

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

May 3, 1979

Senate called to Order by the President.

Prayer by Reverend Russell M. Chase, United Church of Monmouth.

Reverend CHASE: Shall we be in the spirit of prayer, together!

Our Heavenly Father we thank you for the beauty of this day, and for the many blessings you have bestowed upon us, both individually and collectively.

We ask Thy blessing upon each Member of this Body, so that they may make the decisions according to Your will, and bless us all as we continue to follow your teachings; and to know your grace; and to be aware of your love, because we know that you love each and everyone of us, because we as individuals are precious in Thy sight.

Give us of Thy strength, and of Thy love, as we keep on keeping on, for we would follow the Master, and in His name we pray. Amen.

Reading of the Journal of yesterday.

(Off Record Remarks)

Papers from the House
House Papers

Bill, "An Act to Make Allocations from the Department of Inland Fisheries and Wildlife for the Fiscal Years Ending June 30, 1980, and June 30, 1981," (Emergency) (H. P. 1359) (L. D. 1595)

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

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

Senator Katz of Kennebec, was granted unanimous consent to address the Senate, Off the Record.

Senator Conley of Cumberland, was granted unanimous consent to address the Senate, Off the Record.

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

Recess

After Recess

The Senate called to order by the President.

The PRESIDENT: The Chair recognizes the Senator from Washington, Senator Silverman. For what purpose does the Senator arise?

Senator SILVERMAN: To put a point over to the President, ask for a privilege.

The PRESIDENT: The Senator from Washington, Senator Silverman, requests unanimous consent to address the Senate, On the Record?

Senator SILVERMAN: Not to address the Senate, to ask a question.

The PRESIDENT: The Senator may pose the question.

Senator SILVERMAN: Is it fair to the Democratic Party to start this session without them present?

Senator Katz of Kennebec, was granted unanimous consent to address the Senate, On the Record.

Senator KATZ: Perhaps it might be well to re-assure the Senator that it is my intention to Table until later in today's session, when the Democrats come, and to dispose of some completely procedural things that are on the calendar, if that is agreeable to the Senator.

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. 1361) (L. D. 1597)
Committee on Appropriations and Financial Affairs Suggested.

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

On Motion by Senator Katz of Kennebec, Tabled until later in today's session, pending Reference.

Joint Order

An Expression of Legislative Sentiment recognizing that:

Robert D. Steele is retiring as Town Manager of Scarborough having served from 1965 through 1978... (H. P. 1358)

Comes from the House, Read and Passed.

Which was Read and Passed, in concurrence.

Communication
Executive Department
STATE PLANNING OFFICE

May 3, 1979

The Honorable Joseph Sewall
President of the Senate
Members of the Senate of the
109th Legislature

I am pleased to transmit to members of the Legislature the Executive Summary of The Economy of Maine: An Overall Assessment. This report is a summary of the findings and conclusions of a more extensive report on the current status and future prospects of the State's economy. Copies of the full report have been sent to the legislative leadership and to the chairmen of the committees involved with economic development. Additional copies are available at the State Planning Office.

Respectfully,
ALLEN PEASE

State Planning Director

Which was Read and with accompanying Report, Ordered Placed on File.

Senator Conley of Cumberland, was granted unanimous consent to address the Senate, On the Record.

Senator CONLEY: Mr. President, and Members of the Senate: The action that has been taking place here, over the last few minutes, while my Party and I have been caucusing, to go about today's business, and for this Senate to go into session without notifying us that you were in session is a deplorable act and you should be ashamed of yourselves.

Committee Reports

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 Concerning Transportation of Children Living in Locations Inaccessible to Public Highways." (H. P. 973) (L. D. 1221)

Bill, "An Act to Reduce State Review Requirements of School Projects." (H. P. 1161) (L. D. 1426)

Bill, "An Act to Amend the Employment Security Law to Provide Benefits to Certain Educational Employees." (H. P. 703) (L. D. 878)

On Motion by Senator Katz of Kennebec, the Senate voted to take from the table:

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. 1361) (L. D. 1597), tabled earlier in today's session, pending reference.

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

Senator COLLINS: Mr. President, I have a

Parliamentary Inquiry with respect to L. D. 1597, as I have examined it, it seems to have considerable resemblance to the document that we considered here 3 or 4 weeks ago, L. D. 1447. I would ask the Chair if the Secretary could tell us the status of L. D. 1447?

The PRESIDENT: The Secretary will read the action on the bill in question.

SECRETARY ROSS: 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)

Committee on Appropriations and Financial Affairs suggested.

March 29—In the House referred to the Committee on Appropriations and Financial Affairs. Sent up for Concurrence and Ordered sent forthwith.

March 30—In the Senate referred to the Committee on Appropriations and Financial Affairs in concurrence.

April 5—In the House—The Ought to Pass Committee Report accepted and the Bill Passed to be Engrossed — sent up for concurrence.

April 5—In the Senate—The Ought to Pass Committee Report accepted in concurrence and subsequently on

April 11—In the Senate—Passed to be Engrossed as amended by Senate Amendment "A" (S-88) in non-concurrence. Sent down for concurrence ordered sent forthwith.

April 11—Comes from the House with the House having Adhered. (The motion to recede and concur lost.) Ordered sent forthwith.

April 12—In the Senate—The Senate Adhered. (The motion to recede and concur lost.) (The motion to Reconsider lost)

The Bill is now in the legislative files.

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

Senator COLLINS: Mr. President, I would now move that L. D. 1597 and all its accompanying papers be indefinitely Postponed, and would speak to my motion.

The PRESIDENT: The Senator has the floor.

Senator COLLINS: Mr. President, this bill again seeks to implement a bargained contract between the State and the Maine State Employees Association.

It's my judgment that this is not an appropriate vehicle for this purpose. The Collective Bargaining Law says, "if the Legislature rejects any of the cost items submitted to it, all cost items submitted shall be returned to the parties for further bargaining." I submit, Mr. President, that this Legislature has twice rejected the cost items submitted to it. I have, on this floor, twice identified the cost items that are unsatisfactory in this contract. They, of course, relate to the 80% fair share payment or be fired section of the contract.

It seems to me that the Governor has a clear responsibility under this statute, namely, "shall be returned to the parties for further bargaining." The second bill submitted by the Governor, I understand, now lies on the Table in the other Body where it has been once reconsidered, and I am not an authority on parliamentary practice but I would consider that a rejection.

I do not think it is fair to our state employees to continue to play ping pong with this measure. The raise ought to go into effect and it ought to go into effect as soon as possible, but to use this kind of ping pong vehicle, when it is really clear what the issue is, and that there is an impasse between the Governor and the Legislature, seems to me to be playing a sort of game of roulette with our state employees. I think we ought to face up to it and I think the Governor ought to face up to it, and send it back to the table where the problem can be very quickly remedied, if the Parties simply

have the will to do it.

We could talk a long while, Mr. President, about the merits, about court procedures, about meanings of legal terminology, but I think the basic facts are very clear. I would ask this Senate to make those facts clear once again, by rejecting this third attempt by the Governor and pointing out to him that the statute clearly describes another move at this point, in the problem. Thank you, Mr. President.

The PRESIDENT: The pending question before the Senate is Indefinite Postponement.

The Chair recognizes the Senator from Cumberland, Senator Conley.

Senator CONLEY: Mr. President and Members of the Senate: When the vote is taken, I request it to be taken by the Yeas and Nays.

Mr. President, I don't know how the vote on this measure is going to go today, but it seems to me that every avenue that can be thought up to try to violate the spirit of the Collective Bargaining Law has appeared on the scene.

The last time we had this bill in this Chamber, dealing with the "Fair Share Provision," the good Senator from Knox, Senator Collins, raised questions as to the legality and the Constitutionality of the "Fair Share Provision."

The House sent questions to the court with respect to those questions, and they clearly stated that it was in the province of both parties, mutually agreeing that this become part of their contract. It's not unconstitutional, does not violate collective bargaining whatsoever. It appears to me today, in what we have before us, is the shades of the Nixon Tapes. The Court has said one thing that upholds both the Governor and the MSEA, but there are those in this Chamber and in the other, who cannot swallow a philosophical resentment, and I would hope the good Senate, in its wisdom, would vote against the pending motion.

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

Senator SILVERMAN: Mr. President, Ladies and Gentlemen of the Senate: The state employees of this state have long awaited your decision to allow them to have collective bargaining. They've also waited for your decision, for you to live under the law of this state. The recent decision by the Supreme Court of the State of Maine, the highest Judicial Court, said that the Maine State Employees and the Executive had the right under our laws to have a "Fair Share Clause." The leader of that Court is Judge Vincent McKusick, an appointment of the Longley Administration. Yet, in fairness, the entire Court said the state employees have a right, not only to their wage increase, which was attained by collective bargaining. Without collective bargaining would they be getting their \$16 a week in April and their \$15 a week in July?

I think most of us know that answer. It would have been a \$10 raise like they got 2 years ago, the only one in 4 years. Now they have sincerely put their effort to work in behalf of Maine citizens, they have watched areas of employment get improved wages, because they have collective bargaining, and those employees still abided by the law. They didn't have work stoppages, they continued to produce the fine service that our state receives from our state workers, and now they have one obstacle left, those in this Senate, who for some reason have hardened their hearts, hardened their hearts to their own constituents, the people that have put them in office all these years. They've hardened their hearts to them, those who should be giving them the leadership they need at this time—those who have trusted the state employees in this Augusta area, who have trusted their leader to give them the leadership they need. Those people have hardened their hearts, and said we will not give you that leadership; and these people I am talking about in this Senate, this very day, have had outstanding records in state government. They've helped to

build this complex, and they've helped to make our state government what it is today.

Yet today, because to have collective bargaining, you have to have bargaining units, and to have bargaining units they must be paid for and should they be paid for equally by all the recipients who benefit from those units.

For some reason those same Senators are letting their people down. Soften that heart, consider your people, and in a vote today let them receive their Fair Share Agreement, and let them receive their wage increase which is so long overdue. Thank you.

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

Senator CARPENTER: Mr. President and Ladies and Gentlemen of the Senate: I do not delude myself to think that anything that I might say or anything that has been said here this morning, probably is going to change any votes.

But I want to make a couple of points that have been made before but that I think need to be reemphasized. We have talked about how intransigent, how firm the one side is against the "Fair Share Clause," nobody has talked about the other side.

The number of state employees that I have talked to in the last three weeks, people who are the beginning of this whole thing, were less than firm on Fair Share, they may not have been even members of the Maine State Employees Association, today are extremely firm in their position.

If this bill dies this morning, and dies in the Legislative process, I think that those who would vote to kill the bill this morning, are deluding themselves if they think that then the Executive Branch and the Maine State Employees Association are going to go scurrying back to the bargaining table to take out fair Share, I do not think that that is going to happen.

This Legislature has consistently disregarded the law, while at the same time, demanding that state employees comply with the Law. We had a one day work action last week, for which the workers have made up in many departments by working nights. This was a terrible, terrible thing, so it was said by many of the people who have been blocking this agreement, an illegal strike by state employees.

I have a very difficult time, explaining to state employees, who are waiting for their money, both union members and non-union members. I have a very difficult time explaining to them why they must obey the law, and why this Legislature can deny that same law, disregard that same law.

The Maine State Employees Association has been, in my opinion, outstanding in their leadership throughout the whole process, in keeping their people on the job. In doing everything that was asked of them. They would not break the contract, they did not break the contract, they kept faith with the members of this body and the other body, both the ones who were for the proposal and the ones that consistently voted against the proposal.

I just think that the integrity of the entire collective bargaining process is at stake here this morning. If we vote to kill this bill, as we have killed other bills dealing with state employees pay raises. If we vote to kill this bill this morning, based on the argument that Fair Share should not be in there, even though the highest court in the State of Maine has said that it is legal; I think that we are seriously jeopardizing the intent and the philosophy of the Collective Bargaining Law, which was passed in the 106th Legislature. Which I would remind you was a totally Republican Legislature. Many, many of the people in this body and the other body voted for that same Collective Bargaining Law. Many people in this body and the other body voted for the University of Maine Bargaining Contract, the Bargaining Law, which has Fair Share written right into it.

I just think that the position of the people who will vote to kill this bill this morning, it is terribly terribly inconsistent. I am very scared. I am very scared that down the road a few years, what is going to happen? Who is the bargaining agent going to be? What happens to the next contract that comes along and there is something in there about non-standard work week or maternity leave that I do not like? Am I going to be allowed by the Majority Party in this body to go in and pick that contract apart, as the attempt has been made on this particular contract?

I have an action-gram here, from the Right to Work Committee, it was not sent to me, it was sent to all the people throughout the State of Maine, urging people of the State of Maine to contact their members in the House of Representatives and vote against the contract, which "probably is unconstitutional."

I have heard many times on this floor, and the other floor that the Governor had exceeded his authority. That is all that we heard last week. The court comes back and says that he has not exceeded his authority, and now the cry is, well, we never said that he did.

That was the argument that was used in this body and in the other body, and now all of a sudden since the court has settled that argument, it is being said that it was never raised.

I think that we can see where the money is coming from to defeat this particular issue at hand. We had hearing last week on the right to work bill, and as far as I am concerned this is the right to work issue, squarely and solidly on the floor of the Maine Senate this morning, make no doubt about it. I do not see how anybody here who votes to Indefinitely Postpone this bill this morning can fail to vote for the right to work issue if and when it ever lands on this floor.

My good friend, the Senator from Knox, Senator Collins, said this morning that it was not fair to use state employees as a ping pong ball, back and forth, back and forth. My only response to him would be that it has not been me and it has not been the members of my party, who have been swinging that paddle for the last 3 weeks. Thank you.

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

The Chair recognizes the Senator from Kennebec, Senator Ault.

Senator AULT: Mr. President and Members of the Senate. Ever since this state employee pay raise issue came before us, I have supported giving the state employees a much deserved pay raise, as soon as possible. I voted for enactment of the previous two bills that came before us, and as you know they both have failed of enactment.

We now have been presented with this package, L. D. 1597, which will insure that the state employees will have to pay a fee to be employed by the State of Maine. It will also insure that the state employees will not receive their pay raise until sometime after Labor Day.

It appears to me that the Governor has forsaken the state employees in order to strengthen organized labor, and I resent it. As far as I am concerned this package is the dead corpse of sincerity that died in the Governor's office sometime this week, and as far as I am concerned it stinks.

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

Senator CONLEY: Mr. President and Members of the Senate: The "Fair Share Provision" apparently has the ear of a very small minority of both branches; but I can guarantee you that this Senator, the Senator from District 9, from Portland, if the contract ever comes back in here, minus the fair share, I can guarantee you that there will be a very strong majority voting against it.

The PRESIDENT: Is the Senate ready for the question?

The Chair recognizes the Senator from Ken-

nebec, Senator Pierce.

Senator PIERCE: Mr. President and Members of the Senate: I, too, will be very brief. I think that there is probably not much left to be said on this issue.

I just want to point out that since April 5, this matter has gone back and forth between the bodies. When it first came to us we reached an impasse. I just want to point out that of all the parties involved with our common goal to give the state employees their raise, there were three parties involved, the Governor, the Legislature, and the state employee unions. I think that only two of them have participated in genuinely working toward that end.

When we did have our impasse here in the Senate, who was it that took the leadership to work out a compromise that we thought would sail through here, and be very equitable to all parties involved? Very clearly it was the majority of the Republican Senators. It was Senator Katz mostly, who worked with the unions to work out a compromise which was then OK'd by the Governor and the majority of the Senate Republicans voted for the Katz compromise. We sent it down to the other body and we expected it to be enacted, it was not.

In fact I think that it should be pointed out that on each successive vote down there, although it has been pounded back and back and back again and again, it has got fewer and fewer and fewer votes.

Last night when the Governor, without ever consulting Republican Leadership or the Republican majority that have supported him here in the Senate, presented L. D. 1597 to the House, it only squeaked by with a very narrowest of majority. That, I think, on the basis that the Democratic argument was too many of the Democrats who, and there were scores of them who talked to me who did not favor it, but that we have to protect the creditability of the Governor we have got to at least give this the majority.

I think that they did on that basis, or it clearly would not have had a majority. There have been people of both parties voting against this compromise, in the other body and clearly there is a Legislative impasse.

I, like probably every other member of this body, have agonized over this whole issue and God only knows that I wish that it were behind us, but there certainly is no agony on my part in voting on 1597 today, because I think I am voting how the overwhelming majority of both parties would really vote, when they look at it, if they had the druthers if there were no politics involved in it. It clearly is not the answer.

We talked this morning briefly about amending this bill, but there again we get back into it, back and forth, back and forth, and we have done this since April 5. It has been a month.

Clearly I say that the ball is very clearly in the Governor's court. He has got to show leadership that's expected of the Chief Executive of the State of Maine. It is only he who has not moved, the unions have moved, the Legislature has moved, and the Governor has not moved. The ball is back in his court, he has got to show that leadership at this point and I, for one, am not willing to place in jeopardy the pay raises of the state employees, perhaps put them off for 4 or 5 more months on the chance that another bill will come in and be enacted by a 2/3 vote. I am not willing to take that chance with the state employees' money and it may be easier for others to take that chance.

So my conscience and my vote will both be very clear today. There is no way in the world that I can vote for L. D. 1597.

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

Senator HICHENS: Mr. President and Members of the Senate: I think this morning that we are on the spot to show the people of the State of Maine whether we are a lot of fools or whether we are conscientiously interested and concerned with the people that we represent and

the state employees of the State of Maine.

We have this bill before us, this morning, which I read in the press, that even if the Senate gives it final approval the bill, like other non-emergency Legislation, ordinarily would not become effective until 3 months after the end of the Legislative Session. So Governor Brennan's battle plan includes a second step.

If the revised pay raise bill, is passed in both the House and the Senate the Governor plans to submit other bills asking Legislative approval to waive the 90 day requirement and pay out the raises immediately. In other words, if we should pass this today, it becomes law, the Governor will present another bill, which also will have that 80% clause in it, which has been the whole stalemate in this issue, and we will be right back two weeks later doing the same things that we have been doing for the last 4 weeks.

Today we should vote unanimously "Ought Not to Pass," or to Indefinitely Postpone this Bill and then get the thing out into the open and really consider the issue.

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

Senator PRAY: Mr. President and Members of the Senate: I want to thank the Senator from York, Senator Hichens, for really putting everything right out on the table, out front, as to exactly what is going on here today, and what is happening.

I have been reading the debate since April 5, and again and again, I see the concern being the "Fair Share Provision." The Senator from Knox, Senator Collins referred to the cost items. I, for the life of me, cannot see where that is a cost item to the state in my own opinion.

I have stood here a number of times, and argued in the interests of the statutes, the Labor Relations Act and not being any lawyer though, but having served on the Labor Committee for a number of terms, as to my interpretation of it in reading the debate of the 106th Legislature when it was passed.

It was just a short while ago that we sat here and the Senator from Kennebec, Senator Katz, made a very passionate speech, asked all of us to remain calm, not to polarize, not lose sight of what we are talking about.

I think that the remarks by the Senator from York, Senator Hichens brought back into perspective exactly what we are doing, exactly what is before us today.

The comments have been made by previous speakers that this Legislation has been rejected by this chamber. I think it is particularly true. It was kind of a parliamentary procedure.

The fact that it had an emergency preamble on it, it required a 2/3 vote, but I do not remember one vote in this Chamber where that Legislation received less than a majority. Thus without the emergency preamble, for those who have supported it before, to now change their position based upon the fact that it is not effective immediately, I think is a little weak, I think that it is a little political. I think that a number of individuals could take advantage of this situation for political purposes.

It has been said that the MSEA wags the Democratic Party around, it has been said by the Assistant Minority Leader, that it was Republican Leadership in this Senate that worked out a compromise, with the MSEA, not with the Democratic Party.

In defense of the Governor of this State, it is my understanding that he has been in constant communication with the Leadership of the MSEA; that these actions that are being taken are with a clear understanding between the two parties who are involved.

Again I think that the integrity of that Law, not necessarily at this time, but in the future no matter who is in the Blaine House, no matter who the Governor is, no matter which party he belongs to, is the question that we are addressing today.

I think that this Chamber has at times acted irresponsibly in addressing the issue before us. They have lost sight of what the statutes told us to address. I think that we should focus back on to that. If the question to you is to whether or not state employees should receive a pay raise, the bill is before you which would give it to them. It is this Chamber's right to accept or reject the cost items. Reading the debate I hear fair share, fair share, fair share.

If you can defensively argue that fair share is a cost item to the state and that is why you are rejecting it, then that is fine, and I urge you to do so. But if this is being made into a political football, to criticize the Governor, to criticize the MSEA, then I think that we clearly have lost the perspective of the role of this Chamber in the matter that is before us. Thank you.

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

Senator TRAFTON: Mr. President and Members of the Senate: I am somewhat incredulous today, not that I did not expect that this particular bill before us would not receive passage today, I fully anticipated that last evening. But I am incredulous at the kinds of arguments that I have heard on the floor of the Senate this morning.

First we have the Senator from Knox, Senator Collins invoking the laws for us again. It was not too long ago, that he spoke to us of strange inconsistencies and in fact was ready to flee from the laws, and destroy the collective bargaining process, which is so clearly out-lined in our statutes.

Today, apparently the laws should be honored again, and he asks us to remember that we have twice voted against the cost item. It is my understanding that everyone in this body is totally in favor of those cost items. I believe that I could check the record on that. I do not believe that we have ever taken a vote on the cost item which has been urged by members of this Democratic Party.

Secondly, I heard the Senator from Kennebec, Senator Ault, reaffirm that he has always been in support of this contract, my roll call votes do not show that.

Then I understood that the powerful majority leader of the Republican Party, the Senator from Kennebec, Senator Katz, single handedly designed a compromise that this body finally passed. It is with some wonder that I imagine that he could commit \$10,000, of the Governor's Contingency Fund without the Governor's approval.

I think that it is unfortunate that we have these kinds of misleading and pompous arguments today. I had planned on sitting in my seat and voting on the roll call vote, and then suffering from the disappointment, but I do not intend to sit in my seat and hear the Governor of our State demand misleading and inaccurate statements. This is not a time for pompous arguments. State employees would like bread and butter.

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 Knox, Senator Collins, that the Senate Indefinitely Postpone L. D. 1597.

A Yes vote will be in favor of Indefinite Postponement.

A No vote will be opposed.

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

ROLL CALL

YEA — Ault, Chapman, Collins, Devoe, Emerson, Gill, Hichens, Huber, Katz, Lovell,

McBreairty, Perkins, Pierce, Redmond, Shute, Sutton, Teague, Trotzky, Sewall.

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

ABSENT — None.

A Roll Call was had.

19 Senators having voted in the affirmative, and 14 Senators in the negative, the motion to Indefinitely Postpone in non-concurrence does prevail.

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

Senator **COLLINS**: I move this matter be sent forthwith to the other Body for concurrence.

The **PRESIDENT**: Is it the pleasure of the Senate to suspend its rules and send this document forthwith to the House?

It is a vote.

Under Suspension of the Rules, sent down forthwith for concurrence.

Leave to Withdraw

The Committee on Agriculture on Bill, "An Act to Require a Licensed Arborist to be on the Job Site of Any Job Undertaken by an Arborist." (H. P. 513) (L. D. 659)

Reported that the same be granted Leave to Withdraw.

Comes from the House, the Report Read and Accepted.

The Committee on Education on, Bill, "An Act to Authorize a School Nursing Health Consultant in the Department of Educational and Cultural Services." (H. P. 886) (L. D. 1084)

Reported that the same be granted Leave to Withdraw.

Comes from the House, the Report Read and Accepted.

The Committee on Education on Bill, "An Act to Require that all Teachers have at Least 9 Credit Hours in Special Education." (H. P. 1082) (L. D. 1342)

Reported that the same be granted Leave to Withdraw.

Comes from the House, the Report Read and Accepted.

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

Reported that the same be granted Leave to Withdraw.

Comes from the House, the Report Read and Accepted.

The Committee on Health and Institutional Services on, Bill, "An Act to Require the Department of Human Services to Provide Services Equally to Intact Families." (H. P. 1255) (L. D. 1509)

Reported that the same be granted Leave to Withdraw.

Comes from the House, the Report Read and Accepted.

The Committee on Labor on, Bill, "An Act Concerning Dispute Resolution under the Municipal Public Employees Labor Relations Statutes." (H. P. 1131) (L. D. 1394)

Reported that the same be granted Leave to Withdraw.

Comes from the House, the Report Read and Accepted.

The Committee on Labor on, Bill, "An Act to Increase the Wage Base on Which Employers Shall Pay Unemployment Compensation Benefits." (H. P. 603) (L. D. 749)

Reported that the same be granted Leave to Withdraw.

Comes from the House, the Report Read and Accepted.

The Committee on Labor on, Bill, "An Act to Provide for Industrial Notification on Plant Closing and Mass Layoffs." (H. P. 1060) (L. D. 1333)

Reported that the same be granted Leave to

Withdraw.

Comes from the House, the Report Read and Accepted.

The Committee on Taxation on, Bill, "An Act Concerning Fuel Tax Collection Procedures." (H. P. 1262) (L. D. 1516)

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.

The Committee on Labor on, Bill, "An Act to Disqualify Recipients of Workers' Compensation Benefits from Unemployment Compensation." (H. P. 436) (L. D. 553)

Reported that the same be granted Leave to Withdraw.

Comes from the House, the Report Read and Accepted.

Which Report was Read.

On motion by Senator Pierce of Kennebec, tabled pending acceptance of the Committee Report.

Ought to Pass — As Amended

The Committee on Education on, Bill, "An Act to Provide for Voter Approval of School Construction Projects." (H. P. 863) (L. D. 1062)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-303)

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

The Committee on Judiciary on, Bill, "An Act to Amend the Alternative Method of Support Enforcement." (H. P. 701) (L. D. 861)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-292)

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 Fisheries and Wildlife on, Bill, "An Act Relating to the Term of Membership on the Inland Fisheries and Wildlife Advisory Council." (H. P. 803) (L. D. 1006)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-287)

Comes from the House, the Bill Passed to be Engrossed as amended by Committee Amendment "A" as amended by House Amendment "A" (H-305) 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.

The Committee on Education on, Bill, "An Act Authorizing the State to Contract with Tufts University School of Veterinary Medicine." (H. P. 411) (L. D. 528)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-291)

Comes from the House, the Bill Passed to be Engrossed as amended by House Amendment "A" (H-307).

Which Report was Read.

The Ought to Pass as amended Report of the Committee Accepted in concurrence and the Bill Read Once.

Committee Amendment "A" Read.

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

Senator **TROTZKY**: I move Committee Amendment "A" be Indefinitely Postponed and would like to speak to the motion.

The **PRESIDENT**: The Senator has the floor.

Senator **TROTZKY**: Mr. President and Members of the Senate: There was one word left out, instead of Tufts School of Medicine, it should have read Tufts School of Veterinary Medicine. So House Amendment "A" takes care of that, so it's just a technical amendment.

On motion by Senator Trotzky of Penobscot, Committee Amendment "A" Indefinitely Postponed.

House Amendment "A" Read and Adopted, in concurrence, and the Bill, as Amended, Tomorrow Assigned for Second Reading.

(Off Record Remarks)

Divided Report

Eight members of the Committee on Aging, Retirement and Veterans on, Bill, "An Act to Improve Survivor Benefits under the Maine State Retirement System." (H. P. 260) (L. D. 341)

Reported in Report "A" that the same Ought to Pass as amended by Committee Amendment "A" (H-299)

Signed:

Representatives:

CHURCHILL of Orland
THERIAULT of Rumford
NELSON of Portland
PAUL of Sanford
DELLERT of Gardiner
LOWE of Winterport
STUDLEY of Berwick
HICKEY of Augusta

Four members of the same Committee on the same subject matter Reported in Report "B" that the same Ought Not to Pass.

Signed:

Senators:

LOVELL of York
TEAGUE of Somerset

Representatives:

HANSON of Kennebunkport
REEVES of Newport

One member of the Same Committee on the same subject matter Reported in Report "C" that the same Ought to Pass as amended by Committee Amendment "B" (H-300)

Signed:

Senator:

Silverman of Washington

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

Which Reports were Read.

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

Senator **LOVELL**: Mr. President and Ladies and Gentlemen of the Senate: I am a Republican, and I think all Republicans are soft-hearted, and my counterpart in the other Body, the Chairman of the Committee on Aging, has explained to me that this only raises the amount from \$100 to \$125, that the beneficiary will receive, in the case of death.

Now the Senator from Washington, Senator Silverman, was going to make the motion but he is not here, so I will make the motion, and of course, it would go on the Appropriations Table anyway. I will make the motion that we accept Report "A".

The **PRESIDENT**: The Senator from York, Senator Lovell, now moves that the Senate Accept the Ought to Pass, as amended, Report "A" of the Committee.

Is this the pleasure of the Senate?

It is a vote.

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

Adopted, in concurrence, and the Bill, as amended. Tomorrow Assigned for Second Reading.

Divided Report

The Majority of the Committee on Public Utilities on. Bill, "An Act to Provide Information Assistance Under the Public Utilities Law." (H. P. 1064) (L. D. 1318)

Reported that the same Ought Not to Pass.

Signed:

Senators:

DEVOE of Penobscot
TRAFTON of Androscoggin
COLLINS of Knox

Representatives:

DAVIES of Orono
REEVES of Newport
BERRY of Buxton
CUNNINGHAM of New Gloucester
VOSE of Eastport
LOWE of Winterport
BROWN of Livermore Falls
NELSON of Portland
GAVETT of Orono

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

Signed:

Representative:

McKEAN of Limestone

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

Which Reports were Read.

The Majority Ought Not to Pass Report of the Committee. Accepted, in non-concurrence. Sent down for concurrence.

Senate

Leave to Withdraw

Senator Collins for the Committee on Judiciary on. Bill, "An Act to Prohibit Abortions after Viability." (S. P. 262) (L. D. 806)

Reported that the same be granted Leave to Withdraw.

Which Report was Read and Accepted.

Sent down for concurrence.

Divided Report

The Majority of the Committee on Local and County Government on. Bill, "An Act to Reimburse Municipalities for Expenses Incurred in Enforcing Statutes, Ordinances and Regulations Relating to the Operation or use of Motor Vehicles, Streets and Highways." (S. P. 183) (L. D. 413)

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

Signed:

Senators:

REDMOND of Somerset
COTE of Androscoggin

Representatives:

DRINKWATER of Belfast
WENTWORTH of Wells
NELSON of Roque Bluffs
BORDEAUX of Mt. Desert
DUTREMBLE of Biddeford
LaPLANTE of Sabattus
BROWN of Livermore Falls

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

Signed:

Senator:

EMERSON of Penobscot

Representatives:

McMAHON of Kennebunk
STOVER of West Bath
McHENRY of Madawaska

Which Reports were Read.

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

Senator EMERSON: I move we Accept the Minority Ought Not to Pass Report.

The PRESIDENT: The Senator from Penob-

scot, Senator Emerson, now moves the Senate Accept the Minority Ought Not to Pass Report of the Committee.

The Chair recognizes the Senator from Androscoggin, Senator Minkowsky.

Senator MINKOWSKY: Mr. President and Members of the Senate: I stand this morning to oppose the Acceptance of the Minority Ought Not to Pass Report. It's my bill, and I have very strong feelings about it.

The basic reason, Mr. President and Members of the Senate, that I introduced this particular bill was because of the proliferation of the costs at the municipal level of enforcing the law. The Police Departments are the first line of defense, insofar as apprehending the criminal.

The cost of maintenance of vehicles, cost of gasoline, the cost of the vandalism to the cars, the cost of labor, including overtime, benefits, has put the municipalities in a very, very, serious bind. I really did not have much of an alternative, except to say, since we are the first people on line to apprehend the criminal, or if we are to enforce the radar laws in the State of Maine, which, basically, is incumbent upon us to provide the purchase of radar equipment, there should be some mechanism under the fine procedure, in which to reimburse our municipality part of the cost involved in the fine procedure, in which to reimburse our municipality part of the cost involved in the fine that is collected by the District Court.

Originally the intent was to have the District Court return to the municipality at least 50% of the cost. After due consideration and deliberation with the Committee, we turned around to the point of saying, I think we can accept 25% of the total fine.

Now, the mechanism is not quite in place at the present time, neither is it in the Committee Amendment, which changes it to 25% of the fine, as well as including reimbursement to the Sheriff's Departments in the State of Maine for the amount of time they spend on these cases.

Now municipalities usually get about \$5 to \$8 if they send an officer to testify in District Court against an offender. But if this officer, who has to wait his turn to testify spends 3 or 4 hours, and the going rate is 7 or \$8 an hour, this is a deficit to the municipality. If the officer is compelled to testify on his day off, this is double time, and all these are added costs to the municipality.

What we felt, on this particular bill, Mr. President, and Members of the Senate, that since the good citizens of the State of Maine who do not violate the law are not the ones who are paying the fine. Since they usually maintain the right way of doing things, that the only way we can address part of the cost is to get that reimbursement.

Now I was not very, very stringent, in so far as saying we must get it back monthly, or quarterly or yearly. I'm leaving it up to the discretion of the District Court to make out an arrangement with the Department of Finance and Administration through the computer system, to reimburse the municipality as they see fit. Maybe once every 6 months, maybe once a year.

But at least I think the municipalities will feel a lot better since we cannot rely upon LEAA funds, and have a definite source of revenue back to the municipality.

I would like to have you, in your wisdom and fair play, this morning, defeat the pending motion and allow this to be debated a little further so other ramifications of this bill can be brought forth, insofar as even the small municipalities that do not have full time officers. This might give the small municipalities some incentive, knowing that its money could be earmarked for their Police Department, in which to update their equipment, or to fulfill the mandates of the Judicial System.

On motion by Senator Katz of Kennebec, Tabled for 1 Legislative Day, pending the Motion by Senator Emerson of Penobscot.

Second Readers

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

House

Bill, "An Act Concerning the Liability of Landowners for Recreational or Harvesting Activities on their land." (H. P. 1350) (L. D. 1588)

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

House — As Amended

Bill, "An Act to Revise the Qualifications for Burial in the Veterans Memorial Cemetery." (H. P. 923) (L. D. 1138)

Bill, "An Act to Provide for Ancillary Complaints in Second Offense Operating under the Influence Cases." (H. P. 1256) (L. D. 1510)

Bill, "An Act to Increase Fees Charged by Bail Commissioners." (H. P. 1129) (L. D. 1398)

Bill, "An Act to Permit Depuration Facilities to Operate During Red Tide." (H. P. 755) (L. D. 937)

Bill, "An Act Relating to Action by the Public Utilities Commission on Petitions by Electrical Companies for Certificates of Public Convenience and Necessity." (H. P. 164) (L. D. 196)

Bill, "An Act Concerning Access by Physically Disabled Persons to Certain Public Facilities." (H. P. 707) (L. D. 891)

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

Bill, "An Act to Prohibit a School District from Offering Driver Education Courses for a Fee to a Student when a Duly Licensed Commercial School is Available." (H. P. 237) (L. D. 283)

Which was Read a Second Time.

On motion by Senator Katz of Kennebec, tabled for 1 Legislative Day, pending Passage to be Engrossed.

Bill, "An Act Concerning Warning Signs Posted at Certain Railroad Grade Crossings under the Public Utilities Commission." (H. P. 1133) (L. D. 1401)

Which was read a Second Time.

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

Senator EMERSON: I move that the Senate Reconsider its action whereby it adopted Committee Amendment "A".

The PRESIDENT: The Senator from Penobscot, Senator Emerson, now moves that the Senate Reconsider its action whereby it adopted Committee Amendment "A".

Is this the pleasure of the Senate?

It is a vote.

Senator EMERSON: I now present Senate Amendment "A" to Committee Amendment "A", and move its Adoption.

The PRESIDENT: The Senator from Penobscot, Senator Emerson, now offers Senate Amendment "A" to Committee Amendment "A", and moves its Adoption.

Senate Amendment "A" (S-139) Read.

Senator PRAY: Mr. President, excuse me for rising at this late hour, with the understanding that we're recessing at 10:30, but it is my understanding by reading the amendment and just looking at the title of the bill, without getting into it, that we're going to add farm and industrial crossings and treat them in the same way that we treat railroad crossings?

The PRESIDENT: The Senator from Penobscot, Senator Pray, has posed a question through the Chair.

The Chair recognizes the Senator from Penobscot, Senator Emerson.

Senator EMERSON: The purpose of my amendment was to allow the Department of Transportation to evaluate need for this.

Senate Amendment "A" Adopted. Committee Amendment "A", as amended by Senate Amendment "A" adopted in non-concurrence. The Bill, as amended, Passed to be Engrossed.

in non-concurrence.

Sent down for concurrence.

Bill, "An Act Concerning Reserve Officer Standards for Professional Law Enforcement Personnel." (S. P. 405) (L. D. 1276)

Bill, "An Act to Require Certain Out-of-state Sellers to Register Under the Maine Sales and Use Tax Law." (S. P. 448) (L. D. 1363)

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

Sent down for concurrence.

Senate

Bill, "An Act to Clarify Inconsistencies in the Liquor Laws." (S. P. 436) (L. D. 1367)

Which was Read a Second Time.

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

Senator SHUTE: Mr. President, I present Senate Amendment "A" to L. D. 1367, and move its Adoption.

The PRESIDENT: The Senator from Waldo, Senator Shute, now offers Senate Amendment "A" to L. D. 1367 and moves its Adoption.

Senate Amendment "A" (S-138) Read.

The PRESIDENT: The Senator has the floor.

Senator SHUTE: Mr. President and Ladies and Gentlemen of the Senate: This amendment was something that should have been on the bill when it came out of the committee, and this is correcting some of the errors in the bill, that we intended to take care of.

Senate Amendment "A" Adopted. The Bill, Passed to be Engrossed, as amended.

Sent down for concurrence.

Senate — As Amended

Bill, "An Act to Provide Accessible Polling Places for the Physically Handicapped and the Elderly." (Emergency) (S. P. 95) (L. D. 181)

Bill, "An Act to Partially Exempt Musicians from Coverage for Unemployment Insurance." (S. P. 352) (L. D. 1100)

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

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

Sent down for concurrence.

Bill, "An Act to Amend the Form of Election Ballots to Omit the Secretary of State's Name under Certain Conditions." (S. P. 272) (L. D. 842)

Which was Read a Second Time.

On motion by Senator Conley of Cumberland, tabled for 1 Legislative Day, pending Passage to be Engrossed.

On motion by Senator Pierce of Kennebec, adjourned until 12:30 o'clock tomorrow afternoon.