

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD
OF THE
One Hundred And Thirteenth Legislature
OF THE
State Of Maine

VOLUME I
FIRST REGULAR SESSION
December 3, 1986 to May 22, 1987

Cosponsored by: Representative MANNING of Portland
 Bill "An Act to Establish an Alternative to the Certificate of Need Process to Address the Needs of Medicaid Patients in Need of Nursing Home Care"

S.P. 147 L.D. 401

Presented by Senator GILL of Cumberland
 Cosponsored by: Senator BUSTIN of Kennebec, Representative BOUTILIER of Lewiston, Representative TAYLOR of Camden
 Bill "An Act to Require an Independent Determination of the Fitness of an Applicant to Provide Long-term Care Services"

S.P. 148 L.D. 402

Presented by Senator DOW of Kennebec
 Cosponsored by: Representative PINES of Limestone, Representative CARROLL of Gray, Senator GILL of Cumberland
 Which were referred to the Committee on HUMAN RESOURCES and ORDERED PRINTED.
 Sent down for concurrence.

Resolve, to Establish a Commission to Study Treatment Protocol for Severely Incompetent Patients (Emergency)

S.P. 154

Presented by Senator GAUVREAU of Androscoggin
 Cosponsored by: Senator BUSTIN of Kennebec, Senator GILL of Cumberland, Representative ROLDE of York
 Bill "An Act to Clarify Municipal Liability for Certain Vehicular Accidents"

S.P. 141 L.D. 395

Presented by Senator BRANNIGAN of Cumberland
 Cosponsored by: Representative O'GARA of Westbrook, Representative COTE of Auburn
 Bill "An Act to Measure Mileage Payments to Jurors"

S.P. 144 L.D. 398

Presented by Senator GAUVREAU of Androscoggin
 Cosponsored by: Representative PARADIS of Augusta, Representative MACBRIDE of Presque Isle, Senator BLACK of Cumberland
 Which were referred to the Committee on JUDICIARY and ORDERED PRINTED.
 Sent down for concurrence.

Bill "An Act Relating to Taking of Shad in Addison and Columbia Falls" (Emergency)

S.P. 155

Presented by Senator RANDALL of Washington
 Cosponsored by: Representative LOOK of Jonesboro, Representative FARREN of Cherryfield
 Which was referred to the Committee on MARINE RESOURCES and ORDERED PRINTED.
 Sent down for concurrence.

Bill "An Act to Amend the Laws Relating to Community Living Arrangements"

S.P. 153

Presented by President PRAY of Penobscot
 Cosponsored by: Representative CLARK of Brunswick, Senator GAUVREAU of Androscoggin, Representative CARROLL of Gray
 Resolve, to Permit Lucille A. Clavette, Personal Representative of the Estate of Richard J. Clavette, to Sue the State for Wrongful Death

S.P. 156

Presented by Senator BERUBE of Androscoggin

Cosponsored by: Senator PERKINS of Hancock, Representative STEVENS of Sabattus, Representative NADEAU of Lewiston
 Bill "An Act to Establish a Commemorative Day in Honor of Samantha Smith"

S.P. 149 L.D. 403

Presented by Senator DOW of Kennebec
 Cosponsored by: Senator KANY of Kennebec, Representative NORTON of Winthrop
 Which were referred to the Committee on STATE AND LOCAL GOVERNMENT and ORDERED PRINTED.
 Sent down for concurrence.

Bill "An Act to Authorize Issuance of Special License Plates for use by Active Members of the Maine National Guard"

S.P. 146 L.D. 400

Presented by Senator GILL of Cumberland
 Cosponsored by: Senator TUTTLE of York, Senator ERWIN of Oxford, Senator BALDACCI of Penobscot
 Which was referred to the Committee on TRANSPORTATION and ORDERED PRINTED.
 Sent down for concurrence.

ORDERS

On motion by Senator CLARK of Cumberland the following Senate Order:

WHEREAS, it appears to the Senate of the 113th Legislature that the following are important questions of law and that the occasion is a solemn one; and

WHEREAS, House Paper 109, Legislative Document 119, "Resolve, to Simplify the Wording on the Ballot of the Proposed Initiative Regarding the Generation of Electric Power and High-level Radioactive Waste," attachment A, has been introduced into the House of Representatives and is now pending before its Joint Standing Committee on Legal Affairs; and

WHEREAS, House Paper 264, Legislative Document 347, "AN ACT Concerning the Drafting of Ballot Questions" has been introduced into the House of Representatives and is now pending before its Joint Standing Committee on Legal Affairs, attachment B; and

WHEREAS, the constitutionality of House Paper 109, Legislative Document 119 and House Paper 264, Legislative Document 347, has been questioned and it is important that the Legislature be informed as to the constitutionality of the bills; and

WHEREAS, it is the desire of the 113th Legislature to enact legislation on the subject of ballot questions as they relate to initiated measures; and

WHEREAS, it is important that the Legislature be informed as to the answers to the important and serious legal questions hereinafter set forth; now, therefore, be it

Ordered, that the Justices of the Supreme Judicial Court are hereby respectfully requested to give to the Senate, according to the provisions of the Constitution on its behalf, their opinion on the questions, to wit:

Statement of Facts

On May 21, 1986, the Deputy Secretary of State acting under the authority of the Maine Revised Statutes, Title 21-A, section 901, provided petition forms to enable voters to invoke the initiative procedure provided in the Constitution of Maine, Article IV, Part Third, Section 18. The measure to be initiated is entitled "AN ACT Regarding the Generation of Electric Power and High-level Radioactive Waste," attachment C.

The Deputy Secretary of State also drafted a ballot question for the initiated petition to be conspicuously displayed on the face of the petition as provided in Title 21-A, section 901, subsection 4. The ballot question reads as follows:

"Do you want to let any power plant like Maine Yankee operate after July 4, 1988, if it makes high-level nuclear waste?"

Various proponents of the initiative presented to the Deputy Secretary of State petition forms bearing a number of electors' signatures not less than 10% of the total vote for Governor cast in the gubernatorial election of 1982. The Deputy Secretary of State reviewed the petitions, determined the initiative petitions to be valid and has transmitted the initiated bill to the 113th Maine Legislature, attachment C.

Serious legal questions have arisen as to whether the ballot question drafted by the Deputy Secretary of State and affixed to the initiative petition complies with the constitutional requirement that the ballots be prepared in such form as to present the question or questions "concisely and intelligibly." The Senate is aware that judicial review may be an inadequate remedy to correct ballot wording questions, for, in a recent challenge to the wording of a ballot question, the Superior Court declined to reword a ballot question that concededly did not accurately reflect the terms of the proposed initiated legislation. New England Telephone and Telegraph Company and B. Dean Sterns v. Rodney S. Quinn, Secretary of State, CV-86-213, Kennebec Superior Court, June 26, 1986.

Legislative Document 119, attachment A, proposes to direct the Secretary of State to reform the ballot question and is premised on findings that the proposed rewording meets these constitutional requirements and that, unless the Legislature so acts in this fashion, an improper ballot question would be placed before the voters at the next election.

Serious questions have also arisen concerning the constitutionality of Legislative Document 119. In connection with a previous initiative measure concerning local measured telephone service, members of this House were advised by the Attorney General that the Legislature lacked the power to direct the Secretary of State to reform a ballot question that had been previously drafted pursuant to Title 21-A, section 901, subsection 4, and thereafter circulated for signatures, Attorney General's Opinion, April 10, 1986, attachment D. The Attorney General, through his deputy, has now advised the members of the Legislature that, in accordance with the Attorney General's previous opinion, the Legislature lacks the powers to enact Legislative Document 119, attachment E.

Legislative Document 347, attachment B, proposes to amend Title 21-A, section 901, subsection 4, and section 906, subsection 6, eliminating the requirement that the ballot question appear on the face of the initiative petitions and requiring that the Secretary of State word the ballot question so that a proponent of the measure must vote "yes" and an opponent vote "no." This bill is intended to apply to the pending initiated bill, attachment B.

Questions

1. Would the enactment of House Paper 109, Legislative Document 119, be within the authority conferred upon the Legislature by the Constitution of Maine, Article IV, Part Third, Section 1 and Article IV, Part Third, Section 20?

2. Would House Paper 109, Legislative Document 119, if enacted, violate the Constitution of Maine, Article IV, Part Third, Section 13?

3. Would House Paper 109, Legislative Document 119, if enacted, frustrate the right of the electors and circulators, secured by the Constitution of Maine, Article IV, Part Third, Section 18, to propose to the Legislature for its consideration any bill, resolve or resolution?

4. Would either House Paper 109, Legislative Document 119 or House Paper 264, Legislative Document 347, if enacted be an unconstitutional retroactive statute?

5. Would House Paper 264, Legislative Document 347, if enacted, frustrate the right of the electors and circulators, secured by the Constitution of Maine, Article IV, Part Third, Section 18, to propose to the Legislature for its consideration any bill, resolve or resolution?

Which was READ.

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

Senator CLARK: Thank you, Mr. President. Mr. President, Men and Women of the Senate. Today, I am introducing an order requesting the Justices of the Supreme Judicial Court to render an advisory opinion upon the constitutionality of two pieces of legislation dealing with the proposed referendum to shut down the Maine Yankee Nuclear Power plant. I am requesting the opinion, pursuant to Article VI, Section 3 of the Constitution of Maine, because the power of the Legislature to act upon important questions of law has been drawn into question.

According to two opinions of the Attorney General, the Legislature does not currently have the power to enact Bills either changing the wording on the initiative petition seeking to shut down Maine Yankee or to enact a Bill requiring a 'yes' vote for the adoption of the proposed initiative.

The Attorney General based his opinions upon Article IV, Part 3, Section 20 of the Constitution of Maine which states: 'The full text of the measure submitted to a vote of the people under the provisions of the Constitution need not be printed on the ballots, but, until otherwise provided by the Legislature, the Secretary of State shall prepare the question or questions concisely and intelligently.'

Although the Attorney General has determined that the Legislature may not reform the current ballot question, he stated, in an opinion on the Local Measured Service question, that research revealed 'no judicial application or construction of this provision' of the Constitution and that the legislative history shed 'no direct light' on the question of whether the Legislature could modify the question as drafted by the Secretary of State.

Several years ago the Legislature passed a statute directing the Secretary of State to set out the question to be voted on in 'clear, concise and direct language' and further directed that rules be established for drafting ballot questions "which will attain that standard of readability."

Serious questions have been raised concerning whether the language of the present ballot question meets the standard that the Legislature intended. As a result these two bills have been introduced. Now the Legislature is faced with the question of whether it can act on these Bills.

Regardless of my opinion upon the fairness of the present shutdown question, I believe that it is extremely important that we, as legislators know exactly what our powers are regarding the wording of the referendum question. Given the importance of the substantive issue of the future of the Maine Yankee Power plant and the fact that there has been no judicial interpretation of this important part of our

Constitution, I also believe the time is ripe to ask these questions of the Justices.

If the Justices of the Supreme Court decide to answer the questions presented in this order, and further decide that we have the power to change the wording of the question, we will still be faced with the difficult task of determining whether we should make changes to both the question and the process by which initiative referendums are conducted.

Those decisions will not be asked of, or made by, the Justices of Supreme Court but by the members of this Legislature, the Members of the 113th Legislature. Thank you, Mr. President.

THE PRESIDENT: The Chair recognizes the Senator from Kennebec, Senator Kany.

Senator KANY: Mr. President and Members of the Senate. I ask for a Division on the question before you. I do believe that this particular request is premature. It is hardly a solemn occasion worthy of an advisory opinion by our esteemed law court. The Legal Affairs Committee, on which I serve as the Senate Chair, has scheduled a public hearing on March 9, 1987, for four Bills dealing with the drawing of direct initiative referendum questions. Three Bills would change the ballot question now. The fourth deals solely with future questions. It seems to me that it is a frivolous request to ask the court now, for an opinion on the constitutionality of a particular Bill, when there are three such Bills on the subject. When a public hearing has not been held, when the legislative committee has not held a work session on such Bills, and when the possibility exists that all or some of the Bills will receive a unanimous ought not to pass report by that legislative committee, as a recommendation to the Legislature as a whole.

When the Legislature, as a whole, in its entirety, may choose to reject any of the Bills which are the subject of this particular order. I would like you and the law court to know that I believe that it is presumptuous, it is not a solemn occasion, and it is a frivolous request, to make such a request of our law court at this time. If indeed, the Legal Affairs Committee does report out, at least a divided Bill, which would state that at least one person on the committee would favor the Bill or the second Bill, which is mentioned in this particular request, then at that time I would support a request for an advisory opinion, but not at this time.

THE PRESIDENT: The Chair recognizes the Senator from Penobscot, Senator Baldacci.

Senator BALDACCII: Thank you, Mr. President. Mr. President and Members of the Senate. Having been involved in the Local Measured Service referendum, and having seen New England Telephone Company take the Secretary of State to court in regards to the wording of that question. Where it was a referendum question, it didn't pertain to the situation that the Commission had developed, since it originally started out, with mandatory measured service, but ended up with option A, B and C.

Having gone through that process, the one thing that I remember very clearly, each step of the way, the weight that was given that particular area, was second to none. The weight was that the petition had forty thousand plus signatures attached to it. They were valid signatures, registered voters, four thousand plus voters that had signed the petition. That was the weight.

It was the weight at the Secretary of State's office, that was the weight at the Superior Court, that was the weight in the Legislature. This question wasn't developed by the group that wants to have a referendum question. This question was

developed by the Secretary of State's office, which is the process, which any individual or group should have to go through. The question is developed, then they go out and they get people to sign their petition.

Now, the Legislature, or some members of the Legislature, want to change the wording on that referendum because they are not happy with it. Then the Attorney General comes in with an opinion and he says 'you can't do that.' They are unhappy with that, and then all of a sudden we're saying in this order that it is the desire of this Legislature to enact legislation on the subject of valid questions. I don't know of any legislative records to date that shows a desire to enact anything in regards to this.

I will not support it. I support keeping Maine Yankee open until there is a reasonable plan to faze it out, but as far as making this particular group, all of a sudden jump through hoops, saying 'well, we don't like this particular point, we want you to start all over again.' I don't think that's right. I don't want to see this Legislature embarrassed by the Supreme Judicial Court, that will say 'you have five Bills in committee, and only refer to two of them in your questions, not all five, what stage is the Legislature at? Is it at enactment to be into a law? Is it being considered by the Governor to be signed into law? Is it indeed a really solemn occasion?' I submit to you that it is not. There is a lot more opposition to changing the wording from people who could come from many different positions on this particular issue. But, when forty thousand plus people sign a referendum petition on a question that has been developed by the Secretary of State's office, as the process called for, and those signatures have been validated, I submit to you that it carries an awful lot of weight.

To try to do this now, I feel, is inappropriate. I will be supporting the division of the Senator from Kennebec, Senator Kany, that this ought not to pass. Thank you.

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

Senator CLARK: Thank you, Mr. President. Mr. President and Members of the Senate. This morning, we have heard remarks on both sides of an issue. It is important that we all recognize that there are differing opinions on the issue before us, whether or not this order should pass.

I respect the remarks of the good Senators from Kennebec and Penobscot, Senators Kany and Baldacci respectively. I respectfully submit that while my position may not necessarily agree with theirs, that the legislative process, itself, allows for the introduction of this order.

This order on which we will cast our votes. Not necessarily on the substance on the issue of whether or not we support Maine Yankee, but on the issue that we do not always agree. The legislative process provides for those among us who think that indeed, the question is so important, that a solemn occasion is appropriate. I find myself on that side of this issue, this morning. I truly believe that the legislative process, while it still provides the Joint Standing Committee on Legal Affairs to hold its public hearings, nothing prevents that, on the Bills that it has before that Committee. It also, and concurrently, provides that I, as the sponsor of the measure, have an opportunity to present it to you. The legislative process does provide for that. You have read the order, you have listened to the debate, there may even be more. I believe, as do other legislators, and do those who have introduced measures dealing with this topic, that the

Legislature's role in this procedure, is unclear. Its intent has not been met to date. That is indeed appropriate that we as the Senate, by majority, declare a solemn occasion, and present our concerns to the Supreme Court. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Kennebec, Senator Kany.

Senator KANY: Mr President and Members of the Senate. I wish to point out to the Senate and to the law court, that a public hearing on L.D. 20, which is the initiative measure, has not yet been held. The Legislature, in that case, under the State's Constitution, has the option of either enacting the initiated measure in tact, sending a competing measure out to the voters, or rejecting it, by which the initiative measure would automatically go out to the voters. How on earth can anyone say that we have a solemn occasion when that Bill has not been heard? No action has been taken on it and there are a number of competing possibilities for drawing up future referendum questions and the determination has not been made by any member of the Legislature, by any committee, on if any such re-drawing of future questions would apply to those currently before the Legislature.

THE PRESIDENT: The Chair recognizes the Senator from Penobscot, Senator Pearson.

Senator PEARSON: Mr. President, Men and Women of the Senate. What bothers me most of all about the whole situation, is that, and let's assume that a group on some issue, maybe totally unrelated to this, were attempting to get an idea passed, and they had not succeeded in the Legislature, and they went to referendum. In order to make that idea palpable to the people of the State, they decided to word their question in such a way that it would be confusing. Let's just assume they were to word their question that this a referendum "to make Maine a better place to live."

And, that is the question. Do you favor this referendum question in order to make Maine a better place in which to live?

Now that would be the question and the details would be contained in an obscure Bill some where. Would it then be the responsibility of the Maine Legislature, at that point, to step in and reword the question?

THE PRESIDENT: The Chair recognizes the Senator from Kennebec, Senator Kany.

Senator KANY: Mr. President and Members of the Senate. Our Constitution really gives the authority to the Secretary of State, to devise the question, and then statutorily, we have have flushed out the Constitutional language, so what happens now, under our law, is that the petition organizers may submit a question to the Secretary of State. That was done in the instance of the Maine Yankee question. Then, the Secretary of State checks with both sides, even though that is really not required by law, and the Secretary of State takes complete authority on devising the question which actually is on the petition that the petition signers signed. Furthermore, the Attorney General, under our law, has to have reviewed that question to see if it is consistent with the substance and body of the law that is being proposed by direct initiative. So, that is our current law, both constitutionally and statutorily. In other words, the Maine Legislature would have to revise either the statute, or would have to approve by a two-thirds vote, a constitutional change, which would then have to be approved by a majority of the voters, in order to change the current system. The Bills that are being proposed, and that are to receive the March 9th

hearing, are all statutory suggestions on flushing out current constitutional law on this subject.

THE PRESIDENT: The Chair recognizes the Senator from Penobscot, Senator Pearson.

Senator PEARSON: Thank you, Mr. President, Men and Women of the Senate. It is alleged by some, in this particular instance, that those checks and balances that the good Senator from Kennebec, Senator Kany cites, are ways of preventing an improper wording were not adequate. That indeed, when it came to the Deputy Secretary of State, some would allege that the wording he provided confused the situation instead of clarifying it. If that is the case, and I am not sure that it is, then does the Maine Legislature have the power to come in and say "you messed this up, we want to make sure the voter has the proper question."

The Senator from Kennebec, Senator Kany requested and received Leave of the Senate to speak a fourth time.

Senator KANY: Mr. President and Members of the Senate. The answer is 'No', according to the Attorney General's opinion. The Legislature could not come in and change the question. I would submit to the law court, if indeed this order does pass, a copy of the Attorney General's opinion on that subject.

Secondly, I would like to let you and the law court know the titles and L.D. numbers of the four Bills that the Legal Affairs Committee is scheduled to hear. The first is L.D. 289: "An Act relating to questions put to the elector at referendum." The Second, L.D. 324: "An Act concerning the wording an initiative and peoples veto referendum questions." Third, L.D. 119: "Resolve, to simplify the wording on the ballot of the proposed initiative, regarding the generation of electric power and high level radio active waste." Fourth, L.D. 347: "An Act concerning the drafting of ballot questions."

THE PRESIDENT: The Chair recognizes the Senator from Kennebec, Senator Matthews.

Senator MATTHEWS: Mr. President and distinguished Members of the Senate. I rise to also voice my support for my colleague, Senator Kany of Kennebec, and the good Senator from Penobscot, Senator Baldacci. With all due respect to my good friend, the Senator from Cumberland, Senator Clark, I do believe that we are jumping the gun here. We're taking an issue, which I believe is in the legislative court, and why we are doing, I do not think there is a sufficient answer on the other side, as to why we are asking for a law court decision. There are a couple of things which concern me deeply. Statements made by my good colleague, Senator Clark of Cumberland, which I do want to clarify. One of them is that the initiated question by thousands of Maine voters, is simply to close down Maine Yankee. That is not the case, ladies and gentlemen. The initiated question is to stop the production of high level nuclear waste in the State of Maine, after 1988. That is the question that will be before the Maine voters. Also, and I think it appropriate to mention, for the Record and for this Body to think about, is the question which will be before all of us, is the storage of high level nuclear waste, which I thank the good Lord, the good Senator from Kennebec, Senator Kany has been working very hard on, with the rest of us in the Legislature. That issue is coming up and we know we haven't seen the end of the site location process for a high level waste dump and they are looking here in Maine. That is why fifty thousand, I thought, Maine voters put this question out to referendum. Also, because Maine has to go on Record, it seems to me,

that we are going to take care of our own house, and that we do not support the production of high level nuclear waste in the State of Maine, and therefore, quite correctly and consistently have decided that we must close down our facility here, because it produces high level nuclear waste. That is a question that need also, to be mentioned in this debate today. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Androscoggin, Senator Berube.

Senator BERUBE: Thank you, Mr. President and Members of the Senate. I think someone mentioned that this is certainly not an issue of whether we want or not want to close Maine Yankee.

I can't speak in legalese, I have heard words like 'solemn occasion' and this sort of thing, and I really don't know much about what the meaning of those words are, but I do know one thing, in fact, two things. One of the pet peeves of the people, at least the people in my district, and I get input from people on a daily basis in the friendly supermarket, and people are very vocal. Generally they will say "when are you going to give us a referendum question which is clear, that we know the meaning in simple, clear language?" That is number one. Number two, if there were indeed forty thousand or fifty thousand people who signed, and I was there when people soliciting for signatures approached the perspective signers, and the question was "well, what am I signing? Do you want to close Maine Yankee or keep it?" They read this wording that said "do you want to let any power plant, like Maine Yankee, operate after July 4, 1988 if it makes high level nuclear waste?" That is not what they signed. They signed either Yes or No, if they favored the closing of Maine Yankee or not. I guess what I am saying is that if it is worth a try, you know, the Legislature can do most anything, I have a future license plate that faces me at my seat mates' desk everyday, with a funny orange peach color, on which is superimposed a teal colored blue numeral. We can even vote on the issue of whether to repeal that, if we choose. I think that if we ask the court to clarify for us, and I think we have the right to do that, then maybe it will serve a good purpose. Therefore, I support my leader's order. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Penobscot, Senator Baldacci.

Senator BALDACCI: Mr. President and Members of the Senate. The question here is not how people signed it, whether they were under duress and anything of that manner. The question here today is whether it is a solemn occasion. You heard today that there were four or five Bills being considered by a committee and there are only two referred to in this order that requests the Justices review. The Legislature has not taken any action, whatsoever, on this particular matter and we are implying to the Supreme Judicial Court that we have, in fact, we're ready to pass a law. We are ready to do something in this particular area. I think that is really the question. The question isn't whether to clarify the referendum question so that our constituents feel that they are voting yes on yes and not yes on no. The question is, is this proper, now at this time. I submit to you that it is very improper, that it does not cover the full range of questions, that it is not a solemn occasion to bring to the Supreme Judicial Court at this time. We're not saying that it can't happen, it most likely will happen, and it looks like it is going to be very controversial. But, let's wait until we get to that particular point. Let's not rush the process. I think that is all that is

being said here today. I hope it is not mistaken in any other way.

THE PRESIDENT: A division has been requested.

Will all those Senators in favor of PASSAGE, please rise in their places and remain standing until counted.

Will all those Senators opposed, please rise in their places and remain standing until counted.

On motion by Senator BALDACCI of Penobscot supported by a division of at least one-fifth of the Members present and voting a Roll Call was ordered.

Senator DUTREMBLE of York who would have voted Yea requested and received Leave of the Senate to pair his vote with Senator TWITCHELL of Oxford who would have voted Nay.

Senate at Ease

Senate called to order by the President.

Subsequently, Senator DUTREMBLE of York, requested and received Leave of the Senate to withdraw his request to pair.

At this time, the Chair noted the absence of the Senator from Oxford, Senator TWITCHELL and further excused the same Senator from today's roll call votes.

THE PRESIDENT: The Chair recognizes the Senator from Penobscot, Senator Pearson.

Senator PEARSON: Mr. President, Men and Women of the Senate. In twelve years of service in the Maine Legislature and I know that a lot of people in here have more than that. I can't remember very many occasions where we have had solemn occasions. I am trying to the best of my ability to recollect at what point it was in the legislative process over those years that we asked for solemn occasions. Was it just as a bill was to be passed? Was it just as a bill was being considered by the Committee that it was before? Just what point? Frankly, I don't remember exactly at what stage those bills were at. I suspect that they were at various different stages. The dilemma was posed to the court at different stages and consequently, I think there are some people who have a problem and legitimately so. Maybe we are not at that point yet. I see nothing wrong with asking that question at this point. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from York, Senator Kerry.

Senator KERRY: Mr. President, Ladies and Gentlemen of the Senate. I would like to respond to Senator Pearson's question. Relating to one solemn occasion of which I happened to be a part of the debate in the Senate. As I recall, it was during the previous Governor's administration and it was a Bill dealing with submerged land, which was a very important Bill. It was very heavily and heatedly debated. The out come of the Bill happened to be, as I recall, as one of the Senators proposing for the affirmative passage of the particular Bill on the losing side. The ultimate occasion was the Senate voted, I believe it was at that time thirty one to one.

I happened to be the only Senator on the other side, so I recall quite specifically when the time was taking place. I also recall when and how the solemn occasion was requested. It was requested by the Governor after the debate in the other body and the Senate took place. After the Bills were presented to the Legislature, there were an extensive debate. It was a very complicated Bill. The first readings and voting on the Bills were mixed. It wasn't quite as lopsided as the end. I, as a Senator