

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD
OF THE
One Hundred and Ninth
Legislature

OF THE
STATE OF MAINE

Volume II

First Regular Session

May 7, 1979 to June 15, 1979

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

May 8, 1979

Senate Called to Order by the President.
Prayer by Reverend Gary Vencill, Randolph Methodist Church, Randolph.

Reverend VENCILL: I would like to read just a few verses from the Prophet Isaiah, as a prelude to the prayer.

The spirit of the Lord is upon me, because the Lord has anointed me to bring good tidings to the afflicted.

He has sent me to bind up the broken hearted, to proclaim liberty to the captives, and the opening of the prison to those who are bound. To proclaim the year of the Lord's favor, and the day of vengeance of our God to comfort all who mourn.

God of our fathers and of our mothers, may we open our minds and our hearts to the wisdom of your spirit, that we may serve the people of the State of Maine with honor and dignity. Ever mindful that our calling is not to serve the welfare of the few and the powerful, but rather the welfare of the whole people. Ever mindful as we rise to speak in this place so rich and so awesome in tradition, that the poor and the forgotten have no voices here, except our voices.

May the decisions that we make this day, bless our children, and our children's children, for generations to come. Amen.

Reading of the Journal of yesterday.

Papers from the House
Joint Orders

Expressions of Legislative Sentiment recognizing that:

The Scarborough Public Library has served readers of that community for over 75 years. . . (H. P. 1359)

Harry E. Cummings of Portland has been recognized as the Regional Citizen of the Year by the Greater Portland Council of Governments. . . (H. P. 1368)

The Maine Coast Memorial Hospital at Ellsworth has received special recognition from the Joint Commission on Accreditation of Hospitals for demonstrating a high quality of patient care while mindful of the need to contain health care costs and its accountability to the patients and community it serves. . . (H. P. 1367)

The Portland Area Branch of the National Association for the Advancement of Colored People, NAACP, which is continuously fighting to eliminate racial discrimination and segregation from all aspects of public life in America, was established on May 11, 1964, and is now celebrating its 15th anniversary. . . (H. P. 1370)

Come from the House, Read and Passed.
Which were Read and Passed, in concurrence.

Senator Hichens of York was granted unanimous consent to address the Senate, On the Record.

Senator HICHENS: I'm sorry! Someone must have goofed when I missed a Birthday Date.

for I did not have a record—so this greeting's a bit late.

But ne'er the less it's most sincere and I am sure that you

will join in this belated wish that skies may e'er be blue

and the winds of fate may ever be kind to one with us today—

who observed another birthday in the early part of May.

She's added grace and beauty in this Senate—to be sure,

and it must take real courage for her to here endure

the pressures that are put on her to keep up with things each day,

and keep on top of her constituents' work that comes along her way.

She's proved to be observant of the signs that she may pass,

confused that they refer to cigarettes and not to gas—

and when confused she gives to us a little winsome smile

to keep us all in wonderment—but we admire her style

and though she cleverly arranged to keep us in the dark

as to her birthday date this year—we wish for Nancy Clark

all best wishes on her day—we hope t'was lots of fun

for she who's fooled us all in thinking she's just "21".

Communications
COMMITTEE ON TAXATION

April 19, 1979

Senator Richard H. Pierce

Chairman

Legislative Council

State House

Augusta, Maine 04333

Dear Senator Pierce:

In accordance with the directive contained in H. P. 2351 of the 108th Legislature and the request of the Legislative Council, the Joint Standing Committee on Taxation hereby submits its report on the subject of "a uniform state policy on the use of state employment and investment tax credits." Although the Committee recommends no specific legislation, its report discusses a few measures that might be appropriate including certain bills now before the Legislature.

Sincerely,

THOMAS M. TEAGUE

Senate Chairman

BONNIE POST

House Chairwoman

(S. P. 540)

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

Sent down for concurrence.

HOUSE OF REPRESENTATIVES

May 7, 1979

Honorable May M. Ross

Secretary of the Senate

109th Legislature

Augusta, Maine 04333

Dear Madam Secretary:

The Speaker appointed the following Conference to the Committee on Conference on the disagreeing action of the two branches of the Legislature on 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)

Mr. HUGHES of Auburn

Mr. JOYCE of Portland

Mr. NORRIS of Brewer

Respectfully,

EDWIN H. PERT

Clerk of the House

Which was Read and Ordered Placed on file.

Committee Reports
House

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

Bill, "An Act to Provide Security Deposits or Bonding of Businesses in the State which Warrant Consumer Goods and Services." (H. P. 1020) (L. D. 1287)

Bill, "An Act to Establish an Energy Efficient School Year." (H. P. 1079) (L. D. 1340)

Bill, "An Act Relating to Reimbursements to Nonpublic Schools for Transportation." (H. P. 37) (L. D. 48)

Bill, "An Act to Provide Voter Approval of County Budgets." (H. P. 609) (L. D. 753)

Bill, "An Act to Increase from \$7,000 to \$12,000 the Annual State Payment for the Support of the Hancock County Law Library." (H. P. 319) (L. D. 417)

Bill, "An Act to Amend Comprehensive Planning Enabling Legislation." (H. P. 1192) (L. D. 1460)

Bill, "An Act Concerning Interdepartmental Transfers of Appropriated Funds by a County and Concerning other County Budget Items." (H. P. 833) (L. D. 1040)

Bill, "An Act to Bring the Definition and Use of Local 'Comprehensive Plan' into Conformity with Local Planning Requirements." (H. P. 828) (L. D. 1029)

Bill, "An Act to Prohibit the Minimum Charge on Unused Buildings by Electric Power Companies." (H. P. 1098) (L. D. 1346)

Bill, "An Act to Require Periodic Management Audits of all Public Utilities." (H. P. 633) (L. D. 784)

Leave to Withdraw

The Committee on Aging, Retirement and Veterans on, Bill, "An Act to Allow a Maximum of 25 Years Service Prior to 1942 for Computation of Teachers Retirement Benefits." (H. P. 989) (L. D. 1226)

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 Provide for Reimbursement as School-related Costs for the Expenditures by Municipalities for Snow Removal Along Designated School Walking Routes for Pedestrian Students." (H. P. 1184) (L. D. 1457)

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 Relating to Education in Nutrition." (H. P. 1267) (L. D. 1506)

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 Establish the Legal Rights of Hospital Patients Without Jeopardizing their Right to Care or Treatment." (H. P. 93) (L. D. 104)

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 Service Fees for Nonmembers Represented by Collective Bargaining Agents." (H. P. 893) (L. D. 1115)

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 Permit the Negotiation of Union Security Clauses in Contracts between the State and Bargaining Agents of State Employees." (H. P. 468) (L. D. 597)

Reported that the same be granted Leave to Withdraw.

Comes from the House, the Report Read and Accepted.

The Committee on Local and County Government on, Bill, "An Act to Eliminate the Office of York County Treasurer." (H. P. 1032) (L. D. 1281)

Reported that the same be granted Leave to Withdraw.

Comes from the House, the Report Read and Accepted.

Which Reports were Read and Accepted, in concurrence.

Ought to Pass

The Committee on Election Laws, on, Bill,

"An Act to Clarify the Filing Deadline for Candidates' Reports to the Commission on Governmental Ethics and Election Practices." (H. P. 49) (L. D. 58)

Reported that the same Ought to Pass.
Comes from the House, the Bill Passed to be Engrossed.

The Committee on Energy and Natural Resources on, Bill, "An Act to Consolidate Aquatic Pesticide Permits into One Agency." (H. P. 1253) (L. D. 1508)

Reported that the same Ought to Pass.
Comes from the House, the Bill Passed to be Engrossed.

The Committee on Energy and Natural Resources on, Bill, "An Act to Allow the Board of Environmental Protection to Exempt Snow Dumps from the Waste Discharge Licensing Provisions of the Statutes." (H. P. 1023) (L. D. 1256)

Reported that the same Ought to Pass.
Comes from the House, the Bill Passed to be Engrossed.

The Committee on Energy and Natural Resources on, Bill, "An Act Relating to Municipal Recreation Grants." (H. P. 1120) (L. D. 1392)

Reported that the same Ought to Pass.
Comes from the House, the Bill Passed to be Engrossed.

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

Ought to Pass — As Amended

The Committee on Local and County Government on, Bill, "An Act to Provide County Commissioner Districts in Washington County." (H. P. 474) (L. D. 591)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H. 334)

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

The Committee on Local and County Government on, Bill, "An Act to Enable Town Meetings to be Held Outside the Corporate Limits Subject to Certain Limitations." (H. P. 979) (L. D. 1192)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H. 335)

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.

Divided Report

The Majority of the Committee on Aging, Retirement and Veterans on, Bill, "An Act Concerning Benefits for Fire Fighters under the State Retirement System for Heart or Lung Injuries." (H. P. 583) (L. D. 733)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H. 324)

Signed:
Senators:

SILVERMAN of Washington
Representatives:
DELLERT of Gardiner
HICKEY of Augusta
THERIAULT of Rumford
NELSON of Portland
LOWE of Winterport
HANSON of Kennebunkport
PAUL of Sanford

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

Signed:
Senators:

LOVELL of York

TEAGUE of Somerset
Representatives:

STUDLEY of Berwick
REEVES of Newport
CHURCHILL of Orland

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

Which Reports were Read.

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

Senator LOVELL: I move that the Senate Accept the Minority Ought Not to Pass Report, and speak briefly on the issue.

The PRESIDENT: The Senator has the floor.

Senator LOVELL: The Committee on Aging, Retirement and Veterans, went over this bill with some care. We found it would not cost the State anything, but the municipalities, it would cost them a great deal, adding this extra insurance on for firemen. A City such as Portland, Biddeford, Sanford, Lewiston, and the various cities, would have to pay that difference over and above that of the firemen to the State Retirement System. The towns and cities would have to pay a great deal more.

Now the good Senator from Cumberland, Senator Conley, knows what Portland is paying for the city's share of the firefighters. It's about 40¢ on the dollar that they earn and they are paying about 6½ or 8%.

Now this bill, in my opinion, is a bad bill because we're trying to economize, not only here, but we're trying to economize and let the towns and cities run their own business. In the towns and cities, let them have their own rights and let them do what they see fit.

Now the Report from the Retirement and Veterans Committee states: "at a Board Meeting held on March 14, 1979, board members present were unanimous in their opinion that this legislation would result in inequitable treatment of members, would be inconsistent of other provisions of the Maine State Retirement System, and would be of no value to the system." The cost of this legislation to the cities, well, it's actually unknown.

You know what the Fire Department costs the cities now and their Retirement Fund. It certainly is a great deal of money and it's going to raise the taxes in the cities and the towns with fire departments. In small places, it won't affect, if they don't have a fire department.

"The system laws and Workmen's Compensation Benefits are not clearly defined. An additional cost of such benefits under the State Retirement System, if the conditions for Workmen's Compensation Benefits go forward is not readily determinable." They can't figure out how much it's going to cost Portland, and these other cities.

Now we had a good fair hearing on this bill. I may be a little on the conservative side, I may be on the side that I don't like to see too much money spent. The Governor has stated that we don't want to raise the inflation, although the cities and towns are going to have to pay for this, it still means higher taxes, and when it means higher taxes, in the cities and towns, it's going to hurt the state as a whole, because there are many people that are just barely, and many that are not paying their taxes now. So I would move the Ought Not to Pass Report, and I appreciate your listening to me.

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

Senator CONLEY: Mr. President, I appreciate the good remarks of the Senator from York, Senator Lovell, and I'm even more particularly interested in his concern for the welfare of the citizens of Portland.

I think that when we get into the area of fire fighting, though, we get into an area that is a little bit more specific than most of the different types of employment, in particular dealing with the Retirement System.

Now firemen do enter into burning buildings,

are daily, or at least, on every occasion practically that they are called to a fire where smoke is inhaled, brings a great deal of physical harm to them. Climbing up ladders to the third and fourth floor of buildings around a large community; I'm not sure how high the buildings are in Senator Lovell's District, but we do have some multi-dwelling units in the city of Portland and going from room to room and inhaling smoke, and everything, it does take a very serious effect on one's life.

I think that the Senate should at least give this some thought before they take any action on this measure today. But if you're going to vote, I hope you would vote to keep it alive, so that Senator Lovell could once again speak on this matter.

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

Senator LOVELL: I would say that Portland and all the cities already now do have compensation for their fire fighters, for their policemen.

Now this is just to raise it up to an enormous and greater rate. As it stands at present, on the amendment on the thing, that after 6 months training, you become involved as a fire fighter, then you're eligible at the end of 2 years to injury or onset of lung trouble and so forth.

Now I have a son-in-law that is a retired Captain of the fire department in Bangor. He had to retire in 20 years, he breathed so much smoke. He gets ½ pay, fine. I don't know if Bangor pays the extra 2% or not, but I presume they do. I just simply feel that the city of Portland and all these other places, already have compensation now. Why increase this compensation to an exorbitant amount, why have a bill such as this, when it's going to cost the city so much extra money?

The Chair will order a Division.

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

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

16 Senators having voted in the affirmative, and 12 Senators in the negative, the motion to Accept the Minority Ought Not to Pass Report in non-concurrence does prevail.

Sent down for concurrence.

Divided Report

The Majority of the Committee on Agriculture on, Bill, "An Act Relating to Registration of Commercial and Custom Establishments under the Maine Meat Inspection Act." (H. P. 991) (L. D. 1228)

Reported that the same Ought to Pass.

Signed:

Senators:

HICHENS of York
MARTIN of Arroostook
CARPENTER of Arroostook

Representatives:

TOZIER of Unity
WOOD of Sanford
LOCKE of Sebek
TORREY of Poland
MAHANY of Easton
MICHAEL of Auburn
SHERBURNE of Dexter

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

Signed:

Representatives:

ROOPE of Presque Isle
ROLLINS of Dixfield
NELSON of New Sweden

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

Which Reports were Read.

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

Divided Report

The Majority of the Committee on Labor on, Bill, "An Act to Protect the Right of Employees to Freely Decide whether to Support Labor Organizations." (H. P. 818) (L. D. 1020)

Reported that the same Ought Not to Pass.

Signed:

Senator:

PRAY of Penobscot

Representatives:

McHENRY of Madawaska

BEAULIEU of Portland

BAKER of Portland

WYMAN of Pittsfield

TUTTLE of Sanford

MARTIN of Brunswick

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

Signed:

Senators:

SUTTON of Oxford

LOVELL of York

Representatives:

CUNNINGHAM of New Gloucester

LEWIS of Auburn

FILLMORE of Freeport

DEXTER of Kingfield

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

Which Reports were Read.

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

Senator SUTTON: Mr. President, I move that the Senate accept the Minority Ought to Pass Report and would like to speak on my motion.

The PRESIDENT: The Senator has the floor.

Senator SUTTON: Mr. President, Ladies and Gentlemen of the Senate: At this particular time in the History of Maine, it's my opinion that we have a rather responsible Labor Movement and Union Organization. The labor leaders, the union leaders that I have met, especially since having become a Senator are honorable and just people and seem to be working for the best interest of the Maine working folks.

My concern, though, is for the future labor movement of the State of Maine and the working conditions for the state. I believe that passage of this particular piece of legislation could be a positive step as far as our working conditions are concerned.

It's my opinion from the statistics that I have read, that where legislation of its nature has been instituted that the bottom line has been more jobs for people. I have been concerned right since I became interested in politics, in fact, as I have campaigned I've said everytime that I've had an opportunity, that the bottom line as far as these people of the State of Maine is concerned is jobs. That it doesn't matter whether we have Workers' Compensation to pay people who are hurt if they don't have a job to get hurt on. It doesn't matter whether we have unemployment insurance to pay them if they're unemployed if they haven't had the opportunity of working before.

It doesn't really matter that I say this a little bit with fear and trepidation, that our per capita wage is low, and that really is bad because it does matter, but what I'm getting at is if we don't even have jobs to even get that low per capita income then we're in trouble. So the bottom line is jobs.

What I've seen so far is that places where this type of legislation has been enacted, the bottom line has increased. There have been more jobs available to the people of the area. So my concern is for this. It's not nearly so much concern for the people that have labor organizations already. I'm concerned more for those that might be looking to Maine in comparison to the rest of New England, which has had kind of a tough time over the last decade as far as new jobs is concerned, looking to Maine

as a place with a healthy work climate.

So I'm not really concerned nearly as much as for the plants that are now in Maine that are organized, in fact, I'd be very happy to have them grandfathered. I'm concerned more for those that will be looking to Maine for expansion and for new opportunities in the future.

So I would suggest today that we have the opportunity of taking a very progressive step forward, as far as Labor Management Relations are concerned, and as far as the providing jobs in the future for our Maine people. I would urge the Senate to accept the Minority Ought to Pass Report.

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

Senator REDMOND: Mr. President and Members of the Senate: I've been thinking about this Bill, L. D. 1020. I've been thinking about unions in the recent days. I've been thinking about management in the recent days. I've been thinking about jobs for the working people. I've been thinking about politicians. I've also been thinking about our history of various countries of the world, and the United States. Then I tried to place myself into the proper perspective, and face facts and events happening here today, making history for tomorrow for this state which all of us here love very much.

For various reasons I am proud of and deep in the bottom of our hearts I'm sure that we want to make laws that we believe will make this the best state to live in for our children in generations to come.

Before trying to analyze perhaps the unions, please bear with me as I believe one must keep in mind that shifts of power play a very important role in making history. Let's think about the Roman Empire, the Russian Czars, the British Empire, and back into the present time in England, and the Labor Party. Let's look at the countries like Sweden, Scandinavia, Denmark, they have all kinds of brand new piers there, more than they can use on the waterfront. They are surrounded by water and for centuries have thrived with world commerce. Sweden voted out their Socialistic Government, because it failed to fulfill the promises made. Why? Simple answer, they disregarded sound management rules and basic laws of economics.

Some of you may be asking yourselves, what does this have to do with the State of Maine, and this body of government today in the Right to Work Bill. It has plenty to do.

Firstly, our Democracy is the best form of government for people, and secondly, the vulnerability of Democracy is that politicians have to be elected.

Ladies and Gentlemen, unions are like a mother in the home, have their role, in many industries. I'm sure they do a good job. However, in view of their strive for power and realizing that they can control elections, it would be ironical for me and the people of the District that I represent to vote against the Right to Work Bill.

Although a substantial majority of the other body has defeated this bill, Governor Brennan has said, and I quote the newspapers and the television, "If the Right to Work passes in the Legislature, I'll veto it."

Ladies and Gentlemen of the Senate, let the record show that my vote today is not against certain unions. It's not against management. My vote today is not against political parties. My vote is not against Governor Brennan. I wanted it to show that my vote is one that supports the constitution of this country and of this great state and the freedom of choice which has made it possible for us to be here today, and change laws to accommodate progress and make prosperity, also for generations to come, that they may enjoy this same privilege as set by our predecessors. I hope that this body will vote for this bill. Mr. President, when the vote is taken, I request that it be taken by the yeas and nays.

The PRESIDENT: A Roll Call has been requested.

Is the Senate ready for the question?

The Chair recognizes the Senator from Penobscot, Senator Trotzky.

Senator TROTZKY: Mr. President and Members of the Senate: What this bill basically says is that it states that employees are protected in the exercise of their free choice to join or refrain from joining labor unions. It's unlawful for an employer and a labor union to enter into a contract or agreement to require employees to join the labor union, to pay dues, fees, or charges of any kind to a labor union as a condition of obtaining or keeping a job.

The essence here, it says "unlawful for an employer and the union to join into an agreement to force employees to join a union as a condition of employment." That issue was just before this Legislature, very clearly in the last 2 weeks. The Governor of the State of Maine, representing management, and the MSEA joined together in a contract which stated very clearly that any employee of the State of Maine had to pay dues to a union or 80% of union dues to a union or be fired. This Senate rejected very strongly that concept.

I sponsored one of the Right to Work Bills. I sponsored it for specific reasons. If you look at what's come before this Legislature not only in the past, but also this year, you have many bills which promote compulsory unionism. Examples of these are L. D. 1115, which compels municipal employees, who are not members of the union to pay a fee to a union in order to hold their jobs, L. D. 314 also compels non-members of unions to become members of the union or pay a fee to a union as a condition of employment; L. D. 597 points out state employee's unions in negotiating for agency shops allows them to do so; L. D. 1447, the MSEA Contract also requires state employees to pay fees to a union or be fired; L. D. 493, another bill continues in that same vein. All of these bills promote compulsory unionism.

I believe that in a democratic society the other voice must be heard and not drowned out by political expediency or by the political power that the union leaders in our State of Maine believe they hold.

There are many people in the State of Maine who happen to believe that a person should be given free choice. Many of you received cards, and people say these cards come from Virginia somewhere. Well, they don't come from Virginia, they come from people in the State of Maine, and they come from all communities who are backing the Right to Work. I'll just read it to you. These cards come from Bangor, Rangeley, Brewer, Bangor and Brewer here, a lot of Bangors, Rockland, South Portland, York Village, Kennebunk, Kittery, Sanford, Berwick, Buxton, Stratton, they go on, Kingfield, Jackman, Anson, Skowhegan, Cambridge, Madison, from all over the State of Maine.

These are Maine people speaking. Let's realize that. We can say the union movement comes out of Washington, there are great big headquarters down there in Washington. The AFL-CIO Building, I've seen that before. So there may be a small group in Washington that's pushing Right to Work in states throughout the country. But I think the issue is a false issue to say that this issue isn't of concern to the people of the State of Maine.

I'd like to give a little bit of background history on the Labor Laws in the country. The issue that L. D. 1020 addresses is basically union shop, agency shop, and service fees to the union, call it what you like, it's one and the same. L. D. 1020 addresses the issue of compulsory unionism.

The National Labor Relations Act was passed in 1935, and at the insistence of union leaders gave exclusive representation for the power to represent all employees in a company's bargaining unit including employees who

opposed the union and don't want its services. This monopoly bargaining power is a special privilege granted to union officials by the Federal Law, Section 7 and 8 of the National Labor Relations Act sanctioned the union shop, the agency shop, and a firing of workers who refused to pay dues to a union.

However, the Taft-Hartley Act, was passed in 1947, and amended that National Labor Relations Act. Section 14B of the Taft-Hartley Act authorized states to pass Right to Work Legislation. In short Section 14B guarantees each state the right to protect the rights of its citizens against compulsory unionism.

If this state had had a Right to Work Law, we would not have had this MSEA contract with the offending clause in it. Secondly, what's going to come before this Legislature very shortly is another contract from ASME. That's not a local union, that's a national union, backed by the AFL-CIO. That also, as I understand, has a compulsory union clause in it.

So, if this Right to Work Legislation had been passed, as permitted by the Taft-Hartley Act, in the State of Maine, we would not have these contracts before us with those clauses in them.

The Past-President of the AFL-CIO, Benjamin Dorsky, called this bill "Union Busting" pure and simple. I call it, by the way, breaking a monopoly held by union officials on the workers of the State of Maine. Many state employees, for example, have come to me in the past few weeks and stated they're opposed to the compulsory unionism that's being pushed in the contract which was negotiated by the Governor and which the Governor stands by.

L. D. 1020 before you is neither anti-union or pro-union. It simply affirms the right of all Maine citizens to voluntarily join labor unions and support labor unions. No union in the state would be denied 100% membership by the passage of L. D. 1020, but unions must achieve 100% membership by service to their membership by earning the respect of employees and by proving worthy of their support.

The history of trade unionism in our country is a proud one. The great American Labor Movement helped make real for the working men and working women of the country a better quality of life, better working conditions, and individual dignity.

I'd like to remind the Senate, however, of Labor's heritage. The founder of the American Labor Movement, Samuel Gompers, was determined to establish a strong and effective Labor Federation, but Gompers' concerns for liberty in labor came together as one. He was on ever on guard against a tendency towards tyranny and coercion, within the union movement.

I quote from Samuel Gompers' statement which I made before on the Senate Floor: "There may be here and there a worker, who for certain reasons, unexplainable to us, does not join a union of labor. This is his right, no matter how morally wrong he may be. It is his legal right and no one can, or dare question his exercise of that legal right." Gompers went on to state: "I want to urge devotion to the fundamentals of human liberty, the principles of voluntarism. No lasting gain has ever come from compulsion. If we seek to force, we would but tear apart that which is united, is invincible."

The heirs of Samuel Gompers have not perpetuated his great vision of a strong labor movement based on voluntary association and commitment to the freedom of the individual worker. They have pushed steadily for compulsory unionism, both in the private and the public sector. The autocratic power of unrestrained capital has been replaced by the autocratic power of unrestrained super unions, which bolster their ability to control and coerce the workers they have forced into their ranks. Before the abuses of virtually unlimited union power, the laws of our nation often stand mute.

Other voices have been raised in the defense of the liberty of labor. One of the most out-

standing Justices of the United States Supreme Court, Louis Brandeis stated, and I quote: "It is not true that the success of labor unions necessarily means a perfect monopoly. The union, in order to attain, and preserve for its members industrial liberty must be strong and stable. It need not include every member of the trade. Indeed it is desirable for both the employer and the union that it should not."

"Absolute power leads to excesses and to weakness, neither our character nor our intelligence can long bear the strain of unrestricted power. The American people should not and will not accept unionism if it involves a closed shop. They will not consent to the exchange of the tyranny of the employer, or the tyranny of the employee."

Justice Brandeis, by the way, a friend of labor, and his hatred of oppression caused him to take a stand against compulsory unionism.

Members of the Senate, labor cannot advance at the cost of liberty, especially the liberty of its own individual members. Freedom of association is guaranteed in the Constitution of the United States, no church, no government agency, no employer is permitted to violate that sacred freedom, and yet everyday in union shops and agency shops, and by the way, these are hybrids, in my opinion of the now unlawful closed shops, everyday in union shops and agency shops across our country, labor unions force involuntary association on workers who have no choice but to join the union or not work. Such a state of affairs is alien to the free spirit of the State of Maine. It must be vigorously opposed by all those who believe with these traditions, that the freedom of man is indivisible and inalienable.

This bill will not interfere with the union's right to organize, the bill only makes union membership voluntary. Compulsory unionism must no longer be allowed to constitute the one exception, the fundamental American right of Freedom of Association. I would urge the Senate to pass this Bill.

(Off Record Remarks)

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 Oxford, Senator Sutton, that the Senate Accept the Minority Ought to Pass Report of the Committee.

A Yes vote will be in favor of the Acceptance of the Minority Ought to Pass Report.

A No vote will be opposed.

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

ROLL CALL

YEA — Ault, Collins, Emerson, Hichens, Lovell, Perkins, Redmond, Sutton, Trotzky

NAY — Carpenter, Clark, Conley, Cote, Devoe, Farley, Gill, Huber, Katz, Martin, McBairty, Minkowsky, Najarian, O'Leary, Pierce, Pray, Shute, Silverman, Teague, Traf-ton, Usher

ABSENT — Chapman, Danton

A Roll Call was had.

9 Senators having voted in the affirmative and 21 Senators in the negative, with 2 Senators being absent, the motion to Accept the Minority Ought to Pass Report does not prevail.

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

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

Senator KATZ: I move reconsideration.

The PRESIDENT: The Senator from Kenne-

bec, Senator Katz, moves that the Senate Reconsider its action whereby it accepted the Majority Ought Not to Pass Report of the Committee.

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.

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

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

Senator PIERCE: Mr. President in regards to L. D. 1115 I move that the Senate reconsider its action whereby this Bill was granted Leave to Withdraw.

The PRESIDENT: The Senator from Kennebec, Senator Pierce, moves that the Senate reconsider its action whereby Bill "An Act to Provide for Service Fees for Nonmembers Represented by Collective Bargaining Agents" (H. P. 893) (L. D. 1115) was granted Leave to Withdraw.

On Motion by Senator Katz of Kennebec, Tabled, pending the motion by the Senator from Kennebec, Senator Pierce.

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

Senator PIERCE: Mr. President, in regards to L. D. 597 I move that the Senate reconsider its action whereby this Bill was granted Leave to Withdraw.

The PRESIDENT: The Senator from Kennebec, Senator Pierce moves that the Senate reconsider its action whereby Bill, "An Act to Permit the Negotiation of Union Security Clauses in Contracts Between the State and Bargaining Agents of State Employees" (H. P. 468) (L. D. 597) was granted Leave to Withdraw.

On Motion by the Senator from Kennebec, Senator Katz, Tabled, pending the Motion by the Senator from Kennebec, Senator Pierce.

Divided Report

The Majority of the Committee on State Government on, Bill, "An Act to Establish Maine Cultural Heritage Week." (H. P. 677) (L. D. 836)

Reported by the same Ought to Pass as amended by Committee Amendment "A" (H. 316)

Signed:

Sensors:

AULT of Kennebec
SUTTON of Oxford
MARTIN of Aroostook

Representatives:

KANY of Waterville
MASTERTON of Cape Elizabeth
PARADIS of Augusta
BACHRACH of Brunswick
REEVES of Pittston
LUND of Augusta

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

Representatives:

BARRY of Fort Kent
LANCASTER of Kittery
CONARY of Oakland
DAMREN of Belgrade

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

Which reports were read.

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

for Second Reading.

Divided Report

Three members of the Committee on Public Utilities on, Bill, "An Act to Establish Assessments Upon Certain Public Utilities and to Authorize Use of the Funds Generated by Those Assessments to Pay Certain Expenses of the Public Utilities Commission." (H. P. 380) (L. D. 487)

Reported in Report "A" that the same Ought to Pass as amended by Committee Amendment "A" (H-321)

Signed:

Sensors:

DEVOE of Penobscot
COLLINS of Knox

Representative:

BROWN of Livermore Falls

Six members of the same Committee on the same subject matter Reported in Report "B" that the same Ought to Pass as amended by Committee Amendment "B" (H-322)

Signed:

Sensor:

TRAFTON of Androscoggin

Representatives:

DAVIES of Orono
BERRY of Buxton
VOSE of Eastport
McKEAN of Limestone
NELSON of Portland

Four members of the same Committee on the same subject matter Reported in Report "C" that the same Ought to Pass.

Representatives:

CUNNINGHAM of New Gloucester
REEVES of Newport
LOWE of Wintport
GAVETT of Orono

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

Which Reports were Read.

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

Sensor DEVOE: Thank you, Mr. President. Mr. President, I move that the Senate Accept the Report "A" and would speak to my motion.

The PRESIDENT: The Senator from Penobscot, Senator Devoe, moves that the Senate Accept Report "A" of the Committee.

The Senator has the floor.

Sensor DEVOE: Thank you, Mr. President. Mr. President and Members of the Senate: As you can see the Public Utilities Committee was split three ways on this.

I will briefly outline for you what these two committee reports say. The third committee report speaks for itself. Ought Not to Pass, meaning that there were 4 members of the committee felt strongly that the Public Utilities Commission should continue to be funded by the General Fund and not have any dedicated revenues.

The Committee Report "A" provides for limited funding of the Public Utilities Commission up to \$150,000. The reason for this is that the Congress passed two laws last fall that both impinge on each state's Public Utilities Commission. These new laws are the Public Utilities Regulatory Policy Act known as PURPA and the National Energy Act.

These two acts impose certain new duties on the Public Utilities Commission in each state, that has never been before. It was the feeling of three of us on the committee that because of these new duties thrust upon the Maine Public Utilities Commission, it would be appropriate to have \$150,000 of the total budget funded by assessments to be made on utilities operating within the state for intrastate revenues. For these reasons, Mr. President, I move Acceptance of Committee Report "A".

The PRESIDENT: The Chair recognizes the Senator from Androscoggin, Senator Trafton. Senator TRAFTON: Mr. President and

Members of the Senate: I think that Report "A" and Report "B" both reflect a consensus of the committee, even though the Report seems divided. That is the consensus of opinion that those who are being regulated and those who enjoy the benefits of that regulation, should share in the cost of that regulation. However Report "A" and Report "B" do have some differences and I would like to speak to Report "B" which I hope you will support after you reject Report "A".

Report "B" and I would start by saying, that for a change the utilities have been very supportive of this particular approach. Report "B" was actually drafted, with the assistance of Mr. Marden of CMP and I understand that it also has the support of the New England Telephone.

Report "B" adopts an approach that is currently being used in thirteen states including New York and Wisconsin, for the funding of their Public Utilities Commission.

The Legislature would retain total approval of the budget procedure under Committee Amendment "B", but the funds would be derived from the utilities in the following manner.

First of all, the Public Utilities Commission would levy an assessment against the utilities to bring in the needed operating funds. The utilities presently collect "Sales Tax" for the state and then do turn it over to the state. The utilities would hold back from the Sales Tax Revenues, which they collect, 1/12 of their total assessment for that year.

As the good Senator from Penobscot mentioned, this would be only on intrastate earnings.

Now this has several benefits, first of all there would no longer be any need for an appropriation from the General Fund. Secondly in using this wash against the sales tax, it would not be fed back into the rates of the rate-payer would eventually face higher rates as a result of this method of funding regulation.

I would hope that you would give Committee Amendment "B" a chance to operate and I would also point out that it does have a Sunset in 1984, so that we can re-evaluate this method of funding the utilities. Thank you.

The PRESIDENT: Is the Senate ready for the question?

The Chair will order a Division.

Will all those Senators in favor of the Acceptance of Report "A" of the Committee, please rise in their places to be counted.

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

The Chair recognizes the Senator from Androscoggin, Senator Trafton.

Sensor TRAFTON: I request a Roll Call.

The PRESIDENT: A Roll Call has been requested.

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

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

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

The pending question before the Senate is the motion by the Senator from Penobscot, Senator Devoe that the Senate Accept Report "A" of the Committee.

A Yes vote will be in favor of Accepting Report "A".

A No vote will be opposed.

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEA — Ault, Collins, Cote, Devoe, Emerson, Gill, Hichens, Huber, Katz, Lovell, McBreairty, Minkowsky, Perkins, Pierce, Redmond, Shute, Sutton, Teague, Trotzky.

NAY — Clark, Conley, Farley, Martin, Najarian, O'Leary, Pray, Silverman, Trafton,

Usher.

ABSENT — Carpenter, Chapman, Danton. A Roll Call was had.

19 Senators having voted in the affirmative and 10 Senators in the negative, with 3 Senators being absent, the Motion to Accept Report "A" in non-concurrence, does prevail.

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

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 Authorizing the City of Portland to Lease to the State its Central Fire Station Presently Located on Land Known as Lincoln Park Extension for Court Use and for the Administration of a Court System." (S. P. 110) (L. D. 214)

Ought to Pass — As Amended

Sensor Collins for the Committee on Judiciary on, Bill, "An Act Concerning the Definition of Criminal Mischief under the Maine Criminal Code." (S. P. 253) (L. D. 762)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-148)

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

Divided Report

The Majority of the Committee on Aging, Retirement and Veterans on, Bill, "An Act to Base Adjustments of Retirement Allowances on Cost of Living." (S. P. 130) (L. D. 307)

Report that the same Ought Not to Pass.

Signed:

Sensors:

LOVELL of York
SILVERMAN of Washington
TEAGUE of Somerset

Representatives:

LOWE of Wintport
STUDLEY of Berwick
HANSON of Kennebunkport
REEVES of Newport
DELLERT of Gardiner
CHURCHILL of Orland
PAUL of Sanford

The Minority of the same Committee on the same subject matter Reported that the same Ought to Pass as amended by Committee Amendment "A" (S-147)

Signed:

Representatives:

NELSON of Portland
THERIAULT of Rumford
HICKEY of Augusta

Which Reports were Read.

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

Sensor PRAY: I move the Senate Accept the Minority Ought to Pass Report of the Committee.

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

The Chair recognizes the Senator from York, Senator Lovell.

Sensor LOVELL: Ladies and Gentlemen of the Senate: The Committee on Aging would like to pass just about every bill that comes before them.

I think we've already passed some 5 or 6 million dollars worth of bills, at the present time. The one for 3.3% to add onto the 4% which we passed last year, which is costing over a million dollars.

Now this particular bill which is a good bill. I

like the old people, because I'm an old man myself. I like to see them get as much money as possible, but I can't see having this bill pass and go on the Appropriations Table and die on the Appropriations Table. The cost of the increase from 4 to 4½% would have to be appropriated from the General Fund. The State Employees Retirement Part would be \$996,000 in 1979, and \$1,024,000 in 1980. Teachers Retirement would be \$2,444,000 in 1979, and \$2,440,000 in 1980. In addition to that the State Highway Employees have got to pay \$625,000 or the State has, and \$643,000 in 1980-81.

Now in other words, for all this money they go into the General Fund, and it would be a wonderful thing, but we'd have to have a tax increase. Now some suggested an increase in tax on gasoline. It's going up so fast that you wouldn't if it was 80¢ or 85¢ or 75¢ or whatever it might be, it just keeps on rising, so if we could put a nickel on gasoline it might be good.

But I would have to move the Indefinite Postponement of this bill and all its papers, and hope that you will agree with me.

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

Senator PRAY: Mr. President and Members of the Senate: As I listened to the good Senator from York, Senator Lovell, talk about the inflation rate and what is happening in the country, I think I found myself more solidly behind the bill.

Just to briefly explain what the bill does, presently we have a 4% Consumer Price Index in the Retirement System. This bill, as amended, would move it up to 4½%. I do think that it should, at least, make it through to the Appropriations Table, then we evaluate a priority of where we're going to put our money.

I, for one, would prefer to see some of the priorities go to the retired citizens of this state, who came through the depression in the thirties and have labored for many years, and now are collecting on our Retirement System. It's a meager amount, in listing of priorities, and I would hope that we would defeat the motion to Indefinitely Postpone, and put this bill through the process to lay it on the Appropriations Table, and we can correctly evaluate the condition of the State and what other L.D.s we may be competing with.

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

Senator SILVERMAN: Mr. President and Members of the Senate: I rise to differ with my colleague from Penobscot, Senator Pray. You know, some of us as we watch this political system we have here in Maine, wonder if we're looking at management, administration, of properly funding our agencies, or are we looking at political games of how much can we bring in to the people and in turn get their votes.

The Pension Fund has major problems. There's an underfunded liability of close to \$10,000,000, that isn't going to come out of this Legislature because the money isn't available. There's another underfunded liability of \$6,500,000, because of the change in the mortality rate, which is going to have to come out of our Appropriations Committee this time, and there's certainly another \$3,000,000 possibly coming out to keep up the inflation rate of retired citizens.

But it bothers me coming from the field of management, that we know the Pension Fund is not healthy. And yet we see through our political process time and time again groups wanting more out of this fund that isn't being properly funded. So therefore, the 3 Senators have taken a very strong stand to say, "Let's start putting the Pension Fund back in order." That way you put a Pension Fund back in order, you don't spend money that you don't have.

Hard lines sometime, aren't always politically liked, but I think if they're presented hon-

estly, they're politically admired and respected. Therefore, I do believe in behalf of the Pension Fund of the State of Maine which is \$240,000,000 which most people don't want to know too much about, just how much am I going to receive from it. I do believe that the Senate, the House, and the Governor's office have got to take a strong look at that Fund and start controlling how much goes out, considering how much is coming in.

You don't spend money you don't have, and then jeopardize all our teachers, and Maine State Employees who are going to rely on that Fund, as their essential living throughout their final years. You don't jeopardize their chances to receive those funds, by improperly funding the Pension Fund, then putting too much expense on it, that is not afforded. Therefore, I would hope you would vote along with the Senator from York, Senator Lovell, and recognize we're not playing political games. We're saying there has to be proper administration and management of this Fund, in order to have a healthy Fund for our Maine citizens.

I also say this, it's very easy to pass a bill on to the Appropriations Table, let the Appropriation Committee set the priorities, and then pass the bill onto leadership for them to set the priorities. But in their doing it, you've lost one essential, and that essential is to honestly tell the people of Maine, where their Pension Fund stands, and how it is to be properly funded, and what are to be the proper expenditures to that Fund in the future.

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

Senator PRAY: Thank you, Mr. President. Mr. President and Members of the Senate: I want to make it quite clear, I'm not playing a political game. I have assessed my priorities time and time again as to where I would perhaps prefer to see money spent, and any day I'll go down my list of priorities with anybody else here.

As I look at the back page of the Senate Calendar, we have 36 bills lying on the Appropriations Table. Some of those got to that Table by Divided Reports, and perhaps partisan on many of them. But I could clearly, at this time, probably eliminate half of those bills, in favor of this bill, and perhaps more.

I think to insinuate that political games are being played is erroneous. But if we're going to talk about the Pension Fund and the state that it's in, I think, perhaps the Committee on Aging, Veterans and Retirement should have in the past, and it's been talked about before, but nothing ever seems to get done, is talk about a system that makes such poor investment. There's the condition of the Fund. You can put money in a bank and make more interest than the state does on the Pension Fund.

To stand here today and to insinuate that the Fund is in such poor condition and to do nothing about it, is insidious. Mr. President, not to belabor the point, I think, perhaps we should just get on with the voting, because I have a fair idea what the 3 Senators opposing it, where their priorities lie.

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

Senator LOVELL: Mr. President and Ladies and Gentlemen of the Senate, just one more word.

Senator Pray and I co-sponsored the bill to give the people 3.3% over and above, the 4% that they were given in their pension a year ago. Senator Collins was Chairman at that time, of the Committee, and we felt that 4% was just about as high as we could go, and that we would make it up the following year.

We've kept our word, it's on the Appropriations Table, and I hope that it will come off with an Ought to Pass Report. So with that 3.3% we have added on to make the Cost of Living up to 7.3%. Now the standard is 4%. I'd like to see it at 4½ or 5 or 6 even because we're going to have higher inflation this year, that's

for the way things look. I don't know just how we're going to handle it.

Actually, the Retirement Fund, according to actuaries is \$100,000,000 behind, because of investments that were made when the interest was 3, 4 and 5%. So that's the situation we're in, we just cannot and I can't see how it's possible to put any more money, from our fund, from the Committee on Aging, into the General Fund. I would request a Division.

The PRESIDENT: Is the Senate ready for the question?

A Division has been requested.

Will all those Senators in favor of the Motion of the Senator from York, Senator Lovell, to Indefinitely Postpone L. D. 307 and its accompanying papers, please rise in their places to be counted.

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

16 Senators having voted in the affirmative and 7 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 would request reconsideration and hope you'll vote against me.

The PRESIDENT: The Senator from York, Senator Lovell, now moves the Senator reconsider its action whereby L. D. 307 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.

Sent down for concurrence.

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

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

The President then retired from the Senate Chamber.

Second Readers

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

House

Bill, "An Act to Clarify the Powers of the Masonic Trustees of Portland as to their Authority to Sell Real Estate." (H. P. 1335) (L. D. 1582)

RESOLVE, for Laying of the County Taxes and Authorizing Expenditures of Hancock County for the Year 1979. (Emergency) (H. P. 1360) (L. D. 1596)

Bill, "An Act Eliminating the Requirements for Licensing Retail Cigarette Outlets and Cigarette Vending Machines." (H. P. 1122) (L. D. 1452)

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

Bill, "An Act to Establish Holiday Pay for Deputy Sheriffs." (H. P. 104) (L. D. 114)

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

Sent down for concurrence.

House — As Amended

Bill, "An Act to Amend the Laws Relating to Beano or Bingo." (H. P. 508) (L. D. 625)

Bill, "An Act to Amend the Authority Granted to Municipalities to Enact Police Power Ordinances." (H. P. 957) (L. D. 1187)

Bill, "An Act to Appropriate Funds to Provide for Lobster Rearing Stations." (H. P. 475) (L. D. 592)

Bill, "An Act to Amend the Burden of Proof Placed on the Bureau of Taxation in an Appeals Proceeding." (H. P. 1036) (L. D. 1273)

Bill, "An Act to Require the Purse Seine

Season in Washington County to Close on September 15th." (H. P. 321) (L. D. 425)

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

Bill, "An Act Relating to Bass Tournament Permits." (H. P. 413) (L. D. 529)

Which was Read a Second Time.

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

Senator PRAY: Mr. President, I move the Indefinite Postponement of L. D. 529.

The PRESIDENT pro tem: The Senator from Penobscot, Senator Pray, moves that the Senate Indefinitely Postpone L. D. 529.

On Motion by Senator Usher of Cumberland, Tabled for 1 Legislative Day, pending the Motion by the Senator from Penobscot, Senator Pray.

Bill, "An Act to Increase Fees for Atlantic Salmon Permits." (H. P. 492) (L. D. 633)

Which was Read a Second Time.

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

Senator SHUTE: Mr. President and Members of the Senate: Yesterday, I guess that I was not quite prepared for this bill, when we debated it a little bit, but since then I have called the Salmon Commission, the Marine Resources and the Inland Fish and Game and have some information on the bill that might help you make a better decision than we did yesterday on it.

I called Alfred Meister up at the Salmon Commission in Bangor, their office is in Bangor for the Salmon Commission. I asked him what this bill, should bring in, in revenue, at the present time they have a revenue of about \$4,000. out of the Salmon Stamp. He said that this should bring in another 8 to 12 thousand dollars, because under this bill, you will be licensing salmon fishing in the salt water, the tidal waters of the state, which right now you do not have to have a salmon stamp to fish in the tidal waters of this state.

This would mean that if you fished up in the Penobscot River going up to the Salmon Pool you would need a Salmon Stamp. To fish down on the coast you would need a Salmon Stamp. If you were out fishing for bass or mackerel, if you are a weir fisherman, a seine you still have to have a Salmon Stamp. At the present time you don't.

This is the first attempt and their attempt to license salt water fishermen. Now no one has ever had the authority to license salt water fishermen fishing for salmon, mackerel, bass, flounders, whatever. You can go down there and you can fish and you do not have to have a license from the State of Maine. That is one place that the young people in the state, the elderly people can go down, they can fish off the bridge, they can fish off the shore, they can go out and troll and they do not need a license.

Now this is the first attempt, and he told me this himself, that this would be a foot in the door, to finally have a salt water fishing license. After the Salmon Stamp, then he said "that the next thing to come along would be the Striped Bass Sport Fishing License." I think that it is kind of ridiculous that you expect salt water fishermen that have weirs or their seine or whatever they are doing, fishing, and they catch a salmon under this bill, if they do not have a salmon stamp and the salmon is dead they still have got to throw it back, because you can not keep it. Right now you can keep it.

I have talked with some of the fishermen over home and they are not very enthused about this little bill here. I have talked to people that just go fishing for the sport of it, and they are not very enthused about it.

This bill does a lot more than just raise the fee up from \$1. to \$5. which is a 500% increase and the out-of-state fee \$15 to \$30 which is another 100% increase. They said that the real

revenue that they were going to get out of this bill, was the license of salt water fishermen. They do not have any authority down there. Why don't they keep their authority up in the inland waters where it belongs. It does not belong out there in the salt water. Mr. President, I move Indefinite Postponement of the bill.

The PRESIDENT pro tem: The Senator from Waldo, Senator Shute, moves that this Bill be Indefinitely Postponed.

The Chair recognizes the Senator from Penobscot, Senator Pray.

Senator PRAY: Thank you, Mr. President. Mr. President and Members of the Senate: I would just like to read the first section of the bill where it defines Atlantic Salmon in reference to the Stamp Permit.

"That no person shall fish for Atlantic Sea Run Salmon in any internal waters of this State".

I want to first of all, assure the Senator that we are not talking about those individuals fishing the coastal waters of Maine. I also would like to correct him in reference to the remarks that up in the Bangor Pool that they do not have to have a Salmon Stamp. They do, presently they are required to have a Salmon Stamp. Just recently corresponding with the Department in response to requests of several constituents even into the Pleasant River and the Upper Penobscot, we have had Salmon Stamps taken into the town clerk because the Atlantic Salmon under the restoration program have returned into the far reaches of the internal waters of this State. I would ask for a Division on the Indefinite Postponement.

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

Senator SHUTE: Mr. President and Members of the Senate: In response to the remarks from the Senator from Penobscot, Senator Pray. He is quite mistaken, unless Mr. Meister the head of the Salmon Commission is mistaken.

He said "that this Bill, refers to the internal waters of the state." But in the present law, they have tried to take jurisdiction over the low water mark in the tidal waters of this state, but the Attorney General has already stated that they cannot enforce that the way that the law is now. They have tried to take people in for fishing in the salt water or the tidal waters of the state and they have dismissed the cases. They cannot do it. As far as having a Salmon Stamp up towards the Salmon Pool, I do not know if it would be at the Salmon Pool, or below it as long as it is in the tidal waters of the state you do not have to have a stamp, and they can not take you in and fine you.

The PRESIDENT pro tem: A Division has been requested.

Will all those Senators in favor of the Indefinite Postponement of L. D. 633, 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 6 Senators in the negative, the Motion to Indefinitely Postpone, does prevail.

Senate

Bill, "An Act to Revise the Qualifications for Electricians." (S. P. 390) (L. D. 1201)

Bill, "An Act to Transfer the State Board of Certification for Geologists and Soil Scientists to the Department of Business Regulation." (S. P. 398) (L. D. 1216)

Bill, "An Act Concerning Licensing Manufactured Housing Dealers, Itinerant Vendors, Lightning Rod Salesmen and Apprentices and Helper Electricians." (S. P. 446) (L. D. 1366)

Bill, "An Act to Transfer the Board of Registration for Professional Foresters from the Department of Conservation to the Department of Business Regulation." (S. P. 399) (L. D. 1204)

Bill, "An Act Relating to the Maine Medical and Hospital Malpractice Joint Underwriting

Association Act." (Emergency) (S. P. 143) (L. D. 319)

Bill, "An Act to Amend the Charter of the Portland Water District." (S. P. 404) (L. D. 1255)

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

Senate — As Amended

Bill, "An Act to Permit Municipalities to Issue Bonds Under the Municipal Securities Approval Act for Water Supply System Projects." (S. P. 421) (L. D. 1315)

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

Enactors

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

An Act to Establish a Solar Water Heater Demonstration Program for Maine Small Businesses. (H. P. 296) (L. D. 386)

An Act to Extend World War Assistance to Single Veterans. (H. P. 942) (L. D. 1176)

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

An Act Relating to the Administration of School Dental Health Programs. (H. P. 733) (L. D. 920)

On motion by Senator Perkins of Hancock, Tabled for 1 Legislative Day, pending Enactment.

An Act Concerning Licensing of Head and Hide Dealers by the Department of Inland Fisheries and Wildlife. (H. P. 275) (L. D. 357)

An Act to Permit the Inhabitants of Garland and Bradford to Withdraw from the Maine State Retirement System. (H. P. 76) (L. D. 84)

An Act Relating to the Plumbing and Subsurface Disposal Laws. (S. P. 376) (L. D. 1156)

An Act Relating to the State Apprenticeship Council. (H. P. 844) (L. D. 1046)

An Act to Authorize the State to Provide Technical Assistance and Legal Assistance to Recipients of Wastewater Planning and Construction Grants. (H. P. 1186) (L. D. 1459)

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

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

Senator NAJARIAN: I would like to move reconsideration of L. D. 1187.

The PRESIDENT pro tem: The Senator from Cumberland, Senator Najarian, moves that the Senate Reconsider its action whereby Bill, "An Act to Amend the Authority Granted to Municipalities to Enact Police Power Ordinances." (H. P. 957) (L. D. 1187) was Passed to be Engrossed.

Is this the pleasure of the Senate? It is a vote.

On motion by Senator Najarian of Cumberland, Tabled for 1 Legislative day, pending Passage to be Engrossed.

Emergency

RESOLVE, Authorizing an Appropriation of \$165,000 to Provide Administrative and Other Initial Operating Expenses Incidental to the Construction and Operation of the Maine Veterans Home. (H. P. 1014) (L. D. 1248)

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

Orders of the Day

The President pro tem laid before the Senate the First tabled and specially assigned matter:

HOUSE REPORTS — from the Committee on Appropriations and Financial Affairs, Bill, "An Act to Appropriate Funds for the Nursing Home Ombudsman Program" (H. P. 1074) (L.

D. 1328) Majority Report — Ought Not to Pass; Minority Report — Ought to Pass as amended by Committee Amendment "A" (H-301)

Tabled—May 4, 1979 by Senator Perkins of Hancock.

Pending—Acceptance of either Report.

On motion by Senator Perkins of Hancock, the Minority Ought to Pass, as amended, Report of the Committee Accepted in concurrence, and the Bill Read Once. Committee Amendment "A" Read and Adopted, in concurrence. The Bill, as amended, Tomorrow Assigned for Second Reading.

The President pro tem laid before the Senate the Second tabled and specially assigned matter:

HOUSE REPORTS — from the Committee on Health and Institutional Services, Bill, "An Act Relating to General Assistance." (H. P. 859) (L. D. 1070) Majority Report — Ought to Pass in New Draft Under New Title, "An Act Relating to State Participation in General Assistance Programs." (H. P. 1356) (L. D. 1592); Minority Report — Ought Not to Pass.

Tabled—May 4, 1979 by Senator Gill of Cumberland.

Pending—Motion of Senator O'Leary of Oxford to Accept Minority Report.

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

Senator O'LEARY: Mr. President, at this time, I'd like to withdraw my motion to accept the Minority Report and would yield to the good Senator from Cumberland, Senator Gill.

The PRESIDENT pro tem: The Senator from Oxford, Senator O'Leary, now requests Leave of the Senate to Withdraw his motion to accept the Minority Ought to Pass Report.

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

It is a vote.

The Chair recognizes the Senator from Cumberland, Senator Gill.

Senator GILL: I would move acceptance of the Majority Report and I'd like to speak to my motion.

The PRESIDENT pro tem: The Senator has the floor.

Senator GILL: This bill is a redraft, in new form, with a new title. I'm sure everyone here has heard of the infamous 1070, General Assistance Bill. The Committee worked on this quite a bit. We had a long session for several days, we wrestled with this, and we finally came out with the ideas of parties being involved getting together and coming out with a compromise that would be workable to everyone involved. We had the Maine Municipal Association, we had the Welfare Directors' Association, we had the Department of Human Services, we had the Pine Tree Legal get together and come out with a bill that would be livable with everybody concerned.

If you look at L. D. 1592, you'll see it's a much shortened version of the General Assistance Bill. All it does, in the first section, it clarifies the language, that the department already has in effect and can use. But it just writes the statute in clearer language. It doesn't change the practice, it doesn't change the interpretation, it just makes the responsibility clear to everybody involved of what the department can do.

The second section of the bill talks about the help the department can give each municipality. The department doesn't intend to review each individual case, each individual complaint, but they will respond to complaints. They don't intend to usurp the responsibility of the Local Hearing Officer which was an item that people on the committee felt strongly about. We wanted the Local Hearing Officer to still have jurisdiction over his own municipality.

It does mean that the reports of the municipalities who are in violation, if they remain in violation, after a warning and after 60 days,

will be brought before the Legislature. We felt that any municipality that did deliberately violate the application should be brought before the Legislature, or their name should be brought, and funds should be withheld from them. This is all it does.

We also have a letter, I think everybody received a letter from the Maine Welfare Directors on their desks, from the President of the Association, saying that after having talked with several members of the executive committee and other members of the Maine Welfare Directors Association, we find the alternative to 1070 acceptable and we will be glad to give support to this bill. So I would urge that the Senate pass the Majority Ought to Pass.

The PRESIDENT pro tem: The Senator from Cumberland, Senator Gill, moves that the Senate Accept the Majority Ought to Pass Report, in New Draft, under New Title, "An Act Relating to State Participation in General Assistance Programs."

The Chair recognizes the Senator from Waldo, Senator Shute.

Senator SHUTE: Mr. President and Members of the Senate. Last Evening I attended a Selectmen's Meeting over in my District, Town of Burnham. They brought it to my attention, they had a new item from the Maine Municipal opposing this bill. They told me they hoped I'd go on record as being against this bill.

This morning I received a letter from the City of Belfast, Town Manager. They also said that they hoped I'd oppose this bill. Originally the MMA did support it and since they have had another meeting, and now the Maine Municipal is opposing the bill.

I'm not sure what the Legislature would do with the names once they get these names, the bill doesn't say. Other than it says, report the names to the Legislature. I don't know what we're supposed to do with them once we get them. But I suppose these records that are sent into the Human Services Department would be in a very convenient place for any organization that would like to harass the selectmen, of the small towns. I think it would be a lot more convenient being there to go in and look over the records of every town than it would be going from town to town, and doing the harassing of the town officials that way.

So I really don't see much reason for this bill. I know in the letter distributed it did say that it's not our intention to review individual cases or complaints. It is our intention to respond to complaints, which in our opinion, go beyond individual case disagreements.

If this bill is going to make new requirements of towns that aren't getting any General Assistance, and I have 30 towns in my Senate District, and only 2 of those towns get any General Assistance from the State, 2 of them, and they get about \$400 total, so they're not too anxious to have too many regulations go to them when they're paying for programs for towns that are getting the General Assistance. Then we have State officials come over and harass the selectmen that are trying to do a good honorable job. So I move Indefinite Postponement of the bill and all accompanying papers.

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

Senator CARPENTER: Mr. President, Ladies and Gentlemen of the Senate: I really think the key item here is one of compliance with the law.

If you will look at the letter that came over from the Department of Human Services, you'll see that the Department's intention under this bill, if it passes, is to help towns get into compliance with the law. They would turn their names over, or bring their names to the Legislature only, and I quote "the reports made to the Legislature will include the names of towns which have been reviewed and are still in non-compliance after the 60 day period,

and were making no effort to comply with the State Law."

I'm very concerned about this because it seems to me regardless of whether or not a municipality is receiving State Funds, that all the people of the State of Maine, or the legislature of the State of Maine ought to do what it can to ensure that all the people of the State of Maine comply with the law, including the Legislature.

I don't consider this a harassment bill at all. You'll notice the letter that was across your desk this morning, from the Welfare Directors' Association, they are the ones that worked out this compromise. There wouldn't have been more than 1 or 2 votes on the Committee for the bill in its original form, I think the Committee Report, now indicates a great deal of support to try and help bring these municipalities into compliance with State Law. It's as simple as that.

We sit up here in Augusta, and we pass State Laws. Sometimes, unfortunately, I think, too often, we don't give the Departments enough authority to help the towns, or to require the towns to come into compliance with these laws.

If you'll read that letter again from Mr. Levesque, Deputy Director of the Bureau of Social Welfare, he doesn't take any part in this battle between Pine Tree Legal Association and the various municipalities, but he simply says that under this bill, he would not be infringing on the Local Hearing Authority. He would not be going into the towns and forcing them to do anything other than trying to help them comply with existing law. So I hope that you'll accept this bill and send it on its way. Thank you.

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

Senator HICHENS: Mr. President and Members of the Senate: When this bill came out of Committee, I expressed my reservations as to how much it was going to help my towns that I represent. But because the Majority or unanimously, except for myself, the Committee was in favor of the bill, I didn't want to come out with a split report. Then I found out afterwards that one of the House Members had changed, and it came out with a split report.

But since that time my doubts have been reaffirmed, because I have heard from 5 out of 6 towns I represent. They have all asked me to vote against the bill, so I'll go on record as voting against the bill.

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

Senator PERKINS: Mr. President and Ladies and Gentlemen of the Senate: I rise today to support the Senator from Waldo. I feel that I also have many towns that do not draw on General Assistance. I, for the life of me, have not heard of any of my towns, who have Welfare Directors per se, who belong to any Association. So I suspect that many of my selectmen, because we're too poor to have Welfare Directors, would also fear that while the intentions of the Committee are very honorable and I commend them for working very hard on this bill. I also know the changing face of bureaucracy. The changing face of the bureaucracy is within the Department, and while they today say their intention is not to do thus and so, tomorrow that face changes. My selectmen fear very much the changing face as well as some of the changing tides.

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

Senator TRAFTON: Mr. President, I would like to ask a question of any Member of the Committee who would care to answer.

In reading over the bill, I wondered if the legal liability of the State is greatly increased by this LD, for the enforcement of the General Assistance Program?

The PRESIDENT pro tem: The Senator

from Androscoggin. Senator Trafton has posed a question through the Chair to any member of the Senate, who may care to answer.

The Chair recognizes the Senator from Cumberland, Senator Gill.

Senator GILL: There was no indication that there would be any change in the liability. The liability is on the local level with the municipalities enforcing their own Welfare Laws. All they would be doing is serving as a guide, if you will, in coming in to assist to help them to properly execute their Welfare Laws.

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

Senator MINKOWSKY: Mr. President and Members of the Senate: Coming from a very large community in the State of Maine, which has a Welfare Director, and which abides by the law. We have been faced with several suits and we have resolved them. I would not want to see this particular thing perpetrated before the Legislature by having a cloud over the municipalities head, to say that we are going to take away your Welfare Assistance if you do not comply. Most municipalities under Municipal Home Rule and the ordinances established by the municipalities are abiding by the law.

In my particular estimation, in talking to the Welfare Director and municipal officials, there is absolutely no essential necessity to have this particular re-enforcement to what is existing at the present time in our municipalities. It's just another way for the bureaucratic system to proliferate itself and it's not in the interest of the citizens or the municipalities in the State of Maine.

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

Senator GILL: That particular section of the Law has not changed. All that we are doing in that first section of the Law, is clarifying the language, to make all the responsibility clear and understandable to all. In the past two years 40 municipalities have had their reimbursements withheld, because they had problems and that will not change, those municipalities that continue to have problems will have their reimbursement withheld by the department.

What we are trying to do, is effect some means where they can get assistance, so that this will not be necessary and they can get their reimbursement, so that they can carry on their program.

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

Senator MINKOWSKY: Mr. President and Members of the Senate: I have other small municipalities, the towns in my Senatorial District, who do not have welfare or welfare programs. I would not want to see the Department of Human Services come into that particular town and direct them, that they must open their books and comply with whatever they desire.

This is a very very dangerous thing, that we are doing at the present time, and I think that Senator Shute, is absolutely correct in his evaluation, that he expressed so ably on behalf of his selectmen for the towns that he represents.

The PRESIDENT pro tem: The Chair will order a Division.

Will all those Senators in favor of Indefinite Postponement of L. D. 1592, please rise in their places to be counted.

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

18 Senators having voted in the affirmative and 8 Senators in the negative, the Motion to Indefinitely Postpone in non-concurrence does prevail.

Sent down for concurrence.

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

HOUSE REPORTS — from the Committee on Labor — Bill, "An Act to Modify the Dispute Resolution Process under the Labor Statutes" (H. P. 824) (L. D. 1035) Majority Report — Ought to Pass; Minority Report — Ought Not to Pass.

Tabled—May 4, 1979 by Senator Sutton of Oxford.

Pending—Acceptance of Either Report.

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

Senator SUTTON: Mr. President, I would like to move that we Accept the Majority Report, Ought to Pass and speak to my motion.

The PRESIDENT pro tem: The Senator has the floor.

Senator SUTTON: Mr. President this bill was recommended in the House because of the lack of a fiscal note. I would like to request that we give this bill its First Reading and in its Second Reading, I will offer an amendment. Number 1 that will put the fiscal note on and number 2 that will alay some of the objections of those in the minority report. In that the bill basically eliminates Fact Finding but we have an amendment that would reinstate Fact Finding but would still hopefully strengthen the mediation process. So that is the reason that I am requesting that we accept the Ought to Pass Report today.

The PRESIDENT pro tem: The Senator from Oxford, Senator Sutton, moves that the Senate Accept the Majority Ought to Pass Report of the Committee.

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

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

SENATE REPORTS — from the Committee on Local and County Government — Bill, "An Act Concerning Contracts of Town Managers." (S. P. 456) (L. D. 1369) Majority Report — Ought Not to Pass; Minority Report — Ought to Pass.

Tabled—May 4, 1979 by Senator Emerson of Penobscot.

Pending—Motion of Senator Hichens of York to Reconsider Accepting Majority Report.

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

Senator HICHENS: Mr. President and Members of the Senate: I am hopeful that the other body will send this back in non-concurrence. I withdraw my motion.

The PRESIDENT pro tem: The Senator from York, Senator Hichens, requests Leave of the Senate to Withdraw his motion to Reconsider.

Is this the pleasure of the Senate?

It is a vote.

Sent down for concurrence.

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

SENATE REPORT — from the Committee on Labor — Bill, "An Act to Allow Unions to Negotiate on Behalf of Former Employees of a Company with Which the Union is Negotiating." (S. P. 319) (L. D. 949) Leave to Withdraw.

Tabled—May 4, 1979 by Senator Sutton of Oxford.

Pending—Motion of Senator O'Leary of Oxford to substitute Bill for Report.

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

Senator SUTTON: Mr. President. I have got a couple of concerns that I would like to bring before the Senate, and ask a couple of questions of the Chair, before we vote on this particular item.

This particular bill, asks or states that it would permit bargaining agents to negotiate on behalf of retired employees. It is my understanding that this is already permitted, that

unions may bring to the bargaining table a package that would encompass retired employees.

If it is the intent of this bill to require employers bargain on this, then I have got grave problems with it. The present National Labor Relations Act requires only them, employers, bargain on wages and working conditions, basically. If this would require them to also bargain in good faith, on behalf of former employees, who actually are not even covered by bargaining units, then I would have some problems with it. If for some reason it just says that they may bring to the table, and the employer can say no, we do not want to talk about this and they have that right, then I would have no objection whatsoever.

As I recall, the good Senator from Oxford, Senator O'Leary, pointed out that this was his concern, that the labor organization would be willing to give up part of their package on behalf of former employees, which I think is fine.

My only concern is that this does not put a mandate on an employer as to another area in which he must bargain, and if it does then I think that we need to look very carefully at it.

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

Senator O'LEARY: In response to one question the answer would be no, this does not mandate the bargaining for the former employees, it is just permissive.

The last sentence in the opinion of the Attorney General is "L. D. 949 permits but does not mandate the bargaining of retiree benefits."

What the Supreme Court of the United States said was that "whereas retirees are not any longer really dues paying members of a union, and/or actively employed by the Company, a Union can not tell a company to negotiate for retirees and that Legislative action could be taken." They did not rule out the states doing it.

The opponents argued that this legislation is not needed, that the unions and the companies can do it now. However, what they do not tell you is that if either party says I do not even care to discuss it, then the negotiations for retirees ends just that quickly.

If you read this bill and you read the Attorney General's opinion it is strictly permissive. It is not at all similar to a proposal that is before the Congress of the United States today, that mandates that companies and union shall negotiate for retirees.

Now this is a route that I would not care to travel, this is strictly permissive, what it really does is it allows me to go to a Union Agenda Meeting and tell the negotiating team that I want you to go in there and take some of that out of the pot for our retirees that is what this bill is all about. I believe that there would be no objection on the part of management to this piece of legislation. They understand it the way I do.

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

Senator SUTTON: Mr. President and Ladies and Gentlemen of the Senate: I am still a little concerned. One of the statements that the good Senator from Oxford just made was that they can go to the bargaining table now, but either party can say No we do not want to talk about it.

That is my real concern, that they can bring it now and one party or the other are not required to bargain on it, then what you are suggesting is that this piece of legislation would require that they talk about it, and if that is the case I would have to oppose it.

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

Senator O'LEARY: Anything that is bought to the table is legitimately there where you have legislation that says that you may talk about it. That does not mean that anyone has to

give on it, it does not mean that. It is just another subject for negotiations, it is not something that I think that your unions would use too often. I do not think that you would see a rush to the negotiation table by the unions on this at all.

This is not a labor bill, and once again I say that it is strictly permissive and it allows me to go to my local union and tell them I want to talk about it. It is not saying to the company you shall do this, or you shall do that, it doesn't do that.

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

Senator LOVELL: The entire 13 members on the Committee on Labor signed this bill Leave to Withdraw, and then the good Senator from Oxford, Senator O'Leary, tries to substitute that report for the bill.

Now those entire 13 people in the House, and 3 in the Senate, felt it wasn't a good bill, for some of the reasons that the good Senator Sutton has stated, and other reasons.

So I would ask the Senate to go along with the Leave to Withdraw as it was brought in.

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

Senator FARLEY: Mr. President and Members of the Senate: I think the Senator from Oxford, Senator O'Leary, made a good point.

Anything at the bargaining table is a subject of collective bargaining, once the item is put on the table. Essentially the package doesn't change. Management says, you know, we're going to 40¢ and that's it, that's it. But they break it down usually with 30¢ in wages, and then they have a 10¢ package in benefits, 99% of the time, management says, you divvy up the 10¢ in benefits on vacation pay, insurance, or retirement any way you want to.

That's the limit. You're not getting another 2¢ out of collective bargaining this way or anything else. I don't believe management would have any opposition to this at all. It does not expand the collective bargaining process. That item could be on the table anytime. All it says, is it is something that is negotiable and that once it's on the table. That's all you're allowing with this piece of Legislation.

I think it's caused enough concern here. I think we ought to at least substitute the Report for the Bill and bring it to a Second Reading. If we have no objections along the line, then we can bring it out again.

I'd only remind this Body, as you know, many of the problems of senior citizen retirees today. If the union wants to take 2¢ of their benefits and pass them on to a Retirement Plan for those retirees, I think they ought to have the privilege to do that. I really don't foresee any problems with management on this piece of Legislation.

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

Senator SUTTON: Mr. President, one last word or question. I hear everything that's going on, and I can't disagree with anybody except if all of this is so, why do we need the bill? I don't understand why we need the bill. Out of respect for Senator O'Leary and Senator Farley, I would be very happy to let this go to the Second Reading, while I ponder some more what this is all about.

The PRESIDENT pro tem: The pending question before the Senate is the Motion by the Senator from Oxford, Senator O'Leary, that the Senate substitute the Bill for the Report.

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 less than one-fifth having arisen a Roll Call is not ordered.

Is it now the pleasure of the Senate to Substitute the Bill for the Report?

The Bill Substituted for the Report. The Bill Read Once, and Tomorrow Assigned for Second Reading.

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

SENATE REPORT — from the Committee on Labor — Bill, "An Act to Require that Holiday Pay be Considered Wages for the Purposes of Unemployment Compensation." (S. P. 309) (L. D. 902) Leave to Withdraw.

Tabled—May 4, 1979 by Senator Sutton of Oxford.

Pending—Acceptance of Report.

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

Senator SUTTON: Mr. President, I would move that we Substitute the Bill for the Report and I would speak to my motion.

The PRESIDENT pro tem: The Senator from Oxford, Senator Sutton moves that the Senate Substitute the Bill for the Report.

The Senator has the floor.

Senator SUTTON: As embarrassing as this could be, I'm not really embarrassed because there is a problem. There was another identical bill to this that was passed out of our Committee, and was killed in the other Chamber. The reason it was is, because it was misunderstood. This is a bill to offset holiday pay for the purposes of unemployment compensation. A big discussion ensued about vacations and employers being able to force people to take vacations and what have you.

It has nothing to do with vacations. The House Chairman of the Labor Committee led the objection to this. Since then he understands the bill better and it has been brought to my attention that he will not oppose it at this point. So that is why it was Leave to Withdraw, because at that particular point, the other bill was working it's way through. For that reason I move that we substitute the bill for the report and move its passage.

The PRESIDENT pro tem: The Senator from Oxford, Senator Sutton, now moves that the Senate substitute the Bill for the Report.

Is this the pleasure of the Senate?

It is a vote.

The Bill Substituted for the Report, and the Bill Read Once, and Tomorrow Assigned for Second Reading.

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

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

Tabled—May 7, 1979 by Senator Collins of Knox.

Pending—Adoption of House Amendment "A" (H-318).

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

Senator COLLINS: Mr. President, I tabled this bill so that I might look more closely at the new section added by the amendment in the other Chamber, entitled "Right of Entry."

That section, I think, goes much further than was intended, by the spirit of the bill, it would really authorize an inspector to walk right into your house, and into your bathroom, without your leave at all, and I think, would have serious constitutional difficulties.

I've discussed this with those who are interested in it and understand they are working on an amendment that would clear up that problem. I am in general support of the purpose of the bill, and want to have this understood. I hope the matter may be tabled until the amendment is ready.

On Motion by Senator Katz of Kennebec. Retabled for 2 Legislative Days.

The President pro tem laid before the Senate the Eighth Tabled and specially assigned matter:

HOUSE REPORT — from the Committee on Marine Resources — Bill, "An Act to Strengthen the Requirement to Remove Lobstering Equipment when a Lobster License is Suspended." (H. P. 511) (L. D. 627); Ought to Pass as amended by Committee Amendment "A" (H-330)

Tabled—May 7, 1979 by Senator Shute of Waldo.

Pending—Acceptance of Report.

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

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

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

The PRESIDENT pro tem: The Senator from Waldo, Senator Shute, presents Senate Amendment "A" to Committee Amendment "A" and moves its Adoption.

Senate Amendment "A" (S-150) Read.

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

Senator SHUTE: Mr. President and Members of the Senate: The only thing this amendment does is in the removal of lobster traps by a person that has had their license suspended, this amendment requires that the person have another licensed person help them remove that equipment, because under the Marine Resources Statutes no one can touch a lobster trap without a license.

Senate Amendment "A" Adopted.

Committee Amendment "A" as amended. Adopted in non-concurrence, and the Bill, as amended, Tomorrow Assigned for Second Reading.

The President pro tem laid before the Senate the Ninth Tabled and specially assigned matter:

HOUSE REPORTS — from the Committee on Labor — Bill, "An Act to Amend the Labor Law in Relation to Items to be Furnished Employees by Railroad Corporations with Every Payment of Wages." (H. P. 344) (L. D. 443) Majority Report — Ought to Pass as Amended by Committee Amendment "A" (H-309) Minority Report — Ought Not to Pass.

Tabled—May 7, 1979 by Senator Sutton of Oxford.

Pending—Acceptance of Either Report.

On Motion by Senator Sutton of Oxford, Retabled for 1 Legislative Day.

The President pro tem laid before the Senate the Tenth Tabled and specially assigned matter:

SENATE REPORTS — from the Committee on Labor — Bill, "An Act to Assist Handicapped Workers in Returning to Employment by Transfer to Suitable Work." (S. P. 322) (L. D. 952) Majority Report — Ought to Pass as amended by Committee Amendment "A" (S-145) Minority Report — Ought Not to Pass.

Tabled—May 7, 1979 by Senator Pray of Penobscot.

Pending—Acceptance of Either Report.

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

Senator SUTTON: Mr. President, I would move that we accept the Minority Ought Not to Pass Report.

The PRESIDENT pro tem: The Senator from Oxford, Senator Sutton, now moves that the Senate Accept the Minority Ought Not to Pass Report.

The Chair recognizes the Senator from Penobscot, Senator Pray.

Senator PRAY: Mr. President, in the desire to speed this session along, I would just request

a Roll Call.

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

Senator SUTTON: Mr. President, I appreciate the good Senator from Penobscot, Senator Pray's effort to speed things up. I think it is incumbent that I tell you briefly why some of us voted Not to Pass on this particular bill.

It has a very good sounding name, and it does endeavor to do good things except that the good things it endeavors to do are already being done. It maintains that a person who has been injured or that he be given first opportunity to return to any job that is available or open, any suitable work.

This bill goes a little further than that, it mandates that an employer shall in essence, make available work for him. The law is already quite clear, that it's doing this. It talks about reasonable, reasonable is not defined, and it could mean that a job must be created, and it could institute a lot of new litigation. If the handicapped or hurt worker wasn't already given the opportunity of preferential treatment I would certainly support it myself.

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

Senator PRAY: Mr. President, and Members of the Senate: Contrary to the remarks of the Senator from Oxford, Senator Sutton, this Legislation came out of a Supreme Court Case.

Twice the Industrial Accident Commission ruled on a case and ruled in favor of the injured employee. The employer, through his right, took it to court, lost in court, appealed it, lost again, appealed it again finally to the Supreme Court, where the Supreme Court overturned the previous decisions made on all counts. In its decision, which it rarely does, it spelled out language to correct the situation the way the local courts had ruled.

This bill, that we have here, just takes the language the Supreme Court suggested through the interpretation of the Workmen's Compensation Commission, the Industrial Accident Commission, and the lower courts. The attempt is to correct the language, as to the way the Commission had been ruling all along on all other cases, and those cases that had gone to court had ruled the same way.

The PRESIDENT pro tem: The pending question before the Senate is the Motion by the Senator from Oxford, Senator Sutton, that the Senate accept the Minority Ought Not to Pass Report.

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

Senator LOVELL: Mr. President, I agree with Senator Sutton. We have in the present law requirements that during the period of the time that the injured employee is under going medical treatment, the employer transfers him to a suitable job, if one is available. If no job is available, the employer would be required to create one.

Now the bill is unnecessary because the Maine Supreme Court has interpreted existing law requiring that the employee be given first call on any job which is or becomes available. In other words, he must be given the opportunity to take the job before anyone else is allowed to fill it.

This is all that can be reasonably required of this employer. L. D. 952 is an unwarranted intrusion on the employer's right to make internal management decisions concerning the number of employees needed to efficiently op-

erate his business. This bill will only serve to promote more needless litigation in the Worker's Compensation Area, and will place the Commission in a difficult position of being required to determine whether the employer could have created a suitable job for the employee. So I certainly hope the Senate will go along with the good Senator from Oxford, Senator Sutton.

The PRESIDENT: Is the Senate ready for the question?

The pending question before the Senate is the Motion by the Senator from Oxford, Senator Sutton, that the Senate accept the Minority Ought Not to Pass Report.

A Yes vote will be in favor of the Motion to Accept the Minority Ought Not to Pass Report.

A No vote will be opposed.

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEA — Ault, Collins, Devoe, Emerson, Gill, Hichens, Huber, Katz, Lovell, McBreaity, Perkins, Pierce, Redmond, Shute, Sutton, Teague, Trotzky.

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

ABSENT — Chapman, Danton, Najarian, Silverman, Sewall.

A Roll Call was had.

17 Senators having voted in the affirmative, and 11 Senators in the negative, and 5 Senators being absent, the motion to Accept the Minority Ought Not to Pass Report does prevail.

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

Senator LOVELL: Having voted on the prevailing side, I would ask reconsideration and hope you'll vote against me.

The PRESIDENT pro tem: The Senator from York, Senator Lovell, moves the Senate reconsider its action whereby it accepted the Minority Ought Not to Pass Report.

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.

Sent down for concurrence.

The President pro tem laid before the Senate the Eleventh tabled and specially assigned matter:

Bill, "An Act to Amend the Law with Regard to the Diagnostic Laboratory of the Department of Human Services." (S. P. 406) (L. D. 1245)

Tabled—May 7, 1979 by Senator Conley of Cumberland.

Pending—Passage to be Engrossed.

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

Senator TRAFTON: Thank you, Mr. President. Mr. President, I present Senate Amendment "A" to L. D. 1245, with a Filing Number of S-149, and move its passage.

The PRESIDENT pro tem: The Senator from Androscoggin, Senator Trafton, now presents Senate Amendment "A".

Senate Amendment "A" (S-149) Read.

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

Senator MINKOWSKY: Mr. President, I think an explanation is due at least to us who are not familiar with the ramifications of this bill, as to why this should be put on the Maine Administrative Procedures Act.

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

Senator TRAFTON: Mr. President and Members of the Senate: Currently any rule-making automatically comes under the Administrative Procedures Act. What this amend-

ment does is to clarify the decision-making process which will go on in the department to determine whether or not some tests will be offered free of charge does constitute rule-making, and therefore, will come under the Administrative Procedures Act.

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

Sent down for concurrence.

The President pro tem laid before the Senate the Twelfth tabled and specially assigned matter:

Bill, "An Act to Define What Foods May be Labeled or Advertised as Natural or Organic." (H. P. 1016) (L. D. 1286)

Tabled—May 7, 1979 by Senator Huber of Cumberland.

Pending—Enactment.

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

Senator HUBER: Mr. President and Members of the Senate: I'd like to first make clear that I speak neither pro nor con on this matter before us. However, I would ask the Senate to consider the last section, paragraph 562 of this bill, which states very briefly, "The Department of Agriculture has no affirmative obligation to enforce this chapter."

I simply would recommend this for the consideration of the members of the Senate. This is a new and innovative way to avoid appropriation. I think you should consider it in any future legislation that you may see fit to introduce.

On motion by Senator Pray of Penobscot, L. D. 1286 was Indefinitely Postponed, in non-concurrence.

The President pro tem laid before the Senate the Thirteenth tabled and specially assigned matter:

Bill, "An Act to Eliminate an Unnecessary Reference in the Hunting Statutes to Use of Lights to Hunt from Vehicles." (H. P. 276) (L. D. 351)

Tabled—May 7, 1979 by Senator Pray of Penobscot.

Pending—Enactment.

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

Senator KATZ: Mr. President, although I'm not a man who goes out in the woods, my impression was that the use of lights in the woods was illegal, as giving the hunter some kind of unfair advantage.

This bill appears to me to remove that little restriction and gives the night-time hunter a little advantage that he never previously had. On behalf of the purists of this world, I move Indefinite Postponement.

The PRESIDENT pro tem: The chair recognizes the Senator from Somerset, Senator Redmond.

Senator REDMOND: I request a Division and I'd like to speak on this bill.

The PRESIDENT pro tem: The Senator has the floor.

Senator REDMOND: Thank you, Mr. President. This is a Department bill. It was made to clean up the statutes, of something that was unnecessary in the statutes. It had its public hearing before the Joint Standing Committee on Fisheries and Wildlife.

It was suggested Committee Amendment which was adopted. It's just to help out the statutes, to take out unnecessary wording. It includes "it shall be unlawful for any person to molest any wild bird or wild animal at any time from or with any motor vehicle, trailer, aircraft, motor boat, snowmobile, except that migratory waterfowl may be hunted from a motor boat, in accordance with Federal Regulations."

The Sportsmen's Alliance of Maine has supported this bill. Here's what they had to say: "The adoption of this L.D. would do away

with the offenses of molesting wild animals by the use of lights attached to or from a motor vehicle from December 16 through the following August 31, as Section 2465 applies only during the remainder of the year."

The penalty under this section is \$50, \$1,000 or 90 days or both. Under Section 2465, the penalty is \$20, or \$500 or 90 days or both.

I think this is a good bill, I hope that the Senate supports my Motion.

The PRESIDENT pro tem: A Division has been requested.

Will all those Senators in favor of the Motion to Indefinitely Postpone L. D. 351, please rise in their places to be counted.

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

7 Senators having voted in the affirmative and 15 Senators in the negative, the Motion to Indefinitely Postpone does not prevail.

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

Senator TRAFTON: Mr. President, I move reconsideration whereby we Indefinitely Postponed LD. 1286.

The PRESIDENT pro tem: The Senator from Androscoggin, Senator Trafton, now moves the Senate reconsider its action whereby Bill "An Act to Define What Foods May be Labeled or Advertised as Natural or Organic" (H. P. 1016) (L. D. 1286) was Indefinitely Postponed.

Is this the pleasure of the Senate?

It is a vote.

On Motion by Senator Trafton of Androscoggin, Tabled for 1 Legislative Day, pending enactment.

Senator Hichens of York, was granted unanimous consent to address the Senate, Off the Record.

(Off Record Remarks)

On Motion by Senator Katz of Kennebec, adjourned until 9 o'clock tomorrow morning.