

# MAINE STATE LEGISLATURE

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**LEGISLATIVE RECORD**

OF THE

***One Hundred and Tenth  
Legislature***

OF THE

STATE OF MAINE

***Volume II***

**FIRST REGULAR SESSION**

**MAY 4, 1981 to JUNE 19, 1981**

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

May 12, 1981

Senate called to order by the President.

Prayer by the Reverend Leon Strout of the Dixfield Common Baptist Church.

REVEREND STROUT: Shall we pray. Our loving Father, we come to Thee this morning because Thou hast bid us to do this. We come to Thee asking that Thou will bless these elected officials, that Thou will give to them, our Father, unusual wisdom this day, as they seek to make judgements and make decisions. Regardless of how carefully they've done their homework, we realize that there are times when they'll be called upon to make decisions that they have not realized would be coming. We pray that Thou will endow them in a very special way this day, with Thy knowledge, with Thy patience, with Thy love, with Thy understanding.

We thank Thee that we live in this land, and in this State. We thank Thee for Thy many blessings and Thy goodnesses to us. We rejoice in Thy Son, the Lord Jesus, who loved us and gave Himself for us. We thank Thee for Him, in His precious name. Amen.

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

Bill, "An Act to Further Exempt Certain Benevolent Organizations from the Employment Security Law." (S. P. 253) (L. D. 722)

In the Senate, May 8, 1981, Passed to be Engrossed.

Comes from the House, Passed to be Engrossed as amended by House Amendment "A" (H-352), in non-concurrence.

The PRESIDENT: Is it the pleasure of the Senate to Recede and Concur with the House?

Reading of the journal of yesterday.  
It is a vote.

**Communication  
House of Representatives**  
May 11, 1981

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

Dear Madam Secretary:

The House voted today to Adhere to its former action on Bill "An Act to Provide a Right-of-way to Pedestrians Against Drivers Entering Private Ways" (S. P. 457) (L. D. 1305)

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

Which was Read and Ordered Placed on File.

**Committee Reports  
House  
Leave to Withdraw**

The Committee on Aging, Retirement and Veterans on, Bill, "An Act Concerning Payment to the State Retirement System by Elected or Appointed State Officials." (H. P. 1227) (L. D. 1446)

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 Prohibit the Burning of Oil by Utilities for the Generation of Electricity after January 1, 2000." (H. P. 854) (L. D. 1017)

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 Concerning the Method of Decommissioning Nuclear Power Plants." (H. P. 728) (L. D. 861)

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 Prohibit the Export of Hydroelectric Power." (H. P. 1236) (L. D. 1461)

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 Establish and Implement an Electrical Energy Budget for the State." (H. P. 1129) (L. D. 1346)

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 Authorize the Public Utilities Commission to Require Electric and Gas Utilities to Prepare and File Long-range Demand Forecasts." (H. P. 1110) (L. D. 1315)

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 Promote Increased Efficiencies in Thermal Electric Generating Facilities." (H. P. 1018) (L. D. 1228)

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 Restructure Electrical Utility Rate Design to Encourage Conservation." (H. P. 671) (L. D. 775)

Reported that the same be granted Leave to Withdraw.

Comes from the House, the Report Read and Accepted.

Which Reports were Read and Accepted, in concurrence.

**Ought to Pass**

The Committee on Transportation on, Bill, "An Act to Clarify the Statutory Provisions for the Registration of Motor Vehicles in Maine." (H. P. 1214) (L. D. 1382)

Reported that the same Ought to Pass.

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

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

**Ought to Pass — As Amended**

The Committee on Judiciary on, Bill, "An Act to Amend the Probate Laws." (H. P. 1232) (L. D. 1457)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-341).

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

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

The Committee on Taxation on, Bill, "An Act Providing for Administrative Changes in the Tax Laws." (H. P. 118) (L. D. 152)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-344).

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

Which Report was Read.

On motion by Senator Collins of Knox, Tabled until later in today's session, pending Accep-

tance of the Committee Report.

The Committee on Judiciary on, Bill, "An Act to Amend the Maine Unfair Trade Practices' Laws." (H. P. 707) (L. D. 832)

Reported that the same Ought to Pass as amended by Committee Amendment "A". (H-337)

Comes from the House, the Bill Passed to be Engrossed as amended by Committee Amendment "A" as amended by House Amendment "A" (H-360), Thereto.

Which Report was Read and Accepted, in concurrence, and the Bill Read Once. Committee Amendment "A" was Read. House Amendment "A" to Committee Amendment "A" was Read and Adopted, in concurrence. Committee Amendment "A" as amended by House Amendment "A" Thereto was Adopted, in concurrence, and the Bill, as amended, Tomorrow Assigned for Second Reading.

**Ought to Pass in New Draft**

The Committee on Labor on, Bill, "An Act Making Certain Changes in the Law on Boilers and Pressure Vessels." (H. P. 1273) (L. D. 1488)

Reported that the same Ought to Pass in New Draft under Same Title (H. P. 1447) (L. D. 1588).

Comes from the House, the Bill, in New Draft, Passed to be Engrossed as amended by House Amendment "A" (H-359).

Which Report was Read and Accepted, in concurrence, and the Bill, in New Draft, Read Once. House Amendment "A" was Read and Adopted, in concurrence, and the Bill, as amended, Tomorrow Assigned for Second Reading.

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

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

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

**Recess**

**After Recess**

The Senate called to order by the President.

Senator Hichens of York was granted unanimous consent to address the Senate, Off the Record.

The Committee on Audit and Program Review on, Bill, "An Act Relating to Periodic Justification of Departments and Agencies of State Government under the Maine Sunset Law." (H. P. 89) (L. D. 64)

Reported that the same Ought to Pass in New Draft under Same Title (H. P. 1411) (L. D. 1576).

Comes from the House, the Bill, in New Draft, Passed to be Engrossed as amended by House Amendments "B" (H-319), "C" (H-324) and "D" (H-329).

Which Report was Read.

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

**Divided Report**

The Majority of the Committee on Judiciary on, Bill, "An Act to Encourage Solar Easements." (H. P. 775) (L. D. 920)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-342).

Signed:

Senators:

DEVOE of Penobscot

CONLEY of Cumberland  
KERRY of York

Representatives:

HOBBINS of Saco  
BENOIT of South Portland  
JOYCE of Portland  
LIVESAY of Brunswick  
LUND of Augusta  
SOULE of Westport  
O'ROURKE of Camden

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

Signed:

Representatives:

REEVES of Newport  
DRINKWATER of Belfast  
CARRIER of Westbrook

Comes from the House, the Bill Passed to be Engrossed as amended by Committee Amendment "A" (H-342).

Which Reports were Read.

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

Senator PRAY: Thank you, Mr. President, Mr. President and Members of the Senate, having looked at this Bill over the last 15 or 20 minutes, reading it, trying to understand exactly the total effects that this Bill may have, I wish that someone from the Judiciary Committee might explain the Bill under this type of circumstance. My understanding, as an individual, to install solar equipment to get an easement would have to reach some type of agreement with the neighbors that surrounded his home.

If, for an example, myself and my seatmate, Senator Conley, happened by chance to live next door to each other, and him and I had reached an agreement for the solar easement, and he has sold his house to another individual, and I had sold mine to another individual, would that future landowner have the right to come over and cut his trees on his lot?

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

Senator DEVOE: Thank you, Mr. President, Mr. President and Members of the Senate, what this Bill does, and the Amendment number is H-342, if you care to look at it for a moment. The Amendment simply says, "when adjoining landowners wish to agree to convey a solar easement, one to the other, that the easement may contain certain items. That is, a) a definite and certain description of the space affected by the easement, b) any terms or conditions or both under which the solar easement is granted, or will be terminated," and then it further provides permissive language that the easement may contain a map showing the affected properties and the area protected by the easement. It further provides that in case of an inconsistency between the written easement and the map, the written easement shall control.

I'm sure the Senator from Penobscot realizes, any time you grant an easement, there is always the provision, in real estate law, that the easement will continue to run with the land. If the Senator from Penobscot, Senator Pray, and I were adjoining landowners, and I granted him an easement, over a portion of my land for him to locate a driveway, then my land, once it is conveyed in the future, is always going to be subject to the easement that I have granted.

The same thing is true with respect to a solar easement, only the solar easement talks about going up in the air, rather than the ground itself. It talks about access to sunlight, so that one landowner may continue to have and operate some passive solar equipment that will be located on this property.

This is permissive language only. It does not mandate anything. It simply provides that when easements are granted for access to solar light, that the easement shall contain certain, it may contain certain things. It provides it may contain a map. It may contain a descrip-

tion of the property affected. It will very likely run with the land, unless it contains language in the future, terminating it at a future specific time.

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

Senator PRAY: Thank you, Mr. President, Mr. President and Members of the Senate, just to carry this a little further, since I am not that knowledgeable in land transactions and deeds, and such things as the good Senator from Penobscot, Senator Devoe, is. Is it my understanding from his comments then that this basically would be similar to a deed and would become part of the existing deed, and would thus be recorded at register of deeds offices?

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

Senator DEVOE: The Senator is correct. The only way you can convey an easement, is by a deed which is signed by the landowner, naming the grantee or the one who receives the easement over your land. It subsequently is recorded in the registry of deeds, and from that point on, runs with the land.

The Majority Ought to Pass, as amended, Report of the Committee Accepted in concurrence, and the Bill Read Once. Committee Amendment "A" Read and Adopted, in concurrence. The Bill, as amended, Tomorrow Assigned for Second Reading.

(Off Record Remarks)

**Senate**

**Leave to Withdraw**

Senator DEVOE for the Committee on Judiciary on, Bill, "An Act to Increase the Maximum Civil Penalties under the Maine Human Rights Act." (S. P. 288) (L. D. 814)

Reported that the same be granted Leave to Withdraw.

Senator EMERSON for the Committee on Taxation on, Bill, "An Act to Establish an Income Tax Checkoff for the Arts." (S. P. 414) (L. D. 1218)

Reported that the same be granted Leave to Withdraw.

Which Reports were Read and Accepted.

Sent down for concurrence.

**Ought to Pass — As Amended**

Senator AULT for the Committee on State Government on, Bill, "An Act to Improve the Community Industrial Building Program." (S. P. 401) (L. D. 1193)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (S-196).

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.

**Ought to Pass in New Draft**

Senator CONLEY for the Committee on Judiciary on, Bill, "An Act to Amend the Short Form Deeds Act." (S. P. 84) (L. D. 181)

Reported that the same Ought to Pass in New Draft under same Title (S. P. 599) (L. D. 1595)

Which Report was Read and Accepted and the Bill, in New Draft, Read Once and Tomorrow Assigned for Second Reading.

**Divided Report**

The Majority of the Committee on Education on, Bill, "An Act to Provide for Reimbursement under the Education Finance Act for Programs for Gifted and Talented Children." (S. P. 223) (L. D. 610)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (S-197).

Signed:

Sensors:

TROTZKY of Penobscot  
PIERCE of Kennebec

CLARK of Cumberland

Representatives:

CONNOLLY of Portland  
GOWEN of Standish  
ROLDE of York  
LOCKE of Sebec  
THERIAULT of Fort Kent  
MATTHEWS of Caribou  
MURPHY of Kennebunk  
THOMPSON of South Portland

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

Signed:

Representatives:

BROWN of Gorham  
BROWN of Livermore Falls

Which Reports were Read.

The Majority Ought to Pass, as amended, Report of the Committee Accepted and the Bill Read Once. Committee Amendment "A" Read and Adopted. The Bill, as amended, Tomorrow Assigned for Second Reading.

**Divided Report**

The Majority of the Committee on Judiciary on, Bill, "An Act to Clarify the Status of Certain Real Estate Titles in the State." (Emergency) (S. P. 362) (L. D. 1061)

Reported that the same Ought to Pass in New Draft under same Title. (S. P. 598) (L. D. 1594)

Signed:

Sensors:

DEVOE of Penobscot  
CONLEY of Cumberland

Representatives:

DRINKWATER of Belfast  
REEVES of Newport  
O'ROURKE of Camden  
CARRIER of Westbrook  
LUND of Augusta  
LIVESAY of Brunswick  
BENOIT of South Portland  
SOULE of Westport

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

Signed:

Sensor:

KERRY of York

Representatives:

HOBBINS of Saco  
JOYCE of Portland

Which Reports were Read.

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

Senator DEVOE: Thank you, Mr. President, Mr. President and Members of the Senate: I move that the Majority Ought to Pass Report be Accepted, and would speak briefly to my motion.

The Bill that we have before us arose out of an act that was passed in 1975 dealing with the Pittston application to build an oil refinery down in Eastport. It so happens that there was in that bill certain language that was intended to help Pittston keep its application before the Department of Environmental Protection alive. It arose out of an earlier, that year, law court case, that said in any zoning or environmental application, the applicant had to have right, title, and interest in the property that he was seeking to have zoned or regulated.

After the Bill was passed, the Department of Conservation realized that not only did the law apply to the land near the Pittston, proposed oil refinery, site in Eastport, but it also applied to all tidal or submerged land. It so happens that there are many projects now in the Portland area, there are some in Camden, there are some in Belfast, there are some all along the coast, where the Department has suddenly asserted that it has public trust over these lands. It is refusing, under the legislation, to acknowledge anything more than its obligation to grant easement for a 30 year period.

This Bill deals with land that has been filled in, that was filled in at the time the original act

was passed in 1975. If this Bill is not passed, there are going to be many projects along the coast, that are going to be frustrated, and development is going to be prevented.

For these reasons, Mr. President, I move that we Accept the Majority Ought to Pass. When the vote is taken, I would request it be taken by the Yeas and Nays.

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

Senator KERRY: Mr. President and Ladies and Gentlemen of the Senate: this Bill in New Draft, L. D. 1594, is probably one of the most complex bills presented before our Committee. Mainly because it encompasses the total shoreline of the State of Maine. We have over 3000 miles of coastline in this State. It's probably one of our greatest natural resources. I believe as a matter of principle and as a matter of law, when otherwise conveyed to private interest, has been the property of the sovereign of the State and the jurisdiction of the State.

All rights reserved to the State, not having been taken by the founding fathers and mothers, if you will, of the country, for arrogation to the federal government, it has been a matter of principle to be controlled by the State. I think this particular Bill, if passed, would raise serious consequences to this State, not only to the shorelines, but to the great ponds one of our greatest natural resources.

The reason why the question is so complex is because the State itself has not exercised in a coherent and comprehensive manner its rights over the shoreline. This is the case in many areas in our government, where the rights of the public are not exercised, mainly due to the fact that the people have not, through its governmental powers, brought forth the administrative capability to do so.

Recently, we have found that the State of Maine now is becoming more aware of its trusteeship with regards to coastal lands and submerged lands. Looking at this Bill, L. D. 1594, I consider this Bill to be very important for the developers of the State, the people who want to build oil refineries. They want to put in economic development capabilities along our coastline for the good of the State. No one questions that. I don't think anyone on the Committee questioned the fact that we wanted to bring in economic development into the State.

I think what came up, is the assumptions of this Bill. This is what bothers me, the assumptions. I think the assumptions are based on very, very weak arguments. For example, if you will read in the final paragraph of Section 1, "the public benefit will therefore be promoted by clarifying the status of real estate titles to these lands, submerged lands, or declaring these filled lands free of the public trust." That's one sentence that I think we all should look at, because, in essence, if this legislation is passed, the legislature and the people of the State of Maine, will no longer have control over these submerged lands, as they do now, or at least many people in the private sector believe that the State has control over them.

If you look at Section 2, "Declaration of Clear Title." I'm a real estate broker. When I read "declaration of clear title," it means that the people have been given the title, own this land, have control over this land, and no one else has control over this land. If it is enacted by the Legislature, it therefore has greater import in a court of law, especially if there is a question of title.

Section 2 says, "title to properties and lands that were once, or were, or may have been submerged, or intertidal lands subject to the State's ownership, in public trust, that have been filled as of October 1, 1975, are hereby declared and conveyed to the owners of any such filled lands by the State free of any claimed ownership of public trust to the extent the areas of these properties and lands were not submerged or intertidal lands on that date." In

essence, we are, therefore, conveying our land to individuals along our coast. We do not know how much of our 3000 miles of coastline are actually going to be called upon to be going into private hands.

The people before our Committee who are proponents of this legislation, admitted that they did not know how much land would be involved. They didn't know if it was going to be millions of dollars worth of real estate, of which I'm sure it is going to be, multimillions of dollars. They didn't know how many acres were involved of our beautiful coastline or land. They just said that it has caused problems for their clients.

I think, as a State Senator, my major question is, have we then looked into this question seriously enough? I think we have not. There are competing interests here. It's very simply put. There are those who are in private sector, want to have this land conveyed to them, because they want to advance their economic interest. I think on the other hand you have the citizens of the State of Maine represented by our Body here, saying let's take a look. Let's put the stops on this, the brakes. They're trying to railroad this Bill through the Legislature, without even presenting the case accurately, without even knowing the questions. That has caused me great concern. That is why I have paused in signing this Ought Not to Pass, even though I am in favor of economic development, even though I am in favor of giving to private enterprise their rights to title that they have.

Submerged lands, if we grant them right and title, without having any control of the State over these lands surrounding these bodies of water, or the coastline, what are we giving up for the future generations of the people of Maine?

Secondly, we are giving up control over the proper development of these harbors and estuaries and navigational ways, which is so much a heritage of the State of Maine, without fully knowing the question. That is my greatest concern, without having full knowledge. The people expect us to know the questions, not necessarily to give them the right answers, but to give them fair and just answers.

I don't believe this Legislation will do that. I might add, that there are some very serious questions. One question that I would have is, whether the submerged lands, in the ocean or great ponds, owned by the State, are impressed with the public trust. Do we have that public trust? Is it found in common law? Is it substantiated by supreme court rulings?

Secondly, is the State a trustee for these lands? Is it found in common law once again? Is it within the boundaries of our Constitution? This was not answered adequately for my mind, during our deliberations, although there were very fine and eloquent presentations by both the proponents and opponents.

Secondly, whether, if this Legislature, by enacting the revised document, LD 1594, are we advocating our public trust and responsibilities over portions of our land? In so doing, conveying to private parties the actual control over trust lands of the State?

Finally, the third question that I would ask, if enacted, being the conveyance of State owned land, will this be unconstitutional? A denial of equal protection under the law, as is contemplated by Section 6A of Article 1 of the Constitution of the State of Maine, or the 14th Amendment of the Constitution of the United States?

In reviewing the only case that I was able to find, with the assistance of our Judiciary Committee staff, I found that there was a case in the State of Illinois vs. the Illinois Railroad. I think it's important that we at least reflect upon this. I will cite from this case, because I think it has import here.

"The common law doctrine, as to the dominion and sovereignty and ownership of lands under tidal waters, on the borders of the sea,

applies equally to all lands beneath the navigable waters of the Great Lakes, in this case Michigan. In this country, such domain, sovereignty, and ownership, belongs to the states, respectively, within whose borders such lands are situated subject always to the right of Congress to control navigation, so far as may be necessary for the regulation of foreign interests and commerce."

I might add that that, for me, at least states the question that there is some import here. There is, to me, a serious moment, or at least a question.

The supreme court further stated in that opinion, "the question, therefore, to be considered is whether the Legislature was confident, in the case of the Illinois Legislature, to thus deprive the state of its ownership of the submerged lands and the harbor of Chicago, and of the consequent control of its waters, or in other words, whether the railroad corporation can hold the land, and control the waters by the grant against any future exercise of power over them by the State.

This is important. I think what we're looking at here, is the interest of the people are now being submerged, if you were, abrogated, if you were, to private interest. Therefore, I think that we should look at this very seriously.

I think that the main purpose of this legislation will grant an irrevocable control to the private interest over the public interest. It is merely a supposition that I think has to be seriously weighed. I will say that, if you look at the problems that we are now addressing, that there is a serious question of the supreme court. The supreme court ruled, in this particular case, in the case of Illinois vs. the Illinois Railroad, that the state did not have the right to abrogate its trustee control over the submerged lands.

I think it is at least clear from this case, and in the victor of the case, that the supreme court says that the State does have a compelling interest in all of these lands.

I would say that I realize there is going to be considerable debate on this issue. I realize that there is some question of its constitutionality. I seriously question its constitutionality. I seriously question the way it's being done, in the sense that I believe that maybe in the waning days of this Legislative Session, that we may be conveying out some very important interests of the people of Maine.

I would, therefore, encourage all the Senators in this Body not to give this a cursory glance, but to give it serious consideration. I would say also, that it is very important to recognize that if this Bill passes, that we are, at least, creating for the State of Maine, an inferior position for any litigation that would take place in a court of law, if there is going to be any conflict of belief in who owns this land. Believe me, there is going to be litigation. There is not only going to be litigation between the state and private enterprise, there's going to be litigation between people who are privately owning this property or believing they're owning this property. They're going to have compelling or competing interests.

I would say we must take a good look at this Bill. I move the Minority Ought Not to Pass Report, mainly because I believe the interests of the State are not being properly addressed here, not that I say that the private enterprise, or the private individuals don't have a compelling interest in the land. This fact notwithstanding, notwithstanding the fact that the State has not exercised its duties properly, probably in the past, the point is, we have the responsibility. We are here today to represent the people in 1981. We can't forget what is done in 1881.

Therefore, Mr. President, I would conclude by stating that although there are unquestionably the good intentions of the people who want to pass this Bill, there are many compelling interests from every district in the State to

pass it, to alleviate problems of individuals, I think that this is the case when the sum is greater than the accumulation of its parts, that we must act responsibly and rationally on behalf of all the citizens of the State. We are stewards, if you will. We are the trustees in action. We are the general court of the State of Maine. I say that we must protect the interests of individuals as well as the common good of all the people first.

I would, therefore, move that this Ought Not to Pass.

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

Senator DEVOE: Thank you very much, Mr. President. I agree with the Senator from York that there were some eloquent presentations at the hearing that we had on this matter. There were also some eloquent presentations at the work sessions that we had on this Bill. One of the most startling things said at the work session was an admission by the Director of the Bureau of Public Lands, Mr. Irland, that it was not within the contemplation, not within their thinking when this Bill was passed in 1975, that is was going to apply to projects in Portland Harbor. It was almost what you might call an accidental discovery. After they discovered that the words forced them to apply this to Portland Harbor and all other areas of the coastline, other than Eastport, they went to work with a vengeance, the Bureau of Public Lands did.

We're talking about the possibility of endless litigation to determine when and under what circumstances a particular parcel of land was filled in. The Bureau of Public Lands has a map in its possession where they have attempted to locate the line as of 1833. We are now faced with the question in 1981, where the fill was placed on submerged or intertidal lands owned by the State. Where was the original low water line, as of 1833? If the fill is on State land, is the previous owner legally responsible? What is the value of the property, for tax purposes? The questions arise, as fast as the answers are sought.

A staggering thought is that the process would have to be repeated for each and every parcel.

The circumstances under which these properties were filled in really doesn't matter now. What matters is that until very recently, the owners, the municipalities, and the State thought that the owners held this land free and clear. These lands have been bought, sold, leased, taxed, and treated in good faith by the people of this State as if the land were owned with a clear title, and the consequent clear right to use it.

In many cases, the owner's parcel, according to the State's view, is only partially filled in land, with the result, that if you accept the Bureau of Public Lands reasoning, the State claims to own a part, a fraction of a parcel, with the land owner owning in fee simple, the remainder of the parcel. From all appearances, you can not tell the difference between filled in submerged land, and the land that has always been on solid ground.

In many instances, records are either incomplete or nonexistent. Landowners in communities with complete historical records would be subject to the State's claims, while landowners without records would have an advantage. It might be impossible to determine whether or where the property was filled.

We would advocate our responsibility as a Legislature if we do not resolve this problem before it becomes even worse. What we need is the common sense solution that will avoid the paralysis that will occur of lingering State claims on submerged lands.

What this Bill says, is that if the land was already filled in when the 1975 Legislation went into effect, the State has no claim to public trust ownership. The owners of the parcel hold the property free and clear of any claimed own-

ership in public trust, to the extent that the areas of the property were not submerged or intertidal lands, when the 1975 Act became effective.

We will not require the people of this State to halt the legitimate use of waterfront property during the next two decades, while extensive historical research is performed to piece together the circumstances under which a particular parcel may or may not have been filled in. The cost in lost opportunity, jobs, tax revenue, and good will is simply too clear.

The intent of this Bill is only to release the State's claim to ownership and public trust of lands, that were once submerged or intertidal lands owned by the State. The State does not give up any of its rights to any land that it may have acquired by gift, purchase, or the power of eminent domain. No person would ever be permitted to sue the State for any reason arising out of the State's claim to ownership of the filled lands and public trust prior to the day that this Bill becomes effective.

In addition, this Bill does not grant any rights to any persons who may have filled lands in violation of the Wetlands Act. Thank you very much, Mr. President. Mr. President, I would like to withdraw my motion for a Roll Call vote on this matter.

The PRESIDENT: The Senator from Penobscot, Senator Devoe requests leave of the Senate to Withdraw his motion for a Roll Call.

Is it the pleasure of the Senate to grant this leave?

It is a vote.

#### (Off Record Remarks)

On motion by Senator Pierce of Kennebec, Recessed until 4:30 this afternoon.

#### Recess

#### After Recess

The Senate called to order by the President.

The PRESIDENT: The pending motion before the Senate is the motion by the Senator from Penobscot, Senator Devoe, that the Senate Accept the Majority Ought to Pass, in New Draft, Report of the Committee, on the Bill, "An Act to Clarify the Status of Certain Real Estate Titles in the State." (S. P. 362) (L. D. 1061)

The Chair recognizes the Senator from Penobscot, Senator Devoe.

Senator DEVOE: Thank you, Mr. President. Mr. President, I move that this item be Tabled 1 Legislative Day.

The PRESIDENT: The Senator from Penobscot, Senator Devoe, moves that L. D. 1061 be Tabled for 1 Legislative Day.

The Chair recognizes the Senator from Cumberland, Senator Conley.

Senator CONLEY: I request a Division.

The PRESIDENT: A Division has been requested.

The Chair recognizes the Senator from Penobscot, Senator Devoe.

Senator DEVOE: Mr. President, I request Leave of the Senate to Withdraw my motion to Table this for 1 Legislative Day.

The PRESIDENT: The Senator from Penobscot, Senator Devoe, requests Leave of the Senate to Withdraw his motion to Table L. D. 1061 for 1 Legislative Day.

Is it the pleasure of the Senate to Grant this Leave?

It is a vote.

The Chair recognizes the Senator from Cumberland, Senator Conley.

Senator CONLEY: Mr. President, the good Senator from York, Senator Kerry is interested in this Bill, the fact is that the Bill will be in the Second Reader tomorrow. There's not going to be any amendment offered to the Bill, so I think it would be proper to give it its First

Reading.

The Majority Ought to Pass, in New Draft, Report of the Committee Accepted and the Bill, in New Draft, Read Once and Tomorrow assigned for Second Reading.

#### Divided Report

The Majority of the Committee on Transportation, Bill, "An Act Relating to Vehicle Sizes and Weights." (S. P. 302) (L. D. 846)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (S-198).

Signed:

Sensors:

USHER of Cumberland

O'LEARY of Oxford

Representatives:

CARROLL of Limerick

FOWLIE of Rockland

HUTCHINGS of Lincolnville

STROUT of Corinth

MOHOLLAND of Princeton

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

Signed:

Sensor:

EMERSON of Penobscot

Representatives:

REEVES of Pittston

McPHERSON of Eliot

HUNTER of Benton

McKEAN of Limestone

MACOMBER of South Portland

Which Reports were Read.

On motion by Senator Collins of Knox, Tabled for 2 Legislative Days, pending Acceptance of Either Committee Report.

#### Second Readers

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

#### House

Bill, "An Act Pertaining to Willful Killing and Injuring of Police Dogs and to Licensing Fees for Police Dogs." (H. P. 717) (L. D. 849)

RESOLVE, for Laying of the County Taxes and Authorizing Expenditures of Aroostook County for the Year 1981. (Emergency) (H. P. 1445) (L. D. 1586)

RESOLVE, Authorizing the Governor to Convey by Sale to the Passamaquoddy Tribe and Penobscot Nation the State's Interest in Certain Buildings now Located within the Indian Reservations. (H. P. 715) (L. D. 840)

RESOLVE, for Laying of the County Taxes and Authorizing Expenditures of Piscataquis County for the Year 1981. (Emergency) (H. P. 1446) (L. D. 1587)

Bill, "An Act Relating to the Regulation of Business Practices between Motor Vehicle Manufacturers, Distributors and Dealers." (H. P. 1441) (L. D. 1584)

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

Bill, "An Act Making Appropriations and Allocations for the Expenditures of State Government and Changing Certain Provisions of the Law Necessary to the Proper Operation of State Government for the Fiscal Years Ending June 30, 1982, and June 30, 1983." (Emergency) (H. P. 1440) (L. D. 1583)

Which was Read a Second Time.

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

Senator TROTZKY: Mr. President, I present Senate Amendment "A" to LD 1583 under filing number S-192 and move its adoption.

The PRESIDENT: The Senator from Penobscot, Senator Trotzky, offers Senate Amendment "A" to LD 1583 and moves its adoption. Senate Amendment "A" (S-192) Read.

The PRESIDENT: The Senator has the floor.

Senator TROTZKY: Mr. President and Members of the Senate: I know it takes a lot of chutzpah to try to Amend the Appropriations

Act, but the Committee on Education took a good hard look at this Bill and its effect in education.

I passed out a sheet to every Senator, two sheets. One which is titled Leeway State Totals and the other, which shows you the effect of this Amendment on your specific Senate District.

Now, I'll start off by saying, right now, that there has been an erosion of State participation in relationship to the real cost of education. We say the State is paying 53% of education cost. It is not. The reason it is not, because in our Education Finance Act we're one year behind, we're talking about the average cost of educating a child, we're using figures that are one year behind. Special Education, Vocational Education, Transportation, we're two years behind. So, in actuality, we're only funding about 46 to 47 percent of the educational costs back in your communities, and not 53%.

Now, under leeway, when each of your communities goes to fund education, they start off with General Purpose Aid. Then they go to something called Local Leeway, which is optional. It's an optional appropriation with State participation.

Now, if you look at the first sheet that I passed out here, in 1980-81, the State was paying 10 million dollars for Local Leeway. It was paying 34% of Local Leeway. Now, traditionally to finance that, the State should be paying 40%, but it dropped down in 1980-81 to \$10 million. It is figured out by a mil rate, 1.2 mils levied on your local State valuations for your communities.

The Governor recommended, in his budget, that he'd stay at 1.2 mils, 125 dollars per pupil. With a result that valuations increased in the state. Consequently, this appropriations act Appropriates less than last year. Last year it appropriated \$10 million, this year it appropriates, in this sheet I have got, \$7.6 million. What this is is about \$2.3 million less in actual dollars for Local Leeway.

Now if you look at the bottom of the sheet, that sheet, we appropriate monies for education and unexpended balances at the end of the year are deappropriated and sent into the General Fund for other purposes.

In 1978-79 there was 5.1 million, unexpended balance. In 1979-80 there was 2.6 million. This year we expect about 3.5 million. For 1981-82 it will probably be somewhere in that area.

What this Amendment does, what it simply does, it says that changes in mil rate to 1.0, 135 dollars per pupil (that's at the bottom of the page there) which would say that if the monies are available, the State will fund leeway at 40%. We will go back and establish it at 40%, if the monies are available. If the monies are not available, we'll fund it at 7.6 million.

Now, the Amendment is saying take any unexpended education funds, in the education budget, and don't deappropriate them into the General Fund, but put them into the Leeway Account, so as to keep your property taxes down back home.

Now, if you look at the sheet, I passed out on the last page, probably no one has it anymore, the last page will tell you how much your communities may get if there are unexpended balances at the end of the year. The Amendment guarantees those communities, statewide, at 7.6 million or will go to Local Leeway, but if there are monies available, surpluses in the education account, it will be used to fund Local Leeway up to 40%. It will be prorated.

And, I guess, to make clear what I am trying to do here is what I started saying in the beginning. We funded leeway this past year at \$10 million, and this budget, because the Governor left the mil rate the same and valuations increased when you multiply the mil rate times valuations, all we're appropriating for leeway here is \$7.6 million, which is about \$2.4 million less than last year.

I know my community is having problems, I

know Portland is having problems in fact, I think many of the communities around the State are having problems. Consequently, I'm saying, let the education monies stay in education.

I hope the Senate will Adopt this Amendment.

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

Senator HUBER: Mr. President and Members of the Senate: I would oppose Adoption of this Senate Amendment "A". First, because it would cost an additional \$2.3 million, which I think, when all is said and done, we will not be able to afford. The funding proposal described already would allow that when there are monies available in the Leeway Account, these would be used to fund the proposal.

We intentionally over appropriate in the Leeway Account to fund our total exposure for this item. This provision was adopted some time ago to prevent the deficit situation, which we were very often in recent past years.

I think that were this Amendment Adopted, it would entice towns into additional education spending, then, if the leeway balances were not able to fund the proposal, the towns presumably would run out for the end of their year, perhaps have to come to special town meetings, and increase their taxes, because the expenditures with this Amendment enticed them to make.

I don't think we can afford \$2.3 million. I don't think the funding mechanism is a sound one. I do hope the Senate will defeat the Amendment.

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

Senator TROTZKY: Mr. President, this Amendment does not cause deficits, first of all. All it's saying is if there are unexpended monies in the Education Account, they will go to fund leeway. We're not creating deficits here. We're talking about the entire Education Account, deficits of the entire Education Account will go to fund that leeway properly. It will not cause unnecessary town meetings.

We're talking here about continuous deterioration in State participation in education funding. That's what we're talking about here. To me, it's wrong to turn around this year and cut, by leaving the mil rate the same as last year, you might say, inconspicuously, lower the amounts of money that's going to go out to the communities. Eighty-five percent of the communities in the State make use of local leeway. So, it's going to benefit, if there are no, what we're saying is we're guaranteeing those communities the monies that the State has appropriated. That's all the State is guaranteeing those communities. The State is in no way putting itself in any deficit position by this amendment.

We're saying that if there are surplus funds in education. We're going to fund Leeway properly and prorate that money, so, instead of funding it, what we're doing right now, going from 40% down to 26%, we'll try to go up towards 40% where we should be. It's also a measure that will help you keep your local property taxes down, because when we don't fund education at the State level, it ends up that the local property taxes go up.

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

Senator NAJARIAN: Mr. President and Members of the Senate: I know that, probably, this Senate Amendment looks very attractive to many of you, because it shows that more money, it holds, out the promise of more money going to your school district. However, it's only a promise, and there is no guarantee, whatsoever, because it requires to be fully funded, an additional \$2.3 million, which the Senate Amendment does not provide for.

I would just point out to you that one reason that we fully fund leeway, now, is because when we first had the School Finance Act we

did not. We only funded as if a percentage of the school districts would take advantage of it, and we ended up prorating all the communities after they had already spent the money based on a similar promise as the Senator is proposing in his Amendment today. The superintendents and everybody was outraged about after their school year having to raise money, because of the State did not fund it at the level promised.

And that's why we now fully fund Leeway, as if every community who is eligible would take advantage of it.

I would just point out to you that since 1979 the number of towns that are taking advantage of leeway has been increasing from 173 in 1978-79 school year, to 213 in 80-81. The surplus that we have had in that account. We had 6 million remaining in 79. We only had 3.3 million remaining this year. Additionally, that money that is returned to the General Fund is very useful to us, because, I would point out, that in our additional act this year, we always have to make budget adjustments in the next fiscal year, it required 14 million additional dollars. That was offset by 6 million in lapsed funds, including the money left over from leeway. So, we had to appropriate an additional \$7 million.

So, I would just point out that, if you don't fund it in leeway, okay, you're going to have to come up with 2.3 million some place else down the road. Additionally, you're holding out a promise to the towns that we may not be able to keep, and you will cause additional town meetings or real problems for the school districts in May of next year if the full funding isn't there.

So, I hope, too, that you will oppose this Amendment as attractive as it may appear.

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

Senator TROTZKY: Mr. President and Members of the Senate: This Amendment is being offered on behalf of the entire Education Committee. The Education Committee discussed this. We all are supportive of it, every one of us. We discussed it with Senator Huber, who objected to putting it into the Appropriations Bill.

One other thing I do want to say, and that's many communities go beyond the General Purpose Aid, the first step. They go to Local Leeway the second step, which gives them some State participation, and many communities go to a third step, which is called a local appropriation without any State participation.

So, in other words, as our Funding Act deteriorates, more and more communities are throwing in more and more dollars with absolutely no State participation.

In my community, I looked at all the sheets that were passed out here, the bottom figures, and mine happens to be not the highest, it's probably one of the lowest, but Bangor is spending, after that General Purpose Aid, they go into Local Leeway, they spend about 600 thousand. They get no local, no state participation in that now, because the valuation in my community has increased.

What this Bill does, it holds out to Bangor and says, if there are unexpended balances in the Education Fund at the end of the year, the maximum you can get is \$135 thousand. If there is less than that, you'll get less, but you'll get something. I believe Portland's in the same situation.

Looking over many of these communities here, many of them are much higher than my community.

So, it does benefit all communities, and I hope the Senate would see fit to pass this Amendment.

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

Senator HUBER: Mr. President and Members of the Senate: What has just been said about some of the communities going beyond with pure local dollars, is true. I'd simply add



that when they spend 100 percent local dollars, I would suggest the control of these local funds is the tightest control, the tightest budgetary control, of the cost of education that we have available.

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

Senator TROTZKY: Mr. President, Members of the Senate, one other issue here, and that's Teacher Retirement. The Governor has chosen, the Appropriations Committee has chosen to fund Teacher Retirement System very strongly.

What's happened essentially is we're funding Teacher Retirement at the expense of the operating expenses of our school systems. In other words, I think we're throwing something like \$25 million, that's correct, into the Teacher Retirement Fund, but we're doing this at the expense of the operating expenses of our elementary and secondary schools.

I believe it's essential to fund the Teacher Retirement Fund, but I don't think the two of them should be competing with one another in this situation, and that's what I think has been taking place. By leaving that mil rate at 1.2, we have just decreased the amount of funding going into Local Leeway without specifically saying we're decreasing the dollars. I would request a Roll Call.

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

Senator COLLINS: Mr. President, I know that all of us would like to fund more money to do things that we think are important and a lot of important things, but the fact is that this whole argument has been carefully considered by the Appropriations Committee. I think it's important that we pass the Part 1, Budget. We can't very well open up this kind of thing to everyone's favorite program without denying ourselves the real value of our committee process.

I hope that you will reject this amendment, and go on the Part One Budget.

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 Cumberland, Senator Conley.

Senator CONLEY: Mr. President and Members of the Senate: I would urge the defeat of the proposed Amendment before the Body. I think the record for supporting education over the years, at least my record, is very clear. I think that one must look at the whole ball of wax.

When the good Senator from Penobscot, Senator Trotzky, wishes to state 43 percent, if you talk with the Chief Executive, he'll tell you that 53.9 percent is being used. That means every 53 cents of every dollar of the General Fund is going to fund education. I think we have many, many other problems facing the State, without the continual increase in funding of education, particularly in the leeway situation. Therefore, I would urge the defeat of this Bill.

The PRESIDENT: The pending question before the Senate is the motion by the Senator from Penobscot, Senator Trotzky, that the Senate Adopt Senate Amendment "A" to L. D. 1583.

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

A No vote will be opposed.

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

#### ROLL CALL

YEA — Ault, Brown, Clark, Dutremble, O'Leary, Shute, Sutton, Teague, Trafton, Trotzky, Usher, Wood.

NAY — Bustin, Charette, Collins, Conley,

Devoe, Emerson, Gill, Hichens, Huber, McBreairty, Minkowsky, Najarian, Pierce, Redmond, Sewall, C.

ABSENT — Carpenter, Kerry, Perkins, Pray, Violette.

A Roll Call was had.

12 Senators having voted in the affirmative and 15 Senators in the negative, with 5 Senators being absent, the motion to Adopt Senate Amendment "A" to LD 1583 does not prevail.

Which was Passed to be Engrossed, in concurrence.

Sent forthwith to the Engrossing Department.

#### House — As Amended

Bill, "An Act to Eliminate the Disincentive for Aid to Families with Dependent Children Recipients to Find Employment." (H. P. 947) (L. D. 1123)

Bill, "An Act to Increase Certain Fees under the Funeral Directors and Embalmers Law." (H. P. 999) (L. D. 1197)

Bill, "An Act to Amend an Existing Law Pertaining to Conversion of Seasonal Residences in Shoreland Areas." (H. P. 946) (L. D. 1122)

Bill, "An Act Concerning Review of Fees for Providers under the Medical Assistance Program." (H. P. 1009) (L. D. 1205)

Bill, "An Act to Amend the Waldoboro Sewer District Charter." (H. P. 235) (L. D. 271)

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

RESOLVE, Reimbursing the Town of Madison under the Maine Tree Growth Tax Law. (H. P. 1386) (L. D. 1563)

Bill, "An Act to Permit the Publication of the Names of Juveniles in Connection with Arrests and Court Appearances." (H. P. 742) (L. D. 880)

Bill, "An Act to Clarify the Inland Fisheries and Wildlife Laws of Maine." (H. P. 1423) (L. D. 1577)

Bill, "An Act Relating to and Increasing the Appropriation of Funds for Assistant District Attorneys." (H. P. 560) (L. D. 634)

Bill, "An Act to Clarify the Procedure for Waiver of Unemployment Compensation Benefit Overpayment." (H. P. 848) (L. D. 1035)

Bill, "An Act to Revise the Property Tax Laws." (H. P. 1161) (L. D. 1393)

Bill, "An Act Authorizing and Directing the Bureau of Mental Health to Enhance and Protect the Rights of Recipients of Mental Health Services." (H. P. 912) (L. D. 1078)

Bill, "An Act to Diversify Maine's Participation in the Eastern States Exposition." (H. P. 1254) (L. D. 1478)

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

Bill, "An Act to Provide a Special Muzzle-loading Hunting Season." (H. P. 218) (L. D. 255)

Which was Read a Second Time.

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

Senator O'LEARY: Mr. President, I move that L. D. 255 and all its accompanying papers be Indefinitely Postponed.

The PRESIDENT: The Senator from Oxford, Senator O'Leary, moves that L. D. 255 be Indefinitely Postponed.

The Chair recognizes the Senator from Somerset, Senator Redmond.

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

The PRESIDENT: A Division has been requested.

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

Senator O'LEARY: I think that I should, perhaps, give a reason as to why I feel that this Bill should be Indefinitely Postponed, and make it clear to the Members of this Body why I take such an action.

Two years ago, I had an amendment to a bill

that was very similar to this. I guess you call it the drummer boy amendment. This Bill, as it's drafted, will allow three days of hunting, and establish the season dates into law. At the present time, we set a limit of 1000 bear that will be shot, or baited, or trapped, or whatever, in a season. The Commissioner will close that season at that time.

We also established in law the fact that the Commissioner of the Department of Inland Fisheries and Wildlife, at any time that the season is such that it's going to damage our deer herd, he has a right to shut that season down.

I remember the winter of 1969, when the beginning of the last week of the hunting season, we had approximately 36 inches of snow in my area. The deer yarded up and it was a virtual slaughter.

Under the present law, as we have it now, the Commissioner could shut the season down and that slaughter would not occur. However, if the winter were to be such that we had another snow storm, and the Commissioner did shut the season down, he would still, by this Bill, have to have three days of muzzle-loading, deer hunting at the end of the regular season.

If you look at the monies accrued to the Department, and the fee of seven dollars for a muzzle-loader, it figures out to 26,000 residents of the State of Maine, and at \$30 for non-residents, it figures out to 4,700. That means 30,700 deer could be shot, slaughtered by muzzle-loaders.

It also gets into the accident convertible bill, where a muzzle-loading rifle is deemed to be legally transported, if the percussion cap or flint is moved from the ignition system. Can you imagine riding along and flipping an ash, and there goes the top of your automobile, or the transmission? I say no to that.

Mr. President, I hope that you will vote with me, Members of the Senate, to Indefinitely Postpone this Bill.

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

Senator REDMOND: I hope that the Senate will vote to Enact this Bill. This Bill had a public hearing. The Committee worked in the Session ardently. They've had input from the people of the Department of Inland Fisheries and Wildlife. They've had input from the public and everyone concerned. I don't know why the good Senator from Oxford emphasizes deer being shot, slaughtered, and big things. It is no different being shot with a muzzle-loader than being shot with another gun. It's a dead shot. That's it. It's only three business days immediately following the open season on deer.

This will accommodate a group of people that are becoming quite numerous in this State. They contribute quite a bit to the economy of the State, because this is a special made gun they have. They're proud of it. Some of these guns cost \$2000. It seems they ought to have an opportunity to use it once in a while.

I hope that the Senate would vote to Enact this Bill.

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

Senator HICHENS: Mr. President and Members of the Senate: It's a pleasure to get up and support the Chairman of the Fisheries and Wildlife Committee. We have been opposing each other for the last two or three weeks. In fact, I think it was just a week ago, he said I didn't even belong on the Committee.

Maybe today, when I get up and support him, he'll welcome me back as a member. We had three of these bills, as the good Senator has told you. We felt that this was a bill which was workable, which will give these people who use the musket guns an opportunity to hunt for just three days following the regular session. I see nothing wrong with that at all.

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

Senator O'LEARY: Mr. President, a muzzle-



loader doesn't have to have three more days. On his regular deer hunting license, he can hunt the whole season, each and every day if he wishes. He doesn't have to have three more days.

The Fish and Game Department, Fisheries and Wildlife, is opposed to the Bill. I talked to the Director of the Sportsman's Alliance of Maine this morning. He said they halfheartedly endorse it, but they do object to the three days on the end of the season. This puts it in cement.

The PRESIDENT: The Chair recognizes the Senator from Aroostook, Senator McBreaity. Senator MCBREAIRTY: Mr. President and Honorable Members of the Senate, I guess I'm on the opposite side this time. I don't very often oppose the good Senator on Fisheries and Wildlife. I agree with Senator O'Leary. This just gives people with muzzle-loading guns an extra three days of hunting, which they can take any time during the season.

I don't believe it's needed. I believe we're taking enough deer now. I do oppose this Bill.

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

Senator SUTTON: Thank you, Mr. President, I don't usually get involved in these things either, and am kind of a little nervous, too, right now, but especially to stand in opposition to the good Chairman and my friend and colleague, the Chairman of the Committee. I would just like to tell the Senate that the word that I get from all the fish and game folks in my area, is completely in accord with what my colleague from Oxford has told you.

He's also pointed out some very serious problems with this Bill. I would hope that you would vote to defeat it.

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

Senator CONLEY: Mr. President and Members of the Senate: I don't very often get mixed up in fish and game items, either, but if it will help clear anyone's conscience, I support the good Senator from Oxford, Senator O'Leary.

The PRESIDENT: Is the Senate ready for the question?

Will all those Senators in favor of the motion by the Senator from Oxford, Senator O'Leary, that L. D. 255 and all its accompanying papers be Indefinitely Postponed, 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 Somerset, Senator Redmond.

Senator REDMOND: I request a Roll Call.

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

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

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

The pending question before the Senate is the motion by the Senator from Oxford, Senator O'Leary, that the Senate Indefinitely Postpone L. D. 255 and all its accompanying papers.

A Yes vote will be in favor of the Indefinite Postponement of L. D. 255.

A No vote will be opposed.

The Doorkeepers will secure the Chamber. The Secretary will call the Roll.

#### ROLL CALL

YEA — Brown, Bustin, Charette, Clark, Conley, Emerson, Gill, Huber, McBreaity, Najarian, O'Leary, Sutton, Teague, Trafton, Trotzky, Wood.

NAY — Ault, Collins, Devoe, Dutremble, Hichens, Minkowsky, Pierce, Redmond, Sewall, C.: Shute, Usher.

ABSENT — Carpenter, Kerry, Perkins, Pray, Violette.

A Roll Call was had.

16 Senators having voted in the affirmative

and 11 Senators in the negative, with 5 Senators being absent, the motion to Indefinitely Postpone LD 225 in non-concurrence does prevail.

Sent down for concurrence.

Bill, "An Act to Simplify the Requirements for the Granting of Permission to Additional Institutions to Use Established Satellite Facilities." (H. P. 998) (L. D. 1221)

Which was Read a Second Time.

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

Senator PIERCE: Mr. President, I present Senate Amendment "A" under filing number S-201 and move its adoption.

The PRESIDENT: The Senator from Kennebec, Senator Pierce, offers Senate Amendment "A" to L.D. 1221 and moves its adoption.

Senate Amendment "A" (S-201) Read and Adopted.

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

Sent down for concurrence.

Bill, "An Act to Allow the Board of Environmental Protection to Authorize and Pay for Oil Spill Damage Studies." (H. P. 995) (L. D. 1183)

Which was Read a Second Time

On motion by Senator Shute of Waldo, Tabled for 1 Legislative Day, pending Passage to be Engrossed.

Bill, "An Act to Amend the Campaign Reporting Law." (H. P. 974) (L. D. 1162)

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

Sent down for concurrence.

Bill, "An Act Relating to Bail Commissioners." (H. P. 1271) (L. D. 1486)

Which was Read a Second Time.

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

Senator CONLEY: Mr. President, I now present Senate Amendment "A" to L. D. 1486 and would speak briefly.

The PRESIDENT: The Senator from Cumberland, Senator Conley, offers Senate Amendment "A" to Committee Amendment "A" and moves its adoption.

Senate Amendment "A" (S-200) to Committee Amendment "A" Read.

The PRESIDENT: The Senator has the floor.

Senator CONLEY: Mr. President and Members of the Senate: This Bill was well discussed in the Judiciary Committee, dealing with bail situations throughout the State. It was a vast majority of the membership on the Committee that thought this Bill should receive Passage.

What this Amendment does, is more or less set up a pilot experience over the next two years, to see if a new system would work, and hence, the Amendment is calling for more or less of a termination to be reviewed by the Judiciary Committee at the next regular session.

Senate Amendment "A" (S-200) 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.

#### Senate — As Amended

Bill, "An Act to Increase the Bonding Limit of Maine State Housing Authority Bonds Secured by the Housing Reserve Fund." (S. P. 418) (L. D. 1241)

Bill, "An Act to Promote Tourism by Providing Directional Signs for Publicity Bureau Offices." (S. P. 352) (L. D. 995)

Bill, "An Act to Clarify the Status of Certain Real Estate Easements in the State." (Emergency) (S. P. 224) (L. D. 611)

Bill, "An Act to Forbid Payments for Signing or Distributing State Referendum Petitions or

Absentee Ballots." (S. P. 198) (L. D. 566)

Bill, "An Act to Permit the Opportunity for Continuing Health Insurance." (S. P. 477) (L. D. 1360)

Bill, "An Act to Prohibit the Dissemination of Obscene Material." (S. P. 243) (L. D. 698)

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:

#### Emergency

AN ACT to Bring the Maine Traveler Information Services Act into Conformity with the United States Constitution. (S. P. 427) (L. D. 1249)

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

Senator PIERCE: Mr. President and Members of the Senate: I don't plan to make any motion on this Bill today, but I just do want to say a couple of words for the Record.

I, at some length, expressed my concerns at the way we have addressed, what I believe to be, some very, very obvious problems with this law in the State of Maine. I think we have done it in a rather haphazard way, with no real consistency.

I would hope that in the interim between now and January, the Committee might take a look at the Directional Signs Law within the State of Maine. I certainly plan to ask the Governor to do that. I would hope that, at least by that time, we might provide a much better approach to this whole area, that I think really hasn't received the attention that it should.

I presume that L. D. 995 listed above is some sort of another exception, really done again on some kind of a haphazard basis, but at any rate, I just do want to express the concern that I shared with you before, and do hope that if enough people do become interested in some of the deficiencies of this law, that along with the good points, we will have a chance to look at it between now and the Second Regular Session.

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

#### Orders of the Day

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

HOUSE REPORTS—from the Committee on Labor, "Bill, An Act to Provide for an Offset for Holiday Pay under the Employment Security Law." (H. P. 879) (L. D. 1048) REPORT "A" Ought Not to Pass; REPORT "B" Ought to Pass; REPORT "C" Ought to Pass as Amended by Committee Amendment "A" (H-313)

Tabled—May 11, 1981 by Senator COLLINS of Knox.

Pending—Acceptance of a Report.

On motion by Senator Sewall of Lincoln, the Ought to Pass as amended Report "B" of the Committee was Accepted, in concurrence, and 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 second Tabled and specially assigned matter:

Bill, "An Act to Facilitate the Leasing of Existing Subsidized Housing Units." (H. P. 809) (L. D. 970)

Tabled—May 11, 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, I address this Bill because of some inquiries from my city manager and city council. As I understand it, this Bill will take away from our municipalities the right that they have previously enjoyed

to grant consent to various subsidized housing ventures. In this case, two particular programs, one relating to existing housing, and the other relating to moderate rehabilitation.

In looking at a fact sheet that I believe was developed by Pine Tree Legal, I can appreciate the problem in the smaller towns, having this opportunity only by the annual town meeting, or a special town meeting. I think it is in this type of municipality, where this Bill may be justified.

However, in our more densely settled municipalities, let's say in municipalities having a population of 5000 or over, it would seem to me that most of those units have town or city councils, which meet on a very frequent basis. In the orderly development of those cities, or those large towns, it seems to me appropriate for the governing body to at least be consulted before some of these projects get under way.

I am informed that there is in preparation an Amendment that would change somewhat the direction of this Bill. I'm hoping that the Bill might be Tabled for a day, pending that.

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

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

Bill, "An Act to Provide Reciprocal Fees and Charges for Trucks from other States." (H. P. 1439) (L. D. 1581).

Tabled—May 11, 1981 by Senator COLLINS of Knox.

Pending—Passage to be Engrossed.

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

Senator EMERSON: I present Senate Amendment "A" to L. D. 1581 and move its adoption, and would speak.

The PRESIDENT: The Senator from Penobscot, Senator Emerson, now offers Senate Amendment "A" to L. D. 1581 and moves its adoption.

Senate Amendment "A" (S-203) Read.

The PRESIDENT: The Senator has the floor. Senator EMERSON: Mr. President, and Ladies and Gentlemen, this Bill is what is known in the Transportation Committee as a decal Bill. It's a revenue producing measure for the highway fund. It's a near perfect bill for a tax measure, because it imposes a \$30 fee on out-of-state trucks. It imposes a \$3 fee on some in-state trucks. We hit the out-of-state trucks much harder, trucks that travel in the State of Maine.

It also produces, has been producing revenue for us when it's been in the Committee, in a way, because when we first had the Bill, we figured it might bring in like \$5 million in a biennium. Then we discovered that we had underestimated the number of trucks that traveled throughout the State. The new figures thought that we might bring as much as \$7 million in the biennium.

Now it's discovered, that in the first biennium when it's used, we'll be taking in revenue for almost three years. It will produce in excess of \$10 million. I really don't like to have it go out of the Committee, because if we left it there long enough, it might solve our whole problem.

In our enthusiasm to pass the Bill, we omitted the people and their funding for collection of it.

This Amendment really puts that back in.

The PRESIDENT: Is it now the pleasure of the Senate to Adopt Senate Amendment "A"?

The Chair recognizes the Senator from Androscoggin, Senator Minkowsky.

Senator MINKOWSKY: Thank you very much, Mr. President. Mr. President and Members of the Senate, I guess I really have no objection to raising funds to take care of the dilemma of that the Department of Transportation is facing in part. One of the major problems I've heard over the years in the State of Maine, has been transportation costs have been

exceedingly high, relevant to bringing in raw products, and especially bringing out finished products.

If we are going to assess the out-of-state truckers; \$30 per box, will this not reflect again in the final cost of goods manufactured, whether utilized in the State of Maine or transported out of the State? This is one of my major concerns. It's easy to tack \$30 on to them. I guess nobody has any qualms about the revenues.

What I'm looking at, is there going to be an imposition upon our business community in raising the costs of their finished products to pay for the additional cost of transporting these goods out-of-state, as well as getting the raw materials in the State? I don't know if that has been addressed by the Transportation Committee, but I certainly would be interested in getting an answer on it.

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

Senator EMERSON: In the first place, I may have misled you, because this is a \$30 per year, per truck. I guess those of us on the Transportation Committee realize that in the end, the consumer finally pays the bill, like most any other area.

Senate Amendment "A" Adopted.

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:

Bill, "An Act Requiring Energy Efficiency in Buildings Financed with Public Funds." (S. P. 480) (L. D. 1363)

Tabled—May 11, 1981 by Senator COLLINS of Knox.

Pending—Passage to be Engrossed.

On motion by Senator McBreairty of Aroostook, the Senate voted to Suspend its Rules.

On motion by Senator McBreairty of Aroostook, the Senate voted to Reconsider its action whereby it Adopted Committee Amendment "A" to L. D. 1363.

Senator McBREAIRTY: I now present Senate Amendment "A" to Committee Amendment "A" and move its adoption.

The PRESIDENT: The Senator from Aroostook, Senator McBreairty, offers Senate Amendment "A" to Committee Amendment "A" and moves its adoption.

Senate Amendment "A" (S-211) to Committee Amendment "A" Read.

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

Senator CONLEY: Would the good Senator be kind enough to explain this Amendment?

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

Senator McBREAIRTY: Mr. President and Members of the Senate: This Amendment just clarifies the meaning of the substantial renovations in L. D. 1363.

Senate Amendment "A" (S-211) Adopted.

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

Sent down for concurrence.

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

HOUSE REPORT—from the Committee on Taxation — Bill, "An Act for the Assessment of Watercraft." (H. P. 1100) (L. D. 1297) Ought to Pass as Amended by Committee Amendment "A" (H-331)

Tabled—May 11, 1981 by Senator TEAGUE of Somerset.

Pending—Acceptance of Report.

The Ought to Pass, as amended, Report of the Committee Accepted in concurrence, and the Bill Read Once. Committee Amendment "A" Read and Adopted, in concurrence. The Bill, as amended, Tomorrow Assigned for Second Reading.

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

Bill, "An Act to Curtail the Practice of Plea Bargaining" (S. P. 515) (L. D. 1437)

Tabled—May 11, 1981 by Senator DEVOE of Penobscot.

Pending—Motion of Senator CONLEY of Cumberland to Reconsider.

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

Senator CONLEY: Mr. President, I move that L. D. 1437 be Tabled for 1 Legislative Day.

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

Senator DEVOE: I ask for a Division on that, Mr. President.

The PRESIDENT: A Division has been requested.

Will all those Senators in favor of the motion by the Senator from Cumberland, Senator Conley, that L. D. 1437 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.

12 Senators having voted in the affirmative, and 8 Senators in the negative, the motion to Retable for 1 Legislative Day, does prevail.

The President laid before the Senate, HOUSE REPORT—from the Committee on Taxation — Bill, "An Act Providing for Administrative Changes in the Tax Laws." (H. P. 118) (L. D. 152) Ought to Pass as Amended by Committee Amendment "A" (H-344)

Tabled—Earlier in the Day by Senator COLLINS of Knox.

Pending—Acceptance of Report.

The Ought to Pass, as amended, Report of the Committee Accepted, in concurrence. The Bill Read Once. Committee Amendment "A" Read.

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

Senator PIERCE: Mr. President, I present Senate Amendment "A" to Committee Amendment "A" under filing number S-202 and move its adoption.

The PRESIDENT: The Senator from Kennebec, Senator Pierce, offers Senate Amendment "A" to Committee Amendment "A" and moves its adoption.

Senate Amendment "A" (S-202) to Committee Amendment "A" Read, and Adopted.

Committee Amendment "A" as amended, by Senate Amendment "A" Adopted, in non-concurrence. The Bill, as amended, Tomorrow Assigned for Second Reading.

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

Senator PIERCE: Mr. President, is the Senate in possession of L. D. 1558?

The PRESIDENT: The Chair would answer in the affirmative, the Bill, "An Act to Reimburse Owners of Livestock, Poultry or Bees which are Destroyed or Damaged by Dogs or Wild Animals." (S. P. 582) (L. D. 1558) having been held at the Senator's request.

On motion by Senator Pierce of Kennebec, the Senate voted to Reconsider its action whereby it voted to Recede and Concur with the House.

On motion by Senator Pierce of Kennebec the Senate voted to Recede from its action whereby L. D. 1558 was Passed to be Engrossed.

On motion by Senator Pierce of Kennebec, the Senate voted to Recede from its action whereby it Adopted Senate Amendment "A".

The PRESIDENT: The Senator has the floor.

Senator PIERCE: Mr. President, I present Senate Amendment "A" to Senate Amendment "A" under filing number S-205 and move its adoption.

The PRESIDENT: The Senator from Kennebec, Senator Pierce offers Senate Amendment "A" to Senate Amendment "A" and moves its adoption.

Senate Amendment "A" (S-205) to Senate Amendment "A" Read.

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

Senator CONLEY: Mr. President, does this amendment have anything to do with sheep?

The PRESIDENT: The Senator from Cumberland, Senator Conley, has posed a question through the Chair.

The Chair recognizes the Senator from Kennebec, Senator Pierce.

Senator PIERCE: Mr. President and Members of the Senate, if the truth were known I am presenting this amendment, as Chairman of Bills in the Second Reading, because no one dared to let either Senator McBreaity or Senator Hitchens present it, to think that after the long debate that we had, that it has something to do with substance of the Bill, which this amendment clearly does not.

Senate Amendment "A" to Senate Amendment "A" Adopted. House Amendment "A" to Senate Amendment "A" Read and Adopted, in concurrence. Senate Amendment "A", as amended, by Senate Amendment "A" and House Amendment "A" thereto, Adopted, in non-concurrence.

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

Sent down for concurrence.

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

#### Committee Reports

##### House

#### Leave to Withdraw

The Committee on Business Legislation on, Bill, "An Act to Amend the Fair Credit Reporting Act." (H. P. 1350) (L. D. 1538)

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 Establishing a Procedure under the Education Statutes for Withdrawal of a Municipality from within Vocational Region 1." (H. P. 1268) (L. D. 1495)

Reported that the same be granted Leave to Withdraw.

Comes from the House, the Report Read and Accepted.

The Committee on State Government on, Bill, "An Act Relating to the Management of the Department of the Attorney General." (H. P. 1210) (L. D. 1425)

Reported that the same be granted Leave to Withdraw.

Comes from the House, the Report Read and Accepted.

The Committee on Judiciary on, Bill, "An Act Amending the Child and Family Services and Child Protection Act." (H. P. 275) (L. D. 320)

Reported that the same be granted Leave to Withdraw.

Comes from the House, the Report Read and Accepted.

The Committee on Judiciary on, Bill, "An Act to Prohibit Drinking in Public under the Criminal Code." (H. P. 497) (L. D. 549)

Reported that the same be granted Leave to Withdraw.

Comes from the House, the Report Read and Accepted.

Which Reports were Read and Accepted, in concurrence.

#### Ought to Pass

The Committee on Transportation on, Bill, "An Act to Authorize Bond Issue in the Amount of \$12,800,000 for Highway and Bridge Improvements." (H. P. 336) (L. D. 375)

Reported that the same Ought to Pass.

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

Which Report was Read and Accepted, in

concurrence. The Bill Read Once, and Tomorrow Assigned for Second Reading.

#### Ought to Pass in New Draft

The Committee on Education on, Bill, "An Act Concerning Secondary Vocational Education." (H. P. 868) (L. D. 1037)

Reported that the same Ought to Pass in New Draft under Same Title, (H. P. 1454) (L. D. 1593).

Comes from the House, the Bill, in New Draft, Passed to be Engrossed.

The Committee on Public Utilities on, Bill, "An Act Clarifying the Authority of the Caribou Utilities District to Acquire the Caribou Waterworks Corporation." (H. P. 575) (L. D. 651)

Comes from the House, the Bill, in New Draft, Passed to be Engrossed.

Which Reports were Read and Accepted, in concurrence.

The Bills, in New Draft, Read Once, and Tomorrow Assigned for Second Reading.

#### Ought to Pass — As Amended

The Committee on Aging, Retirement and Veterans on, Bill, "An Act to Provide Optional Local Funding of the State Retirement System Membership by School Administrative Units and to Allow Out-of-State Service Credits to Those Units." (H. P. 1385) (L. D. 1562)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-353).

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

The Committee on Business Legislation on, Bill, "An Act Concerning Insurance Proceeds under the Maine Insurance Code." (H. P. 1266) (L. D. 1481)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-356).

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 Provide for Notification of Employees When a Business Plant Leaves the State." (H. P. 322) (L. D. 351)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-350).

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

The Committee on State Government on, Bill, "An Act to Reduce the Bonding Authority of the Maine Guarantee Authority." (H. P. 756) (L. D. 893)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-358).

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

The Committee on State Government on, Bill, "An Act Concerning Land Conveyed by the State to the Town of Bridgton." (H. P. 887) (L. D. 1056)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-357).

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

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

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

#### Paper From the House Non-concurrent Matter

Bill, "An Act to Regulate Entrance Fees Charged by Mobile Home Parks." (H. P. 779) (L. D. 924)

In the Senate, May 8, 1981, Passed to be Engrossed as amended by Senate Amendment "A" (S-184), in non-concurrence.

Comes from the House, Passed to be Engrossed as amended by House Amendment "B" (H-361), in non-concurrence.

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

Senator SUTTON: Mr. President, I move the Senate Adhere.

The PRESIDENT: The Senator from Oxford, Senator Sutton, now moves that the Senate Adhere.

The Chair recognizes the Senator from Cumberland, Senator Clark.

Senator CLARK: Mr. President, I move that the Senate Recede and Concur and would speak briefly to my motion.

The PRESIDENT: The Senator has the floor. Senator CLARK: Mr. President, Members of the Senate, it seems that sometimes you find yourself in a rather awkward situation.

I spoke to you briefly on this Bill when the good Senator from Oxford, Senator Sutton, successfully, successfully added Senate Amendment "A" under filing number S-184 to LD 924. At that time I stated that I was not, I was not, unalterably opposed to the Adoption of the Amendment.

I stand before you this afternoon supporting the motion to Recede and Concur, for I believe it is the Amendment, Blue instead of Yellow, under filing number H-361, which more keenly and closely, addresses the concerns that the good Senator from Oxford attempted to address, when he tended his Amendment successfully last week.

House Amendment "B" to the Bill is almost a replication of the Senate Amendment to the Bill, only it applies to new trailers, as well as, those already located in the park.

There are no restrictions on newly developed lots in order to encourage move lot development, a concern which we articulated perhaps at length one might say, here in this Chamber. It also protects tenants from being forced to move their trailer, or a mobile home unit, when they want to move.

Now, should I not be successful in my attempt this afternoon to convince you to Recede and Concur, I will, then, support the motion to Adhere.

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

Senator SUTTON: Not to belabor the matter, and very briefly, just to remind you the problem that I have with the Amendment.

Remember we talked about this entrance fee as being income to the mobile park owner. Without getting into all the ramifications of its justification, there certainly has been some problems with the amount of these fees, where they've gotten very exorbitant, and that's why the Amendment was put on to it to limit it to four times.

The problem I have with the Amendment is a fold it takes away that fee for the first person to move into a home, or move into a park, because the last sentence restricts it, so that the first person won't do it. Again, if you are going to look at it as part of the income of the mobile park owner, then that restricts it.

The second part is that the records and the justification that would be necessary for the mobile home park owner to put together would be rather arduous and I feel unnecessary, when you get down to the basic concept that we're talking about, income. Without that income its going to have to be made up, some of us think, by raising the rents on others in the park, and also by, possibly, incurring or increasing the security deposit.

So, I would ask that the Senate not support the motion by my good friend from Cumberland, to Recede and Concur, but to defeat that

motion, and then to Adhere.

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

Senator CLARK: Mr. President, I would ask the members of this Body to turn to the blue amendment, under filing number H-361, and read in the last paragraph of the underlined section of this Amendment, the following words: "These restrictions" referring to an entrance fee "not to exceed four times the monthly rent, shall not apply to the first occupant of a mobile home park," and I do believe that my very dear friend from the county of Oxford, Senator Sutton, is mistaken in his interpretation of that part of this Amendment, and I urge you to Recede and Concur.

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

Senator SUTTON: Thank you. After deeply apologizing for my misreading of that, I still urge you not to Recede and Concur, because the rest of my arguments are still valid.

The PRESIDENT: The Chair will order a Division.

Will all those Senators in favor of the motion by the Senator from Cumberland, Senator Clark, that the Senate Recede and Concur with the House, please rise in their places to be counted.

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

8 Senators having voted in the affirmative, and 16 Senators having voted in the negative, the motion to Recede and Concur with the House does not prevail.

Is it now the pleasure of the Senate to Adhere?

It is a vote.

#### Joint Order

An Expression of Legislative Sentiment recognizing:

Charles Mercer, who has been elected President of the University of Maine — Orono Student Government. (H.P. 1456)

Comes from the House, Read and Passed.

Which was Read and Passed, in concurrence.

#### Communication Department of Audit

May 12, 1981

TO GOVERNOR JOSEPH E. BRENNAN AND MEMBERS

OF THE ONE HUNDRED AND TENTH LEGISLATURE

In compliance with statutory requirements, I submit herewith the 61st Annual Report of the State Auditor for the fiscal year ended June 30, 1980.

We have made extensive examination of major pertinent transactions. We do not make a detailed examination of all recorded transactions on the general books of the State for the year. We did, however, make a detailed examination of accounting records, procedures and internal controls, and verified financial transactions on a selective basis in our post audit of the activities of the various State Departments, Agencies, Boards, etc. during the year. The results of these audits, together with comments, observations and audits findings and recommendations are contained in our individual audit reports submitted to the respective State Departments, Agencies, Boards, etc.

Based on the scope of our examination, it is our opinion that, except for the exclusion of certain trust and operating fund transactions and balances recorded and controlled locally by State agencies and not reflected herein, the financial position and operating results of the various State Departments, Agencies, Boards, etc., of the State of Maine for the fiscal year ended June 30, 1980 has been fairly presented in conformity and with generally accepted accounting principles applied on a consistent basis.

Statements and schedules pertaining to the financial position of the various operating

funds of the State of Maine at June 30, 1980 may be found in the Annual Report of the State Controller.

I would like to express my special appreciation to the Staff of the Department of Audit for their continued loyalty and devotion to duty and to the State Officials for their cooperation with this department.

Respectfully submitted,  
S/GEOURGE J. RAINVILLE  
State Auditor

Which was Read and with accompanying report, Ordered placed on File.

#### Order

On motion by Senator GILL of Cumberland (Cosponsor Representative PRESCOTT of Hampden).

ORDERED, the House concurring, that the Joint Standing Committee on Health and Institutional Services report out a bill to the Senate to require the Department of Human Services to provide home based care as an alternative to nursing home care. (S.P. 600)

Which was Read and Passed.  
Sent down for concurrence.

#### Committee Reports

##### House

##### Divided Report

The Majority of the Committee on Legal Affairs on, Bill, "An Act to Provide Greater Local Control over Liquor Licensing." (H.P. 1293) (L.D. 1506)

Reported that the same Ought to Pass in New Draft under Same Title. (H.P. 1452) (L.D. 1592)

Signed:

Senator:

SHUTE of Waldo

Representatives:

COX of Brewer

SOULAS of Bangor

TREADWELL of Veazie

PERRY of Mexico

STOVER of West Bath

McSWEENEY of Old Orchard Beach

STUDLEY of Berwick

DUDLEY of Enfield

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

Signed:

Sensors:

CHARETTE of Androscoggin

VIOLETTE of Aroostook

Representatives:

GWADOSKY of Fairfield

SWAZEY of Bucksport

Comes from the House, the Bill, in New Draft, Passed to be Engrossed.

Which Reports were Read.

On motion by Senator Shute of Waldo, the Majority Ought to Pass, in New Draft, Report of the Committee, Accepted, in concurrence. The Bill, in New Draft, Read Once, and Tomorrow Assigned for Second Reading.

##### Divided Report

The Majority of the Committee on Labor on, Bill, "An Act to Provide Binding Arbitration for State, County, and Municipal Employees." (H.P. 776) (L.D. 921).

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-349).

Signed:

Senator:

DUTREMBLE of York

Representatives:

BEAULIEU of Portland

TUTTLE of Sanford

BAKER of Portland

McHENRY of Madawaska

HAYDEN of Durham

LAVERRIERE of Biddeford

The Minority of the same Committee on the same subject matter reported that the same

Ought Not to Pass.

Signed:

Sensors:

SEWALL of Lincoln

SUTTON of Oxford

Representatives:

MARTIN of Brunswick

FOSTER of Ellsworth

DAMREN of Belgrade

LEWIS of Auburn

Comes from the House, the Minority Ought Not To Pass Report Accepted.

Which Reports were Read.

The PRESIDENT: The Chair recognizes the Senator from Lincoln, Senator Sewall.

Senator SEWALL: Thank you, Mr. President. I move that we Accept the Minority Ought Not to Pass Report.

The PRESIDENT: The Senator from Lincoln, Senator Sewall, moves that the Senate Accept the Minority Ought Not to Pass Report of the Committee.

On motion by Senator Conley of Cumberland, Tabled for 1 Legislative Day, pending the motion by the Senator from Lincoln, Senator Sewall.

#### Divided Report

The Majority of the Committee on Labor on, Bill, "An Act Relating to Arbitration under the State Employees Labor Relations Act." (H.P. 764) (L.D. 901)

Reported that the same Ought to Pass.

Signed:

Sensor:

DUTREMBLE of York

Representatives:

BEAULIEU of Portland

BAKER of Portland

TUTTLE of Sanford

HAYDEN of Durham

McHENRY of Madawaska

LAVERRIERE of Biddeford

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

Signed:

Sensors:

SEWALL of Lincoln

SUTTON of Oxford

Representatives:

MARTIN of Brunswick

FOSTER of Ellsworth

DAMREN of Belgrade

LEWIS of Auburn

Comes from the House, the Bill and accompanying papers, Indefinitely Postponed.

Which Reports were Read.

On motion by Senator Sewall of Lincoln, the Minority Ought Not to Pass Report of the Committee, Accepted.

#### Divided Report

The Majority of the Committee on Judiciary on, Bill, "An Act Concerning the Taking of Wood without Permission of the Owner." (H.P. 144) (L.D. 170)

Reported that the same Ought Not to Pass.

Signed:

Sensors:

CONLEY of Cumberland

KERRY of York

Representatives:

HOBBINS of Saco

REEVES of Newport

JOYCE of Portland

LUND of Augusta

CARRIER of Westbrook

LIVESAY of Brunswick

O'ROURKE of Camden

The Minority of the same Committee on the same subject matter reported that the same Ought to Pass as amended by Committee Amendment "A" (H-354).

Signed:

Sensor:

DEVOE of Penobscot

Representatives:

BENOIT of South Portland  
SOULE of Westport  
DRINKWATER of Belfast

Comes from the House, the Bill Passed to be Engrossed, as amended by Committee Amendment "A" (H-354).

Which Reports were Read.

On motion by Senator Devoe of Penobscot, the Minority Ought to Pass, as amended, Report of the Committee Accepted, in concurrence. The Bill Read Once. Committee Amendment "A" Read and Adopted, in concurrence. The Bill, as amended, Tomorrow Assigned for Second Reading.

#### Divided Report

The Majority of the Committee on Judiciary on, Bill, "An Act to Clarify the Laws Pertaining to Municipal Personnel Records." (H.P. 1092) (L.D. 1289)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-355).

Signed:

Sensors:

DEVOE of Penobscot  
CONLEY of Cumberland  
KERRY of York

Representatives:

HOBBS of Saco  
BENOIT of South Portland  
LUND of Augusta  
SOULE of Westport  
LIVESAY of Brunswick

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

Signed:

Representatives:

DRINKWATER of Belfast  
REEVES of Newport  
JOYCE of Portland  
O'ROURKE of Camden  
CARRIER of Westbrook

Comes from the House the Bill Passed to be Engrossed, as amended by Committee Amendment "A" (H-355)

Which Reports were Read.

The Majority Ought to Pass, as amended, Report of the Committee. Accepted, in Concurrence. The Bill Read Once. Committee Amendment "A" Read and Adopted, in concurrence. The Bill, as amended, Tomorrow Assigned for Second Reading.

#### Divided Report

The Majority of the Committee on State Government on, Bill, "An Act to Amend the Municipal Securities Approval Act." (H.P. 711) (L.D. 836)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-346).

Signed:

Sensors:

AULT of Kennebec  
GILL of Cumberland  
VIOLETTE of Aroostook

Representatives:

KANY of Waterville  
DIAMOND of Bangor  
PARADIS of Augusta  
DILLENBACK of Cumberland  
McGOWAN of Pittsfield  
LISNIK of Presque Isle  
WEBSTER of Farmington

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

Signed:

Representatives:

BELL of Paris  
MASTERTON of Cape Elizabeth  
SMALL of Bath

Comes from the House, the Bill Passed to be Engrossed, as amended by Committee Amendment "A" (H-346).

Which Reports were Read.

The Majority Ought to Pass, as amended, Report of the Committee. Accepted, in concurrence. The Bill Read Once. Committee Amendment "A" Read and Adopted, in concurrence. The Bill, as amended, Tomorrow Assigned for Second Reading.

#### Divided Report

The Majority of the Committee on State Government on, Bill, "An Act to Amend the Municipal Securities Approval Act." (H.P. 371) (L.D. 409)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-345).

Signed:

Sensors:

AULT of Kennebec  
GILL of Cumberland  
VIOLETTE of Aroostook

Representatives:

KANY of Waterville  
PARADIS of Augusta  
DIAMOND of Bangor  
DILLENBACK of Cumberland  
McGOWAN of Pittsfield  
LISNIK of Presque Isle

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

Signed:

Representatives:

BELL of Paris  
WEBSTER of Farmington  
MASTERTON of Cape Elizabeth  
SMALL of Bath

Comes from the House, the Bill Passed to be Engrossed, as amended by Committee Amendment "A" (H-345).

Which Reports were Read.

The Majority Ought to Pass, as amended, Report of the Committee. Accepted, in concurrence. The Bill Read Once. Committee Amendment "A" Read and Adopted, in concurrence. The Bill, as amended, Tomorrow Assigned for Second Reading.

#### Senate

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

Bill, "An Act to Establish a Limit on County Government Taxation." (S.P. 468) (L.D. 1324)

#### Leave to Withdraw

Senator CLARK for the Committee on Education on, Bill, "An Act to Authorize an Experimental Cost Sharing of New Vocational Programs at the Capitol Area Vocational Center." (S.P. 326) (L.D. 934)

Reported that the same be granted Leave to Withdraw.

Senator USHER for the Committee on Fisheries and Wildlife on, Bill, "An Act to Require Registration of Snowmobiles Operated in Maine by Nonresidents." (S.P. 493) (L.D. 1394)

Reported that the same be granted Leave to Withdraw.

Senator KERRY for the Committee on Judiciary on, Bill, "An Act to Amend the Small Claims Law and Conform Related Laws." (S.P. 405) (L.D. 1210)

Reported that the same be granted Leave to Withdraw.

Senator KERRY for the Committee on Judiciary on, Bill, "An Act to Establish a Small Claims Court." (S.P. 469) (L.D. 1325)

Reported that the same be granted Leave to Withdraw.

Which Reports were Read and Accepted.  
Sent down for concurrence.

On motion by Senator Huber of Cumberland, Out of Order and Under Suspension of the rules, the Senate voted to remove from the Special Appropriations Table: Bill, "An Act to Create a Department of Corrections." (S.P. 376) (L.D. 1134)

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

Senator COLLINS: Mr. President, this is the Bill which creates a separate Department of Corrections. In reviewing the technical side of this Bill, on its journey, it has been discovered that an omission was made in the other Body, concerning the recording of the vote. Since there is a new confirmable position in this act, it requires a two-thirds vote.

In order to correct this error in the procedure, therefore, it is proposed that the Senate simply Fail to Enact this bill, in which case it goes back to the other Body in non-concurrence so that that Body may then take the proper vote and send it back to this Body where we may once again put it on the Appropriations Table.

I would, therefore, ask that the Senate take a vote on Enactment, and I would ask the Senate to vote against Enactment simply for this technical purpose of being able to send it back for a technical correction.

The PRESIDENT: In accordance with Article 5, Part 1, Section 8, of the Constitution of Maine a two-thirds vote for Enactment is required.

Will all those Senators in favor of Enactment, 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 23 Senators having voted in the negative, LD 1134 Failed of Enactment.

Sent down for concurrence.

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

#### Enactors

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

AN ACT to Require that Industry Wide Taxes be Levied only after Referendum Approval of the Persons who would be Required to Pay the Tax. (S.P. 397) (L.D. 1190)

AN ACT to Ensure that the Provision for the Arbitration of Classification and Allocation Determinations in State Employee Collective Bargaining Agreements is not Inconsistent with the Personnel Law. (S.P. 402) (L.D. 1194)

AN ACT to Authorize the Extension of Old Orchard Pier. (S.P. 476) (L.D. 1359)

AN ACT to Provide for Identifying Natural, Nonimitation Food Products Sold in the State. (S.P. 485) (L.D. 1387)

AN ACT to Remove Private Babysitting Arrangements from the Jurisdiction of the Department of Human Services. (H.P. 796) (L.D. 950)

AN ACT to Permit Persons 15 Years of Age and Older to Work until 10 P.M. (H.P. 877) (L.D. 1046)

AN ACT to Relating to Frozen Dessert Products. (H.P. 1427) (L.D. 1578)

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

AN ACT to Exempt Certain Signs from the Billboard Law. (S.P. 378) (L.D. 1136)

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

Senator PIERCE: Mr. President and Members of the Senate, I can't resist be laboring this point. The only thing I can do for you is not belabor it at length. Would somebody please explain to me the rationale how some businesses get exempted and some don't? How if someone operates something seasonally for six months they are allowed certain kinds of directional signs so people can find them, but if they're open seven months, or year-round, supposedly, the heck with it, it doesn't matter if people find them or not. I just don't understand how we're going to enact something that is so grossly discriminatory as this particular Bill here.

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

Senator SUTTON: Mr. President, Ladies and Gentlemen of the Senate, the reason this Bill is before us is because it was submitted to the Legislature and found its way to the Business Legislation Committee. The Business Legislation Committee is concerned somewhat about the something that the good Senator from Kennebec, Senator Pierce, is. At this particular point, we are more concerned with the fact that the Agricultural exemption was part of the original Billboard Law and was taken out because of some fears of some actions in Vermont a year or so ago. So we put that back in.

At the same time, there was some concerns about camping areas that are far off the beaten track. The other Body saw fit to add that particular part to the Bill. We have discussed that in Business Legislation and have no real quarrel with that. There are many problems, possibly, coming up with the Billboard Law. We agree wholeheartedly with the good Senator from Kennebec.

I would like the Senate to know that the one request that will be coming from the Business Legislation Committee for a study, will be to study this whole directional sign business, so that we may equitably adjust the whole area, when we come back next January.

In the meantime, I would ask that you Enact this Bill. We feel that there are enough limitations on it that two of the very dire areas that we have, in agriculture and camping, at least, will be covered until we can get study made. Thank you.

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

#### **Emergency**

AN ACT Withdrawing School Administrative District No. 62 from Participation in Vocational Region No. 10. (S.P. 259) (L.D. 741)

This being an emergency measure and having received the affirmative votes of 24 Members of the Senate, with No Senators having voted in the negative, was Passed to be Enacted, and having been signed by the President, was by the Secretary presented to the Governor for his approval.

#### **(Off Record Remarks)**

On motion by Senator Pierce of Kennebec, Adjourned until 8:00 o'clock tomorrow morning.