

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

***One Hundred and Tenth
Legislature***

OF THE

STATE OF MAINE

Volume I

FIRST REGULAR SESSION

December 3, 1980 to May 1, 1981

KJ PRINTING
AUGUSTA, MAINE

STATE OF MAINE
One Hundred and Tenth Legislature
First Regular Session
JOURNAL OF THE SENATE
February 27, 1981
Senate called to order by the President.

Prayer by the Reverend Warner Howard of the North Nobleboro Baptist Church.

Reverend HOWARD: Shall we pray. Our Father and our God, as we stand in Thy presence in this afternoon hour, we are reminded of the words as found in Proverbs, the third chapter. "Trust in the Lord with all thine heart. Lean not under thine own understanding, but in all thy ways acknowledge Him, and He shall direct thy paths."

We recognize that these words were written generations ago, but these are words that are vital to our lives and the hour in which we live today. As we recognize the conditions and the tensions within the world today, it is with grateful hearts that we are privileged to live in a nation such as ours. Grateful for the heritage which has come down to us, purchased by those who have labored and sacrificed, not for their own comfort or freedom, but with an eye on the distant future.

It is our prayer that we, too, might face the future with courage, to labor for that which is enduring. With a deep commitment in Thee, O Lord, follow the direction of Thy Holy Spirit as we are moved in heart and mind by this judicial body.

May we, as members of the Chamber recognize and be aware of the great responsibility which is ours, as we here represent the people of this great State of Maine. May they realize that decisions that are made here affect not only the lives of those of us today, but the lives of generations yet to come.

Father, we confess that we have not handled our heritage well, but we are grateful that with each passing day, we have the opportunity to stand before Thee, and amend our failures. To enter more earnestly into legislative endeavors that will be the means of bringing peace and harmony to all now and in the years to come.

So we ask, O Lord, Thy blessing upon these assembled here in this Senate Chamber, that Thy guiding hand might be upon them, and that they might be reminded of the high office to which they are a part of. If we pray wisdom, patience, and divine guidance, that we might ever remember that Thou art the craftsman of life, and that we are Thy tools.

We pray in and through the name of Jesus, Our Lord and Saviour. Amen.

Reading of the Journal of yesterday.

(Off Record Remarks)

Papers from the House
Joint Order

An Expression of Legislative Sentiment recognizing:

Rockland Lodge of Elks 1008, which will celebrate its 75th anniversary and dedication of the new lodge home on March 1, 1981. (H. P. 890)

Comes from the House, Read and Passed.

Which was Read and Passed, in concurrence.

House Papers

Bill, "An Act to Establish Truck Volume Labeling for Certain Wood By-Products." (H. P. 832) (L. D. 999)

Comes from the House, referred to the Committee on Agriculture and Ordered Printed.

Which was referred to the Committee on Agriculture and Ordered Printed, in concurrence.

Bill, "An Act to Prevent Certain Abuses in Door-to-Door Sales." (H. P. 833) (L. D. 1000)

Bill, "An Act Establishing the Bonding and Excess Insurance Requirements for Self-insuring Workers' Compensation Employers." (H. P. 834) (L. D. 1001)

Come from the House, referred to the Committee on Business Legislation and Ordered Printed.

Which were referred to the Committee on Business Legislation and Ordered Printed, in concurrence.

Bill, "An Act Providing Collective Bargaining Rights to Judicial Employees." (H. P. 823) (L. D. 979)

Comes from the House, referred to the Committee on Labor and Ordered Printed.

Which was referred to the Committee on Labor and Ordered Printed, in concurrence.

Bill, "An Act to Prohibit the Carrying of Weapons in Places Where Alcohol is Served." (H. P. 824) (L. D. 980)

Comes from the House, referred to the Committee on Legal Affairs and Ordered Printed.

Which was referred to the Committee on Legal Affairs and Ordered Printed, in concurrence.

Resolution, Proposing an Amendment to the Constitution of Maine to Limit the Frequency with which Items can be Proposed by the Initiative Procedure. (H. P. 825) (L. D. 981)

Comes from the House, referred to the Committee on State Government and Ordered Printed.

Which was referred to the Committee on State Government and Ordered Printed, in concurrence.

Bill, "An Act to Provide an Increase in the Gasoline Tax for a Limited Period of 5 Months." (Emergency) (H. P. 826) (L. D. 982)

Bill, "An Act to Provide a 3¢ Increase in the Gas Tax Subject to Approval by the Voters in a Referendum." (H. P. 827) (L. D. 983)

Bill, "An Act to Provide a 3¢ Increase in the Gas Tax." (H. P. 829) (L. D. 985)

Bill, "An Act to Amend the Jobs and Investment Tax Credit Law." (H. P. 830) (L. D. 986)

Comes from the House, referred to the Committee on Taxation and Ordered Printed.

Which were referred to the Committee on Taxation and Ordered Printed, in concurrence.

Bill, "An Act to Adjust Annually Individual Income Tax Laws to Eliminate Inflation-Induced Increases in Individual State Income Taxes." (H. P. 828) (L. D. 984)

Comes from the House, referred to the Committee on Taxation and Ordered Printed.

On motion by Senator Collins of Knox, Tabled for 1 Legislative Day, pending Reference.

Study Report — Local and County Government The Committee on Local and County Government to which was referred the Study requiring the State Planning Office to conduct an educational program on Manufactured Housing, and directing the Committee on Local and County Government to monitor and report on the program pursuant to Resolves 1979, C. 54, have had the same under consideration, and ask leave to submit its findings and to report that the accompanying RESOLVE, "Requiring the State Planning Office to Conduct an Educational Program on Manufactured Housing, and Directing the Committee on Local and County Government to Monitor and Report on the Program" (H. P. 892) (L. D. 996) (Emergency) be referred to this Committee for public hearing and printed pursuant to Joint Rule 18.

Comes from the House, the Report Read and Accepted, and the Resolve referred to the Committee on Local and County Government.

On motion by Senator Conley of Cumberland the Report was Read and Accepted and the Resolve referred to the Committee on Local and County Government in concurrence.

Study Report — Local and County Government The Committee on Local and County Government to which was referred the Study to

require availability of municipal ordinances, pursuant to Resolves, 1979, C. 54 have had the same under consideration, and ask leave to submit its findings and to report that the accompanying Bill, "An Act to Require Availability of Municipal Ordinances" (H. P. 893) (L. D. 997) be referred to this Committee for public hearing and printed pursuant to Joint Rule 18.

Comes from the House, the Report Read and Accepted, and the Bill referred to the Committee on Local and County Government.

On motion by Senator Collins of Knox the Report was Read and Accepted and the Bill referred to the Committee on Local and County Government in concurrence.

Study Report — Local and County Government The Committee on Local and County Government to which was referred the Study relative to conforming the definition of Manufactured Housing with Federal Law, pursuant to the Resolves of 1979, c. 54, have had the same under consideration, and ask leave to submit its findings and to report that the accompanying Bill, "An Act to Conform the Definition of Manufactured Housing with Federal Law" (H. P. 894) (L. D. 998) be referred to this Committee for public hearing and printed pursuant to Joint Rule 18.

Comes from the House, the Report Read and Accepted, and the Bill referred to the Committee on Local and County Government.

On motion by Senator Pray of Penobscot the Report was Read and Accepted and the Bill referred to the Committee on Local and County Government, in concurrence.

Communication
House of Representatives

February 26, 1981

Honorable May M. Ross
Secretary of the Senate
110th Legislature
Augusta, Maine
Dear Madam Secretary:

The House voted today to Adhere to its action whereby it Indefinitely Postponed Bill "An Act to Increase the Per Diem for Services Rendered by Active Retired Judges" (H. P. 350) (L. D. 398)

Respectfully,
/S/EDWIN H. PERT
Clerk of the House

Which was Read and Ordered Placed on File.

Senate Papers

Senator GILL of Cumberland (Cosponsor: Representative RICHARD of Madison) presented, Bill, "An Act to Amend the Laws Relating to Group and Blanket Health Insurance." (S. P. 360)

Which was referred to the Committee on Business Legislation and Ordered Printed.

Sent down for concurrence.

Senator GILL of Cumberland (Cosponsors: Senator BUSTIN of Kennebec, Representative THOMPSON of So. Portland and Representative BEAULIEU of Portland) presented, Bill, "An Act to Ensure a Free and Appropriate Education for All Handicapped Children." (S. P. 361)

Reference to the Committee on Education suggested.

On motion by Senator COLLINS of Knox, Tabled for 1 Legislative Day, pending Reference.

Senator SEWALL of Lincoln presented, Bill, "An Act to Clarify the Status of Certain Real Estate Titles in the State." (Emergency) (S. P. 362)

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

Sent down for concurrence.

Senator DUTREMBLE of York presented, Bill, "An Act to Permit Counties to Change

their Fiscal Year." (S. P. 363)

Which was referred to the Committee on Local and County Government and Ordered Printed.

Sent down for concurrence.

Order

On motion by Senator SHUTE of Waldo, ORDERED, the House concurring that "AN ACT to Repeal Provisions for Premiums and Rebates under the Liquor Laws," H. P. 234, L. D. 249, be recalled from the Governor's desk to the Senate. (S. P. 364)

Which was Read and Passed.

Sent down forthwith for concurrence.

Committee Reports House

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

RESOLUTION, Proposing an Amendment to the Constitution of Maine to Maintain and Protect the Integrity of the Maine State Retirement System. (H. P. 294) (L. D. 338)

Leave to Withdraw

The Committee on Labor on, Bill, "An Act to Provide Collective Bargaining Rights to Court Employees." (H. P. 180) (L. D. 231)

Reported that the same be granted Leave to Withdraw.

Comes from the House, the Report Read and Accepted.

The Committee on Labor on, Bill, "An Act to Establish a Minimum Wage for Emergency Service Personnel." (H. P. 324) (L. D. 352)

Reported that the same be granted Leave to Withdraw.

Comes from the House, the Report Read and Accepted.

The Committee on Legal Affairs on, Bill, "An Act to Establish Guidelines for the Refusal of Concealed Weapon Permits." (H. P. 71) (L. D. 119)

Reported that the same be granted Leave to Withdraw.

Comes from the House, the Report Read and Accepted.

The Committee on Legal Affairs on, Bill, "An Act to Transfer the Power to Issue Concealed Weapon Permits to the Commissioner of Public Safety." (H. P. 253) (L. D. 293)

Reported that the same be granted Leave to Withdraw.

Comes from the House, the Report Read and Accepted.

The Committee on Legal Affairs on, Bill, "An Act to Amend the Law Regulating Concealed Weapons." (H. P. 351) (L. D. 399)

Reported that the same be granted Leave to Withdraw.

Comes from the House, the Report Read and Accepted.

The Committee on Aging, Retirement and Veterans on, Bill, "An Act to Remove the Limitation on Outside Earnings of Disability Retirement Allowance Recipients." (H. P. 265) (L. D. 301)

Reported that the same be granted Leave to Withdraw.

Comes from the House, the Report Read and Accepted.

The Committee on Aging, Retirement and Veterans on, Bill, "An Act Relating to Death or Disability of a Law Enforcement Officer Resulting from Hypertension or Heart Disease Suffered in Performance of his Duties." (H. P. 279) (L. D. 309)

Reported that the same be granted Leave to Withdraw.

Comes from the House, the Report Read and Accepted.

The Committee on Taxation on, Bill, "An Act to Clarify the Real Estate Tax Exemption for Employee Housing at Literary and Scientific Institutions." (H. P. 581) (L. D. 661)

Reported that the same be granted Leave to

Withdraw.

Comes from the House, the Report Read and Accepted.

On motion by Senator Collins of Knox, the Reports were Read and Accepted, in concurrence.

Senate

Ought to Pass

Senator SUTTON for the Committee on Business Legislation on, Bill, "An Act to Amend the Professional Service Corporation Act." (S. P. 164) (L. D. 418)

Reported that the same Ought to Pass.

Senator USHER for the Committee on Transportation on, Resolve, Authorizing and Directing the Department of Transportation to Report on the Effect of the 1980 Census in Establishing Compact Areas." (S. P. 192) (L. D. 493)

Reported that the same Ought to Pass.

Which Reports were Read and Accepted and the Bill and Resolve Read Once and Tomorrow Assigned for Second Reading.

Ought to Pass — As Amended

Senator SEWALL for the Committee on Business Legislation on, Bill, "An Act to Change the Requirements for Appointment to the Board of Commissioners of the Profession of Pharmacy." (S. P. 140) (L. D. 379)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (S-30).

Senator O'LEARY for the Committee on Transportation on, Bill, "An Act to Permit 10% Overweight Tolerance for Certain Material Transported on the Highways." (S. P. 28) (L. D. 24)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (S-29).

Which Reports were Read and Accepted and the Bills Read Once. Committee Amendments "A" were Read and Adopted and the Bills, as amended, Tomorrow Assigned for Second Reading.

Second Readers

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

House — As Amended

Bill, "An Act to Revise the Maine Medical Laboratory Act." (H. P. 176) (L. D. 196)

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

Bill, "An Act to Require School Districts to Account for Federally Subsidized Pupils as Residents of the District." (H. P. 100) (L. D. 130)

Which was Read a Second Time.

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

Senator TROTZKY: Mr. President, I present Senate Amendment "A" to LD 130 and move its Adoption.

The PRESIDENT: The Senator from Penobscot, Senator Trotzky, now offers Senate Amendment "A" (S-28) to LD 130 and moves its Adoption.

Senate Amendment "A" (S-28) was Read.

The PRESIDENT: The Senator has the floor.

Senator TROTZKY: Mr. President and Members of the Senate, all this Amendment does is put an Emergency on the Bill, to make the Act take effect July 1, 1981.

Senate Amendment "A" was Adopted.

Which was Passed to be Engrossed, as amended, in non-concurrence.

Sent down for concurrence.

Senate — As Amended

Bill, "An Act to Conform Confidentiality Requirements of the Maine Committee on Aging with the 1978 Older Americans Act." (S. P. 98) (L. D. 217)

Which was 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 to Preserve Maine's Archaeological Heritage. (S. P. 316) (L. D. 827)

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

AN ACT to Repeal Archaic Provisions Restricting the Right to Marry. (H. P. 318) (L. D. 347)

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

Senator DEVOE: Thank you, Mr. President. Mr. President, when the vote is taken on this, I request a Roll Call.

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

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

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

The pending question before the Senate is Enactment of LD 347.

A Yes vote will be in favor of Enactment.

A No vote will be opposed.

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEA—Ault, Bustin, Carpenter, Charette, Clark, Emerson, Gill, Hichens, Huber, McBreaity, Minkowsky, Najarian, Pierce, Pray, Redmond, Sewall, C.; Usher, Wood.

NAY—Brown, Collins, Conley, Devoe, Duttremble, Kerry, O'Leary, Shute, Sutton, Teague, Trotzky, Violette.

ABSENT—Perkins, Trafton.

A Roll Call was had.

18 Senators having voted in the affirmative and 12 Senators in the negative, with 2 Senators being absent, the Bill was Passed to be Enacted, and having been signed by the President was by the Secretary presented to the Governor for his approval.

AN ACT Concerning the Acceptance of Gifts by State Officials or Members of any Branch of State Government. (H. P. 333) (L. D. 372)

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

Senator COLLINS: Mr. President, this Bill relates to gifts to the State. I have a question, because I think it would be a useful part of Legislative History to know how gifts to the Legislature would be affected by this. For example, if some high science foundation offers the Legislature a grant of several thousand dollars to study some aspect of the Legislature, do we have to ask permission of the Governor in order to accept such a grant, or do we have to Enact by Emergency Legislation a statute or a resolve which would accept the grant?

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

Senator AULT: Mr. President, Members of the Senate, to answer the Senator's question. As he says, the Bill does, and the Amendment is now the Bill, says: no other state official or members of any other branch of State Government may accept any gift, grant or conveyance to the State, or to that branch of government with a value greater than \$50 unless specifically authorized to do so by statute or by clear implication of statute, or unless empowered to do so by the Governor. I would point out that Title 3, Section 162, give the Legislative Council the authority to accept, use, expend, and dispose on the behalf of the State, funds, equipments, supplies, and materials from any agency of the

United States, from any private foundation, and from any other private source. I voted for and support the Bill, because it is my understanding that the Governor does not have to give the Legislature his approval to accept a gift.

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

Emergency

AN ACT to Retain the Motor Vehicle Operator License and Examination Fees and Motor Vehicle Title Fees Currently in Effect. (H. P. 510) (L. D. 561)

Comes from the House, Failed of Enactment.

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

Senator SHUTE: I'd like to have 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 require the affirmative vote of at least one-fifth of those Senators present and voting.

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

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

The pending question before the Senate is Enactment of LD 561.

The Chair recognizes the Senator from Androscoggin, Senator Minkowsky.

Senator MINKOWSKY: Mr. President and Members of the Senate, this afternoon, after analyzing this Bill, as I did in the beginning, I intend to vote against the Enactment. I think, as I said in the beginning that the people in the State of Maine was having additional cost tacked to them. I think I referred to it as being "ripped off" at the time, and I'm still in concurrence with that particular evaluation I rendered at that particular time. I think we are approaching a patchwork system of addressing a very very serious problem here in the State of Maine, with the Department of Transportation.

Last session, when I voted for the increase in fees, I was led to understand that either the administration or the Study Report which is being implemented at the present time, would address the total overall needs in the reorganization, as well as, a financial picture of the Department of Transportation.

This session, all I have observed is a patchwork approach to a very very serious problem. My basic rationale against this particular Legislation, this afternoon, is that I want to see the entire package before me, so I can really evaluate and analyze the direction the State of Maine is going in on behalf of its people. I think I'd be very upset if I kept going along with each individual bill as it came along, based upon my party affiliation, and not necessarily in the interests of my constituency, or the people of the State of Maine as a whole.

The only viable way you can do it, is to bring the entire package before us and let us decide upon it. To approach it from this particular viewpoint, I think, is one of the most atrocious gimmicks that I've seen perpetrated for many years in this Legislature.

The PRESIDENT: Is the Senate ready for the question?

A Yes vote will be in favor of Enactment.

A No vote will be opposed.

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEA—Brown, Bustin, Carpenter, Charette, Clark, Collins, Conley, Dutremble, Emerson, Huber, Kerry, Najarian, O'Leary, Pray, Usher, Violette, Wood.

NAY—Ault, Devoe, Gill, Hichens, McBreairty, Minkowsky, Pierce, Redmond, Sewall, C.; Shute, Sutton, Teague, Trotzky.

ABSENT—Perkins, Trafton.

A Roll Call was had.

17 Senators having voted in the affirmative and 13 Senators in the negative, with 2 Senators being absent, and 17 being less than two-thirds of the entire elected membership of the Senate, LD 561, Fails of Enactment.

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

Senator COLLINS: Mr. President, having voted on the majority side, I now move Reconsideration.

On motion by Senator Collins of Knox, Tabled for 1 Legislative Day, pending the motion by the Senator from Knox, Senator Collins.

Orders of the Day

The Chair laid before the Senate the Tabled and specially assigned matter.

Bill, "An Act Making Additional Appropriations from the General Fund for the Current Fiscal Year Ending June 30, 1981, and Changing Certain Provisions of the Law Necessary to the Proper Operation of State Government. (H. P. 816) (L. D. 940)

Tabled—February 26, 1981 by Senator Collins of Knox.

Pending—Passage to be Engrossed.

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

Senator NAJARIAN: Mr. President, I present Senate Amendment "A" to LD 940 under filing number S-26 and move its Adoption.

The PRESIDENT: The Senator from Cumberland, Senator Najarian, now offers Senate Amendment "A" (S-26) to LD 940 and moves its Adoption.

Senate Amendment "A" (S-26) was Read.

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

Senator NAJARIAN: Mr. President and Members of the Senate, I'd like to give you a little history behind this Amendment. In LD 63, the Bill that is before us, Governor Brennan had recommended \$155,000 be paid to the three Tribal Housing Authorities for the remainder of the biennium. Included in the Appropriations Act, was language to the effect, saying: although he was requesting this money, that the State had no legal obligation to provide it. Mr. Tureen, representing the authorities, appeared before the committee arguing that the State did have a legal obligation to provide it. The Governor cited Section 12, of the Indian Land Claims Settlement as his basis for having no legal obligation. Which language says: all contracts and obligations with the Indian tribes were no longer in effect. The argument made by Mr. Tureen, is that that is true, but that it did not abrogate contracts with the Indian authorities which were created by State statute in 1967, and were public bodies corporate and politic.

We had a subcommittee meeting on this with the attorney general's office. We reported back to the full committee, which voted 9 to 3 not to include either the language or the appropriation. You might wonder why I'm making an issue out of this with that kind of vote from my committee. Really for two reasons. One is simply to provide information to this Senate. Secondly, I don't agree with the action of the Appropriations Committee. I feel very strongly about that.

The legal arguments are basically that the Legislature created the Housing Authorities by statute in 1967. Included in that language was: "in addition to its other powers, the State is empowered to provide facilities, services, financial aid by loan donation, grant, contributions, and appropriations money, or any other means to these authorities, once they were created.

The Federal Government passed a law that said: they would not enter into contract with the Indian Housing Authority to make annual payments on the mortgages, unless the State entered into certain cooperation agreements with these authorities to provide those kinds of

things which I've just named.

So, Governor Curtis entered into cooperative agreements with the Tribal Housing Authorities in 1969. These were reviewed and declared valid by the attorney general's office. They were again extended under the administration of Governor Longley, and again reviewed by the attorney general's office, who declared them valid. The Legislature has been making appropriations to the Indian Housing Authorities, without questions, for the past ten years. The argument is now that we cannot legally abrogate these contracts, because we are now operating under Federal Law, and we have not been released from that obligation.

Aside from the legal arguments, which are now in the court, I believe that this Legislature has a moral obligation to make this appropriation. I don't see how we can agree to terminate contracts which were entered into as a condition of Federal Law, before they would make the annual payments; which have been signed by two governors, signed too by our secretaries of state, have been reviewed, and declared valid by various attorney generals. They are based on statutes approved by the Legislature. Honored by every Legislature since that time. I don't believe it would be right for us to say that they are now invalid without making any attempt to negotiate with the Federal Government, or the tribes, a different arrangement. I don't believe you and I would operate that way with one another, or in our business dealings. So, I would hope that we wouldn't adopt another standard collectively.

The irony of all this is that the Indians are being made to look dishonorable, like "Indian givers," if you will, when in fact, I think that description fits the State.

We will be confronted with this very same issue when the Governor's recommendation to terminate the State's Medical School Compact comes before us. Some of these are 3 year contracts, for example, those with the dental students. If we believe we have a moral obligation to those students now in the system, regardless of the absence of a legal obligation, and there is clearly none there, because the contracts state, they can't commit a future Legislature. Certainly, I think, the same rationale would hold here. I would hope that we would not be selective in bestowing our compassion, when the underlying principle is identical.

Aside from the legal ties that may or may not bind us in this instance, I hope that our principles under which we operate, that of fair play; and to protect all the people; and to display justice and equity, that is what I trust will be the motivating factor in our vote here today. We don't always legislate justice. I can stand here until tomorrow morning and tell you of instances when we haven't. When we sacrifice those ideals, because of the lack of dollars; when we appropriate money to a child in foster care as opposed to a child in the A.F.D.C. program; when we appropriate money for residents in a small boarding home as compared to a resident in a large boarding home; when we only pay 90 percent of the cost of the Stateward in the residential treatment center, are just but a few. In this case, in the case of the Indian Housing Authorities, money is not, or has not been the issue, \$155,000 is not a significant sum when you compare it to a \$500 million annual budget. This amount is available. It was requested and budgeted for by the Governor. He still supports this appropriation. I hope the Senate will Adopt this Amendment. Mr. President, I request a Roll Call.

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

Senator HUBER: Mr. President and Members of the Senate, I hope the Senate does not Adopt this Amendment. I believe, the Appropriations Committee was posed a legal question, as stated on page 1 of the Amendment. I believe, the proper place to resolve this dispute between the attorney for the State and the at-

torney for the Indian Tribes is in the courts. In fact this matter is now before the courts. I think pending resolution by the courts of the legal question involved, it will be premature to make this appropriation. I hope the Senate does not Adopt this Amendment.

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

Senator MINKOWSKY: Mr. President and Members of the Senate, there is only one particular aspect of this Amendment which, I think, needs clarification. If you want us to bring forth the good faith of the people of the State of Maine in this 30 year contract with the three Indian Tribes and their Housing Authorities. Number 1, have they ever defaulted in their payments to the State of Maine? Number 2, what is the total amount of the defaulted payment, and how much did the people of the State of Maine pick up in a defaulted loan?

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

Senator NAJARIAN: Mr. President, in this particular instance, the Indian Housing Authorities do not make payments to the State. The projects have been financed by a private bank. The payments are made by the tenants and by the Federal Government. So, I would have no knowledge of whether there has been any defaults.

I forgot to tell you, while I was up here, the reason why they need the money. The Pleasant Point Passamaquoddy Housing Authority has become insolvent. They are unable to pay their bills for the operation of their sewerage treatment plants, and now operate solely at the sufferance of the creditors and do not have sufficient sources of income to meet payrolls for their employees, or continue routine expenses. The Penobscot Authority is threatened with termination of its electric power, due to failure to pay the bills. The treatment plant of the Pleasant Point Authority is no longer staffed with maintenance personnel due to the lack of funds. Because of withdrawal of State Assistance, these houses are liable to become uninhabitable. We should not terminate these agreements simply because these authorities are controlled and benefit the Penobscot and Passamaquoddy Indians.

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

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

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

The pending question before the Senate is Adoption of Senate Amendment "A" (S-26) to L. D. 940.

A Yes vote will be in favor of Adoption.

A No vote will be opposed.

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEA—Brown, Bustin, Clark, Conley, Kerry, Najarian, Usher, Violette.

NAY—Ault, Carpenter, Charette, Collins, Devoe, Dutremble, Emerson, Gill, Hichens, Huber, McBreairey, Minkowsky, O'Leary, Pierce, Pray, Redmond, Sewall, C.; Shute, Sutton, Teague, Trotzky, Wood.

ABSENT—Perkins, Trafton.

A Roll Call was had.

8 Senators having voted in the affirmative and 22 Senators in the negative, with 2 Senators being absent, Senate Amendment "A" (S-26) Fails of Adoption.

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

Senator TEAGUE: I present Senate Amendment "B" with a filing number of S-31 and move its Adoption, and would speak briefly.

The PRESIDENT: The Senator from Som-

erset, Senator Teague, now offers Senate Amendment "B" to L. D. 940 and moves its Adoption.

Senate Amendment "B" (S-31) was read.

The PRESIDENT: The Senator has the floor.

Senator TEAGUE: Mr. President and Members of the Senate, I wish you would turn to L. D. 940. What this Amendment does, on page 2, under the Department of the Attorney General, under the Operations Unallocated, it says: "provides funds for relocation and consolidation of the Department, includes modern office landscaping and a telephone system, \$30,000". Then on page 4, under the Department of Finance and Administration, under the Bureau of Public Improvements, capital construction, repairs and improvements, it has capital expenditures; "provides funds to renovate the sixth floor of the State Office Building, and for office renovations in the State House. Any balance shall not lapse June 30, 1981, but shall be carried forward until June 30, 1983 to expend it for the same purpose". That has a price tag of \$187,500. The total cost of these two items is \$217,500.

The way the economic conditions are in the State of Maine today, and so forth, I think these two items can be deleted from this multimillion dollar budget. It is not the budget that we will be taking up in the next biennium. It is surplus money that we have at this time, and is making additional appropriations from the General Fund, for the current fiscal year ending this June 30, 1981.

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

Senator HUBER: Mr. President and Members of the Senate, I would again oppose Adoption of this proposed Senate Amendment "B". I believe the \$30,000 provided to the Department of the Attorney General, despite the unfortunate language, which includes the term "modern office landscaping", which as I say, is extremely unfortunate. I believe that the continued centralization of the efforts of the Department of the Attorney General is a step in the right direction. This process was begun under former Attorney General Richard Cohen. It proposed to be continued under our current Attorney General.

The \$187,500 referred to by Senator Teague is provided in the proposed biennial budget, but proposed for the second year of the biennium, in a continuing program of renovation and modernization in the State Office Building. The Appropriations Committee moved this forward, primarily on the belief that deferring it to the second year of the biennium would simply allow costs to escalate additionally. The effort of centralization of the attorney general's function was a worthwhile effort.

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

Senator HICHENS: Mr. President and Members of the Senate, I rise to support the motion by the good Senator Teague, on many of the same aspects that he has brought to our attention. We are in an economic squeeze. I think we should show the people of our State that we are willing to go along with savings by cutting down on our own expansion in government.

I talked with the Director of the Bureau of Public Improvements, Building Improvements this morning and mentioned the fact that I had understood the Department of Agriculture was planning to move across the river into one of the buildings. He said, "yes, that's already been started". And he said, "We're already making plans to have the attorney general's offices upstairs." I said: Well that hasn't been approved as yet. He said, "Well, that may be, but they've already given us the go-ahead." I resent that attitude, not criticizing the Director of Building Improvements, but the fact that he had been told by some sources that he should go ahead, even before a Bill like this has been approved.

I am one of the Committee Chairmen, in an

area that isn't of the very best, where we have our office in a hearing room, share that hearing room off and on with different groups, such as this morning, when we could not use our office, but had to move out while the hearing was going on. It is inconvenient. I do not believe, however, that at this time that we should expend all these monies to improve the sixth floor of the State Office Building for the attorney general's offices. I even have some questions as to whether that is a good move. To move some of these assistant attorney generals away from the departments in which they serve, such as Mental Health and Corrections, and Agriculture, and so forth, move them over here when their base of operations is now right within the department where they can be very easily accessible.

I do further resent the fact that they want to take the second and first floors of our State House, refurbish them at this expense for the convenience of the officers and the chairmen of these Committees. I think this is something we should look forward to in the future, but at the present time, when we have been getting letters from our constituents and concerns over the government's taking out of student grants in our colleges outside of our State, the foresters and so forth, that this is the wrong time to expand our legislative buildings and offices throughout the State.

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

Senator CONLEY: Mr. President, first I want to move the Indefinite Postponement of this Senate Amendment.

Secondly, I would like to inform the Senate as to the reasons why it is necessary that this Amendment be Indefinitely Postponed. I have a communication here from the Attorney General, which states exactly the reasons he needs the change now:

"1) The Attorney General's Office currently consists of 65 attorneys located in 13 separate locations. Such geographical dispersion of staff makes professional isolation inevitable. Attorneys unable to meet and talk on a regular and consistent basis cannot be expected to perform at a high level of professional accountability.

2) Separation of the office into 13 locations is highly inefficient. Well paid legal secretaries are forced to act as receptionist and attorneys often take the guise as "Deputy Commissioners" rather than legal advisors capable of giving advice independent of policy needs of the Executive Branch.

3) Physical separation makes it difficult to adequately supervise the attorneys or the support staff. It is virtually impossible to know whether individuals are reporting to work on time or if they are producing an adequate amount of work.

4) Physical separation has made secretarial use extremely inefficient. Some secretaries are dramatically overworked while some have not enough to do. The need to pool support staff is necessary in order to even the flow of work. Centralization is obviously the most cost effective.

5) I have a commitment to reduce the number of lawyers in the office if at all possible through a combination of word processing, relocation, and increased efficiency. This will be impossible if the current geographical dispersion is maintained."

6) and I think which is most important:

"The State is facing a dramatic increase in litigation. The suits involving Pineland, the State Prison, the Indian Housing Authority, and the expanded knowledge of Maine Tort Claims Act are producing a dramatic work load increase for the office of Attorney General. The increase in crime and the proliferation of legal opinions also increase the work load. If the Office of the Attorney General is to prepare for the next decade of litigation increase then it must be located in the same place. Centraliza-

tion is essential for both quality legal services and for the cost of effective use of the taxpayers dollar."

As a supplement, Mr. President, and Members of the Senate, I would just like to state for the Record, that it is important to note that the initial decision to consolidate the office of Attorney General, was made a year ago by then Attorney General Richard Cohen. Shortly after the election of Mr. James Tierney, General Cohen strongly urged him to continue his policy of centralization, because he felt that it was absolutely essential for the long term well-being of the office.

Since taking office, Mr. Tierney was more than persuaded by the arguments of Mr. Cohen, and has enthusiastically continued to attempt to effectuate that move.

I would, therefore, move the Indefinite Postponement of this Amendment.

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

Senator COLLINS: Mr. President, when our new Attorney General came on board he passed around a study done by a man with vast experience in law office management and court management. I know the man who did the study, he has excellent credentials and I have seen his work in other regard.

I read that study with interest, because of my particular profession and frequent contact with that department. I came to the conclusion that there was real merit in attempting some of the changes that were indicated there. I did not agree with all of them, but I think, that the appropriations that are in this Bill reflect the more important parts of these changes.

I have had some experience in law office management and in the training of young lawyers through the years. We have a tremendous turn-over of young lawyers in this department. They are constantly in a training program and it is extremely difficult to train new young lawyers if they are dispersed over 13 locations. It seems to me that the effort to consolidate, not all, but a number of these staff lawyers, is an experiment worth undertaking.

I would like to call the Senate's attention also, to 2 or 3 other small features of this Amendment. There is an item of \$20,000 which is the cleanup item on expense connected with the Indian Land Claims Case. As you will recall it was necessary to contract some outside work in that regard. Once the Legislature Enacted the statute, here last April, it was necessary to follow through with presenting material to the Congress to support the work that the Maine Legislature had ordained. This bill has to be paid and it is timely that it should be paid as reflected in this document.

There is another small item of about \$10,000 that has to do with revolving funds relating to prosecution and extradition work. When we have an extradition case where we have to find a criminal, say in Florida, and bring him back to Maine to face trial, we have to prepare a vast number of documents through our legal staff. We have to send sometimes lawyers, as well as, enforcement officials to the other state to collect and bring back the accused prisoner. If you don't have a revolving fund with which to work you are thrown into a snarl of red tape that delays the process and frequently delays the course of justice.

The last thing that I would call to your attention is that the State House and the State Office Buildings, are continually in a state of maintenance and refurbishment. Public buildings suffer wear, tear, and depreciation like any others because they are State buildings and are going to endure for a long time, it's important that they be kept in good shape and not allowed to get shabby or to get into a state where it costs more to do the repairs in future years than it would if we did them on a current basis. It is good business to keep your property in good shape and I would point out there are a number of committees in this Legislature, and

members of this Senate, who need additional space to properly carry out their functions. So I would hope that we would support the motion to Indefinitely Postpone this Amendment.

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

Senator TEAGUE: In answer to my two good leaders, I would just say that if you looked on page 2, of L. D. 940, I am not bothering with the \$20,000 of the Indian Lands Claims or the Investigative Fund for the Attorney General. The only thing that I am doing is taking out the \$30,000 for the relocation, and on the next page, page 4, the \$187,500.

I believe, if the Attorney General wants to move over onto the sixth floor, they can move over onto the sixth floor but it doesn't take \$200,000 to change them over there. We have janitors, in this building in the other buildings, that can move them over there. I just object to the Cost of the \$200,000.

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

Senator CONLEY: Mr. President, when the vote is taken I request that it be taken by the Yeas and Nays.

The PRESIDENT: A Roll Call has been requested. 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 Indefinite Postponement of Senate Amendment "B" (S-31).

A Yes vote will be in favor of Indefinite Postponement.

A No vote will be opposed.

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEA—Brown, Bustin, Charette, Clark, Collins, Conley, Devoe, Dutremble, Emerson, Huber, Kerry, McBreairey, Minkowsky, Najarian, O'Leary, Pray, Sewall, C., Sutton, Trotzky, Usher, Violette, Wood.

NAY—Ault, Carpenter, Gill, Hichens, Pierce, Redmond, Shute, Teague.

ABSENT—Perkins, Trafton.

A Roll Call was had.

22 Senators having voted in the affirmative and 8 Senators in the negative, with 2 Senators being absent, the motion to Indefinitely Postpone Senate Amendment "B" (S-31) does prevail.

The PRESIDENT: Is it now the pleasure of the Senate that L. D. 940 be Passed to be Engrossed, in concurrence?

The Chair recognizes the Senator from York, Senator Hichens.

Senator HICHENS: Mr. President, I ask for a Division.

The PRESIDENT: A Division has been requested.

Will all those Senators in favor of the motion that L. D. 940 be Passed to be Engrossed, in concurrence, please rise in their places to be counted.

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

22 Senators having voted in the affirmative, and 7 Senators having voted in the negative, the Bill, was Passed to be Engrossed, in concurrence.

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

Committee Report

House

Ought to Pass

The Committee on Transportation on, Bill, "An Act Relating to the Acquisition of Land and Building for Development of Fish Piers."

(Emergency) (H. P. 624) (L. D. 707)

Reported that the same Ought to Pass.

Comes from the House, the Bill Passed to be Engrossed.

Which Report was Read and Accepted, in concurrence, and the Bill Read Once.

The PRESIDENT: Is it the pleasure of the Senate Under further Suspension of the Rules, that this Bill be given its Second Reading, by title only, at this time?

The Chair recognizes the Senator from Oxford, Senator Sutton.

Senator SUTTON: Whatever the protocol is, I object, and request a Division.

The PRESIDENT: A Division has been requested.

Will all those Senators in favor of Suspending the Rules, please rise in their places to be counted.

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

14 Senators having voted in the affirmative and 11 Senators having voted in the negative, the Rules Are Not Suspended.

The Bill, Tomorrow Assigned for Second Reading.

On motion by Senator Pierce of Kennebec, Adjourned until Monday, March 2, 1981 at 5 o'clock in the afternoon.