

# 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  
Friday, May 1, 1981  
Senate called to order by the President.

Prayer by the Honorable James A. McBreaity of Perham.

Senator McBREAIRTY: Let us pray. Full of thanksgiving, we come unto Thee, O'God, our Father, because of the freedom that we have to determine the political course of our lives. We thank you for our democratic form of government, and we ask Thy special blessings upon this State Senate of ours.

We pray, our Father, that we may be guided by the sense of great responsibility placed upon us, as we act in our official capacity. May nothing be done because of selfishness or expediency, but may all things be done in accordance with the general welfare of our great State and Nation.

We pray for our Governor, for the President of the United States, and for all those in public service. Amen.

Reading of the Journal of yesterday.

(Off Record Remarks)

**Papers from the House  
Non-concurrent Matter**

Joint Resolution to Ratify an Amendment to the Federal Constitution to Provide for Representation of the District of Columbia in the Congress. (S. P. 230) (L. D. 617)

In the Senate, April 28, 1981, Failed of Adoption.

Comes from the House, Adopted, in non-concurrence.

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

Senator AULT: I move we Adhere.

The PRESIDENT: The Chair recognizes the Senator from Kennebec, Senator Ault, moves that the Senate Adhere.

The Chair recognizes the Senator from Penobscot, Senator Trotzky.

Senator TROTZKY: Mr. President, I move the Senate Recede and Concur and would like to speak to my motion.

The PRESIDENT: The Senator has the floor.

Senator TROTZKY: Mr. President and Members of the Senate: Today I ask the the Senate to rise above political partisanship and support the principles upon which this greatest of nations was founded, the principle that everybody deserves representation.

Again, as Abraham Lincoln said: "No man is good enough to govern another man without the other's consent."

The Republican Party Platform in 1976 stated: "We support giving the District of Columbia voting representation in the United States Senate and House of Representatives." The Democratic Party Platform stated: "We support full voting representation in the Congress for the District of Columbia."

There are 650,000 people who are governed by the Senators and Representatives of all the 50 states. Principals of our country transcend the administrations that come and go, Democratic and Republican administrations, that come and go.

I hope the Senate would support justice for all the people of this country.

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

Senator AULT: Mr. President and Ladies and Gentlemen of the Senate, I am disappointed that the Senator from Penobscot asks that we rise above political interests or whatever, and vote in favor of this Amendment.

To me, it isn't a political issue. It's bad for the State of Maine. It gives special treatment to one city in the United States. It gives them the status of a state without the responsibility.

It's bad for the State of Maine.

I urge you to vote against the motion to Recede and Concur.

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

Senator NAJARIAN: Mr. President and Members of the Senate, the District of Columbia is one of the most heavily taxed Districts, it is not a city, in this nation. They pay more in Federal Taxes than 10 states, on a per capita basis. It's over \$600 over the national average. This is more than any state, except Alaska. Just imagine, paying those kinds of taxes and then not having a Representative or a Senator to write to and say, I hope you support Governor Reagan's plan to cut taxes 10 percent over three years.

The District includes people who do other things besides work for the Federal Government, obviously. There are small businesses, construction industry, bankers, lawyers, doctors, teachers, the elderly, and I don't suppose they have any Indian chiefs, but every other profession is represented. All of these somewhat citizens are required to obey the Federal Laws. They have no choice whatsoever in enacting these laws. They have fought in our wars and in the Vietnam war, the casualties from the District ranked fourth among the 50 states on a proportional basis.

I am sure you will agree that District residents have got to be as concerned about the development of the MX missile, SALT treaties, declarations of war, budget deficits, spending cuts, tax cuts, Supreme Court and Cabinet member nominees, not to mention all the myriad routine lesser decisions made by Congress that affect their lives just as much as it affects ours.

Everyone here knows how absolutely important the vote is. That's why we have had two bills to limit voter registration before Election Day. That's also why the good Senator from Cumberland, Senator Gill, at great personal sacrifice, did not leave this State to see her first-born grandchild.

The United States is the only country in the free world that denies representation to the residents of its capitol city. Imagine, we hold America out to be the leader of the free world, the pattern of democracy that we think all the countries of the developing world should adopt and follow. Yet, here is nearly 700 thousand citizens, that have no representation in the seat of our National Government. I think that's a terrible black spot on our image in the rest of the world, and should be to the other citizens of this great country.

Since 1788, six of the Amendments to the Constitution have dealt with extending voting rights. The 15th included all male citizens, and not just property owners. The 17th allowed popular election of Senators. The 19th, to women. The 23rd, to residents of D.C. to vote for presidential electors, which this Amendment would repeal. The 26th extended the vote out to those 18 years of age or older.

This proposed Amendment, to grant the men and women of the District full voting representation in Congress, is but one more step in that same direction toward our ideal of full equality of all, but not yet fully achieved.

I hope that some minds will be changed in this Senate today, and we can Adopt this Amendment.

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

Senator COLLINS: Mr. President, I request a Roll Call.

The PRESIDENT: A Roll Call has been requested.

The Chair recognizes the Senator from Oxford, Senator Sutton.

Senator SUTTON: Mr. President, I was just a little curious as to what the good Senator from Cumberland was alluding to when she talked about taxes in the District. I assume she's talking about city taxes, unless there is a

different tax going on down there. Of course, their city does have councillors and people that take care of their representation in that regard.

What we're talking about today is what's fair. I don't think there's any question about what's fair, but I can't for one second believe that the Men and Women of this Senate would support anything as unfair as this particular proposition. It deludes the State's position in Washington. It makes a pseudo-state out of a city. There is absolutely nothing right about it.

The people should have representation, but they should not have it as a pseudo-state. They should be represented either by Virginia, or Maryland, or by their Representatives, but they should not be made a pseudo-state. There is absolutely nothing fair about this.

I would hope that there would be some votes changed and we would kill this by a huge majority.

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

Senator TROTZKY: Mr. President and Members of the Senate: One of the most important concepts in this country, in the history of this country, is the rights of the individual. It states here in the Constitution, "Congress shall have the power to lay and collect taxes. It shall also have the power to declare war."

The question is, shouldn't the people of Washington D.C., whose sons have to go to war, have to fight if Congress declares war, have some representation, some voting representation, full representation, as every other citizen does in this country, in the Congress.

The other argument which was brought up, that we're making a state out of this. We're not making a state out of this. It's just for representation, that's all it's for.

In terms of the present political situation, we talk about the power of the South, and the power of the Northeast, and the power of the Midwest, I would suggest that probably representation for Washington would help the power of the Northeast in Congress.

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

Senator TRAFTON: Mr. President, Men and Women of the Senate: It's disturbing to me this morning, that we still are having misinformation written into the Record by some Members of the Senate. Yes, indeed, the District of Columbia pays federal, underline the word "federal," income taxes. As the good Senator from Cumberland has already said, they are, indeed, one of the most heavily taxed localities in this country, paying more on a per capita basis than ten other states in this country.

The PRESIDENT: Is the Senate ready for the question?

The Chair recognizes the Senator from Cumberland, Senator Clark.

Senator CLARK: Thank you, Mr. President. Mr. President, Men and Women of the Senate, seldom do I spend as much time as I have spent on the remarks that I intend to share with you this morning, as I have on this issue. Seldom have I spent as much time changing from an absolute opponent to the full voting rights of D.C. residents, as I have, as I stand before you as a proponent, for full voting rights of D.C. residents in this country.

I don't often come 180 degrees, even though I sometimes suggest even to myself, that I always maintain an open mind. I guess we all can learn, even though, in this particular instance, I recognize and admit that perhaps I am what one would call, a slow learner.

I have lots of thoughts for this Senate this morning, that perhaps haven't been articulated as openly and as squarely as many of the thoughts that we hold internally. I read with interest an editorial in the Times Record, dated 4-20-81. I remembered that I saved an article from a couple of years ago, I think it was '79, from the Washington Post, about the D.C. Amendment, because I knew that eventually it

would be before the Maine Legislature and I hoped I would be here at that time to oppose it.

I share with you this morning that the reason I am serving in the Maine Legislature is because I became so committed to the passage of the Equal Rights Amendment, that I wanted to be part of the Body that voted on it, and ultimately ratified it in the Second Session of the 106th Maine Legislature.

When Maine had its Ethnic Day here in the rotunda area, I spent a long time with a good friend of mine, former State Representative Gerry Talbot, who was my seat mate for four years in the other Body. I called a number of constituents in my Senatorial District. I even asked one of them, who, coincidentally, was the spokesperson for John Anderson in the last presidential election, to poll his people and the people in his Town of Yarmouth, please, for me, for I needed guidance. I sent out memos to my constituents, asked them for input. I called people and said, am I right, or am I wrong? I was wrong. I hope that the right will prevail today.

My leaning "no" on this issue is reflected in my full about face. I am responding to my constituents. I am beginning, internally, to feel as supportive as they are. I listened to that good Senator McBreairty this morning, as he led us with our opening prayer, which in part read, freedom that we have to determine our political course of our own lives.

To the citizens of Washington, D.C.? That we can determine our lives in accordance with the general welfare. Can they affect the determination of their lives?

I've listened, and I've learned a lot. Now I'm going to share with you some of the things that I haven't heard articulated in this chamber. It's not all pretty. We've had this wonderful debate about voting representation in Congress for the District of Columbia. Two Senators and one Representative, probably. What do we talk about? Simple justice versus retrocession, state status versus city, or district status, on and on, and all supplemented with massive materials supplied by the League of Women Voters, or researched in our own library.

The intent, we talk about, of the farmers, please note that I did not say fathers, for at that time, the mothers were kept well in their places, the framers of our Constitution, and what their intent was. Please, Senators, colleagues of mine, do not misunderstand me. All of this debate has been laudable, highly researched and yes, documented. Yes, enlightening, educational, and in some instances, appalling.

I would suggest to you, however, that something has been missing. Where, truly, is the opposition coming from? What is not being said? Let's see if I can, or dare, fill in some of the blank spaces. Do we talk about how the District of Columbia is likely to elect three black people, although no one ever faults the grand State of Maine for electing only white people, or the State of Utah for the same white people, and usually Mormons at that?

Have people here in this Chamber talked about how the Representatives to Congress from the District of Columbia, if we are to research and look at party enrollment? How is that different from other places nowadays? How that differs from other places nowadays is beyond me, with reference, perhaps, to Biddeford, or Lewiston. Besides, no one ever attempted to disenfranchise Nebraska, for sending nothing but Republicans to Congress.

There are even some who think that the District should not have a vote in Congress, because it is a place where bureaucrats live. Has anyone here suggested that the vote be withheld from suburban Virginia, or Maryland, or for that matter, Portland, Maine, a city where bureaucrats are not unknown? If we are to start awarding the vote on the basis of occupation, which is obviously patently absurd, I don't know what in the world we're going to do

with such famous watering spots as Las Vegas, Atlantic City, or even our own Kingfield, Maine in the height of the ski season.

People talk quietly, they even whisper. Some barely allude to how the District's Representatives would be pro-choice, or pro-welfare, or pro-union, as if these issues are forever and will not and have not changed in time. In fact, there is no telling what the Representatives from the District will be. Should we allow them to be at all, white, black, male, female? Since the population is changing, and since, horrors, Washingtonians may wind up choosing someone on some other basis than even race. This, in fact, has already happened, as we all very well know.

Few people in this Chamber have talked openly about how Washington already is this favored place, where federal dollars are bountiful, and everyone is on "easy street," thanks to the hardworking folk of other places like Maine, even. Most of us who have visited that small bit of geography must admit that we, too, have used parks tended by the Interior Department, and ridden on roads paved by the Feds, and travelled on that super new transit system. Yes, maybe, just maybe, Washington, D.C. does take in more money than it puts out. So do some of our states.

There is, of course, a Constitutional consideration. The issue of what the framers intended, when they did their framing. It's hard to tell, really, they made Washington a Federal District, not a state. They clearly did not envision a city of over 650,000 souls. At any rate, they had less confidence in their own infallibility than some of the people who have followed them. They, at least, provided for a means to amend, change, our U.S. Constitution, possibly, even possibly, they thought times would change, as evidenced by L. D. 617 before us.

Now, I'll tell you, we here in Maine can live either way, with voting representation for the American citizens in the District of Columbia, or without. Nothing will change, either, in the District. The garbage will get picked up. The traffic lights on New York Avenue will work. Children will continue to play in the parks, and the cherry trees will blossom. Life will go on.

While the D.C. Voting Rights Amendment will have minimal impact outside Washington, the residents of that District are now denied a fundamental American right. L. D. 617 is before us. We can do something today, as Maine Legislators. We can recognize our obligation to support equal rights for all Americans, whether they live in Washington, D.C., Poughkeepsie, New York, or even Freeport, Maine.

This Bill should be Passed. While I do not favor dumping tea into the Potomac, I can see certain parallels. Please, join in support of the pending motion.

(Off Record Remarks)

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

Senator SUTTON: Thank you, Mr. President. Just one more word. I enjoyed listening to my good friend and colleague from Cumberland, whom I respect very much, but in due respect, this is not a good Bill. What we are talking about has nothing to do with blacks, and whites, and Republicans, and Democrats, and picking up garbage, and using parks. It has to do with one fundamental thing. That is, not representation, and whether Washington, D.C. should have it or not, but how they should have it. This, my fellow Senators, I submit, is not the way they should have it.

Therefore, it is a bad Bill and we should not pass it. There are other ways. This is not the way. State? Pseudo-state? What do two U.S. Senators do? Ladies and Gentlemen, the question is not whether D.C. should be represented, the question is how and this is not the way.

The PRESIDENT: The Chair recognizes the

Senator from York, Senator Wood.

Senator WOOD: Mr. President, I'd like to pose a question to the Chair if anyone would care to answer it. Who's going to tell Porter Leighton, if he chooses to live in Washington, that he can't vote?

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

Senator NAJARIAN: Mr. President and Members of the Senate, the good Senator from Cumberland, Senator Clark, mentioned that she didn't know, I believe she said, she didn't know why Congress created the Federal District when they framed the Constitution. As she also said, we all learned a lot from studying this issue. One of the things I learned was the history of why the District was created, which I'd like to share with you.

When the Constitution was being debated in Philadelphia, there was no capitol. In 1783, Pennsylvania refused to call out the state militia to protect the Congress from a band of unruly, discharged soldiers, sort of what happened in Teheran recently.

With that sour taste of the past in mind, the new Congress planned that the National Assembly should never again depend on a state government for vital services. It would be the sole master of its permanent home. The founding fathers had no intention of denying to the thousands of American citizens, the right to democratic representation, when they did this, because they had no idea that three quarters of a million people would one day be living there.

I would just like to continue a few more moments to respond to some of the remarks of the good Senator from Oxford, Senator Sutton, on "this is not the way." He has mentioned that the District should become a part of the State of Maryland, for example. I must say that from my reading, all the alternatives have been thoroughly tried and rejected, both by the State of Maryland, who does not want that, the people of the District do not want that, and neither did Congress think that was a good idea. To say that we should have other ways is just simply not practical, or would cause for more difficulties than the current method, which I believe, sounds to me, from all my reading, would be entirely workable and certainly good for the citizens of that District.

The PRESIDENT: Is the Senate ready for the question?

The Chair recognizes the Senator from Kennebec, Senator Ault.

Senator AULT: I would point out to Senator Najarian that part of the original District was given back to the State of Virginia. To my knowledge, the inhabitants of the District of Columbia never applied for statehood.

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

Senator BUSTIN: I would like to remind the good Senator from Kennebec, Senator Ault, that Maine was also part of Massachusetts at one time, and then we applied for statehood, but I don't think the District needs to right now.

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 risen a Roll Call is ordered.

The pending question before the Senate is the motion by the Senator from Penobscot, Senator Trotzky, that the Senate Recede and Concur with the House.

A Yes vote will be in favor of the motion to Recede and Concur with the House.

A No vote will be opposed.

The Doorkeeper will secure the Chamber.

The Secretary will call the Roll.

**ROLL CALL**

YEA — Brown, Bustin, Carpenter, Charette, Clark, Conley, Dutremble, Kerry, Najarian.

## Orders

O'Leary, Pray, Trafton, Trotzky, Usher, Violette, Wood.

NAY — Ault, Collins, Devoe, Emerson, Gill, Hichens, Huber, McBreairty, Minkowsky, Perkins, Pierce, Redmond, Sewall, C.; Shute, Sutton, Teague, The President, J. Sewall.

ABSENT — None.

A Roll Call was had.

16 Senators having voted in the affirmative and 17 Senators in the negative, with No Senators being absent, the motion to Recede and Concur does not prevail.

Is it now the pleasure of the Senate to Adhere?

The Chair recognizes the Senator from Cumberland, Senator Conley.

Senator CONLEY: 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 pending question before the Senate is to Adhere.

A Yes vote will be in favor of Adhering.

A No vote will be opposed.

The Doorkeepers will secure the Chambers.

The Secretary will call the Roll.

## ROLL CALL

YEA — Ault, Collins, Devoe, Emerson, Gill, Hichens, Huber, McBreairty, Minkowsky, Perkins, Pierce, Redmond, Sewall, C.; Shute, Sutton, Teague, The President, J. Sewall.

NAY — Brown, Bustin, Carpenter, Charette, Clark, Conley, Dutremble, Kerry, Najarian, O'Leary, Pray, Trafton, Trotzky, Usher, Violette, Wood.

ABSENT — None.

A Roll Call was had.

17 Senators having voted in the affirmative and 16 Senators in the negative, with No Senators being absent, the motion to Adhere does prevail.

The Chair recognizes the Senator from Kennebec, Senator Ault.

Senator AULT: Mr. President, having voted on the prevailing side, I now move Reconsideration.

The PRESIDENT: The Senator from Kennebec, Senator Ault, now moves that the Senate Reconsider its action whereby the Senate voted to Adhere.

The Chair recognizes the Senator from Penobscot, Senator Trotzky.

Senator TROTZKY: I move this item be Tabled for 1 day.

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

Senator COLLINS: I request a division.

The PRESIDENT: A Division has been requested.

Will all those Senators in favor of the motion by the Senator from Penobscot, Senator Trotzky, that L. D. 617 be Tabled 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.

16 Senators having voted in the affirmative, and 17 Senators having voted in the negative, the motion to Table does not prevail.

The pending question before the Senate is the motion by the Senator from Kennebec, Senator Ault, that the Senate Reconsider its action whereby it voted to Adhere.

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

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

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

A Joint Resolution in Memoriam:

WHEREAS, the Legislature has learned with deep regret of the death of Florida Lewin, Wife of the Honorable Theodore Lewin, former member of the Maine Legislature. (S. P. 590) presented by Senator BUSTIN of Kennebec (Cosponsors: Representative LUND of Augusta, Representative PARADIS of Augusta and Representative HICKEY of Augusta).

Which was Read.

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

Senator HICHENS: Mr. President and Members of the Senate: I don't think that we should let this Order just be Passed without some statement being made about Florida Lewin, the wife of Honorable Theodore Lewin, former member of the Maine Legislature.

Truly, being the wife of former Representative Colonel Lewin was a distinction. I know that Colonel Lewin would say that she was a great helpmate to him during his military career, and during his career in the Maine Legislature.

Florida Lewin was distinctive in her own right, in the City of Augusta, Especially, where she was on very many charitable organizations, where she was a great worker at the Augusta hospital, and the Augusta Mental Health Institute, and did much for the people of Augusta to help them in their various needs.

I think today, as we think back on Florida Lewin, those who knew her, those who knew her husband, that we should be very mindful of the fact that she was truly a great woman in her own right.

Which was Adopted.

Sent down for concurrence.

## Committee Reports

## House

## Ought to Pass

The Committee on Labor on, Bill, "An Act to Increase the Minimum Base Salary for Executive, Administrative or Professional Employees." (H. P. 430) (L. D. 477)

Reported that the same Ought to Pass.

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

The Committee on Labor on, Bill, "An Act to Clarify that the Contract Bar Rule does not Apply to Unit Clarification Proceedings under the State Employees Labor Relations Act." (H. P. 1253) (L. D. 1477)

Reported that the same Ought to Pass.

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

The Committee on Public Utilities on, Bill, "An Act to Amend the Charter of the Kennebunk Light and Power District." (H. P. 951) (L. D. 1127)

Reported that the same Ought to Pass.

Comes from House, the Bill Passed to be Engrossed.

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

The Committee on Appropriations and Financial Affairs on, RESOLVE, to Authorize Expenditure of Certain Federal Funds for New or Expanded Programs. (Emergency) (H. P. 1361) (L. D. 1546)

Reported that the same Ought to Pass.

Comes from the House, the Resolve and accompanying Papers recommitted to the Committee on Appropriations and Financial Affairs.

Which Report was Read.

On motion by Senator Huber of Cumberland, Recommended to the Committee on Appropriations and Financial Affairs, in concurrence.

## Ought to Pass

The Committee on Appropriations and Financial Affairs on, Bill, "An Act to Amend the Spruce Budworm Suppression Law." (H. P. 1334) (L. D. 1530)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-267)

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

The Committee on Labor on, Bill, "An Act to Establish an Agricultural Exemption from Workers' Compensation for Certain Wood Lot Operations." (H. P. 937) (L. D. 1107)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-264)

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 Fisheries and Wildlife on, Bill, "An Act to Require Persons Being Licensed to Hunt for the First Time to Have Completed a Gun Safety Course." (H. P. 871) (L. D. 1040)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-269)

Signed:

Senators:

REDMOND of Somerset

HICHENS of York

USHER of Cumberland

Representatives:

MacEACHERN of Lincoln

GILLIS of Calais

CLARK of Millinocket

ERWIN of Rumford

DAMREN of Belgrade

CONNERS of Franklin

JACQUES of Waterville

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

Signed:

Representatives:

SMITH of Island Falls

PETERSON of Caribou

PAUL of Sanford

Comes from the House, the Bill Passed to be Engrossed as amended by Committee Amendment "A" as amended by House Amendment "A" (H-277) Thereto.

Which Reports were Read.

On motion by Senator Redmond of Somerset, Tabled for 1 Legislative Day, pending Acceptance of Either Committee Report.

## Divided Report

The Majority of the Committee on Taxation on, Bill, "An Act to Permit Municipalities to Levy a Sales Tax on Meals and Lodging." (H. P. 1073) (L. D. 1276)

Reported that the same Ought Not to Pass.

Signed:

Senators:

TEAGUE of Somerset

EMERSON of Penobscot

WOOD of York

Representatives:

POST of Owl's Head

INGRAHAM of Houlton

MASTERMAN of Milo

TWITCHELL of Norway

DAY of Westbrook

KILCOYNE of Gardiner

BROWN of Bethel

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

Signed:

Representatives:

KANE of South Portland

HIGGINS of Portland

HAYDEN of Durham

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 Somerset, Senator Teague.

Senator TEAGUE: Mr. President, I move the Majority Ought Not to Pass Report.

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

The Chair recognizes the Senator from Cumberland, Senator Conley.

Senator CONLEY: Mr. President and Members of the Senate: the Committee itself is not too favorable for this piece of legislation, so I guess my remark was going directly right to them.

Mr. President and Members of the Senate, I'm just a little boy from the city, the city that has 65,000 people who rely solely on the property tax for the welfare and the general obligations of providing services to the many citizens of that community, of that city.

Year, after year, after year, the property taxes have to be increased to provide decent fire protection, decent police protection, decent health protection, decent public works protection, and on and on and on. I could go on with a litany.

The City of Portland, and I'm sure, the citizens of many other large communities in this State, continue to see their property tax being increased year after year, wondering how they're going to make the next tax payment in the upcoming year to retain their homes.

We've often referred to it as the overtaxed burden of larger communities, because of the number of services that must be provided. We can talk about the sewerage costs in the City of Portland today, because of the Clean Water Act that we have, that has mandated us to provide sewerage treatment. If you want to get some real flack, come on down in my little community to hear the citizens rave about the high water costs they are currently experiencing, when a few years ago, it cost little or nothing at all.

The Bill before us, and I have absolutely no qualms as to how this Bill is going. It's obvious by the Committee Report. It's obvious it's the action that was taken in the other Body, and the action that was taken in the Committee itself.

Something's got to be done to help people in these larger communities to bring property tax under control, and to provide the decent services that are needed.

When we first came into Session, a few months ago, I had the opportunity of sitting down with the Republican leadership of this Body, as well as the Senate Chairman of the Taxation Committee, to go through this proposal, and to try to bring at least some idea as to what is being felt in the City of Portland under the local property tax.

I know many of you read the paper. Only last week, the city manager talked about balancing his budget, by terminating, the employment of 127 people, those people who are currently employed.

I can tell you, the last few years that I served on the city council, for three consecutive years, we had no property tax increase. We abolished job, after job, after job, that became vacant to maintain a level property tax, with not very much growth taking place.

The Bill before us is an enabling legislation bill, that goes to all communities, that would allow the selectmen or the city council to impose a two cent tax on food and lodging, to help alleviate the ever-rising costs of property tax. To try to somehow or another bring in some cap that people will not have to look forward to another increase this year and next year. It was estimated that \$1 million would be received by the citizens of Portland. The moment that \$1 million was mentioned, it

began to look like it was a pretty good tax. The next thing I knew, the Maine Publicity Bureau wants to get its hook in the door and get 20 percent of that 2 percent for the purpose of promoting the State. Fine.

During the meeting we had with the leadership, the good Senator from Kennebec, from Waterville, Senator Pierce, mentioned the fact that even his community itself was being faced with a 17 percent increase in the local property tax this year. We can't go on, and on, and on. The tax dollars in this State continue to grow, and towns are held down to the regressiveness of property tax. We've got to provide some kind of relief.

I would urge the Members of this Body today, if you vote against this Bill, then what are you going to do for these communities?

The PRESIDENT: The Chair recognizes the Senator from Washington, Senator Brown.

Senator BROWN: Thank you, Mr. President and Men and Women of the Senate. We've heard from the good Senator Conley of Cumberland, as the city boy. I'd like to speak as a country boy just a moment, from the County of Washington County.

I have received mail from the Cities of Calais and Machias, and the selectmen urging me, also to pass this Bill. Thank you.

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

Senator TROTZKY: Mr. President, as the State Senator from the City of Bangor, Bangor would benefit \$600,000 by this Bill if it chose to implement tax on meals and on lodging.

I think one thing has to be pointed out, that cities, to a large extent, are centers of culture in our State. We have symphonies, we have large libraries which lend out to people in communities surrounding. The people within the city have to pick up a lot of the costs that others in surrounding communities benefit by.

This Bill is not going to drive people out of business or hurt the business community. For example, if you have a restaurant, and a person goes out, if it's for lunch, for a \$5 meal, it puts the 2 percent, 10¢ on it. That's not going to drive people away from a restaurant. If it's a \$10 meal, it's 20¢. If someone stops off at a motel in a city, and it's a \$40 room, which is high, it's an extra 80¢. It allows our cities to be able to drive.

Right now, what's going on in Portland is also going on in Bangor. In Bangor, we cut back on the inspectors. We had inspectors who went around and inspected restaurants. We had a Bill on this, went around and inspected restaurants, to see that restaurants were clean and health codes are met and so on. The City of Bangor, because of the pressure on taxes, cut those inspectors out. Yet, this Legislature wouldn't provide extra fees to inspect restaurants.

We do have restaurants, we have many restaurants and motels in the city. It would help, in many cases, it will get tourist dollars into the cities to help support the cities.

All we're asking for is some kind of enabling legislation here. The cities have to make a choice. If they choose to implement this tax, and the city next door, it's possible that business might go to the other city. So the city councils are going to think very critically in implementing this tax.

On behalf of the cities, I think we would appreciate some support on this bill.

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

Senator WOOD: Mr. President and Members of the Senate: I would like to assure the three Senators that have spoken that the Taxation Committee is certainly not insensitive to the needs of our towns and cities, but that, because we are sensitive, we can just simply not pass out any bill, however poor that vehicle may be. I would suggest that this Bill is a poor vehicle to provide tax relief to our cities and towns. We have other vehicles in the Committee, such as

the service charge bill, that might be a much more appropriate response.

Also, it would make the sales tax more regressive in that many times you have to go out to eat, or many businesses, salesmen in our profession, we are required to go out and eat, because of the location of our jobs. This would place a burden on us that I'm not sure is fair.

Third, it would further complicate our tax structure, in that if we find the necessity to raise the sales tax in the future, there would be a hue and cry from these towns that already have a two percent sales tax, not to have us piggyback an increase. If we had to raise the sales tax to 6 percent, it would mean that these towns will be coming to us and saying, please don't raise the sales tax. We might have to raise that sales tax to benefit the whole State. We would be discouraged from doing that, because of a few towns that had enacted this legislation.

Finally, I think that this abrogates our responsibility to keep control over taxes. The Constitution requires the State to have that control and that control alone. We can not abrogate that responsibility and pass it on to the towns.

I realize that these might be philosophical reasons. They do not take into account the real problems that Portland and many cities face. I think there are the reasons why we can't support this Legislation. There will be many other vehicles coming along. I think you will see different Committee Reports on those Bills.

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

Senator NAJARIAN: Mr. President and Men and Women of the Senate, I think probably the good Senator from Cumberland, Senator Conley, has outlined to you the problems that face the City of Portland. It has been labeled a Portland Bill, so I might as well also talk about Portland's situation.

The problem is this, that as he has probably laid out to you, although I missed the first part of his speech, that property taxes simply are not growing enough to support current services. So we have to continually cut city services while our property taxes continue to increase. This has been happening two years in a row. That's projections for five years in the future.

The Federal money to the City of Portland has been declining. The Legislature has allowed State Aid to the cities and municipalities to also decline. State Aid in the Transportation Department, we've phased out the inventory tax, that's slated, the pay back on that is slated to be gone and absolutely wiped out in two more years. General Assistance Formula has never changed to keep up with increasing valuations. We are continually losing money from the State that we previously had. Federal dollars are declining. There is not that much property growth in any one year in Portland to support their increase in their cost just at current levels. The development we bring in, all the revenues accrue to the state. We have tourists come into Portland to eat at our restaurants. They pay the sales tax on their meals. That goes to the State. We create new jobs. The income tax from those people who are employed goes to the State. We do not benefit from all the economic development that we've been promoting and developing as well as the other communities in the State.

We simply, if this is not the mechanism, and I'm sure many of those reasons have validity, then for heaven's sake, when some other measures come before this Senate, that the Taxation Committee does support, like service fees, and heaven's knows, there are a few more, general assistance and so forth, I hope the Senate will seriously consider them and help the communities out, particularly the larger cities, because you'll be there where we are someday down the road. We always seem to get there first. Thank you very much.

The PRESIDENT: The Chair recognizes the

Senator from York, Senator Hichens.

Senator HICHENS: Mr. President, we've heard many of the speakers this morning say that this is only a two cent tax. Yes, it is only a two cent tax, but you add that to the five percent sales tax when you go into a restaurant, and add that to the gratuity, which is just a voluntary tax in itself, but which everyone usually pays, that means that a family of four going into a restaurant and paying the minimum of \$20 for their meal, is paying \$5 extra just for gratuity and taxes.

I think that's an extra burden to add on to them.

Many of these same speakers have expressed the dissatisfaction with putting a two cent tax on a gallon of gasoline. They've screeched about it, the people wouldn't accept it. Why should we accept a 2 percent tax on rooms and meals, if we can't accept the other one?

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

Senator CONLEY: Mr. President and Members of the Senate: I used to have a son who went to school down in New Hampshire, down in St. Anselm's in Manchester. There was a great newspaper that was published down there called, the Manchester Union. I used to read about the good Senator from York, Senator Hichens, in it quite frequently.

What I want to point out is that sometimes I think that he espouses a lot of the philosophy that I have read in the Manchester Union, but I would just like to clear the Record that the State of New Hampshire presently has a 7 percent tax on the board, with respect to restaurants. So we are not going to throw any of our communities out of balance, if those communities so choose to pass this enabling legislation at their councils or board of selectmen.

You would be amazed how much relief it might possibly bring even to the little Town of Eliot.

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

Senator MINKOWSKY: Mr. President and Members of the Senate: As like the good Senator from Portland, Senator Conley, I also served in municipal government in a different capacity, maybe, but on the finance board for 5 years.

I think that we in the front line on the finance board had really a good idea exactly what was materializing at the local level.

The one factor in the original presentation that Senator Conley did not discuss when he was talking about the elimination of services and everything else was the influx of Federal Funds which as he has been clarified by the good Senator from Portland, Senator Najarian.

True, these funds have been curtailed, and tremendously, but another thing that comes into play, if we are concerned with the small business communities that are existing, especially the ones who are taking care of the restaurants and the lodging places, we are leveling another tax on them or another reporting procedure and basically the term that was brought out earlier that was discrimination. If we want equity and fair play, at the local level, then tax all the different businesses, don't just single out the restaurants and the places of lodging. And that's what I'm looking for, equity and fair play.

Most of the remarks made by the good Senator from York, Senator Wood, correlate very well as a former municipal official to what he said. This is not the proper vehicle to use at the present time. It is by no stretch of the imagination, it is discriminatory. If we come up with some other viable, practical feasible document, then I think I would be in favor of it.

I, like everybody else, realize that property tax is not the most logical way of doing it, but if you want to look at something else, if the free

enterprise system, that term has been bandied around a great deal and there has been many different analogies used of it. Municipal government, like State government, has to cut back. It has to curtail its operation. If the private sector of business has to cut back and rewrite job descriptions and possibly eliminate people, the municipal government is no different, besides that they are being paid for exclusively by the taxpayer.

I think, basically, the message was very clear. When we came up here in January, the taxpayer, regardless what, a tax, is a tax, is a tax, whether it is imposed at the municipal level or the State level. They want relief. This is not a way of approaching it by adding it on at the municipal level.

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

Senator HICHENS: Mr. President, I didn't intend to speak again on this issue, but the good Senator from Cumberland happened to mention my own Town of Eliot. I would remind him, in the Town of Eliot there is one restaurant and no motels. In the Town of South Berwick, which I represent, there is one restaurant and no motels. In the Town of North Berwick, which I represent, there is one restaurant and no motels. There are four other towns which I now represent, including the new Town of Ogunquit, which are summer resorts and there are many restaurants and many hotels and motels. I've only heard from selectmen from one of those towns asking me to vote for this Bill.

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

Senator NAJARIAN: Mr. President, Members of the Senate: When I spoke before, I really didn't make an argument for this tax, but I would like to point out that there are thirty states that have optional local taxes. So, we are not doing anything unique, and as far as the State giving up one of its taxing powers, I will just remind you that what the State giveth the State can take away, as they have so many times since I've been up here.

On a ten dollar meal at the Roma in Portland, the additional cost would only be 20¢, so I don't think anyone is going to refuse to eat out or that's going to cause a hardship on anybody.

The PRESIDENT: The Chair will order a Division.

Will all those Senators in favor of the motion by the Senator from Somerset, Senator Teague 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.

The Chair recognizes the Senator from Cumberland, Senator Conley.

Senator CONLEY: Mr. President, I request that the vote 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 the motion by the Senator from Somerset, Senator Teague that the Senate Accept the Majority Ought Not to Pass Report of the Committee.

A Yes vote will be in favor of Accepting the Majority Ought Not to Pass Report of the Committee.

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, Collins, Devoe, Dutremble, Emerson, Gill, Hichens, Kerry, McBreairty, Minkowsky,

Perkins, Pierce, Redmond, Sewall, C., Shute, Sutton, Teague, Trafton, Usher, Violette, Wood.

NAY—Brown, Conley, Huber, Najarian, Pray, Trotzky.

ABSENT—O'Leary.

A Roll Call was had.

25 Senators having voted in the affirmative and 6 Senators in the negative, with 1 Senator being absent, the motion to Accept the Majority Ought Not to Pass Report, in concurrence, does prevail.

#### Senate Ought to Pass

Senator WOOD for the Committee on Agriculture on, Bill, "An Act to Provide for Identifying Natural, Nonimitation Food Products Sold in the State." (S. P. 485) (L. D. 1387)

Reported that the same Ought to Pass.

Which Report was Read.

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

#### Ought to Pass — As Amended

Senator CONLEY for the Committee on Judiciary on, Bill, "An Act to Amend the Criminal Code and Related Criminal Laws." (S. P. 444) (L. D. 1282)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (S-155).

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

#### Divided Report

The Majority of the Committee on State Government on, Bill, "An Act to Provide for Legislative Review of Agency Rules." (S. P. 505) (L. D. 1432)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (S-154).

Signed:

Senator:

GILL of Cumberland

Representatives:

KANY of Waterville

LISNIK of Presque Isle

DIAMOND of Bangor

MASTERTON of Cape Elizabeth

PARADIS of Augusta

SMALL of Bath

McGOWAN of Pittsfield

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

Signed:

Sensors:

AULT of Kennebec

VIOLETTE of Aroostook

Representatives:

WEBSTER of Farmington

DILLENBACK of Cumberland

BELL of Paris

Which Reports were Read.

On motion by Senator Collins of Knox, Tabled for 1 Legislative Day, pending Acceptance of Either Committee Report.

#### Second Readers

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

#### House

Bill, "An Act to Allow the Export of Wood from Public Lands under Certain Circumstances." (H.P. 1359) (L.D. 1544)

Bill, "An Act Concerning Gifted and Talented Education." (H. P. 837) (L. D. 1003)

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

#### House — As Amended

Bill, "An Act to Amend the Eligibility Age for Preschool Handicapped children." (H.P.



453) (L.D. 500)

Bill, "An Act Eliminate the Length Restriction in the Definition of Camper Trailers under the Tax Laws." (H. P. 296) (L. D. 326)

Bill, "An Act Relating to the Used Car Information Act." (H.P. 718) (L.D. 850)

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

Bill, "An Act Providing Collective Bargaining Rights to Legislative Employees." (H.P. 323) (L.D. 384)

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

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

Sent down for concurrence.

#### Senate — As Amended

Bill, "An Act to Raise Survivors' Benefits in the Maine State Retirement System." (S.P. 464) (L.D. 1320)

Bill, "An Act to Make Changes in the Kennebec Water District Charter." (S.P. 207) (L.D. 572)

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

Sent down for concurrence.

#### Enactors

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

AN ACT to Provide Notice to Cosigners and Others Similarly Situated in Consumer Credit Transactions. (H. P. 448) (L. D. 495)

On motion by Senator Collins of Knox, Tabled for 2 Legislative Days, pending Enactment.

AN ACT to Establish Minimum Standards for Medicare Supplement Insurance Policies. (S.P. 175) (L.D. 455)

AN ACT Relating to Interest Rates Upon Refinancing of Loans under the Maine Consumer Credit Code and Making other Clarifications of the Maine Consumer Credit Code. (S.P. 228) (L.D. 615)

AN ACT Concerning Approval of Graduate Educational Programs by the Board of Registration in Medicine. (S.P. 487) (L.D. 1389)

AN ACT to Provide the Supreme Judicial Court with Rulemaking Authority over Court Records and Certain Abandoned Property. (S.P. 506) (L.D. 1433)

AN ACT to Require a Record of Sales to be Kept by Dealers in Used Merchandise. (H.P. 423) (L.D. 470)

AN ACT Concerning the Investigation Authority of the Attorney General and Related Provision. (S.P. 507) (L.D. 1434)

AN ACT to Include Health Education for the General Public as Medical Education Program Conducted by the Board of Registration in Medicine. (S.P. 484) (L.D. 1386)

AN ACT to Ensure that those Homes Receiving Fuel Assistance are Winterized. (H.P. 1067) (L.D. 1270)

AN ACT to Require Trucks Carrying Explosive Material to Come to a Complete Stop Before Crossing Railroad Tracks. (H.P. 786) (L.D. 931)

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

#### Emergency

AN ACT to Amend the Consumer Loan Agreements Law. (S.P. 318) (L.D. 908)

#### Emergency

AN ACT to Conform the Maine Consumer Credit Code to the Federal Truth-in-Lending Simplification and Reform Act. (S.P. 94) (L.D. 213)

These being emergency measures and having received the affirmative votes of 30 members

of the Senate, with No Senators voting in the negative, were Passed to be Enacted and having been signed by the President, were by the Secretary presented to the Governor for his approval.

#### Orders of the Day

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

Bill, "An Act to Provide a One month Grace Period for Expired Motor Vehicle Registrations." (S.P. 356) (L.D. 1031)

Tabled—April 29, 1981 by Senator HUBER of Cumberland.

Pending—Consideration.

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

Senator HUBER: Mr. President, I move that the Rules be Suspended for the purpose of Reconsideration.

The PRESIDENT: The Chair has been advised by the good Secretary that the Senator from Cumberland, Senator Huber, was furnished with the wrong motion.

The Chair now understands that the Senator from Cumberland, Senator Huber, moves that the Senate Recede.

Is this the pleasure of the Senate?

The motion prevailed.

The Chair recognizes the Senator from York, Senator HICHENS.

Senator HICHENS: I move the Senate Recede and Concur with the House.

The PRESIDENT: The Senator from York, Senator HICHENS, now moves that the Senate Concur, since the Senate has already Receded.

The Chair will order a Division.

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

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

1 Senator having voted in the affirmative, and 26 Senators having voted in the negative, the motion to Concur does not prevail.

On motion by Senator Huber of Cumberland, the Senate voted to Recede whereby it Adopted Committee Amendment "A".

On motion by Senator Huber of Cumberland, Committee Amendment "A" was Indefinitely Postponed.

Senator HUBER: I now present Senate Amendment "A" to the Bill under filing number S-158 and move its Adoption.

The PRESIDENT: The Senator from Cumberland, Senator Huber offers Senate Amendment "A" to L. D. 1031 and moves its adoption. Senate Amendment "A" (S-158) Read.

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

Senator MINKOWSKY: Mr. President, would the good Senator from Cumberland explain his Amendment a little more clearly than is on the Statement of Fact?

The PRESIDENT: The Senator from Androscoggin has posed a question.

The Chair recognizes the Senator from Cumberland, Senator Huber.

Senator HUBER: Mr. President, Members of the Senate, this Bill would simply provide a one month's grace period upon expiration of automotive registration. Instead of a summons, a person would get a warning during the 30 day period after expiration. If a person is so warned, this sort of provides the re-registration would be on the same schedule as the prior registration. In addition a \$10 would be paid to the town on such a late registration, only when the person has been so warned.

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

Senator MINKOWSKY: Mr. President, if I understand correctly, the warning is more than a warning. It carries a mandated fee with \$10 upon warning. Is that correct?

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

Senator HUBER: Mr. President and Members of the Senate, this would provide for a \$10 fee, which I include in this bill simply to minimize any postponement of payment of the excise tax and to reimburse towns as people use this grace period excessively.

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

Senator MINKOWSKY: I move this item be Tabled 1 Legislative Day, pending the Adoption of this Amendment.

The PRESIDENT: The Senator from Androscoggin, Senator Minkowsky, now moves that LD 1031 be Tabled for 1 Legislative Day, pending the Adoption of Senate Amendment "A".

The Chair recognizes the Senator from Penobscot, Senator Pray.

Senator PRAY: I request a Division.

The PRESIDENT: A Division has been requested.

Will all those Senators in favor of the motion by the Senator from Androscoggin, Senator Minkowsky, that LD 1031 be Tabled 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.

15 Senators having voted in the affirmative, and 16 Senators having voted in the negative, the motion to Table does not prevail.

Senate Amendment "A" (S-158) Adopted.

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

Sent down for concurrence.

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

RESOLVE, Authorizing Gerald Pelletier to Bring Civil Action Against the State of Maine. (H.P. 286) (L.D. 333)

Tabled—April 29, 1981 by Senator COLLINS of Knox.

Pending—Passage to be Engrossed.

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

Senator COLLINS: Mr. President, this Resolve is similar to the one we debated three or four weeks ago, concerning an accident case over in Lincoln County. I commend the Committee on Legal Affairs for having stripped out of this Resolve a great deal of the prejudicial language and for reducing the potential amount of recovery from \$3.5 million to \$300 thousand.

When I get to the theory on which the action would be based, however, I have problems that are very much like the ones that I discussed at some length, and others discussed at some length, nearly a month ago now. Perhaps the Committee knows some additional facts that I do not know, but I have read the letter that is on our desks that was addressed to the Chairman of the Transportation Committee by the assistance attorney general who is council for the Department of Transportation. I have read the factual material that appeared in the original Resolve. This involved, of course, an accident in northern Maine, where a tire tied on the top of a truck was knocked off going under an underpass. There are disputed facts concerning the signs relating to that underpass.

The Tort Claims Act very clearly identifies highway signs as one of the areas in which the State retains immunity. If this had been in the midst of a construction project, an ongoing construction project, for example, and the lighted beacon that warns the night time travelers that there's an open hole, if that had been the case, there would have been a waiver of governmental immunity by the statute. We make a clear distinction in the statute between ongoing repair and construction work, where there is an element of surprise and uncertainty, and the more static situation.

We have to keep in mind, that over the State,



there are hundreds, perhaps thousands, of highway signs. Not all of them are going to be in the right place at the right time.

We want to breach our Tort Claims Act by setting a new standard of care for the State, and therefore, setting the same standard for the towns, and the cities, and the counties, and the school districts, and all of our governmental units. Then we need to ask ourselves whether we can create a riskless society totally funded by the taxpayers. That's really the legal question that's behind this.

I can have as much sympathy as the next one for someone who is injured, but I have to bring this point before you, as I did in the other case. I understand there may be another one before this Session is over. I think we have to be consistent. We can't give it to one and not to the other on the same theory. A different set of facts, but the same legal theory base is what I'm asking you to think about.

I naturally welcome any other views that show that my facts are all wrong, but if I have the facts correct, then I hope you will consider taking the same course that we did before. I move Indefinite Postponement.

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

Senator VIOLETTE: Mr. President, Ladies and Gentlemen of the Senate, I'll try not to take very much of the brief time remaining in this afternoon. First of all, I would just like to say that I don't think that the Senator from Knox, with respect to his comments, is very well aware of this particular Resolution. This Resolution differs substantially from the other one, which was one of only two. There will be only two Resolutions coming out of the Legal Affairs Committee that are unanimous, this one and the Hodgdon case earlier in the Session.

This is not a question of design here, Senator Collins. This is a question of the negligence of the State. When the Committee looked into this matter, it looked into this matter in substantial detail. Attorneys for the Department of Transportation was in Committee on two separate occasions, an attorney for Mr. Pelletier was in Committee for two separate occasions. The attorney for the Governor's Office was in Committee for three separate occasions.

I am a co-sponsor of this particular Resolution. In discussing this Bill in Committee, I instructed the Committee that they should disregard entirely the fact of Mr. Pelletier's medical problems, so that we should not base our decisions on any emotional basis. Simply on the fact that the State of Maine, in the summer of 1979, knew that the sixth beam on the international bridge across the St. John River had been damaged. The height of that bridge, of that particular span, had been measured by an official with the Department of Transportation. This accident, this alleged accident, occurred more than one year after that bridge had been inspected by the Department of Transportation and had found that the beam in question was below not only the posted height on the bridge of 14 feet 2 inches, but below the legal height of 14 feet.

In reaching its decision with that in mind, the Committee simply felt that the State simply should have informed the general public. It's an international bridge. It's very heavily traveled. It's between two large cities, the City of Edmonston and Madawaska. Substantial amounts of commerce passes over that bridge. The State of Maine simply should have informed the general public that there was low clearance on that bridge. It is the feeling of the Committee that the State was negligent in its duty of informing the general public that there was an inherent hazard on that structure.

Are we going to say that no matter how much the State or agency can be at fault in a given situation, no matter how great the harm, if the situation is covered by the Act; too bad, we sympathize, but the State assumes no responsibility

for its actions?

I'd just like to go and answer a couple of the remarks of the good Senator from Knox, Senator Collins. The Tort Claims Act, first of all, if this were the intent manifested by the Legislature, when it Enacted the Tort Claims Act, I respectfully suggested that this would not be good government. This position was not the Legislature intended, nor was it what it enacted. Subsection 3 of 8105 of the Act specifically provides that in cases where the claimant believes their claim to exceed the limits of \$300,000 established by the Act, or the claims is not covered by the Act, then the State has the immunity. They may apply to the Legislature for special authorization to proceed in the courts. That is all that this Resolution is allowing.

It is not for us to try this case, Senator. Let the court do that. It is quite clear and obvious that the Legislature foresaw situations where you could have legitimate claims that were not covered by the Act and Justice required that immunity be waived. You could have claims which exceeded the limits established by the Act of \$300,000. In both instances, the Legislature stated that application for special authorization could be made.

There is no similarity between this unanimous decision of the Committee on Legal Affairs and the prior decision reached in the Hodgdon matter. That was in respect to design. This is nothing to do with design. This is all to do with simply the State knew that there was a hazard there, which was the height of the bridge, once again, being below the posted height, and secondly being below even the legal height, that a truck on the road, within weight, may fall under.

It is for those reasons, and for those reasons alone that the Committee voted unanimous Ought to Pass out of Committee.

With respect to the remarks of the good Senator from Knox, relative to the numerous number of resolutions asking authorization to sue the State. There have been 8 in Committee this year, and only 2 have been reported out of Committee unanimous Ought to Pass. I do not feel that that is a glut of resolutions being thrown out by the Committee.

The Committee has spent a considerable amount of time looking into this matter, as well as, all other resolutions before the State. It takes that responsibility very seriously, and in so doing it has determined in this instance that there is justifiable cause for this person to be allowed to sue the State of Maine.

So today I would hope that the Senate would not vote to Indefinitely Postpone this matter, and would accept the Unanimous Ought to Pass Report of the Committee. Thank you.

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

Senator EMERSON: Mr. President, and Ladies and Gentlemen, if you can find upon your desks the letter that is addressed to me from the Transportation Department. I would have you refer to paragraph 3. It says: "at the work shop session, this department offered the attached affidavit of Eugene H. Morrill, who is a United States Customs Officer, working at the bridge at the time of the accident. Mr. Morrill, states, that the pulp truck had not reached the bent fifth cross member when it stopped right after the impact.

Now I would like to read the affidavit. It says,

1. On July 25, 1980 the accident was on the 8:00 to 4:00 p.m. shift at the customs station in Madawaska.

2. After the impact noise, the Oldsmobile car came to a stop about five or ten feet from the American end of the bridge. The top of the car was dented, the windshield glass was cracked. A mounted tire was on the hood.

3. The pulp truck had come to a stop on the northbound lane. The rear of the truck was situated between the third and the fourth stringer or cross member of the bridge, being not on the

first span of the said bridge.

4. That from the affidants recall, the pulp truck had not traveled the bridge a sufficient distance to reach the bent fifth stringer or cross member, before the truck came to rest. So it seems clear that the truck had not even reached the cross member in question, before the accident happened.

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

Senator COLLINS: Mr. President, I thank the Senator from Aroostook, Senator Violette, for his explanation of his and his committee's approach to this problem. I want to say that should the Senator ever wish to apply for admission to a law school, that I would be very glad to write a letter supporting his admission, because he is a very effective advocate. I appreciate the manner that he has presented this to us. I agree with him that it is not for the Legislature to try a case and make an ultimate finding of fact.

The Legislature, however, has to look at the facts enough to see first whether it fits in with the Tort Claims Statute and could have been decided without coming to the Legislature and if it decided that it has not, then it must look at the facts to see whether the facts really justify, in effect, an amendment of the Tort Claims Act, a breathing of the standards that we have established.

The theory that we try to carry out there, made a distinct difference between the static error and the active error. Now in this case you tell us that for over a year incorrect information had been on the sign, since there had been some change in the level. We have to remember that all over the State there are signs that tell us about highway hazards, and they are not all in the right place, or someone will think that they are not all in the right place. That really is the question of whether we think that it is good public policy to open that door.

I have to say that I think that it is not, because I think that the exposure of our governmental entities is just too great. Thank you, Mr. President.

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

Senator VIOLETTE: Mr. President, Ladies and Gentlemen of the Senate, I won't carry on much longer with this matter simply to say that this Bill is a Special and Private Resolve. It does not amend the Tort Claims Act, and this Bill does not open the State of Maine to numerous other resolutions, except to say that all other resolutions such as this, be the signing or anything else, would still have to come through this process and would still be scrutinized by the Committee on Legal Affairs, in the same fashion as this one. If it was felt that the State was not negligent then it would not find in this manner.

Relative to the letter from the attorney for the Department of Transportation it is always good that the attorney for the Department of Transportation sends material relevant to this case, to the Chairman of the Committee on Transportation not to the good Chairman of the Committee of Legal Affairs. It really does justice to this particular matter, always very happy to have this kind of information before us when we are trying to make our decision. I want to thank the good council for the Department for sending his letter to the appropriate place.

I do not think, quite frankly, that this is the place for this kind of letter. An affidavit can be provided by any attorney. I happen to have two or three in front of me, from the attorney for the defendant, Mr. Pelletier. The good Chairman of the Committee on Transportation, Senator Emerson is going to begin to read affidavits on the floor of the Senate, I have one here from the patrol officer, David Cowley of Madawaska, who happened to be the patrolman who attended the accident. His affidavit is signed and witnessed, and in his affidavit, he is

sure that this was the particular beam that was struck.

I think that we can begin to introduce all kinds of evidence here today. I do not think that this is the appropriate place. I think the thing for this Senate to do today is simply to decide on the merits and the information given here today, whether or not this Senate feels that there is sufficient grounds that this person be allowed to go to court. Whether or not you feel that the State has not lived up to its responsibility in this area, after having known for over a year, in excess of a year.

Once the accident had occurred the bridge was not repaired for a further 6 months. Additional accidents of this kind could have occurred.

The results of this though is that there is a man who is now a quadriplegic. That is the result of this negligence on the part of the State. It is for the court to determine the height of that truck, and whether or not in fact it was that beam that it struck.

I do say that there was improper signing, and it was sheer negligence on the part of the State for having awaited what is certainly an unreasonable period of time. So, I would hope today that we would indeed accept the Unanimous Ought to Pass Report of the Committee on Legal Affairs and reject this motion of Indefinite Postponement. Thank you.

The PRESIDENT: The Chair will order a Division. The pending question before the Senate is the motion by the Senator from Knox, Senator Collins that the Senate Indefinitely Postpone LD 333.

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

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

10 Senators having voted in the affirmative, and 17 Senators having voted in the negative, the motion to Indefinitely Postpone L.D. 333, does not prevail.

The Bill, was Passed to be Engrossed, in concurrence.

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

Bill, "An Act to Clarify the Duties of the Register of Deeds." (H. P. 766) (L. D. 936)

Tabled—April 29, 1981 by Senator DEVOE of Penobscot.

Pending—Passage to be Engrossed.

On motion by Senator Devoe of Penobscot, the Senate voted to Suspend its Rules.

On motion by Senator Devoe of Penobscot, the Senate voted to Reconsider its action whereby it Adopted Committee Amendment "A".

Senator DEVOE: I present Senator Amendment "A" to Committee Amendment "A" under filing number S-156 and move its adoption.

The PRESIDENT: The Senator from Penobscot, Senator Devoe, offers Senate Amendment "A" to Committee Amendment "A" and moves its Adoption.

Senate Amendment "A" (S-156) was Read.

The PRESIDENT: The Senator has the floor. Senator DEVOE: Thank you, Mr. President. Mr. President and Members of the Senate, this amendment does three things to the Bill that we are now considering. It proposes to delete sections 5,6,7, and 8 of the bill. The effect of that action would be to continue the present requirement that certificates of organization of corporations be recorded in the county registry of deeds, rather than only in the Secretary of State's office, as the LD originally presented it.

The second thing that the amendment does, is that it deletes a requirement in the Bill, and in the Committee Amendment that those people who sign a deed must have their name typed under the line on which their signature appears. My reason for this is that if the deed is typed there are at least two places, elsewhere, earlier in the deed before you get to the signa-

ture clause where the party's names, the seller's names, and their spouse's names are typed. So it is in my opinion not necessary that a typed signature appear under the signature line.

The third thing the amendment would do is that it would delete section 27 of the bill, which moves from 1 hour to 24 hours the requirement that when a deed is brought in to the registry that it must be entered into a day book within an hour after the time that it gets to the registry. The Bill proposed that that time be moved back to 24 hours. I simply think, that in the busy time of that year that is too long a period of time to have deeds just setting around on the registrar's desk. Thank you very much, Mr. President.

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

Sent down for concurrence.

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

HOUSE REPORT—from the Committee on Labor — Bill, "An Act to Provide for Recovery of Unemployment Compensation Overpayments over a Reasonable Period of Time." (H. P. 664) (L. D. 768). Ought to Pass as Amended by Committee Amendment "A" (H-215).

Tabled—April 29, 1981 by Senator COLLINS of Knox.

Pending — Acceptance of 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:

Bill, "An Act Promoting the Availability of Health Care Services." (S.P. 303) (L.D. 847)

Tabled—April 30, 1981 by Senator PRAY of Penobscot.

Pending—Motion of Senator GILL of Cumberland to Recede and Concur.

On motion by Senator Pierce of Kennebec, Retabled for 1 Legislative Day.

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

HOUSE REPORTS—From the Committee on Aging, Retirement and Veterans — Bill, "An Act Relating to Burial Expenses for Veterans." (H. P. 1104) (L. D. 1309) Majority Ought Not to Pass; Minority Report Ought to Pass.

Tabled—April 30, 1981 by Senator Teague of Somerset.

Pending—Acceptance of Either Report.

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

Senator TEAGUE: Mr. President, I move that we Accept the Minority Ought to Pass, as amended, Report in concurrence.

The PRESIDENT: The Senator from Somerset, Senator Teague moves that the Senate Accept the Minority Ought to Pass Report of the Committee.

The Chair recognizes the Senator from Cumberland, Senator Conley.

Senator CONLEY: I request a Division.

The PRESIDENT: A Division has been requested.

Will all those Senators in favor of the motion by the Senator from Somerset, Senator Teague that the Senate Accept the Minority 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.

24 Senators having voted in the affirmative, and 6 Senators having voted in the negative, the motion to Accept the Minority Ought to Pass Report of the Committee in concurrence, does prevail.

The Bill Read Once. House Amendment "A"

Read and Adopted, in concurrence, The Bill, as amended, Tomorrow Assigned for Second Reading.

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

Bill, "An Act to Bring the Maine Traveler Information Services Act into Conformity with the United States Constitution." (S. P. 427) (L. D. 1249)

Tabled—April 30, 1981 by Senator Sutton of Oxford.

Pending—Passage to be Engrossed.

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

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

Bill, "An Act to Reimburse Owners of Livestock, Poultry or Beehives which are Destroyed or Damaged by Dogs or Wild Animals." (S. P. 582) (L. D. 1558)

Tabled—April 30, 1981 by Senator McBREAIRTY of Aroostook.

Pending—Passage to be Engrossed.

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

Senator McBREAIRTY: Mr. President, Honorable Members of the Senate, I present Senate Amendment "A" under filing number S-157 to L. D. 1558 and move its adoption.

The PRESIDENT: The Senator from Aroostook, Senator McBREAIRTY offers Senate Amendment "A" to LD 1558 and moves its adoption.

Senate Amendment "A" (S-157) Read.

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

Senator HICHENS: Mr. President, I hope that the members of the Senate will vote against acceptance of Senate Amendment "A". LD 1558 as a composite of 3 or 4 bills presented to this Session to the Committee of Agriculture. It transfers all dog license fees income to the Division of Animal Welfare and Sunsets funds used for promotion of Animal Husbandry as of December 31, 1983. It cuts the holding time for dogs by shelters to 8 days in order to provide extra funds for recovery to owners of livestock, poultry, or domestic rabbits by dogs and wild animals, and damage to beehives by wild animals.

Thus, the laws which took away payment for domestic animal loss is family reinstated. There is no appropriation on the bill, as monies for reimbursement are provided by the extra funds available from the cut down in dog holding time.

I hope that you will refuse this amendment, and let this Bill go as it has been presented by Unanimous Report from the Committee.

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

Senator McBREAIRTY: Mr. President, and members of the Senate, I have no problem in the State paying damages by wild animals, if it is the wish of this Legislature.

I do have a problem with the Legislature mandating that dog owners and sportsmen pay all the bills.

With this amendment, dog owners will still be paying for all damages done by dogs. I believe that's enough. If you want to pay for all the damages by wild animals, let's amend this Bill, pay the damages, and take it out of the General Fund. Don't take it out of the money that kids pay to register their pets. Thank you. I move that the Senate accept this amendment.

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

Senator WOOD: Mr. President and Members of the Senate, I would dare guess that we've discussed every little creature that exists on the face of this earth, and I'm almost to the point where I think that the President has to hold up a picture of the animal we're discussing for the day.

I would hope that the Senate would go along

with the Chairman of the Committee on Agriculture in killing this Amendment.

The Committee on Agriculture has a great deal of dog bills, spend a lot of time on dog bills, and when you can get all the members of that Committee to agree on an amendment, it has to be fairly good.

What we are saying is we're not wild about the State paying for its damage for wild animals out of the dog fees, but we think that there should be some kind of process to expedite that change, and we're allowing that change to take place through a sunset. We think this is the best approach to take. Granted, this might not be the best thing to do right now, but we have to have a transition period, and our amendment allows for it.

So, I would hope that you would support the unanimous Report and do away with this amendment.

The PRESIDENT: The Chair will order a Division.

Will all those Senators in favor of the Adoption of Senate Amendment "A" to LD 1558, please rise in their places to be counted.

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

The Chair recognizes the Senator from Aroostook, Senator McBreairty.

Senator McBREAIRTY: I ask for 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 Chair recognizes the Senator from Aroostook, Senator McBreairty.

Senator McBREAIRTY: Mr. President, Honorable Members of the Senate, last year we, members of the Audit Committee, spent a good lot of time on this issue. I describe the way we operate at putting everything up on the wall and looking at it all at once.

Believe me, if the State of Maine wants to pay all the damages done by wild animals, to animals and crops, it would be a big bill. Now, I'm not going to bore you with figures, but I have figures here that indicate that within a year or so's time there won't be enough money in the present dog license to pay for the dog damages alone.

If you don't accept this amendment and pay for wild animal damages out of dog license or dipping into the General Fund, they already borrowed from the General Fund and they haven't paid it all back. They won't be able to if you don't accept this amendment.

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

Senator HICHENS: I hesitate to be so frank, but the good Senator from Aroostook doesn't know what he's talking about. If he read the bill, he would see that we are cutting down the dog holding time by two days which is \$2.50 per day or \$5.00 for each dog in the dog holding time, and that amounts to about \$55,000. The payment for the animal restitution, which this last year was about \$26,000, will be well covered, and also have enough to help pay back the debt that the Animal Welfare Division now owes the General Fund.

The PRESIDENT: The pending question before Senate is the Adoption of Senate Amendment "A".

A Yes vote will be in favor of Adoption of Senate Amendment "A".

A No vote will be opposed.

The Doorkeeper will secure the Chamber.

The Secretary will call the roll.

YEA — Ault, Brown, Bustin, Carpenter, Devoe, Dutremble, Gill, Huber, McBreairty, Minkowsky, O'Leary, Pray, Redmond, Traf-  
ton, Usher, Violette, The President J. Sewall.

NAY — Charette, Clark, Conley, Emerson, Hichens, Kerry, Najarian, Perkins, Pierce, Sewall, C.; Shute, Teague, Trotzky, Wood.

ABSENT — Collins, Sutton.

Senator Trafton of Androscoggin was granted permission to change her vote from Yea to Nay.

A Roll Call was had.

16 Senators having voted in the affirmative and 15 Senators in the negative, with 2 Senators being absent, Senate Amendment "A" was Adopted.

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

Senator O'LEARY: Mr. President, I would now move the Indefinite Postponement of this Bill and all of its accompanying papers.

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

Senator O'LEARY: Mr. President, I'm certain that if we pass this today that we'll see it back again in non-concurrence, Indefinitely Postponed in the other Body. So, we might just as well do it here today.

What this Bill does is give the Commissioner of the Department of Inland Fisheries and Wildlife the right to adjust all dog license fees and I can imagine it would be upward.

Now can you imagine a little old widow with a Chihuahua and a \$25 license fee to subsidize some farm animal?

I say No to this whole Bill. I ask for a Division.

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

Senator HICHENS: Again, I hate to prolong this foolish argument. The Department of Inland fisheries and Game does not have a thing to do with dog licenses.

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

Senator CONLEY: Mr. President, the moose are gone, the stripers are gone, the bear are gone, I join the Senator from Oxford, and I hope this is gone.

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

Senator McBREAIRTY: Mr. President, Honorable Members of the Senate, I sure hate to oppose Senator O'Leary, because I'd half like to kill this myself. If we do kill the bill, and don't cut back on the number of days that these animal shelters hold animals, we won't even have enough left to pay for the dog damage.

The PRESIDENT: Is the Senate ready for the question?

A Division has been requested.

Will all those Senators in favor of the motion by the Senator from Oxford, Senator O'Leary, that LD 1558 be Indefinitely Postponed, please rise in their places to be counted.

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

9 Senators having voted in the affirmative, and 16 Senators having voted in the negative, the motion to Indefinitely Postpone LD 1558 does not prevail.

The Bill, as amended, Passed to be Engrossed.

Sent down for concurrence.

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

#### 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 Restore Memorial Day Holiday to its Authentic Historical Date." (H.P. 903) (L.D. 1070)

Bill, "An Act to Prohibit Utility Companies from Providing Free or Reduced Rates for Service to its Employees." (H.P. 886) (L.D. 1055)

Bill, "An Act to Allow Wardens to Take a Cash Bond from any Nonresident or Alien Found in Violation of the Fish and Wildlife

Laws. (H.P. 353) (L.D. 401)

Bill, "An Act Concerning the Qualifications of Assessors." (H.P. 1161) (L.D. 1383)

Bill, "An Act to Improve the Valuation of Property for Tax Purposes." (H.P. 1163) (L.D. 1384)

#### Leave to Withdraw

The Committee on Public Utilities on, Bill, "An Act to Establish a State Emergency Electric Energy Conservation Plan." (H.P. 1130) (L.D. 1347)

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 Provide a Funding Mechanism for Public Interest Staff of the Public Utilities Commission." (H.P. 755) (L.D. 892)

Reported that the same be granted Leave to Withdraw.

Comes from the House, the Report Read and Accepted.

The Committee on Education on, Bill, "An Act Concerning Conduct on College Campuses and on Property used for Educational Purposes." (H.P. 838) (L.D. 1004)

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 Extend the Territory of the Gardiner Water District and to Enlarge the Board of Trustees." (H.P. 1324) (L.D. 1524)

Reported that the same be granted Leave to Withdraw.

Comes from the House, the Report Read and Accepted.

The Committee on Energy and Natural Resources on, Bill, "An Act to Reduce the Time Required to Process Routine Environmental Applications by Allowing the Board of Environmental Protection to Delegate to the Staff Approval of Additional Routine Applications." (H. P. 1345) (L. D. 1535)

Reported that the same be granted Leave to Withdraw.

Comes from the House, the Report Read and Accepted.

The Committee on Energy and Natural Resources on, Bill, "An Act to Provide for a Solid Waste Management Subsidy Bonus for Municipalities and Counties Engaged in Resource Recovery." (H.P. 619) (L.D. 702)

Reported that the same be granted Leave to Withdraw.

Comes from the House, the Report Read and Accepted.

The Committee on Health and Institutional Services on, Bill, "An Act to Require the Annual Adjustment of Medicaid Dispensing Fees for Pharmacies." (H.P. 899) (L.D. 1006)

Reported that the same be granted Leave to withdraw.

Comes from the House, the Report Read and Accepted.

The Committee on Health and Institutional Services in, Bill, "An Act to Equitably Adjust Fees for Dental Services Provided under the Maine Medical Assistance Program." (H.P. 977) (L.D. 1165)

Reported that the same be granted Leave to Withdraw.

Comes from the House, the Report Read and Accepted.

The Committee on Health and Institutional Services on, Bill, "An Act to Provide for Meaningful Annual Review of Fees for Dental Services Provided under the Maine Medical Assistance Program." (H.P. 706) (L.D. 831)

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 Exempt Farm Machinery except Tractors

from the Personal Property Tax." (H.P. 988) (L.D. 1176)

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 Encourage Decent Wages for Maine Workers Employed by Enterprises Obtaining Public Loans and Loan Guarantees." (H.P. 981) (L.D. 1169)

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 Concerning Performance Standards for Renewing a Liquor License." (H.P. 1126) (L.D. 1343)

Reported that the same be granted Leave to Withdraw.

Comes from the House, the Report Read and Accepted.

The Committee on Local and County Government on, Bill, "An Act to Change the Method of Apportioning County Sheriff's Costs Among Unorganized Territories." (H.P. 72) (L.D. 99)

Reported that the same be granted Leave to Withdraw.

Comes from the House, the Report Read and Accepted.

The Committee on Local and County Government on, Bill, "An Act Authorizing County Commissioners to act as an Appeals Board." (H.P. 883) (L.D. 1052)

Reported that the same be granted Leave to Withdraw.

Comes from the House, the Report Read and Accepted.

The Committee on Local and County Government on, Bill, "An Act to Increase the Salary of the Aroostook County Register of Probate." (H.P. 412) (L.D. 451)

Reported that the same be granted Leave to Withdraw.

Comes from the House, the Report Read and Accepted.

The Committee on Local and County Government on, Bill, "An Act to Revise the County Budget Process to Prevent the Incurrence of Deficits." (H.P. 1294) (L.D. 1507)

Reported that the same be granted Leave to Withdraw.

Comes from the House, the Report Read and Accepted.

The Committee on Local and County Government on, Bill, "An Act to Require Certain State Mandated Programs be Funded by the Municipality Involved." (H.P. 1285) (L.D. 1499)

Reported that the same be granted Leave to Withdraw.

Comes from the House, the Report Read and Accepted.

The Committee on Local and County Government on, Bill, "An Act Concerning the Manner in which a Municipality Adopts a Development Program." (H.P. 571) (L.D. 647)

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.

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

#### Papers from the House House Paper

Bill, "An Act to Require Fire Detectors in all Multiapartment Dwellings and New Single-family Residences." (H.P. 1409) (L.D. 1573)

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

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

Senator SHUTE: I move this Bill be referred to the Committee on Judiciary. In non-concur-

rence.

The PRESIDENT: The Senator from Waldo, Senator Shute, now moves that LD 1573 be referred to the Committee on Judiciary, Ordered Printed, and sent down for concurrence.

On motion by Senator Devoe of Penobscot, Tabled for 1 Legislative Day, pending the motion by the Senator from Waldo, Senator Shute.

#### Joint Resolution

A Joint resolution in Memoriam:

WHEREAS, the Legislature has learned with deep regret of the death of Margaret Gardiner of Woolwich, the wife of the late former Governor William Tudor Gardiner. (H.P. 1410)

Comes from the House, Read and Adopted. Which was Read and Adopted, in concurrence.

#### Committee on Judiciary

May 1, 1981

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

Augusta, Maine 04330

Dear President Sewall:

In accordance with 3 M.R.S.A., Chapter 6, Section 151 and with Joint Rule 38 of the 110th Maine Legislature, the Joint Standing Committee on Judiciary has had under consideration the nomination of Roland A. Cole to the position of Judge of the Maine District Court.

After public hearing and discussions on this nomination, the Committee proceeded to vote on the motion to recommend to the Senate of the 110th Maine Legislature that this nomination be confirmed. The vote was taken by the yeas and nays. The Committee Clerk called the roll with the following results:

YEAS:

Senators — 2

Representatives — 10

NAYS:

Senators — 0

Representatives — 0

ABSENT:

Senators — 1 (Senator Kerry, York)

Representatives — 0

12 members of the Committee having voted in the affirmative and 0 in the negative, it was the vote of the Committee that the nomination of Roland A. Cole be confirmed.

Sincerely,

S/DANA C. DEVOE

Senate Chairman

S/BARRY J. HOBBINS

House Chairman

Which was Read and Ordered Placed on File.

The PRESIDENT: The Joint Standing Committee on Judiciary has recommended that the nomination of Roland A. Cole be confirmed.

The pending question before the Senate is: Shall the recommendation of the Committee on Judiciary be overridden? In accordance with 3 M.R.S.A., Chapter 6, section 151, and with Joint Rule 38 of the 110th Legislature, the vote will be taken by the yeas and nays. A vote of YES will be in favor of overriding the recommendation of the Committee. A vote of NO will be in favor of sustaining the recommendation of the committee.

Is the Senate ready for the question?

The Chair recognizes the Senator from York, Senator Kerry.

Senator KERRY: Mr. President, and Ladies and Gentlemen of the Senate, I would like to just briefly address the Senate with regards to Mr. Cole.

He has acquitted himself very well in York County as an attorney. As you may see he has served, also, in the Northern part of the State, or actually down in Machias the Eastern part.

He is very experienced in the legal field, he has contributed very much to the York County area in terms of the legal field. He had contributed much in assisting people who are in diffi-

culty in the area through paternal organizations.

He was educated in the State of Maine. He is a Maine person. He is understanding of Maine's problems of the youth and the people of the area. He acquitted himself well before our Committee.

He answered many questions that were presented by the Committee with regards to the juvenile code, the drinking laws.

He also spoke very handily about various issues that will become of major importance before a court.

I think that Mr. Cole has expressed himself well, that we have hopes that he will continue the same type of people's court, if you will, that was conducted by the late Judge Danton. As you all know this vacancy unfortunately was created by the untimely death of Judge Danton.

Mr. Cole has received very much support, from the people of our area, and we are all in hopes that his confirmation will pass. Thank you.

The PRESIDENT: The Doorkeeper will secure the Chamber.

The Secretary will call the roll.

#### ROLL CALL

YEA — None.

NAY — Ault, Brown, Bustin, Carpenter, Charette, Clark, Conley, Devoe, Emerson, Gill, Hichens, Huber, Kerry, McBreairey, Minkowsky, Najarian, O'Leary, Perkins, Pierce, Pray, Redmond, Sewall, C.; Shute, Teague, Trafton, Trotzky, Usher, Violette, Wood, The President J. Sewall.

ABSENT — Collins, Dutremble, Sutton.

No Senators having voted in the affirmative and 30 Senators in the negative, with 3 Senators being absent and none being less than two-thirds of the membership present, it is the vote of the Senate that the Committee's recommendation be accepted. The nomination of Roland A. Cole is confirmed.

#### Enactor

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

AN ACT to Amend Certain Aspects of Post-Conviction Review. (S.P. 443) (L.D. 1281)

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

Senator WOOD of York was granted unanimous consent to address the Senate, On the Record.

Senator WOOD: Mr. President and Members of the Senate, I would like to read a little something that Deborah and I wrote fairly late last night. I know that the hour is late but I would like to put it into the Record.

WHEREAS, the Legislature has been our home for the past six years; and

WHEREAS, the Legislators, Senators, Governor, Attorney General, Treasurer, Secretary of State, Senate and House Staff, Committee Clerks, Law Library, Finance Office, Legislative Research and Information, Legislative Aides, and all other employees of state government have befriended us with countless acts of kindness over the years; and

WHEREAS, on the evening of April 30th these many friends gathered to share with us in celebration as we await the birth of our first child.

THEREFORE BE IT RESOLVED, that both Deborah and I extend our heartfelt thanks for his overwhelming gesture of friendship; and

BE IT FURTHER RESOLVED, that the evening of April 30th will always hold and, be a special place in our hearts that time and distance can not erase; and,

BE IT FURTHER RESOLVED, that our child will grow to love the "Maine Legislature" the way that we have.

Thank you

S/FRANK & DEBORAH

On motion by Senator Pierce of Kennebec, Adjourned until Monday, May 4, 1981 at 4:30 o'clock in the afternoon.