

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

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STATE OF MAINE
One Hundred and Tenth Legislature
First Regular Session
JOURNAL OF THE SENATE

March 17, 1981

Senate called to order by the President.

Prayer by The Honorable Gerard P. Conley of Portland.

Senator CONLEY: Eternal God and Father, we give Thee thanks for a man named St. Patrick, for his indomitable will, his classic courage, his formidable faith. As he drove out ignorance, superstition, and inhumanity, and even the legendary snakes of Ireland, Raise up men and women of like character in our day. O'Lord, so the creeping and slithering evils of crime, pollution, discrimination, militarism, rising living costs, and shrinking dollars may not poison a nation founded on the principle of freedom, justice, and hope for all men and women, in the name of Him whom St. Patrick called Lord. Amen.

Reading of the Journal of yesterday.

On motion by Senator Perkins of Hancock, Out of Order and Under Suspension of the Rules, the Senate voted to consider the following:

Order

An expression of Legislative Sentiment recognizing:

Maine Maritime Academy, which, on March 17, 1981 is celebrating the 40th anniversary of its establishment. (S. P. 460) presented by Senator PERKINS of Hancock (Cosponsor: Representative PERKINS of Brooksville).

Which was Read.

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

Senator PERKINS: Mr. President, this is marking the 40th anniversary of the Maine Maritime Academy, which in just 40 short years has become the outstanding marine training establishment, not only in the eastern United States, but we think, in the world. This order today marks the 40th anniversary of this institution and the progress it's made, not only better seamanship throughout the world, but as a credit to eastern Maine and to our State.

I, therefore, Mr. President, would ask you to recognize the ladies and gentlemen I have in the rear of the Hall and ask that this order be sent forthwith.

Which was Passed.

Sent down forthwith for concurrence.

(Off Record Remarks)

Senator Collins of Knox was granted unanimous consent to address the Senate, Off the Record.

Senator Conley of Cumberland was granted unanimous consent to address the Senate, Off the Record.

On motion by Senator Collins of Knox, Recessed until the sound of the Bell.

Recess

After Recess

The Senate called to order by the President.

(Off Record Remarks)

**Papers From The House
Non-concurrent Matter**

Bill, "An Act Relating to Pesticide Registration." (H. P. 4) (L. D. 4)

In the House, March 4, 1981, Passed to be Engrossed.

In the Senate, March 5, 1981, Majority Ought Not to Pass Report Read and Accepted, in non-concurrence.

Comes from the House, that Body Having Ad-

hered.

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

Senator HICHENS: I move that the Senate Adhere.

The PRESIDENT: The Senator from York, Senator Hichens, moves that the Senate Adhere.

The Chair recognizes the Senator from York, Senator Wood.

Senator WOOD: Mr. President, I move that the Senate Recede and Concur.

The PRESIDENT: The Senator from York, Senator Wood, moves that the Senate Recede and Concur with the House.

The Chair will order a Division.

The Chair recognizes the Senator from York, Senator Hichens.

Senator HICHENS: I am not going to debate this issue any more, we debated it quite thoroughly when the Senate took its original action. I do not think that anything has changed whatsoever, except that I do resent the fact that our Commissioner of Agriculture has taken it upon himself to go around and cry on some of our Senators' shoulders to plead his cause.

I think that he should spend his time over in his office taking care of our poultry situation, rather than trying to change something that has been untested for only about a year, perhaps. I think that we should let things stay as they are at the present time and find out just how things are going to work out. In another year or so we can change it if it is not working the way we would like to have it work.

I ask for a Roll Call.

The PRESIDENT: A Roll Call has been requested.

The Chair recognizes the Senator from York, Senator Wood.

Senator WOOD: I also do not wish to prolong the debate on this Bill, but I would commend the efforts of our Commissioner in this regard. I think that we have witnessed in the last couple of years an increasing concern by the general public on pesticide and pesticide uses. The Committee on Agriculture and the Commissioner have sought to solve this problem and I think that this is one of the ways of resolving the problem.

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

Senator PIERCE: Mr. President, I would like to pose a question on the Bill, to anyone who might care to answer. Since it does shift a fairly large burden from the Commissioner to the Board, I just was wondering who would handle registration? Would this call for increased staff on the part of the board, or how would that be handled?

The PRESIDENT: The Senator from Kennebec, Senator Pierce, has posed a question through the Chair to any member of the Committee who may care to answer.

The Chair recognizes the Senator from York, Senator Hichens.

Senator HICHENS: I do not know that I have a full answer for that, but I can't see why it would not increase the need for additional staff on the board.

The PRESIDENT: 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.

(Off Record Remarks)

The PRESIDENT: The pending question before the Senate is the motion by the Senator from York, Senator Wood that the Senate Recede and Concur with the House, on LD 4.

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEA—Brown, Bustin, Carpenter, Charette, Clark, Conley, Dutremble, Huber, Kerry, Minkowsky, Najarian, Pray, Trafton, Trotzky, Usher, Violette, Wood.

NAY—Ault, Collins, Devoe, Emerson, Hichens, McBreaity, Perkins, Pierce, Redmond, Sewall, C.; Shute, Sutton, Teague.

ABSENT—Gill, O'Leary.

A Roll Call was had.

17 Senators having voted in the affirmative and 13 Senators in the negative, with 2 Senators being absent, the Motion to Recede and Concur with the House, does prevail.

House Papers

Bill, "An Act to Prohibit Refiners and Distributors from Selling Motor Fuel at Retail" (H. P. 1065) (L. D. 1253)

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

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

Bill, "An Act to Expand the Forms of Deferred Compensation under the Deferred Compensation Plan." (H. P. 1033) (L. D. 1252)

Reference to the Committee on Business Legislation suggested.

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 Concerning the Date on which Local Referenda Questions Should be Voted on." (H. P. 1035) (L. D. 1254)

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

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

Bill, "An Act to Encourage Neighborhood Volunteer Programs to Keep Homes Warm." (H. P. 1036) (L. D. 1255)

Comes from the House, referred to the Committee on Energy and Natural Resources and Ordered Printed.

Which was referred to the Committee on Energy and Natural Resources and Ordered Printed, in concurrence.

Bill, "An Act to Amend the Spruce Budworm Suppression Act." (H. P. 1005) (L. D. 1251)

Reference to the Committee on Energy and Natural Resources suggested.

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

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

Bill, "An Act Relating to Bear Hunting." (H. P. 1037) (L. D. 1256)

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

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

Bill, "An Act Concerning Clean Indoor Air." (H. P. 1038) (L. D. 1257)

Comes from the House, referred to the Committee on Health and Institutional Services and Ordered Printed.

Which was referred to the Committee on Health and Institutional Services and Ordered Printed, in concurrence.

Bill, "An Act to Revise the Debtor-Creditor Laws to Facilitate the Legal Collection of

Debts." (H. P. 1039) (L. D. 1258)

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

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

Bill, "An Act to Provide a Referendum to Abolish County Government and Authorize Re-assignment of its Functions and Duties to Appropriate State and Municipal Departments and Agencies." (H. P. 1040) (L. D. 1259)

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

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

Bill, "An Act to Amend the Charters of the Mars Hill Utility District and the Rumford Water District." (H. P. 1041) (L. D. 1260)

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

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

Bill, "An Act to Provide for the Scheduled Reduction of Certain Property Tax Exemptions." (H. P. 1042) (L. D. 1261)

Bill, "An Act to Shorten the Holding Period for Abandoned Property, Advance the Due Date of Inheritance Taxes and Revise Business Income Taxes." (Emergency) (H. P. 1043) (L. D. 1262)

Come 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.

Senate Papers

Senator BROWN of Washington presented, Bill, "An Act to Raise Survivors' Benefits in the Maine State Retirement System." (S. P. 464)

Which was referred to the Committee on Aging, Retirement and Veterans and Ordered Printed.

Sent down for concurrence.

Senator McBREAIRTY of Aroostook presented, Bill, "An Act to Provide Final Offer Arbitration for Collective Bargaining in the Potato Industry." (S. P. 466)

Senator WOOD of York presented, Bill, "An Act to Provide Loans for Family Farms." (S. P. 470)

Which were referred to the Committee on Agriculture and Ordered Printed.

Sent down for concurrence.

Senator GILL of Cumberland (Cosponsor: Senator BUSTIN of Kennebec) presented, Bill, "An Act Requiring the Department of Human Services to Implement a Consumer directed Personal Care Assistance Program for Severely Physically Disabled Persons." (S. P. 463)

Which was referred to the Committee on Health and Institutional Services and Ordered Printed.

Sent down for concurrence.

Senator BROWN of Washington presented, Bill, "An Act to Prohibit Subliminal Advertising." (S. P. 465)

Senator TRAFTON of Androscoggin (Cosponsors: Senator CLARK of Cumberland, Representative THOMPSON of South Portland and Representative McGOWAN of Pittsfield) presented, Bill, "An Act to Provide Equal Access to Justice for Small Business." (S. P. 467)

Senator DEVOE of Penobscot presented, Bill, "An Act to Establish a Small Claims Court." (S. P. 469)

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

Sent down for concurrence.

Senator TRAFTON of Androscoggin (Cosponsors: Representative BOISVERT of Lewiston, Representative McKEAN of Limestone and Representative KANY of Waterville) presented, Bill, "An Act to Increase Local Control of Water Districts." (S. P. 471)

The same Senator presented, Bill, "An Act to Encourage Small Power Production Facilities." (S. P. 474)

Which were referred to the Committee on Public Utilities and Ordered Printed.

Sent down for concurrence.

Senator WOOD of York presented, Bill, "An Act to Establish a Limit on County Government Taxation." (S. P. 468)

Senator TEAGUE of Somerset presented, Bill, "An Act to Make Changes in the Tree Growth Tax Law." (S. P. 472)

Senator SHUTE of Waldo presented, Bill, "An Act to Increase the Benefits of the Elderly Tax and Rent Refund Act on a Sliding Scale According to Income." (S. P. 473)

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

Sent down for concurrence.

Orders

Expressions of Legislative Sentiment recognizing:

Cony High School Boys' Basketball Team, 1981 Eastern Maine Class A Champions." (S. P. 461) presented by Senator BUSTIN of Kennebec (Cosponsors: Representative LUND of Augusta, Representative HICKEY of Augusta and Representative PARADIS of Augusta).

Elmer E. Lawrence of Bath, who has retired from Bath Iron Works after 26 years of service. (S. P. 462) presented by Senator SEWALL of Lincoln.

Which were Read and Passed.

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 22 of the Joint Rules:

Bill, "An Act to Provide for Filing of Certain Security Interests, under the Uniform Commercial Credit Code in Municipalities." (H. P. 214) (L. D. 252)

Bill, "An Act to Provide a 2-year Statute of Limitation for Attorney Malpractice." (H. P. 744) (L. D. 882)

Bill, "An Act to Make the 10-Mile Radius Restriction on Agency Liquor Stores Applicable only to Towns of Less than 5,000 People." (H. P. 251) (L. D. 291)

Bill, "An Act to Remove the 10-mile Radius Restriction on Location of Agency Stores under the Liquor Laws." (H. P. 686) (L. D. 800)

Bill, "An Act Relating to the Labeling of Alcoholic Beverage Containers." (H. P. 750) (L. D. 887)

Bill, "An Act to Amend the Kittery Water District Incorporation Act to Provide Reasonable Compensation for the Trustees of the District and to Authorize the Trustees to Join the Maine State Retirement System." (H. P. 384) (L. D. 427)

RESOLVE, Authorizing Thomas J. Levesque, of Guilford, Administrator of the Estate of Shelby Lynn Levesque, to Bring Civil Action against the State of Maine." (H. P. 512) (L. D. 562)

Leave to Withdraw

The Committee on Business Legislation on, Bill, "An Act to Amend the Unfair Trade Practice Laws." (H. P. 372) (L. D. 410)

Reported that the same be granted Leave to Withdraw.

Comes from the House, the Report Read and Accepted.

The Committee on Business Legislation on, Bill, "An Act to Exempt Auctioneers from Cer-

tain Tax and Bonding Requirements when Provided by an Employer." (H. P. 424) (L. D. 471)

Reported that the same be granted Leave to Withdraw.

Comes from the House, the Report Read and Accepted.

The Committee on Business Legislation on, Bill, "An Act to Delete Vendor's Single Interest Insurance from Additional Charges in the Maine Consumer Credit Code." (H. P. 544) (L. D. 620)

Reported that the same be granted Leave to Withdraw.

Comes from the House, the Report Read and Accepted.

The Committee on Judiciary on, Bill, "An Act to Increase the Penalty for Refusing to Stop for an Officer of the Law." (H. P. 247) (L. D. 281)

Reported that the same be granted Leave to Withdraw.

Comes from the House, the Report Read and Accepted.

The Committee on Judiciary on, Bill, "An Act to Establish Manslaughter as a Class A Offense under the Criminal Code." (H. P. 399) (L. D. 442)

Reported that the same be granted Leave to Withdraw.

Comes from the House, the Report Read and Accepted.

The Committee on Judiciary on, Bill, "An Act to Provide for Forfeiture of Illegally Obtained or Illegally Used Property." (H. P. 460) (L. D. 510)

Reported that the same be granted Leave to Withdraw.

Comes from the House, the Report Read and Accepted.

The Committee on Judiciary on, Bill, "An Act to Amend the Appeals Procedure Regarding Special Entertainment Licenses." (H. P. 496) (L. D. 548)

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 Provide for Service Fees for Nonmembers Represented by Collective Bargaining Agents." (H. P. 233) (L. D. 270)

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 Clarify the Misconduct Provision of the Employment Security Law." (H. P. 431) (L. D. 478)

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 Prevent Frivolous Appeals in Unemployment Compensation Cases." (H. P. 639) (L. D. 729)

Reported that the same be granted Leave to Withdraw.

Comes from the House, the Report Read and Accepted.

The Committee on Public Utilities on, Bill, "An Act to Require the Public Utilities Commission to Consider Issues of Operational Efficiency in Rate Cases." (H. P. 476) (L. D. 526)

Reported that the same be granted Leave to Withdraw.

Comes from the House, the Report Read and Accepted.

Which Reports were Read and Accepted, in concurrence.

Ought to Pass — As Amended

The Committee on Legal Affairs on, Bill, "An Act to Revise the Law Relating to the Licensing of Private Investigators." (H. P. 185) (L. D. 257)

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

96).

Comes from the House, the Bill Passed to be Engrossed as amended by Committee Amendment "A".

The Committee on Legal Affairs on, Bill, "An Act to Revise the Law Relating to the Licensing of Private Security Guards." (H. P. 285) (L. D. 332)

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

Comes from the House, the Bill Passed to be Engrossed as amended by Committee Amendment "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 Changing the Name of the Department of Manpower Affairs and Clarifying the Term of its Commissioner." (H. P. 291) (L. D. 335)

Reported that the same Ought to Pass.

Signed:

Senator:

VIOLETTE of Aroostook

Representatives:

KANY of Waterville

SMALL of Bath

MASTERTON of Cape Elizabeth

PARADIS of Augusta

WEBSTER of Farmington

DIAMOND of Bangor

McGOWAN of Pittsfield

LISNIK of Presque Isle

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

Signed:

Senators:

AULT of Kennebec

GILL of Cumberland

Representatives:

DILLENBACK of Cumberland

BELL of Paris

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

Which Reports were Read.

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

Sensor VIOLETTE: Mr. President, I'd like to move Acceptance of the Ought Not to Pass Report.

The PRESIDENT: The Senator from Aroostook, Senator Violette, moves that the Senate Accept the Majority Ought to Pass Report of the Committee.

The Chair recognizes the Senator from Kennebec, Senator Ault.

Sensor AULT: I request a Division.

The PRESIDENT: A Division has been requested.

Will all those Senators in favor of Accepting the Majority Ought to Pass Report of the Committee, please rise in their places to be counted.

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

16 Senators having voted in the affirmative, and 16 Senators having voted in the negative, the motion to Accept the Majority Ought to Pass Report does not prevail.

The PRESIDENT: Is it now the pleasure of the Senate to Accept the Minority Ought to Pass Report?

The Chair recognizes the Senator from Cumberland, Senator Conley.

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

The PRESIDENT: A Division has been requested.

Will all those Senators in favor of Accepting the Minority Ought Not to Pass Report, please

rise in their places to be counted.

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

16 Senators having voted in the affirmative, and 16 Senators having voted in the negative, the motion to Accept the Minority Ought Not to Pass Report does not prevail.

On motion by Senator Conley of Cumberland, Tabled for 1 Legislative Day, pending Consideration.

(Off Record Remarks)

Divided Report

The Majority of the Committee on Education on, Bill, "An Act to Allow Parents to Exempt their Children from Health, Safety and Physical Education Courses." (H. P. 546) (L. D. 622)

Reported that the same Ought Not to Pass.

Signed:

Senators:

TROTZKY of Penobscot

PIERCE of Kennebec

CLARK of Cumberland

Representatives:

CONNOLLY of Portland

MURPHY of Kennebec

MATTHEWS of Caribou

GOWEN of Standish

THOMPSON of South Portland

ROLDE of York

The Minority of the same Committee on the same subject matter reported that the same Ought to Pass as amended by Committee Amendment "A" (H-90).

Signed:

Representatives:

BROWN of Gorham

BROWN of Livermore Falls

LOCKE of Sebec

THERIAULT of Fort Kent

Comes from the House, the Majority Ought Not to Pass Report Read and Accepted.

Which Reports were Read.

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

Sensor TROTZKY: I move the Senate Accept the Ought Not to Pass Report of the Committee.

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

Sensor MINKOWSKY: Mr. President, and Members of the Senate, I would hope that the Senate would not concur with the rationale expressed by the good Senator from Penobscot, Senator Trotzky, in Accepting the Ought Not to Pass Report, and in turn allow this to go on through.

During the hearing, and of course this is not my Bill, but I did attend the education hearing on this particular day, and was quite impressed with some of the remarks made by parents who have children in our public school system that felt that the school sometimes was too stringent in the demands insofar as giving credit, or passing a person, or even graduating them, only if they have completed their curriculum matters relevant to physical education.

There were two specific witnesses there. One, who is a friend of the sponsor of the Bill, who had a problem in the school system with his son, and another person from the city of Gardiner who had a problem in the school system with his daughter. These problems seem to emanate from one single thing, that, under different types of upbringing in the family, the children could not adapt very well to the physical education requirements. That is to say, that exposing one's body after physical education was sort of repulsive to some. In the case of the young lady, the father brought up very clearly the psychological effects it had upon his daughter.

If this problem exists, what this Bill purports to do, very simply, as it's stated in the original document, and not the amendment, this section shall not apply to any student whose parent has

requested in writing to the principal of the school, which the student attends, that the student be excused from all parts or any part of these courses.

This Bill went a little further than that, Mr. President and Members of the Senate. It went beyond the area of physical education courses and it also encompassed health and safety.

Now there was quite a debate in another branch of this Legislature where this was discussed a little more in detail. My purpose this morning, is hopefully that the Senate will not Accept the Ought Not to Pass Report, but allow it to be Tabled 1 day so an amendment can be offered to strike out the area of concern, which is health and safety, and allow the physical education aspect of the course to be discretionary with the parents, the principal, the superintendent of the schools, or with the school board of that particular community. I think it will save many trials and tribulations in families. I think it's of paramount importance for parents to have some say so with the school board, with the Department of Education, with the principal, that they just don't have to fall back upon existing statutory laws that say, well, I've listened to your argument, but I just don't care. I think it has to be legislated in this particular matter. I think the parents have a responsibility and a right to let it be known exactly what the problem is with their child, insofar as the physical education courses, and that they be allowed this exemption.

I would hope that this item can be Tabled 1 Legislative Day, Mr. President, pending an amendment.

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

Sensor TROTZKY: Mr. President, and Members of the Senate, physical education is an important part of the curriculum. A sound body and a sound mind are both important.

What Senator Minkowsky would like to do has already been discussed in committee, and that's to allow students getting letters from their parents to be excused from phys. ed. This would just open it up to mass excusals all over the state, and many problems.

Right now a student may be excused for legitimate reasons, medical excuses, possibly special ed excuses, religious convictions and so on. I don't think there's a need for the Bill, which concerns excusals from phys. ed, health ed, and safety courses, or specifically from any amendment which would concern itself with exempting students from just phys. ed.

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

Sensor MINKOWSKY: I move this item be Tabled 1 day.

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

Sensor CLARK: I request a Division on the Tabling motion.

The PRESIDENT: A Division has been requested.

Will all those Senators in favor of Tabling L. D. 622 for 1 Legislative Day, please rise in their places to be counted.

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

12 Senators having voted in the affirmative, and 14 Senators having voted in the negative, the motion to Table for 1 Legislative Day does not prevail.

The PRESIDENT: The Chair will order a Division.

Will all those Senators in favor of Accepting the Majority Ought Not to Pass Report, please rise in their places to be counted.

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

20 Senators having voted in the affirmative, and 8 Senators having voted in the negative, the motion to Accept the Majority Ought Not to Pass Report in concurrence does prevail.

Senate**Change of Reference**

Senator GILL for the Committee on Health and Institutional Services on, Bill, "An Act Concerning Participation of Physicians before the Professional Malpractice Advisory Panel." (S. P. 314) (L. D. 870)

Reported that the same be referred to the Committee on Judiciary.

Which Report was Read and Accepted and the Bill referred to the Committee on Judiciary.

Sent down for concurrence.

Ought to Pass

Senator REDMOND for the Committee on Fisheries and Wildlife on, Bill, "An Act Concerning the Qualifications of Licensed Guides Leading Trips Involving Children from Boys and Girls Camps." (S. P. 234) (L. D. 652)

Reported that the same Ought to Pass.

Which Report was Read and Accepted and the Bill Read Once and Tomorrow Assigned for Second Reading.

Divided Report

The Majority of the Committee on Fisheries and Wildlife on, Bill, "An Act to Provide an Open Season on Moose for a One-year Period." (S. P. 128) (L. D. 300)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (S-49).

Signed:

Senators:

REDMOND of Somerset
USHER of Cumberland

Representatives:

MacEACHERN of Lincoln
JACQUES of Waterville
PAUL of Sanford
GILLIS of Calais
SMITH of Island Falls
CONNORS of Franklin
CLARK of Millinocket
ERWIN of Rumford
DAMREN of Belgrade
PETERSON of Caribou

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

Signed:

Senator:

HICHENS of York

Which Reports were Read.

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

Senator REDMOND: Mr. President, I move the Majority Ought to Pass Report of the Committee.

The PRESIDENT: The Senator from Somerset, Senator Redmond, moves the Senate Accept the Majority Ought to Pass, as amended, Report of the Committee.

The Chair recognizes the Senator from York, Senator Hichens.

Senator HICHENS: Thank you, Mr. President, Mr. President and Members of the Senate, the moose is considered representative of the State of Maine by people all over the United States and parts of the world. With this Bill we must consider the best interests of this regal animal as well as those who would hunt them. I haven't heard any conclusive evidence in the hearing to warrant additional hunting seasons for moose.

I have distributed an editorial and article written by one of my learned constituents who had had years of experience in the woods and hunting. I hope that each of you have read or will read these clippings before making your decisions. I will not read the entire article by Mr. Fred Herron of Kittery, but would draw your attention to that portion of it in which he states: "In the fall of 1979, 231,000 persons bought deer hunting licenses, and 26,821 deer were shot and tagged. Using the Maine wildlife's own figures, if the deer hunted in Maine

were as tame as the moose shot (635 out of 700), using the same ratio of hunting success so-called, over 200,000 Maine deer would have been killed last year, which is probably more deer than there is in the entire State of Maine, and all of this would be in a six-day period.

"Commissioner Glen Manuel stated that 400 moose are poached in Maine annually, and this along with the legally exterminated 635, making a total of 1,035 moose, which over a few years would deplete the Maine moose herd to zero.

Two years ago we were told that an open moose season would add thousands of dollars to the coffers of the Inland Fisheries and Game Department. Now the figures regarding last year's moose hunting season were released January 30 and we learn that \$175,975 was the cost incurred by the department in the financial synopsis of the 1980 moose season. The revenues amounted to \$175,200.

In a later report, March 4, we are told that revenues for the 1980 season amounted to the same \$175,200, that \$85,000 was reserved for moose research and management leaving a total of \$90,200 available for general department operations.

Attached to the same report are the expenses listed as extra costs incurred during the 1980 season of \$31,500 added to time spent by regular employees amounting to \$138,686, totalling \$170,186, which now means that the department made a tremendous profit of \$5000. Which figures are actually correct, I'm not sure, but even if the \$5,014 profit is reality, I do not feel that this is the money-making windfall the department anticipated. Just last week we were told that this profit was used up by the Advisory Council in their expenses beyond those allocated by law.

One of the reasons given for having a hunt is that it will improve the health of the herd. There have been claims of an over-population of moose when there's no evidence to back that up. Biologists involved with moose research here in Maine say that the best indicator of over-population is habitat destruction and they made it clear that there is no great habitat destruction and no over-population of moose. Therefore, claims that a hunt is needed to improve the health of the herd are invalid.

Another reason given for a season is for obtaining research data. I am very supportive of the department's research projects, but in this instance, I feel that the additional data collected from moose shot during a season does not justify the killing of those moose. The State of Maine has conducted very extensive moose research using data obtained while moose were non-game animals.

The moose has been a non-game animal for over forty years, up to last year, and has been valued as such. People have enjoyed watching and photographing moose as much as they enjoy watching and photographing songbirds. I feel that the moose's status as a non-game animal should not be changed to that of a game animal for the benefit of one interest.

I, therefore, Ladies and Gentlemen of the Senate, urge you to vote against the Majority Ought to Pass Report and Accept the Minority Ought Not to Pass Report in the old Frank Anderson tradition.

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

Senator CONLEY: Mr. President, Members of the Senate, today may be a great day for the Irish, but somehow or another, I have a sad feeling that it's not going to be such a great day for Maine moose. I concur with the sentiments expressed by the good Senator from York, Senator Hichens, only I believe that we should reject this Bill. I would make the motion that this Bill and all its accompanying papers be Indefinitely Postponed. When the vote is taken, I request it be taken by the yeas and nays, Mr. President.

Mr. President, and Members of the Senate,

what is the purpose of this legislation? It is really for the sport of hunting? I think we can dismiss that, because we know that one doesn't have to be much of a game hunter to realize that one of these majestic animals can be butchered at will.

A second thing is, and there's been questions raised, about the numbers that we have in the Maine moose herd, and how our State Biologist, or our Commissioner of Fish and Game determine that, certainly bewilders me. I know I had the opportunity, along with Senator Emerson, to take a little flight up over Greenville, and other places in that area where moose allegedly congregate in large numbers. One week, someone reported, on the same type of an expedition, reported seeing 60 odd moose. The following week, another group went up and reported seeing 50 odd moose. And of course, they had a bad day the day I went up. The figures were only projected at 15. That's one five. There were a lot of tracks that we spotted from the air, and I'd sort of accused the pilot of bringing in 50 game wardens the night before with some snow shoes on to butcher the paths up down there to impress me with the fact that we really had a large number of moose.

I don't think that's really the question, as to what the numbers are. It's a question, really, as to whether or not we want to consider what the tradition has been in Maine Legislatures over the years. The question is to whether or not we want to keep the State animal, the one that lies on the floor in front of us on the State seal, as the State animal. The question is to whether or not we want to be proud of being able to protect one of the most beautiful animals that does roam the northern part of this State primarily, and portions of Canada.

I'm not going to get into the argument of the Fish and Game Department. That's a fruitless and a helpless battle. There's no way in the world that you're going to win fighting with the commissioner or the department.

I can say in all honesty, that for years that I've served in this Legislature, that Legislature after Legislature rejected this Bill as a bad piece of legislation. The only time that it did pass the Legislature, prior to two years ago, the chief executive vetoed that particular Bill.

I think they've had their experimental season. The fact is, that the results from the experiment aren't even back into the department, or made public to the general public as a whole. When we've got another Bill right back in here. The Bill is expanded. It's expanded. The question again, is what I originally thought two years ago, was that the department only wanted to make some money. Well, Senator Hichens from York has addressed the revenue situation. It's turned out to be really nothing but the lack of the windfall that they anticipated.

I can only tell you, and I speak very earnestly, that the first day the moose season opened up last year, people throughout this country were shocked and astonished as to what was taking place in Greenville, Maine. I have more letters and postcards that I have in my office, that I'd be glad to toss onto the State seal so you can all take a glimpse at them, of people who were just shocked to think that we could allow this to take place in what we call "vacationland", the state that we're so proud of.

I would earnestly only suggest to the Senate to give some thought as to whether or not we really do have some concern of what natural beauty, the last of the natural beauty, really, that we have left in Maine. We've cleaned up our rivers and our streams. I think that there's something about the heritage in all of us that we're proud that we still have an animal so majestic as the Maine moose, that we should try to preserve it. We can never, never know what may happen a year from now, whether another disease, or some strange disease takes over, and that we just lose moose by the thousands from the result of that disease.

I think we start playing with human nature, I

think we can very well jeopardize the very existence of the Maine moose.

It's surprising to me that this Bill has been held in committee for so long a period of time since its public hearing. I hope St. Patrick does look down on those who put this Bill on the Table today, or on the calendar today, but it does seem to me for it to appear on the calendar today, and to have a four page Committee Amendment, shows that at least somebody has done a little thinking. I haven't had the opportunity to go through the amendment and study it line by line, but there are, certainly just gazing at it, there are some comical sentences inserted somewhere between page one and page four. I would at least suggest that before we pass this Bill, that we give our serious attention to it.

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

Senator PIERCE: Mr. President and Members of the Senate, I must admit the minimal amount of expertise I developed last session on serving on the Committee of Fisheries and Wildlife is not holding me in particularly good stead.

One point that I would like to mention with this Bill, I am a little surprised that it has arrived here without some of the information that I expected to receive from the Commissioner. I would hope that somewhere before we take a final vote on this Legislation, at least I have not gotten any, I do not know if other Senators have, I would like the Commissioner to supply us with some statistics to outline from the department's point of view the compelling reasons why we should re-enact this Legislation.

There are a lot of answers that I haven't received yet, on the last season that we had and I would hope that somebody or the Commissioner would provide that information to everybody so that we could look carefully at this issue before Final Enactment.

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

Senator REDMOND: Mr. President, I oppose the motion of the Senator from Cumberland, Senator Conley, that all this Bill and accompanying papers be Indefinitely Postponed.

I would like to also encourage the good Senator from Kennebec, Senator Pierce, and I have here a 7 page report from the Commissioner, which we can make available. We have various information from the biologists and from all the studies that were conducted, that are all available. The Committee has worked hard at it.

I would like to mention a few of the highlights: "Moose, unlike deer, are well adapted to living in areas with deep snow, severe winter temperatures, and relatively small amounts of soft-wood cover. In fact, the southern limit of the moose's range is located in Maine. Conversely, deer are at the northern limit of their range in Maine. It is a scientific fact that neither of these species will prosper in the same area at the same point in time.

There are three reasons why this is true in Maine. From 1888 through the mid-1950's northern Maine experienced above normal winter temperatures and below normal snow accumulations. Two factors which favored the growth of the deer population. This is not to say that these conditions occurred every year, but the long term average was above normal.

During the same time period logging practices changed. Many small horse-logging operations which provided excellent deer habitat were replaced by new mechanized logging equipment which produced large cut over areas and excellent moose habitat.

Deer carry a parasite which is fatal to moose. Therefore as deer populations declined due to increasing winter severity and decreasing habitat quality, another factor limiting moose abundance was removed.

Today Wildlife Management Units 1 and 2

support a moose population which is conservatively estimated to 15,000 — 20,000 animals. It is a fact that moose populations will not maintain high numbers indefinitely. Habitat quality and quantity will change over time, and the numbers of moose will eventually reach or exceed the level which can be supported by the available habitat. When this happens, natural forces such as starvation, malnutrition, and disease will tend to reduce the population to the carrying capacity of the habitat. By then, unfortunately, the habitat's ability to support moose has been greatly reduced due to overutilization by excessive numbers of these animals and moose populations will remain at low levels until habitat improves. Management by Mother Nature consequently involves extremely high and low populations. Conversely wildlife managers strive to reduce these extreme fluctuations by balancing herd size against available habitat.

Observing moose and hunting them are not mutually exclusive recreational pursuits. Hunting, if properly controlled, will provide for the removal of surplus animals and the **maintenance, not depletion**, of desired population levels. Our management goal will be to provide an optimum number of moose, in balance with the available habitat, for use and enjoyment of all the citizens of the State. Numerous moose will be available for people who wish to view or photograph them. Management results in the fullest use and enjoyment of this renewable natural resource by the citizens of and visitors to the State.

The 1980 Moose Hunting Season represented a conservative beginning of scientific moose management in Maine and proved our management goal is realistic. Seven hundred permits, most with one associate subpermit, were chosen by a public chance drawing held on July 15, 1980, at the Bangor Civic Center. Hunting was allowed during the period September 22 to September 27 in an area north of the Canadian Pacific Railroad mainline running from Vanceboro through Brownville, Greenville and Jackman to the Quebec border. Six hundred and thirty-six animals were taken during the six-day hunt."

I could give you all the details of the amount of bulls and cows and calves, but I do not think that you are ready to hear that.

"Observations made in the months following the season and knowledge gained during this hunt strongly suggests that the moose population is much higher than previously estimated in portions of the 1980 moose hunting district. Therefore the removal of 636 animals, or approximately 3 to 4 percent of the estimated population in northern Maine, will have neither an adverse nor beneficial impact on the future abundance of moose.

One problem and area of concern was the distribution of the kill and its potentially adverse impact on popular tourist areas in the Moosehead Lake area." This has been taken care of in the Bill, because we have incorporated in there some management areas that the Commissioner will set aside for tourists to see moose that will never get shot.

"Conducting annual hunting seasons, with conservative harvest limits, will enable the Department to continue to gather information which is necessary to refine hunting seasons and zones and establish effective regulations. In a few years enough information and experience will have been obtained to effectively adjust moose hunting seasons to allow an annual harvest designed to maintain populations within the carrying capacity of the available habitat.

I strongly feel that it is in the best interests of both the resource and all citizens that we continue to move toward optimum harvest levels in a gradual and well planned manner.

In order to reach this objective I strongly support the passage of this legislation. This bill is similar to the 1980 law but contains some im-

portant provisions which we all endorse and feel are essential to proper administration of the law if passed and the proper management of the moose population."

Ladies and Gentlemen of the Senate, you will notice in the Bill, that Section 2, second paragraph in the Bill, Hunting Zone, "the Commissioner may establish moose hunting zones, within the moose hunting district. Physical boundaries shall be used to delineate all zones. The boundaries of each zone and the number of permits to be issued for each zone shall be made public at least 14 days before application for permits may be made." So this corrects that situation that we heard the most complaints about last fall.

The major complaints that we heard other than that was that they were too easy to get. I do not think that the hunters have any problem with that.

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

Senator CONLEY: Mr. President and Members of the Senate, I would like to call the attention of the Senate, to Section 2 of the Bill, numerical number 3, where it says, the length of the season, "on or after January 1, 1982, the Commissioner may establish open season on moose within the moose hunting districts provided the number of hunting days in each year does not exceed 6."

So what we have really before us is a open season that is going to be perpetuated at the whims of a Commissioner who obviously must run his department on the amount of revenues that can be brought in.

It just seems to me to pass a Bill that is going to allow the Commissioner, and not the Legislature, to make that determination year after year is sort of passing the "buck" to him. I would only suggest that before we lose every moose in the State that we give, at least, this section of the Bill if it is going to survive our particular attention and not to just give an open check so to speak to the Commissioner and the department.

I think as I said, my own personal feeling and I know is that it is shared by many of the citizens of this State that they would much rather not see a continuation of the massacre that took place last year. Therefore, I would urge the Senate to support the Indefinite Postponement of this Bill.

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

Senator HICHENS: Mr. President, commenting on some of the remarks by the good Senator from Somerset, Senator Redmond, he mentioned about the zones which have been set up. That was a grave matter of contention when it was in committee. So many permits were going to be issued for each zone. Then the Commissioner has the right to close the season, if he sees that there might be an over-kill in that zone. The question was brought up, what happens to those who have a license to hunt in that zone when he closes the season? They can't go over into another zone. So are they going to lose out altogether? The question was never answered as far as I know within the committee. Then there was also a lot of contention in the committee regarding the fees for out-of-state residents. In fact I thought that the Bill was possibly going to come out with a 3 split report. I understand that one of the members of the Committee is going to offer an amendment to lower the \$200 fee which is required for out-of-state residents to hunt here in the State of Maine. If they are lucky enough after they pay the fee for an application to get their permit and then have to pay \$200 after that in order to come up here and hunt. I think that those are some of the things that you should take into consideration before you vote on this Bill.

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

Senator REDMOND: In response to the good

Senator from Cumberland, with regards to the length of the season, I think that we have a little Bill that is on the Table right now which has something to do with the Advisory Council on Fisheries and Wildlife.

I would like to mention again, that the seasons are left up to the Department of Fisheries and Wildlife, because they have the expertise and they set that. Then the Legislature wanted to be doubly sure, a couple of years ago, the Legislature requested that all changes in setting seasons would be done with the advice and consent of the Advisory Council of Fisheries and Wildlife.

So I don't really see how we have any problem with the length of the seasons. It is stipulated after January 1. We know that we are not going to go hunting moose January 2. We have to describe it, no problem there.

In response to the good Senator from York, Senator Hichens, I always found that each one of us should keep our washing in our own home. The Committee on Fisheries and Wildlife we have some pretty wild seconds there sometimes. We have some very strong members that believe in what they believe—the way it should be, and we have to work it out. Of course some wanted \$600 for the non-residents when we started and some wanted \$100 for the non-residents. I am very proud to say that we have before you here, a Bill that is workable and that the Department of Fisheries and Wildlife can administer properly.

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

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

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

The pending question before the Senate is the motion by the Senator from Cumberland, Senator Conley, that LD 300 be Indefinitely Postponed.

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, Conley, Hichens, Huber, Minkowsky, Najarian, Perkins, Shute, Trotzky, Wood.

NAY — Bustin, Carpenter, Charette, Clark, Collins, Devoe, Dutremble, Emerson, Kerry, McBrearty, O'Leary, Pierce, Pray, Redmond, Sewall, C.; Sutton, Teague, Trafton, Usher, Violette.

ABSENT — Ault, Gill.

A Roll Call was had.

10 Senators having voted in the affirmative, and 20 Senators in the negative, with 2 Senators being absent, the motion to Indefinitely Postpone LD 300 does not prevail.

The Majority Ought to Pass, as amended, Report, of the Committee was 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 to Provide for Direct Payment to Municipalities of Fines Collected under Certain Laws Relating to Animals." (H. P. 356) (L. D. 404)

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

House — As Amended

Bill, "An Act to Increase the Compensation for Substitute Teachers." (H. P. 655) (L. D. 758)

Which was Read a Second Time and Passed

to be Engrossed, as amended, in concurrence.

Senate — As Amended

Bill, "An Act Providing Due Process when the State Liquor Commission Designates a Location for a State Liquor Store." (S. P. 180) (L. D. 458)

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 Repeal Certain Provisions Relating to Burial Expenses and Reimbursement Under Relief of Poor Veterans. (H. P. 698) (L. D. 823)

AN ACT to Permit the Use of Foam Plastic Insulation in Certain Facilities Without the Required Thermal Barrier. (H. P. 451) (L. D. 498)

AN ACT to Increase the Fee for Serving Civil Process. (H. P. 410) (L. D. 449)

AN ACT Amending the Certification of Ionizing Radiation Equipment. (H. P. 426) (L. D. 473)

AN ACT Pertaining to the Retention of Records for Closing-out Sales. (S. P. 151) (L. D. 359)

AN ACT to Amend the Law Concerning Cremation of Old State Bonds. (S. P. 182) (L. D. 460)

AN ACT to Establish a Time Limit on Identifying Prior Refusal to Submit to a Chemical Test for Operating Under the Influence. (H. P. 248) (L. D. 289)

AN ACT to Consolidate Highway Safety Activities within the Department of Public Safety. (H. P. 332) (L. D. 386)

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

RESOLVE, Authorizing the State to Convey Certain Land to the Town of Swan's Island for Park and Recreational Purposes. (H. P. 481) (L. D. 528)

Which 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 specially assigned matter:

Bill, "An Act Concerning the Size of Exempt Lots under the Subdivision Laws." (S. P. 141) (L. D. 312)

Tabled—March 13, 1981 by Senator HUBER of Cumberland.

Pending—Adoption of Senate Amendment "B" (S-43) to House Amendment "A" (H-85)

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

Senator O'LEARY: Mr. President, at this time, I would like to Withdraw Senate Amendment "B".

The PRESIDENT: The Senator from Oxford, Senator O'Leary, now requests Leave of the Senate to Withdraw Senate Amendment "B". Is it the pleasure of the Senate to grant this Leave?

It is a vote.

Senator O'LEARY: Mr. President, I now present Senate Amendment "E", under filing S-53 and move its adoption.

The PRESIDENT: The Senator from Oxford, Senator O'Leary, now offers Senate Amendment "E", to House Amendment "A", and moves its adoption.

Senate Amendment "E" (S-53) was Read.

The PRESIDENT: The Senator has the floor.

Senator O'LEARY: Mr. President, Members of the Senate, I finally got one amendment here in its correct form. I had a lot of problems with the creation of these amendments and it seems that each one of them would have something in

it that wasn't supposed to be there, or something that was supposed to be there was left out. I think the leprechauns were working a little early on me last week, so I think that this is going to accomplish just what everyone would be happy with. Thank you.

Senate Amendment "E" was Adopted. House Amendment "A", as amended, by Senate Amendment "E" was adopted in non-concurrence. The Bill, as amended, was Passed to be Engrossed in non-concurrence.

Sent down for concurrence.

The President laid before the Senate, the second Tabled and specially assigned matter:

Bill, "An Act to Reduce the Maximum Size for Exempt Lots Subdivided Under the Land Use Regulation Law." (S. P. 51) (L. D. 60)

Tabled—March 13, 1981 by Senator HUBER of Cumberland.

Pending—Consideration.

On motion by Senator O'Leary of Oxford, the Senate voted to Recede from its action whereby L. D. 60 was Passed to be Engrossed.

House Amendment "A" was Read.

Senator O'LEARY: Mr. President, I now present Senate Amendment "E" to House Amendment "A", under filing number S-54, and move its adoption.

The PRESIDENT: The Senator from Oxford, Senator O'Leary, now offers Senate Amendment "E" to House Amendment "A", and moves its adoption.

Senate Amendment "E" (S-54) was Read, and Adopted.

House Amendment "A", as amended, by Senate Amendment "E" was Adopted, in non-concurrence.

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

Sent down for concurrence.

The President laid before the Senate, the third Tabled and specially assigned matter:

HOUSE REPORT— from the Committee on Local and County Government—" Bill, "An Act to Authorize the Designation of a Municipal Development District." (H. P. 603) (L. D. 680) Ought to Pass.

Tabled—March 16, 1981 by Senator MIN-KOWSKY of Androscoggin

Pending—Acceptance of Report.

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

Senator MINKOWSKY: Thank you very much, Mr. President, and Members of the Senate. It was back about 1972 that this particular Bill came into effect. I think it was introduced by a planner from the town of Skowhegan. At that time it laid dormant for many years until 1977, when I got the Bill, because we had a redevelopment program going on in the city of Lewiston. At that time, we also had many people come up and testify from our municipal government, our planners, Mr. Baudich from the Maine Development Council, who felt that this was the right way to move, insofar as the municipality was concerned, in which to address its redevelopment programs, with the assistance of banks and the Federal Government.

We had this particular plan under way in the City of Lewiston, and this particular vehicle was designed to serve the interest of any community in the State of Maine that wanted to go through a redevelopment program.

One of the things of paramount importance at that time, that was brought out, was that there be local input, that is, the people of the municipality would accept or reject a redevelopment plan.

The redevelopment plan goes something like this. A set mill rate is assessed to all residential, municipal, or commercial establishments in a municipality. The municipal district plan has a mill rate of maybe a half a mill or 2 mill over and above the set taxation of that

community.

The next step, how were they going to utilize this money, this was classified then for amenities, meaning park benches, flowers, sidewalks, trees, to refurbish a downtown area. This was all well and good. Everybody was in concurrence. We passed that Bill in 1977, saying specifically that if a municipality wanted to go through this particular program, they could do so, but there would have to be local input from a citizenry.

During the interim period of time, my municipality, there has been a little bit of flak from some of the merchants, or small business stores, in the development area. They felt that they may not want to be part and parcel to pay this additional mill rate over and above their set taxation to run their business in that city, as well as providing additional services, even for snow plow removal during the winter time.

Apparently the strategy here is now, simply, for these people to negotiate directly with the municipality officials, by-passing the most important aspect of it, that is, how do the people of the municipality feel in this particular matter? Will they be allowed to either accept or reject a municipal development district?

I was somewhat astonished, when I saw this Bill yesterday before us, since I was not even aware, since I was the municipal officer four years during the segment of time that this Bill was being developed, that now, all of a sudden, they want to by-pass the most important aspect of any community, and that's the citizens.

Secondly, to by-pass those who might have objections, since this particular group of people can negotiate directly with the elected officials.

Now I have no qualms at all with the elected officials in a municipality. But I still think it's of significant value when you start going through this type of redevelopment that, at least, the citizens of that community have a right at referendum, to express their point of view.

I think, also, it gives the small business establishments within the development district a little bit of clout to bring forth their arguments as to why they should be assessed, or basically, why they do not want to become part of that particular assessment district.

I don't think this is proper legislation at the present time, Mr. President and Members of the Senate. I would rather pursue the course of action I originally put through in 1977, saying to the people of the municipality that you have a right, as citizens and taxpayers, to have some direct input. To the elected officials, and the few with vested interests, so be it. You're just not going to by-pass the most important element of a community, and that's its people.

On that particular note, Mr. President, I move that this Bill and all accompanying papers be Indefinitely Postponed.

The PRESIDENT: The Senator from Androscoggin, Senator Minkowsky, now moves that L. D. 680 be Indefinitely Postponed.

The Chair recognizes the Senator from Cumberland, Senator Conley.

Senator CONLEY: Mr. President, I wonder if the Secretary would Read the Committee Report on this Bill.

The Committee Report was Read.

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

The President laid before the Senate, the fourth Tabled and Specially assigned matter:

HOUSE REPORTS—from the Committee on Health and Institutional Services—"Bill, 'An Act Providing for Pupil Screening for Scoliosis and Related Spinal Abnormalities.'" (H. P. 273) (L. D. 319) MAJORITY REPORT—Ought to Pass as amended by Committee Amendment "A" (H-81); MINORITY REPORT—Ought Not to Pass.

Tabled—March 16, 1981 by Senator PIERCE of Kennebec.

Pending—Acceptance of Either Report.

On motion by Senator Collins of Knox, Retabled for 1 Legislative Day.

The President laid before the Senate, the fifth Tabled and specially assigned matter:

SENATE REPORTS—from the Committee on Legal Affairs—Resolve, Authorizing Richard Potvin, or his Legal Representative, to Bring Civil Action Against the State of Maine and the Maine State Lottery Commission. (S. P. 292) (L. D. 818) MAJORITY REPORT—Ought Not to Pass; MINORITY REPORT—Ought to Pass.

Tabled—March 16, 1981 by Senator COLLINS of Knox.

Pending—Acceptance of Either Report.

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

Senator SHUTE: I move acceptance of the Majority Ought Not to Pass Report.

The PRESIDENT: The Senator from Waldo, Senator Shute, now moves that the Senate Accept the Majority Ought Not to Pass Report of the Committee.

Is this the pleasure of the Senate?

The Chair recognizes the Senator from Aroostook, Senator Violette.

Senator VIOLETTE: Thank you, Mr. President. I ask for a Division on the motion.

The PRESIDENT: A Division has been requested.

The Chair recognizes the Senator from Cumberland, Senator Conley.

Senator CONLEY: Mr. President, I wonder if some member of the Committee could briefly explain what this Bill is all about.

The PRESIDENT: The Senator from Cumberland, Senator Conley, has posed a question through the Chair to any member of the committee.

The Chair recognizes the Senator from Waldo, Senator Shute.

Senator SHUTE: Mr. President and Members of the Senate: This bill came about because of a lottery drawing back in November 28, 1975. Mr. Potvin claims that the lottery drawing wasn't done quite up to standard and therefore, he would like to sue the state for, I think the Bill calls for a half million dollars, or up to a half million dollars.

Circumstances surrounding the Lottery, and probably some of you may have seen it on television, there were seven finalists, I believe, in the Lottery Drawing. Five of those finalists received \$1000 a piece. It seems that on the fourth time this plexiglass drum was turned around, Mr. Potvin's ball came up with a number on it, and was supposed to roll out through a hole into a slot, then read the number off. That was either the third or the fourth tumble of the drum.

Well, the ball come up in the drum, it went up by, and down, and then Mr. Arrestes told the young lady that was operating the drum to take it around again. That wasn't the first time that it had happened, because on the second try, I think, three balls came up all at once on arm that was supposed to put the balls out through the slot.

Now, I suppose those three people would also have a claim against the state, too, because they were denied, possibly denied a right for the Super Drawing, which was the last two people left in the drawing. One of those was to get \$10,000. The other one would get a half million dollars.

I think, to bring a claim against the state, as I understand it, the case has to be unique, and not deny some other person from bringing the same claim against the state. Now according to testimony at the hearing, this drum was used on several other occasions. The same thing did happen. The only thing that was different was the amount of money.

So, it's my contention that this was a game of

chance. Mr. Potvin took his chance, he lost, whether it was through chance, or fate, the ball didn't roll out. So therefore his claim is, that because his ball didn't roll out on the fourth or fifth try, he was denied the right of having his ball left in the drum for the last two balls to come out for the Super Drawing.

Maybe at this point, I could ask the Secretary of the Senate to read the Committee Report.

The Committee Reports were read.

Senator SHUTE: Mr. President, Ladies and Gentlemen of the Senate, I think that if you do allow this case, and you expose the state to a \$500,000 claims, we do have other people that will be coming in for the same reason to sue the state. If you have a number of people that are going to sue the state, it ought to be a class action suit, anyway. It shouldn't be individuals, six or eight individuals coming in to sue the state for the same thing. Thank you.

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

Senator KERRY: Yes, Mr. President, and Ladies and Gentlemen of the Senate, I would just like to comment on Senator Shute's presentation. There was one inaccurate statement made, I believe just an innocent error. Number one, the ball that did come up on the fourth turn of the carousel was not Mr. Potvin's, as was explained to the Senate. It was someone else's ball. The basis for this whole suit, or his desire to sue the state, was the fact that his probability of winning the grand prize was lessened when someone else's ball came up on the fourth turn of the carousel. Then, due to the fact that the lady who was blind-folded could not see that the ball was stuck, and she was instructed by Mr. Arrestes, there was a human factor involved here. This was not purely chance. He told her instead of having the ball remain at the top and then coming out where it could be placed, and therefore increasing Mr. Potvin's capability of winning the grand prize, he told her to turn it around again so that the ball that was not Mr. Potvin's would fall back down into the bottom of the barrel.

In essence, Mr. President, and Ladies and Gentlemen of the Senate, Mr. Potvin is just asking for the due process that he so justly deserves, to go to court, at his own cost, to hire an attorney, to hire representation, to hold an action against the state. I think, number one, that the state is not omnipotent in this case, nor, should we, as citizens, representing other citizens of the state, see that the state is immune to error. To discuss class action suits by people, I think, is taking us off the subject matter that we are discussing today. We are discussing one single individual case, one man, who participated freely, yes, taking his Chances, but he wanted an equal opportunity with the other members of that group of seven to have his chances realized. This, I think, was not realized, because of a human judgement in error by a person who was employed by the State of Maine.

Therefore, this does an injustice to the individual, Mr. Potvin. Secondly, it undermines the system of which the Lottery System operates under today. And we know, that it is not held in high repute, because of current problems.

My general concern here is that the citizen deserves the right to be able to sue. This is the first issue. This is the primary issue. A court of law, has instructed Mr. Potvin that the only way that he can find redress, is if the State Legislature allows it.

Secondly, the system that was used to draw the balls out of the Lottery System has been changed, mainly due to the fact that it has been replete with errors, that they could not get a justifiable program operating with the State Lottery using that tumbling system.

Therefore, I would encourage the Members of the Senate not to vote for the Ought Not to Pass Report, but to give Mr. Potvin his opportunity, his day in court, if you will. I think that he has been irreparably damaged, in the sense

that his chances of winning the grand prize was lessened because of the action of the State officials. Therefore, I would hope that you would vote against that motion. Thank you.

The PRESIDENT: Will all those Senators in favor of the motion by the Senator from Waldo, Senator Shute, that the Senate Accept the Majority Ought Not to Pass Report of the Committee, please rise in their places to be counted.

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

13 Senators having voted in the affirmative, and 17 Senators having voted in the negative, the motion to Accept the Majority Ought Not to Pass Report of the Committee does not prevail.

The Minority Ought to Pass Report of the Committee was Accepted, and the Bill Read Once, and Tomorrow Assigned for Second Reading.

The President laid before the Senate, the sixth Tabled and specially assigned matter:

Bill, "An Act to Increase the Amount of Expenses Which May be Reimbursed to Members of the Inland Fisheries and Wildlife Advisory Council." (H. P. 244) (L. D. 278)

Tabled—March 16, 1981 by Senator PIERCE of Kennebec

Pending—Motion of Senator USHER of Cumberland to Reconsider Passage to be Engrossed.

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

Senator REDMOND: I oppose the pending motion and request a Division, and would like to briefly address the Senate on this Matter.

I think that enough has been said already. We are all very well aware of the Fisheries and Wildlife Advisory Council. Out of respect to the Governor, who has appointed these councilmen and the per diem was set at \$25 per day. That was a long time ago. They are not asking for a raise. The committee has very seriously considered this Bill, and just in the name of good management, and good government, I hope that we pass this Bill the way the committee turned it out with the House Amendment on it the way it is.

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

Senator CONLEY: Mr. President and Members of the Senate, I have been obviously looking at this Bill now for several days, and I had an amendment drafted, which would have put a cap on the number of dollars that would have been allocated for the Fish and Wildlife Advisory Commission, or whatever they are. I showed it to the good Senator from Somerset, Senator Redmond, and well, he just feels that that department has \$8 million over there now, and they can afford a few more pesos to the Advisory Council. I think this has just become utterly ridiculous. The other day we had to vote for a \$5 increase on health inspectors throughout the state, and the thing went back and forth and was killed here several times or once, anyway then it was approved.

It just seems to me that this is a Bill that is really getting out of hand. It's allowing actual expenses. It doesn't lock them into anything with respect to expenses. It gives them \$25 per diem, per day, as I stated. Most of those who were serving on this commission would gladly pay the state to serve on that commission. Because of the fact that there just can't seem to be any workable compromise with the good Senator from Somerset, I would now make that great move, one that I love, that this Bill, and all its accompanying papers be Indefinitely Postponed, buried, and whatever.

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

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

The PRESIDENT: A Division has been requested.

The Chair recognizes the Senator from Cumberland, Senator Conley.

Senator CONLEY: Mr. President, very briefly, I would just like to state to the Senate, there will be no great loss to the department or to the state, if this Bill meets its demise, because what it will do, is that it will lock them in at the current \$2500, with the \$25 per diem. If we pass the Bill, it takes the cap off altogether, and allows them to have a free-for-all.

The PRESIDENT: For the edification of the Senate, the Chair would advise the Senators that the Senator from Cumberland's motion is out of order at the present time. The motion to Reconsider is a higher priority.

The PRESIDENT: Will all those Senators in favor of Reconsideration, of L. D. 278, please rise in their places to be counted.

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

2 Senators having voted in the affirmative, and 28 Senators having voted in the negative, the motion to Reconsider does not prevail.

The Chair recognizes the Senator from Cumberland, Senator Conley.

Senator CONLEY: Mr. President, in the honor of St. Patrick, I move that L. D. 278 be Indefinitely Postponed.

The PRESIDENT: The Senator from Cumberland, Senator Conley, now moves that L. D. 278 be Indefinitely Postponed.

The Chair recognizes the Senator from Somerset, Senator Redmond.

Senator REDMOND: Mr. President, Members of the Senate, I request a Division to that motion, and I could elaborate, the hour is getting late, and in the interest of time, I hope that I have conveyed the message. I'm not trying to win anything or lose anything. It's only in the interest of good management and good government that I am insisting on Passing, Enacting this Bill the way it is. There's absolutely no need whatsoever to put a cap on that, because you might as well be putting a cap on the warden service. They spent \$3 million, the warden service of the Fish and Game spent better than \$3 million. If the Commissioner of Fisheries and Wildlife, who's in charge of that, they say they could take him on a trip to Hawaii. Well if the Commissioner of Fisheries and Wildlife would so desire, why doesn't he take some of his wardens to Hawaii? I've never heard of such a thing, putting a cap suddenly on something like that. It's only in the interest of the American institute of management, good government, and I would like to note and advise the good Senator from Cumberland, especially on this great day of our great patron, I'm sure that I can't understand how come he's, because I had some vibrations when I woke up this morning. He said now listen, lad, it's bad enough that your blood brothers over there across the ocean are fighting all the time. Why don't you talk to the good Senator from Cumberland and make sure that he pitches in and goes along with good management?

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

Senator PRAY: Mr. President and Members of the Senate, I clearly don't want to get into the vibrations of which the good Senator from Somerset, Senator Redmond, felt this morning, but yesterday we had a Bill go through here in Reference to Committee which I set up and moved the Indefinite Postponement. I want to thank all of the Members of this Chamber for going along with that. That Bill happened to be put in by a Republican giving legislators free entrance to parks, and everything else that we've got in the state.

But how things have changed. Today, the Republican Senator from Somerset is arguing no caps, no limits, and the Democratic party is trying to say put a cap on it, let's limit government spending. Things change rather rapidly around these Halls at the times.

Originally, my position on this Bill, was the Bill that was put in originally, which would have allowed \$1000 increase to \$3500 for the year, at a \$25 per day diem. The Senator from

Somerset, Senator Redmond, has argued that the Advisory Council meets numerous times during the year, and that they need the additional money. As a matter of fact, they not only spent the \$2500 last year, but they overspent by \$1400 above that.

When we stop and we start breaking down exactly how many meetings that they can have, the entire board, we're talking about at \$2500, 8 members of the Advisory Council, I believe, at \$25 per day diem, they could have 13 meetings a year, that's one a month. Since the commissioner needs their advice and consent to Enact regulations dealing with the Fish and Game Department, I think that the existing \$2500, 13 meetings a year, is clearly enough.

I would hope that we would, at this time, put this Bill in its proper perspective.

The PRESIDENT: Is the Senate ready for the question?

The Chair recognizes the Senator from Cumberland, Senator Usher.

Senator USHER: Mr. President, I too oppose the pending motion. For some information, if the Bill is killed, it leaves that \$2500 and puts a cap on it. The law that was passed in the 109th authorizes the commissioner to call the Advisory Council in on all rules and changes. This has contributed to this calling in for the six meetings which they had last year, which is the first time that they used it. Now we have an additional member, which is eight, which requires more money, and they anticipate more meetings this coming year for Fishing Regulations and Hunting Regulations.

Last year, they used \$3968, and they anticipate more money will be spent. There was a law that was passed in the 109th. There's nothing they can do about that, unless we change that law. But right now, they have to call in the Advisory Council on all their rule changes. We directed them so, and so be it.

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

Senator CONLEY: Mr. President, let me state first, that the remarks made by the good Senator from Somerset, Senator Redmond, we know who has the blarney in this Chamber this morning. Secondly, I really honestly sometimes feel there's no reason for us to appoint Senate Members to serve down in the Fish and Game Department. We really should just appoint the commissioner and his two deputies and allow him to write the legislation and put the stamp of approval on it. This Bill is ridiculous the way it's currently written. If anybody wants to support it, and give them all just a wide open blank check, then support it. It's in Enactment, and Enact it.

Mr. President, when the vote is taken, I request 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 Chair recognizes the Senator from Somerset, Senator Redmond.

Senator REDMOND: Mr. President, and Members of the Senate, I don't want to delay the action on this, because the hour is, as I say, it's getting real late, but I would like once more to emphasize that this is simply a housekeeping bill. It should have been, probably, in errors and inconsistencies. We've spent a lot of time in the committee on it. I spent a whole lifetime, mostly in the Maine forests, managing forests, and now this has to do with managing our fisheries and wildlife. I think that you will all be in agreement with me that there's only one way to manage something, and there's just one way to do it, and we have to do it properly. The Advisory Council, I believe, is good. The entire

Legislature decided that the Commissioner should have the council to advise and council the Commissioner. I hope that you will go along with me.

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

Senator CONLEY: Mr. President, I request if I have violated the rules, I request that I be given the opportunity to speak once more, very briefly.

The PRESIDENT: The Senator from Cumberland, Senator Conley, having spoken three times on this matter, requests unanimous consent of the Senate to speak a fourth time.

Is there objection?

The Senator has the floor.

Senator CONLEY: Mr. President, I just want to very briefly say, this is not a house-keeping bill, it's a housecleaning bill.

The PRESIDENT: The pending question before the Senate is the motion by the Senator from Cumberland, Senator Conley, that this Bill and all its accompanying papers, be Indefinitely Postponed.

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, Conley, Hichens, Kerry, Najarian, O'Leary, Pray, Shute, Trafton, Violette, Wood.

NAY — Ault, Carpenter, Collins, Devoe, Duremble, Emerson, Huber, McBreairey, Minkowsky, Perkins, Pierce, Redmond, Sewall, C.; Sutton, Teague, Trotzky, Usher.

ABSENT — Gill.

A Roll Call was had.

14 Senators having voted in the affirmative, and 17 Senators in the negative, with 1 Senator being absent, the motion to Indefinitely Postpone L. D. 278 does not prevail.

Which was Passed to be Enacted.

The Chair recognizes the Senator from Kennebec, Senator Pierce.

Senator PIERCE: Mr. President, having voted on the prevailing side, I now move Reconsideration and I would urge you to vote against my motion.

The PRESIDENT: The pending question before the Senate is Reconsideration.

Will all those Senators in favor of Reconsideration, please say "Yes".

Will all those Senators opposed, please say "No".

A Viva Voce Vote being had, the motion to Reconsider does not prevail.

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

Senator Collins of Knox was granted unanimous consent to address the Senate, Off the Record.

Senator Conley of Cumberland was granted unanimous consent to address the Senate, Off the Record.

On motion by Senator Pierce of Kennebec, Adjourned until 10 o'clock tomorrow morning.