

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

***One Hundred and Ninth
Legislature***

OF THE

STATE OF MAINE

Volume I

FIRST REGULAR SESSION

January 3, 1979 to May 4, 1979

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

April 20, 1979

Senate called to Order by the President.

Prayer by the Honorable Michael E. Carpenter of Houlton.

Senator CARPENTER: Let us pray! Our Heavenly Father, we thank you for this Senate, in this beautiful State on this beautiful day. All too often when we pray to you, we pray to ask for things, more often we ought to pray, and we ought to thank you.

We ask you to forgive us for our imperfections, and to give us your guidance and your strength, that we might better serve each day all the people of the State of Maine, whom we are here to represent.

We ask this in Christ's name. Amen.

Reading of the Journal of yesterday.

(Off Record Remarks)

Papers from the House
Non-concurrent Matter

Bill, "An Act to Extend Conditional Exemption from Utility Deposits to Commercial and Industrial Customers under the Public Utility Law." (H. P. 443) (L. D. 560)

In the House, April 17, Minority 'Ought to Pass' Report, Read and Accepted and the Bill Passed to be Engrossed.

In the Senate, April 18, Majority 'Ought Not to Pass' Report, Read and Accepted, in non-concurrence.

Comes from the House, that Body Insisted and Asked for a Committee of Conference.

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

Senator DEVOE: Thank you, Mr. President. Mr. President, I move that the Senate Adhere.

The PRESIDENT: The Senator from Penobscot, Senator Devoe, now moves that the Senate Adhere.

The Chair recognizes the Senator from Androscoggin, Senator Trafton.

Senator TRAFTON: Mr. President, I move that we Insist and Join in a Committee of Conference.

The PRESIDENT: The Senator from Androscoggin, Senator Trafton, moves that the Senate Insist and Join in a Committee of Conference with the House.

The Chair will order a Division.

Will all those Senators in favor of the Motion to Insist, and Join in a Committee of Conference, 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 Aroostook, Senator Carpenter.

Senator CARPENTER: 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 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 Androscoggin, Senator Trafton, that the Senate Insist and Join in a Committee of Conference with the House.

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

A No vote will be opposed.

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

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

NAY—Ault, Chapman, Devoe, Emerson, Hichens, Katz, Lovell, Perkins, Pierce, Red-

mond, Shute, Sutton, Teague, Trotzky.

ABSENT—Collins, Danton, Gill, Huber, McBreaity, Minkowsky.

A Roll Call was had.

12 Senators having voted in the affirmative and 14 Senators in the negative, and 6 Senators being absent, the Motion to Insist does not prevail.

Is it now the pleasure of the Senate to Adhere?

The Chair recognizes the Senator from Cumberland, Senator Conley.

Senator CONLEY: Mr. President, I now move that the Senate Recede and Concur with the House.

The PRESIDENT: The Senator from Cumberland, Senator Conley, now moves that the Senate Recede and Concur.

Is this the pleasure of the Senate?

The Chair recognizes the Senator from Penobscot, Senator Devoe.

Senator DEVOE: I request a Division.

The PRESIDENT: A Division has been requested.

The Chair recognizes the Senator from Penobscot, Senator Pray.

Senator PRAY: I request that the Secretary read the Committee Report.

The Committee Report was Read.

The PRESIDENT: A Division has been requested.

Will all those Senators in favor of the Motion to Recede and Concur, please rise in their places to be counted.

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

11 Senators having voted in the affirmative and 15 Senators in the negative, the Motion to Recede and Concur does not prevail.

Is it now the pleasure of the Senate to Adhere?

It is a vote.

The Chair recognizes the Senator from Penobscot, Senator Devoe.

Senator DEVOE: Thank you, Mr. President, excuse my delay in arising. Having voted on the prevailing side, I now move reconsideration and I would urge you to vote against the Motion.

The PRESIDENT: The Senator from Penobscot, Senator Devoe, now moves the Senate Reconsider its action whereby it voted to Adhere on LD560.

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.

Non-concurrent Matter

Bill, "An Act Relating to Occupational Loss of Hearing." (S. P. 199) (L. D. 495)

In the House, April 10, Passed to be Enacted.

In the Senate, April 17, Bill and Papers, Indefinitely Postponed, in non-concurrence.

Comes from the House, that Body Insisted, and Asked for a Committee of Conference.

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

Senator SUTTON: Mr. President, I move that the Senate Insist and Join a Committee of Conference, and the vote be taken, by the Yeas and Nays.

The PRESIDENT: The Senator from Oxford, Senator Sutton, moves that the Senate Insist and Join a Committee of Conference with the House.

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 Oxford, Senator Sutton that the Senate Insist and Join in a Committee of Conference with the House.

A Yes vote will be in favor of the Motion to Insist and Join in a Committee of Conference with the House.

A No vote will be opposed.

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEA — Ault, Carpenter, Chapman, Clark, Conley, Cote, Devoe, Emerson, Farley, Gill, Katz, Lovell, Martin, McBreaity, Minkowsky, Najarian, O'Leary, Perkins, Pierce, Shute, Silverman, Sutton, Teague, Trafton, Usher.

NAY — Hichens, Pray, Redmond, Trotzky.

ABSENT — Collins, Danton, Huber.

A Roll Call was had.

25 Senators having voted in the affirmative and 4 Senators in the negative, and 3 Senators being absent, the Motion to Insist and Join in a Committee of Conference does prevail.

Joint Orders

Expressions of Legislative Sentiment recognizing that:

The Tigers Athletic Association of Portland, Maine has made significant contributions to the community of Portland for the last 50 years. . . (H. P. 1313)

Scott Paper Company will be 100 years old this year. . . (H. P. 1314)

Mrs. Marion B. LaForge of Prospect has completed 21 years as First Selectman of Prospect. . . (H. P. 1319)

Come from the House, Read and Passed.

Which were Read and Passed, in concurrence.

House Papers

Bill, "An Act Relating to the Marketing of Potatoes." (H. P. 1315) (L. D. 1569)

Bill, "An Act Relating to Certified Seed Potatoes." (H. P. 1316) (L. D. 1570)

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

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

Bill, "An Act to Strengthen the State's Capability to Assess Maine's Forest Resources." (H. P. 1317) (L. D. 1571)

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

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

Bill, "An Act to Adjust Motor Vehicle Registration Fees." (Emergency) (H. P. 1318) (L. D. 1572)

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

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

Senate Paper

Senator Pierce of Kennebec presented. Bill, "An Act to Provide for the Codification and Indexing of State Agency Rules by the Secretary of State." (Emergency) (S. P. 510) (Reported out pursuant to Legislative Council order 4/17/79)

Which was referred to the Committee on State Government and Ordered Printed.

Sent down for concurrence.

Orders

An Expression of Legislative Sentiment recognizing that:

"Aunt Eunice" Young of Lamoine, who has

been a member of the Grange for 80 years and who served as Town Clerk in Lamoine for over 40 years, celebrated her 96th birthday on April 20, 1979. . . (S. P. 509) is presented by Senator Perkins of Hancock, cosponsored by Representative Bunker of Gouldsboro.

An Expression of Legislative Sentiment recognizing that:

The South Freeport Church Senior High Fellowship broke the wiffle ball world record of 22½ hours during a 25-hour marathon wiffle ball game and in the process raised \$200 for CROP, a hunger relief branch of Church World Services. . . (S. P. 511) is presented by Senator Clark of Cumberland.

Which were Read and Passed.
Sent down for concurrence.

Committee Reports House

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

Bill, "An Act to Reduce the Age Requirement for Complimentary Fishing and Trapping Licenses from 70 to 65." (H. P. 496) (L. D. 621)

Leave to Withdraw

The Committee on Health and Institutional Services on, Bill, "An Act Concerning Work Release and School Release for Individuals under the Department of Mental Health and Corrections." (H. P. 805) (L. D. 1008)

Reported that the same be granted Leave to Withdraw.

Comes from the House, the Report Read and Accepted.

Which Report was Read and Accepted, in concurrence.

Ought to Pass

The Committee on Labor on, Bill, "An Act to Extend Collective Bargaining Rights to Deputy Sheriffs." (H. P. 346) (L. D. 445)

Reported that the same Ought to Pass.

Comes from the House, Bill and Papers, Indefinitely Postponed.

Which Report was Read.

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

Senator LOVELL: Mr. President, I move Indefinite Postponement of this Bill and all its accompanying papers. I don't feel that deputy sheriffs should be in the position to bargain. Consequently I feel that this bill is not proper for us to consider, because Deputy Sheriffs are appointed by the Sheriff, and they serve a certain number of years, in some cases, different amounts, but I feel that we should Indefinitely Postpone this Bill. I ask for a Division.

The PRESIDENT: The Senator from York, Senator Lovell now moves that the Senate Indefinitely Postpone L. D. 445.

On Motion by Senator Sutton, of Oxford, Tabled until later in today's session, pending the Motion of the Senator from York, Senator Lovell.

Ought to Pass - As Amended

The Committee on Education on, Bill, "An Act to Revise the North American Indian Scholarship Act." (H. P. 387) (L. D. 497)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-229)

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

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

The Committee on Judiciary on, Bill, "An Act to Clarify the Responsibilities of the State Parole Board." (H. P. 977) (L. D. 1191)

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

210)

Comes from the House, the Bill Passed to be Engrossed as amended by House Amendment "A" (H-227)

Which Report was Read.

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

The Bill Read Once. Committee Amendment "A" Read.

On Motion by Senator Katz of Kennebec, Tabled until later in today's session, pending Adoption of committee Amendment "A".

Divided Report

The Majority of the Committee on Agriculture on, Bill, "An Act to Amend the Law Relating to the Maine Milk Tax Committee." (H. P. 206) (L. D. 254)

Reported that the same Ought to Pass.

Signed:

Senator:

HICHENS of York

Representatives:

LOCKE of Sebec
TORREY of Poland
SHERBURNE of Dexter
MAHANY of Easton
ROLLINS of Dixfield
MICHAEL of Auburn
TOZIER of Unity

The Minority of the same Committee on the same Subject Matter Reported that the same Ought Not to Pass.

Signed:

Senator:

CARPENTER of Aroostook

Representatives:

ROOPE of Presque Isle
NELSON of New Sweden
WOOD of Sanford

Comes from the House, Passed to be Engrossed as amended by House Amendments "C" (H-232) and "D" (H-243)

Which Reports were Read.

On Motion by Senator Hichens of York, Re-committed to the Committee on Agriculture, in non-concurrence.

Sent down for concurrence.

Divided Report

The Majority of the Committee on Education on, Bill, "An Act to Make the School Lunch Program Voluntary with School Administrative Units." (H. P. 370) (L. D. 481)

Reported that the same Ought Not to Pass.

Signed:

Sensors:

TROTZKY of Penobscot
MINKOWSKY of Androscoggin
GILL of Cumberland

Representatives:

LOCKE of Sebec
GOWEN of Standish
CONNOLLY of Portland
BEAULIEU of Portland
ROLDE of York

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

Signed:

Representatives:

LEIGHTON of Harrison
DAVIS of Monmouth
BIRT of East Millinocket
LEWIS of Auburn
FENLASON of Danforth

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

Which Reports were Read.

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

Divided Report

The Majority of the Committee on Judiciary on, Bill, "An Act to Permit Prosecuting Attorneys to Initiate Petitions for Revocation of Probation." (H. P. 503) (L. D. 611)

Reported that the same Ought to Pass as

amended by Committee Amendment "A" (H-225).

Signed:

Senator:

COLLINS of Knox

Representatives:

HOBBINS of Saco
GRAY of Rockland
LAFFIN of Westbrook
STETSON of Wiscasset
SIMON of Lewiston
CARRIER of Westbrook

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

Signed:

Sensors:

DEVOE of Penobscot
TRAFON of Androscoggin

Representatives:

SEWALL of Newcastle
JOYCE of Portland
SILSBY of Ellsworth
HUGHES of Auburn

Comes from the House, Bill and Papers, Indefinitely Postponed.

Which Reports were Read.

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

Senator DEVOE: Mr. President, I move that we Indefinitely Postpone this Bill, and I would like to speak to my motion.

The PRESIDENT: The Senator has the floor.

Senator DEVOE: Thank you, Mr. President. Members of the Senate: As you can see this was a very close vote in the Committee a 7 to 6 vote. What the bill deals with is the question of who has the power to initiate revocation of parole of a person who is out on parole and was believed to have committed a new crime.

The Bill asks for the District Attorney to be given that right and those of us who signed the Minority Ought Not to Pass Report did so on the belief that the Probation Officers who are the ones entrusted with the responsibility of supervising people who are on probation should have that power remain with them even if those same people, some of them, are suspected of having committed a new criminal offense.

We believe that to inject the Office of the District Attorney, who we view has enough on his hands to do in simply prosecuting criminals, given this extra power, which in some instances, might be exercised arbitrarily or capriciously, not always in a uniform even manner was not in keeping with the overall power of supervision that we've given to the probation and parole department. So for that reason, we would like to keep the law the way it is, and that is the reason we are asking that we postpone this bill. Thank you Mr. President.

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

Senator LOVELL: Mr. President, since Senator Collins has been called away to Rockland, I would suggest that someone table this bill until the next Legislative Day.

On Motion by Senator Trotzky of Penobscot, Tabled 1 Legislative Day, pending the Motion of the Senator from Penobscot, Senator Devoe.

Senate

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

Bill, "An Act Requiring Motor Vehicles Registered in this State to Carry Liability Insurance." (S. P. 134) (L. D. 311)

Divided Report

The Majority of the Committee on Energy and Natural Resources on, Bill, "An Act Relating to Holding Tanks for New Seasonal Dwellings." (S. P. 375) (L. D. 1155)

Reported that the same Ought Not to Pass.

Signed:

Sensors:

McBREAIRTY of Aroostook
TROTZKY of Penobscot

Representatives:

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

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

Signed:

Senator:

O'LEARY of Oxford

Which Reports were Read.

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

Senator O'LEARY: As sponsor of this Bill I have been aware of its intent since last Fall. As a member of the Energy and Natural Resources Committee for years, I have been aware of the Department of Human Services' policy towards holding tanks; especially since 1974, to discourage their use. Many of you may remember that a Bill to allow holding tanks was reported Unanimous Ought Not to Pass in 1975.

I was advised last year by Department personnel that they desired to present a Bill before the Legislature to determine legislative opinion and direction towards the use of holding tanks for new seasonal dwellings. The Department favored this action provided the municipalities were responsible for their installation, maintenance and enforcement. It was the intent of the Department to discuss the possibility at a public hearing in February and present a summary of its response to the Legislature for our consideration.

I originally thought that this Bill was a good idea. It would allow towns to receive tax income from seasonal homes on expensive shore-front property. After reviewing the correspondence which the Department received and listening to the extensive testimony against this Bill, at our public hearing, April 11, 1979, I now have very serious concerns.

It seems that very few towns are in favor of this Bill, as written. Those who do favor the use of holding tanks, want the State to be responsible for them. Several State agencies plus other groups and individuals have noted serious concerns about the use of holding tanks what effect they would have on wetlands, unstable soils and seasonal conversions. The Department of Human Services does not have the staff and it does not want the responsibility to monitor the use of holding tanks. I certainly am NOT in favor of more expansion of this bureaucracy.

The Department presently allows holding tanks to be installed to correct a bad malfunction when the soil is unsuitable for a regular septic tank - disposal system. A few systems are allowed under hardship conditions.

The Department is asking for direction if holding tanks should be allowed for new seasonal construction. The majority of members of our committee have serious concerns about many implications concerning the use of holding tanks for this purpose.

Mr. President, I now move we accept the Majority Ought Not To Pass Report of the Committee.

The PRESIDENT: The Senator from Oxford, Senator O'Leary, now moves that the Senate accept the Majority Ought Not To Pass Report of the Committee.

Is this the pleasure of the Senate?

It is a vote.

Sent down for concurrence.

Second Readers

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

House

Bill, "An Act to Exempt Out-of-State Technical and Vocational Schools from Retitration under the Transient Sellers Law." (H. P. 1076) (L. D. 1329)

Bill, "An Act to Permit the Use of Facsimile Stamps on Municipal Sewerage Assessments and Charges." (H. P. 324) (L. D. 646)

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

House - As Amended

Bill, "An Act Providing for Rent Receipts and Requiring Disclosure of Landlord's Identity." (H. P. 394) (L. D. 502)

Bill, "An Act to Provide for Certain Signs to Assist Blind Persons in Elevators." (H. P. 708) (L. D. 882)

Bill, "An Act Extending Reimbursement to Municipal Clerks and Municipalities for Revenue Loss Due to Amendment of the Uniform Commercial Code." (Emergency) (H. P. 335) (L. D. 434)

Bill, "An Act to Allow Registrars of Deeds to use Rubber Stamps in Lieu of Original Signatures." (H. P. 159) (L. D. 187)

Bill, "An Act to Exempt from Sales Taxes Depreciable Machinery Used in Commercial Farming and Fishing." (H. P. 762) (L. D. 942)

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

Bill, "An Act Regulating Business Practices Between Motion Picture Distributors and Exhibitors." (H. P. 365) (L. D. 473)

Which was Read a Second Time.

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

Senator KATZ: Mr. President in the absence of the Chairman of the Judiciary Committee, the Senator from Knox, Senator Collins, who has a deep interest in this piece of Legislation, I might ask the courtesy of having it tabled for one Legislative day?

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

Senator CONLEY: I move that this item be Tabled for 1 Legislative Day.

The PRESIDENT: The Senator from Cumberland, Senator Conley, now moves that LD 473 be Tabled for 1 Legislative Day, pending Passage to be Engrossed.

Is this the pleasure of the Senate?

The Chair recognizes the Senator from York, Senator Farley.

Senator FARLEY: I request a Division.

The PRESIDENT: A Division has been requested.

Will all those Senators in favor of Tabling this Bill 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.

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

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

Senate

Bill, "An Act to Revise the Method of Accounting for the Restriction on Additional Compensation for Retirees under the Maine State Retirement System." (S. P. 355) (L. D. 1103)

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

Sent down for concurrence.

Senate - As Amended

Bill, "An Act Relating to the Operation of Snowmobiles on Private Ways." (S. P. 188) (L. D. 455)

Bill, "An Act Authorizing a Legislative Study on Family Impact." (S. P. 386) (L. D. 1198)

Which were Read a Second Time and Passed

to be Engrossed, as amended.
Sent down for concurrence.

Enactors

The Committee on Engrossed Bills reported as truly and strictly engrossed the following:
An Act Authorizing the Postponement of National School Lunch Program. (H. P. 172) (L. D. 218)

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

Orders of the Day

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

HOUSE REPORT - from the Committee on Election Laws - Bill "An Act Relating to Nomination Petitions for Municipal Office." (H. P. 556) (L. D. 703) Majority Report - Ought to Pass; Minority Report - Ought Not to Pass

Tabled—April 19, 1979 by Senator Katz of Kennebec.

Pending—Consideration.

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

Senator PIERCE: I move that the Senate Adhere.

The PRESIDENT: The Senator from Kennebec, Senator Pierce now moves that the Senate Adhere.

The Chair recognizes the Senator from Cumberland, Senator Conley.

Senator CONLEY: Mr. President, I wonder if the good Senator from Kennebec, would explain the reason to Adhere?

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

Senator PIERCE: Mr. President and Members of the Senate. The Senator would be happy to explain the reasons. We debated this Bill at some length before. Basically this has to do with the number of nomination signatures needed on a petition.

The very simplest of arguments, is that I felt, that 75 signatures for someone running for municipal officers in municipalities of 500 or more, up through 10,000 really was not unreasonable. There was some feeling that because Legislators need 25 that perhaps it should be lowered. I take quite the opposite view if anything. I think probably representatives should be upped if we are going to have any meaningful amount of signatures at all.

Finally I came down on the side of why not leave the signatures on both of them well enough alone instead of constantly changing the Election Laws as people seem to want to do.

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

Senator CONLEY: I would request a Division on the Motion to Adhere.

The PRESIDENT: A Division has been requested.

Will all those Senators in favor of the Motion to Adhere, 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 9 Senators in the negative, the Motion to Adhere does Prevail.

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

HOUSE REPORT - from the Committee on Judiciary - Bill "An Act Establishing Penalties for Cutting Timber without the Owner's Permission." (H. P. 434) (L. D. 551) Ought to Pass With Committee Amendment "A" (H-172)

Tabled—April 19, 1979 by Senator Katz of Kennebec.

Pending—Acceptance of Report.

On Motion by Senator Devoe of Penobscot, Retabled for 2 Legislative Days.

The President laid before the Senate the Third Tabled, and specially assigned matter: HOUSE REPORTS - from the Committee on Judiciary - Bill, "An Act to Provide Restitution to Innocent Victims of Crimes." (H. P. 644) (L. D. 798) Majority Report - Ought to Pass with Committee Amendment "A" (H-214) Minority Report - Ought Not to Pass

Tabled—April 19, 1979 by Senator Pray of Penobscot.

Pending—Acceptance of Either Report.

On Motion by Senator Trafton of Androscoggin, Retabled for 1 Legislative Day.

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

HOUSE REPORTS - from the Committee on Judiciary - Bill "An Act to Require that Persons Convicted of Habitually Sexually Molesting a Child under the Age of 14 May be Asexualized." (H. P. 816) (L. D. 1018) Majority Report - Ought to Pass in New Draft Under New Title of Bill, "An Act to Direct the Criminal Law Revision Commission to Study Treatment Alternatives for Sex Offenders." (H. P. 1310) (L. D. 1564) Minority Report - Ought Not to Pass

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

Senator DEVOE: Again, reluctantly, I move that this be Tabled 2 Legislative days.

The PRESIDENT: The Chair would advise the Senator that a Tabling Motion is not debatable.

The Chair recognizes the Senator from Cumberland, Senator Conley.

Senator CONLEY: Are we presently discussing Tabled Item #4?

The PRESIDENT: The Chair would answer in the affirmative.

Senator CONLEY: Mr. President, I would question the ruling from the Chair on the germaneness of the Committee Amendment?

On motion by Senator Katz of Kennebec, Tabled for 2 Legislative Days, pending the Acceptance of Either Committee Report.

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

Bill, "An Act to Make Private Organizations which Receive a State Subsidy Subject to the Maine Freedom of Access Law." (S. P. 257) (L. D. 763)

Tabled—April 19, 1979 by Senator Perkins of Hancock.

Pending—Enactment.

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

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

Bill, "An Act Regulating Hunting with Muzzle-loading Rifles." (H. P. 498) (L. D. 622)

Tabled—April 19, 1979 by Senator Conley of Cumberland.

Pending—Motion of Senator Trotzky of Penobscot to Reconsider whereby Bill Failed of Enactment.

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

Senator O'LEARY: Mr. President and Members of the Senate: I would oppose the Motion to Reconsider where this Bill Failed of Enactment and would like to speak briefly to my motion.

The PRESIDENT: The Senator has the floor.

Senator O'LEARY: Mr. President and Members of the Senate: As a youngster or one of a large family, with a dad that was a very fine sportsman, took a keen interest in hunting safety. How to properly load and unload a gun, aiming, pointing, being sure of the target, never pointing it unless you were really going to shoot to kill that object. It kind of interests me to remember some of the things that my dad did teach me.

Like the wearing of Red, even before it was a State Law that you have to have some kind of fluorescent clothing visible within a 360° circle. Like I say, he told us not to ever point or aim a rifle until absolutely sure that it was what we wanted to shoot. That it was something that was legal to hunt, but if you will not eat it do not kill it. So that includes to me rabbits, pheasants, ducks, birds, but not partridge, squirrels, chipmunks, beaver, bobcat, bear and fox.

That means that about the only things that I would shoot at in the woods of this State are Deer and Partridge. I won't even shoot a Moose.

I guess Mr. President, I'm drifting off of the main topic of what this bill is all about.

Long before it was ever State Law, my dad insisted and continuously checked each one of us to make sure that we never had a loaded gun in the car. Perhaps I should say before we ever started to get into the car. My dad recognizes the fact that most hunting casualties were caused by two things. Improper hunting clothes and loaded rifles in automobiles. When the Legislature made it illegal to have a loaded gun in a car, there was a dramatic drop in the number of hunting casualties.

Mr. President and Members of this Senate. I would like to have you know, that this Senator from Oxford County, was taken to task by this same dad, for opposing legislation that would require fluorescent clothing visible in a 360° circle be worn.

I maintained that if a man wanted to hunt with a buckskin jacket or a bearskin robe that should be his choice. Sure I have always fought for the individual's rights. It didn't take long for him to convince me that because of that person's widow, father, mother, brother or sister that I was wrong.

There are two laws on our books today, that should never in any way be amended. The wearing of fluorescent clothing, and a loaded gun in a motor vehicle.

About two and a half weeks ago, too late to be recognized in this Chamber, in here the other day for the Welcome Back Day, former Senator from Oxford County, Senator Norris; though he and I were in the same party we more often disagreed. He approached me after our debate on this Bill and said, "This is a bill that has got to be killed, you know how my son was killed!" Yes, I can remember very vividly. Three young men in their teens after a day of hunting. Frank Norris Jr. sitting behind the wheel of their hunting vehicle and the other buddy sitting in the back seat. Frank Jr. asking the third companion as he entered the car, "Are you sure that you ejected all of your shells?" The reply of the companion was, "Yes" and he pulled the trigger to emphasize it. Frank Jr. will never know about it.

My point, Mr. President, is regardless of the conflict between the two subsections of this law, that this bill refers to, there is no absolute minimum requirement for safety that can be overlooked. The danger of even one accidental death from the passage of this bill is not worthy of it. Thank you.

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

Senator REDMOND: I will be brief, don't get discouraged. Members of the Senate, I still can't understand how my good friend from Oxford keeps referring to this Bill as having loaded firearms in an automobile because this is not the question. The question is, how do you determine when a gun is loaded or unloaded?

Now with more recent conventional weapons, the bullet has a percussion cap within the shell, and you can not change that and you have the bullets either in your pockets or on the car seat.

Here with the muzzle-loader, if the percussion cap is not on, then it is considered not loaded, and no one could make that go off unless he takes a percussion cap and very cau-

tiously places it where it belongs and then the gun is loaded.

So actually, it seems to me as if you could consider a muzzle-loader about 6 feet long as something that anyone going into that car could see and realize that that is a gun. Whereas bullets are about 4 inches long and they could be in the chamber and no one would see it, if some one was callous and would want to be playing with it.

On the flint lock, the flint lock as it is described in the statement of fact, the flint lock is one that has to be loaded by taking a powder horn, and pouring some powder very carefully into that compartment. Therefore I think to consider that a loaded gun would be ridiculous because it takes awhile for someone to take his powder horn and pour that in there and have the flint there.

It is not a loaded gun anyway. It is just to clarify when the gun is loaded. They do it now and this would be to clarify it in the statutes so there would not be any arguments over it.

The PRESIDENT: The Chair will order a Division.

Will all those Senators in favor of the Motion to Reconsider, please rise in their places to be counted.

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

9 Senators having voted in the affirmative and 12 Senators in the negative, the Motion to Reconsider does not prevail.

Sent down for concurrence.

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

Senator TRAFTON: Is the Senate in possession of LD 950.

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

Senator TRAFTON: I now move Reconsideration.

The PRESIDENT: The Senator from Androscoggin, Senator Trafton, now moves that the Senate Reconsider its action whereby Bill, "An Act to Amend the Spruce Budworm Protection District Boundary." (S. P. 320) (L. D. 950)

The Senate voted to Adhere to its position whereby the Minority Ought Not to Pass Report was Accepted.

On motion by Senator Katz, of Kennebec, tabled until later in today's session, pending the Motion by the Senator from Androscoggin, Senator Trafton.

Out of Order and Under suspension of the rules, the Senate voted to consider the following:

Paper from the House House Paper

Bill, "An Act to Fund and Implement Agreements between the State and the Maine State Employees Association and to Fund and Implement Benefits for Managerial and Other Employees of the Executive Branch Excluded from Coverage under the State Employees Labor Relations Act." (Emergency) (H. P. 1321) (L. D. 1573)

The Committee on Appropriations and Financial Affairs suggested.

Comes from the House, Passed to be Engrossed Without Reference to Committee.

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

Senator KATZ: Mr. President, I might inform the Senate that it is presently our intention, if it is the will of the Senate, to give this bill its first two readings and Pass it to be engrossed, at this moment. The Bill has been Pre-Engrossed.

If this is agreeable we will dispense with any debate on this issue, we will recess for about 90 minutes, come back at about quarter of 3, at which time presumably the House will have dealt with it, and we will be able to deal with it,

in final form.

Under suspension of the rules, the Bill Read Twice and Passed to be Engrossed, without reference to Committee, in concurrence. Sent forthwith.

There being no objection, all items previously acted upon were ordered sent forthwith.

The President appointed the following conferees on the part of the Senate, on SP 39, LD 35. An Act to Permit Deer Hunting with Muzzle-Loading Rifles:

Senators:

REDMOND of Somerset
PERKINS of Hancock
USHER of Cumberland

On Motion by Senator Pierce of Kennebec, recessed until 3 o'clock this afternoon

Recess

After Recess

The Senate called to order by the President.

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

HOUSE REPORT — from the Committee on Labor—Bill, "An Act to Extend Collective Bargaining Rights to Deputy Sheriffs." (H. P. 346) (L. D. 445) Ought to Pass.

Tabled - Earlier in the Day by Senator Sutton of Oxford.

Pending - Motion of Senator Lovell of York that Bill and Papers be Indefinitely Postponed.

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

Senator LOVELL: I'd request that you come down on the hammer, quite quickly.

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

Senator SUTTON: Mr. President and Ladies and Gentlemen of the Senate. I feel incumbent as Chairman of the Labor Committee to bring to your attention just where we are in this particular bill.

I'm not quite sure whether we signed out unanimous Ought to Pass or not, but if we didn't it certainly was a Majority. What has happened is that we had several bills having to do with county employees, collective bargaining for county employees.

At this point all the public employees in the State, except the county employees, in other words the State and Municipal Employees have the right to Collective Bargaining. We had some concerns about the Collective Bargaining on the County Level, and after much discussion decided that we would, and after having been talked to by a lot of big, burly Deputy Sheriffs, we decided that the thing to do was give this a try on the county level. So we recommended that we give the Deputy Sheriffs the opportunity for Collective Bargaining. That's how we got to that particular point, figuring that we'd try it with the deputy sheriffs before going any further with the county employees, the county employees being the only ones that don't have the opportunity to Collective Bargaining at this particular time.

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

Senator MINKOWSKY: Mr. President and Members of the Senate: I just certainly want to reiterate my feelings regarding this particular LD. I sincerely hope this afternoon that the Senate does Indefinitely Postpone this bill for the Deputy Sheriffs.

I think the points have been reiterated over and over, and time and time again, that we look upon our Sheriffs' Departments basically as political people not really in the same context as our law enforcement departments in municipalities or our Maine State Police.

If you look at the duties of Deputy Sheriffs, I

think you'll be amazed to find that there really are no job descriptions for these people. There's no postings for that type of job opening, as in the case of our organized Police Departments or our Maine State Police. So it's quite obvious that since they are political appointments, then why should they have job security, especially under Collective Bargaining.

I was particularly concerned in getting an evaluation rendered by the Attorney-General's Office, and there was a ruling rendered by his office on April 17, that said basically, in essence that this LD. conflicts in many ways with the present existing law.

Many times I don't agree with the Attorney General's rulings, but in this particular case today, I do.

The PRESIDENT: Is the Senate ready for the question?

The Chair will order a Division.

Will all those Senators in favor of Indefinite Postponement of L. D. 445, please rise in their places to be counted.

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

19 Senators having voted in the affirmative, and 9 Senators in the negative, the Motion to Indefinitely Postpone does prevail.

The Chair recognizes the Senator from York, Senator Lovell.

Senator LOVELL: Having voted on the prevailing side, I move reconsideration and I hope you vote against the motion.

The PRESIDENT: The Senator from York, Senator Lovell, now moves that the Senate reconsider its action whereby this Bill was Indefinitely Postponed.

Will all those Senators in favor of the Motion to Reconsider please say Yes.

Will all those Senators opposed please say No.

A Viva Voce Vote being had, the Motion to Reconsider does not prevail.

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

Bill, "An Act to Clarify the Responsibilities of the State Parole Board." (H. P. 977) (L. D. 1191)

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

Pending—Adoption of Committee Amendment "A" (H-210)

On Motion by Senator Devoe of Penobscot, Committee Amendment "A" was Indefinitely Postponed, in concurrence.

House Amendment "A" (H-227) was Read and Adopted, in concurrence and the Bill, as amended, Tomorrow assigned for Second Reading.

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

Bill, "An Act Regulating Business Practices Between Motion Picture Distributors and Exhibitors." (H. P. 365) (L. D. 473)

Tabled—Earlier in the Day by Senator Katz of Kennebec.

Pending—Passage to be Engrossed.

On motion by Senator Katz, of Kennebec, retabled for 1 Legislative Day.

The Chair laid before the Senate the Fourth Tabled and specially assigned matter.

Bill, "An Act to Amend the Spruce Budworm Protection District Boundary." (S. P. 320) (L. D. 590)

Tabled—Earlier in the Day by Senator Katz of Kennebec.

Pending—Motion of Senator Trafton of Androscoggin to Reconsider action whereby Senate Adhered.

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

Senator TRAFTON: I request leave of the Senate to withdraw my Motion to Reconsider.

The PRESIDENT: The Senator from Androscoggin, Senator Trafton now requests

Leave of the Senate to Withdraw her Motion to Reconsider.

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

It is a vote.

The Chair recognizes the Senator from Cumberland, Senator Usher:

Senator USHER: Mr. President, I move to Reconsider L. D. 950.

The PRESIDENT: The Senator from Cumberland, Senator Usher, now moves that the Senate Reconsider its action.

The Chair will order a Division.

The Chair recognizes the Senator from Aroostook, Senator McBreaity.

Senator MCBREAIRTY: I would hope you wouldn't reconsider. This bill isn't any better today than it was when we voted to Adhere. We did pass a Spruce Budworm Suppression Act back in 1976, it's to go until 1981. I realize that it may not be the answer to our Budworm problem but it's the only thing we have at present. If we pass this bill, or reconsider and pass it, we will have wrecked our Spruce Budworm Suppression Act.

This bill with the amendment takes out dozens of towns. Take for instance, Aroostook County. It takes out New Limerick, Houlton, Littleton, Mars Hill, Easton, Presque Isle, Fort Fairfield, Mapleton, Washburn, Woodland, New Sweden, Caribou, Limestone, Madawaska, Fort Kent and Frenchville.

Now I personally know there isn't one of those towns that wants to get out from under this. I don't know why somebody down here would be trying to force us out when we want to stay in, or anyone else. This is just an attempt by one company. It started out as an attempt by one company to get out of paying their taxes. They already have withdrawn all they can withdraw under the Silviculture Act, and I think that's all they should be allowed to withdraw.

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

Senator NAJARIAN: Mr. President and Members of the Senate: This bill does not repeal the Spruce Budworm Suppression Act that we passed in 1976, and I really haven't heard any good reasons why this bill shouldn't receive our approval.

I can only guess that its failure to pass in here is due to a reluctance on the part of the Majority, to cut the cord and let the Spruce Budworm baby go or maybe actually weaning ourselves away from this program would be a better analogy, because it's a more gradual severance.

As was stated previously, these areas that are being removed from within the boundaries are not suitable for spraying and will not be sprayed. It's not economical to spray them, it costs twice as much and it's not effective.

I can only guess that it's just sort of a bulldog stubbornness that you're forcing these lands to stay within these boundaries and I hope the Senate will not persist in its former action.

The PRESIDENT: The Chair will order a Division.

Will all those Senators in favor of Reconsideration, please rise in their places until counted.

The Chair recognizes the Senator from Cumberland, Senator Najarian.

Senator NAJARIAN: 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 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 Aroostook, Senator Carpenter.

Senator CARPENTER: Mr. President and Ladies and Gentlemen of the Senate: As the good Senator from Aroostook, Senator McBreairey pointed out, the towns that are listed that he read off, to my knowledge have not asked to get out from under the Budworm Program and unless the good Senator from Cumberland, Senator Najarian knows my District better than I do, I don't understand where the problem comes in as far as the ability to spray, or the ability of the spray to be as potent up there as it is in the other areas of the State of Maine.

Most of the towns that were listed are in my Senatorial District, and I oppose the Motion to Reconsider and I certainly hope you'll not vote to reconsider this bill.

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

Senator NAJARIAN: I didn't say that all the towns listed in this bill had asked to be removed. I simply said, they would not be sprayed and we went through this at the last time we debated the bill all the reasons why they wouldn't.

Some of these are in very small patches, and a small patch in Spruce Budworm terms is about 1,000 acres or 5,000 acres, and they can't control the spray enough. Some of them they have to fly 50 miles in order to spray them, and that's not economical. Some of them are near water supplies, and for environmental reasons they won't spray them. In Washington county there's another insect that's damaged the trees, other than the Spruce Budworm, so there's a whole variety of reasons why these lands will not be sprayed.

The PRESIDENT: Is the Senate ready for the question?

The pending question before the Senate is the Motion by the Senator from Cumberland, Senator Usher, that the Senate reconsider its action whereby it voted to Adhere.

A Yes vote will be in favor of reconsideration.

A No vote will be opposed.

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

ROLL CALL

YEA — Chapman, Clark, Conley, Cote, Farley, Minkowsky, Najarian, Redmond, Traf-ton

NAY — Ault, Carpenter, Collins, Devoe, Emerson, Gill, Hichens, Katz, Lovell, Martin, McBreairey, O'Leary, Perkins, Pierce, Pray, Shute, Silverman, Sutton, Teague, Trotzky, Usher

ABSENT — Danton, Huber

A Roll Call was had.

9 Senators having voted in the affirmative and 21 Senators in the negative, and 2 Senators being absent, the Motion to Reconsider does not prevail.

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

Enactor Emergency

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

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. 1321) (L. D. 1573)

Comes from the House, Failed of Enactment.

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

Senator KATZ: Mr. President and Members of the Senate: Perhaps about 10 days ago we got a Bill from the Governor's Office, which would implement the pay raises for State Employees, which we have been waiting for, for so

long.

The original Bill, LD 1447, involved the involuntary withholding of 80% of union dues in the case of those non-members of MSEA who choose not to join the union. There was a potential for firing, and in the minds of those respected lawyers whom we approached, the possibility for a fair Court decision based on the original bill did not exist, because the very enactment of that bill, in itself, would have prejudiced the Court.

On Tuesday morning, at a breakfast meeting with the Governor, the Governor suggested to us a compromise which had been advanced by MSEA, which sounded of keen interest to us. The Union compromise was no involuntary withholding of money, no firing for refusal to pay, and a Court case.

As we reviewed the specifics of the union proposal, we felt that there was some basically sound approaches there, but nonetheless we came back with an alternative Republican approach which centered in particular on the establishment of a fair Court case, fair for both sides, both parties, fair for MSEA and fair for the State of Maine.

The document in front of you, L. D. 1573, contains the specifics of the compromise that is in front of you now. I find it interesting to note that at no time have the payments to the majority of State Employees been at issue, in no bill and in no debate.

The whole debate has been concerning the rights of that minority group of State Employees, who thus far have chosen not to join MSEA, and in a very real respect, that's the only group of State Employees whose rights have been changed at all, as we move from LD 1447 to LD 1473.

Yesterday afternoon when I had had a chance to read this compromise, I made up my personal mind that it was a compromise that I could in clear conscience support. It had the benefit of starting the flow of dollars to the State employee, at once, and it had the ultimate result of giving the minority of State employees, many of whom I represent, a fair shake in Court, and that's all any American can ask is a fair day in Court.

So the Bill in front of you today does give the minority State employee a fair day in Court. You will hear here today other points of view. It's been a difficult decision for all of us, and I am not about to try to impose my point of view on other Members of the Senate who have contrary points of view. But I can tell you that I can go home with a clear conscience, that through the time of sheer ordeal, that we have been through, that we have gained some protection for a minority of State employees that they would not have had, had we accepted the original bill.

The cost of the State employees, because of this delay, has been some mental anguish, a lot of torture, and the delay of a couple of paychecks. Fortunately, if we succeed in enacting this bill, the lump sum payment of retroactive pay will not have been affected, and fortunately, I think that the MSEA and its membership will be stronger because sometimes in the support of the rights of majority we're apt to overlook the very real rights of minority. That's what the American Government is all about, that's what the founding fathers were all about, that's what the pilgrims were all about, when they left the old country to come to the new country so that the rights of the minority point of view could be upheld. In conscience I'm going to vote for this and I would urge other Members of the Senate with like minds to do so also.

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

Senator CONLEY: Mr. President and Members of the Senate: First, let me say that I am going to vote for this bill that's before us today, but before I vote for it I believe that I certainly must air my frustrations.

I respect the views of the Majority Floor Leader, Senator Katz, from Kennebec, but I think there's something even far more at stake today than the alleged compromise that's been presented to this body. I think that is the spirit and the integrity of the Collective Bargaining Statute, because it is not the Maine State Employees Association that I'm concerned with today, because I look forward to seeing another contract coming into this Senate, and I wonder what holds forth for that Negotiated Contract that was bargained under the Collective Bargaining Statute and done in good faith.

Is there a Red Herring that's going to be raised every time that the Executive Branch of Government and any Union within this State sits down and negotiates a contract and both sides agree irrespective of the dollars. Are we going to start going through page by page, maybe some of us don't agree with management's right clauses that are in the bargaining agreement, perhaps some don't agree with employee's rights. Are we going to start extracting things like that from contracts?

I would only submit a Union is a Union, whether it's in the private employment or public employment. People who belong to union shops on the outside are just as subject to firing or dismissal for not belonging to a union as people should be within public employment.

I see absolutely no difference, in fact, the 80% provision is really a deal for those who do not want to join the union. In fact, I've been told by some of the greatest labor attorneys that I've known in this State, some who are involved at the Law School, that one really doesn't have to join the union at all. He does not have to sign his name to any card, stating that he belongs to a union, but he is required to pay dues for the purpose of being represented.

I cannot really understand the arguments with respect to the Fair Share Provision. It seems to me that when a union goes into negotiations for a period of over 14 months, and then is successful enough to ratify or be able to come into agreement to present to this body a contract for ratification, after 14 months of deliberate and hard working negotiations, the only thing I interpret the law, that we're to be concerned about, is dollars and cents and nothing more.

As I have stated earlier, I intend to vote for it, but I certainly hope that when the next contract comes along, that the majority party of this Senate looks hard and fast at dollars and cents, and dollars and cents only.

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

Senator CARPENTER: Mr. President, and Ladies and Gentlemen of the Senate: I share many of the fears expressed to my Majority Floor leader about the integrity of the Collective Bargaining Statutes. I think this Legislature, the Senate in particular must decide very soon whether or not we're going to have Collective Bargaining for State employees in the State of Maine.

We've already approved fair share in the statutes, for the University of Maine Employees, this has been discussed in here before, you're all very well aware of it, but after these past 2 weeks of back and forth, I'm just very frustrated and very sick and tired of this whole process, because I also remember back to the infamous Hay Report and my great relief that that was my last time in the barrel as far as State Employee's pay raises. I don't mind a good fight, but it was not our place to be fighting. It is not our place to be fighting, that's what the Collective Bargaining Process is all about.

I heard my good friend, the Senator from Kennebec, Senator Katz discuss potential firings. I maintain that in the original contract, and I think that this was supported by the Attorney General's Office, until a Court case had been decided in this area, that all the minority State employees were protected, their money

was protected.

I heard reference made to some of the best attorneys in the State having been consulted. We have an Attorney General that was consulted, he supported the positions of myself and my party.

I heard about the Republican approach, and I guess I'm very disgusted with what's gone on here by the Majority Party in this Body. Maybe today is not the time, nor the place to discuss this.

I think the Republican approach to this issue is the fact and I believe it was alluded to by my good friend, the Senator from Knox, Senator Collins a week ago, that the union went too far too fast, and we got a little too much in this package. Maybe that's the real underlying issue here. Maybe it isn't Fair Share at all.

What about the cost of retroactively collecting this money, should this Courts' case 3, 5, 7, 9 years down the road, rule that Fair Share is all right? What about the State employees then? What kind of a position are you putting them in?

I'm very concerned about the integrity of the Collective Bargaining Act. I've read the statutes, and if we can't get the Maine Senate to abide by the law, how can we ask the people of the State of Maine to abide by the law?

The Chairman of the Appropriations Committee, the good Senator from Cumberland, Senator Huber, would not allow persons at the public hearing to discuss anything but cost items, because it was not within the purview of the law to go in and discuss the contract, and a couple of days later, this Senate tore that contract apart, and inserted something else in it.

I think we can only discuss cost items. I think we're setting a very dangerous precedent, as my Floor leader alluded to, a few moments ago.

I've been in the Senate now for 3 years, and I've been in the Legislature for 5 years, and I've had a very high regard for most of my colleagues, some obviously more than others, but after what's happened here the last couple of weeks, I quite honestly have less regard for some of these people, because as far as I'm concerned the Senate has attempted, at least, to break the law. I think it's as simple as that. I think the philosophical question of Fair Share, philosophical question of Agency Shop should be dealt with by itself, not under the guise or sham the way we've been dealing with it the last two weeks.

When the vote is taken today, Mr. President, I would request it be taken by the Yeas and Nays. I will vote for this package today because I think State Employees need and deserve this raise and this way of "shifting around the problem" is acceptable to me.

I don't want anything to be read into my remarks somewhere down the line by the Court or anybody else, to read that I'm opposed to the Fair Share Provision because I certainly am not, I think this is an acceptable way. I'm not that comfortable with it, perhaps if I were an attorney, I would be less comfortable with it, but after talking to attorneys apparently this is not going to, in their opinion anyway, damage the integrity of the Collective Bargaining Act.

Let's pass this thing, let's let the Court do its job. Thus far we've involved the Executive Branch, and now the Legislative Branch, let's let the Judicial Branch do its job, somewhere down the line. But let's not take a step which we want to establish this precedent, in that the next contract, maybe the mileage is too high, maybe the health benefits are too high. I don't want the Legislature back into that barrel. If we're going to get back into that barrel then I suggest the people in this Body who feel that way, should repeal the Collective Bargaining Act, and be up front about it and get it over with. Thank you.

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

Senator COLLINS: Mr. President, if the Leg-

islature wants to turn over to the Judicial Department the privilege of making the laws, then this bill before us is indeed a fair and proper vehicle for that procedure.

My position on this bill is simple. I cannot vote in favor of a contract which forces State employees against their will to pay financial tribute to a union or be fired.

It is the Legislature's duty to say "Yes" or "No" on collective bargaining contracts.

If the Legislature wants to preserve the kind of freedom we have known in Maine, it should say "No".

If the Legislature wants to introduce this form of slavery to our State employees, it should say "Yes."

To pass to the courts what should be our own decision as a legislature is to exhibit a lack of backbone which we shall regret for many years to come.

The artful devices which the Governor and the leadership have devised to test in the courts the questions of legislative intent on the part of the 106th Legislature are a cop-out. The Legislature is bowing itself in prostration before the crushing force of a powerful union.

It has been obvious in recent years that the union has become an adjunct of the Democratic Party. It is now apparent that the tail is wagging the dog.

Mr. President, as much as I would like to give the State employees the raise which they deserve, the cost of such a contract to all the people of our State is too great—a cost measured not only in dollars, but in the disharmony of employee relationships and, above all, in the loss of human integrity.

Thank you, Mr. President.

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

Senator PRAY: Mr. President and Members of the Senate: As the good Majority Floor Leader, the Senator from Kennebec, Senator Katz has stated, the compromise has been laid before us. A compromise is usually an exchange of positioning, usually upon both sides, but what the proposal that we have before us today, I would have to be quite fair with the Members of this body that I am still not sure as to how I'm going to vote because I am greatly troubled by the intent of this compromise with the Collective Bargaining Law, but since I am not an attorney and I have several questions. I'd like to direct them to perhaps the Chairman of the Judiciary Committee who has already stated his opposition to the Legislative Document.

Just to clear my mind, we have an L. D. 1573, after the statement of fact, a letter of agreement. It is my concern, and one which I'd like to have on the Record as to how binding is a letter of agreement upon a negotiated contract? What role does it play in Maine Law? It is conceivable to me that at some point down the road, 2 years, 4 years, or 20 years, that the Collective Bargaining Law can be circumvented by a Letter of Agreement in which 2 parties agree to, without the ratification of either Legislature or the ratification of its Membership.

I would hope that the Senator from Knox, Senator Collins, would share any legal knowledge that he may have in reference to the Letter of Agreement on the Collective Bargaining Law.

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

Senator COLLINS: Mr. President, as I understand L. D. 1573, the Letter of Agreement is not a part of the law that we will enact. It is a part of the Statement of Fact. I think that that Letter of Agreement, for the purposes it serves, is a very proper and useful document. I have confidence in the integrity of the Governor, in the integrity of the MSEA, in honoring the intent of that agreement. I would not personally be bothered by it.

The PRESIDENT: The Chair recognizes the

Senator from Penobscot, Senator Pray.

Senator PRAY: Mr. President and Members of the Senate: It is my understanding that a Letter of Agreement can almost be as binding as a negotiated contract itself. I'm not sure that I got my answer, as to how binding or how much it does influence. I myself have complete confidence in the Governor and confidence in the MSEA, in this instance, but I do not know who will be Governor 20 years from now, or who will be bargaining, whichever group is being bargained for and from the first day we debated this issue, my concern was to the statutes, and the legislative intent when we passed the State Employees Collective Bargaining Law. I'm still wrestling with, and troubled with, this proposal that's come back before us without re-ratification by membership.

If you want to compare the 2 bills, you can see that we have added a section to the law to the legislative proposal that is before us. Is this the same contract that the State Employees ratified? I've heard arguments from both sides, some saying it is and some saying it isn't. It is my concern within the process, the bargaining process, that the membership to be the ones to decide whether or not the final agreement, and somewhere between that ratification to change it to me is a violation of the Collective Bargaining Law.

A great deal of research has been done on this issue, in the 106th Legislature, to the debate which took place here just a week ago, in two weeks, the Thursday preceding that week, when the issue first came before us. I'm sure that many of us have read the debate of the original law when it was passed, the remarks which the Members in this Legislature at that time made, and we have tried to decide what the Legislative intent was.

It is my belief and my feeling that the Democratic Party in this Senate has not been wagged around by the MSEA, as the Senator from Knox, Senator Collins, has inferred. It has been my position from that first night when we debated the issue, that it was the Maine Revised Statutes that we were concerned with. It was the law that was passed by the 106th Legislature that we had the highest regards, and we wanted to be sure that the integrity of that law was upheld. I resent greatly the remarks that a powerful union has come into this State and now wags around the Democratic Party.

I believe that this has been a bi-partisan issue, as I think the Senator from Kennebec, Senator Katz has stated on several occasions, and just reading his remarks from the first night, going back even to the 106th, when the issue was first passed, there were some points raised as to whether or not, if the lobby at that time of the different union groups really wanted a Collective Bargaining Law. I think that the statements that are being made are inflammatory and political, and I would hope that the debate would not enter into such light.

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

Senator HICHENS: Mr. President and Members of the Senate. Last year I voted for a pay raise for the State employees. I am still very much in favor of a pay raise for our State Employees which is long overdue; but I'm not going to vote for that pay raise when some of those State employees have to sacrifice their rights in order for everyone to get that raise.

This compromise which we have before us, in my mind, is nothing but a farce. What sickens me the most is that last week, I went home with my head high because the Republican Members of this Senate had voted independently as to how they felt, with no power from the leadership, no pressure from anyone within the Party to vote their own conscience.

Today I was sickened when I heard some of these same Republicans say, well, I'm going to have to change my vote, because if we don't the Republican Party may not have the Majority 2 years from now. That sickens me because I

feel that everyone here is here because the people wanted them here regardless of party or not. I may be very egotistical, but last year 11,000 people went to the polls in the First District of Maine. I was unopposed in the Fall election. The Governor of this State, a Democrat was elected in my District. Yet, 97% of the 11,000 people went out of their way to put a cross next to my name. You can see that they weren't all Republicans. I thank the Republicans that voted for me, but I also appreciate the many Democrats and Independents that voted for me, because I believe they had faith that I would stand for the things that I believed in.

I have on the back of my car a sticker that says "Re-elect Hichens to the State Senate." On the other side of that bumper, it says "Pray for the Maine State Senate". I believe today that if we vote just because of the Party we belong in, and not for the people we represent, the people of this State better start praying for our Senate.

The PRESIDENT: The Chair recognizes the Senator from Washington, Senator Silverman.

Senator SILVERMAN: Mr. President and Members of the Maine Senate: About 6 Legislative days ago, or around 2 weeks, I was in the Senate and at that time it looked like it was inevitable the pay raise was to come to the State employees. It was also inevitable that a group who feel themselves, in my opinion, anti-labor, anti-union, anti-worker, would do everything possible to eliminate a Fair Share Clause, and keep this pay raise from becoming a reality that it should have become on April 1st, this is April 20th.

The key phrase which was said at that time, you have Collective Bargaining in the State of Maine, to have Collective Bargaining you need bargaining units, and to have bargaining units they have to be paid for. If they are going to be paid for, I would surmise that they be paid for by the people who receive the benefits the wages of those bargaining units. Now, this is the key issue.

I certainly respect the philosophy of Senator Collins from Knox, but I also know that when you make a law, you live with that law, you improve that law, and you let the State employees live with that law, and that this Senate did not do, when the Sewall Amendment was put on that bill.

In my opinion, it was a major mistake, but I also know that mistakes can be corrected, and I hope when we take our Roll Call vote that this Senate will correct that mistake and let the State Employees on this Friday receive our approval for their State pay raise, and receive our approval that the bargaining units that brought about this State pay raise are fairly paid for by all those who are receiving the benefits of a pay raise that has been so long needed and well deserved. Thank you.

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

Senator PERKINS: Mr. President and Ladies and Gentlemen of the Senate.

I rise today to address a subject which has been very hard on each and every member here in the Senate and has been very wearing on those of us who have lived under it for these last two weeks.

I for one am not capable enough to interpret the laws, which were made in the Collective Bargaining Area or interpret the rights within those and what they may bargain and what they may not bargain. I am not that capable.

I only know that for all the people that I represent that these people did not intend to bargain away some of the rights of future generations. I regret very much that some State employees will not tonight go home and say that they have their raise. I only thank God that these raises when they do come will be retroactive, because this is the one redeeming feature. I think to act on a matter because of its expediency and it may be more comfortable, but not what the people of Hancock

County elected me to come here for.

They elected me to come here to make the laws, they expected the Judiciary to make rulings on those laws, and in lack of legislative intent I would like to stand here today and say my intent is that this portion was not bargainable.

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

Senator TROTZKY: Mr. President and Members of the Senate.

This Bill L.D. 573 is not a Republican approach. What it is is an application of the Legislature's responsibility to set public policy. I believe that I was sent down here to legislate. I believe that we were all sent here to set public policy.

Today what we do is we give up that prerogative to make the law, and we pass it on to the Courts. Now I read the Attorney-General's opinion to try and find out if there was any guidance for the courts on the so-called Fair Share Clause and the Attorney-General states that Maine Case Law provides no definitive answer.

I think that it is unfair, first of all, to pass it on to the courts, when we should be making that public policy. I also feel very strongly that the Republican position should be in this Senate that the rights of the individual freedom are non-negotiable.

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

Senator O'LEARY: Mr. President and Members of this Senate. As the good Senator from Kennebec has said, my vote on labor legislation is predictable. This vote is just one more. Yes, I'm going to vote for this bill today, but I'll have to hold my nose when I do it. Yes, this is a compromise forced upon the MSEA by a Republican-controlled Senate, that has consistently whipped the working people of this State, on almost every piece of legislation that has come before it.

Mr. President in the 101st legislature there were 111 Republicans and only 40 Democrats in the House. There were 29 Republicans and only 5 Democrats in this Senate. Labor did a lot better at the hands of the Republican Party than it has and does now. A "Right to Work Bill" in the 101st was very soundly defeated. That was the Republican Party that did this. What have the workers of this State done that has turned you against them? Thank God you don't have the majorities now that you enjoyed then. What has happened to your party, that you now look for any excuse at all to turn your back on those who pick up the tax tab, for the everyday expenses of State Government?

Mr. President and Members of the Senate. In 1965 in the 102nd Legislature on this same Senate floor when I occupied the seat now held by the Senator from Washington, Senator Silverman, I made a speech that was highly critical of the MSEA. A week ago I had thoughts that MSEA who has finally shaped up is acting like a Union for its membership. But today, I am disillusioned and frustrated to think that they have tainted the bargaining process under our present law and that's why I'll hold my nose when I vote for this bill, today.

It appears to me, that there are too many of you, in the majority party that are being misled by the phony philosophies of the good Senator from Penobscot, Senator Trotzky. Senator Trotzky believes everyone should have the Right to Work, he should try it sometime. Senator Trotzky also believes that those who do work should be paid as little as possible. I'm convinced in my own mind that if all the language in the State Employees contract....

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

Senator KATZ: Mr. President, a point of personal privilege. The task at hand is difficult enough without personalities. I would ask the Chair to rule so.

The PRESIDENT: The chair would so rule,

and would ask the Senator from Oxford if he would make his remarks somewhat more temperate, in reference to a fellow Senator.

Senator O'LEARY: I apologize Mr. President, but I am convinced in my own mind Mr. President that the good Senator from Penobscot, Senator Trotzky would not vote for any contract for any pay raise he would find an excuse to vote against it. Thank you.

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

Senator GILL: I hadn't intended to say anything on this at all. It just irritates me somewhat to think that there are some Members of this Body, who look on the Republican Members of the Senate as never having worked for a living.

There are many of us who have come from very poor families, who have worked very hard all our lives to get where we are today. I really resent the fact that people can stand up in this Body and degrade the Senators in this Body, that are Republican and have true convictions.

I happen to have come from a union family, and I happen to have voted against the contract. I voted against it simply because of that 80% Fair Share Clause. I don't believe that anybody should have to pay anyone to be able to work, whether it's for the State Government or for any other Government. It's very difficult for me. I received, as I'm sure all the other Republicans did, many abusive phone calls. I received many good phone calls from really concerned State Employees, and I spent a lot of time on the phone talking to all those State Employees.

The abusive phone calls came in the middle of the night which I just don't like. I happen to be a widow with 2 children at home, and it's frustrating for them to be worried about me, without me standing up here and trying to do what I think is best for the people that sent me here.

I have been threatened and told that I will not be returning here because they will work against me. They didn't elect me here! The people elected me here. I'm representing them here, and I feel that the 80% Fair Share Clause is a legislative matter, and I will continue to vote that way.

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

Senator KATZ: Mr. President, God in Heaven! What this Senate needs this afternoon is a bunch of polarized emotional talk? We're capable of much better, we're capable of dealing with an issue. What started out to be a reasonable approach to the Supreme Court of the State of Maine, that's fair to the MSEA and fair to the State of Maine is now a partisan hassle, and shame on us.

I noticed that one person that got up was speaking, facing in this direction and not in this direction. My remarks are to you. If I've been in a better Senate I can't remember it, but you're paid here to be Legislators not showboaters, not emotional, not throwing stones at your colleagues. My God, don't you respect my point of view, as I respect yours, don't you respect my sincerity as I respect yours?

Mr. President, when we vote I would urge everybody to wipe out the reactions of some of the things they've been saying, I could just sense votes shifting here. I could just sense the polarization away from a common point of view where we need 22 votes to do anything in this body. Stay calm, Stay relaxed, cool down.

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

Senator CLARK: Thank you, Mr. President, Mr. President, Men and Women of the Senate. This has been a long process. Yes, even sometimes a tediously tiresome one. We have before us this afternoon what seems to be an answer to the problem that has confronted this body for too long. The Fair Share Provision of an agreement reached between the Executive Department of this State and the duly-elected bar-

gaining unit, the State Employees, the Maine State Employees Association.

It would appear on the surface that the integrity of the collective Bargaining Process has been preserved, and that this compromise will not jeopardize that Collective Bargaining Process.

This Senator from Cumberland, personally harbors serious reservations relative to this issue. Since, however, the deferral of the implementation of the Fair Share Provision, embodied in LD 1573 reflects in and of itself an agreement, between those same two parties, I shall support the bill before us this afternoon, not only on the basis of practicality, but because I prefer to go forward in good faith, and I invite you to join me.

The PRESIDENT: Is the Senate ready for the question?

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

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

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

The pending question before the Senate is Enactment of LD 1573.

A Yes vote will be in favor of Enactment.

A No vote will be opposed.

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEA — Ault, Carpenter, Chapman, Clark, Conley, Cote, Farley, Huber, Katz, Lovell, Martin, Minkowsky, Najarian, O'Leary, Pierce, Pray, Shute, Silverman, Sutton, Teague, Trafton, Usher, Sewall.

NAY — Collins, Devoe, Emerson, Gill, Hichens, McBreairty, Perkins, Redmond, Trotsky.

ABSENT — Danton.

A Roll Call was had.

23 Senators having voted in the affirmative and 9 Senators having voted in the negative, and 1 Senator being absent, LD1573 is Passed to be Enacted and will be signed by the President.

Sent down forthwith for concurrence.

Senate at Ease

The Senate called to order by the President.

On Motion by Senator Pierce of Kennebec, adjourned until Monday, April 23, at 11 o'clock in the morning.