

# MAINE STATE LEGISLATURE

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**LEGISLATIVE RECORD**

OF THE

***One Hundred and Tenth  
Legislature***

OF THE

**STATE OF MAINE**

**SECOND REGULAR SESSION**

**January 6, 1982 to April 13, 1982**

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**FOURTH SPECIAL SESSION**

**April 28, 1982 and April 29, 1982**

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moped. He scoots all over town in that, put a couple of baskets on it and does his grocery shopping in it. Really, if I could sum up, he is the most honest person I have ever met in my life.

Usually we celebrate his birthday as a family, and because I'm here today, and because of the wheather, we can't, so I do want to wish him a Happy Birthday with this Resolution. Naturally, I will take it to him.

I guess I would just like to say publicly, whether I became Governor of the State or not, if I could ever attain half the stature of my father, I'd be a very happy man.

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

Senator TEAGUE: I would also like to wish a Happy Birthday to Henry Pierce. I have known Henry Pierce for quite a while. I first met Henry when he was manager of Armour back in the early fifties. We are each members of the same country club, and even today Henry Pierce plays golf. We also sit on the same board of directors in the Waterville Savings and Loan Association, so Happy Birthday, Henry.

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

Senator CONLEY: Mr. President, I have not had the good fortune of meeting the father of the good Senator from Kennebec, Senator Pierce, but I certainly want to join in the echo of the sentiments of wishing him a very Happy Birthday. I'd be very willing to excuse the good Senator from Kennebec, Senator Pierce, and allow him to go home and give his Dad a hand and shovel that driveway.

Which was Passed.

Sent down forthwith for concurrence.

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

#### Papers From the House Joint Orders

Expressions of Legislative Sentiment recognizing:

Heather D. Larlee, daughter of Mr. and Mrs. George Larlee of Oakfield, who has been chosen valedictorian of Southern Aroostook School District for 1982. (H. P. 2355)

Lynn Miller, of Jay, a member and past chief of the Jay Fire Department for his contribution to the community as a veteran fireman and life-long resident of Jay. (H. P. 2356)

Neil Kevin Benar, of East Millinocket, as valedictorian of Schenck High School for 1982. (H. P. 2357)

Laura Jane Shea, of East Millinocket, as salutatorian of Schenck High School for 1982. (H. P. 2358)

Thomas Griffiths, of Monmouth, a former Maine State Historian from 1940 to 1955, who celebrated his 94th birthday on April 6, 1982. (H. P. 2359)

Come from the House, Read and Passed.

Which were Read and Passed, in concurrence.

#### Enactor

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

AN ACT to Amend the Maine Implementing Act with Respect to the Houlton Band of Maliseet Indians. (S. P. 931) (L. D. 2076)

On motion by Senator Redmond of Somerset, the Senate voted to Suspend the Rules.

On motion by Senator Redmond of Somerset, the Senate voted to Reconsider its action whereby LD 2076 was Passed to be Engrossed.

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

Senator REDMOND: Mr. President, I present Senate Amendment "B" to SP 931, LD 2076 and I support its Adoption.

The PRESIDENT: The Senator from Somerset, Senator Redmond, now offers Senate Amendment "B" to LD 2076 and moves its

Adoption.

Senate Amendment "B" (S-472) was Read.

The PRESIDENT: The Senator has the floor.

Senator REDMOND: Mr. President, what this Amendment does is in the Bill itself, there is a requirement that, "no land or natural resources located within any city, town, village, or plantation may be acquired by the Secretary for the Houlton Band of Maliseet Indians without the approval of the legislative body of the city, town, village, or plantation."

There are, throughout the State, many areas that are unorganized and are not mentioned along here with the city, town, village, or plantation and that's the unorganized areas of the State, which are under the jurisdiction of the county government, or the State government.

What this Amendment does is includes the unorganized territories of the State.

I have had several conferences with members of the Attorney General's office. I attended a meeting where Senator Carpenter was present and they discussed various other problems, some of the other Members of the Legislature had with this. I expressed to the best of my knowledge my reasons why we should include this. Actually, I thought this was only an omission.

As I see it, my Amendment here, I understand that if that is Adopted, some members of the Attorney General's office have stated that if this is Adopted, because of the nature of this Bill and the negotiations that took place with the Maliseets and the Department of Interior, that this could probably, if we Adopted this, that it could kill the Bill.

Well, I don't know what would happen if we killed the Bill. I can't see any reason why it couldn't be brought back in another session, because we have spent a good part of the day debating the white-watergate, or the whitewater rafters bill, because the resolve was brought in at a late hour, now here is a bill that is very much more substantial, because I don't see any reason why we should discriminate against the unorganized areas of the State of Maine.

I really appreciate Section C of the Bill, which states that, well Section B, "no land or natural resources may be acquired by the Secretary for the Houlton Band of Maliseet Indians until the Secretary files with the Maine Secretary of State a certified copy of the instrument, creating a trust," and so forth. That none of these lands would be acquired unless they had approval from these bodies of government that have jurisdiction over these lands. I think this is very, very well done, but I think I believe it is just as important that the same application be given the unorganized territories.

So, I hope that you will support the Amendment.

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

Senator DEVOE: Mr. President and Members of the Senate, I respectfully urge the Members of this Body to oppose Adoption of Senate Amendment "B" to this Bill.

This particular bill is the end product of very hard negotiations between the Maliseets and the Attorney General's office. So far there has been only one minor housekeeping amendment which we put on in Committee, which changed the structure of a sentence. I think that this Amendment is totally unnecessary.

If I can refresh the recollection of the Members of this Body, two years ago we passed the Maine Indian Implementing Act. What this Bill does is simply incorporate into that Act certain provisions for the benefit of the Maliseet Indians, which are in the Houlton area.

There presently is in existence a \$900,000 trust fund, which must be used by the Secretary of the Interior for the purpose of buying land for the benefit of the Maliseet Indians.

If you've read the Bill, then you know that if any land within an organized territory is to be purchased, the Indians must first approach the

legislative body, namely the city council or the town selectmen in that community, and obtain their approval for purchase by the Secretary of the Interior, before that purchase can go through.

This Amendment, which Senator Redmond is offering, suggests that the Legislature should have the same authority for unorganized territories. I submit to you it is unnecessary, Members of this Body. We're talking about possible 4,500 or 5,000 acres somewhere in this State. I'm assuming it will be somewhere in the Aroostook County area, where the Indians reside, but you don't know. I can't say that for sure. We're talking about 4,500 to 5,000 acres.

They are not close enough yet on the acquisition of the land, so that they could have given us a legal description of tracts, or sections of townships that were going to be bought. It was not deemed necessary. The Attorney General's office has advised the entire Judiciary Committee that it was not necessary to define the Houlton Trust Band land in the LD, before we went ahead and passed it.

For these reasons, Mr. President, I respectfully urge the Senate to reject Adoption of this Amendment. Thank you very much, Mr. President.

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

Senator CARPENTER: Mr. President, Ladies and Gentlemen of the Senate, this is my little Bill, which started out to be a nice little housekeeping bill. It has somehow gotten wound around the axle and has become pretty complicated and quite controversial.

As the good Senator from Penobscot, Senator Devoe, the Chairman of the Judiciary Committee, just testified, this Bill had a public hearing. During all this, there was no opposition. As he indicated, this is a result of negotiations which came about because of the big land claim settlement, if you will. We were ordered to do this by the federal government and to put together an implementing act. We were given, as I understand it, although I wasn't involved in negotiations, certain guidelines.

There are two provisions in this Bill that I think are important. I want to speak to those because they relate indirectly at least to the Amendment that has been offered here this afternoon.

The first one I want to speak on is the payment in lieu of taxes. Payment in lieu of taxes will be made to the municipality in the same amount as what would have been taxed. If I own property and I pay \$600 worth of tax on it this year, and the Secretary of Interior, for the Houlton Band of Maliseet Trust, buys that land, then next year there will be that amount or more due the town from the \$100,000 that is being set-aside in this LD. There's a \$900,000 trust fund, \$100,000 of which is being set-aside to pay this payment in lieu of taxes.

The federal government, did not, I understand, tell us that the payment in lieu of taxes had to be the equivalent of the property tax. That's a plus for the municipalities. I think that's a plus for the State.

The other thing that's a plus, or would be regarded as a plus by most of the communities in the State, is the veto power. It is unprecedented that I know of that if I negotiate with the good Senator from Somerset, Senator Redmond, to buy property that the selectmen of wherever could veto that sale. That is in this Bill. They can not buy land, the Secretary of Interior can not buy land, a landowner could not sell land under this trust arrangement without approval of a legislative body, selectmen, town council, city council, whatever you have. It's a very restrictive situation.

The good Senator from Somerset, Senator Redmond, would like to add to that unorganized. As I said, I was not involved in the negotiations. I don't know what took place there. What I do know is what was struck was a very delicate balance, which the State of Maine and

the municipalities in the State of Maine got some very important things, got some things that they considered to be important. This is the end result.

We're talking about, as the good Senator from Penobscot pointed out, relatively small portion of land in comparison to the whole lands claim case, in comparison to the entire acreage in the State of Maine.

I would oppose the Adoption of this Amendment because I don't think that this is in keeping of the spirit of this particular piece of legislation.

The State, I would add, as I understand the Bill, would also receive the in lieu of taxes payment if there was land in fact purchased by the Secretary for the Houlton Band of Maliseets.

The question was asked a minute ago as to, what might happen if this Bill doesn't pass? I think it's a very real possibility that the federal government is very concerned about this particular situation, since they did federally recognize the Houlton Band of Maliseets with the land claims settlement, and are very concerned about this particular, the federal government is very concerned about this particular piece of legislation. They very easily could give us the rules. They could put the rules upon us, and that concerns me because I'm not sure they're going to be too concerned about the input or the veto power of the town council of Houlton or anybody else. Perhaps they may not be as concerned about the equal payment of monies, vis-a-vis taxes.

I think it's very important that we tread very carefully with this Bill. I think we do know exactly what is in this Bill. I don't think there are any hidden things in here. We went to the Committee, it had a good hearing, it's had a thorough working over up to this point in the legislative process. I do not regard the Amendment as offered by the good Senator from Somerset, Senator Redmond. I do not regard that as in keeping with the intent of the Bill.

Therefore, Mr. President, I would move its Indefinite Postponement.

The PRESIDENT: Is the Senate ready for the question?

The Chair recognizes the Senator from Somerset, Senator Redmond.

Senator REDMOND: I don't know if I made my point clear. Bear with me, I would like to attempt to try a little harder to get the Legislature, to get this Body to understand what I have in mind.

There were the questions raised like the good Senator from Aroostook just mentioned and have been debated. I have no problem with that. The restrictions on alienation, or taxation, or the limited condemnation, or payments in lieu of taxes, no problem with that. A fund to secure the payments, like I say, I have no problem. I have no monetary problems.

The problems that I have are what this Bill is doing, what I would like to, the message I'd like to get across here is which is most important, that the attorney's and the negotiators who have spent all this time putting this piece of legislation together, I'm sure to them it's very important that it's a successful piece of legislation and that this Legislature enacts it. I think it's a feather in their hat.

Our job here is not to ascertain this item. Our job here is, we are representing the people of Maine, and this Bill here is giving the people who are involved in this an open slate to buy \$900,000 worth of land from any person who willingly will sell it to them. There's no description. There's no prescription of how many acres, or locations, or anything. It could be parcels of 10 acres. It could be parcels of 1,000 acres. One could speculate to assume that under the probably going prices of land in unorganized territories, that at \$200 an acre, we're talking of 4,500 acres. I have no problem with this. As 4,500 acres of land, with all the land that we have is not very much.

However, when you consider that we are

signing off to those other people a carte blanche for setting up these areas and in any area that they so desire where they have a willing sales person. I would have no problem with that if it was under our laws of the State of Maine, the ordinary laws, the ones that we have enjoyed ever since our Constitution, but this is under a special law where these lands are going to be in trust by the Secretary of the Interior. If some of these unorganized towns have differences or something, they will have to go to Washington. They will have to negotiate with the federal government.

I think that it's only fair to the people of Maine, not only the people who live in those unorganized towns, the people in this Body of government here that enjoy a lot of our facilities that we have in those areas. They use them very much. I'm not, all I would like to do is that the unorganized towns, I would like to see that this Amendment be Adopted so we'd have something, some kind of control over the purchase of these lands.

This law is going to be there in the books forever. We can't change it. We're leaving this open to buy \$900,000 worth of land where the poor citizen of Maine, how is he going to plan for future developments for his children? He doesn't know. I think that the people of Maine should know where those areas are going to be.

I used to own the Bigelow Range of Mountains, my brother and I many years ago, so I'm very familiar and some one got the bright idea that those mountains should be preserved forever. There was about 50 public meetings in the area, so the people of Maine would know what was going on, to inform them so they'd know what to expect. Then, there was a referendum. Then, the State agreed to buy the mountains so we'd preserve them in that state.

There is no difference whatsoever in this Bill. There's no reason why the Legislature shouldn't have something to say on it. So, I could go on forever. I hope that I've made myself clear. I think it's more important that we pass this Amendment, even if it would kill the bill, I think it's more important. I think that I wouldn't mind paying my share of taxes to re-employ the people who work at this to renegotiate and so forth in order to live up to the Constitution of the State of Maine.

The PRESIDENT: The Chair recognizes the Senator from Aroostook, Senator McBreairey. Senator MCBREAIRTY: Mr. President and Honorable Members of the Senate, I guess I have stated before on the floor of the Senate that I look at unorganized townships different than most of you, because I represent a large portion of the unorganized territory in Aroostook County, that have people living there.

Now they are people like you and I, they talk, walk, breath, they have feelings, they pay taxes, they do everything that the rest of us do.

It bothers me that so many times when we have legislation or consider things, that they're left out. Now definitely we're dealing with the Indians here as a minority group, because it says here, that they can't buy land with this money, unless it is approved by the town officials. Now, they must be a minority group or they could buy land anywhere they want if it was for sale, but they can't.

My unorganized people have been put in a minority group that's just a little lower than the Indians here, because it says, in order to buy land in a town, or a village, or a plantation, it has to be approved by the officials. Now, what most people don't seem to understand is that unorganized townships have officials, too. The county commissioners are their officials.

Now, I am not so sure that I can go with Senator Redmond's Amendment, because I don't think it should come in here for the Legislature to make a decision. I would like to see added to the cities, towns, villages, plantation, "or unorganized townships," and leave the officials as they are because they do have officials. They have county commissioners. I'd like to see that

added, or take off cities, town, villages, plantations, and let the Indians buy land wherever it is for sale, like I can.

If anyone felt that just by adding unorganized towns would work and treat these people all the same, I'd like it Tabled and I'd have an amendment drafted to that effect, if this one fails. Thank you.

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

Senator CARPENTER: Mr. President, Ladies and Gentlemen of the Senate, very briefly, I guess, I can't argue with my colleague from Aroostook that there is a difference here in treatment.

I guess I'm concerned about what the reaction of this Legislature would be if I brought in legislation that said before Ralph "X" and Suzy "Y" could buy or sell property, they had to get the approval of any municipal legislative body. I think there would be a great hue and cry. I think free enterprise would be the word of the day. That bothers me.

We had a debate, we heard one of the finest speeches of the session from the good Senator from Washington, Senator Brown, about group homes for the mentally retarded, very good words, very eloquent words and we enacted that piece of legislation.

What we're talking about here is a group of people that have been recognized by the federal government, whether or not any of us like that. That is a trust fund set up for them, administered by the federal government whether we like that or not.

In this Bill, what we're saying, in part of it anyway, is you can buy land anywhere you want, with the approval of the town fathers, as it comes to towns. I wouldn't disagree that we did leave out non-towns, non-communities, unorganized. I'm just concerned about, I think these people, if they have the money and they're willing buyers, and they can find a willing seller, that they ought to be able to buy the land. Again, I wasn't in on the negotiations. Thank you, Mr. President.

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

Senator DEVOE: Thank you, Mr. President. Mr. President and Members of the Senate, I think we should all keep in mind that this L. D. in its present form, without the Amendment, is in strict compliance with the federal law that adopted the Indian Land Claims for the State of Maine.

I would like to mention to the Members of this Body that Section 5D of the federal act, merely requires that the agreement between the Houlton Band and the State of Maine make provisions on the location of lands to be acquired in trust for the Houlton Band. There is no requirement in the federal act that the land that, the act specifies the location of the land in the agreement adopted by this Legislature, between the Houlton Band and the State.

For that reason, again, I respectfully urge the Members of this Body to reject this Amendment.

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

Senator REDMOND: Mr. President and Members of the Senate, again, I would like to reiterate my position on this. I would ask those speakers who preceded me and who are in opposition to my Amendment, I would ask that they stand-up and please debate the Amendment. Compliance with the federal law, Section 5E, I have no problem with that. I've been stating that right along, and all the other problems that were discussed in the Committee on Judiciary. The Legislature has no problem with that.

The problem is that they excluded the unorganized townships. I'd like to have them, those are people. The Town of Rockwood, many of you have been to Rockwood, we call it the Town of Rockwood, Rockwood is an unorganized township. You look all through the State, there are thousands and thousands of people

who live in unorganized territory, and they have been left out of this. All I'm asking is equal treatment. that's all.

So, I hope that someone who is opposing this will stand up and tell me why should we be discriminating against the people in unorganized townships?

The PRESIDENT: Is the Senate ready for the question?

The Chair will order a Division.

Will all those Senators in favor of the motion by the Senator from Aroostook, Senator Carpenter, that Senate Amendment "B" to L. D. 2076 be Indefinitely Postponed, 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 Somerset, Senator Redmond.

Senator REDMOND: I request a Roll Call.

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

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

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

The Chair recognizes the Senator from Aroostook, Senator McBreairty.

Senator McBREAIRTY: Mr. President, I would like to pose a question through the Chair to anyone who might be able to answer. Does the federal law say that when an Indian is given some money by the federal government that in order to buy land in a town, he has to have approval of the town officials? Could anyone answer that?

The PRESIDENT: The Senator from Aroostook, Senator McBreairty, has posed a question through the Chair.

The Chair recognizes the Senator from Penobscot, Senator Devoe.

Senator DEVOE: Thank you, Mr. President. Mr. President and Members of the Senate, to the best of my knowledge, the federal law does not require municipal approval when land is to be purchased within an organized community, as opposed to an unorganized community. That was negotiated into this particular agreement.

The PRESIDENT: The pending question before the Senate is the motion by the Senator from Aroostook, Senator Carpenter, that Senate Amendment "B" to L. D. 2076 be Indefinitely Postponed.

A Yes vote will be in favor of the motion to Indefinitely Postpone Senate Amendment "B".

A No vote will be opposed.

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

#### ROLL CALL

YEA—Bustin, Carpenter, Charette, Clark, Collins, Conley, Devoe, Dutremble, Hichens, Huber, Kerry, Minkowsky, Najarian, Pray, Sewall, C.; Trafton, Usher, Violette, Wood.

NAY—Ault, Brown, Emerson, Gill, McBreairty, Perkins, Pierce, Redmond, Shute, Sutton, Teague, Trotzky.

ABSENT—O'Leary.

A Roll Call was had.

19 Senators having voted in the affirmative and 12 Senators in the negative, with 1 Senator being absent, the motion to Indefinitely Postpone Senate Amendment "B" does prevail.

The Bill, as amended, Passed to be Engrossed, in concurrence, and Passed to be Enacted.

(See Action Later Today.)

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

#### Order

An Expression of Legislative Sentiment recognizing:

Henry N. Deschene, of Auburn, on his 50th year as a member of Branch 345 of the National

Association of Letter Carriers for his many years of faithful service to the Auburn Post Office which he joined in 1929. (S. P. 992) presented by Senator TRAFTON of Androscoggin (Cosponsors: Representative BRODEUR of Auburn and Representative MICHAEL of Auburn).

Which was Read and Passed.

Sent down forthwith for concurrence.

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

Senator CARPENTER: Mr. President, with reference to Supplemental Senate Journal Number 12, L. D. 2076, (I don't have an item number), having voted on the prevailing side, I would move Reconsideration.

The PRESIDENT: The pending question before the Senate is the motion by the Senator from Aroostook, Senator Carpenter, that the Senate Reconsider its action whereby the Bill, An Act to Amend the Maine Implementing Act with Respect to the Houlton Band of Maliseet Indians, (S. P. 931) (L. D. 2076) was Passed to be Enacted.

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.

The Bill, having been signed by the President, was by the Secretary presented to the Governor for his approval.

#### Orders of the Day

The President laid before the Senate:

Bill, "An Act Implementing Certain Recommendations of the Citizens' Commission to Evaluate the Department of Environmental Protection." (S. P. 968) (L. D. 2130)

Tabled earlier in today's session by Senator Huber of Cumberland, pending the motion by the Senator from Aroostook, Senator McBreairty, that the Senate. Recede and Concur with the House.

On motion by Senator Huber of Cumberland, the Senate voted to Recede.

House Amendment "C" was Read.

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

Senator HUBER: Mr. President, I now present Senate Amendment "A" to House Amendment "C" and move its adoption.

The PRESIDENT: The Senator from Cumberland, Senator Huber, now offers Senate Amendment "A" to House Amendment "C" and moves its Adoption.

Senate Amendment "A" (S-473) to House Amendment "C", as amended by Senate Amendment "A", Thereto, was Adopted, in non-concurrence.

The Bill, as amended, Passed to be Engrossed, in non-concurrence.

Sent down forthwith for concurrence.

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

#### Recess

#### After Recess

The Senate called to order by the President.

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

#### Paper From the House

#### Joint Order

ORDERED, the Senate concurring, that in accordance with emergency authority granted under Title 3, section 2 of the Maine Revised Statutes, the 2nd Regular Session of the 110th Legislature shall be extended by one additional legislative day to be held on April 13, 1982. (H. P. 2360)

Comes from the House, Read and Passed.

Which was Read.

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

Senator WOOD: I request a Division.

The PRESIDENT: A Division has been requested.

Will all those Senators in favor of the Passage of H. P. 2360, please rise in their places to be counted.

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

21 Senators having voted in the affirmative, and 10 Senators having voted in the negative, H. P. 2360 was Passed, in concurrence.

#### Enactors

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

AN ACT to Create the Maine Condominium Act. (S. P. 870) (L. D. 2019)

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

#### Emergency

AN ACT to Establish Municipal Cost Components for Services to be Rendered in Fiscal Year 1982-83. (H. P. 1845) (L. D. 1841)

This being an emergency measure and having received the affirmative votes of 28 Members of the Senate, with No Senators having voted in the negative, was Passed to be Enacted and having been signed by the President, was by the Secretary presented to the Governor for his approval.

On motion by Senator Pierce of Kennebec, Adjourned until Tuesday, April 13, 1982 at 10 o'clock in the morning.