

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

***One Hundred and Tenth
Legislature***

OF THE

STATE OF MAINE

Volume II

FIRST REGULAR SESSION

MAY 4, 1981 to JUNE 19, 1981

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a number of actions from various states were compared to what was before us. I heard of no opposition, absolutely none at all, to this particular Bill, and it seems to me this certainly should be a good working statute for farmers as a whole to have something on the statute for them. If they find it to be a problem in future years, it certainly would be a golden opportunity to come in and address any specific area within that statute.

Again, when I considered the original Bill as it came before us, it was a horror show, and would give everybody the frights.

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

Senator HICHENS: Mr. President, both of the previous speakers have intimated that this amendment is altogether different than the Bill. I don't see that it is that much different, but going back to section B, it reads "the farm operation means the condition of activity which occurs on a farm in connection with the commercial production of farm products, and includes but is not limited to noise, odors, dust, fumes, operation of machinery, and irrigation pumps, ground and aerial seeding, spraying and disposal of manure, the application of chemical fertilizers, soil amendment, conditioners, and pesticides, and employment and use of labor.

As the good Senator from Penobscot has stated, I did put an amendment in to take care of aerial spraying. At the time that that was written up, I was more concerned with the spraying of apple trees, or trees that you don't usually spray from the air, but can have a great deal of drift on a windy day.

As I explained to the Agricultural Committee when the Bill was heard, the second year that I had my farm, I planted quite a crop of beans. My neighbor went and sprayed his apple trees. The spray drifted over and killed all of my beans. There wasn't any trouble over the situation. I figured that was my hard luck not to know the spray might drift if he sprayed his apple trees at that time, but I can visualize the point now where next to the farm where I did live there's a mobile trailer park. Someday my son who runs the farm was out harrowing, day's like we had 2 or 3 weeks ago when the dust spread quite away. People hanging their clothes out, their youngsters out playing, and that dust would go over and cover that whole area. It's just too bad that they moved that close, but I don't think that the farmer should have that right to go out and have these practices all the time without any discretion. It's sad to say, I know some of the farmers in the State of Maine don't have that discretion. They say the Devil may care, and I'll do as I want.

I'm afraid that this Bill in law, which says they have the right to do anything they want to do whenever they want to do it is going much too far, and the fact that 20 other states may have this Bill, I presented the Bill about a month ago on obscenity, I have proof that 20 other states have that same law, but that didn't have any effect on the legislature as far as acceptance.

The PRESIDENT: A Division has been requested.

Will all those Senators in favor of the motion by the Senator from York, Senator Hichens that LD 1599 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 would inquire of 2 or 3 Senators, who names I will not mention, how they intend to vote on this issue, they are in their seats and apparently not voting.

3 Senators having voted in the affirmative, and 24 Senators in the negative, the motion to Indefinitely Postpone does not Prevail.

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

AN ACT to Reform the Statutes Relating to Driving under the Influence of Intoxicating Liquor or Drugs. (H.P. 1585) L.D. 1681)

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

I rise to discuss this Bill with a little fear and trepidation. This has been a subject of much discussion about this Legislative Session, and it's a subject which certainly needs addressing. It's a real problem.

I'm a little concerned about the Bill that's before us. It not only, as a matter of interest, deals with drinking, driving under the influence, but it also talks about suspensions, driving under suspension, and what have you, which I think is again a laudable subject, but I don't quite see how it's pertinent to the Bill.

A couple of the things that bother me are some of the things that bothered me when we had the Deadly Force Bill before us. Again, as well intentioned as the Deadly Force Bill was, it seemed to me that it was a pretty drastic way of getting to a particular point. I'm concerned that this particular Bill is going to do the same thing.

One of the sections of the Bill is quite long, and I just want to raise a few questions about it so that we might think about it together. One of the questions says that if an officer has reason to think that you're driving under the influence, he can stop you, for whatever reason, and we have some pretty zealous law officers about, and he can say, in my opinion, you're driving under the influence; I'd like you to come with me to the incarceration place, and take a blood test or a breath test. You have the right to refuse, and if you do refuse, he can't take you, but then within a week you'll get from the Secretary of State, a suspension of your license. You're automatically guilty until proven innocent, and I find that a little bit paradoxical and a little different than I thought our Constitution, the way our legal system was supposed to work. I thought we were innocent until proven guilty, and from what I read of this Bill, you are guilty until, somehow, you can prove yourself innocent. That bothers me a bit.

It, also, bothers me that there are degrees involved in this particular subject, and of course, the worst degree is absolutely abominable, but the least degree is going to give you a Criminal Record, a Class D crime, by the way the good Senator from Penobscot, Senator Devoe, read to you a list of what the Class D crimes were sometime ago, and they are some pretty abominable crimes in there. I guess, OUI, in its worst case, certainly is, but I'm not thinking of its worst case. I'm thinking of some of the minor cases, if you won't fight me about the word "minor."

To be a Class D crime, to get a criminal record, and to automatically go to jail, seems to me a little heavy, especially when you start out on the premise that you're guilty until you can prove yourself innocent.

So, again, without getting into all the details of this Bill, I really am concerned about it, and I'm not sure that it's good Legislation, as well meaningful as it is, and I would ask for a Roll Call on its Enactment.

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 Enactment of LD 1681.

A Yes vote will be in favor of Enactment.

A No vote will be opposed.

The Doorkeeper will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEA—Brown, Bustin, Carpenter, Charette, Clark, Collins, Conley, Devoe, Dutremble, Emerson, Gill, Hichens, Huber, Kerry, McBreairey, Minkowsky, Najarian, O'Leary, Teague, Trafton, Trotzky, Usher.

NAY—Ault, Perkins, Pierce, Pray, Redmond, Sewall, C.; Shute, Sutton, Violette.

ABSENT—Wood.

A Roll Call was had.

22 Senators having voted in the affirmative, and 9 Senators in the negative, with 1 Senator being absent LD 1681, 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 Concerning the Regulation of Atlantic Salmon. (H.P. 474) (L.D. 538)

Emergency

AN ACT to Make Corrections of Errors and Inconsistencies in the Laws of Maine. (S.P. 649) (L.D. 1677)

These being emergency measures and having received the affirmative votes of 29 Members of the Senate, with No Senators having voted in the negative, were Passed to be Enacted and having been signed by the President, were by the Secretary presented to the Governor for his approval.

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

Communication

Committee on Appropriations and Financial Affairs

June 9, 1981

The Honorable Joseph Sewall
President of the Senate
State House
Augusta, Maine
Dear President Sewall:

The Committee on Appropriations and Financial Affairs is pleased to report that it has completed all business placed before it by the first regular session of the 110th Legislature.

Total number of bills received — 65

Unanimous reports — 56

Leave to Withdraw — 14

Ought Not to Pass — 13

Ought to Pass — 9

Ought to Pass as Amended — 17

Ought to Pass New Draft — 3

Divided Reports — 8

Held Over for Next Session — 1

Respectfully submitted,

S/DAVID G. HUBER

Senate Chairman

Which was Read and Ordered Placed on File.

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

Papers from the House

Non-concurrent Matter

Bill, "An Act to Continue the Maine Turnpike Authority." (S.P. 650) (L.D. 1676)

In the Senate June 3, 1981, Passed to be Engrossed.

Comes from the House, Passed to be Engrossed as amended by House Amendments "B" (H-548) and "C" (H-551), in non-concurrence.

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

Senator O'LEARY: Mr. President, I now move we Recede and Concur.

The PRESIDENT: The Senator from Oxford, Senator O'Leary moves that the Senate Recede and Concur with the House.

The Chair recognizes the Senator from Penobscot, Senator Emerson.

Senator EMERSON: Mr. President, I move that the Senate Recede from its action whereby this Bill was Passed to be Engrossed.

The PRESIDENT: The Senator from Penobscot, Senator Emerson, moves that the Senate

Recede from its action whereby this Bill was Passed to be Engrossed.

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

Senator O'LEARY: I would ask for a Division.

The PRESIDENT: A Division has been requested.

Will all those Senators in favor of the motion by the Senator from Penobscot, Senator Emerson, that the Senate Recede from its action whereby this Bill Passed to be Engrossed, please rise in their places to be counted.

Possibly the Chair should explain, on the advice from its parliamentarian, that if the motion to Recede fails, the motion to Concur will not be in order.

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

27 Senators having voted in the affirmative, and 2 Senators having voted in the negative, the motion to Recede does prevail.

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

Senator EMERSON: I now present Senate Amendment "A" and move its adoption.

The PRESIDENT: The Senator from Penobscot, Senator Emerson, offers Senate Amendment "A" and moves its adoption.

Senate Amendment "A" (S-338) Read.

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

Senator O'LEARY: Mr. President, I move the Indefinite Postponement of Senate Amendment "A". This does just exactly what the Minority Report requested in its Report on this Bill.

It would refer us to a study once more, a study that wasn't completed in the past 4 years, and I see no reason why it will be done in the next 2 years.

We have here before us, if we Recede and Concur, the House Amendment, which is acceptable to most of the people in the Lewiston/Auburn Area now, with one exception of one person in the delegation, as I understand it. If we pass Senate Amendment "A", we will just be Postponing the inevitable, and we will have a Maine Turnpike without any barrier system or anything else, because the study will not be done. I know the political pressures that can be applied.

I move the Indefinite Postponement of Senate Amendment "A".

The PRESIDENT: The Senator from Oxford, Senator O'Leary, moves that Senate Amendment "A" be Indefinitely Postponed.

The Chair recognizes the Senator from Androscoggin, Senator Minkowsky.

Senator MINKOWSKY: Mr. President and Members of the Senate, apparently the good Senator is using some type of a ploy at the present time in projecting that this study was supposed to be completed in the past 3 years since I put the Bill in, in 1977.

Let's set the Record very straight at this point. That study was not supposed to be completed until the bonds were paid off. I hope everyone understands that particular aspect of it, and the bonds are due to be paid off in 1983.

In-so-far as the Androscoggin Delegation, they agreed in principle, generally, to go along with the so-called House Amendment, but they're not in concurrence with them. Let me make that point clear, for those who don't understand what it's all about.

Thirdly, what we propose in Senator Emerson's Amendment is a very simple thing. We are simply saying, first, before we get into that aspect of it, let's just read a letter from, a portion of a letter from the Commissioner dated June 8 of this year.

It says, "under the current law, on various systems of the Turnpike, the Department of Transportation is required to go through a conversion program", understood, a conversion program, "in our study to the Legislature due in 1983." You're going to get that study anyway

in 1983.

We are required to show the cost of removing toll booths, repaying the federal investment, which is in the area of \$9 million. I don't think it's forgivable, and building new access facilities. The Turnpike will be operated under current law as a closed facility. I'll repeat that. The turnpike will be operated under law as a closed facility, until the monies from all other, all those costs have been raised. Then the work will be undertaken and completed in order to convert to the barrier system.

You're going to get that study. It was inevitable under existing law. Let's go back to Senator Emerson's Amendment. It simply says the timetable is a little different. The timetable now will be January 1, 1982. It's very clear, where it states, Legislative Approval. Again, for emphasis, Legislative Approval, Prior to January 1, 1982, the Commissioner of Transportation shall evaluate alternate toll systems for the Turnpike.

Instead of going towards a barrier system, which some people apparently object to. I don't think their objection is to the barrier system as much as it is to the existing union contracts. It then covers A the present closed system, which we are all concerned about. What is it going to produce? Nobody knows, at the present time, the amount of revenues that it's going to produce, under the closed system, when it goes to the Department of Transportation.

Secondly, the present closed system modified to include improved access and modified interchanges to encourage economic development. That may be our concern, for the Cities of Lewiston and Auburn. I assure you, the City of Portland, and all along that corridor, has similar concerns as we have raised, excepted we took the lead in this particular fight.

Number three, or C a barrier system. So you see, at the present time, what I'm bringing out in this Amendment that Senator Emerson has projected to you is we're just reducing the timetable from 1983 to 1982. In the name of equity and fair play, I can't see any deleterious effects from that.

If you want to refer to the other system, or to the so-called compromise amendment that everybody was supposed to be in concurrence with, the two points they stressed. This Amendment transfers the responsibility to determine the use of access toll revenues for both access roads and interchanges from the Turnpike to the Department of Transportation.

Let me assure you, Ladies and Gentlemen, under the existing law, it states very clearly that the authority shall become law, it states very clearly that the authority shall become dissolved and the Turnpike, its leases, rights, easements, franchises, lands and properties shall be the property of the State of Maine. Here's the point, and all revenues therein become payable to the Treasurer of the State of Maine for Turnpike Fund of the State of Maine. The turnpike shall thereafter remain maintained and operated by the State Department of Transportation.

So what are you saying about this Amendment that was Adopted in the other Branch? You already have it in existing law.

The second point, the Amendment also directs the Department to give priority for the use of revenues to construct a modification of existing interchanges, access roads to the Lewiston/Auburn area. You can't bind one Session of the Legislature down to that particular commitment. The postponements of that particular Amendment are fully cognizant of that.

Finally, why should we have to wait until 1985? In that particular Amendment that came forth from the House, the authority and the Department shall make every effort to begin construction and all modification of the interchanges by January 1, 1985. I'm saying we can have this thing all resolved in January 1, 1982. Doesn't that make a lot more sense, compared to this hoky-poky that's going on at the

present time, which is just a ploy?

I would hope, Mr. President and Members of the Senate, that we Adopt Senator Emerson's Amendment, and let this Bill move on to serve everybody along the corridor of the Maine Turnpike.

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

Senator USHER: Mr. President, a point of inquiry. Are we debating Senate Amendment 338, being proposed?

The PRESIDENT: The Chair would answer in the affirmative.

Senator USHER: I'd like to have the Chair rule, this is almost identical to the Minority Report which was rejected last week. I'd like to have the Chair rule on that.

The PRESIDENT: The Chair would advise the Senator that the Senate has never discussed the Minority Report. The vote was on the Majority Report only.

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

Senator O'LEARY: Mr. President, if we Accept Senate Amendment "A", we're going to be in non-concurrence with the other Body. We'll be right in the same position we are today, with a study that will not be done. I've heard hoky-poky, I've heard a ploy, and the other day it was a fiasco. Today, you heard the good Senator from Androscoggin say exactly what the Commissioner of the Department of Transportation is saying, that there will be a conversion program to a barrier system. Which means to the rest of us in the State of Maine, no free ride, no improvements in your highways, maintain the Maine Turnpike with a bare minimum, let it go down grade if necessary, because we'll fight any increase in barrier system tolls and everything else.

I heard the motion to Indefinitely Postpone the other night. I know where it came from. I've seen the switch in votes. I've seen the Amendment. The Amendment does everything the Lewiston/Auburn area wants. It should be enough. If it's already in the Bill, I don't see why the good Senator from Androscoggin is worried.

Mr. President, I think that if we are in non-concurrence with the other Body, this whole thing is dead, and we will have no tolls. We will not even have a barrier system. We will not have any study by 1983. I hope you will vote for the Indefinite Postponement of this Amendment.

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

Senator MINKOWSKY: Mr. President and Members of the Senate, I don't know where the good Senator from Oxford is getting his information, but apparently he is not really tuned in to what I have been saying earlier about this entire issue. We're just reversing the timetable. Under existing law, we're saying that the study would be completed in 1983, allegedly after the payment of bonds were completed.

What we're saying in this Amendment that's being proposed this afternoon, at least for this Session of the Legislature, is we hear you, and we want to abide in good faith. We're saying now the study will be completed in January 1982. I don't see nothing wrong with that particular aspect of it. It makes very, very good sense to handle that particular manner.

In fact, if you want to be perfectly logical about it, there was no necessity for this Bill before us, none whatsoever. As we did in 1977, compromised to the point that we gave everything to everybody, and allowed I-95 to be constructed with all the five bridges across the system through Bangor, and everything else, to everybody else. What have we ever got out of it? There's a big difference, Ladies and Gentlemen of the Senate. We're talking of a road that was funded with private money, that was destined to be closed, and the law states very clearly, upon completion of those bonds. If

would be a toll-free road. I-95 was built with federal funds, 90 percent, and 10 percent State funds coming out of my community, also. If everybody here is concerned about industrial development and jobs, and paying off bonds for the students in the State of Maine, to keep them, and prevent the out-migration of youth, and help our industrial base, and help our tax base, and help our sales tax revenues. It would be ludicrous to actually deny this particular Bill at the present time. What's six months? It spells it very, very clearly, if it's not feasible and practical, we'll keep a closed system. If it's practical and feasible we'll find other alternatives.

Don't forget the most important aspect of this. That was simply when I was such a good samaritan then, over the objections of then Governor Longley, that I felt it was incumbent that the users pay for it. We were not then talking about sharing the excess revenues for other pet projects in other parts of the State of Maine. This is something new coming in to it at the present time. It's very, listen, that's the name of the game here. I accept it.

I'm saying, if you're going to get the bounty, at least give us a chance to study it. That's all this boils down to. That study was going to come forthwith one way or the other. We are just reducing the timetable to 1982.

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 Oxford, Senator O'Leary, that Senate Amendment "A" be Indefinitely Postponed, please rise in their places to be counted.

The Chair recognizes the Senator from Androscoggin, Senator Minkowsky.

Senator MINKOWSKY: While we're standing, 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 Oxford, Senator O'Leary, that the Senate Indefinitely Postpone Senate Amendment "A".

A Yes vote will be in favor of the Indefinite Postponement of Senate Amendment "A".

A No vote will be opposed.

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEA—Brown, Bustin, Carpenter, Charette, Collins, Devoe, Dutremble, Gill, Hichens, Kerry, McBreairty, Najarian, O'Leary, Perkins, Pray, Shute, Trotzky, Usher, Violette.

NAY—Ault, Clark, Conley, Emerson, Huber, Minkowsky, Pierce, Redmond, Sewall, C.; Sutton, Teague, Trafton.

ABSENT—Wood.

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 "A" does prevail.

The Chair recognizes the Senator from Cumberland, Senator Conley.

Senator CONLEY: Mr. President, would it be proper to move that the Senate now Concur with the House?

The PRESIDENT: The Chair would answer in the affirmative.

Senator CONLEY: I'd move the Senate Concur.

The PRESIDENT: The Senator from Cumberland, Senator Conley, now moves that the Senate Concur with the House.

The Chair recognizes the Senator from An-

droscoggin, Senator Minkowsky.

Senator MINKOWSKY: I would ask for a Division.

The PRESIDENT: A Division has been requested.

Will all those Senators in favor of the motion by the Senator from Cumberland, Senator Conley, that the Senate Concur with the House, please rise in their places to be counted.

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

22 Senators having voted in the affirmative, and 8 Senators having voted in the negative, the motion to Concur with the House does prevail.

Sent forthwith to the Engrossing Department.

Committee Report House

Divided Report

The Majority of the Committee on Taxation on, Bill, "An Act Concerning Homestead Tax Relief." (H.P. 1307) (L.D. 1512)

Reported that the same Ought to Pass in New Draft under Same Title (H.P. 1625) (L.D. 1687)

Signed:

Senators:

WOOD of York

Representatives:

POST of Owl's Head

HAYDEN of Durham

HIGGINS of Portland

DAY of Westbrook

KILCOYNE of Gardiner

TWITCHELL of Norway

KANE of South Portland

INGRAHAM of Houlton

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

Signed:

Senators:

TEAGUE of Somerset

EMERSON of Penobscot

Representatives:

BROWN of Bethel

MASTERMAN of Milo

Comes from the House, the Bill, in New Draft, Passed to be Engrossed as amended by House Amendment "A" (H-552).

Which Reports were Read.

On motion by Senator Teague of Somerset, the Minority Ought Not to Pass Report of the Committee Accepted, in non-concurrence.

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:

Kevin Albert, of Millinocket, Valedictorian of Stearns High School, Class of 1981. (H.P. 1630)

Scott Ingalls, Salutatorian of Stearns High School, Class of 1981. (H.P. 1631)

Beth Debernardi, of Portland, Valedictorian of Deering High School, Class of 1981. (H.P. 1632)

Camilla Nicholas, Stephanie Lundeen and Sherrie Weeks of Central Aroostook High School, chosen for the Pepsi All Aroostook All-Star Basketball Team for 1981. (H.P. 1633)

Patricia Lynn Daigle, daughter of Mr. and Mrs. Richard Daigle of Van Buren, Co-valedictorian of Van Buren District Secondary School, Class of 1981. (H.P. 1634)

Beth Ann Cormier, daughter of Mr. and Mrs. Richard Cormier of Van Buren, Salutatorian of Van Buren District Secondary School, Class of 1981. (H.P. 1635)

David John Lebel, son of Mrs. and Mrs. Omer Lebel of Van Buren, Co-valedictorian of Van Buren District Secondary School, Class of 1981. (H.P. 1636)

Toni Farrenkopf, of Bangor, who has been

named Athlete of the Year for 1980-81, at John Bapst Memorial High School. (H.P. 1637)

Sherri Weeks, of Central Aroostook High School, winner of the most Valuable Player Award for 1981, and member of Central Aroostook's State Championship basketball team. (H.P. 1638)

Michelle Hallett, of Central Aroostook High School, who has established a new state record for the mile and 2 mile run in track and field. (H.P. 1639)

Christopher Jon Delogu, of Portland, Valedictorian of Portland High School, Class of 1981. (H.P. 1640)

Deanna DeSimon, of Portland, Salutatorian of Portland High School, Class of 1981. (H.P. 1641)

Ed and Sis Manning, on their 25th anniversary as owners of the Shamrock Cafe. (H.P. 1642)

Mr. and Mrs. Abraham I. Passman, of Portland, on their 50th wedding anniversary. March 3, 1981. (H.P. 1643)

Pelle Lindbergh, Maine Mariner goaltender, who was selected as the 1981 American Hockey League Rookie of the Year and Most Valuable Player. (H.P. 1644)

Alfred N. Savignano, who is retiring after 31 years of distinguished service as a principal and teacher in Auburn. (H.P. 1645)

Gerald S. Alden, Sr., who is retiring after 31 years of distinguished service as a principal and teacher in Auburn. (H.P. 1646)

Amy Ashton, Marian Cook, Jean Curtis, Margery Dyer, Frances Fairfield, Bertrand Fernald, Lawrence "Doc" Hersom, Jessie Hosman, Dorothy Hunter, Richard Michaelson, Rose Mottram, Isabel Niles and Marjorie Wellman who are retiring after distinguished service as teachers in Auburn. (H.P. 1647)

Come from the House, Read and Passed.

Which were Read and Passed, in concurrence.

Communication

Committee on Judiciary

June 9, 1981

The Honorable Joseph Sewall
President of the Senate of Maine
State House

Augusta, Maine

Dear President Sewall:

The Committee on Judiciary is pleased to report that it has completed all business placed before it by the First Regular Session of the 110th Legislature.

Total number of bills received in committee — 194

Unanimous Reports — 18
Ought to Pass — 18
Ought to Pass, Amended — 41
Ought to Pass in New Draft — 5
Ought to Pass in New Draft and New Title — 3

Ought Not to Pass — 22
Leave to Withdraw — 74
Divided — 30
Held for Study — 1

Recommitted Bill — held for study — 1
Respectfully submitted,
S/DANA C. DEVOE

Senate Chairman

Which was Read and Ordered Placed on File.

Committee Report

House

Ought to Pass — As Amended

The Committee on Appropriations and Financial Affairs on, Bill, "An Act to Fund and Implement Certain Collective Bargaining Agreements and to Fund and Implement Benefits for State Employees Excluded from Collective Bargaining." (Emergency) (H.P. 1598) (L.D. 1683)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-553).

Comes from the House, the Bill Passed to be

Engrossed as amended by Committee Amendment "A".

Which Report was Read.

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

Senator COLLINS: Mr. President, this Collective Bargaining Contract contains one feature that I think ought to be observed as we pass it through our Legislative Process. It, for the first time, creates a major change in the handling of the State Retirement System.

I would have no objection to this if it were clear that all who are State employees, and all of the people in the Retirement System were going to be treated in the same way.

I do think we ought to be aware that if we pass this particular Bill, we will be bifurcating the Retirement System into at least two groups, perhaps more than that as time goes along.

The thrust of policy in the Retirement System in the seven years that I have been here has been to try to get greater uniformity and to avoid the fragmentations and special situations that make a system more difficult to operate, and tend to lead to inequities among different groups.

The feature, of course, here, we've read about. The State will take over the paying of the employee's share, and the employee can't take it out, as he could under prior practice, and as other State employees and people in the System will continue to be able to do. Under our modern system of computers, this isn't an impossible problem. Technically, I have investigated that at some length. I'm satisfied it can be done, without great disruption or expense.

We will have made some new policies. I comment the Administration on the overall effect, vis-a-vis the State Budget in this matter. I will say that since the matter has the Majority Report, and the endorsement of the other Body, that I do not feel this problem is big enough to try to wreck the contract.

I think we ought to be aware of it, and we ought to expect, in years to come, we'll have a whole flock of new problems in the Retirement System, because of this move on the part of the Governor.

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

Senator CONLEY: Mr. President and Members of the Senate, I listened attentively to the remarks made by the good Senator from Knox, Senator Collins, with respect to the ratification of this contract. I would point out to this Senate, that I believe it was in the last Session of the Legislature, when we passed Legislation that would allow some of the collective bargaining on the municipal governments to change contracts with respect to 20 year retirement, that those presently at that time, that were under 20 year contracts, obviously were, the community and the employees had to pay so much into the State Retirement System.

We allowed, through Enabling Legislation, to allow these various municipal districts to negotiate for 25 year retirement, for people within the same bargaining unit. That obviously made some difference with respect to the Retirement System within that separate collective bargaining unit. I think, at that time, it was a good move on the part of the Legislature. It allowed the municipalities to renegotiate contracts with respect to the 20 year retirement. It's my understanding that some municipalities have already, through negotiations, renegotiated that 20 year retirement period on to any one coming on board, as of that particular contract that was renewed, that those individuals hired from that point on, would be under the 25 year retirement period instead of the 20 year retirement period. So it's obvious that there is a difference and a distinction between the payment with respect to retirement within that bargaining unit and that municipality that's going to pay that.

There is, what I think, a precedent that has

been established. It was established by this Legislature in the past.

Which Report was Accepted, in concurrence. The Bill Read Once. Committee Amendment "A" Read and Adopted, in concurrence. Under Suspension of the Rules, the Bill, as amended, Read a Second Time, and Passed to be Engrossed, in concurrence.

Sent forthwith to the Engrossing Department.

There being no objections all items previously acted upon were sent forthwith.

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:

Brian Kane, Lee Marquis, June LaRoche, Mary Woodman, Suzanne Powers, Susan Flynn, Nancy Rand and Katherine Penley of Auburn, who are among the top 10 students at Edward Little School, Class of 1981. (H.P. 1648)

Elizabeth Keene, daughter of Mr. and Mrs. Hugh W. Keene of Auburn, who is one of the top two students of Edward Little High School, Class of 1981. (H.P. 1649)

Christopher Scales, son of Mr. and Mrs. L. Damon Scales, of Auburn, who is one of the top two students of Edward Little High School, Class of 1981. (H.P. 1650)

Portland High School and Coach Fred James, upon winning their third consecutive State Class A Baseball Championship. (H.P. 1655)

Pamela Beal, of Old Orchard, Salutatorian of Old Orchard High School, Class of 1981. (H.P. 1656)

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

Senate Paper

Senator SUTTON of Oxford presented, Bill, "An Act to Clarify Exceptions Relating to Security Interests in Residences in Bankruptcy Cases." (S.P. 680)

(Approved by a Majority of the Legislative Council pursuant to Joint Rule 27.)

Reference to the Committee on Business Legislation suggested.

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

Senator SUTTON: It was with great reluctance that I agreed, after it was brought to my attention, that there were some technical difficulties with this Bill, that we're too late for the errors and inconsistencies report, that a new Bill be introduced. It was with great chagrin that I found out after that was done, that there was still a complication that is such that this Bill is not necessary, or at least not necessary right now. I apologize to the Senate and to the people of the State of Maine, and move its Indefinite Postponement.

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

Senator CONLEY: Mr. President, I request a Division.

The PRESIDENT: A Division has been requested.

Will all those Senators in favor of the motion by the Senator from Oxford, Senator Sutton, that SP 680 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 is in doubt as to the position of the Senator from Penobscot, Senator Trotzky, on this issue, and would ask the Senator how he intends to vote.

24 Senators having voted in the affirmative, and 5 Senators having voted in the negative, the motion to Indefinitely Postpone SP 680 does prevail.

Sent down forthwith for concurrence.

Order

An Expression of Legislative Sentiment recognizing:

The Maranacook Black Bears' Track Team and Coach Stan Cowan, upon winning the 1981 Boys Class C State Championship in track and field.

presented to Senator AULT of Kennebec (Co-sponsor: Representative DAMREN of Belgrade).

Which was Read and Passed.

Sent down forthwith for concurrence.

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

Paper from the House Joint Resolution

STATE OF MAINE
IN THE YEAR OF OUR LORD
ONE THOUSAND NINE HUNDRED
AND EIGHTY-ONE

JOINT RESOLUTION IN
SUPPORT OF EFFORTS TO RETURN
AMERICAN SERVICEMEN HELD IN VIETNAM

WHEREAS, the frustrations of war can frequently linger long after the conflict ceases; and

WHEREAS, a great many American families are faced with the daily frustration of uncertainty because family members are still listed as missing in action in Vietnam; and

WHEREAS, several organizations, both public and private, are working to confirm reports that American prisoners, and the bodies of American servicemen killed in action, have been sighted in Vietnam; and

WHEREAS, through the efforts of these groups and through a clear expression of public support it will be possible to achieve a reconciliation of the differences which have prevented the governments of Vietnam and the United States from bilaterally addressing this issue; now, therefore, be it

RESOLVED: That We, the Members of the 110th Legislature, on behalf of the people of Maine, hereby express our absolute support for, and encouragement of, the efforts being made to secure the release of American servicemen held as prisoners or missing in action in Vietnam.

(H.P. 1654)

Comes from the House, Read and Adopted.

Which was Read.

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

Senator CARPENTER: Mr. President and Ladies and Gentlemen of the Senate, I don't want to let this Order go without just a comment, similar to the comments that were made in the other Body regarding this. The Vietnam War has been over for about 10 years now. We still have many people unaccounted for. We need the strong efforts of the Reagan Administration, or any subsequent administration, to get this accountability, so that families in this country can rest. Many of these people are dead. We know it. We who were there saw them die, because a medical man couldn't put his hand on them. They were declared MIA's and they're still being declared MIA's.

We need to push through our government to get the government of Vietnam, and the other countries who were involved in the Southeast Asian Conflict in the 1960's to come up with records of some sort, or bodies, or some means of identification, so that these men that died in Vietnam can finally be put to rest, and so that their families' minds can be finally put to rest.

I think that this Order will express on behalf of the State of Maine, a state that sent many of its sons and daughters to fight, and in many cases, died in Vietnam. It will put the State of Maine on Record as wanting this situation re-