do not go along with this there may be 7,000 that will be hitting the bricks, but I wonder if maybe we shouldn't have 7,000 volunteers on the bricks, instead of 2,400 involuntarily on the bricks.

Our good minority leader made a very eloquent chastisement of myself and my colleagues, yesterday, he was very eloquent in his reference to biblical things, to Holy Week, to Easter and to our consciences.

I would just like to suggest to him that there is a parable in the Bible that has to do with the lost sheep, and I would like to suggest that we think about going home for our Easter Weekend not having turned our backs on one lost sheep, but on 2,400.

The PRESIDENT: 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 the Senate Recede and Concur with the House.

A Yes vote will be in favor of Receding and Concurring.

A No vote will be opposed.

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

#### ROLL CALL

YEA—Ault, Carpenter, Clark, Conley, Cote, Danton, Farley, Minkowsky, Najarian, O'Leary, Pray, Shute, Trafton, Usher.

NAY—Chapman, Collins, Devoe, Emerson, Gill, Hichens, Huber, Lovell, McBreaity, Perkins, Redmond, Sutton, Teague, Trotzky, Sewall.

ABSENT—Katz, Silverman.

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

Senator PIERCE: I wish to pair my vote with the Senator from Aroostook, Senator Martin, who if he were here would be voting Yes and I would be voting No.

The PRESIDENT: The Senator from Kennebec, Senator Pierce, now requests Leave of the Senate, to pair his vote with the Senator from Aroostook, Senator Martin, who if he were here would be voting Yes and the Senator from Kennebec, Senator Pierce would be voting No.

Is it the pleasure of the Senate to grant this leave?

It is a vote.

A Roll Call was had.

14 Senators having voted in the affirmative and 15 Senators in the negative, with 2 Senators having paired their votes, and 2 Senators being absent, the Motion to Recede and Concur does not prevail.

A Roll Call has been Requested on the Motion to Adhere.

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 Chair recognizes the Senator from Kennebec, Senator Pierce.

Senator PIERCE: Mr. President, I would request permission of the Senate to pair my vote with the Senator from Aroostook, Senator Martin, who if he were here would be voting No, and I would be voting Yes.

The PRESIDENT: The Senator from Kennebec, Senator Pierce, now requests Leave of the Senate to pair his vote with the Senator from Aroostook, Senator Martin, who if he were here would be voting Nay, on the Motion to Adhere and the Senator from Kennebec, Senator Pierce, would be voting Yea.

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

It is a vote.

The pending Motion before the Senate is the Motion by the Senator from Knox, Senator Collins, that the Senate Adhere.

A Yes vote will be in favor of the Motion to Adhere.

A No vote will be opposed.

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

#### ROLL CALL

YEA—Chapman, Collins, Devoe, Emerson, Gill, Hichens, Huber, Lovell, McBreaity, Perkins, Redmond, Sutton, Teague, Trotzky, Sewall.

NAY—Ault, Carpenter, Clark, Conley, Cote, Danton, Farley, Minkowsky, Najarian, O'Leary, Pray, Shute, Trafton, Usher.

ABSENT—Katz, Silverman.

A Roll Call was had.

15 Senators having voted in the affirmative and 14 Senators in the negative, with 2 Senators having paired their votes, and 2 Senators being absent, the Motion to Adhere does prevail.

The Chair recognizes the Senator from Cumberland, Senator Huber.

Senator HUBER: Having voted on the prevailing side, I move Reconsideration and hope that the Senate votes against me.

The PRESIDENT: The Senator from Cumberland, Senator Huber now moves that the Senate Reconsider its action whereby it voted to Adhere.

Will all those Senators in favor of Reconsideration, please say Yes.

The Chair recognizes the Senator from Cumberland, Senator Conley.

Senator CONLEY: Mr. President, I move that this item be Tabled 1 Legislative Day.

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

Senator PIERCE: I would ask for a Division.

The PRESIDENT: A Division has been requested.

Will all those Senators in favor of Tabling this matter for 1 Legislative Day, please rise in their places to be counted.

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

13 Senators having voted in the affirmative and 15 Senators in the negative, the Motion to Table does not prevail.

The PRESIDENT: The Motion has been made to Reconsider.

Will all those Senators in favor of Reconsideration, please say Yes.

Will all those Senators opposed, please say No.

A Viva Voce Vote being had.

The Motion to Reconsider does not prevail. Sent down forthwith to the House.

The Senate Recessed until the sound of the bell.

#### Recess

#### After Recess

The Senate called to order by the President.

(Off Record Remarks)

#### Joint Orders

An Expression of Legislative Sentiment recognizing that: Richard Partridge, Jr., of Detroit Troop 483, has become the first member of his troop ever to achieve the rank and distinction of Eagle Scout... (H. P. 1299)

An Expression of Legislative Sentiment recognizing that: The Stearns High School Stage Band, under the direction of Mr. Jerry Walker, has won the Division II Championship for the State of Maine for 1979... (H. P. 1301)

An Expression of Legislative Sentiment recognizing that: Christopher Jamieson of Millinocket has been chosen State of Maine "Boy Scout of the Year" for 1979... (H. P. 1300)

Come from the House, Read and Passed.

Which were Read and Passed, in concurrence.

#### House Papers

Bill, "An Act to Redistribute the Powers of the Department of Environmental Protection to Localities to the Maximum Extent Possible." (H. P. 1291) (L. D. 1558)

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.

The President would ask the Sergeant-at-Arms to escort the Senator from Cumberland, Senator Conley to the rostrum to assume the duties of President pro tem.

The Sergeant-at-Arms escorted the Senator from Cumberland, Senator Conley to the rostrum, where he acted as President pro tem.

The President then retired from the Senate Chamber.

#### 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 Prohibit Telephone Charges for Information or Directory Assistance Calls." (H. P. 527) (L. D. 649)

Bill, "An Act to Make it Mandatory for Utilities to Notify Fire Chiefs and Municipal Officers when they Increase the Voltage through a Municipality." (H. P. 526) (L. D. 648)

##### Leave to Withdraw

The Committee on Public Utilities on, Bill, "An Act to Prohibit Telephone Companies from Requiring Service Deposits Prior to Providing Phone Service to Businesses." (H. P. 444) (L. D. 561)

Reported that the same be granted Leave to Withdraw.

Comes from the House, the Report Read and Accepted.

The Committee on Public Utilities on, Bill, "An Act to Require the Public Utilities Commission to Investigate the Establishment of a Separate Customer Charge Classification for Electric Service to Any Grange of the Patrons of Husbandry." (H. P. 564) (L. D. 710)

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 Business Legislation on, Bill, "An Act to Establish Registration of Polygraph Examiners." (H. P. 91) (L. D. 103)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H. 194).

Comes from the House, the Bill Passed to be Engrossed as amended by Committee Amend-

ment "A".

The Committee on Business Legislation on, Bill, "An Act to Establish Standards for the Sale and Installation of Foam Plastic Insulation." (H. P. 622) (L. D. 779)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-198).

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

The Committee on Business Legislation on, Bill, "An Act to Clarify Certain Provisions of the Banking Laws Relating to Savings Banks." (H. P. 334) (L. D. 433)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-197).

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

The Committee on Business Legislation on, Bill, "An Act to Provide Insurance Claim Adjusters and Appraisers from Conflict of Interest." (H. P. 654) (L. D. 813)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-196).

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

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

The Committee on Business Legislation on, Bill, "An Act to Permit Certain Maine Pharmacists to Fill the Prescription of Certain Non-resident Physicians." (H. P. 784) (L. D. 984)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-195).

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

Which Report was Read.

On Motion by Senator Pray of Penobscot, Tabled 1 Legislative Day, pending Acceptance the Committee Report.

The Committee on Judiciary on, Bill, "An Act Concerning Appeals to the Superior Court." (H. P. 601) (L. D. 748)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-181).

Comes from the House, the Bill Passed to be Engrossed as amended by Committee Amendment "A" as amended by House Amendment "A" (H-193), thereto.

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

#### Divided Report

The Majority of the Committee on Business Legislation on, Bill, "An Act to Require Conspicuous Posting of Retail Gasoline and Diesel Fuel Prices." (H. P. 624) (L. D. 766)

Reported that the same Ought Not to Pass.

Signed:

Sensors:

CHAPMAN of Sagadahoc

AULT of Kennebec

Representatives:

ALOUPIS of Bangor

JACKSON of Yarmouth

WHITTEMORE of Skowhegan

SPROWL of Hope

BROWN of Bethel

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

Signed:

Sensor:

CLARK of Cumberland

Representatives:

HOWE of South Portland

GWADOSKY of Fairfield

DUTREMBLE of Biddeford

LIZOTTE of Biddeford

BRANNIGAN of Portland

Comes from the House, the Minority Report Read and Accepted and the Bill Passed to be Engrossed.

Which Reports were Read.

The PRESIDENT pro tem: The Chair recognizes the Senator from Sagadahoc, Senator Chapman.

Senator CHAPMAN: Mr. President, I move we Accept the Majority Ought Not to Pass Report.

The PRESIDENT pro tem: The Senator from Sagadahoc, Senator Chapman, moves that the Senate accept the Majority Ought Not to Pass Report.

The Chair recognizes the Senator from Cumberland, Senator Clark.

Sensor CLARK: Thank you, Mr. President. Mr. President, Men and Women of the Senate: As we can see from the Committee Report on L. D. 766, we're evenly divided in the Committee on Business Legislation along lines which are not necessarily representative historically, of the members of that Committee.

It's easy to see that those on the Ought Not to Pass Report are of the Republican enrollment, and those on the Ought to Pass Report are those who are enrolled as Democrats. This, I would emphasize, is an unusual condition, historically, traditionally, and currently on that Committee.

I would take some time late this Thursday afternoon, before an Easter weekend and a long deserved 4 day weekend, to explain to you my signature on this bill, and urge you in fact to not accept the Ought Not to Pass Report, in other words, let's vote against it.

I supported this bill because my constituents want it, they have wanted it historically, and traditionally for as long as I have served them in this Maine Legislature. It's my responsibility as well as my philosophical commitment that this bill receive, if hopefully, some positive action.

I respect my colleagues on that committee and it isn't without some trepidation that I stand before you this afternoon, in opposition to my good friend, the gentleman from Sagadahoc, Senator Chapman. However, L. D. 766, which would require conspicuous posting of retail gasoline and diesel fuel prices, is a consumer bill, because it would help people shop for the lowest priced gas and encourage gasoline stations to compete to keep prices as low as possible.

Under that pile of paper, somewhere on your desk, my colleagues, you will see a handout, such as I'm holding, which reflects the reasonable consensus of the media response to this bill. Probably and admittedly the composition of this handout tends to favor my position and I would draw your attention to it.

First of all, gasoline prices as we all know are fluctuating widely. Yes, there is a difference frequently of 12 to 15¢ between different octane ratings and grades of gasoline. They're also fluctuating widely in only one direction, and that's up. Contained, in this handout we have some sentences which I would read to you in case you've lost yours or perhaps you've even round filed it.

"Most stations have done," referring to posting, "have posted in the past but with today's high and changing prices, some signs have been removed." If we draw our attention to the center of this handout, you're going to see a

headline or a highlight which says 54¢ and I would suggest to you that there is, indeed, a minority of Maine Retailers who are engaging in what I would consider, questionable business practices, business practices which we in the Business Legislation Committee know to be bait and switch and even misrepresentation. For there seems to have developed a market in this sign industry to promote, usually yellow painted signs with huge fat red letters, which illustrate or advertise a price, and somewhere way down in the bottom of that sign or way up in the corner in itsy-bitsy letters, you'll see the word cigarettes.

Now, I'm probably the most ordinary of ordinaries, I'm no different than anybody else, and pennies mean a lot to me as I'm sure they do to you, but I have been enticed as have my constituents into a Retail Gasoline Station by that anticipated thrill, of being able to buy some gas at what I consider an old fashioned price, only to find out that that price was posted as I got either into the station or into the entrance of the station, that the price was indeed for that weed of weeds, cigarettes.

Well, I'm not exactly shy, and I sort of go around the pumps and exit, but not before I strain my rather myopic eyes, to find out the price posted, by law, on the pump, and frequently that is considerably higher as you know also, than the price which enticed me to turn into that station.

It really does pay to shop around, and we've all equally had experiences of being enticed into Retail Gasoline Stations by a sign which even today might say 69.9 Regular. We haul in as I did yesterday, and found that all 4 Regular pumps had a sign posted on them which said, Out of Order, and so I drive my car around those 4 pumps and I said, isn't it strange that the sign's still out there, I fell for it, darn it, and here I am wheeling around the gas station, a little bit self-consciously I might admit, because the gas station is located in my Senatorial District, and my Senate Plates are hanging out there bright red for all to see, as I patronize my Retail constituency, and there's no gas for me. I don't want to pay for unleaded, for I have a mid-size compact car which fortunately takes Regular, and I don't want to pay for premium, which is outside my price range and my car doesn't need it and neither do I.

Well, did I just haul off and say, fill it up please, or as I usually do, pump my own, no, I took my courage in hand with my Senate Plate on my car and I went out until I found something that was a little bit more, as we say, in high schools today, "up front."

I'm not the only one who is experiencing this. There are states across the country which do require conspicuous posting. I would submit to you, my colleagues here in the Senate Chamber, that conspicuous price posting, yes perhaps, is an invasion, a gentle invasion of that area, that even I hesitate to enter, and that is ethical business practices. But I would submit to you that it is the least burdensome invasion of ethical business practices and the rights of the free enterprise system, and good management that we as a concerned Legislature could submit, dealing with this obvious issue, which is of paramount importance, to not only we as Senators, but our citizens.

At the hearing on LD 766, there was no opposition, and interestingly enough the Maine Automobile Association did support this Bill in testimony and documentation. As a matter of fact, there are 86,000 members of the Maine Automobile Association, and I would submit to you that they are indeed representative of the Maine citizens as we know them, politically, geographically, socially, and economically. I'll retract the last one for I don't think that they are representative of Maine citizens economically for I don't know many low income Maine citizens who are members of the Maine AAA, but be that as it may, they did send out a survey of the membership, 86,000, and interestingly



enough on a return response varying between 70% and 80%. 82.7% of the members supported conspicuous posting, 7.1% opposed it, and the rest weren't sure. I think that's an accurate assessment of the position of our citizens in the State, on conspicuous price posting.

Again, since the introduction of this bill to this 109th Maine Legislature, the price of gas has increased over 10%, it's going upward, it's escalating and skyrocketing at a rate that even I can't contain I think that the time has come and I hope you'll listen to my next words. The consumers of the State of Maine should have the freedom to choose using conspicuous price posting as the mechanism when they choose the retail service station at which they wish to buy their gas. Thank you very much.

(Off Record Remarks)

The PRESIDENT pro tem: The Chair recognizes the Senator from York, Senator Hichens.

Senator HICHENS: Mr. President and Members of the Senate: It sometimes puzzles me how opinions can change so rapidly. Two years ago, a half a dozen of my constituents asked me if I'd put in a bill which would require conspicuous posting of retail gasoline and diesel fuel prices. I went ahead and put in that bill. I presented it to a committee, the Maine Petroleum Association, the Maine Automobile Association, and several others opposed my bill. I stood alone, speaking for the bill, even my constituents did not show up to support me. I received a unanimous Ought Not To Pass Report from the committee and members of the same body, including the good lady who just spoke ahead of me, knew that bill was presented and never supported me in one iota. Here today she stands here for 20 minutes, and speaks in favor of the very bill which I presented 2 years ago, and she wouldn't have had all of these difficulties if she'd supported me then, because if it had been passed she would have seen signs which very truly represented the price of the gas.

I was convinced at that time, that a person should have the right to post their prices or not post whatever they wanted to do. I was told that in the stores they have that right, if they do not want to conspicuously post prices, they do not have to do so, in large letters, so I was convinced that was the way. But this afternoon I will support this lady, against the motion, because representing those people who I represented so gullibly 2 years ago and was unsupported in my quest, I feel that I should truly represent them.

The PRESIDENT pro tem: The Chair recognizes the Senator from Sagadahoc, Senator Chapman.

Senator CHAPMAN: Mr. President and Members of the Senate: I respect the delightful Senator from Cumberland, Senator Clark, greatly and we, as she has pointed out, have an excellent committee, it's a pleasure to work with that committee. Rarely do we find ourselves divided, particularly along party lines. I think the only other bill which comes to my mind, on which we were divided was the bill to make available free air at gas stations, and it was not so much rhetoric on that issue at that time, as there is now. Anyway, we have this bill before us, for the conspicuous posting of prices in retail gasoline and diesel fuel.

I'd like to direct your attention to the bill. It says that all posted numerals, all posted numerals shall be the same size, even that little .9 that we see on every gas station. For the purpose of this section a numeral is a figure representing a whole number, a decimal, or a fraction. The bill further says that they shall be posted, the sign shall be posted for each fuel grade, and that's going to proliferate signing, in a manner that is clearly visible from any entrance, now there are more entrances to some of these gas stations than those which we are normally invited into. There are rear en-

trances, and side entrances that are used, it says any entrance to the service station area. All posted numerals shall be at least 4 inches high and 3/4 inches wide. Now, if again, the same size for all numerals, so that .9 and I think on the handout that Senator Clark has presented to you, you will see that the .9 will escalate in size so that we have 3 large numbers to see, every time we see a gasoline sign.

Let's encourage business, not mandate things to business. Let's encourage business to put up signs but this mandates that there shall be signs, and that they shall meet these requirements as specified here. I submit that because the way this bill is drafted, a lot of the signs, most all of them that have the small .9, they're going to have to be changed. The signs that exist now won't have room for the full .9. It's going to require quite a bit of expense for some of these small service station owners to comply with.

Competition right now, is stimulating the presence of signs. As I drive home, I find that the majority, the vast majority of the stations that I pass, have fine, nice, large, clear signs, telling me what the price is. Now, I would submit maybe you might want to look as you drive home, see if perhaps this isn't really pretty well the case.

The Senator from Cumberland, Senator Clark referred to the 54 and 55¢ signs that we see in great big letters occasionally, and then the small word cigarettes somewhere on that sign. I would submit that any person could clearly see the difference between the cigarette sign and the gas price because the cigarettes don't have a .9 after them, and all of your gasoline prices will show a 9. I've yet to see one that doesn't. Obviously too, the price of gas is getting to be such a high level these days, that we know that you are not going to find gasoline for 55¢ or 54¢ these days.

When we drive into a pump if there aren't signs displayed, we drive right by the pump, our eyes are no more than 2 or 3 feet from the pump, as we drive by it. All of the pumps have those prices of gas listed. If there is no sign outside, that would tell, you can always drive out, if the price is too high. As a matter of fact, I think it's a good way to show your displeasure at the price. It's a good way to get a point across.

We regulate and mandate so much, I think that the public is being fairly served and it's my sincere feeling that this bill is just not necessary.

There are going to be some problems that were borne out in the discussion, there are some parts of this State, some city areas, some other areas, where there might be vandalism problems, these signs will be vandalized, stolen, knocked down, storms will damage them. A person is in violation of the law when the sign is not indicating every different price for different kinds of gasoline.

Another thing, it was pointed out in the articles that you can see before you, is the suggestion that perhaps the sign ought to indicate the octane rating and indeed that came out at the hearing, and it was suggested, and indeed a sign was displayed with two figures on it, one for the price of gas and one for the octane rating. If we indeed amend this later on, should we establish it, I think the proliferation of figures and signs is going to cause more concern by the public, as a matter of fact it wasn't so long ago, that the public was rather upset with the proliferation of signs for gas stations.

I submit that this bill just isn't necessary. Competition in free enterprise will see that there is proper signing and I suggest that we stand firm and that we adopt the Ought Not to Pass Report.

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

Senator CLARK: Thank you, Mr. President, Men and Women of the Senate: Very briefly, I

would gently correct my colleague on the Committee on Business Legislation with respect to his allegation that on a bill requiring free air at gas stations, that the committee did again divide on party lines. I would refresh his memory, ever so gently, that as usual, which is reflective of the unanimity on that committee, I joined by far the vast majority on that committee report which was Ought Not to Pass.

While it is indeed an encouragement to conspicuously post gas prices today, to consumers to make a decision before they enter, I would submit to you that while it has been historically and traditionally the practice during gas wars in the past, that the practice is decreasing, rather than increasing. In fact, the Maine Oil Dealers Association were in the room at the time of the hearing, and made no effort, nor any move, even upon a gentle inquiry, that they had any position on the bill.

I would respond to the remarks of the gentleman from Sagadahoc, Senator Chapman, that indeed the bill is specific, with reference to the size of the posted prices, for it is a matter of common knowledge that there is indeed still a minority of retailers, like in any other element, that would probably post but post with such tiny letters that the public would not know the price of gas before they turned in or drove into the entrance of the Retail Gas Station.

I would be brief, and simply say that obviously the fate of LD 766, which is a bill which reflects the concern of the consuming gas public today, and whose time has come, is appropriately before us. Thank you.

The PRESIDENT pro tem: The Chair recognizes the Senator from Sagadahoc, Senator Chapman.

Senator CHAPMAN: Mr. President and Members of the Senate: I do want to clarify my remarks with regard to the other bill. I did not mean to suggest that it was divided along party lines, but I believe it's the only other report on which we were divided to date, and that perhaps I'm in error on that, but it is certainly one that stands out in my mind.

I merely want to request a Division, Mr. President, on this matter.

The PRESIDENT pro tem: A Division has been requested.

Will all those Senators in favor of the Motion by the Senator from Sagadahoc, Senator Chapman, that the Senate Accept the Majority Ought Not to Pass Report, please rise in their places to be counted.

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

14 Senators having voted in the affirmative and 11 Senators in the negative, the Motion to Accept the Majority Ought Not to Pass Report in non-concurrence, does prevail.

Out of Order and Under Suspension of the Rules, the Senate voted to consider the following:

**Paper from the House  
Non-concurrent Matter**

Adjournment Order, S. P. 502, Relative House and Senate adjourning to Tuesday, April 17, at eleven o'clock in the morning.

In the Senate, April 12, Read and Passed.

Comes from the House, Read and Passed as amended by House Amendment "A" (H-224), in non-concurrence.

The PRESIDENT pro tem: The Senator from Kennebec, Senator Pierce, moves that the Senate Recede and Concur with the House.

Is this the pleasure of the Senate?

The Motion Prevailed  
Sent down forthwith.

The PRESIDENT pro tem: The Chair recognizes the Senator from Sagadahoc, Senator Chapman.

Senator CHAPMAN: Mr. President and Members of the Senate: With reference to LD 766, having voted on the prevailing side I move

Reconsideration.

The PRESIDENT pro tem: The Senator from Sagadahoc, Senator Chapman, now moves that the Senate Reconsider its action whereby on Bill, "An Act to Require Conspicuous Posting of Retail Gasoline and Diesel Fuel Prices." (H. P. 624) (L. D. 766), the Majority Ought Not to Pass Report was accepted.

Will all those Senators in favor of Reconsideration, please say Yes.

Will all those Senators opposed, please say No.

A Viva Voce Vote being had.

The Motion to Reconsider does not prevail. Sent down for concurrence.

#### Divided Report

The Majority of the Committee on Education on, Bill, "An Act to Increase the Compensation for Substitute Teachers." (H. P. 3) (L. D. 9)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-180)

Signed:  
Senators:

TROTZKY of Penobscot  
GILL of Cumberland

Representatives:

DAVIS of Monmouth  
FENLASON of Danforth  
LEIGHTON of Harrison  
LOCKE of Sebec  
LEWIS of Auburn

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

Signed:

Senator:

MINKOWSKY of Androscoggin

Representatives:

GOWEN of Standish  
BEAULIEU of Portland  
CONNOLLY of Portland  
BIRT of East Millinocket  
ROLDE of York

Comes from the House, the Majority Report Read and Accepted and the Bill Passed to be Engrossed.

(In the House, Chair Ruled Committee Amendment "A" Not Germane).

Which Reports were Read.

The PRESIDENT pro tem: The Chair recognizes the Senator from Penobscot, Senator Trotzky.

Senator TROTZKY: Mr. President, I move the acceptance of the Majority Ought to Pass Report, as amended by Committee Amendment "A" (H-180).

The PRESIDENT pro tem: The Senator from Penobscot, Senator Trotzky, now moves that the Senate accept the Majority Ought to Pass, as amended, Report of the Committee.

The Majority Ought to Pass, as amended, Report of the Committee, Accepted. The Bill Read Once. Committee Amendment "A" Read.

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

Senator MINKOWSKY: Thank you very much, Mr. President. Mr. President and Members of the Senate: This might seem a little bewildering to some people because of the germaneness of the Amendment because of the posture that it is in. The Minority of the Committee accept a Bill in its original form, whereas the Majority accepted the Bill in its original form as amended, by Amendment (H-180)

I think that at this point, Mr. President, and Members of the Senate, that it would be worthwhile to discuss this somewhat because it is of significant value. We are talking of a huge number of dedicated teachers in the State of Maine. They are commonly referred to as our substitute teachers. Today these people have a Baccalaureate Degree, to teach in the elementary, secondary level of our school system, they have certification. But they have not been

recognized insofar as a pay increase, since 1967, and we all know what the inflationary factors have been since 1967 to the present time.

They go through the same trials and tribulations as regular class room teachers, they are just as dedicated. The disparity comes along in the area that these people who are getting in some areas along in the area that these people who are getting in some areas a maximum of \$20 per day, must pay their income tax, social security, and also many of these people have families and when they pay their babysitting charges the end result is that \$20, a day that they are getting as a substitute teacher is classified as infinitesimal meaning minute or small.

This was the major thrust of this particular Bill. Now the majority report addresses this with the exclusion of the Committee Amendment and the minority report addresses this. But the point that I want to bring out this afternoon, Mr. President and Members of the Senate, is that the Committee Amendment really is not germane to the entire bill, because we did not discuss its aspects in committee, relevant to the amendment.

The first part of the amendment repeals all of Section 90-1, the second part of it changes or amends the powers of the Commissioner of Education in section 6 and 51 in title 20. The amendment has no direct bearing on the bill that we discussed in Committee. So that if Mr. President the vote is taken on accepting the Majority Report I sincerely hope that the members of the Senate would not accept the amendment to the majority report.

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

Senator PRAY: Mr. President, I would like to pose a question to the Chair as to the germaneness of Amendment "A"?

The PRESIDENT pro tem: The Chair would rule that Committee Amendment "A" is not germane.

The Chair recognizes the Senator from Penobscot, Senator Trotzky.

Senator TROTZKY: Is it in order to move the Indefinite Postponement of this Bill?

The PRESIDENT pro tem: The Chair would answer in the affirmative.

Senator TROTZKY: Thank you, Mr. President. Mr. President, I now move the Indefinite Postponement of this Bill and its accompanying papers, I would like to speak to my motion.

The PRESIDENT pro tem: The Senator has the floor.

Senator TROTZKY: Right now the current law says that a substitute teacher shall be paid not less than \$20 per day.

The Majority of the Committee felt first of all, that substitute pay really is a local decision and it undermines school board policy for us to start uping the minimum pay for a substitute, or even for example to have a minimum pay for substitutes. Also there are all kinds of substitutes, there are long term substitutes, short term substitutes, many substitutes are not certified in the field that they substitute in, there are no standards for substitutes they just are listed by the Superintendent or Commissioner of Education, so consequently the feeling is that the State should not be mandating a minimum pay per day for substitutes. Since \$20 is already in the law and what this bill does, what the other report does, is to raise the minimum pay to \$30. I feel that it is further infringing on the right of local school boards, therefore I hope that it would go along to indefinitely postpone this Bill.

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

Senator MINKOWSKY: Mr. President and Members of the Senate: I am truly sorry to see the Senator from Penobscot, Senator Trotzky, take such a hard nosed attitude toward very fine people who have not been compensated

properly. I am also a local official as Senator Cote is, and we do not look upon this as a decision to be handled locally, since a lot of the funds that we receive in the school system do come from the State of Maine itself.

If we want to make a correlation between the \$20 and I will repeat the term infinitesimal dollars that we pay our substitute teachers versus the low end of the scale for our regular class room teachers. I think that I am safe to say that basically the regular class room teacher who might just be out of college, might receive a base pay of somewhere of \$49. to \$57. per day not including benefits. Now here is a person who has gone through the same intensified curriculum who is vitally needed in our school system, and we are going to discriminate against this particular person by saying that all we think you are worth is a lousy \$20 per day.

I think that this is horrendous, I think that we should be more cognizant of the needs of these people, and if these people decided as a group not to participate as substitute teachers in our school system, all our school systems in the State of Maine would find themselves in one serious bind, because then you would be taking other people who are not qualified or who are not certified to handle the responsibility, not just babysitting, but actual class room work.

The local decision I can assure you Ladies and Gentlemen of the Senate, is in favor of giving the substitute a better livable amount of money and after that \$30 if it does go through, you take out this person's operating expense of the car, the withholding of social security and the retirement benefits and the babysitting situation at times, this leaves next to nothing for this person who is putting in a good hard day's work I sincerely hope that you unanimously refrain from accepting the recommendation from the Chairman of our illustrations Education Committee, by Indefinitely Postponing this Particular bill.

Allow this Bill to go on a little further Ladies and Gentlemen of the Senate and I think that you will come to realize that if you take the opportunity to discuss this issue with teachers in our local school system and ask them the responsibility that our substitute teachers assumed I think that you will wholeheartedly agree that maybe they are worth much more than \$30 per day, although we are just asking for a minimum of \$30 per day.

The PRESIDENT pro tem: The Chair recognizes the Senator from Penobscot, Senator Trotzky.

Senator TROTZKY: Mr. President and Members of the Senate: I think that it has been made very clear here Senator Minkowsky's town of Lewiston can pay substitutes, under the present law, they can pay them \$30, \$40, \$50, \$60, or \$70 whatever they desire to pay the substitutes.

So it is just a minimum that is all, the other amendment that was ruled non-germane, what that amendment did is it took out \$20, a day, because the feeling of the committee was that substitutes, probably should be paid more than \$20 per day. They felt there should be nothing in the law stating what the pay for substitutes are, because essentially what that \$20 a day, does is it serves as a minimum guide line and some systems may use that \$20, but most systems are above \$20.

Also in differentiating there are many kinds of substitutes. There are also substitutes that just as dedicated. The disparity comes along in the area that these people who are getting in some areas along in the area that these people who are getting in some areas a maximum of the Maine School Boards Association also feels that it should be left to local control.

On Motion by Senator Collins of Knox, Tabled for 2 Legislative Days, pending the Motion by the Senator from Penobscot, Senator Trotzky.

#### Divided Report

The Majority of the Committee on Energy

and Natural Resources on, Bill, "An Act Relating to Municipal Use of Land Control Techniques Under the Zoning Laws." (H. P. 371) (L. D. 482)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-187)

Signed:

Representatives:

HALL of Sangerville  
HUBER of Falmouth  
DOUKAS of Portland  
JACQUES of Waterville  
KIESMAN of Fryeburg  
DEXTER of Kingfield  
MICHAEL of Auburn  
BLODGETT of Waldoboro

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

Signed:

Senators:

McBREAIRTY of Aroostook  
O'LEARY of Oxford

Representatives:

PELTIER of Houlton  
AUSTIN of Bingham

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.

On Motion by Senator Perkins of Hancock, Tabled for 1 Legislative Day, pending Acceptance of Either Committee Report.

#### Divided Report

The Majority of the Committee on Health and Institutional Services on, Bill, "An Act to Provide for Non-smoking Areas in Restaurants with a Seating Capacity of 50 or More Persons." (H. P. 433) (L. D. 550)

Reported that the same Ought Not to Pass.

Signed:

Senators:

GILL of Cumberland  
CARPENTER of Aroostook

Representatives:

PAYNE of Portland  
PRESCOTT of Hampden  
BRENERMAN of Portland  
CLOUTIER of South Portland  
CURTIS of Milbridge  
NORRIS of Brewer  
MacBRIDE of Presque Isle  
MATTHEWS of Caribou

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

Signed:

Senator:

HICHENS of York

Representatives:

BRODEUR of Auburn  
VINCENT of Portland

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

Which Reports were Read.

The PRESIDENT pro tem: The Chair recognizes the Senator from York, Senator Hichens Senator HICHENS: Mr. President, I move that the Senate accept the Ought to Pass Report.

The PRESIDENT pro tem: The Senator from York, Senator Hichens moves that the Senate Accept the Minority Ought to Pass Report.

The Chair recognizes the Senator from Aroostook, Senator Carpenter.

Senator CARPENTER: Mr. President and Ladies and Gentlemen of the Senate: I would oppose the pending question and I would hope that once that was defeated that we could accept the Majority Ought Not to Pass Report.

This Bill was sort of a companion Bill to another no smoking Bill with probably most of you remember kicking around these chambers a couple of weeks ago.

I think the Committee's feeling was that this Bill was even more far reaching than the other Bill, as you will remember I supported. Probably having tested the waters that probably it would be just as well to let this one go by the boards for at least this year and see what action the individual municipalities and the individual restaurant owners chose to take.

We have had some assurances from the Restaurant Association that they are going to urge their membership to establish no-smoking areas, therefore I would request a Division on the pending motion, and hope that you will vote against it. Thank you.

The PRESIDENT pro tem: The Chair recognizes the Senator from York, Senator Hichens.

Senator HICHENS: Mr. President and Members of the Senate: I realize that this is a companion bill to one that was voted upon and sent to the Governor and then vetoed, but I do not think that just because of that fact that we should stop here.

I think that this is a good Bill, it is a good step in the right direction. I was quite pleased when I stopped at a restaurant in Maryland, last weekend on my way back from driving my sister back from Florida, to see a sign just inside of a door which stated "all of our customers are required to extinguish all smoking materials before entering this restaurant. They will be assigned a designated area in which to smoke if they so desire".

I ask the waitress how long this had been in effect and she said that it had been in effect for over a year. I said have you lost any customers and she said No I think that we have gained more customers. People come to the restaurant and have that satisfaction that they can sit and not be bothered with stale smoke, that they can taste the food and smell their food, that has been well prepared and they do not have to have smoke bothering them in that way.

I think that if it can work in the State of Maryland, it also works in the City of Washington, which I visited a couple of months ago, that it can work in the State of Maine so I would hope that you would vote along with the motion.

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

Senator CARPENTER: Mr. President and Members of the Senate: I am not sure of the wording of the Maryland Law, nor the Washington Ordinance, I am however of the wording of LD 550. If you are concerned about a \$100. penalty anybody smoking at a public meeting, this one has a penalty of up to \$500 on the supervisor, not the owner, but the supervisor of a particular Restaurant. It would require that any restaurant with a seating capacity of 50 or more now that is a very small restaurant, if you stop to think about it 50 or 60 that 1/4 of the available seating space must be designated as non-smoking area.

I can think right off the top of my head of several small coffee shop type restaurants in my district which could seat probably never do in a week, could seat 50 customers, it would be very difficult to set up any kind of a non-smoking area, and even if you did the smoke from the other 3/4 would still be very prevalent, so I do not think that the Bill is going to do anything near what the sponsor wants.

If the law in the State of Maryland is that you can not smoke in restaurants that is one thing and that might be something that I would even go for, but to try to break it down as to 1/4 or 3/4 75% or 25% of the available square footage I think is a bit ridiculous to even try. Then I have objections to the fact that the supervisor could be fined up to \$500. Thank you.

The PRESIDENT pro tem: A Division has been requested.

Will all those Senators in favor of the Motion by Senator Hichens of York, that the Senate Accept the Minority Ought 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.

4 Senators having voted in the affirmative and 19 Senators in the negative, the Motion to Accept the Minority Ought to Pass Report, does not prevail.

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

The President pro tem would ask the Sergeant-at-Arms to escort the Senator from Penobscot, Senator Sewall, the Minority pro tem Floorleader to the Rostrum where he may assume his duties as 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 Cumberland Senator Conley, to his seat on the floor of the Senate.

The PRESIDENT: The Chair thanks the Senator from Cumberland, Senator Conley, for his usually excellent job.

#### Divided Report

The Majority of the Committee on Labor on, Bill, "An Act Relating to Self-insurance under the Workers' Compensation Act." (H. P. 396) (L. D. 526)

Reported that the same Ought to Pass.

Signed:

Senators:

SUTTON of Oxford  
PRAY of Penobscot

Representatives:

WYMAN of Pittsfield  
FILLMORE of Freeport  
BEAULIEU of Portland  
DEXTER of Kingfield  
MARTIN of Brunswick  
BAKER of Portland  
CUNNINGHAM of New Gloucester  
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:

Representative:

McHENRY of Madawaska

Comes from the House, the Majority Report Read and Accepted and the Bill Passed to be Engrossed.

Which Reports were Read.

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

Senator PRAY: I move the Majority Ought to Pass Report.

The PRESIDENT: The Senator from Penobscot, Senator Pray now moves that the Senate Accept the Majority Ought to Pass Report of the Committee.

The Majority Ought to Pass Report of the Committee, Accepted, in concurrence. The Bill Read Once, and the Bill Tomorrow Assigned for Second Reading.

#### Divided Report

The Majority of the Committee on Legal Affairs on, Bill, "An Act to Repeal the Portable Stove Exemption to the Statutes Governing Kindling of Out-of-door Fires." (H. P. 752) (L. D. 936)

Reported that the same Ought to Pass.

Signed:

Senator:

FARLEY of York

Representatives:

MAXWELL of Jay  
McSWENEY of Old Orchard Beach  
DELLERT of Gardiner  
STOVER of West Bath  
GAVETT of Ono  
CALL of Lewiston  
VIOLETTE of Van Buren

BROWN of Gorham

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

Signed:

Senators:

SHUTE of Waldo  
COTE of Androscoggin

Representatives:

SOULAS of Bangor  
DUDLEY of Enfield

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

Which Reports were Read.

The PRESIDENT: The Chair recognizes the Senator from Waldo, Senator Shute.

Senator SHUTE: Mr. President I move the Minority Ought Not to Pass Report.

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

The Chair recognizes the Senator from York, Senator Farley.

Senator FARLEY: Mr. President, I request a Division and would speak briefly to my Motion.

The PRESIDENT: The Senator has the floor. Senator FARLEY: Mr. President and Members of the Senate: The bill before you merely repeals two sections of the Law, under Chapter 12, sub-section 1401 and 1402.

People entering the woods or private land must have permission or permit to burn fires in Coleman Stove or a charcoal fired stove.

The Department of Forestry supported this piece of legislation, appeared before the Committee, there are problems there. When they mentioned the Coleman Stove it worried me, I was assured by the Department of Forestry, that the problem is people go in with Coleman stove and once they get into the woods say well let's build a camp fire and the Forestry Department does have this problem. I would hope that the Senate would go along with my position on this piece of Legislation.

The PRESIDENT: Is the Senate ready for the question?

The Chair recognizes the Senator from Androscoggin, Senator Cote.

Senator COTE: I would like to go along with Senator Shute, as to Accept the Minority Report. Here we are going to spend hundreds of thousands of dollars to bring in the tourists in the State of Maine. They come in to do some camping and so forth and we tell them, well you must look for a forest ranger, to see if you can get permission. Half the time you can not find them, do not know where they are especially strangers and so forth. I think that it is an imposition to put on our people who are coming we should put that imposition upon them, so I hope that we go along with the Minority Report.

The PRESIDENT: A Division has been requested.

Will all those Senators in favor of the Motion to Accept the Minority 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.

16 Senators having voted in the affirmative and 5 Senators in the negative, the Motion to Accept the Minority Ought Not to Pass Report of the Committee in concurrence does prevail.

#### Senate

##### Ought to Pass

Senator Chapman for the Committee on Business Legislation on Bill, "An Act to Revise the Fees for the Licensing of Psychologists." (S. P. 426) (L. D. 1295)

Reported that the same Ought to Pass.

Senator Chapman for the Committee on, Bill, "An Act to Clarify and Correct Laws Related to Real Estate Brokers and Salesmen."

(S. P. 391) (L. D. 1202)

Reported that the same Ought to Pass.

Which Reports were Read and Accepted and the Bills Read Once, and Tomorrow Assigned for Second Reading.

##### Ought to Pass — As Amended

Senator Carpenter for the Committee on Agriculture on, Bill, "An Act Relating to Native Farm Produce." (S. P. 226) (L. D. 641)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (S-103).

Senator Emerson for the Committee on Transportation on, Bill, "An Act to Authorize the Secretary of State to Issue a Duplicate Certificate of Title for a Motor Vehicle if the Original Certificate is Unavailable." (S. P. 356) (L. D. 1104)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (S-104).

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 Judiciary on, Bill, "An Act to Authorize Service of Process by Notaries Public and Justices of the Peace." (S. P. 246) (L. D. 695)

Reported that the same Ought to Pass.

Signed:

Senators:

COLLINS of Knox  
TRAFTON of Androscoggin

Representatives:

CARRIER of Westbrook  
LAFFIN of Westbrook  
HOBBINS of Saco  
HUGHES of Auburn  
GRAY of Rockland  
SIMON of Lewiston

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

Signed:

Senator:

DEVOE of Penobscot

Representatives:

SILSBY of Ellsworth  
JOYCE of Portland  
STETSON of Wiscasset  
SEWALL of Newcastle

Which Reports were Read.

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

Senator COLLINS: I move we accept the Majority Ought To Pass Report of the Committee.

The PRESIDENT: The Senator from Knox, Senator Collins, now moves the Senate accept the Majority Ought to Pass Report of the Committee.

The Majority Ought to Pass Report of the Committee, Accepted. The Bill Read Once, and Assigned for Second Reading.

##### Divided Report

The Majority of the Committee on Legal Affairs on, Bill, "An Act to Repeal the State Lottery Commission." (S. P. 172) (L. D. 378)

Reported that the same Ought Not to Pass.

Signed:

Senators:

COTE of Androscoggin  
FARLEY of York

Representatives:

McSWEENEY of Old Orchard Beach  
GAVETT of Orono  
CALL of Lewiston  
VIOLETTE of Van Buren  
MAXWELL of Jay  
SOULAS of Bangor  
DUDLEY of Enfield

The Minority of the same Committee on the same subject matter Reported that the same Ought to Pass as amended by Committee

Amendment "A" (S-105)

Signed:

Senator:

SHUTE of Waldo

Representatives:

DELLERT of Gardiner  
STOVER of West Bath  
BROWN of Gorham

Which Reports were Read.

On Motion by Senator Pierce of Kennebec, Tabled for 2 Legislative Days pending Acceptance of Either Committee Report.

##### Second Readers

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

##### House

Bill, "An Act to Appropriate Funds for a Conference on Families." (Emergency) (H. P. 877) (L. D. 1083)

Which was read a Second Time and Passed to be Engrossed, in concurrence.

##### House — As Amended

Bill, "An Act to Make the Voluntary Payment of Workers' Compensation Nonprejudicial." (H. P. 417) (L. D. 542)

Bill, "An Act Relating to Tending Traps in the Unorganized Territories." (H. P. 391) (L. D. 500)

Bill, "An Act Concerning Rules and Regulations on the Licensing of Ambulances and Ambulance Personnel." (H. P. 594) (L. D. 738)

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

Bill, "An Act to Define the Post of Hancock County Sheriff as Full Time." (H. P. 472) (L. D. 590)

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

Sent down for concurrence.

##### Senate — As Amended

Bill, "An Act Pertaining to Absentee Voting." (S. P. 121) (L. D. 230)

Which was Read a Second Time.

On motion by Senator Minkowsky of Androscoggin, Tabled for 1 Legislative Day, pending Passage To Be Engrossed.

##### Enactors

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

An Act to Require that Fairs meet Qualifications Standards before they are Entitled to Receive Money from the Stipend Fund. (S. P. 58) (L. D. 91)

An Act to Limit Additional Retirement Benefits under the Maine State Retirement System. (H. P. 331) (L. D. 430)

An Act Relating to Negotiations Involving State Employees under the Labor Laws. (H. P. 246) (L. D. 291)

An Act Concerning Issuance and Renewals of Liquor Licenses. (H. P. 316) (L. D. 382)

An Act Concerning the Period of Liability of a Financial Institution on a Written Instrument under the Abandoned Property Statute. (S. P. 114) (L. D. 204)

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

##### Emergency

An Act Providing for Archaeological Investigation of the "Viking Coin" Historical Site. (S. P. 139) (L. D. 321)

On motion by Senator Huber, of Cumberland placed on the Special Appropriations Table, pending Enactment.

##### Emergency

An Act to Make Corrections of Errors and Inconsistencies in the Laws of Maine. (S. P. 401) (L. D. 1161)

This being an emergency measure and having received the affirmative vote of 24 members of the Senate, 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 Chair laid before the Senate the First Tabled and specially assigned matter:

SENATE REPORTS—from the Committee on Election Laws, Bill, "An Act Relating to Political Fundraising by State Employees." (S. P. 270) (L. D. 811) Majority Report—Ought to Pass; Minority Report—Ought Not to Pass.

Tabled—April 11, 1979 by Senator Pierce of Kennebec.

Pending—Acceptance of Either Report.

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

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

Bill, "An Act to Appropriate Funds to the Department of Mental Health and Corrections." (Emergency) (S. P. 494) (L. D. 1545).

Tabled—April 11, 1979 by Senator Perkins of Hancock.

Pending—Passage to be Engrossed.

Which was Passed to be Engrossed.

Sent down for concurrence.

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

SENATE REPORTS—from the Committee on Energy and Natural Resources Bill, "An Act to Amend the Spruce Budworm Protection District Boundary." (S. P. 320) (L. D. 950) Majority Report — Ought to Pass as Amended by Committee Amendment "A" (S-92); Minority Report — Ought Not to Pass.

Tabled — April 11, 1979 by Senator Pierce of Kennebec

Pending — Motion of Senator McBreairey of Aroostook to Accept Minority Report.

The PRESIDENT: The Chair recognizes the Senator from Aroostook, Senator McBreairey. Senator McBREAIREY: I move we accept the Minority Ought Not to Pass Report.

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

Senator TRAFTON: Mr. President and Members of the Senate: If you'll recall this is on the Spruce Budworm District, and I would ask you to oppose the Motion of the Senator, Senator McBreairey. I'd like to briefly outline why those portions of the counties on that amendment are being suggested for exclusion from the Spruce Budworm spraying, there are basically three reasons.

First of all in the Western Mountain Region, the spraying will have an extremely high cost, it's a mountainous terrain there are many lakes, the area is a great distance from airports, and the cost of this spraying will far exceed its benefits.

In that area Silviculture is the recommended procedure, because of the good road network, and in this area, Brown Company in 1979 for all it's lands has already been granted a Silvicultural Withdrawal.

A second area that's outlined in the Bill, in terms of some of those counties, relates to the settled areas of our State. The problem in this area is again, because of the settled areas, it makes it very difficult to spray and not very cost-effective.

In these settled areas we have some pilot salvage programs for small landowners already under way, specifically in the Penobscot River Valley, and this is being conducted by the Maine Forest Service. Also in this area we have some other withdrawal of lands. Specifically in Aroostook County, the Seven Islands Land Management has a silvicultural Withdrawal for all its lands.

A third region, which is included in those counties is the Coastal Region, specifically in Hancock and Washington, and in this area the fir has suffered from the Balsam Woolly Aphid,

and it is in such bad shape that it is not worth spraying.

Without this bill landowners in that area will be forced to pay for this spraying even though the Department of Conservation will not spray in that area. They are acting under guidelines from the U. S. Forest Service, which says to spray where it's most cost-effective and efficient, so that area has already been outlined for no spraying and we would just be exacting a fee from these counties when the spraying will not be done.

I think, that for these reasons, it makes sense to exempt these areas which will either not benefit from the spraying or areas in which it is too costly to spray, and thirdly, in areas which not going to spray regardless of what action the Legislature takes.

I guess it gets back to a matter of local control. These portions of the counties have expressed an interest not to be sprayed, and consequently they don't want to pay for the spraying, and I think that we would be acting in the best interests of Maine, and specifically these counties, if we did pass this bill today.

The PRESIDENT: The Chair recognizes the Senator from Oxford, Senator O'Leary.

Senator O'LEARY: Mr. President, I'd like to correct a mistake in the statement you just heard. The Western Mountains of Maine. The Brown Company's lands, I guess the Brown Company and Seven Islands and this land is withdrawn from the Spraying Program.

There's certain conditions you have to meet and the Silviculture is one of them. Apparently, on the other end of the State, around the Penobscot that you're talking about they don't want to do anything.

No, in order to protect our forests, in that area, they should be sprayed, and they should remain in the program. It's that simple.

The PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Najarian.

Senator NAJARIAN: Mr. President and Members of the Senate: I support my seatmate on this issue and in addition to some of the points she made about why some of these areas are being withdrawn. There is also, I'm not sure whether it's a requirement, or it's required by law, or simply a policy of the department that they don't spray within 1/2 of 1 mile of populated areas or sources of drinking water supplies. It's very difficult to spray certain areas of the State that are being removed here that haven't a lot of water or populated areas, and carry out that policy because sometimes the wind currents can carry this spray as far as 5 miles beyond the targeted area.

If we accept the Minority Ought Not to Pass Report, the landowners within these municipalities will simply apply to the Department for withdrawal anyway, most of them, and this bill would relieve them of the necessity of going through that procedure. As one person in the Legislature who has had ever increasing doubts about the effectiveness of this program, and the wisdom of the State continuing to participate in it, I'm not at all dismayed to see that many of the affected landowners are also questioning the effectiveness of this program, and more and more the residents of the affected area are becoming concerned about the possible risks to their future health, from all of these various sprays about which we know virtually nothing.

I think it's in the State's interest to take advantage of every opportunity to reduce the scope, of this program and it's especially desirable when the people themselves ask to be removed, and therefore I hope that we will not vote for the Ought Not To Pass Report. Thank you.

The PRESIDENT: Is the Senate ready for the Question. The pending question before the Senate is the Motion by the Senator from Aroostook, Senator McBreairey, that the Senate Accept the Minority Ought Not to Pass Report of the Committee.

The Chair will order a Division.

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

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

The Chair recognizes the Senator from Androscoggin, Senator Trafton.

Senator TRAFTON: I request a Roll Call

The PRESIDENT: A Roll Call has been requested. Under the Constitution, in order for the Chair to order a Roll Call it requires the affirmative 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 Chair recognizes the Senator from Penobscot, Senator Pray.

Senator PRAY: Mr. President and Members of the Senate: I find myself in a very difficult spot trying to represent the people that I'm down here to serve, in kind of a split District a portion of that is mentioned in this bill of an area that wants to be excluded from the spraying program, and I think that their reasons have been well espoused here today. Then there is the economic picture in the other half of my Senatorial District, that which depends upon the economy of the paper industry, and I think that their sides have also been very eloquently positioned here today. I think that we have to understand that it's a delicate question that we have to balance off, that there's a situation that plays a very major factor in the economy of the State that we must also take into consideration. That is the paper industry, and though I many times come down on many different sides of the issues in relationship to them, I feel that the economy of this State, and the condition that it is in, at this time, to shift responsibility in the funding of the program would only cause havoc.

We have in a number of other areas put responsibility on a broad base for narrow interest, and I think that the policy that we have adopted in the Budworm Program is basically that policy and that we should continue with.

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

Senator McBREAIREY: Mr. President, and Honored Members of the Senate, I'm going to repeat what I said the other day. In 1976, the Legislature passed a 6 year Budworm Suppression Act. This Act established a Budworm District. We've already allowed one million acres to be withdrawn from the Silviculture Program.

This bill was submitted at the request of one company, that would like to get out of paying the tax. Now when we talked about the Western Mountains, they've even amended this bill so that it takes out many towns in Aroostook county, and that's quite a way from the Western Mountains, and I would hope that you would accept the Minority Report.

The PRESIDENT: Is the Senate ready for the question?

The Chair recognizes the Senator from Somerset, Senator Redmond.

Senator REDMOND: Mr. President and Members of the Senate: This bill was presented by myself for one of my constituents, and much of the land that is not going to be sprayed is in my District, and several landowners who are my constituents have no legal alternative to withdraw their lands from the Protection District and have asked me to sponsor this bill.

It's grossly unfair to keep forcing these landowners to keep paying for spraying other landowners property when those landowners will not be sprayed themselves. I hope that you will take this into consideration. It's true they agreed on the 6 years, however, my constituent is told that his land will definitely not be



sprayed, and it seems as if that is kind of unfair, to tax him if his land is definitely not going to be sprayed.

In the meantime several landowners have withdrawn from the program. Since 1958, 1,452,000 acres have been withdrawn from the program by the landowner because of economics of spraying for Budworm. The cost exceeds the benefits. Much of this land was located in Western Maine, these lands, that I have proposed to withdraw, they are all primarily high elevated lands and this is what makes it prohibitive, so it seems as if 1,452,000 acres can be withdrawn that we ought to be able to consider to withdraw this area in my district.

The PRESIDENT: Is the Senate ready for the question.

The pending question before the Senate is the Motion by the Senator from Aroostook, Senator McBreairty, that the Senate accept the Minority Ought Not to Pass Report of the Committee.

A Yes vote will be in favor of accepting the Minority Report.

A No vote will be opposed.

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

#### ROLL CALL

YEA — Ault, Carpenter, Collins, Emerson, Farley, Hichens, Lovell, McBreairty, O'Leary, Perkins, Pierce, Shute, Sutton, Teague, Trotzky, Usher.

NAY — Chapman, Clark, Conley, Cote, Gill, Minkowsky, Najarian, Pray, Redmond, Traf-ton.

ABSENT — Danton, Devoe, Huber, Katz, Martin, Silverman.

A Roll Call was had.

16 Senators having voted in the affirmative and 10 Senators in the negative, and 6 Senators being absent, the Motion to Accept the Minority Ought Not To Pass Report does prevail.

Sent down for concurrence.

The Chair laid before the Senate the Fourth 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 11, 1979, by Senator Hichens of York

Pending — Motion by Senator Hichens of York that Bill and Papers be Indefinitely Postponed.

On Motion by Senator Conley, of Cumberland, Retabled for 1 Legislative Day.

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

Senator TROTZKY: Mr. President, is the Senate in possession of LD 622?

The PRESIDENT: The Chair would answer the Senator in the affirmative, the Bill having been held at the request of a Senator.

Senator TROTZKY: Mr. President, I move that the Senate Reconsider its action whereby this Bill Failed of Enactment.

The PRESIDENT: The Senator from Penobscot, Senator Trotzky now moves that the Senate Reconsider its action whereby LD 622, An Act Regulating Hunting with Muzzle-loading Rifles, (H. P. 498) (L. D. 622) Failed of Enactment.

On motion by Senator Conley of Cumberland, Tabled 1 Legislative Day, Pending the Motion of the Senator from Penobscot, Senator Trotzky.

The Adjournment Order having been returned from the House, Read and Passed, in concurrence.