

# MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

*One Hundred and Sixth*

*Legislature*

OF THE

STATE OF MAINE

1973

KENNEBEC JOURNAL  
AUGUSTA, MAINE

### SENATE

Tuesday, March 20, 1973

Senate called to order by the President.

Prayer by the Rev. Shane D. Estes of Winthrop.

Reading of the Journal of yesterday.

#### Papers from the House Joint Order

WHEREAS, Mrs. Lillian U. Judkins Abbott of East Sumner has been named Maine Mother of the Year for 1973; and

WHEREAS, Maine's mother and her husband, Sidney, are the proud parents of six children ranging in age from 16 to 29 years; and

WHEREAS, at age 54 Mrs. Abbott is a graduate of Gould Academy, the University of Maine Portland-Gorham and the Central Maine General Hospital School of Nursing; and

WHEREAS, aside from her employment as a postal clerk and part-time receptionist for a local doctor, she is an active member of the grange, the church, the Christian Civic League, the Governor's Hi-way Safety Council, the Bible Society of Maine, a 4-H club worker and teacher of Red Cross Home Nursing; and

WHEREAS, during the week of May 6, Mrs. Abbott will compete with Mothers of the Year from all the states and Puerto Rico at Denver, Colorado for national honors; now, therefore, be it

ORDERED, the Senate concurring, that we, the Members of the Senate and House of Representatives of the One Hundred and Sixth Legislature of the State of Maine, now assembled, do hereby acknowledge and commend with special pride Mrs. Lillian Abbott, who has been selected as the State of Maine's Mother of the Year for 1973 and extend to her our best wishes and good luck in the forthcoming national competition; and be it further

ORDERED, that a suitable copy of this Order be forwarded forthwith to Mrs. Abbott in token of our admiration and support. (H. P. 575)

Comes from the House, Read and Passed.

Which was Read.

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

Mr. BRENNAN: Mr. President, I would like to pose a question through the Chair as to whether or not this is a bona fide order or is this just an order testing our awareness?

The PRESIDENT: The Senator from Cumberland, Senator Brennan, has posed a question through the Chair which any Senator may answer if he desires.

Is it now the pleasure of the Senate that this order receive passage in concurrence?

Thereupon, the Joint Order receive Passage in concurrence.

#### House Papers

Bills and Resolves today received from the House requiring Reference to Committees were acted upon in concurrence.

(See action later in today's session.)

#### Communications

STATE OF MAINE  
House of Representatives  
Augusta, Maine 04330

March 15, 1973

Hon. Harry N. Starbranch  
Secretary of the Senate  
106th Legislature  
Dear Mr. Secretary:

The Speaker of the House today appointed the following members to the Committee of Conference on the disagreeing action of the two branches of the Legislature on Bill "An Act Relating to Real Estate Brokers' Trust Accounts" (H. P. 372) (L. D. 501):

Mrs. KILROY of Portland

Mr. TRASK of Milo

Mr. SHELTRA of Biddeford

Respectfully,

Signed:

E. LOUISE LINCOLN  
Clerk

House of Representatives

Which was Read and Ordered  
Placed on File.

#### Senate Papers Judiciary

Mr. Brennan of Cumberland presented Bill, "An Act Relating to the Escape of Prisoners." (S. P. 473)

Which was referred to the Committee on Judiciary and Ordered Printed.

Sent down for concurrence.

#### State Government

Mr. Wyman of Washington presented Resolution, Proposing an Amendment to the Constitution to Enlarge the Executive Council and Provide for Selection of the Council by the People. (S. P. 472)

Mr. Brennan of Cumberland presented Bill, "An Act to Provide Elected District Attorneys." (S. P. 474)

Which were referred to the Committee on State Government and Ordered Printed.

Sent down for concurrence.

#### Reconsidered Matter

On motion by Mr. Berry of Cumberland, the Senate voted to reconsider its prior action whereby it referred to the Committee on Natural Resources in concurrence the following:

Bill, "An Act to Transfer the Pesticides Control Board to the Department of Environmental Protection." (H. P. 1125) (L. D. 1460)

The PRESIDENT: The Chair recognizes the same Senator.

Mr. BERRY: Mr. President, this bill is actually a matter merely of restructuring in the assignment of the Pesticides Control Board to another supervising agency. It seems that it is a matter of mechanics more than a Natural Resources problem. Accordingly, I move this bill be referred to the Committee on State Government.

The PRESIDENT: The Senator from Cumberland, Senator Berry, moves that that Item 1-34, Legislative Document 1460, be referred to the Committee on State Government in non-concurrence. Is this the pleasure of the Senate?

The motion prevailed.

Sent down for concurrence.

#### Committee Reports

##### House

The following Ought Not to Pass reports shall be placed in the legislative files without further action pursuant to Rule 17-A of the Joint Rules:

Bill, "An Act Providing for Mandatory Jail Sentences for Night Hunting." (H. P. 153) (L. D. 186)

Bill, "An Act Relating to Action of Forcible Entry and Detainer." (H. P. 281) (L. D. 396)

Bill, "An Act Relating to Charges to Municipalities by Counties for Costs of Food Stamp Programs." (H. P. 432) (L. D. 581)

Bill, "An Act Providing for Payment of One Hundred Percent of Health Insurance Plans for State Employees." (H. P. 440) (L. D. 589)

Bill, "An Act Providing for Reduced Rates for Senior Citizens Using State Recreation and Camping Areas." (H. P. 526) (L. D. 708)

Resolve, Appropriating Funds to Aid Town of Deer Isle in Constructing Municipal Building. (H. P. 531) (L. D. 713)

Bill, "An Act Providing Funds for Areawide Health Planning Agencies." (H. P. 601) (L. D. 792)

Bill, "An Act to Provide Copies of Public Documents Filed with the County." (H. P. 641) (L. D. 857)

Bill, "An Act Providing a Deputy Register of Probate for Cumberland County." (H. P. 701) (L. D. 906)

Bill, "An Act to Provide Funds for Preliminary Engineering and Design Activities for a New Ferry Vessel." (H. P. 803) (L. D. 1052)

#### Joint Order

Out of order and under suspension of the rules, the Senate voted to take up the following paper from the House:

WHEREAS, the Rams of Cony High School have won the State's highest honor and title in Class A basketball for 1973; and

WHEREAS, the Rams, composed of Scott Goggin, Bill Ottmann, Tim Leet, Daryl Dumont, Dave Rollins, Mark Cameron, Tom Cooper, Neil Glazier, Steve Marchildon, Paul Vachon, Tom Daniels, Bill Hayward, Dan Croteau, Steve Degon, James Hogerty, Shawn Brennan and its supporters, are now in fact number one; and

WHEREAS, this team has magnificently played an undefeated season under the inspiring leadership of coach Richard A. Hunt and his assistants; and

WHEREAS, the ability and attainments they have achieved individually and collectively as a team reflect a superb sense of value; now, therefore, be it

ORDERED, the Senate concurring, that We, the Members of the Senate and House of Representatives of the One Hundred and Sixth Legislature of the great and sovereign State of Maine, now assembled, take this opportunity to recognize and honor the Rams of Cony High School, State Class A Basketball Champions for 1973 for their outstanding accomplishments in the field of sports and wish them continued success in bringing honor to their community, school and State; and be it further

ORDERED, that duly attested copies of this Order be transmitted forthwith to the principal and coach of Cony High School in token of the sentiments expressed herein. (H. P. 577)

Comes from the House, Read and Passed.

Which was Read.

The PRESIDENT: I am sure the Senate joins me in extending our congratulations to Coach Hunt and the team for the magnificent performance you put on this year with an undefeated season, and I am personally glad that eastern Maine kept all class titles in eastern Maine. I would like to have you rise and accept the greetings of the Senate.

Thereupon, the members of the Cony High School Basketball Team and Coaching Staff present in the rear of the Senate Chamber arose and received the applause of the Senate, the members rising, and the Joint Order received Passage in concurrence.

#### Leave to Withdraw

The Committee on Judiciary on Bill, "An Act Relating to Court Jurisdiction under Uniform Reciprocal Enforcement of Support Act and Uniform Civil Liability for Support Act." (H. P. 400) (L. D. 529)

Reported that the same be granted Leave to Withdraw.

The Committee on Legal Affairs on Bill, "An Act Relating to Pay-

ments of Accounts and Claims Against the State." (H. P. 461) (L. D. 610)

Reported that the same be granted Leave to Withdraw.

The Committee on Taxation on Bill, "An Act Prohibiting the Exemption of Certain Property from Real Estate Taxes." (H. P. 488) (L. D. 642)

Reported that the same be granted Leave to Withdraw.

Come from the House, the reports Read and Accepted.

Which reports were Read and Accepted in concurrence.

#### Leave to Withdraw — Covered by Other Legislation

The Committee on County Government on Bill, "An Act Relating to Record of Plans by Registers of Deeds." (H. P. 662) (L. D. 871)

Reported that the same be granted Leave to Withdraw, Covered by Other Legislation.

The Committee on County Government on Bill, "An Act Relating to Fees of Deputy Sheriffs." (H. P. 734) (L. D. 951)

Reported that the same be granted Leave to Withdraw, Covered by Other Legislation.

Come from the House, the reports Read and Accepted.

Which reports were Read and Accepted in concurrence.

#### Ought to Pass

The Committee on Public Utilities on Bill, "An Act to Validate Portland Water District's Actions." (H. P. 420) (L. D. 569)

Reported that the same Ought to Pass.

The Committee on Public Utilities on Bill, "An Act Enlarging the Territorial Limits of the Madawaska Water District." (H. P. 448) (L. D. 597)

Reported that the same Ought to Pass.

The Committee on Education on Bill, "An Act Relating to the Community School District Law." (H. P. 607) (L. D. 306)

Reported that the same Ought to Pass.

The Committee on Election Laws on Bill, "An Act to Change the Date of the Primary Election." (H. P. 645) (L. D. 861)

Reported that the same Ought to Pass.

The Committee on Fisheries and Wildlife on Bill, "An Act Establishing the Carver's Pond Waterfowl Sanctuary, Knox County." (H. P. 718) (L. D. 924)

Reported that the same Ought to Pass.

Come from the House, the Bills Passed to be Engrossed.

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

#### **Ought to Pass — As Amended**

The Committee on State Government on Bill, "An Act Relating to Appointment of Municipal Law Enforcement Officers." (H. P. 704) (L. D. 909)

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-98).

The Committee on State Government on Bill, "An Act Changing the Name of the Maine Law Enforcement and Criminal Justice Academy." (H. P. 363) (L. D. 478)

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-97).

The Committee on Taxation on Bill, "An Act Providing for a Change in Standard Deductions in Income Tax Law." (H. P. 655) (L. D. 869)

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-85).

Come from the House, the Bills Passed to be Engrossed as Amended by Committee Amendments "A".

Which reports were Read and Accepted in concurrence and the Bills Read Once. Committee Amendments "A" were Read and Adopted in concurrence and the Bills, as Amended, Tomorrow Assigned for Second Reading.

#### **Divided Report**

The Majority of the Committee on State Government on Bill, "An Act to Provide for Compensation for Commissioners of Housing Authorities." (H. P. 439) (L. D. 588)

Reported that the same Ought Not to Pass.

Signed:

Senators:

SPEERS of Kennebec  
WYMAN of Washington  
CLIFFORD  
of Androscoggin

Representatives:

FARNHAM of Hampden  
SNOWE of Auburn  
SILVERMAN of Calais  
CROMMETT

of Millinocket

CURTIS of Orono  
STILLINGS of Berwick  
GOODWIN of Bath  
BUSTIN of Augusta  
NAJARIAN of Portland

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

Signed:

Representative:

COONEY of Sabattus

Comes from the House, the Majority Report Read and Accepted.

Which reports were Read, and the Majority Ought Not to Pass Report of the Committee Accepted in concurrence.

#### **Divided Report**

The Majority of the Committee on County Government on Bill, "An Act Creating Oxford County Commissioner Districts." (H. P. 405) (L. D. 534)

Reported that the same Ought to Pass.

Signed:

Senators:

ROBERTS of York  
PEABODY of Aroostook  
CLIFFORD

of Androscoggin

Representatives:

DYAR of Strong  
SHELTRA of Biddeford  
FARRINGTON of China  
PONTBRIAND of Auburn  
McMAHON of Kennebunk  
DAM of Skowhegan  
CHURCHILL of Orland  
TANGUAY of Lewiston

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

Signed:

Representative:

WHITZELL of Gardiner

Comes from the House, the Majority Report Read and

Accepted and the Bill Passed to be Engrossed.

Which reports were Read and the Majority Ought to Pass Report of the Committee Accepted in concurrence.

Thereupon, the Bill was Read Once and Tomorrow Assigned for Second Reading.

### Divided Report

The Majority of the Committee on Legal Affairs on Bill, "An Act Changing Name of the Region 12 Coordinating Committee, Inc." (H. P. 406) (L. D. 557)

Reported that the same Ought Not to Pass.

Signed:

Senators:

JOLY of Kennebec  
ROBERTS of York

Representatives:

COTE of Lewiston  
DUDLEY of Enfield  
FECTEAU of Biddeford  
EMERY of Rockland  
BRAWN of Oakland  
CAREY of Waterville  
CONNOLLY of Portland  
SHUTE

of Stockton Springs

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

Signed:

Senator:

ALDRICH of Oxford

Representatives:

FAUCHER of Solon  
SHAW of Chelsea

Comes from the House, the Majority Report Read and Accepted.

Which reports were Read, and the Majority Ought Not to Pass Report of the Committee Accepted in concurrence.

### Senate

#### Leave to Withdraw

Mrs. Cummings for the Committee on Natural Resources on Bill, "An Act Relating to Disposal of Septic Tank or Cesspool Waste." (S. P. 289) (L. D. 836)

Reported that the same be granted Leave to Withdraw.

Which report was Read and Accepted.

Sent down for concurrence.

### Ought to Pass — As Amended

Mr. Katz for the Committee on Education on Bill, "An Act Authorizing Municipalities and School Administrative Districts to Secure Competitive Bids in the Construction of School Buildings." (S. P. 306) (L. D. 969)

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (S-40).

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

### Second Readers

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

#### House

Bill, "An Act Relating to Costs of Administration of Food Stamp Program." (H. P. 165) (L. D. 207)

Bill, "An Act Relating to Health Insurance Policy Reserves." (H. P. 535) (L. D. 717)

Bill, "An Act Relating to Definition of Dependent under Group Life Insurance Policies" (H. P. 534) (L. D. 716)

Bill, "An Act Increasing Borrowing Capacity of Town of Old Orchard Beach School District." (H. P. 520) (L. D. 685)

Bill, "An Act to Increase Borrowing Capacity of Brewer High School District." (H. P. 466) (L. D. 614)

Bill, "An Act to Permit County Commissioners to Contract with Municipalities for Use of Public Dumps and to Assess Costs of Public Dumps." (H. P. 1162) (L. D. 1374)

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

Bill, "An Act Relating to Use of Snowmobiles During the Deer Season." (H. P. 309) (L. D. 411)

Which was Read a Second Time.

Thereupon, on motion by Mr. Anderson of Hancock, the Bill was Indefinitely Postponed in concurrence.

Bill, "An Act Relating to Effective Date of Salary Increases of County Officers." (H. P. 210) (L. D. 283)

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

Sent down for concurrence.

#### House — As Amended

Bill, "An Act Relating to Disclosure of Vital Records." (H. P. 539) (L. D. 721)

Bill, "An Act Relating to Compensation of Election Commissioners and Clerks of the Indian Voting Districts." (H. P. 613) (L. D. 811)

Bill, "An Act to Increase Fees of Deputy Sheriffs." (H. P. 297) (L. D. 399)

Bill, "An Act Relating to Tribal Elections, Governor and Council of the Penobscot Tribe of Indians." (H. P. 243) (L. D. 325)

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

#### Senate

Bill, "An Act Extending the Appeal Period under Employment Security Law." (S. P. 227) (L. D. 662)

Bill, "An Act to Extend Law Relating to Construction and Effect of Repealing Acts to Include Municipal Ordinances." (S. P. 286) (L. D. 833)

Bill, "An Act Appropriating Funds to Department of the Attorney General to Print Reports of Two Attorneys General." (S. P. 335) (L. D. 1034)

Bill, "An Act Transferring Funds from Appropriations to other Departments to the Department of the Attorney General." (S. P. 364) (L. D. 1078)

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

Sent down for concurrence.

#### Senate — As Amended

Bill, "An Act Relating to Time Period for Use of Marriage Certificate." (S. P. 315) (L. D. 981)

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

Sent down for concurrence.

#### Enactors

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

An Act Relating to Hunting from Public Ways. (H. P. 160) (L. D. 202)

An Act Changing the Name of the State Board of Hairdressers to the State Board of Cosmetology. (H. P. 284) (L. D. 358)

An Act Relating to Beano or Bingo Licensing. (H. P. 431) (L. D. 580)

An Act Relating to Committee Functions at State Political Conventions. (H. P. 599) (L. D. 790)

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

#### Emergencies

An Act Relating to Biennial Elections of the Passamaquoddy Tribe of Indians. (H. P. 827) (L. D. 972)

An Act Relating to Safety of Dams. (S. P. 410) (L. D. 1176)

These being emergency measures and having received the affirmative votes of 29 members of the Senate, were Passed to be Enacted and, having been signed by the President, were by the Secretary presented to the Governor for his approval.

#### Emergency

Resolve, Relating to Funds Appropriated for Use by The Research Institute of the Gulf of Maine. (S. P. 297) (L. D. 947)

This being an emergency measure and having received the affirmative votes of 29 members of the Senate, was Finally Passed and, 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 the first tabled and today assigned matter:

House Reports — from the Committee on Business Legislation Bill, "An Act Relating to Risk Sharing Plans in the Field of Property Insurance." (H. P. 189) (L. D. 229) Majority Report — Ought Not to Pass; Minority Report — Ought to Pass.

Tabled — March 14, 1973 by Senator Cox of Penobscot.



Pending — Acceptance of Either Report.

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

Mr. COX: Mr. President and Members of the Senate: L. D. 229, the bill relating to property insurance risk sharing, by some of the discussion in this legislature it could very well be taken as the bill to take out your frustrations on the insurance companies. If you have ever been unhappy about an automobile settlement claim, or you had a poor medical settlement, or if you had policies cancelled for non-payment or non-insurability, you could possibly take your frustrations out on this bill.

This bill should be decided on its own merits and whether or not we need risk sharing in the State of Maine, and not on any other basis. I am not speaking to defend the insurance companies, but I am speaking to defend the Majority Ought Not to Pass Report of the Committee. This type of insurance is designed for the big cities with slum areas like Watts in Los Angeles.

The Business Legislation Committee did hold a public hearing. I was not there, and the only person who spoke on the bill was the sponsor. There were some papers circulated to show that two or three years ago there were some problems. In analyzing these papers, I found that most of the problems had to do with cancellations either for non-payment or for other reasons. There was one complaint in there that had to do with non-insurability, but attached to that complaint was a housing code violation by the City of Portland showing somewhere around twelve violations.

I did hear that the Insurance Study Committee advertised a public hearing on this last summer and that no one appeared except one member of this legislature.

The Insurance Department has been advertising in the Portland area for several months, and on days that they would come down here no claims for red-lining were made at these hearings. Nothing

has been offered to show the need for this.

There have been many newspaper articles ever since the public hearing and they are based on a term paper report by a sophomore law student. He picked out two areas in Portland that he claimed were being red-lined. There was a response last week by the insurance people that shows that forty insurance companies do write insurance in the areas that this student claimed was not being covered.

Who wants risk sharing? Number one, the slum landlords want it because their property is in such shape that they can't really afford to pay the premiums. Other people or individual homeowners with substandard properties who have to pay a higher premium would like to have this risk sharing. Those individuals are generally unhappy with their rates, and others that are distant from fire coverage and have to pay higher premiums would like this coverage. I think they labor under the misapprehension that by having risk sharing it will reduce premiums. And according to the insurance industry, when you go into risk sharing it increases premiums. Also for those who have fully insurable property.

I firmly believe that if this legislation is passed that we would have thousands of claims, and I say this because anyone who gets an increase in their insurance premiums are going to try to get them adjusted.

The Insurance Commissioner did not put a cost on this bill, but I firmly believe that it would require more employees to do so. And if the Insurance Commissioner by rights under this bill wanted to work out insurance without going through the companies he would have to use the services of an actuary. Those come expensive and many insurance companies don't have their own; they hire them.

The most that I have gotten out of all of the discussion on this bill is that there are severe problems in cancellations. I would report to this legislature that we have a bill submitted by the Insurance Study

Commission providing a method for handling cancellations through the Commissioner's office. I have at this point and time found no basis for the need for risk sharing, and the Commissioner himself calls it standby legislation. Mr. President, I move indefinite postponement of the bill and reports.

The PRESIDENT: The Senator from Penobscot, Senator Cox, now moves that this bill, "An Act Relating to Risk Sharing Plans in the Field of Property Insurance," be indefinitely postponed.

The Chair recognizes the Senator from York, Senator Marcotte.

Mr. MARCOTTE: Mr. President and Members of the Senate: I think we are losing perspective here a little bit. The main thrust of this bill is merely to allow the uninsurable a hearing before the Commission. This is basically all it does. These people that are determined uninsurable by the insurance companies should have the privilege of this hearing. I think in most cases the Commission has been extremely fair with the insurance companies as well as the uninsurable or those attempting to get insurance. So, let's not lose perspective of this bill. This is all that this basically does, allows them a hearing.

The PRESIDENT: Is the Senate ready for the question?

The Chair recognizes the Senator from Cumberland, Senator Brennan.

Mr. BRENNAN: Mr. President and Members of the Senate: In reference to this bill, I think there are many situations in Portland where people have their life savings in their house and they can't get insurance, and that is the issue here. These people would like to get insurance. Now, I understand the policy of insurance companies. They are not in the business of issuing high risk insurance. Insurance companies are taking a normal course of business, they are attempting to maximize profits, and to quote William Buckley, that great conservative spokesman, "This course of action is normal and it is to be expected, for their responsibility is not to some abstract social

consciousness, but to their stockholders who expect to make the greatest profit possible." And that is what the capitalistic system, I guess, is about. Their desire is for profits: they are not supposed to have a social consciousness.

But our constituency is not a particular group of stockholders largely from out of state. It is our responsibility not to maximize profits. Instead it is our duty to protect all of the people in this state, and it is our duty in some senses sometimes to impose a certain degree of a social consciousness on a certain area of the insurance industry. So what we are doing here is creating a vehicle so that property insurance will be available to everyone.

I frankly think that this is one of the finest pieces of consumer legislation before this legislature, so, I would hope that you would vote to defeat the motion of the Senator from Penobscot, Senator Cox.

The PRESIDENT: The Chair recognizes the Senator from Hancock, Senator Anderson.

Mr. ANDERSON: Mr. President and Members of the Senate: Begging your indulgence, I would like to read a communication that I received from Ellsworth this morning from one of my constituents in the insurance business.

"I am very much opposed to L. D. 229, "An Act Relating to Risk Sharing Plans in the Field of Property Insurance.

"This bill was before a special legislative study committee for two years and at its hearings there were no proponents. The study committee recommended that risk sharing was not needed in Maine. This plan was designed for riot-torn areas such as Watts and Harlem. We have no such areas in the State of Maine.

"Finally, in states that have had, or have, the 'Fair Plan', rates have become high because the 'Fair Plan' turned into a dumping ground. There is no savings on insurance and the consumer does not benefit, particularly those risks that are thrown in." Thank you.

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

Mr. CONLEY: Mr. President and Members of the Senate: It sort of strikes me funny that my community would be related to Watts and Harlem, but this legislation just didn't happen to appear in here for some mystical reason.

The problem that we have had in Portland has not been the fact that people have been unable to get insurance, but we all recognize that some of our cities, towns, and communities in the state are undergoing some drastic and progressive changes within neighborhoods. We have an urban renewal program in Portland, and it seems that every time that the planning board and all the other agencies get together they mark out a specific area for renewal, and people all of a sudden wake up one morning to find out that their homes, particularly if they have been scheduled for demolition within that area, are no longer covered by insurance, or the fact is that their policy is cancelled.

Now, I think the Insurance Commissioner here should take an active step to try to protect the consumers. Recently before the Appropriations Committee, Mr. Hogerty came in and requested an additional \$14,000 for a member of the Attorney General's staff who is assigned to his department primarily for the purpose of protecting the consumer. At that time I became a little bit disturbed because of many incidents that have taken place in Portland because of the fact that, it seems to me anyway and to many other people in that area, that for years the Insurance Commission up here seemed to be sort of deaf and mute to any problem that does arise, and it takes a group of citizens to organize to seem to get things into motion.

You recall just back a short time ago an organization referred to as COMBAT in Portland set up insurance hearings because of what was considered to be illegal advertising of out-of-state insurance companies within Maine papers, again with deceptive advertising, and many citizens of this state could have been bilked. But the Insurance Commission took no active step to do anything about

it until finally COMBAT set up hearings within the Portland area, and then they began to move. Now, this is exactly what this legislation is doing; it is just giving the people an opportunity to get before the Commission to see if they have fair grounds as to whether their insurance should be cancelled or not, and I think it is sort of a downgrading concern, for me anyway, if the Senate here today took negative action and killed this measure.

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

Mr. DANTON: Mr. President and Members of the Senate: First, I would like to say that at the hearing the Insurance Commissioner came out and supported this bill wholeheartedly, which is contrary to what he did at the 105th Legislature.

Secondly, I would like to say that this bill really calls for one thing: that the Insurance Commissioner will determine whether a piece of property is insurable or not. As it is right now, we do not have any recourse as insurees as to whether we can insure our property or not. If an insurance company wants to cancel your insurance policy out, all they do is write you a letter and tell you as of such a date you are no longer insured with them. So, I would hope that you would vote against the motion to indefinitely postpone. This is a good bill and it has been a long time in the coming. Thank you very much.

The PRESIDENT: Is the Senate ready for the question?

The Chair recognizes the Senator from Penobscot, Senator Cox.

Mr. COX: Mr. President and Members of the Senate: I would again point out that we do have a bill in, it has been heard, and will be reported out shortly, that handles cancellation and provides a very good vehicle for anyone that has a claim. I would 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 is ordered. The pending question before the Senate is the motion of the Senator from Penobscot, Senator Cox, that Bill, "An Act Relating to Risk Sharing Plans in the Field of Property Insurance", be indefinitely postponed. A "Yes" vote will be in favor of indefinite postponement; a "No" vote will be opposed.

The Secretary will call the roll.

#### ROLL CALL

YEAS: Senators Aldrich, Anderson, Cianchette, Cox, Cummings, Fortier, Graffam, Greeley, Hichens, Huber, Joly, Minkowsky, Morrell, Peabody, Roberts, Schul-ten, Sewall, Shute, Wyman, and President MacLeod.

NAYS: Senators Berry, Brennan, Clifford, Conley, Danton, Kelley, Marcotte, Richardson, Speers, and Tanous.

ABSENT: Senators Cyr, Katz, and Olfene.

A roll call was had. Twenty Senators having voted in the affirmative, and ten Senators having voted in the negative, with three Senators absent, the Bill and Reports were Indefinitely Postponed in non-concurrence.

Sent down for concurrence.

The President laid before the Senate the second tabled and today assigned matter:

Senate Reports — from the Committee on Judiciary Bill, "An Act Relating to Hospital Reports." (S. P. 75) (L. D. 192) Majority Report — Ought to Pass as Amended by Committee Amendment "A"; Minority Report — Ought Not to Pass.

Tabled — March 19, 1973 by Senator Brennan of Cumberland.

Pending — Acceptance of Either Report.

Mr. Tanous of Penobscot then moved that the Senate Accept the Minority Ought Not to Pass Report of the Committee.

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

Mr. RICHARDSON: Mr. President, first of all an inquiry: Am

I correct in my understanding that the Minority Ought Not to Pass Report was signed by the members of the Senate on the Committee on Judiciary and that the Majority Ought to Pass Report was signed by all of the House members of that Committee?

The PRESIDENT: On the Committee Reports, all of the House members of the Committee signed Ought to Pass as Amended, and all of the Senate members signed Ought Not to Pass.

The Senator has the floor.

Mr. RICHARDSON: Mr. President and Members of the Senate: On that happy and encouraging note, I would like to attempt to tell you what this bill does and does not do. Before we go any further, I do want to express my regret that the Senate members of the Judiciary Committee, because of our multiple committee assignment system here in the Senate, were not able to be at the Judiciary hearing on this bill.

At the present time, lady and gentlemen of the Senate, incident and hospital reports are subject to discovery in legal proceedings. I am going to try to explain to you what that means, but before I do I think you should know that as a trial lawyer I have both defended and brought suit against hospitals, so I am not serving any master.

Medical science is not really a science; it is an art, and every hospital in Maine is involved in a continuing struggle to upgrade the quality of health care that it gives to its patients. So that when an incident occurs involving injury to a patient, or when a patient contacts what we call a staphylococcus infection, when this occurs the minds in the hospital in good faith take an introspective look at what happened and try to prevent it happening again. So, for example, when a patient who has undergone open surgery, or has undergone surgery, contacts an infection, the hospitals all over the State of Maine in a continuing war against staph infections have to go back and try to devise means of correcting this situation for scrubbing, more sanitary conditions, trying to prevent staph infec-

tion people from getting into the hospital. And as you probably know, staph infections are transmitted through the air, or a great many of them are.

Now, under the present law, if a hospital conducts an examination of how this incident occurred and it writes a report and says well, next time we have got to do it better, next time we have got to wash the operating room four times a day instead of three, that report, that introspective report, is subject to discovery, so that if a suit is brought the hospital's internal, i n - h o u s e examination, which is designed to make hospital care better, is subject to being produced in open court. Now, I am against that. Why? Because if you continue to allow these things to be produced in open court these are just going to become white-washes; the studies of these reports are not going to be the introspective examinations that we all want.

Now, my friends in the plaintiffs' bar, those who try personal injury cases and malpractice cases against hospitals, are very anxious, and justifiably so, to get their hands on these reports. That is the name of the game here today. It is an effort to require the hospital to produce its own introspective, candid, honest evaluations of its own operations.

What does this bill not do? This bill does not require any cover-up of what went on. All the discovery proceedings, interrogatories and depositions, requiring the persons who were involved, the doctors, the nurses and the hospital administrators, all of those discovery proceedings are available and fully utilized. It is just as though you got in an automobile accident and afterwards you sat down and wrote a memorandum to yourself and said well, next time I better do something a little different than I did it the last time. That is not discoverable in a court of law, nor should these introspective and, I think, now honest appraisals by the hospitals be subject to discovery.

Again I insist that if you make them discoverable — and many, many states do not allow discoveries; many states have the law

that we are talking about now — if you make them discoverable and put them into the personal injury bread machine you are going to have whitewash on these reports and they won't be of any use at all. I hope you will vote against what I am going to perhaps unfairly characterize as special interest legislation, and vote for the adoption of this legislation. I would request a division when the vote is taken, Mr. President.

The PRESIDENT: A division has been requested.

The Chair recognizes the Senator from Penobscot, Senator Tanous.

Mr. TANOUS: Mr. President and Members of the Senate: I don't think that I have been bothered over one particular piece of legislation as I have been over this L. D. 192. And when I say "bothered" I mean personally bothered, because I am actually admitting to you now that I am terrified that this bill would ever become law in the State of Maine, and I am going to tell you my reasons. I hope that I can remember all of the reasons that have been going through my mind since the public hearing on this particular bill.

Since my good friend from Cumberland, Senator Richardson, has seen fit to bring in the committee report as a matter of debate here this morning, I personally know that this bill was lobbied before it ever left the committee, and every member of that committee was contacted before it ever came out, and lobbied by a special interest group. I will get back to this particular special interest group and lobby in a few moments in my discussions.

I am upset about this bill and concerned because I think it is a bad bill. It is that type of a bill that is an anti-people bill, it is an anti-consumer bill. It is that type of a bill that tends to want to hide certain evidence or certain occurrences or incidents from the people that have been treated by a hospital.

Now, hospitals are in business, they are a business concern, and they are seeking to be shielded, to be protected from revealing information to a patient, his spouse

or family of an occurrence or incident that occurred in that hospital. You know, the title is misleading: "An Act Relating to Hospital Reports." I could retitle that by saying it is an act to hide the evidence. It is an act to permit hospitals to bury their mistakes. It is an act to deprive the people from knowing what happens to them while a patient in the hospital. Any one of those titles would so much better appropriately define the contents of this bill.

You know, just as an aside, I wonder what would happen if we tried to get a report from Pineland Hospital or one of our hospitals in the state as the legislature. I am afraid that we would run into legislation that we enacted and be deprived by our own legislation from getting reports to conduct an investigation. That is just an aside, just a thought that entered my mind a moment ago, and I thought I would make a note of it.

I am concerned with the people's right to know. If I am a patient in a hospital, or if you are, or if your family, your children, your spouse, is a patient in a hospital, and they come home and something happened to your child or your spouse in that hospital which involved an incident — and heaven knows what an "incident" is; I checked in the dictionary and it is difficult to determine what we are talking about when we refer to the word "incident" — you would be deprived of the right to know what happened, and I don't feel that is right. I feel this is an anti-people bill, an anti-consumer bill. I think if you pay hundreds and thousands of dollars to have someone hospitalized, or a bill that you pay for hospitalization expenses of yourself or your family, that when you get home and you want to know what happened to you, if there was an incident that occurred to you in that hospital, that you ought to have a right to know. You shouldn't have to bring a suit, as it would require you to do under this bill, before you could get to know what happened to you.

The bill says that you can get this information through

interrogatories. Well, you can't have interrogatories until you commence a suit. Now, people just don't want to start suits so that they can find out what incident occurred to them or their spouse or family member in the hospital.

I can just picture myself, if you will just bear with me for a few moments, in my office as an attorney, which I try to be. I can just visualize myself with a client sitting across the desk from me who comes in and says "Mr. Tanous, I wrote to the hospital for a report on an incident that happened to my daughter while she was there. She went there and she didn't have a broken leg when she went in, but she came home with a broken leg and they won't tell me what happened." She might have slipped or something in the hospital; it is an incident. "They won't tell me what happened." "Well, I am sorry, sir, but the 106th Legislature under L. D. 192 enacted a bill that says you can't get that report unless you start a suit." "What do you mean by an incident?" "Well, I don't know. Let's dig out the dictionary and we will find out what an incident means. Well, it is an occurrence; it is something that happens." "Well, Mr. Tanous, why can't I get a report?" "Well, the legislature enacted a bill that says that you can't. I am sorry." "Is there any way that I can get a report, Mr. Tanous?" "Yes, I suppose there is. You could start a suit, and then we could have interrogatories and possibly you would find out what happened." "But I don't want to sue the hospital. All I want is to find out what happened to my daughter while she was a patient in that hospital." "Well, I am sorry, sir, but the law doesn't provide for that. You will have to bring a suit." "Mr. Tanous, how much would it cost me to bring a suit and then subsequently have interrogatories taken so I can find out what happened to my daughter?" "Well, one moment. As I compute the time involved, it will run you at least \$500 or better anyway." Well, you can see what will happen to that individual, and all

because of L. D. 192. Now, this is ludicrous, I grant you, but this is exactly what would happen, and I challenge my good friend, Mr. Richardson, to deny that an individual, a patient in the hospital, who could slip on a floor and break a leg is not considered an incident under this particular bill. I know that it would be.

This bill has been lobbied by a private interest group and it has been lobbied very heavily. And I know, fellow Senators, that you have been lobbied as well, but there is no one down here lobbying for your constituents, the man on the street or that patient in the hospital. There is no one here lobbying for his interests here this morning. They expect us to represent their interests down here and to vote for the best interests of the people, not a private interest group. So that if any of you have committed yourselves on this bill, I feel in good conscience after listening to debate that you have every right to change your mind and vote with the people, not with a private interest group. I feel that we have a greater duty to the people than to any private special interest group. Thank you.

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

Mr. BRENNAN: Mr. President and Members of the Senate: First, I must say that my good friend, the distinguished Senator from Cumberland, Senator Richardson, has a rather low assessment of hospitals, doctors and nurses. If I understand what he was saying, it is that if we don't pass this bill they are not really going to look into these staph infections, they are not really going to look into negligence, but they are going to be somewhat inhibited and that they are going to get into white-washes. I am sure he doesn't really mean that. I think our doctors, hospitals and nurses are of a much, much higher integrity.

I would say that I think Senator Tanous has properly characterized this bill as a "hide the evidence" bill. I do a fair amount of trial work, not in the same field as the good Senator, Senator Richardson, does, but it is my feeling after

doing a lot of trial work that we ought to try to get more evidence before the court and before the jury so that we can try to get at the truth, and not less or not hiding evidence.

I think if someone is hurt because of negligence in a hospital, and as they say, hospitals and doctors tend to bury their mistakes while lawyers' mistakes go up on appeal, but I think if some of these mistakes are buried that the estate ought to know something about it. I think what we are doing here, if we pass a bill like this, we are going to try to block truth. And I think up here if we are going to try to pass some legislation dealing with the court system our aim should be to try to get at more truth. So I would hope that you would oppose the motion of the Senator from Cumberland, Senator Richardson.

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

Mr. RICHARDSON: Mr. President, is the motion before the Senate the motion of the Senator from Penobscot, Senator Tanous, to accept the Minority Ought Not to Pass Report?

The PRESIDENT: The Senator is correct.

Mr. RICHARDSON: I am going to urge, Mr. President and Members of the Senate, that you vote against that motion, and I am not going to prolong debate any further, except to answer one of the things that has been suggested.

My good friend, the learned Senator from Penobscot, Senator Tanous, seems to have a very limited grasp of what this bill is about. This bill does not, does not, prohibit the production of hospital records at your request. You as a patient have a right to simply request that the hospital give you the record of your treatment while you were in there, and this bill does not affect that. The only thing that this bill affects is the hospital's examination of the event. For example, in the staph infection case as I have described it to you, it does not in any way limit your right to have the hospital record, just as you do now. The same is true of a physician.

All you do now, Members of the Senate, is sign a permission or an authorization and you get the information.

Now, I think really that it is unfair to characterize the bill in the terms in which it has been characterized here. The hospital record which the hospital is required by law to keep is admissible in the courts of this state by reason of an express rule-making decision of the Supreme Judicial Court. They are admissible. There is no question about that, and this bill does not change that one iota. This limits the production of the introspective analysis of its own conduct carried out by every hospital in the state. Thank you.

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

Mr. BERRY: Mr. President and Members of the Senate: I find myself in complete agreement with Senator Brennan of Cumberland and Senator Tanous of Penobscot that this is a consumers' bill. I hope they don't lose sight of this when they vote on the matter.

This is, of course, a lawyers' bill, pure and simple. It is a trial lawyers' bill. I invite your attention to the signatories of the report. It was signed Ought to Pass by the following attorneys who are members of this body: Senator Tanous of Penobscot, Senator Speers of Kennebec, and Senator Brennan of Cumberland. The following members of the House, who are not all attorneys, but were appointed to the Judiciary Committee, one of the most prestigious we have, because of their ability and their demonstrated ability, voted Ought Not to Pass — and I call to your attention, Mr. President and Members of the Senate, that this vote, I am sure, on the part of these people was not taken lightly, and in particular there might have been other than legal aspects that these people took into consideration when they voted against this legislation: This is Mrs. Baker of Orrington, who is not an attorney, but a lady with whom we all have had a lot of contact, an extremely capable one; Representative Emery, who is not an attorney —

The PRESIDENT: For what purpose does the Senator rise?

Mr. BRENNAN: A point of order, an inquiry: Can you discuss what takes place in the other body and use that for argument in this chamber?

The PRESIDENT: The Chair would rule that the Senator from Cumberland, Senator Berry, is naming the members of the committee who signed the reports, which is permissible in this body. It is similar to a Senator asking through the Chair for the Secretary to read the names of the people who signed a report.

Mr. BERRY: Thank you, Mr. President. Representative Perkins, who is an attorney from South Portland; Representative McKernan of Bangor, who is a law student; Representative Carrier of Westbrook, who is a lawyer; Representative Kilroy of Portland, who is not an attorney; Representative Gauthier of Sanford, who is not an attorney; and Representative Dunleavy of Presque Isle, who I believe is not an attorney. I find it quite interesting that there is this division of voting.

I am a great admirer of the Senate Chairman of the Judiciary Committee, and I am a great respecter of his persuasive powers. If I were present in a room with him, I am not sure I would come out quite the same man in any number of ways as I was when I entered the room.

Now, why is this a consumer bill, and why should our vote be for the consumer? In the first place, the consumer pays the hospital bill. And I am a little bit unmoved by the statement that the hospitals are business institutions in operation to make money. I don't think here is a hospital in the state that is making any money. It is just a question of how much they are losing.

Are we losing sight of the fact that the bill is in these words — and this is what you are voting on: These reports are to ascertain the cause of such event or incident in order that remedial or precautionary measures may be taken in the future to prevent the recurrence of such event? This is what



we are voting on, Mr. President and Members of the Senate. Something happens. If it is your loved one, you don't want it to happen to somebody else. If it is you, you don't want it to happen to somebody else. And as a normal part of medical procedure, the hospital would investigate it and be sure that it doesn't happen again. That is the consumer aspect of it. The consumer is going to pay for it and the consumer is going to be protected.

Now, if our attorney friends want to get some information, Senator Tanous of Penobscot has told you very plainly how this can be done. Do we want such reports available to the public? Can every Tom, Dick and Harry go into a hospital and request such a report? The prospects are fantastic here to me, a layman. There could be frivolous charges of misconduct, mismanagement, professional ethics, and everything on the part of the medical and surgical staff of a hospital.

Why does the present law protect such situations? Because they say you can get this information; our friends here in the Senate and the trial lawyers can get this information under the protection of the court, and this is just the way it should be. It is necessary because of a broken leg. And the person who broke his leg doesn't think he has got a case against the hospital — and I can't imagine it — then he can get an attorney and go to court. There is no problem there. It seems to me if you broke a leg in a hospital you would know pretty well whether it was your fault or the hospital's fault, and there is no problem here; you can go to court anyway. I think that the law the way it is permits attorneys to do a little work to find out what their case is. If we pass this law they are going to have to do a little bit more work. They are going to have to not have free access, along with the public, for non-professional purposes.

I would hope that you would vote "No" against the prevailing motion and help out both the hospital patient, the public, and the hospitals themselves.

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

Mr. SPEERS: Mr. President and Members of the Senate: I would like to simply state at the outset that I am sick and tired and simply resent repeated references in this body to lawyers' bills in an attempt to kill any such legislation so referred to. I think that any of the bills that come before this body ought to stand or fall on the merits of the particular bills, and should not be submitted to any inflammatory language or attempted inflammatory language in an attempt to obscure the real issues. I also resent, Mr. President, the implication that any of the attorneys in this body would take into consideration only the legal implications of any particular bills that are before this body, and that therefore the considerations of the interests of the people of the State of Maine would be obscured by attorneys taking into consideration just the legal implications.

Now, let's take a look at the particular bill that is before us. The bill very simply states that if there is an incident that happens in a particular hospital, and the hospital feels that it must investigate that incident, thereby admitting that there was something wrong, that there could possibly have been some negligence along the way, that that hospital shall have the free rein to investigate that incident and make any such reports that it wishes, and to hide those reports from the courts and from individuals who may be affected by that incident, and who therefore will not know what in fact had happened that had created the incident. Now, that is very simply what this bill says and what this bill does. I think it has been correctly referred to as a bill that hides the evidence.

Some of the objections to this have been mentioned to me. I have been lobbied very heavily on this bill, as the good Senator from Penobscot, Senator Tanous, has mentioned. One of the objections made has been that a report that may be made by a nurse or a staff member of the hospital would

be admissible into evidence, whereas this nurse or staff member may really not know as much as the doctor or hospital administrator just what the problems were or what the causes of the particular incident may have been. The answer to that is very simply that a jury, of course, has the right and the duty to weigh the evidence, and if a staff member or even a nurse comes in and testifies as to one particular aspect of this, and a doctor or hospital administrator comes in and says, "No, he has been wrong; that it not really the cause," then the jury simply has the ability and duty to weigh the two sides and decide which side to believe.

I think the bill, as I mentioned, has been correctly referred to as a bill to hide the evidence. On that basis, I feel that it is a very bad bill.

The PRESIDENT: The Chair would like to apologize for the ruling made a few minutes ago. The Secretary of the Senate has done some research on it, and in debate in this body a person should confine himself to the makeup of the report and the reading of the names on the report. But to go into their occupations is not permitted in this body. The Chair is sorry that he ruled the other way.

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

Mr. TANOUS: Mr. President and Members of the Senate: Just to correct a couple of points propounded by my good friend, Senator Berry from Cumberland, these reports that we are talking about are not open to the general public. Don't think that anyone can walk into a hospital and get a report. An individual requesting such a report must have some authority or some right to obtain that report, such as a parent, a relative of a child, a wife regarding her husband, or husband respective to his wife. The general public isn't permitted to walk into a hospital and request a report regarding any incident that occurred. They have a certain amount of privacy to these reports, but they may under the present law be released to

parties of interest, people involved, and I am not talking about court procedures either. I am not concerned about the courts in the sense of a court having the evidence before them, even though we have been categorized as being plaintiffs' attorneys and trial lawyers, who feel that we would be somewhat put at a disadvantage if this bill would go through.

I personally have never sued a hospital in eighteen years of practicing law. I don't intend to sue a hospital for no reason whatsoever. I never had a claim against a hospital. I am just fully convinced, as an individual, as a citizen of this state, that the people, the patients, in the hospital — granted they may not make a profit, but we certainly pay our bills to the hospital, and if we do pay our bills to the hospital as they charge us, then why shouldn't we have the right to at least be able to get a report on an incident that occurred, if it involves our child, wife or spouse? It just seems to me that we are legislating against the people, and I feel that we should defeat this bill and permit people to be able to get the reports when they need them. Thank you.

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

Mr. RICHARDSON: Mr. President and Members of the Senate: This is the record for me. I have never, even despite the claims of my detractors, spoken three times on one piece of legislation, but ever since the incident involving Mordecai Crabtree, I am not reluctant to express my views on legislation.

The good Senator from Penobscot, Senator Tanous, persists in describing this legislation incorrectly. This bill in no way affects the individual right, which every one of us has now, to direct the hospital in which we were treated or the doctor who treated us to give us the report concerning that treatment. The hospital record is not being in any way affected by this. The only report affected is a report prepared by the hospital in order that remedial or precau-

tionary measures may be taken in the future to prevent the recurrence of such event.

Now, we can sit here and talk about this until there is seven inches of snow on July 15, and I am sure I am not going to persuade you. Perhaps I won't be able to persuade the Senator from Penobscot, Senator Tanous, but I honestly don't think that you should be bamboozled by a characterization of this bill as "hide the evidence." It is simply not the fact.

The PRESIDENT: Is the Senate ready for the question?

The Chair recognizes the Senator from Cumberland, Senator Brennan.

Mr. BRENNAN: Mr. President and Members of the Senate: Just very briefly, generally speaking the observations that are made closest to the incident of the wrongdoing tend to be the most accurate, and it is because of that reason we have a rule in evidence called the *res gestae* rule. They say you use a little Latin and you sound learned. And as a result of that you get hearsay evidence in and so forth. But really it is a truth-telling principle, that which is said right off, the decision that is made very quickly, the judgment that is made very close to the incident, tends to be much more accurate than the one that is made after there is a little more time to contrive. This may be rather a cynical view of human nature, but it is one of those things that does exist. But no matter what you call this "An Act Relating to Hospital Reports", it is a bill to hide the evidence, to block the truth, and there are no two ways about that. I would ask for a roll call.

The PRESIDENT: A roll call has been requested. Is the Senate ready for the question? The pending question before the Senate is the motion of the Senator from Penobscot, Senator Tanous, that the Minority Ought Not to Pass Report of the Committee on Bill, "An Act Relating to Hospital Reports", be accepted. 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 of the Senator from Penobscot, Senator Tanous, that the Senate accept the Minority Ought Not to Pass Report of the Committee on Bill, "An Act Relating to Hospital Reports." A "Yes" vote will be in favor of accepting the Ought Not to Pass Report; a "No" vote will be opposed.

The Secretary will call the roll.

#### ROLL CALL

YEAS: Senators Aldrich, Brennan, Clifford, Conley, Danton, Graffam, Huber, Kelley, Marcotte, Morrell, Roberts, Schulten, Shute, Speers, Tanous, Wyman, and President MacLeod.

NAYS: Senators Anderson, Berry, Cianchette, Cox, Cummings, Fortier, Greeley, Hichens, Joly, Minkowsky, Peabody, Richardson, and Sewall.

ABSENT: Senators Cyr, Katz, and Olfene.

A roll call was had. Seventeen Senators having voted in the affirmative, and thirteen Senators having voted in the negative, with three Senators absent, the Minority Ought Not to Pass Report of the Committee was Accepted.

Sent down for concurrence.

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

Mr. TANOUS: Mr. President, I move that we reconsider our action whereby we accepted the Minority Ought Not to Pass Report, and I urge all of you to vote against my motion.

The PRESIDENT: The Senator from Penobscot, Senator Tanous, now moves that the Senate reconsider its action whereby it accepted the Minority Ought Not to Pass Report of the Committee. As many Senators as are in favor of reconsideration will please say "Yes"; those opposed "No".

A viva voce vote being taken, the motion did not prevail.

On motion by Mr. Sewall of Penobscot, the Senate voted to take from the Special Appropriations Table, An Act Creating a Second Assistant County Attorney for Kennebec County. (H. P. 88) (L. D. 108)

The same Senator then moved the pending question.

Thereupon, this being an emergency measure and having received the affirmative votes of

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

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(Off Record Remarks)

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On motion by Mr. Sewall of Penobscot,

Adjourned until ten o'clock tomorrow morning.