

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

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STATE OF MAINE
One Hundred and Tenth Legislature
First Regular Session
JOURNAL OF THE SENATE
May 14, 1981
Senate called to order by the President.

Prayer by the Reverend John J. Kenny, Retired, of Waterville.

REVEREND KENNY: We pray Thee, O'God of might and wisdom and justice, through Whom authority is rightly administered, laws are enacted, and judgements decreed. Assist with Thy Holy Spirit of council and fortitude the President of these United States, Ronald Reagan, that his administration may be conducted in righteousness and be eminently useful to Thy people over whom he presides, by encouraging due respect for virtue and religion, by faithful execution of the laws, in justice, and mercy, and by restraining vice and immorality. Let the light of Thy divine wisdom direct the deliberations of Congress, and shine forth on all the proceedings and laws framed for our rule and government, so that they may tend to the preservation of peace, the promotion of national happiness, the increase of industry, sobriety, and useful knowledge, and may perpetuate to us the blessings of equal liberty.

We pray for his Excellency, the Governor of this State of Maine, Joseph Brennan, and the Members of this Legislature, for all judges, magistrates, and other officers who are appointed to guard our political welfare, that they may be enabled by Thy powerful protection to discharge duties of their respective stations, with honesty and ability.

We recommend to Thy unbounded mercy all our brethren and fellow citizens throughout the United States, that they may be blessed in the knowledge and sanctified in the observance of Thy most holy law, that they may be preserved in union and in that peace which the world can not give. After enjoying the blessings of this life, be admitted to those which are eternal.

Lord, restore health to the sick, in particular, President Ronald Reagan and John Paul II. We ask this through Christ, our Lord.

Reading of the Journal of yesterday.

(Off Record Remarks)

Papers from the House
Non-concurrent Matter

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

In the House, May 11, 1981, Passed to be Engrossed as amended by Committee Amendment "A" (H-333).

In the Senate, May 12, 1981, Bill and Papers Indefinitely Postponed, in non-concurrence.

Comes from the House, that Body Having Insisted and Asked for a Committee of Conference.

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

Senator COLLINS: I move that the Senate Insist and Join In a Committee of Conference.

The PRESIDENT: The Senator from Knox, Senator Collins, moves that the Senate Insist and Join In a Committee of Conference with the House.

Is this the pleasure of the Senate?
The motion prevailed.

Non-concurrent Matter

Bill, "An Act to Prohibit the Dissemination of Obscene Material." (S. P. 243) (L. D. 698)
In the Senate, May 12, 1981, Passed to be Engrossed as amended by Committee Amendment "B" (S-191).

Comes from the House, Report "C", Ought Not to Pass. Read and Accepted, in non-concurrence.

On motion by Senator Collins of Knox, Tabled

for 2 Legislative Days, pending Consideration.

Non-concurrent Matter

Bill, "An Act to Create a Department of Corrections." (S. P. 376) (L. D. 1134)

In the House, May 5, 1981, Passed to be Enacted.

In the Senate, May 12, 1981, Failed of Enactment, in non-concurrence.

Comes from the House, that Body Having Insisted.

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

Senator COLLINS: Mr. President, a parliamentary inquiry. The Senate will recall that a couple of days ago we removed this from the Appropriations Table, and sent it back to the other Body in order that a technical error might be corrected. Is it the understanding of the Chair that the action of the other Body means that the other Body has Enacted this by a two-thirds vote?

The PRESIDENT: The Chair would answer the Senator in the affirmative. They Enacted it with a two-thirds vote.

Senator COLLINS: I would then point out to the Senate that this, also, requires a two-thirds vote, when the time comes. Until such time as we are ready to settle appropriations, I am assuming that this Bill will be placed on the Special Appropriations Table.

On motion by Senator Huber of Cumberland, placed on the Special Appropriations Table, pending Enactment.

The President requested the Sergeant-at-Arms to escort the Senator from Aroostook, Senator Carpenter, to the rostrum to assume the duties of President Pro-Tem.

The Sergeant-at-Arms escorted the Senator from Aroostook, Senator Carpenter, to the rostrum, where he served as President Pro-Tem.

The President then retired from the Senate Chamber.

Joint Orders

Expressions of Legislative Sentiment recognizing:

Adele Conkin, who has been elected President of the Husson College Student Government. (H. P. 1457)

Jeffrey Burgdoerfer, who has been elected Vice-President of the Husson College Student Government. (H. P. 1458)

Come from the House, Read and Passed.
Which were Read and Passed, in concurrence.

Senate Paper

Senator COLLINS of Knox presented, RESOLVE, Authorizing the Governor, acting on Behalf of the State, to Execute Certain Quitclaim Deeds. (S. P. 605)

(Approved by the Majority of the Legislative Council pursuant to Joint Rule 27.)

Reference to the Committee on Judiciary suggested.

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

Senator COLLINS: Mr. President, this Resolve is one of the completion factors in the settlement of the Indian Land Claims Case. The particular deed that would be authorized by this Resolve would release and quitclaim whatever interest the State may have, if any, in certain lots in Indian Township, down in the area of the Passamaquoddy Indian Reservation. These lots have all been optioned by the Georgia Pacific subsidiary corporations to the United States Government, acting for the Indian tribes.

The purpose of the deeds would be to clear up any interest the State may have, and the exact nature of that interest, which is very remote, will be explained in a memo from the Attorney General, which will be on our desks later today, I understand.

It would be my suggestion to the Senate that we move this along Without Reference to Committee, give it First Reading, and Engrossment, so that it may go to the other Body and there will be ample time to review the information from the Attorney General before this comes back to us for Enactment.

I would say, also, if any Member of the Senate would like any further information, either from leadership, or from the Attorney General's office, that we would be glad to arrange for that.

I would, therefore, move that this Bill be given its First Reading, Without Reference to a Committee.

The PRESIDENT Pro-Tem: The Senator from Knox, Senator Collins, moves that L. D. 605 be given its First Reading at this Time, Without Reference to Committee.

Is this the pleasure of the Senate?

It is a vote.

Under Suspension of the Rules, the Bill Read Twice and Passed to be Engrossed, Without Reference to Committee.

Sent down forthwith for concurrence.

Orders

Expressions of Legislative Sentiment recognizing:

Charles DeWitt of Messalonskee High School, who has been named Elks Teenager of the Year by the Waterville Lodge #905 Benevolent Protective Order of Elks. (S. P. 606) presented by Senator PIERCE of Kennebec (Cosponsors: Representative MITCHELL of Vassalboro and Representative JACQUES of Waterville.)

Raymond and Richard Hall of Mount Vernon, who have been named Kennebec County's "Dairyman of the Year." (S. P. 607) presented by Senator PIERCE of Kennebec (Cosponsor: Representative DAMREN of Belgrade).

Ann Bombardier of Waterville, who has been named "Volunteer of the Year" by the United Way of Mid-Maine (S. P. 608) presented by Senator PIERCE of Kennebec (Cosponsors: Representative FITZGERALD of Waterville, Representative KANY of Waterville and Representative JACQUES of Waterville).

Which were Read and Passed.

Sent down for concurrence.

Committee Reports

House

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

Bill, "An Act to Establish a Teacher Certification Board." (H. P. 897) (L. D. 1064)

Bill, "An Act to Repeal the Teacher Certification Law." (H. P. 1001) (L. D. 1198)

Bill, "An Act to Change the Probationary Period for Teachers from 2 Years to 3 Years." (H. P. 633) (L. D. 714)

Bill, "An Act to Amend the Provisions Relating to the Maine School Management Association." (H. P. 1088) (L. D. 1307)

Leave to Withdraw

The Committee on Appropriations and Financial Affairs on, Bill, "An Act Relating to Boarding Home Reimbursement." (H. P. 1116) (L. D. 1333)

Reported that the same be granted Leave to Withdraw.

Comes from the House, the Report Read and Accepted.

The Committee on Business Legislation on, Bill, "An Act to Require Minimum Safety Requirements in the Construction and Installation of Heating Apparatus." (H. P. 1000) (L. D. 1200)

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 to Encourage the University of Maine School to Offer Extension and Evening Pro-

grams for Part-time Students." (H. P. 38) (L. D. 47)

Reported that the same be granted Leave to Withdraw.

Comes from the House, the Report Read and Accepted.

The Committee on Health and Institutional Services on, Bill, "An Act to Redefine Certain Long-Term Care Facilities." (H. P. 980) (L. D. 1171)

Reported that the same be granted Leave to Withdraw.

Comes from the House, the Report Read and Accepted.

The Committee on Taxation on, Bill, "An Act to Remove Lakeville from the Maine Forestry District." (H. P. 784) (L. D. 929)

Reported that the same be granted Leave to Withdraw.

Comes from the House, the Report Read and Accepted.

The Committee on Taxation on, Bill, "An Act to Remove the Town of Osborn from the Maine Forestry District." (H. P. 966) (L. D. 1157)

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 Clarify Requirements for Consent Under the Adoption Law." (H. P. 808) (L. D. 968)

Reported that the same be granted Leave to Withdraw.

Comes from the House, the Report Read and Accepted.

Which Reports were Read and Accepted, in concurrence.

Ought to Pass — As Amended

The Committee on Business Legislation on, Bill, "An Act to Provide for the Limitations of Liability in Regard to Certain Insurance Inspections." (H. P. 631) (L. D. 712)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-369).

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

Which Report was Read.

On motion by Senator Sutton of Oxford, Tabled until later in today's session, pending Acceptance of the Committee Report.

The Committee on Taxation on, Bill, "An Act to Adopt Federal Withholding Requirements for Payments to Certain Nonresident Alien Individuals, Foreign Corporations and Partnerships." (H. P. 2) (L. D. 2)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-368).

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

Ought to Pass in New Draft

The Committee on Business Legislation on, Bill, "An Act to Update and Clarify Legislation Concerning Agencies within or Affiliated with the Department of Business Regulation." (H. P. 196) (L. D. 282)

Reported that the same Ought to Pass in New Draft under Same Title (H. P. 1453) (L. D. 1597).

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

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

Divided Report

The Majority of the Committee on Business Legislation on, Bill, "An Act Concerning Illegal, Fraudulent or Unconscionable Conduct in Attempted Collection of Debts." (H. P. 545) (L. D. 621)

Reported that the same Ought to Pass in New Draft under Same Title. (H. P. 1460) (L. D. 1599)

Signed:

Sensors:

SEWALL of Lincoln
CLARK of Cumberland

Representatives:

BRANNIGAN of Portland
FITZGERALD of Waterville
PERKINS of Brooksville
GWADOSKY of Fairfield
POULIOT of Lewiston
TELOW of Lewiston
MARTIN of Van Buren

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

Signed:

Sensor:

SUTTON of Oxford

Representatives:

JACKSON of Yarmouth
RACINE of Biddeford
GAVETT of Orono

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

Which Reports were Read.

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

Senator SUTTON: Mr. President, I move that the Senate Accept the Minority Ought Not to Pass Report.

The PRESIDENT Pro-Tem: The Senator from Oxford, Senator Sutton, has moved that the Senate Accept the Minority Ought Not to Pass Report.

The Chair recognizes the Senator from Cumberland, Senator Clark.

Senator CLARK: Thank you, Mr. President. Mr. President, I would hope this morning that we would not move to Accept the Minority Ought Not to Pass Report, so that we could Accept the Ought to Pass Report.

LD 621 has been reported out with a Majority Ought to Pass Report, under New Draft. I would draw your attention to LD 1599. LD 1599, the Bill in New Draft, addresses a series of complaints which have been received by agencies of government, mainly the Bureau of Consumer Protection, for example 112 complaints in 1980 and definitely meets the needs and complies with ethical prevailing, majority prevailing, collection practices of Maine's businesses.

However, there are those businesses in the State, perhaps not as numerous in number, fortunately for Maine citizens and consumers, who would be affected by LD 621 in New Draft, because, in fact, they practice illegal, fraudulent, and unconscionable conduct, as they attempt to collect their debts.

LD 1599 would regulate creditors who grant credit pursuant to the Maine Consumer Credit Code. These debt collection practices exist in the code. Creditors are defined in businesses which incur a financial charge or interest for delayed payments, and who accept payment in a written agreement with four or more installments.

The Code and the Bill do not apply to business credit. Neither, as I mentioned, the Consumer Code, or this Bill, attempts to regulate practices of businesses which do not extend credit. By that I mean those businesses who require payment in cash, or who require payment within 30 days of receipt. The typical small Maine business, which allows the consumer to pay in full, within 30 days, and does not intend to grant credit to that individual, is not regulated by the Bureau of Consumer Protection, by the Code, or by the provisions of this Bill.

What will 1599 do, that's not being done now?

What it does, is clarify and revise certain prohibited debt collection practices under the Maine Consumer Credit Code. I would hope that we would accept the Majority Report, after we fail to Accept the pending motion.

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

Senator SUTTON: Mr. President, Ladies and Gentlemen of the Senate, as my good friend and colleague on the Business Legislation Committee, Senator Clark, would say, this little darling is something we really need to look at. This really does need to be looked at. It's only one page on both sides, but if you haven't looked at it, look at it.

First of all, just a word about the Majority Report. The Majority Report was put together well after the whole Committee had decided that this should be Ought Not to Pass, or be Leave to Withdraw. We have one major company in the State that is doing some things that none of us would say is right as far as their debt collection agency is concerned, and maybe one or two others of the very large companies, that prompted this particular Bill.

The reason I said that the Committee had decided not to pass this Bill, because of its ambiguities and its difficulty in enforcing, and a few of the things that I'll go over with you, was because we were hoping that we could talk to this big employer, and get this big company to cease and desist some of its problems. We weren't able to do that, so at that point some of the Committee decided that we ought to go ahead and put the Bill out anyway, regardless of the problems inherent in it.

If you haven't looked at it, you really should look at it. Communicator threatened to communicate with a debtor's employer, concerning existence of debts beyond, and so on, and so on, and so on. Section 4, engage in debtor in communication by telephone initiated by the creditor in excess of three calls in a seven day period, at a debtors residence, and three calls in any 30 day period in a location other than the debtor's residence, and on, and on, and on.

My concern is very simple. What we're doing is throwing a net over the whole business community of the State, because one or two folks are not playing the game right. As the good Senator from Cumberland, Senator Clark did indicate, there are already some laws on the books that address this particular situation. I was told that they hadn't been adequate.

What we're going to do, is we're going to spell it out harder, and longer, and provide a possible intimidation of every small business in the State of Maine. I can just see the over zealous bureaucrats now, coming into these small employers, and saying, all they've got to do is get one call from some deadbeat. It so often happens. It happens in the criminal sector, also. When we try to protect one criminal, or one person who's doing something that they shouldn't, we throw a net out, and all of a sudden, instead of helping the honest person, we are protecting the criminals again.

I'm concerned that, the same thing could happen in this, instead of protecting the one or two truly harassed persons who can't pay their bills, we're going to wind up protecting hundreds of deadbeats.

Ladies and Gentlemen of the Senate, I want you to look at this. It's not just a simple little Bill. It probably could wind up being a bill that could find its way into more problems for the small business community of the State, than anything we've looked at.

I can just see some guy calling up the agency, the agency coming out, and saying, okay, let me see your records. How many calls did you make? What day did you make them? What are you talking about? What are you talking about? This guy has owed me money for months. I can't do a thing to collect it. I know, but the law says you can't make three calls in a 30 day period, and you can't make more than three

calls in a seven day.

It's crazy. The intention is good, but let's not put it into law, and let's not put this potential problem on the books. Thank you.

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

Senator CLARK: Mr. President, Men and Women of the Senate, I would hope this morning that you would respect the Majority of the Committee on Business Legislation, because LD 1599, in its New Draft, is not crazy. It is needed. There are debt collection practices by some agencies and a very few number of big businesses in this State, who coincidentally are not domestic Maine corporations, but who do large amounts of business with Maine citizens, that are indeed unconscionable.

If the good Chair of the Committee on Business Legislation has particular difficulty with that section of the Bill, which deals with the number of telephone calls, I would reassure him that, in research, down in the Legislative Research, there is an amendment, which I would attempt to introduce, should this Bill survive, and I certainly hope it will, to Second Reader, to address his concern about the number of phone calls, because I do recognize that that is an issue which has caused some concern, perhaps not only with that good Senator, but with members of the other Body down the hall.

You notice that what we call, in Business Legislation, the lobbyists and representatives of associations who visit with us frequently on almost all of the bills, are not lobbying against this Bill, but in fact, have taken a neutral position on it, and have expressed, in numerous working sessions on this Bill, that indeed there are those practices which this Bill does address, and address positively. One of those people has read the amended version.

The Committee did, I would assure you, deliberate extensively on this. Yes, we initially were going to give it a Leave to Withdraw, because we were faced with some tremendous and at this stage in the game, admittedly overwhelming, materials. We can not put aside our responsibility to Maine citizens. We can not.

Illegal, fraudulent, and unconscionable conduct in attempted collection of debts, as amended in 1599, and as explained to you in the facts sheet which was distributed by the good Senator from Lincoln, Senator Sewall, explains to you, in a concise fashion, as we were able to put together, exactly what this Bill would do. I would draw your attention to it, rather than read it to you, or read it into the Record. It is succinct. The Bill is needed.

I feel sure that you will join with me in failing to address the needs of the business community today, as well as the customers of those businesses, who are indeed an essential element within the free market system, and urge you once again, to defeat the pending motion.

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

Senator DEVOE: Thank you, Mr. President. I thank both the Senators for their debate on this matter, because it has called my attention to this little Bill. I find that I must join my colleague from Oxford County, Senator Sutton, in opposing this bill.

I do find an inconsistency. The first section of the Bill amends Title 9A, Section 5-116, by inserting a new paragraph, which among other things, piously says, "the Legislature finds certain practices employed in the collection of a debt arising from the consumer credit transaction, are unfair, abusive, and constitute an invasion of the individual's right to privacy."

If you look at the very next paragraph, which the Senator from Cumberland is proposing we adopt, it says, that a creditor may communicate with an employer for the purpose of finding out, in the case of a medical debt, whether there is medical insurance existing.

As I look at the present Section D, in 5-116 of the Consumer Credit Code, there presently is no specific authorization for an inquiry in the case of a medical debt, whether medical insurance exists. If I'm misreading this, and misunderstanding this Section, I would appreciate it if the Senator from Cumberland would advise me if I have a misunderstanding of the intent or what the actual words say in this Bill.

How can this Senate be asked to accept a bill, which in one section says, we're concerned about invading an individual's right to privacy, and yet, in the very next paragraph, they want to put in a new provision that we do not presently have that says, if a medical debt is owed, somebody inquiring about that medical debt may call the employer, and may be told by the employer whether there is a medical insurance? Is that consistent? I submit to you, Members of the Senate, that it is not consistent, that for the sins of one or two credit collection agencies, the wrath of the State of Maine is going to be placed on all credit collection agencies.

I would plead with you, Members of the Senate, who have taken the time to read LD 1599, to ask the Page to come over to get the present law, so that you can look at what they are trying to take out of the law, and replace with Sections D and E, and then go on to read F, G, H, and I. Then, after you have done that, look at the J and K paragraphs they're trying to put in.

I join with the Senator from Oxford, Senator Sutton, in urging Acceptance of the Minority Ought Not to Pass Report on this Bill.

The PRESIDENT Pro-Tem: Is the Senate ready for the question?

The Chair will order a Division.

Will all those Senators in favor of the motion by the Senator from Oxford, Senator Sutton, that the Senate Accept the Minority Ought Not to Pass Report of the Committee, please rise in their places to be counted.

The Chair recognizes the Senator from Oxford, Senator Sutton.

Senator SUTTON: Mr. President, I would request a Roll Call.

The PRESIDENT Pro-Tem: 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 a 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 Oxford, Senator Sutton.

Senator SUTTON: Mr. President, just one more word. I don't think you understand the significance of this Bill. You have to remember that the whole original law on credit collection was put into the books for credit collection companies basically, not for every business in the State of Maine, every small business. I can't respond to the fact sheet, because I'm awfully sorry that I wasn't privileged to have one of them that explained this Bill. You've got to remember that the thing that business in the State of Maine is asking most, is for government off our backs. Here, we're getting ready to lay it back on again.

One final thing, just remember this. When the deadbeat calls your local hardware store, it's going to be the burden of proof will be on the owner of that store to prove that he was unconscionable, in his trying to collect the legitimate debt that was owed him. It's going to be the proof on the store owner in every little store in the State of Maine, to the Consumer Protection Agency, that they were right, and that whoever this phone call was, was wrong.

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

Senator CLARK: Mr. President, Members of the Senate, I feel I must rise a third time and

address what I call exaggerated claims and rather technical statements by colleagues, obviously, who are attempting to sway you to support the pending motion.

The Bureau of Consumer Protection has existed since 1975. It is staffed by dedicated people. They are committed to administration and implementing the laws which this Legislature has passed. They do not, and have not, engaged in over zealous bureaucratic harassment of the small, medium, or large businesses in the State. If they did engage in those practices, certainly we would all join together to remove such state employees, for they lend a shadow, or bring a shadow over all that we attempt to do here on behalf of Maine citizens.

The fact sheet arrived on my desk just before the Committee Report was read this morning. I was not privy to its final copy, either. I think it's a great job. It certainly reflects that which we intended it to reflect, and accurately duplicates some of the extensive notes which I took at the hearing, which I believe was sometime in March.

Is our purpose here to get government off the backs of our citizens? Or is it to establish a harmonious balance between the rights and responsibilities of both Maine customers and Maine merchants, or businesses? I would suggest to you that indeed that is what LD 1599 does. It is directly responsive to enumerable complaints received at not only the Bureau of Consumer Protection, but the Department of the Attorney General Consumer Fraud Division. It is in response to yes, indeed, some horribly offensive debt collection practices, many examples of which I could share with you this morning, to lend credibility to the deed for passage of this Bill.

This does not affect that deadbeat, who calls at the local hardware store, and places an unreasonable burden on the owner or manager of that hardware store, for indeed there are collection practices which have gone on in Maine since time immemorial, that that local hardware store owner would engage in, in compliance with existing and current law, and ethical to the extent that we would all subscribe to them. They will always be incorrigible so-called deadbeats. This Bill does not relieve them of their responsibility of ultimately paying their due debts.

A section of the Bill does permit access to creditors to secure information relative to medical insurance, should medical debts incur. We all recognize in 1981 that by far the vast majority of health insurance is paid by the employer. To inquire as to the existence of medical insurance, I think, is an act to which I could subscribe in the responsible search or attempt to collect medical debts.

Again, I would ask that you would defeat the pending motion. Thank you, Mr. President.

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

Senator DEVOE: Thank you, Mr. President. Mr. President, I would like to direct an inquiry to the Chair or to any knowledgeable Senator who may care to answer. The Senator from Oxford has given me something that purports to be a fact sheet on this Bill. Does the Senator from Cumberland, or does anyone in this Body know, who prepared this document? If so, if someone in the Body does know who prepared this document, is there a rule, under which we operate, that there has to be some identification placed on the sheets that are put on our desks, telling us, presented at the courtesy of, or at the request of, so and so. Thank you, Mr. President.

The PRESIDENT Pro-Tem: The Senator from Penobscot, Senator Devoe, has posed a question through the Chair to any Senator who may care to answer.

The Chair recognizes the Senator from Cumberland, Senator Clark.

The Senator from Cumberland, Senator

Clark, asks Leave of the Senate to speak a fourth time.

Is there objection?

The Senator has the floor.

Senator CLARK: Thank you, Mr. President. I am attempting to respond to the questions from the good Senator from Penobscot, Senator Devoe.

Number one, this fact sheet was distributed by the Senator from Lincoln, Senator Sewall. We, who sit in the Senate, need not, as I remember recently, need not place our stamp or our names on material which is distributed and limited to distribution in this Chamber, at the request of one of the members of this Chamber.

This fact sheet was prepared in joint cooperation between myself and my notes, and the Bureau of Consumer Protection, at my request. Thank you.

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

Senator MINKOWSKY: Mr. President, and Members of the Senate, if I hear this debate correctly this morning, it says basically that the credit bureaus in the State of Maine, the bonded and licensed collection agencies in the State of Maine, who hire people, who pay taxes, who perform a service for the hospitals or for the merchants in the State of Maine, we want you to do business, we want you to be licensed and bonded, but you are not going to do business at all because you can not survive in no possible way if you follow the guidelines laid down in this particular LD.

I wonder if the good Senator from Cumberland is cognizant of the fact that the third parties, or the credit bureaus, and the collection agencies in the State of Maine are duly licensed and bonded by the Department of Banks and Banking. I think since 1975, and are regulated very stringently by them, even to the point of them submitting their letters to the Department prior to using them in collection practices.

I look at another part of this particular Bill, in the Statement of Fact, it seems rather inconsistent. The purpose of this Bill is to improve the regulation of debt collection activities by creditors subject to the Maine Consumer Credit Code, and to make sure that creditors can not engage in conduct that is already illegal for a debt collection agency, who collects debts for hire. For an already illegal, it's not already illegal, it's very legal for these people to practice in the State of Maine, since 1975, for the purpose of collection debts.

In my estimation, when you look at the volume of credit that's extended in the State of Maine, and the volume of uncollectable accounts, even though they've been processed by a credit bureau or collection agency, and if it's correct to say that it's only the 112 complaints registered to the Department of Business Regulation, I classify this as an infinitesimal amount. If there be more facts to substantiate, and beside that, 112 collection complaints, how many were justified? How many have been resolved by the Department? I haven't heard any statistics along those lines.

Another part, why this Bill is necessary. It is only fair that, since debt collection agencies can not engage in these practices, that creditors follow the same rule. Not true. We already have bona fide licensed agencies in the State of Maine.

The third point, the typical small business which requires cash or payment within 30 days is not regulated by the Bureau or by the provisions of this Bill. That sounds all well and good, but in good faith, if the person goes out and makes a 30 day charge account, and does not pay the bill for 90 days, what happens? Believe me, that's a very, very common practice. People say I'll pay that Bill in 30 days. You know your 60 day account, your 90 day account, your 120 days, in the meantime, this small busi-

ness is facing very serious problems as far as cash flow.

I really think this is very, very bad legislation. I would hope you Accept the Ought Not to Pass Report.

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

Senator SEWALL: Just to correct one point. These are the same rules found in the Federal Fair Debt Collections Practice Act, and generally followed by a debt collection agency, who is collecting the debt on behalf of a creditor or business person, they are regulated in that way. This Bill just does bring into compliance the other creditors who are trying to collect in the same manner that the collection agencies do.

The PRESIDENT Pro-Tem: The pending question before the Senate is the motion by the Senator from Oxford, Senator Sutton, that the Senate Accept the Minority Ought Not to Pass Report of the Committee.

A Yes vote will be in favor of the motion to Accept the Minority Ought Not to Pass Report of the Committee.

A No vote will be opposed.

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEA—Ault, Brown, Collins, Devoe, Emerson, Gill, Huber, McBreairty, Minkowsky, Pierce, Redmond, Shute, Sutton, Teague, Trozky, The President.

NAY—Bustin, Carpenter, Charette, Clark, Conley, Dutremble, Kerry, Najarian, O'Leary, Perkins, Pray, Sewall, C.; Trafton, Usher, Violette, Wood.

ABSENT—Hichens.

A Roll Call was had.

16 Senators having voted in the affirmative and 16 Senators in the negative, with 1 Senator being absent, the motion to Accept the Minority Ought Not to Pass Report of the Committee does not prevail.

Is it now the pleasure of the Senate to Accept the Majority Ought to Pass, in New Draft?

The Chair recognizes the Senator from Oxford, Senator Sutton.

Senator SUTTON: I move this item be Tabled for 1 Legislative Day.

The PRESIDENT Pro-Tem: The Senator from Oxford, Senator Sutton, has moved that this item be Tabled for 1 Legislative Day.

The Chair recognizes the Senator from Cumberland, Senator Clark.

Senator CLARK: Mr. President, I would request a Division on the Tabling motion.

The PRESIDENT Pro-Tem: A Division has been requested.

Will all those Senators in favor of the motion by the Senator from Oxford, Senator Sutton, that the Senate Table LD 621 for 1 Legislative Day, please rise in their places to be counted.

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

16 Senators having voted in the affirmative, and 15 Senators having voted in the negative, the motion by the Senator from Oxford, Senator Sutton, that LD 621 be Tabled for 1 Legislative Day, pending Acceptance of the majority Report, does prevail.

Divided Report

The Majority of the Committee on Agriculture on, Bill, "An Act to Coordinate Agriculture and Energy Related Activities in State Government." (H. P. 648) (L. D. 753)

Reported that the same Ought to Pass.

Signed:

Sensors:

SHUTE of Waldo
WOOD of York

Representatives:

MAHANY of Easton
LOCKE of Sebec
MICHAEL of Auburn
LISNIK of Presque Isle

McCOLLISTER of Canton
(Representative SMITH of Island Falls Abstained)

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

Signed:

Sensor:

HICHENS of York

Representatives:

SHERBURNE of Dexter
CONARY of Oakland
CALLAHAN of Mechanic Falls
NELSON of New Sweden

Comes from the House, the Bill Passed to be Engrossed as amended by House Amendment "A" (H-362).

Which Reports were Read.

The Majority Ought to Pass Report of the Committee, 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.

Divided Report

The Majority of the Committee on Judiciary on, Bill, "An Act Concerning Minimum Limits Required under the Financial Responsibility Law." (H. P. 745) (L. D. 883)

Reported that the same Ought to Pass in New Draft under Same Title. (H. P. 1455) (L. D. 1596)

Signed:

Sensors:

DEVOE of Penobscot
CONLEY of Cumberland
KERRY of York

Representatives:

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

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

Signed:

Representatives:

REEVES of Newport
CARRIER of Westbrook

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

Which Reports were Read.

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 Legal Affairs on, Bill, "An Act to Further Competition with New Hampshire in the Liquor Trade." (H. P. 382) (L. D. 425)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-364).

Signed:

Sensors:

SHUTE of Waldo
VIOLETTE of Aroostook
CHARETTE of Androscoggin

Representatives:

COX of Brewer
STUDLEY of Berwick
SWAZEY of Bucksport
STOVER of West Bath
PERRY of Mexico
TREADWELL of Veazie
SOULAS of Bangor
McSWEENEY of Old Orchard Beach
DUDLEY of Enfield

The Minority of the same Committee on the same subject matter reported that the same Ought to Pass as amended by Committee

Amendment "B" (H-365).

Signed:

Representative:

GWADOSKY of Fairfield

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

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

Leave to Withdraw

Senator GILL for the Committee on Health and Institutional Services on, Bill, "An Act to Require Home-Based Care as an Alternative to Nursing Home Care." (S. P. 325) (L. D. 933)

Reported that the same be granted Leave to Withdraw.

Senator GILL for the Committee on Health and Institutional Services on, Bill, "An Act Concerning Alternatives to Institutionalized Care." (S. P. 478) (L. D. 1361)

Reported that the same be granted Leave to Withdraw.

Senator BUSTIN for the Committee on Health and Institutional Services on, Bill, "An Act Requiring the Department of Human Services to Implement a Consumer directed Personal Care Assistance Program for Severely Physically Disabled Persons." (S. P. 463) (L. D. 1319)

Reported that the same be granted Leave to Withdraw.

Senator SHUTE for the Committee on Legal Affairs on, Bill, "An Act to Regulate Dealers in Precious Metals and Stones and Jewelry for Resale and Scrap." (S. P. 503) (L. D. 1430)

Reported that the same be granted Leave to Withdraw.

Senator TROTZKY for the Committee on Public Utilities on, Bill, "An Act to Exempt the Transportation of Race Horses from Certain Regulation by the Public Utilities Commission." (S. P. 229) (L. D. 616)

Reported that the same be granted Leave to Withdraw.

Senator AULT for the Committee on State Government on, Bill, "An Act to Authorize Either an Engineer or an Architect to Act as a Prime Professional under Certain Circumstances." (S. P. 504) (L. D. 1431)

Reported that the same be granted Leave to Withdraw.

Senator VIOLETTE for the Committee on State Government on, Bill, "An Act Amending the Maine Guarantee Authority Revenue Obligation Securities Law to Remove Retail Merchandising Projects." (S. P. 184) (L. D. 462)

Reported that the same be granted Leave to Withdraw.

Senator PERKINS for the Committee on Appropriations and Financial Affairs on, Bill, "An Act to Adjust the Level of Compensation and Certain Statutory Duties of the Senate Secretary and House Clerk and their Assistants." (Emergency) (S. P. 97) (L. D. 136)

Reported that the same be granted Leave to Withdraw.

Senator AULT for the Committee on State Government on, Bill, "An Act to Require Legislative Review of Proposed Agency Rules." (S. P. 119) (L. D. 286)

Reported that the same be granted Leave to Withdraw.

Senator AULT for the Committee on State Government on, Bill, "An Act Requiring Legislative Approval of Administrative Rules and Regulations." (S. P. 383) (L. D. 1141)

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 TEAGUE for the Committee on Aging, Retirement and Veterans on, Bill, "An Act to Provide Cost-of-Living Adjustments to Retired State Employees, Teachers and Beneficiaries." (S. P. 385) (L. D. 1143)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (S-217).

Senator O'LEARY for the Committee on Energy and Natural Resources on, Bill, "An Act to Improve Enforcement of the Plumbing Code." (S. P. 454) (L. D. 1300)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (S-218).

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

Ought to Pass in New Draft

Senator O'LEARY for the Committee on Transportation on, Bill, "An Act to Make Allocations from the Highway Fund and Appropriations from the General Fund for the Fiscal Years Ending June 30, 1982, and June 30, 1983, and to Establish a Local Road Assistance Program." (Emergency) (S. P. 270) (L. D. 752)

Reported that the same Ought to Pass in Draft under Same Title. (S. P. 609) (L. D. 1607)

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 Appropriations and Financial Affairs on, Bill, "An Act to Limit the Amount of State Expenditures which may be made from Undedicated Revenues without Voter Approval." (S. P. 377) (L. D. 1135)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (S-227).

Signed:

Sensors:

HUBER of Cumberland

PERKINS of Hancock

Representatives:

JALBERT of Lewiston

SMITH of Mars Hill

LANCASTER of Kittery

ALOUPIS of Bangor

DAVIS of Monmouth

The Minority of the same Committee on the same subject matter reported that the same Ought to Pass as amended by Committee Amendment "B" (S-228).

Signed:

Sensor:

NAJARIAN of Cumberland

Representatives:

PEARSON of Old Town

CARTER of Winslow

KELLEHER of Bangor

CHONKO of Topsham

BRENERMAN of Portland

Which Reports were Read.

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

Senator HUBER: I move Acceptance of the Majority Ought to Pass Report.

The PRESIDENT Pro-Tem: The Senator from Cumberland, Senator Huber, moves that the Senate Accept the Majority Ought to Pass, as amended, Report of the Committee.

The Chair recognizes the Senator from Cumberland, Senator Najarian.

Senator NAJARIAN: Mr. President and Members of the Senate, I rise to oppose the Acceptance of the Ought to Pass Report "A" of the Committee, in hopes that we'll Accept Report "B".

This LD 1135 is beginning to be an old chestnut around here in the Legislature. What it

does, is it proposes the establishment of several constraints upon the Legislative and Executive Branches, concerning appropriations through the General Fund.

One, it would limit the increase in General Fund appropriations during any fiscal year, not to exceed such appropriation for the prior fiscal year, by a greater percentage than the lesser of, the change in the cost of living, or Maine personal income. These indexes would be set by the Legislature. Debt Service Payments would be excluded from the limitation. Nonemergency requirements in excess of such limits would require a referendum approval. Emergency expenditures in excess could be made for a single fiscal year, but would not increase the base. The third section of the Bill says, the State can not mandate costs to be passed on to local government without providing funding.

The primary thrust of this Bill is similar to those of several other measures that have been proposed by the good Senator from Cumberland, Senator Huber. Namely, it says that neither the Executive nor the Legislative Branches can be relied upon to use sound judgement in matters concerning the State's budgetary process. Like Proposition 13 in California, and 2½ in Massachusetts, this Bill proposes an artificial, or arbitrary limitation on appropriations from the State's General Fund, except for debt services requirements, or a declared emergency.

Beyond the fundamental observation that the State Constitution mandates the Governor to submit a balanced budget, and that we can not have more than a \$2 million debt, that is proven over the history of Maine government to be an effective control. There has been little demonstrable sentiment on the part of the general public to alter this primary check upon the State's fiscal process.

There are several pitfalls in this measure. One is the lack of specificity in regard to precisely what index would be used to measure the percentage changes in cost of living or personal income. To allow the Legislature to select an index at its own discretion would subject the entire process to extreme political pressures and make a mockery out of the concept of the limitation.

Second, the abandonment of Legislative accountability for the appropriations of funds in excess of this proposed limit would represent an advocacy of our responsibility. The general public can not be expected to be in a position to be fully informed on the Legislature, nor the consequences of each referendum vote.

Three, the measure would place an unreasonable restraint upon future Legislatures, and severely limit our ability to effectively carry out our responsibilities in an effective manner.

Four, historically, most appropriation measures have required a two-thirds vote by the House and Senate anyway.

Five, decreases in whatever index is utilized might result in a necessity to reduce programs without regard to the State's ability to smooth temporary peaks or valleys in our revenues and expenditures through use of available surpluses.

The Legislature has killed this Bill in the past. I hope they do again. I would just speak briefly to what Report "B" does.

Report "B" retains Section 3 of the LD. I will read it to you because it is very short. It simply says, "it's the protection of local governments and State required costs." It says: "The Legislature and the Executive Department are prohibited from requiring that non-State levels of government provide any new or expanded programs or services without reasonable financing from sources other than property taxes, or from shifting the cost of existing programs and services to either the county or municipal level, except those shifts governed by statutes effective on July 1, 1982."

I ask for a division on the motion to Accept

Report "A". Hopefully, we might Accept Report "B".

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

Senator HUBER: Mr. President and Members of the Senate: the good Senator from Cumberland, Senator Najarian, is very correct in saying that this is extremely similar to measures that have been before this Body in other Sessions. It is an expenditure limitation, which I'm sure you're all familiar with. The changes are, this is statutory, and would be put to referendum, which makes it quite similar to the Tax Indexation Bill, which is, or will be, before this Body shortly.

It seems to me that in considering limitation of State spending, or State revenues, that a limitation on expenditures makes, to me at least, much more sense than a limitation of revenue does. Revenue limitation is more popular. Obviously, nobody likes taxes.

However, if we had a limitation on expenditures, it gets closer to the programs that would in fact be limited. I think it would lead the Legislature to the position where it had to explain that if it had to go beyond this yardstick, and I don't consider it a cap, if it had to go beyond a yardstick roughly relating to inflation, it would have to explain why.

This would be extremely helpful to the Appropriations Committee to the credibility of the Legislature, if we have the choice of limiting revenues, or limiting expenditures.

I present this measure primarily because I think the limitation of expenditures gets closer to the explanation of what, in fact, is limited. I think it makes a great deal more sense than the probably more popular limitation of revenues.

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

Senator NAJARIAN: Mr. President and Members of the Senate: I'd just like to point out a couple of things. Number one, the Governor recommended target budgeting this year. He put in the part of the budget low priority programs that had been formerly funded under Part I, to allow the Legislature an opportunity to choose between other programs that he considered desirable, and those that we were currently funding.

I must say that the good Senator from Cumberland, Senator Huber, was one of the first ones to put all of those current programs that the Governor had in Part II into Part I. Also, when we had the hearings on the Governor's recommendations to cut ten programs, or twelve programs by \$10 million, the very first person to testify was the leader of the Constitutional amendment to limit spending, government spending, coming before our Committee, fighting to keep certain programs in the budget.

I just think that in practice it isn't that type of budget isn't even acceptable to the sponsor of the legislation, or to others who want to limit government spending.

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

Senator HUBER: Mr. President and Members of the Senate: getting off the subject slightly, I'd just like to remind people that the Governor's Part II Budget, which is LD 267, includes, for an example, in the Department of Mental Health and Corrections a re-instatement of totally necessary positions for Maine State prisons. His Part I Budget answers the question of what to do at exactly the same level of funding that we have in the fiscal year 1981.

It does not answer the question, for example, at the Maine State Prison, just to use for a simple one, of what it costs to operate the State Prison. It does answer a question. It answers a stupid question. The question that I would like answered is, what does it take to run the State Prison? His answer is, found in Part I and Part

II, and yes, we re-instated some of the amounts which answer what I feel is a sensible question.

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

Senator MINKOWSKY: Mr. President and Members of the Senate: apparently this is going to be a significant decision to make. I'm really not clear on all aspects of this particular item. Certainly the people on the Appropriations Committee did have a chance to go to a public hearing. Of course, with their years of experience, they have got the expertise on this.

I realize one thing, that this windfall profits of the State of Maine by not indexing at the present time, which is basically in my estimation, ripping off the taxpayers at all levels. What is the correlation between Senate Amendment S-227 and S-228 insofar as really placing a limitation on the expenditures? This has not really been clarified, in my estimation at the present time. I think it's of significant value that in layman's terminology, at least for the benefit of myself, and maybe quite a few citizens outside of the Legislature, that we should really have a better evaluation. How does it tie into indexing, or is this part of the indexing program? Could somebody on the Appropriations Committee address that particular question?

The PRESIDENT Pro-Tem: The Senator from Androscoggin, Senator Minkowsky, has posed a question through the Chair to any Senator who may care to answer.

The Chair recognizes the Senator from Cumberland, Senator Huber.

Senator HUBER: The relationship of this Bill to the Tax Indexing Bill is that choice before the Legislature, if the Legislature cares to address it at all is, that if you want to limit the State expenditures, you can do so in two ways. You can do so in an indirect way by limiting revenues, which does not make clear to the Legislature or to the public, what in fact you are limiting. Or you can get closer to a reasonable explanation by limiting expenditures. Hopefully, if the Legislature chose to go beyond the limit, they would also be required to go to the people they represent, and explain what, in fact, they intend to do with any proposed appropriations or expenditures in excess of the limit.

I prefer the expenditure form of limitation over the revenue form of limitation, because it does make the Legislature explain their actions.

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

Senator NAJARIAN: I request a Roll Call.

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

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

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

The pending question before the Senate is the motion by the Senator from Cumberland, Senator Huber, that the Senate Accept the Majority Ought to Pass, as amended, Report of the Committee.

A Yes vote will be in favor of the motion to Accept the Majority Ought to Pass, as amended, Report of the Committee.

A No vote will be opposed.

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEA — Ault, Collins, Devoe, Emerson, Gill, Huber, McBreairey, Perkins, Pierce, Redmond, Sewall, C.; Shute, Sutton, Teague, Trotzky, The President - J. Sewall.

NAY — Brown, Bustin, Carpenter, Charette, Clark, Conley, Dutremble, Kerry, Minkowsky, Najarian, O'Leary, Pray, Trafton, Usher, Vio-

lette, Wood.

ABSENT — Hichens.

A Roll Call was had.

16 Senators having voted in the affirmative and 16 Senators in the negative, with 1 Senator being absent, the motion to Accept the Majority Ought to Pass, as amended, Report of the Committee does not prevail.

Is it now the pleasure of the Senate to Accept the Minority Report?

The Chair will order a Division.

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

The Chair recognizes the Senator from Cumberland, Senator Conley.

Senator CONLEY: I request a Roll Call.

The PRESIDENT Pro-Tem: 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 Acceptance of the Minority Ought to Pass, as amended, Report of the Committee.

A Yes vote will be in favor of the motion to Accept the Minority Ought to Pass, as amended, Report of the Committee.

A No vote will be opposed.

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

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

NAY — Ault, Collins, Devoe, Emerson, Gill, Huber, McBreairey, Perkins, Pierce, Redmond, Sewall, C.; Shute, Sutton, Teague, Trotzky, The President - J. Sewall.

ABSENT — Hichens.

A Roll Call was had.

16 Senators having voted in the affirmative and 16 Senators in the negative, with 1 Senator being absent, the motion to Accept the Minority Ought to Pass, as amended, Report of the Committee does not prevail.

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

Divided Report

The Majority of the Committee on Business Legislation on,

Bill, "An Act to Bring Noncarbonated Beverages such as Fruit Punch and Iced Tea into Compliance with Maine's Beverage Container Law." (S. P. 367) (L. D. 1086)

Reported that the same Ought Not to Pass.

Signed:

Representatives:

BRANNIGAN of Portland
RACINE of Biddeford
GAVETT of Orono
GWADOSKY of Fairfield
POULIOT of Lewiston
FITZGERALD of Waterville
MARTIN of Van Buren
TELOW of Lewiston
PERKINS of Brooksville

The Minority of the same Committee on the same subject matter reported that the same Ought to Pass as amended by Committee Amendment "A" (S - 222).

Signed:

Senators:

SUTTON of Oxford
SEWALL of Lincoln
CLARK of Cumberland

Representative:

JACKSON of Yarmouth
Which Reports were Read.

On motion by Senator Clark of Cumberland, the Minority 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 Business Legislation on,

Bill, "An Act Amending the Electricians Licensing Statute." (S. P. 285) (L. D. 810)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (S - 224).

Signed:

Sensors:

SUTTON of Oxford
SEWALL of Lincoln

Representatives:

BRANNIGAN of Portland
RACINE of Biddeford
JACKSON of Yarmouth
GWADOSKY of Fairfield
POULIOT of Lewiston
GAVETT of Orono
FITZGERALD of Waterville
PERKINS of Brooksville
TELOW of Lewiston
MARTIN of Van Buren

The Minority of the same Committee on the same subject matter reported that the same Ought to Pass as amended by Committee Amendment "B" (S - 225).

Signed:

Sensor:

CLARK of Cumberland

Which Reports were Read.

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

Sensor SUTTON: Mr. President, I move we Accept the Majority Ought to Pass Report.

The PRESIDENT Pro-Tem: The Senator from Oxford, Senator Sutton, has moved that the Senate Accept the Majority Ought to Pass Report of the Committee.

The Chair recognizes the Senator from Cumberland, Senator Clark.

Sensor CLARK: Mr. President, Members of the Senate, one might think that this is Roland and Nancy day, I guess. I don't know how else to say it.

You can see from the Committee Report in our calendar that the vast Majority of that Committee on Business Legislation, and the obvious Minority member of that Committee on Business Legislation differ relative to the final resolution of LD 810. I hasten to explain to you my signature on the Minority Ought to Pass Report, as reflected in Committee Amendment "B" to the Bill under filing number S-225.

I'm the sponsor of LD 810, and accepted the sponsorship of this Bill at the request of a member of the State Electrical Associates Incorporated, a resident of Durham, Maine. When LD 810 was originally printed, it raised the ire and concern of numbers of people within the electrical trade and industry across the State, as well as among some Members of this Maine Legislature.

So with the cooperation of the Committee on Business Legislation, and the Commissioner of the Department of Business Regulation, the State Electrical Board, the Department of Educational and Cultural Services, and representatives of the State Electrical Associates, and public member, we charged that group of representatives with the task of addressing the concerns in LD 810, and affecting, in fact, a compromise.

The clearest replication of that compromise is reflected in LD 810, Committee Amendment "B", supported by me alone, I attached my signature, and my support, of the extremely Minority Report, simply because LD 810, as reflected in Committee Amendment "B", contains the "clincher," as we called it in Com-

mittee. It retains a continuing education feature for licensed electricians across the State, which was one of the main thrusts of the original LD 810, and one of the reasons why that Bill was originally introduced.

The draft as reflected in Committee Amendment "B", is the result of an awful lot of hard work by a number of dedicated people. It looks pretty good to me. There were five people representing five facets of the industry, on that working Ad hoc Committee. The Committee on Business Legislation, following an extremely long and enlightening hearing, decided that the feature that caused the greatest concern at the hearing, the continuing education factor, would be deleted from the Bill, as reflected in Committee Amendment "A".

Why is there need for continuing education among licensed members, of the electrical trade? The answer, I will attempt to summarize. Today there are approximately 20 percent of the fires are attributable, directly attributable, to electrical problems and malfunctions, and missed installations. Thirteen civilian deaths were attributable to electrical-caused fires in 1980 alone.

It is the consensus of the Ad hoc Committee representing all facets of the electrical and electrician's trade and industry in the State, that the National Electrical Code, to which they subscribe and which serves as the basis for their licensing examination needs to be addressed periodically. So in Committee Amendment "B", we have an educational feature, which mandates a satisfactory completion of at least 15 clock hours, but not more than 30 hours of a course in the current National Electrical Code, which is approved by the Electricians Examining Board, which is the licensing board of this State, prior to re-licensing every 2 years. As other members of the industry and trade in the State, electricians are licensed biennially.

The National Electrical Code interestingly enough changes, every three years, and it is the consensus of the members of the electrical industry that they need to be updated as to the particulars and the technological changes, which are occurring rapidly in the industry. There are 1,000 provisions of the electrical code, and in comparison in 1956 the book was 375 pages long, and in 1980 the National Electrical Code, contains 800 pages. The members of the industry simply wanted to have an opportunity to have a continuing education feature incorporated into their licensing laws.

I gave my word that I would support the compromise from the ad hoc study committee, and I do not break my word. So, while I do support the Majority Report, I much prefer the Minority Report, and in that vein ask that you defeat the Majority Report so that we may Accept the Minority Report.

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

Sensor SHUTE: Mr. President, and Ladies and Gentlemen of the Senate, I just happen to notice this Bill. Where I work we do have apprenticeship programs in the mill. Maybe somebody on the Committee would tell me if this added 4,000 hours to the journeymen licensing program for those who have been through a technical institute, 2 year technical institute if that would effect the pay scale of the mills in the State, that have apprenticeship programs? As I understand it now they get a one year credit towards an apprenticeship program school and then have 6,000 hours of apprenticeship and then they are a journeyman and from there they go to a super-journeyman and from there to a master and from there to a super-master. They get a 50¢ increase for 25 hours of study towards the super-master's pay.

I would like to know if this Bill is going to slow down the process of these people getting to the top of the pay scale in the various mills around the State? It seems to indicate to me that the 4,000 hour addition after the grandfather clause in 1982 runs out, might effect the

pay scale of quite a few people in the State. Probably somebody on the Committee could answer, those questions.

The PRESIDENT Pro-Tem: The Senator from Waldo, Senator Shute, has posed a series of questions through the Chair to any one who may care to answer.

The Chair recognizes the Senator from Oxford, Senator Sutton.

Sensor SUTTON: While my good colleague from Cumberland is double checking the question, I am going to respond briefly to it, and then make one other comment.

To answer your question, good Senator from Waldo, Senator Shute, I do not believe so. I think that summary of hours are pretty much what is being required now. I might be mistaken on that, but I am sure that Senator Clark will check that out for us. Right now they are talking about years, and we are changing years into hours. They were using 2,000 hours a year, so that the 2 years of trade school, and then 2 years, or 4,000 hours to get your journeyman's and then another 2 years to get your master's. I was of the opinion that this was basically what was happening now.

I just like to say further that I think that Senator Clark has very accurately and honestly given you the complete story on this Bill. The only concern of the Committee was, if you will remember our debate not long ago, on the Real Estate Education Bill, and the mess that we are in there, in questioning folks involved with this particular Bill, and how they were going to relate to the educational aspects of it, we got so many mixed answers, and questions, that we felt although there are 80 or 800 pages and 1000 rules and regulations, as far as the electrical code is concerned, it has been changing for quite awhile, for us to wait long enough for these folks to get their act together as far as their continuing education was concerned, would be much more prudent than to put it into statutes, at this time.

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

Sensor SEWALL: Thank you, Mr. President. I request a Roll Call.

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

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

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

The Chair recognizes the Senator from Aroostook, Senator McBreairty.

Sensor McBREAIRTY: Mr. President, and Members of the Senate, I would like to ask a question through the Chair to anyone who wishes to answer, on this Bill. I would like to ask what effect this Bill has on the electricians who are graduating from our NMVTI's? Does this change their status any as far as getting a license?

The PRESIDENT Pro-Tem: The Senator from Aroostook, Senator McBreairty has posed a question through the Chair.

The Chair recognizes the Senator from Cumberland, Senator Clark.

Sensor CLARK: Mr. President, the one member of the Ad Hoc Committee, that studied LD 810, and effected the compromise, which is in 99 percent measure reflected in both Committee Reports "A" and "B", the Committee Amendments to the Bill, did include representatives from the VTI's. The concern as expressed by the good Senator from Aroostook, Senator McBreairty, was one of the main reasons why our Committee Report is not exactly replicating the Ad Hoc Committee report.

Those people who are currently in VTI's program, whether they be one year or two year will still be guaranteed upon graduation an op-

portunity to take the journeyman's examination. Following that, with the exception of those who are grand-parented in, they will have practice or practical experience in the field to the extent that it will take 2,000 hours of practical experience. We have grand-parented in those who are currently in the VTI's, and it was the VTI's were represented on the commission. So I think that that does address the concerns as expressed by the good Senator from Aroostook.

The concern expressed by the good Senator from Waldo, Senator Shute, this Bill in effect does not reflect those which are currently in the apprenticeship programs across the State. It does for all people aspiring to a master's electrical license increase the number of practical hours, a major concern as expressed by members of industry, as well as those in the electrical trade. That those who, there are numbers of people, too many numbers of people, as reflected in the quality of work being completed across the State, that perhaps have a greater proportion of theory rather than practical experience.

The Committee has been particularly diligent to grand-parent in all students who are currently enrolled in VTI's across the State.

I would hope that you would adopt either of the Reports eventually.

The PRESIDENT Pro-Tem: The pending question before the Senate is the motion by the Senator from Oxford, Senator Sutton, that the Senate Accept the Majority Ought to Pass, as amended, Report of the Committee.

A Yes vote will be in favor of Accepting the Majority Ought to Pass, as amended, Report of the Committee.

A No vote will be opposed.

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEA—Ault, Bustin, Carpenter, Charette, Collins, Devoe, Dutremble, Emerson, Gill, Huber, Kerry, McBreaity, O'Leary, Perkins, Pierce, Pray, Redmond, Sewall, C.; Sutton, Teague, Trotzky, Violette.

NAY—Brown, Clark, Conley, Minkowsky, Najarian, Shute, Trafton, Usher, Wood.

ABSENT—Hichens, The President-J. Sewall.

A Roll Call was had.

22 Senators having voted in the affirmative and 9 Senators in the negative, with 2 Senators being absent, the motion to Accept the Majority Ought to Pass, as amended, Report of the Committee, does prevail.

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 Energy and Natural Resources on, Bill, "An Act to Undedicate Funds Received from Public Reserved Lands." (S. P. 92) (L. D. 208)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (S-221).

Signed:

Senators:

McBREAITY of Aroostook
REDMOND of Somerset
O'LEARY of Oxford

Representatives:

AUSTIN of Bingham
HUBER of Falmouth
KIESMAN of Fryeburg
DEXTER of Kingfield

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

Signed:

Representatives:

HALL of Sangerville
MITCHELL of Freeport
DAVIES of Orono
MICHAEL of Auburn
MICHAUD of East Millinocket

JACQUES of Waterville
Which Reports were Read.

The PRESIDENT Pro-Tem: The Chair recognizes the Senator from Aroostook, Senator McBreaity.

Senator McBREAITY: Mr. President, Members of the Senate, I move the Majority Report.

The PRESIDENT Pro-Tem: The Senator from Aroostook, Senator McBreaity, moves that the Senate Accept the Majority Report.

On motion by Senator Pray of Penobscot, Tabled until later in today's session, pending the motion by the Senator from Aroostook, Senator McBreaity.

Divided Report

The Majority of the Committee on Judiciary on, Bill, "An Act to Provide for one Additional Judgeship for the District Court." (S. P. 158) (L. D. 366)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (S-223).

Signed:

Senators:

DEVOE of Penobscot
CONLEY of Cumberland
KERRY of York

Representatives:

HOBBS of Saco
LUND of Augusta
SOULE of Westport
LIVESAY of Brunswick
DRINKWATER of Belfast
JOYCE of Portland
BENOIT of South Portland
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:

CARRIER of Westbrook
REEVES of Newport

Which Reports were Read.

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

The President Pro-Tem requested the Sergeant-at-Arms to escort the Senator from Penobscot, Senator Sewall, to the rostrum to assume his duties as President.

The Sergeant-at-Arms escorted the Senator from Penobscot, Senator Sewall, to the rostrum where he assumed his duties as President.

The Sergeant-at-Arms escorted the Senator from Aroostook, Senator Carpenter, to his seat on the floor of the Senate.

The PRESIDENT: The Chair would like to thank the Senator from Aroostook, Senator Carpenter, for doing an unusually good job running the Senate this morning.

Second Readers

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

House — As Amended

Bill, "An Act to Require Immediate Public Notification of Radioactive Releases and Other Safety Related Events at Nuclear Power Plants." (H. P. 1181) (L. D. 1405)

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

Senate

Bill, "An Act Concerning the Consent Requirements and Termination of Parental Rights for Adoption Proceedings." (Emergency) (S. P. 604) (L. D. 1601)

Which was Read a Second Time.

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

Senator DEVOE: Thank you, Mr. President. I present Senate Amendment "A" under filing number S-230 to this Bill, and would speak briefly to my motion.

The PRESIDENT: The Senator from Penobscot, Senator Devoe, offers Senate Amendment "A" to LD 1601 and moves its adoption. Senate Amendment "A" (S-230) Read.

The PRESIDENT: The Senator has the floor. Senator DEVOE: Thank you very much, Mr. President. Mr. President, and Members of the Senate, this amendment is offered on behalf of the Committee, which was advised by the Department of Human Services that there were a couple of concerns that the Department has very recently felt and come to the conclusion should be included in the Parental Consent for Adoption Bill.

Some of these sections that are now presented in this amendment had previously been contained in the bill, that was withdrawn by the Department because there were other objectionable provisions in that other bill.

These three sections that are in this Senate Amendment, the Department has advised us and the Committee is satisfied, should be attached to this Bill, as an amendment, so I offer it on behalf of the entire Committee.

Senate Amendment "A" Adopted.

The Bill, as amended, Passed to be Engrossed.

Sent down for concurrence.

Senate — As Amended

Bill, "An Act to Authorize the Department of Environmental Protection to Provide Technical Assistance to Municipalities and other Quasi-Municipal Entities Regarding Solid Waste Management." (S. P. 475) (L. D. 1358)

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

Sent down for concurrence.

Bill, "An Act to Create the Budget Stabilization Fund." (S. P. 196) (L. D. 564)

Which was Read a Second Time.

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

Senator NAJARIAN: Mr. President, Members of the Senate, I rise again today to oppose Engrossment of LD 564. I would just like to recap briefly the reasons that I gave yesterday, why I think that this Bill ought not to be passed.

It proposes to establish a Budget Stabilization Fund with General Fund Revenues which are in excess of estimates that have previously been accepted by the Legislature. Those in excess would be transferred to this Budget Stabilization Fund and the Commissioner of Finance and the Governor would not have the ability to raise estimates again, regardless of what the State's needs might be.

Committee Amendment "A" would further require that any bill or resolve requiring ongoing funding must carry an appropriation large enough to provide full funding for a complete biennium period, even though the full amount would not be required in the current biennium. Any funds so appropriated, but not needed due to the effective date of the bill or resolve would be allocated to this special Budget Stabilization Fund.

Expenditures from this fund would be limited to the retirement of previously approved bonds, or to a construction fund, major construction in excess of \$500,000.

The Bill's Statement of Fact is predicated upon the assumption that the State's General Fund is currently facing a "fiscal dilemma" resulting from spending more than we are taking in.

Clearly this is an over-statement of past, present and projected future conditions, in as much as the Maine Constitution specifically prohibits the type of deficit budgeting which the statement implies.

This State's predominant feature of fiscal integrity has been its continuing ability to oper-

ate with a balanced General Fund Budget. In fact the current trend would appear to be you look to the General Fund to provide assistance to other funds, which are facing near term revenue short-falls.

This Bill, would not seem to offer any solution in this regard. In fact, Maine currently has the means for off-setting the variations in revenues, and expenditures which result from economic trends, both within and outside of the State, in the form of unappropriated surplus funds, which may be recommended for use by the Governor, and the Legislature.

While use of unappropriated surplus is not restricted as to possible use, or time or purpose, as would be the case with this proposed Bill, it is this very feature of flexibility coupled with the overwhelming evidence of sound Legislative/Executive judgement in this area, in the past which provides the capability for the State government to adapt to varying economic conditions.

To limit the use of any excess funds to prepayment of outstanding General Funds Bonds or major construction, which may in itself necessitate additional appropriations for operating or maintenance costs, would appear to be a step backwards in terms of the State's ability to effectively deal with changing economic or fiscal conditions.

The provision contained in the Committee Amendment of this Bill concerning the requirement that full biennium funding regardless of actual need, would create an artificial barrier to the Enactment of needed adjustment. By imposing a requirement to overstate actually needed appropriations, in order to point out full funding requirements in the next biennium, is both an insult to the Legislature's ability to recognize the future impact of their own actions, and an artificial means of increasing resources allocated to the proposed stabilization fund.

If the 24 month funding requirement had been in effect during the Second Regular Session of the 109th Legislature, it would have, in effect, doubled the required appropriation for a number of important measures, including adjustment of General Purpose Aid for Local Schools, \$6.1 million. Initiation of an Industrial Development Program for the State, \$100,000. Additional funding to permit the State to carry out consent decree mandates at Pineland, \$358,000.

If this Bill had been in effect, we would have had to appropriate \$13 million, even though the need was only for \$6.5 million. Quite probably, it would have precluded the passage of some of these important adjustments. On the basis of past performance with regard to fiscal responsibility, it should be clear that this and future Maine Legislatures are capable of effectively reacting to changing conditions. This proposed diminishing of legislative authority is, therefore, both unnecessary, and very undesirable.

The existing system of checks and balances has served this State well. There's no compelling reason to tamper with it at this time. Thank you.

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

Senator HUBER: Mr. President and Members of the Senate, the existing system of checks and balances has consistently put us in what amounts to a budgetary crisis, which is about what we're in now. This Bill would suggest, perhaps, an amelioration of this problem.

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

Senator NAJARIAN: I would further add that this Bill would not in any way solve the so-called "fiscal dilemma" that the sponsor alleges exists. It would seem to me that if he felt that passing bills or resolves with only three, or six, or twelve month funding, was such a dilemma, the way to have done that would have been to provide the money, have the money set aside in this stabilization fund, would be used to pay

the funding for those same programs in the next biennium, because, as I pointed out earlier, some of those bills and resolves are very necessary, and for which the Legislature has no choice, such as the Pineland Court Decree, and that certainly would have to carry over into the next biennium.

I'd further point out that Senator Huber has been Chairman of the Appropriations Committee for the past five years, before that, our esteemed President of the Senate. The party of both of these men have controlled the Senate for most of the State's history, with only a few laudable and outstanding exceptions. The ability to stop funding for any bill, or budget, has existed right here in this Chamber. A vote for this Bill is essentially a vote of no confidence in your own leadership. Thank you.

The PRESIDENT: Is the Senate ready for the question?

The Chair recognizes the Senator from York, Senator Wood.

Senator WOOD: Mr. President, I'd like to pose a question through the Chair on this Bill. What effect would this have on tax measures where there would be a substantial loss of tax revenue due to an LD that might not take effect until two years or so down the road?

The PRESIDENT: The Senator from York, Senator Wood, has posed a question through the Chair to any knowledgeable Senator that may be in the Chamber.

The Chair recognizes the Senator from Cumberland, Senator Huber.

Senator HUBER: I don't believe it would have any effect.

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

Senator NAJARIAN: 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 Passage to be Engrossed of LD 564.

A Yes vote will be in favor of the Passage to be Engrossed of LD 564.

A No vote will be opposed.

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

ROLL CALL

YEA—Ault, Collins, Devoe, Emerson, Gill, Huber, McBrearty, Perkins, Pierce, Redmond, Sewall, C.; Shute, Sutton, Teague, Trotzky.

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

ABSENT—Hichens.

A Roll Call was had.

15 Senators having voted in the affirmative and 16 Senators in the negative, with 1 Senator being absent, LD 564 Fails of Passage to be Engrossed.

Sent down for concurrence.

Bill, "An Act to Make Funding of the "Local Government Fund" Part of the Appropriations Process." (S. P. 90) (L. D. 206)

Which Was Read a Second Time.

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

Senator NAJARIAN: Mr. President and Members of the Senate, again this is a Bill which I think will be detrimental to the towns of this State if it becomes law. It proposes to put the State, Local Revenue Sharing Fund into the appropriations process. That will become an easy target for cuts when the Legislature needs money.

In addition to that, it does not provide the

towns any financial security in that, if the Legislature, if the estimated revenue is overstated, then the towns would have to refund the money to the State in their next fiscal year. Similarly, if it's understated, the towns would have to come up with more money.

The present process is working very well. It provides the towns with a dependable source of revenue which has some inflationary growth. I would urge you again to vote against Engrossment of this Bill.

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

Senator HUBER: Mr. President and Members of the Senate, I again repeat that this Bill intends to make no change in the four percent Revenue Sharing Formula. It simply intends to make the Legislature aware of the transfer of these funds, which in the next biennium will be \$42 million, based on estimates, a 27 percent increase over the transfer in this biennium. I think an appropriation of this magnitude deserves at least the knowledge of the Legislature. I believe the existence of this mechanism which does not show up in most of our State reports should be made available to this Body.

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

Senator CONLEY: Mr. President, I'd pose a question through the Chair to the good Senator from Cumberland, Senator Huber. That is, that once this item appears in the budget document, and it is sent down to the Appropriations Committee, recognizing the wisdom of all thirteen of those members, would it be possible for the Appropriations Committee to reduce the so-called four percent, to two percent, or to three percent, or to no percent, and do away with revenue sharing if they so desire?

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

Senator HUBER: Mr. President, it certainly would be possible, for example this year we have been asked via a separate Bill, to increase it to 5.2 percent and various other intermediate proposals mostly benefiting the City of Portland.

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

Senator CONLEY: Mr. President, I move that this Bill and all its accompanying papers be Indefinitely Postponed.

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

Senator PERKINS: Mr. President, Ladies and Gentlemen of the Senate, I think the Senate Chairman of Appropriations has adequately explained the Bill. I think, if many of us are fearful of the light of day being shone on revenue sharing to our communities, then there must be something wrong with the amount our communities receive.

I, for one, will very guardedly protect any amount that my communities receive and intend to do so, henceforth. I still feel that the light of day will do no harm in showing what the communities do receive, and this refers to all the communities without this.

I thank the good Senator, Senator Conley from Cumberland, with his nice words he said about those members on the Appropriations Committee, but I, for one, intend to guard them. I'm sure the other Senator, the lady Senator from Cumberland, Senator Najarian, will also guard them, and I see no reason why showing them the light of day will do them any harm whatsoever.

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

Senator CONLEY: Mr. President, it could be very unfortunate the good Senator from Hancock, Senator Perkins, may not be with us the next Session, and someone else will be sitting down in that little seat of his, and it may be a very fresh mind come in and say why are we giving 4 percent back to local communities to help keep the property tax down, when we have

a \$10 million or an \$8 million deficit on the State level?

Everyone knows how the problem is today with local property taxes, and to put this up front, having served on the Appropriations Committee in the past under the great leadership of the Presiding Officer here, I know how easy it was for us to move funds around. I'm telling you, if this is in the Appropriation Act, you can rest assured it's been done before, just reinstated, a little while back, a year or so ago, that it was tampered with, and if you want to see it tampered, you just put it in that Appropriation Act, and you will see those property taxes just being raised to the sky.

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

Senator NAJARIAN: I would, also, like to add that this fund is being watched very closely by 498 communities of this State, and the fact that Legislators have bills in here to increase it only goes to prove that we're very much aware of that fund. It doesn't need to be highlighted in the Budget.

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

Senator COLLINS: 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 Cumberland, Senator Conley, that LD 206 be Indefinitely Postponed.

A Yes vote will be in favor of Indefinite Postponement.

A No vote will be opposed.

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

ROLL CALL

YEA—Brown, Bustin, Carpenter, Charette, Conley, Dutremble, Kerry, Minkowsky, Najarian, O'Leary, Pray, Trafton, Usher, Violette, Wood.

NAY—Ault, Clark, Collins, Devoe, Emerson, Gill, Huber, McBreaity, Perkins, Pierce, Redmond, Sewall, C.; Shute, Sutton, Teague, Trotzky, The President-J. Sewall.

ABSENT—Hichens.

Senator Clark of Cumberland was granted permission to change her vote from Nay to Yea.

A Roll Call was had.

16 Senators having voted in the affirmative and 16 Senators in the negative, with 1 Senator being absent, the motion to Indefinitely Postpone does not prevail.

The Bill, as amended, Passed to be Engrossed.

Sent down for concurrence.

Bill, "An Act to Reorganize the Department of Business Regulation to Insure the Independence of Regulators." (S. P. 222) (L. D. 609)

Which was Read a Second Time.

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

Senator PIERCE: Mr. President and Members of the Senate, I present Senate Amendment "A" under filing number S-226 and move its adoption.

The PRESIDENT: The Senator from Kennebec, Senator Pierce, offers Senate Amendment "A" to LD 609 and moves its adoption.

Senate Amendment "A" (S-226) Read and Adopted.

The Bill, as amended, Passed to be Engrossed.

Sent down for concurrence.

Enactors

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

AN ACT to Increase the Compensation Paid to Judges and Justices. (S. P. 382) (L. D. 1140)

On motion by Senator Huber of Cumberland, placed on the Special Appropriations Table, pending Enactment.

AN ACT to Amend the Maine Consumer Credit Code with Respect to Consumer Credit Sales. (S. P. 276) (L. D. 785)

AN ACT to Protect Privacy in Divorce and Child Custody Actions. (H. P. 864) (L. D. 1025)

AN ACT to Authorize Revenue Bond Financing for the Agricultural and Fishing Industries. (S. P. 403) (L. D. 1208)

AN ACT to Amend the Definition of Home Improvement Note Set Forth in the Maine Housing Authorities Act. (S. P. 481) (L. D. 1364)

AN ACT to Require that Coverage for Alcoholism Treatment be Offered as an Option to Group Health Insurance Policies. (H. P. 591) (L. D. 669)

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

Emergency

AN ACT to Provide for Municipal Development of Energy Resources. (H. P. 1150) (L. D. 1398)

This being an emergency measure and having received the affirmative votes of 26 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.

Emergency

RESOLVE, Reimbursing Certain Municipalities on Account of Taxes Lost Due to Lands being Classified under the Tree Growth Tax Law. (H. P. 1387) (L. D. 1564)

On motion by Senator Huber of Cumberland, placed on the Special Appropriations Table, pending Enactment.

Emergency

RESOLVE, for Laying of the County Taxes and Authorizing Expenditures of Somerset County for the Year 1981. (H. P. 1435) (L. D. 1580)

This being an emergency measure and having received the affirmative votes of 26 Members of the Senate, with No Senators having voted in the negative, was Finally Passed, and having been signed by the President, was by the Secretary presented to the Governor for his approval.

There being no objections all items previously acted upon were sent forthwith.

Orders of the Day Unfinished Business May 13, 1981

The following matters, in the consideration of which the Senate was engaged at the time of adjournment yesterday, have preference in the Orders of the Day and continue with such preference until disposed of as provided by Rule 25.

The PRESIDENT: The Chair would direct the Senate's attention to the first matter of Unfinished Business:

RESOLVE, for Laying of the County Taxes and Authorizing Expenditures of Androscoggin County for the Year 1981. (H. P. 1358) (L. D. 1540)

Tabled—May 8, 1981 by Senator COLLINS of Knox.

Pending—Passage to be Engrossed.
Which was Passed to be Engrossed, in concurrence.

The PRESIDENT. The Chair would direct

the Senate's attention to the second matter of Unfinished Business:

HOUSE REPORTS—from the Committee on Local and County Government, "Bill, An Act to Provide a Referendum to Abolish County Government and Authorize Reassignment of its Functions and Duties to Appropriate State and Municipal Departments and Agencies." (H. P. 1040) (L. D. 1259) MAJORITY REPORT Ought Not to Pass; MINORITY REPORT Ought to Pass.

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

Pending—Acceptance of Either Report.

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

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

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

The Chair recognizes the Senator from Aroostook, Senator McBreaity.

Senator MCBREAIRTY: Mr. President, and Honorable Members of the Senate, during the time I have served in the Maine Legislature, county government has been one of the most frustrating things I have tried to deal with.

Watching county government operate has been to me like having a bad nightmare, a nightmare that includes watching your neighbors and friends being ripped off by a system that was outdated fifty years ago.

I assume the reasons for my frustration is because county government is really not a government at all. Webster's Dictionary defines government as "the political functions of policy making as distinguished from administrations of policy decisions." In other words, county government should have the right of self-determination.

This very basic element is completely missing under our present form of county government.

During my seven years in the Maine Legislature, county government has been treated like an unwanted stepchild.

County government cannot, I repeat, cannot do anything unless specifically authorized by the Legislature.

County officials are merely administrators under an extended completely uncontrolled extension of State government.

I don't have to remind any of you about all its problems and the frustrations of trying to cope with it.

Its huge illegal overdrafts, unresponsiveness, inadequate accountability, lack of penalty for, in many cases, complete disregard for the law.

County government in its present form has no one that can be held accountable to the taxpayers of the State.

County government if left in its present form will rapidly become a monster completely out of control. A monster that will continue to feed from the local property tax without any regard for the ability to pay.

Many attempts to improve its operations over the past few years have ended up in failure.

The most recent attempt at granting county government the right of self-determination was soundly defeated by 6 of the 7 counties that held a referendum on county charter commissions. Only one successful, and only by a very slim margin.

The assumption made by some people that our citizens wanted charter commissions was "off the mark".

Let us stop acting like ostriches with our heads buried in the sand.

Let us for once ask all the citizens of this great State just what they want to do with county government.

That is what L. D. 1259 does. If the answer is positive, then it will be up to the Legislature to

proceed and transfer the current functions of county government to the appropriate state and municipal departments or agencies.

If the answer is negative, then the Legislature ought to dig in and work to make county government more responsive and accountable.

Let us not assume that we know what's good for our citizens. Let us not be afraid to ask — for fear that we may not like what they tell us on this proposed referendum. In our truest sense of democracy, let the people decide.

In the past years many attempts have been made to reform County Government.

In 1952 Dr. Edward Dow of the University of Maine prepared a proposal for reorganization of county government.

Many of the recommendations of the report have been implemented.

The most recent changes involved the full-time District Attorneys.

Most of the changes and reforms have been in the form of transferring the various county functions over to the State.

Let me quote directly from Dr. Dow's report and see what the doctor had to say about county government over 28 years ago.

"Counties in Maine have followed the New England pattern. Never as active as in other parts of the country, their functions have tended to shrink until they have reached a point where they are top-heavy with elected officials and clerks, and their few functions are concentrated around administration of justices and the recording of deeds.

These matters are essential but not local — counties act as State administrative agencies carrying out State laws. They enact no policies nor do they carry out any local mandates."

All of the so-called reforms carried out over the past years have been conducted on a piecemeal basis and without any direct input from the citizens.

I firmly believe that the time has come to seek their advice.

I think we ought to find out just what direction citizens and taxpayers want us to follow.

We can only do this if we rise to the challenge and vote to pass this bill.

Let us let the people decide by voting for the Minority Report.

Mr. President, I ask for a Roll Call.

The PRESIDENT: A Roll Call has been requested.

The Chair recognizes the Senator from Hancock, Senator Perkins.

Senator PERKINS: Mr. President, Ladies and Gentlemen of the Senate, the county government, like many members of our family, not always pleases every member of the delegation or every member of the family.

We in State government have made, in the past few years, many attempts to try to streamline this area of county government, and this tax function, and governmental function, that we, too, address ourselves.

Like all individuals, county government practices that individuality very selectively, and at times, very strenuously to our displeasure. Not always do we find ourselves at a point where we agree with the county government, but there too, we must recognize our elected officials, also, and being elected officials, they have prerogatives which they'd like to protect as well as we do our own.

I would like you to read the Statement of Fact with regard to this Bill and relate to it a little bit as it holds to State government. It says "the purpose of this Bill is to provide for a referendum vote to abolish county government. If the Bill is approved, the Legislature will enact Legislation reassigning existing county functions, duties, and powers to appropriate state and municipal departments and agencies."

Salary schedules, with regard to the State and with regard to the county functions, are entirely different. Pay scales are different. What will we do to those counties who now have Adopted the Charter System.

Many of the people here who, one the previous speaker, the good gentleman from Aroostook, comes from a county that voted down the Charter method of county government by a small vote, and gave that an opportunity, so, one failure, I don't think, means that we should toss out the whole system.

We are addressing in LD 1292, this year, methods of penalties for county officials who overdraw their accounts. So, addressing some of these problems, and each year we address more, but when we're dealing with individuals, we will always have problems, but I don't think that we should, by all means, just throw out all county government, because there are problems.

I have long felt, and still do feel, that if you have problems with your county officials, the way to deal with those is through the ballot box. If they are displeasing the people, they are serving the ballot boxes in the way to deal with county officials who don't please their constituency, and I still feel this is the way. I feel this is a very rudimentary and very crude way of dealing with a problem that can be addressed, and is being addressed, day, after day, after day.

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

Senator MINKOWSKY: Mr. President, and Members of the Senate, when I first became involved in politics 15 years ago, I really didn't have too much knowledge of county government. The first thing I learned was the fact that county government was an unnecessary fifth wheel that really had dilatorious effects against the various towns and cities that were supporting it through its assessment system.

Yes, we have gone through many reorganization bills allegedly to improve the lot, and possibly the life of, county government, but the reorganization measures have done nothing more than erode county government further.

The best example that was given to me a few years back, relevant to county government, was put in the context of a huge octopus with many tentacles extending, and each Session of the Legislature, in its wisdom in attempting to solve the problems of county government, hacked away at each one of these tentacles, and what we are faced with, presently, is a huge head just bobbling from side to side, without any direction at all.

In my estimation, as much as I respect the employees in county government and have stood by them during their many trials and tribulations, the functions of county government can easily be transferred to the State. I think it's about time that we allow the people in the State of Maine the opportunity to vote on this particular issue. Be sure of one thing, with as many referendum questions the people of the State of Maine have had before them in the past few years, we will know loud and clear if we should maintain county government and improve it, should they desire to keep it, or to abolish it entirely.

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

Senator COLLINS: Mr. President, I've listened with interest to the remarks of my friend, the Senator from Aroostook, Senator McBreairty.

He quoted from a professor, before whom I studied, I listened to his lectures for 2 years, about 39 years ago, and what he said, then is what he says now. He hasn't changed his theme at all.

When I came out of college thinking that county government ought to be abolished, but when I started to work with county government, first as an attorney and then as an elected official, and now as a Legislator, I found that county government had some functions that just have to be done, and the question of which level should do those functions became the critical issue.

I find that county government, as a sort of a regional apparatus for needed functions, works very well in most of our small counties, Sagadahoc, Lincoln, Knox, Waldo, Hancock, Washington, perhaps one or two others, Franklin. People are a little mystified about what it does sometimes, because they don't see very frequent elections that relate to it, a county commissioner nearly every election, but only one, and not issues that arouse very much excitement.

These functions have to be performed, and I think we make a mistake when we say they all ought to be distributed to the state or to the local governments. In the nature of things, if we were to redistribute those functions, 95 percent of them would go to the State. We would pay more, in my judgment we would get less service.

I find county government, and I deal with it in all those counties that I have mentioned, I deal with it as a lawyer representing clients in the courts, transferring property in the registry of deeds, and from time to time, in the enforcement of our laws. The cost per hour of service, as between a state policeman and a deputy sheriff, is tremendously different, and there are a great many of our small rural communities that would get no service at all in law enforcement if they had to rely on the state police.

The County Sheriff apparatus, now quite well connected together by radios and patrol cars, does provide a service to those rural communities that they will not have if we do away with county government. At least, we will not have it without expending a great deal more money than we are now spending. We'll have to increase some tax. We may reduce the property tax in the process, but we'll have to increase the income tax or the sales tax or introduce some other new taxes if we remove all of these functions or nearly all of them to the State level, in my judgment.

There's a great tendency in the Legislature to use a broad brush. Earlier in this Session, you folks in the large counties in this Body, forced upon my little county, something that 95 percent of my citizens do not want. You forced us to have collective bargaining. You forced us, in my judgement, down the road a ways, to have the Teamsters Union running our county. I hope you won't use that kind of a broad brush in this particular situation.

When our county came to the question of a Charter Commission, the newspaper reporters came to me, and they said, why did the Legislature design this Charter Commission thing so that it would fail? I said, what do you mean? Well, you required 300 signatures to get on the ballot. I hadn't realized that. Maybe that was a deliberate design to fail approach, but in my judgement, that is what caused the failure in most of the counties, because our citizens who were at least mildly interested didn't find the time, or want to make that big an effort, to get on the ballot. It only requires that 100 signatures for most people to get on the ballot. That isn't so bad.

I think that the Charter Commission approach and the approach used by the Senator from Aroostook, Senator McBreairty, in a special bill to reorganize his own county, is a much better answer. He, through his efforts, can reorganize Aroostook County. I hope that we do not adopt a measure which will force, ultimately, upon the smaller counties, the doing away with some services that are important to them, and which have been successfully and economically provided to them through county government.

I hope that you will join with the Senator from Hancock, Senator Perkins, in resisting this measure.

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

Senator WOOD: Mr. President, I rise today to support the good gentleman from Aroostook,

Senator McBreairty. I seldom support him, so it is a pleasure to support him today.

I come to this question from a different perspective. I've always supported county government. I've actively supported it, ran for chairman of our delegation, which was the biggest mistake of my life, but I ran for that 2 years ago, and spent 2 years working at it intimately, with elected officials. Only last night, we finally began working to adopt our budget, in our county. That's how far behind we are, and it's from that perspective that I've become convinced that people should finally have a say on whether they want county government, or not.

I do not see this Bill as forcing anything. It simply forces the people to make a decision. Something that we are forced to do every day, and that they should be forced to do, also.

A political commentator referred to county government as the dark underside of American politics, and I can think of no more apt expressions of county government. It is something that is beyond even the comprehension of all of us, and we tend to think of ourselves as being able to comprehend most everything.

Finally, just a few minutes earlier we voted for a bill on the basis that things should stand in the light of day, that there is nothing wrong with putting this question so that it can stand the light of day. And, I would argue, that this is one of the things, if anything, that should stand in the light of day, finally, and the people should have their say, finally.

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

Senator PIERCE: Mr. President and Members of the Senate, I, too, think this is a good Bill, but perhaps not in the usual sense of the word that I say something is a good bill.

I don't think it's a good bill for us to enact today, but I do think it's a good bill because it places some focus on an area that desperately needs it. There's an awful lot of negative feeling among Legislators and among the people of this State about county government. Certainly some counties, particularly York and Aroostook, and others, are having some real specific problems. As all of us have gone through the budget process in our various counties, I suspect that most of us, if not all of us, find it a very unsatisfactory way to do business, very frustrating, and certainly we need to improve upon it.

We need to get the towns more involved. I do see some movement in various ways in this Legislature. Penobscot County is going to put out to referendum the elimination of their treasurer in lieu of a business manager. I think that's something that many counties, certainly including the ones that I represent, should look at.

There is area after area in county government that can be improved upon.

I would suggest, however, that there are other counties, and probably most of them rural, where county government is working well. We don't hear nearly as much about the good news as we do the bad news.

I would say that we should move forward, focusing on this, hand in hand with county officials, those of us who serve in the Legislature, and with people who are interested, to make the necessary improvements, whether it be a reorganization bill for Aroostook County, or a county treasurer bill for Penobscot County, but move ahead in a partnership type situation to improve a situation that does certainly need it.

It seems to me that the counties themselves now have the incentive, because as of May 14, today, the bell is tolling in Augusta for county government. I would hope that all 16 counties would hear that bell loud and clear, because between now and the 11th Legislature, if there hasn't been progress, I suspect the result may be different from what I hope it is today. There's no doubt in my mind what the people would vote for if we put this out to referendum.

The only thing standing between the elimination of county government, the end of county government, is the Maine State Senate. I think it's proper for us to stand between that and the elimination today. I would suspect that if considerable progress hasn't been made in a fairly short amount of time, in other words, the next year and a half, or so, many of us may well change our mind in this regard. Thank you.

The PRESIDENT: Is the Senate ready for the question?

The Chair recognizes the Senator from Kennebec, Senator Ault.

Senator AULT: Mr. President and Members of the Senate, if I remember correctly it was only about a year ago that we passed legislation that would allow counties to provide for their own Charters. I supported that legislation. Kennebec County opted to go for the Charter Commission. I supported that when I ran for re-election. It failed in Kennebec County. I believe the reason it failed was because there was not enough time between the time we enacted the legislation and it went to the people to vote upon it in November.

I would hope that we would give the Charter Commission Legislation a chance to work before we vote for a measure such as this. That's why I am opposed to this Legislation.

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

Senator CHARETTE: I rise today in order to explain my vote as I will be voting on this issue this morning. I was one that did sign the Minority Report, for Ought to Pass for this Bill. I did so as asked to do, so it would be cleared to come on the floors and be debated and so forth. This was my only commitment. This morning I will vote in opposition to this Bill.

As a past county commissioner, I have listened to the Senators' debates this morning. I appreciate all those who rose and explained their position. I believe that yes, a Charter Commission was not given enough time. I think that that direction could eventually work in all the counties. I think it failed, there again, as it was mentioned, 300 signatures were required. Nobody cared to go walk the streets and seek 300 signatures. It was not promoted. Commissioners were not really made aware as to what that Charter was all about until few days before election, or whatever. It was very difficult to understand it to begin with. There again, once the Charter reform got to the commissioners, I don't believe, not any counties really promoted what it was all about, and what it would do. The public didn't understand it.

I think with this Bill, it's been said it was a good Bill. I agree, it's a good Bill. It's caused debate on the floor. It's raised a lot of eyebrows. I think that, you know, I can go on and say that county government is a government. It works 365 days a year. It's been there for a long, long time, long before this Body ever thought of being here. Thank you.

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

Senator REDMOND: Mr. President, Members of the Senate, it's a rare occasion that I have to rise here to say that I'm against the proposition of the good Senator from Aroostook, my good friend, however, the people that I represent in Franklin and Somerset Counties, they have passed up the Home rule Bill this last election, for the simple reason that they thought that haste makes waste. They wanted to see how it works. They thought that there was no rush.

I think if we were to think of eliminating county government completely, they would be awfully disappointed. In my District, there's at least 15 towns, or municipal organizations that are under a 1000 in population. A couple of days ago, Lexington, or Highland, wanted some help for fighting their fires. How would the people of Cumberland County, or Androscoggin County like to be on that board and having to make those decisions for Somerset County?

It seems as if the founding fathers had much experience and very deep thoughts when they set this structure of government up. I don't think it would be advisable to move in such a haste. I'd like to give a chance to our Home rule Law to work a little bit before doing anything like this.

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 Kennebec, Senator Ault.

Senator AULT: Mr. President and Members of the Senate, I'd like to point out, Senator Collins and Senator Charette have both raised a question of the point that you and to get 300 signatures to get your name on the ballot. The State Government Committee has addressed that issue this Session and has changed that number to 75.

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

Senator SUTTON: Mr. President, I wish permission to pair my vote with the gentleman from York, Senator Hichens. If he were here, he would be voting Yea and I would be voting Nay.

The PRESIDENT: The Senator from Oxford, Senator Sutton, requests Leave of the Senate to pair his vote with the gentleman from York, Senator Hichens. If he were here, he would be voting Yea and the Senator from Oxford, Senator Sutton, would be voting Nay.

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

It is a vote.

The pending question before the Senate is the motion by the Senator from Hancock, Senator Perkins, that the Senate Accept the Majority Ought Not to Pass Report of the Committee.

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

A No vote will be opposed.

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEA—Ault, Brown, Charette, Collins, Conley, Devoe, Emerson, Gill, Kerry, O'Leary, Perkins, Pierce, Redmond, Sewall, C.: Shute, Trotzky, Usher.

NAY—Bustin, Carpenter, Clark, Dutremble, Huber, McBreairty, Minkowsky, Najarian, Pray, Teague, Trafton, Violette, Wood.

ABSENT—None.

A Roll Call was had.

17 Senators having voted in the affirmative and 13 Senators in the negative, and 2 Senators pairing their votes, with No Senators being absent, the motion to Accept the Majority Ought Not to Pass Report of the Committee, in non-concurrence, does prevail.

The Chair recognizes the Senator from Hancock, Senator Perkins.

Senator PERKINS: Mr. President, having voted in the prevailing side, I move Reconsideration.

The PRESIDENT: The pending question before the Senate is the motion by the Senator from Hancock, Senator Perkins, that the Senate Reconsider its action whereby it Accepted the Majority Ought Not to Pass Report of the Committee.

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

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

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

Sent down for concurrence.

The PRESIDENT: The Chair would direct the Senate's attention to the third matter of Unfinished Business.

Bill, "An Act to Amend the Criminal Code and Related Criminal Law." (S. P. 444) (L. D. 1282)

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

Pending—Enactment.

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

The PRESIDENT: The Chair would direct the Senate's attention to the fourth matter of Unfinished Business:

HOUSE REPORT—from the Committee on Audit and Program Review — "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) Ought to Pass in New Draft under Same Title (H. P. 1411) (L. D. 1576)

Tabled—May 12, 1981 by Senator COLLINS of Knox.

Pending—Acceptance of Report.

On motion by Senator Collins of Knox, Retabled until later in today's session.

The PRESIDENT: The Chair would direct the Senate's attention to the fifth matter of Unfinished Business:

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)

Tabled—May 12, 1981 by Senator SHUTE of Waldo.

Pending—Passage to be Engrossed.

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

Senator SHUTE: Thank you, Mr. President. Mr. President and Members of the Senate, the reason I had this Bill tabled is, as you are aware, the D.E.P. has approved an oil spill project for upper Penobscot Bay, of about 750 gallons of oil, which does affect the fishermen in that area to a great extent. That license by Bowdoin College was approved for the oil spill project, however, that decision was appealed. Now we are awaiting the appeal of that decision.

I wanted to make sure that this Bill here didn't allow the American Petroleum Institute to be relieved of their obligation of any economic loss to the area, which could go on for 8 or 10 years if this oil does affect the marine life in that area.

I've been assured by the Department of Marine Resources, the Commissioner Spencer Apollonio, and also by the Clerk, Legislative Aide of the Natural Resources Committee, John Bailey, that this wouldn't affect that project, the decision of the Board on that project, because there were a couple of questions concerning that project on a security bond for the economic loss of the people in that area, and also of the money out of the oil conveyance fund would be used to pay for the economic loss to the fishermen, if that project was approved.

I've been assured that this Bill would not affect the decision of the Board, so I move Passage.

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

The PRESIDENT: The Chair would direct the Senate's attention to the sixth matter of Unfinished Business:

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

Tabled—May 12, 1981 by Senator CONLEY of Cumberland.

Pending—Enactment.

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

Senator COLLINS: I request a Roll Call on Enactment.

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

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

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

The pending question before the Senate is Enactment of LD 1249.

A Yes vote will be in favor of Enactment.

A No vote will be opposed.

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEA—Ault, Brown, Bustin, Carpenter, Charrette, Clark, Collins, Conley, Devoe, Dutremble, Emerson, Gill, Huber, Kerry, McBreairey, Minkowsky, Najarian, O'Leary, Pierce, Pray, Redmond, Sewall, C.; Shute, Sutton, Teague, Trafton, Trotzky, Usher, Violette, Wood, The President-J. Sewall.

NAY—Perkins.

ABSENT—Hichens.

A Roll Call was had.

31 Senators having voted in the affirmative and 1 Senator in the negative, with 1 Senator being absent, LD 1249 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)

The PRESIDENT: The Chair would direct the Senate's attention to the seventh matter of Unfinished Business:

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

Tabled—May 12, 1981 by Senator AULT of Kennebec.

Pending—Passage to be Engrossed.

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

The PRESIDENT: The Chair would direct the Senate's attention to the eighth matter of Unfinished Business:

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

Tabled—May 12, 1981 by Senator CONLEY of Cumberland.

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 request Leave of the Senate to Withdraw my motion to Reconsider.

The PRESIDENT: Senator Conley of Cumberland now requests Leave of the Senate to Withdraw his motion to Reconsider.

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

It is a vote.

The PRESIDENT: The Chair would direct the Senate's attention to the ninth matter of Unfinished Business:

HOUSE REPORTS—from the Committee on Labor — Bill, "An Act to Provide Binding Arbitration for State, County, and Municipal Employees." (H. P. 776) (L. D. 921) MAJORITY REPORT Ought to Pass as Amended by Committee Amendment "A" (H-349); MINORITY REPORT Ought Not to Pass.

Tabled—May 12, 1981 by Senator CONLEY of Cumberland.

Pending—Motion of Senator SEWALL of Lincoln to Accept Minority Report.

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

The President laid before the Senate:

Bill, "An Act for the Assessment of Watercraft." (H. P. 1100) (L. D. 1297)

Tabled—Earlier in the Day by Senator PRAY of Penobscot.

Pending—Passage to be Engrossed.

On motion by Senator Pray of Penobscot, the Senate voted to Reconsider its action whereby it Adopted Committee Amendment "A" to LD 1297.

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

Senator PRAY: Mr. President, I offer Senate Amendment "A" under filing number S-220 and move its adoption.

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

Senate Amendment "A" (S-220) to Committee Amendment "A" Read.

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

Senator TEAGUE: Mr. President, I hope we do not Adopt Senate Amendment "A". This dilutes the Committee Amendment "A". In Taxation Committee, we had four bills dealing with watercraft assessment, and so forth. It's been a problem for the assessors of the 498 towns in the State of Maine. The Committee came out with a unanimous Committee Report.

What Committee Amendment "A" does, is it excludes canoes and outboard motors with less than 10.5 horsepower. I hope you will not accept this Amendment.

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

Senator PRAY: Thank you, Mr. President. Mr. President and Members of the Senate, I believe under the existing situation that we have, the towns and cities throughout this State assess property. This money, of course, goes into the local coffins. One of those items which are taxed are the watercraft in this State.

This Bill was one of these little bills that comes along and says that the State Tax Assessor shall prescribe a formula for which municipalities may adopt. Of course we all know what that means. Two years down the road there's another amendment which changes "may" to "shall". That takes out the local municipalities' rights to decide or determine how they're going to tax watercraft in this State.

A number of communities vary in their assessments at this time. I think that's a local issue. That's up to the local fathers to decide how much they want to tax a 16 foot Gremlin, or a 16 foot Lone Star, or a 16 foot Galveston boat in different communities.

I have some concerns of the entire wording of this Legislation, but I'm willing to give a little bit. That's the purpose of this Amendment, to exempt those canoes which traditionally have been exempted by communities, and then to address the smaller watercraft which would use motors, the existing amendment in the opening paragraph, under Subsection 610A, which by the way, is under filing number H-331, when it's talking about watercraft, in its definitions, it says "watercraft" means any type of vessel, boat, or craft capable of being used as a means of transportation on water other than a seaplane, and includes the motor attached to it and to propel it." By saying the language "and includes the motor attached to it" not only are we then taxing watercraft, but we're also taxing motors, any type of motor which could be attached to it, but necessarily does not have to be attached to it. I think that that's a new step in the assessment direction of not only of the State, but municipalities as well.

I would hope that we would Adopt the Amendment as kind of a half way compromise proposal, and then we'll address the Bill when we come to that.

The PRESIDENT: Is the Senate ready for the question?

The Chair recognizes the Senator from York, Senator Wood.

Senator WOOD: Mr. President, I would hope that we would not Adopt this Amendment. I agree wholeheartedly with the Chairman of Taxation. We spent many hours working on this, had a subcommittee working on it. It involves municipal officials in this, it's a compromise as it is. I think to further compromise it would only be to weaken it and destroy our attempt at a reasonable compromise.

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

Senator SHUTE: Mr. President, Ladies and Gentlemen of the Senate, one question to the Committee. What type of evaluation would be put on watercraft? Would it be put on by length, or value of the watercraft? Say you have a 24 foot lobster boat and a 25 foot cabin cruiser, what would the Department promulgate for rules and regulations as far as determining what the value of a 25 foot lobster boat might be as compared to a 25 foot, \$35,000 cruiser?

We've been through this taxing boats before, on length, and width, and weight and draft, and everything else. I'd like to know from the Committee what rules will be adopted. Probably there won't be many lobstermen or fishermen around when these rules are adopted. I think it would probably be mostly municipal officials that will be attending the hearings.

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

Senator TEAGUE: In answer to Senator Shute, in Committee Amendment with a filing number H-331, it says, "the formula shall take into consideration such factors as dimensions, construction materials, propulsion, and depreciation factors."

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

Senator WOOD: I would like to, also, respond. I would like to further assure Senator Shute that we had one member of the Committee that was very vocal about lobster boats. I don't think that they will be taxed unfairly.

The PRESIDENT: The Chair will order a Division.

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

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

6 Senators having voted in the affirmative, and 18 Senators having voted in the negative, Senate Amendment "A" to Committee Amendment "A" Fails of Adoption.

Committee Amendment "A" Adopted, in concurrence.

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

(Off Record Remarks)

The President laid before the Senate:

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

Tabled—Earlier in the Day by Senator CLARK of Cumberland.

Pending—Passage to be Engrossed.

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

The President laid before the Senate:

Bill, "An Act to Clarify the Status of Certain Real Estate Titles in the State." (S. P. 598) (L. D. 1594)

Tabled—Earlier in the Day by Senator CONLEY of Cumberland.

Pending—Passage to be Engrossed.

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

Senator KERRY: Mr. President, Ladies and Gentlemen of the Senate, I realize that this issue has begun to take a little bit of notice with regards to its import. I would like to speak to

that. When this Bill first came before the Judiciary, I was ready to support it in its original form, mainly because I felt that the State had never exercised appropriate control or concern through statute, administrative control over the submerged lands. After many hours of debate within our Committee, and rethinking of this issue, and going into it even more seriously with regards to its implications for the State of Maine, I realized it was one of the most serious bills to come before our Committee.

One of the reasons why is because most people are not aware of the implications. This morning, after having gone through many of the judicial proceedings, I would like to at least address a few of the issues.

Number one, L. D. 1601 presents to this Body our responsibilities as trustees for the people's land on behalf of future generations and present people in the State of Maine. This Bill deals with the land between the mean watermark, and the ocean and beds of great ponds. Many legal authorities, including the Supreme Court of the United States and of Maine, hold that these lands are impressed with public trust, held in stewardship by the State for the benefit of all of the people.

Past Legislatures took this duty very seriously. They never granted to private individuals the fee interest in the submerged lands. State ownership remains a fact of law, despite legitimate private use of filled or developed portions of the lands.

I would like to express to you why I think this is important. The legal doctrines relating to this land goes back to the Roman times. That was one of the reasons why I was concerned about this, because I didn't believe that there was sufficient legal status or doctrine to support the position of the opponents on this Legislation.

The opponents of this Legislation is, in fact, Mr. President, the legal doctrine would be that we have to be able to indicate that sufficient status has been presented.

Current law traces back from the time when Justinian wrote in the codes back in Rome, the fact that the State holds in trust.

Secondly, throughout English history, we saw that the feudal lords, rather than sticking with the proposals of keeping the land in trust so that all the people of the State, the feudal barons started to usurp the public trust, in spewing, if you will, the rights of people to their own vested interests. I think that this particular position has not been granted to the people of the State of Maine. I, also, would indicate, Mr. President, that very few people in this Body are taking much interest in this specific issue, because of that, that is what I'm going to say what I have for the Record, in hopes that if this does go to court then at least the state will have someone, or the people of the State of Maine will have someone who took enough interest to say hold it a moment. That's the main purpose for this presentation.

I would like to express to the members of the Body, that the opposition to the absolute right of the feudal kings to take away the rights of the people, with regards to submerged land, was reversed by the Magna Carta itself in English law, giving back to the people the right to exercise their legitimate rights in submerged lands, and because of that there was established in English Law, in English Common Law, that the King or the Sovereign of the State did not have the right to grant away the peoples rights to the submerged lands, therefore, we had the trusteeship concept or doctrine in law, developing after 1500's.

This was further developed and supported by interpretations by legal scholars and courts in England, and it was reaffirmed by the Parliament when it stated that the people have the right and the vested interest in subtidal lands. In fact, this was passed on to the Massachusetts Bay Colony during the 1600's.

Through the Common Law Doctrines from

1647-1690, we saw once again the resurgence of a need to protect the interests of the people in land along the shore front and harbors. Any, if you all recall that back during these times, there was a great resurgence in Commerce. In fact, here in Portland, and along our coasts, as well as in Massachusetts, people settled around the coastal communities for fishing purposes, for commerce purposes, and it is common throughout the United States.

Therefore, many of these communities and states had to address this problem of who had the ownership and rights to submerged land, and, every time that it was put, the doctrine came down on the side of the state.

Secondly, interpretations of this court were first expressed by the Supreme Court of Massachusetts, and I think this is indicative because at this time, the State of Maine was part of the State of Massachusetts. I find that our state law tracks the law that was established in Massachusetts.

It is against the background of this legal history and commercial development that the Boston Waterfront Development Corporation sued the State of Massachusetts for the rights to develop along the harbor in Massachusetts, and the Supreme Court of Massachusetts found in that case, that back in 1797, the supreme court ruled that there were four or five major principles that must be addressed when developing any statutory doctrines regarding submerged lands.

One significant component of that is that all submerged lands below the low water mark belong to the State. Secondly, it is clear that municipalities and state agencies cannot alienate state lands without Legislative approval. Thirdly, all delegation of authority to municipalities or state agencies must be clear and unambiguous, and cannot be inferred. It must be expressed, not implied. In other words, the state cannot in any way, shape, or manner, grant to private individuals, such as this LD would want you to do, LD 1594, without the expressed consent of the Legislative Body.

Finally, any grant of interest in public lands, must likewise be clear and unambiguous, with all doubt as to the legal construction being insured to the state. In other words, if there is any doubt in this, that the state must have precedence not the private vested interest.

I would like to state, that in 1892 the question arose before the Supreme Court of the United States, in Illinois verses the Illinois Railroad, and the City of Chicago, where the State of Illinois had passed a document, very similar to what we're addressing today.

The state said to private individuals, namely the railroad corporation, you can own this land. We're going to grant it to you in fee simple absolute. People may not think that this is important, but the difference is that the State of Illinois found, in a Supreme Court, found fault with that conveyance of land, because the Supreme Court said that no state has the right to alienate the rights of the people.

So, I would say that if this legislation passes, the question of its validity maybe unsound, and I would say this by reading one small paragraph from the Supreme Court decision.

"If a title is held in trust for the people of a state, they may enjoy the navigation of the waters, carrying on commerce over them, and have the liberty of fishing. We would conclude that the public interest is paramount in maintaining the interest."

Even with this statement, the State of Illinois granted through its Legislative Body, the rights of the railroads to the land. The Supreme Court ruled, the obvious conclusion from the foregoing analysis, and I will not go on with the analysis for you, but I will summarize it, the foregoing view of the case is that the act of 1873 by the Legislature in Illinois as an arbitrary act of revocation, not passed in the exercise of any reserved powers to the state. It is void. The decree of the court below, which upheld the

state statute, but was reversed by the Supreme Court, should be reversed, and that the court should be directed to enter a decree, dismissing the bill of the State of Illinois, and the cross bill of the City of Chicago.

All I am trying to indicate to you at this time is that if we do pass this law, that it will in question before the Supreme Court of the State of Maine.

Secondly, in the State of Maine in 1903, Sawyer versus Beal, the opinion of the Maine Supreme Court reaffirmed the doctrine that the State's authority over public trust lands or submerged lands is irrevocable, and that any use of these lands must be used for the public trust as designed in a grant from the State. Therefore, any outright grant that is actually contemplated by this Legislation, would go contrary to the intent of the Supreme Court in Sawyer versus Beal.

Secondly, I think which is more important, at this time, that even with the Supreme Court decisions of the United States, we have seen that there has been a conveyance of the private property and public property by the State.

One thing has never conveyed by title, by the State and that is submerged lands. A recent series of court cases, in the Attorney General's opinions, have indicated that the State of Maine still maintains its control over these lands and will not alienate them.

In fact, in 1876 in this state, we had the What's and Where's Act, which established specific Legislative policy regarding state trusteeship over this land.

Number one, it stated a license or permit from the state, even if undertaken on a piece of state owned land, by its nature, is revocable, and alienable, and it is not a conveyance of interest, in such, in the land, merely a permit.

The Legislature in 1975 passed the Submerged Lands Act. This where all the problem came to bear. People did not realize the legal history behind it. Maybe the attorneys for the specific group that is pushing this Legislation did. I would submit that they would. And, I would encourage that they would, because if they didn't understand this, many of the people who are now conducting commerce along our coast are going to be in deep trouble if, for example, the governor submits this Bill to the Supreme Court, which I think he should, only to clarify for the developers, the issue, to take away all clouds over these titles, because someone maybe starting to develop millions of dollars worth of real estate and find that they do not really own the land that they have.

I would say, in conclusion, Mr. President and Ladies and Gentlemen, the ones that are still here listening, I would say this is still a very important issue. I would recommend to you that we not vote on this lightly, because I think that legal precedence is here. I think, as myself as a real estate broker and developer, as a person who encourages economic development, I would not recommend to one of my clients that they proceed in developing commerce along any of these points of filled land until the Supreme Court has made that decision.

Even if this statute is passed, and this would provide a strong legal status for the people who own the lands, or claim they own the lands, they may find it is null and void.

I think, as a public Body, we have a responsibility to the citizens of the complete state, the 3000 miles of coast line and the many miles of coastline around our great ponds, as trustees. I think that this is a principle of law, a principle of doctrine that we have of not addressing this subject with sufficient consideration.

I would move that we not accept this Bill in hopes that we would further consider it, and ask the questions to the Supreme Court. I would state, Mr. President, for your benefit, the questions that I would like to see answered.

Who has the fee ownership of the submerged lands? Who has the fee ownership in these

lands that have been filled or otherwise improved? It is unclear at this time as to who does have this.

Secondly, if the public owns these lands, are they impressed with a trust? If so, who is the trustee?

Thirdly, if the state is a trustee, who is the beneficiary of the trust? What are the trusts obligations?

And finally, can the state, namely the Legislature, give away its fee title to these lands?

I think that there is at least sufficient question with regard to these points of view, and I would recommend that the only way to seriously resolve this, unambiguously and clearly, is to propound these questions to the Supreme Court. When we pass this Legislation, if the Supreme Court rules in favor of the sponsors of this Legislation, I will not oppose it. I will wholeheartedly endorse it. Thank you.

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

Senator CONLEY: Mr. President, Members of the Senate, the good Senator from York, has certainly raised some very interesting points with respect to this proposed Legislation.

I know that the Joint Standing Committee on Judiciary spent hours, and I mean literally hours, dealing with the questions as to whether or not we should enact this piece of Legislation. The question of Public Trust. Where in the Constitution does it state that submerged lands are held in the public trust?

I've been a native of my city since the day I was brought onto the face of this Earth. Since I was old enough, at least to cast my eyes upon that beautiful waterfront that we have engrossing in the City of Portland, I've always believed that the merchants of Commercial Street owned the buildings, owned the land that they were built on. The City of Portland always thought that those merchants owned that land. They weren't the least bit bashful in assessing them property tax for the last 200 years.

One who is familiar with Portland is well aware that Portland is an island unto itself. If you ride down 95 expressway across what we call "Marginal Way", and you see all those auto sales businesses along that row, those businesses are all sitting on filled land, filled. The water used to come through there.

If you ride along that beautiful, beautiful segment of the City known as the Old Port Exchange, then you come down on to Fore Street, and that's one street above Commercial Street, from Fore Street down to the waterfront, down to the waterfront, and I don't know, it goes for at least a mile and a half to 3 miles, is all filled land.

These piers were built. These buildings and businesses were established 200 years ago. Am I naive enough to believe, is anyone in this Chamber naive enough to believe, that the merchants or the owners of that land are not the true owners? I think it's ludicrous to have someone tell us that these lands were held in public trust.

I think the state gave all of its rights away years ago when this land was being filled, and they didn't do anything about it. Perhaps, oh there's a couple of other little jewels I remember.

Does Portland Harbor belong to Portland? Does Rockland Harbor belong to the good Senator from Camden, Senator Collins? According to Senator Kerry's theory, No, but, we have to keep up the harbor. We have to abide by all the laws and everything of this state. I mean, it's gone just a little hairy over the last several years, but I think that maybe the good Senator from York is right, and I'm not criticizing him, I think he has done a tremendous job of research, but I think some of the people from the Department of Conservation, the Department of DOT, recognize that they're bureaucrats, and they raise what they consider to be in the right interest. The fact is they are working. They're employed by the state. They must pro-

tect the states interests when they feel but I think sometimes the questions that are raised cannot be answered. They can't give you the answer. When I asked the question about public trust and submerged lands, where in the Constitution do we relate to that.

Nobody has anything. They're going on law or common law or some other kind of law, certainly not the Conley law. I would only recommend that we do pass this Bill, that we do clear up the ambiguities that there are, and lets get the parade going.

Now, there is no question in my mind that this is eventually going to get to the court, but I, in good faith, feel that if we pass this Bill or enact this Bill we're acting in the best interest of the cities, the towns, the merchants, the landowners that are presently under this cloud.

If the state has problems with that, then let them go to court.

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

Senator KERRY: Mr. President, Ladies and Gentlemen of the Senate, for some reason I see that there is a growing tide of support for this Legislation, and once again, I am not going to belabor the issue, but I do believe that it is incumbent upon the Legislature to be aware of various Supreme Court decisions.

As, a matter of fact, in the construction of statutory law, we are to be aware of common law, implications from common law, and Supreme Court decisions because, in effect, any Legislation that we do pass, that is found unconstitutional by the Supreme Court of the State, or the Supreme Court of the United States will be rendered null and void.

I, for one, understand what Senator Conley is stating about all the filled lands of Portland, and I think many of the people in Portland are very much aware of this. Mainly because we are now developing fish piers, and I think we are going on to a new advent of commerce in the State of Maine where we have a unique partnership between the state and local communities.

One thing must be very clear. In various Attorney General's opinion as well as from Supreme Court decisions of the State. There used to be a Portland Harbor, but even during that time during the 1850's and 1860's, when Camden Harbor, Rockland, and Portland were controlled by local harbor commissions, it has been stated over and over again, through Supreme Court decisions, as well as Attorneys General opinion, that no department of state government and no independent commission or agency on a harbor, nor no municipality can exercise the right to alienate public trust lands from the people for any private purpose without a specific grant from the state.

If this Legislature passes this Bill, it will be landmark legislation. It will be landmark legislation not only here in the State of Maine, but throughout the Country. I think that it's significant for the developers, and its also significant for the state.

I would just say that I hope people take this more seriously than I have seen the people take it now. I know that the Judiciary Committee has taken it very seriously, and I know I have taken it seriously, and I don't doubt that the people in Portland around Commercial Street and Fore Street think that they own their land. I'm sure maybe title researcher and the local lawyers in Portland and title insurers believe that they do, also.

All I'm saying is there are some very well-respected attorneys in this state and well-respected people in the judiciary who disagree. As a member of the Judiciary Committee, I concur that there may be some serious doubts on the titles, therefore, if this goes to the Supreme Court, of which, I'm sure, the Governor of this State is going to propound these questions to the Supreme Court, we will find many of these developers in a very difficult place.

So, I would say, Mr. President and Members

of the Senate, these will be my last words on it, but I just hope that we all take a very good look at it. Thank you.

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

Senator DEVOE: Thank you Mr. President. Members of the Senate, I hope the Senate joins with me, and I think many of the other colleagues in here, in approving the Majority Ought to Pass Report on this Bill and Passing it to be Engrossed.

It will be a landmark in common sense, if we pass this Bill to be Engrossed.

I am convinced, after listening to the admission of the Director of the Bureau of Public Lands, their realization that the Bill they passed in 1975 to help Pittston had these implications was almost an accident. Then, since that time, I think the entire department has been busy devising ways in which they can lay claim to jurisdiction of 3000 miles of our coastline.

They didn't go back to the code of Justinian. They didn't go back to the Magna Carta. They didn't go back to the Massachusetts Bay Colony. They just went back to 1833, and they said we will draw a line, and on one side of the line, we will say there is solid ground, and on the other side it's going to be filled in ground, and the filled in ground, that was filled in, as of 1833, is what we're going to claim jurisdiction to.

Now, we ought to keep in mind that there are some things that LD 1061 doesn't do, or as it's now called, LD 1594. It does not effect the public trust in submerged and intertidal lands that are still submerged, or intertidal lands as of the effective date of the 1975 law. That land is still subject to the Bureau of Public Lands. The public trust is not being tampered with, so far as that land, because that land is still usable for trust purposes, unlike lands that have been solid ground for many years.

This Bill specifically preserves the public trust in lands that are still submerged and intertidal, leaving the state to regulate and use those lands under this law.

Thank you very much, Mr. President.

The PRESIDENT: The Chair will order a Division.

Will all those Senators in favor of the Passage to be Engrossed of LD 1594, please rise in their places to be counted.

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

22 Senators having voted in the affirmative, and 3 Senators having voted in the negative, LD 1594 was Passed to Be Engrossed.

Sent down for concurrence.

(Off Record Remarks)

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

SENATE REPORTS — from the Committee on Transportation — Bill "An Act Relating to Vehicle Size and Weights." (S. P. 302) (L. D. 846) MAJORITY REPORT Ought to Pass as Amended by Committee Amendment "A" (S-198); MINORITY REPORT Ought Not to Pass.

Tabled — May 12, 1981 by Senator COLLINS of Knox

Pending — Acceptance of Either Report

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

The President laid before the Senate: Bill, "An Act Relating to the Periodic Justification of Departments and Agencies of State Government under the Maine Sunset Law" (H. P. 1411) (L. D. 1576). Tabled earlier in today's session, by Senator Collins of Knox pending Acceptance of the Committee Report.

On motion by Senator Collins of Knox, Retabled until later in today's session.

There being no objections all items previously acted upon were sent forthwith.

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

Papers from the House Joint Orders

Expressions of Legislative Sentiment recognizing:

Jeannette Word, of Bath, valedictorian of Morse High School, Class of 1981. (H. P. 1461)

Stephen Haggett, of Bath, salutatorian of Morse High School, Class of 1981. (H. P. 1462)

Francis and Ellen Foley, of Scarborough, who celebrated their 50th wedding anniversary on April 14, 1981. (H. P. 1463)

Barbara Libby of Hampden, for her many hours of volunteer work operating TTY for the hearing impaired in Northern Maine. (H. P. 1468)

Robert Erskine of Dixmont, who received an outstanding citizen award for his service to the town as constable, bus driver and fire chief. (H. P. 1469)

Thomas Theriault, of Rockwood, Valedictorian of Greenville High School, Class of 1981. (H. P. 1470)

Robert Larabee, Salutatorian of Greenville High School, Class of 1981. (H. P. 1471)

Captain Roland O. Melcher, U.S.N., a native of Scarborough, recipient of the 1981 Maine Maritime Academy Alumni Association "Outstanding Alumni Award." (H. P. 1473)

Come from the House, Read and Passed.

Which were Read and Passed, in concurrence.

Committee Reports House

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

Bill, "An Act to Relieve Maine Landlords from Excessive Utility Charges." (H. P. 713) (L. D. 838)

Bill, "An Act to Regulate Striped Bass." (H. P. 927) (L. D. 1098)

Leave to Withdraw

The Committee on Public Utilities on, Bill, "An Act Relating to Transit Districts." (H. P. 672) (L. D. 776)

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 Relating to Action by the Public Utilities Commission on Applications by Motor Common Carriers of Passengers for Certificates of Public Convenience and Necessity." (H. P. 644) (L. D. 734)

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 Grant Temporary Licenses to Applicants for Special or Charter Licenses." (H. P. 606) (L. D. 683)

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 Exempt the Operation of Dump Trucks when Transporting Sand, Gravel and Road Construction Materials from some Types of Regulation by the Public Utilities Commission." (H. P. 573) (L. D. 649)

Reported that the same be granted Leave to Withdraw.

Comes from the House, the Report Read and Accepted.

The Committee on Public Utilities on, Bill, "An Act to Extend the Period During which Proposed Rate Changes for Common Carriers may be Suspended." (H. P. 572) (L. D. 648)

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 Grant the Assignment and Transfer of Special or Charter Licenses." (H. P. 530) (L. D. 596)

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 Relating to Action by the Public Utilities Commission on Applications by Motor Common Carriers of Freight for Certificates of Public Convenience and Necessity." (H. P. 526) (L. D. 592)

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 Relating to Public Utilities Commission Control over Area Transportation Systems." (H. P. 254) (L. D. 294)

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 Create a Fund to Pay for the Eventual Decommissioning of Any Nuclear Power Plant." (H. P. 928) (L. D. 1099)

Reported that the same be granted Leave to Withdraw.

Comes from the House, the Report Read and Accepted.

The Committee on Public Utilities on, Bill, "An Act to Extend the Distance Limitations in the Exemption for Moving Household Goods." (H. P. 1155) (L. D. 1376)

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 Concerning the Publication of Official State Highway Maps." (H. P. 1157) (L. D. 1378)

Reported that the same be granted Leave to Withdraw.

Comes from the House, the Report Read and Accepted.

The Committee on Health and Institutional Services on, Bill, "An Act to Improve the Administration of the General Assistance Program." (H. P. 1068) (L. D. 1271)

Reported that the same be granted Leave to Withdraw.

Comes from the House, the Report Read and Accepted.

The Committee on Marine Resources on, Bill, "An Act to Establish a Marine Resources Development Commission." (H. P. 1295) (L. D. 1508)

Reported that the same be granted Leave to Withdraw.

Comes from the House, the Report Read and Accepted.

The Committee on Marine Resources on, Bill, "An Act to Allow the Commissioner of Marine Resources to Lease Rights to Undeveloped Alewife Fisheries." (H. P. 112) (L. D. 145)

Reported that the same be granted Leave to Withdraw.

Comes from the House, the Report Read and Accepted.

The Committee on Marine Resources on, Bill, "An Act to Allow the Transfer of Aquaculture Leases." (H. P. 16) (L. D. 10)

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 to Provide for Prior Legislative Approval of Administrative Rules." (H. P. 292) (L. D. 336)

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 to Provide for Legislative Review of Proposed Agency Rules." (H. P. 1218) (L. D. 1442)

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 to Amend the Public Notice of Rulemaking Requirements of the Maine Administrative Procedures Act." (H. P. 673) (L. D. 777)

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 to Amend the Maine Administrative Procedure Act." (H. P. 1278) (L. D. 1493)

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 to Clarify the Administrative Procedure Act." (H. P. 1071) (L. D. 1274)

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 to Improve Agency Rulemaking by Mandating Procedures to Analyze the Availability of more Flexible Regulatory Approaches for Affected Businesses, Organizations and Governmental Jurisdictions." (H. P. 1217) (L. D. 1440)

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 Increasing the Forfeiture for Drinking in Public." (H. P. 24) (L. D. 28)

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.

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.

Representative DILLENBACK of Cumberland — Abstained

Comes from the House, the Report Read and Accepted.

Which Report was Read and Accepted, in concurrence.

(See Action Later Today)

On motion by Senator Sutton of Oxford, the Senate voted to take from the Table:

Bill, "An Act to Provide for the Limitations of Liability in Regard to Certain Insurance Inceptions." (H. P. 631) (L. D. 712)

Tabled earlier in today's session, by the Senator from Oxford, Senator Sutton pending Acceptance of the Committee 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 Oxford, Senator Sutton.

Senator SUTTON: Mr. President, I submit

Senate Amendment "A" and move its adoption.

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

Senate Amendment "A" (S-231) to Committee Amendment "A" Read.

The PRESIDENT: The Senator has the floor. Senator SUTTON: Mr. President, Statement of Fact, the purpose of the Amendment, is to define more strictly certain terms used in the Committee Amendment in order that the statutory language to the Committee's actual intent be taken."

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

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

Senator AULT: Mr. President, I move we Reconsider our action on a Bill, "An Act Relating to the Management of the Department of the Attorney General." (H. P. 1210) (L. D. 1425) whereby the Leave to Withdraw Report was Accepted.

The PRESIDENT: The Senator from Kennebec, Senator Ault, moves that the Senate Reconsider its action whereby the Senate Accepted the Leave to Withdraw Report of the Committee on LD 1425.

Is this the pleasure of the Senate?

The Chair recognizes the Senator from Cumberland, Senator Conley.

Senator CONLEY: A parliamentary inquiry. It's my understanding that the Chair moved that all things be sent forthwith to the House?

The PRESIDENT: The Chair would advise the good Senator that the forthwith was prior to the supplemental.

Senator CONLEY: Thank you.

The PRESIDENT: Is it now the pleasure of the Senate to Reconsider its action whereby it Accepted the Leave to Withdraw Report of the Committee on LD 1425?

The Chair recognizes the Senator from Cumberland, Senator Conley.

Senator CONLEY: Excuse me, Mr. President. I thought the good Senator from Kennebec, Senator Ault, said Item 6-25, not on today's calendar?

The PRESIDENT: The Chair would advise the Senator we are on Supplemental Senate Journal Number 2.

Senator CONLEY: 6-25 on today's calendar?

The PRESIDENT: The Chair was under the impression that the Senator from Kennebec, Senator Ault, was referring to Supplemental Senate Journal Number 2, and item 6-25 on Supplemental Senate Journal Number 2. Is the Chair correct in that assumption, Senator Ault?

On motion by Senator Ault of Kennebec, the Senate voted to Reconsider its action whereby it Accepted the Leave to Withdraw Report of the Committee on LD 1425.

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

Senator AULT: Mr. President and Members of the Senate: I would just like to point out that the Supplement is in error, and I would like the Secretary to read the Report into the Record.

The PRESIDENT: The Secretary will read the Committee Report.

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.

The Report was signed by Representative PARADIS of Augusta, for the Committee.

Representative Dillenback of Cumberland — Abstained.

Representative Masterman of Cape Elizabeth — Absent.

Which Report was Accepted, in concurrence.

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

Papers from the House Joint Resolution STATE OF MAINE

IN THE YEAR OF OUR LORD
ONE THOUSAND NINE HUNDRED
AND EIGHTY-ONE

JOINT RESOLUTION TO COMMEMORATE THE 50TH ANNIVERSARY OF THE ESTABLISHMENT OF BAXTER STATE PARK

WHEREAS, on March 3, 1931, the former Governor Percival P. Baxter deeded to the State of Maine 5,690 acres of land, which included Mount Katahdin, the highest mountain in the State of Maine and "the most picturesque area of the State; and

WHEREAS, in the 31 years that followed, Governor Baxter acquired an additional 195,058 acres which were given to the people of Maine as a public park and "a fitting memorial to the past century and an inspiration to the new;" and

WHEREAS, Governor Baxter viewed the creation of this park through his deeds as "continuing, evolving trusts," which "shall forever be retained and used for state forest, public park and recreational purposes;" and

WHEREAS, during his lifetime he donated over \$1,500,000 to maintain this land and, on his death, he left the bulk of his estate, a trust of over \$10,000,000, to forever assist in maintaining the park, and to assure it "shall forever be kept in the natural wild state;" and

WHEREAS, the acquisition and deeding to the State of over 200,000 acres was an achievement unparalleled by any individual in the United States; now, therefore, be it

RESOLVED: That We, the Members of the 110th Legislature, pause in our deliberations to recognize and commemorate the deeds and actions of Governor Percival Proctor Baxter on this the 50th anniversary of this magnificent gift to the people of the State of Maine; and be it further

RESOLVED: That suitable copies of this Joint Resolution be sent forthwith to John L. Baxter, Sr., the living nephew of Governor Baxter and the Baxter State Park Headquarters at Millinocket, Maine. (H. P. 1472)

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

Joint Resolutions

Joint Resolutions in Memoriam

WHEREAS, the Legislature has learned with deep regret of the death of Joe Louis, the legendary "Brown Bomber," heavyweight champion of the world from 1937 - 1950, the longest continuous reign in heavyweight title history." (H. P. 1464)

WHEREAS, the Legislature has learned with deep regret of the death of Norman S. Thomas, of Lewiston, dean of the Nation's Sports Editors and Writers and Lewiston Journal Sports' Editor Emeritus. (H. P. 1465)

Come from the House, Read and Adopted. Which were Read and Adopted, in concurrence.

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

(Off Record Remarks)

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

the Record.

Senator Trotzky of Penobscot was granted unanimous consent to address the Senate, Off the Record.

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

Recess

After Recess

The Senate Called to order by the President.

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

On motion by Senator Huber of Cumberland, placed on the Special Appropriations Table, pending Enactment.

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)

AN ACT to Increase Certain Fees under the Funeral Directors and Embalmers Law. (H. P. 999) (L. D. 1197)

AN ACT to Eliminate the Disincentive for Aid to Families with Dependent Children Recipients to Find Employment. (H. P. 947) (L. D. 1123)

AN ACT Concerning Review of Fees for Providers under the Medical Assistance Program. (H. P. 1009) (L. D. 1205)

AN ACT to Amend the Charters of the Mars Hill Utility District and the Rumford Water District. (H. P. 1041) (L. D. 1260)

AN ACT to Revise the Property Tax Laws. (H. P. 1161) (L. D. 1393)

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

AN ACT to Further Exempt Certain Benevolent Organizations from the Employment Security Law. (S. P. 253) (L. D. 722) (H. "A" H-352)

AN ACT to Reorganize Certain Chapters of the Maine Criminal Code. (S. P. 280) (L. D. 811)

AN ACT to Clarify the Procedure for Waiver of Unemployment Compensation Benefit Overpayment. (H. P. 848) (L. D. 1035)

AN ACT Pertaining to Willful Killing and Injuring of Police Dogs and to Licensing Fees for Police Dogs. (H. P. 717) (L. D. 849)

AN ACT to Amend the Waldoboro Sewer District Charter. (H. P. 235) (L. D. 271)

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 Clarify the Inland Fisheries and Wildlife Laws of Maine. (H. P. 1423) (L. D. 1577)

On motion by Senator Pray of Penobscot, Tabled until later in today's session, pending Enactment.

AN ACT to Adopt Revised Standards for Access by the Handicapped to Certain Buildings. (S. P. 495) (L. D. 1395)

On motion by Senator Sutton of Oxford, Tabled for 1 Legislative Day, pending Enactment.

AN ACT Creating the Maine Clean Indoor Air Act. (H. P. 347) (L. D. 395)

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

Senator SUTTON: Mr. President, I move that LD 395 and all its accompanying papers be Indefinitely Postponed.

The PRESIDENT: The Senator from Oxford, Senator Sutton, moves that the Senate Indefinitely Postpone LD 395.

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

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

On motion by Senator Huber of Cumberland, placed on the Special Appropriations Table, pending Enactment.

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 Reservation. (H. P. 715) (L. D. 840)

Which was Finally passed, and having been signed by the President, was by the Secretary presented to the Governor for his approval.

Emergency

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

Emergency

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

These being emergency measures and having received the affirmative votes of 26 Members of the Senate, with No Senators having voted in the negative, were Finally Passed, and having been signed by the President, were by the Secretary presented to the Governor for his approval.

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

Committee Reports

House

Divided Report

The Majority of the Committee on Business Legislation on, Bill, "An Act to Require Builders to Offer Warranties on Homes which they Construct." (H. P. 1105) (L. D. 1310)

Reported that the same Ought Not to Pass. Signed: Senators:

SUTTON of Oxford
SEWALL of Lincoln

Representatives:

POULIOT of Lewiston
PERKINS of Brooksville
GWADOSKY of Fairfield
JACKSON of Yarmouth
GAVETT of Orono

The Minority of the same Committee on the same subject matter reported that the same Ought to Pass in New Draft under Same Title (H. P. 1466) (L. D. 1602)

Signed:

Senator:

CLARK of Cumberland

Representatives:

BRANNIGAN of Portland
FITZGERALD of Waterville
TELOW of Lewiston
RACINE of Biddeford
MARTIN of Van Buren

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

Which Reports were Read.

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

Senator SUTTON: I move that we Accept the Majority Ought Not to Pass Report.

The PRESIDENT: The Senator from Oxford, Senator Sutton, moves that the Senate Accept the Majority Ought Not to Pass Report of the

Committee.

The Chair recognizes the Senator from Cumberland, Senator Clark.

Senator CLARK: Mr. President, Men and Women of the Senate, you can see that the Committee on Business Legislation has again resolved an issue by passing out a Divided Report for the entire Legislature to settle, as a matter of fact. I signed with the Minority Ought to Pass Report at the urging of members of the Committee, who were deeply involved in the issue, which is reflected in the New Draft, but originally introduced under LD 1310.

The Committee Amendment proposes that a warranty, on new home construction, modelled and abbreviated, from a current Minnesota law, be adopted by this Legislature. All of us recognize that the single major outlay of funds and the single debt which is incurred by most Maine citizens, those of moderate to perhaps even more or less moderate means, is represented by the fulfillment of the American dream, owning one's own home.

The Committee Amendment reflects considerable modification, fortunately, from the original Amendment, or I would not have signed out Ought to Pass. It simply requires, in summary, the vendor to warrant that, as of the warranty date, that the dwelling is free from one; defects for one year on account of poor workmanship, and/or materials. One year. Defects for two years on account of faulty plumbing, electrical, heating and cooling work.

We deleted from the Bill an unmanageable clause, which would have deleted, or would have covered major construction defects for periods of ten years, because that last unenforceable, and terribly difficult to handle facet of warranties was deleted. I agreed to sign the Minority Ought to Pass Report.

Being able to justify my signature, I find quite easy. Under new home warranty, by the way, all of the definitions for building standards, dwelling, initial vendee, major construction defects, vendee and vendor warranty date, are defined very closely and keenly in Subsection 1431 of the Bill.

One year warranty on poor workmanship and materials is not as much as the warranty on some of the home appliances that we have in our homes. Yet, this represents, as we know, the major cash outlay of most Maine citizens. Defects for two years, for faulty plumbing, electrical, heating, and cooling work will address the major complaints, or a major complaint that many Legislators receive as a result of new home construction, particularly under F.H.A. mortgaging.

Granted, warranties will survive for the duration of this one and two year period, if title is passed to a new buyer. There is an extensive list of exceptions, generally of the wear and tear variety, to exclude acts of God, (over which none of us have control), owner negligence, and other varieties. These warranties, in Subsections 2 and 3 of Section 1432, are not generally waivable, but do transfer with the sale.

There is no waiver of warranties after contract for sale, unless they are in writing and signed by the buyer, and unless the builder substitutes comparable warranty. There is no waiver of warranties before contract of sale, unless there is price reduction reflecting reduction in the value of the dwelling.

There are damages in Subsection 1434, for Breach of Warranties, limited to the sum needed to fix the defect, or the amount of the reduction in value of the dwelling as a result of the defect.

Statutory warranties are in addition to any other warranties under contract or common law, which is a necessary caveat in any statute which is dealing with these kinds of things.

How can we say that we will include under the implied warranty of merchantability, with the one exception in our State, of used cars, and we have addressed that in another statute,

which we passed about three or four years ago now, for the plumbing, electrical, heating, and cooling work in homes? How can we defend that a warranty for one year on workmanship and materials if not applicable, not practical, and not beneficial to Maine buyers of new homes?

not supporting the pending motion, so that we can Adopt the Minority Report Ought to Pass. Thank you, Mr. President.

The PRESIDENT: Is the Senate ready for the question?

The Chair recognizes the Senator from Oxford, Senator Sutton.

Senator SUTTON: Mr. President, Ladies and Gentlemen of the Senate, I think we need to talk about this little bipartisan report that we have here, discussing home warranties. The good Senator from Cumberland made the understatement of the year when she said, this wasn't a bill that was originally before us. Fortunately, it's not. That was a real jewel.

I'd like to just point out several items to you. Number one, our current law does allow for, under the implied warranties, and what have you, does allow for a suing of a contractor if there's problems with the home. I understand that it's rather difficult, but I assume that it's rather difficult because some of these problems are rather difficult to define.

If you'll look at the Bill, you'll find under the exclusions A through N, or A through O, which is about 10 exclusions. I just kind of wonder how many they forgot to put in there. It's one of these subjects, that I don't think they could possible think of all the exclusions that should be in there.

Those of us who support, feel that this isn't necessary and shouldn't be put into law, point to the fact that number one, there's been no demonstrated need for it. We don't have a horrendous problem in the State of Maine, or any demonstrated problem as far as this is concerned. We feel that it's just another regulation on one of the hardest hit sectors of our economy, right now, and that's the construction business.

Again, as we discussed this morning, we're just laying more regulations on business, and certainly on one of the areas that can least afford it. We are very concerned that this is going to encourage, encourage Ladies and Gentlemen, unnecessary litigation. The home owner is going to be encouraged to sue the builder, and who is in turn going to have to sue the subcontractor.

In short, I have been quoted as saying, "if it's not broken, don't fix it." If there's anything that at this particular point that I can see is not broken and doesn't deserve fixing, is this particular problem.

I'd certainly urge you to Accept the Ought Not to Pass Report.

The PRESIDENT: Is the Senate ready for the question?

The Chair will order a Division.

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

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

16 Senators having voted in the affirmative and 12 Senators having voted in the negative, the motion to Accept the Majority Ought Not to Pass Report of the Committee, in concurrence, does prevail.

(Off Record Remarks)

Divided Report

The Majority of the Committee on Appropriations and Financial Affairs on, Bill, "An Act to Establish a Statewide Cancer-Incidence Registry," (H. P. 807) (L. D. 967)

Reported that the same Ought Not to Pass. Signed:

Sensors: HUBER of Cumberland
PERKINS of Hancock

Representatives: JALBERT of Lewiston
SMITH of Mars Hill
LANCASTER of Kittery
KELLEHER of Bangor
DAVIS of Monmouth

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-378).

Signed:

Sensor: NAJARIAN of Cumberland
Representatives:

PEARSON of Old Town
CARTER of Winslow
CHONKO of Topsham
BRENERMAN of Portland
ALOUPIIS of Bangor

Comes from the House, the Bill Passed to be Engrossed as amended by Committee Amendment "A" (H-378).

Which Reports were Read.

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

Divided Report

The Majority of the Committee on Appropriations and Financial Affairs, on, Bill, "An Act to Improve the Nursing and Boarding Home Complaints," (H. P. 456) (L. D. 503)

Reported that the same Ought Not to Pass.

Signed:

Sensors: HUBER of Cumberland
PERKINS of Hancock

Representatives: JALBERT of Lewiston
SMITH of Mars Hill
LANCASTER of Kittery
DAVIS of Monmouth
ALOUPIIS of Bangor

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-377).

Signed:

Sensor: NAJARIAN of Cumberland
Representatives:

PEARSON of Old Town
CARTER of Winslow
BRENERMAN of Portland
CHONKO of Topsham
KELLEHER of Bangor

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

Which Reports were Read.

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

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

Papers from the House Non-concurrent Matter

Bill, "An Act to Prohibit the Importation of Spent Nuclear Fuel," (S. P. 413) (L. D. 1217)

In the Senate, May 13, 1981, Majority Ought Not to Pass Report Read and Accepted.

Comes from the House, the Bill Passed to be Engrossed, in non-concurrence.

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

Senator COLLINS: I move that the Senate Adhere.

The PRESIDENT: The Chair recognizes the Senator from Knox, Senator Collins, moves that the Senate Adhere.

The Chair recognizes the Senator from Cumberland, Senator Conley.

Senator CONLEY: Mr. President, I don't

think that's necessary. I would now move that the Senate Recede and Concur with the House.

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

The Chair recognizes the Senator from Aroostook, Senator Carpenter.

Senator CARPENTER: Mr. President and Ladies and Gentlemen of the Senate, when I first looked at the calendar this evening, I thought that perhaps my stint on the rostrum this morning had delegated more power to me than I realized. I looked and saw that the Senate, in fact, had Accepted the Majority Ought to Pass Report.

I would hope that this afternoon, the Senate would Recede and Concur and put this Bill in the posture that obviously the printers of the calendar thought it should be in. It is simply an issue where we would take control, the State would take control over the importation and dumping of nuclear waste.

I would just point out the inconsistency in this Body in rejecting a prior bill, in which we inferred, at least, that expansion of the spent fuel pool at Wiscasset was acceptable, because that the waste was not harmful, was not frightening, was not dangerous. That is what can be inferred from our actions two weeks ago.

On the other hand, the argument that was used to defeat this Bill yesterday in here was that if we Enact this kind of statutes, and other states follow suit, that we're going to get stuck with that stuff at Wiscasset. What this Bill boils down to, is do you want to be stuck with that which we have produced, or do you want the possibility, a very frightening possibility that somebody else's garbage is going to be put upon us at some point.

I would point out that there was discussion, technical discussion in this Chamber yesterday of the different formations that are being studied. I would just point out to you that salt, storage of nuclear fuel, in salt deposits, has been ruled out. Granite is now one of the ones that the federal government is looking at very closely. I would prefer not to see this Legislature on Record as rejecting the notion that the State ought to have control over this issue.

I would hope that you would vote with the motion of the good Senator from Cumberland, Senator Conley, and I would request a Roll Call.

The PRESIDENT: A Roll Call has been requested.

The Chair recognizes the Senator from Penobscot, Senator Pray.

Senator PRAY: Thank you, Mr. President, Mr. President and Members of the Senate, yesterday, or the day before when we had this issue. The Senator from Penobscot, Senator Trotzky, defended the Committee's Report on the Ought Not to Pass Report, stating basically that what we would be doing would be pre-empting the federal government, or setting a policy which would detrimentally concern or affect the possibility of Maine's nuclear waste going out-of-state, to some other state, because those states may adopt similar measures.

In that time, I started looking around to see whom had what. In New England alone, or neighbors to the south, New Hampshire, has two projects under way, in Seabrook, Seabrook I, Seabrook II. The State of Massachusetts has two. The State of Connecticut has two nuclear plants. Vermont has one. In Maine, Maine Yankee, basically is 840, 850 mega watts. Seabrook, when it's on line, will be somewhere around 1200 mega watts.

My concern here is the fact that if we're concerned about whether or not these other states will take Maine's nuclear waste, when everyone of them is going to be a lot larger than we are, they're going to produce a lot more waste than we are, as to whether or not they're going to concern themselves with taking Maine waste, or are they going to be start looking for somewhere else to take their own waste? As I

tried to point out yesterday, the major concern that I had was in reference to the fact that politically, geographically, we're at that north-eastern corner of the country. Politically, it would be expedient for many of these other states, on a national level, to promote putting this nuclear waste up in this part of the country.

We don't have the political strength that these other states do in either the Congress or the Senate, on the national states do, in either the Congress or the Senate, on the national level. I think it would be a small step at this time for the State of Maine to adopt this policy to tell not only the people of this State that we don't want to take in other nuclear waste, but let the other surrounding states know that Maine itself takes this as a serious concern, a serious problem. We will not allow the importation of nuclear waste.

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

Senator TROTZKY: Mr. President, I'd just like to remind Senator Carpenter and Senator Pray that when Peter Bradford was here this past week, the Commissioner of the Nuclear Regulatory Commission, he stated it's highly unlikely that Maine will be chosen for a high level nuclear waste repository.

In the words of Franklin Delano Roosevelt "There is nothing to fear but fear itself."

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

Senator COLLINS: Mr. President, this Bill is an attractive political show horse, but I think we all know that there really isn't any danger in putting nuclear waste into Maine at this time. There might come a time when we would need to address that question. Right now, we already have on the books a great deal of law about dumping, and siting, and ordinances, and LURC., and all kinds of things that give us an early advance warning system that will protect us should anybody have the absurd idea that they're going to bring waste in here.

The important thing for us to keep in mind right now, is if it should happen that the federal government does not pre-empt this area, and I think that's very remote. I think the federal government is going to pre-empt the area, and perhaps, has already, in its laws. If it should happen that it did not, then we need to remember that the basic rule between the states is one of reciprocity. Reciprocity! If we are going to ever carry out the original idea in handling spent fuel storage, and reprocessing, and revive the facilities in the Carolina's and elsewhere in this country that were intended to become the repositories. Then we need to keep the idea of reciprocity in view.

So I hope that you will vote against the pending motion.

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

Senator CARPENTER: Mr. President and Ladies and Gentlemen of the Senate, I really don't want to belabor the issue, but I heard two Senators that I respect say things like the national interest and reciprocity, and I am concerned about this issue. I'm very concerned, not perhaps even in my lifetime. In the lifetime of my children, in generations unthought of. I'm very concerned about this issue.

I am not as concerned today as a Member of the Maine Senate with the national interest. I was not elected to do that. I did not come down here from Aroostook County to take care of the national interest. I jokingly said to the good Senator from Penobscot, Senator Trotzky, after the debate the other day that if he becomes a Member of Congress, then he can worry about the national interest. I would reiterate that now.

I understand what Senator Collins is talking about in terms of reciprocity. I'll tell you, when it comes to nuclear waste, I don't want to think in terms of reciprocity today. I don't want to think in terms of reciprocity ten years from

now.

The good Senator from Knox, Senator Collins, said that he does not think, does not feel, that there is any fear that the federal government today, tomorrow, is going to burden us with this problem. Just let me point out to you that I've got three volumes of papers here, dealing with issues. If we only dealt with issues that are going to affect this State for the next 24 hours, we would have been out of here on the seventh day of January, and not still be in Session at 5:00 in the afternoon on the 14th of May. It's a responsibility, it's the obligation of the Legislature to deal with issues, past, present, and future.

We just recognized the good gentleman over here, the former Senator, former member of this Body. I guarantee you the days that he spent in this Chamber were not concerned with issues that only affected that day. Laws that are in effect today, that are regulating our lives today, were passed by that gentleman and his colleagues. I don't think that's a good argument at all.

Reciprocity, national interest, who are we down here to protect? Who are we down here to look out for? I understand the problems, the potential problems with legislation of this nature. I also recognize the potential problems of the legislations already on the books dealing with hazardous waste, dealing with siting. Do you really believe, if you don't believe that this Bill would have any effect on the federal government, if they did decide to put a nuclear storage facility in Maine, what effect do you think L.U.R.C. siting requirements would have on Washington? Let's be serious.

The hazardous waste, I discussed that issue yesterday. There is a hazardous waste statute on the book. The federal government does not recognize radioactive material under the heading of hazardous waste. Even if they did, in my opinion, I don't pretend to be a constitutional scholar, but in my opinion, that's clearly unconstitutional, and could not stand a court challenge.

I haven't heard anybody, surprisingly, attack this statute from that aspect. Let's keep the issue in front of us. We're not talking about the national interest. We're talking about, in this Chamber, we're talking about the interest of the State of Maine, today and tomorrow. Thank you.

The PRESIDENT: Is the Senate ready for the question?

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

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

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

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

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

A No vote will be opposed.

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

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

NAY — Ault, Collins, Devoe, Emerson, Gill, Huber, McBreaity, Minkowsky, Perkins, Pierce, Sewall, C.; Shute, Sutton, Teague, Trotzky.

ABSENT — Hichens, O'Leary, Redmond.

A Roll Call was had.

14 Senators having voted in the affirmative and 15 Senators in the negative, with 3 Senators being absent, 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.

Non-concurrent Matter

Bill, "An Act to Provide Loans for Family Farms." (S. P. 470) (L. D. 1326)

In the Senate, May 7, 1981, Bill and Papers Indefinitely Postponed.

Comes from the House, Passed to be Engrossed as amended by Committee Amendment "A" (S-170) and House Amendment "A" (H-347), in non-concurrence.

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

Communications

House of Representatives

May 14, 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 whereby it Indefinitely Postponed Bill "An Act Relating to Bail Commissioners" (H. P. 1271) (L. D. 1486)

Respectfully,

EDWIN H. PERT

Clerk of the House

Which was Read and Ordered Placed on File.

House of Representatives

May 14, 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 RESOLVE, Providing for Revision to the Land Use Regulation Commission's Land Use Handbook, Section 6 "Erosion Control on Logging Jobs" (H. P. 454) (L. D. 501)

Respectfully,

S/EDWIN H. PERT

Clerk of the House

Which was Read and Ordered Placed on File.

Committee Reports

House

The following Ought Not to Pass report shall be placed on the Legislative Files without further action pursuant to Rule 22 of the Joint Rules:

Bill, "An Act to Clarify Residence for Educational Purposes." (H. P. 215) (L. D. 234)

Leave to Withdraw

The Committee on Taxation on, Bill, "An Act to Create a Tax on Mining Companies and to Amend the Statute on Mining on State Lands." (H. P. 1325) (L. D. 1525)

Reports that the same be granted Leave to Withdraw.

Comes from the House, the Report Read and Accepted.

Which Report was Read and Accepted in concurrence.

Ought to Pass

The Committee on Transportation on, Bill, "An Act to Establish the Cost of the Maine Forestry District in Fiscal Year 1981-82. (Emergency) (H. P. 1303) (L. D. 1500)

Reports 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 Amending the Statutes Relating to Restitution." (H. P. 1185) (L. D. 1409)

Reported that the same Ought to Pass as

amended by Committee Amendment "A" (H-375)

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

The Committee on State Government on, RESOLVE, Authorizing and Directing the Bureau of Public Lands to Convey a Perpetual Easement and Right-of-way in a Certain Parcel of Land in Augusta to Mobil Pipe Line Company, Subject to Certain Conditions." (H. P. 987) (L. D. 1175)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-376)

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

Which Reports were Read and Accepted, in concurrence, and the Bills Read Once. Committee Amendments "A" Read and Adopted, in concurrence, and the Bills, 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 Ensure a Free and Appropriate Education for all Handicapped Children." (S. P. 361) (L. D. 1083)

Leave to Withdraw

Senator HUBER for the Committee on Appropriations and Financial Affairs on, RESOLVE, Appropriating Funds for the Lump Sum Settlement in the Case of the Estate of Edward M. Robinson v. State of Maine. (Emergency) (S. P. 556) (L. D. 1528)

Reports that the same be granted Leave to Withdraw.

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

Orders of the Day

The President laid before the Senate:

SENATE REPORTS — from the Committee on Energy and Natural Resources—Bill, "An Act to Undedicate Funds Received from Public Reserved Lands." (S. P. 92) (L. D. 208) MAJORITY REPORT Ought to Pass as Amended by Committee Amendment "A" (S-221); MINORITY REPORT Ought Not to Pass.

Tabled—Earlier in the Day by Senator PRAY of Penobscot.

Pending—Motion of Senator MCBREAIRTY of Aroostook to Accept the Majority Report.

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

The President laid before the Senate:

HOUSE REPORT — from the Committee on Audit and Program Review — 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) Ought to Pass in New Draft under Same Title (H. P. 1411) (L. D. 1576)

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

Pending—Acceptance of Report.

The Ought to Pass, in New Draft, Report of the Committee Accepted, in concurrence. The Bill in New Draft, Read Once. House Amendment "B" Read and Adopted, in concurrence. House Amendment "C" Read.

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

Senator EMERSON: Mr. President, I now present Senate Amendment "B" to House Amendment "C" and will speak briefly.

The PRESIDENT: The Senator from Penobscot, Senator Emerson, offers Senate Amendment "B" to House Amendment "C" and moves its adoption.

Senate Amendment "B" to House Amendment "C" Read. (S-234)

The PRESIDENT: The Senator has the floor.

Senator EMERSON: Mr. President, Ladies and Gentlemen, LD 1576 would transfer the auto inspection program from regulation by the State Police to regulation by the Secretary of State. The Senate Amendment "B" to Senate Amendment "C" is necessary, excuse me, I'm getting ahead of myself. House Amendment "C" would keep the regulation in the Department of Public Safety, or the State Police. Senate Amendment "B" to House Amendment "C" is necessary to transfer the funding to the Department of Public Safety and I move its adoption.

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

The Chair recognizes the Senator from Aroostook, Senator McBreairty.

Senator MCBREAIRTY: Mr. President, Honorable Members of the Senate, I would hope that you don't Adopt this Amendment to Amendment "C", so that we can Indefinitely Postpone Amendment "C". If it is Adopted, it still will have Indefinite Postponement.

Mr. President, Members of the Senate, one whole year of hard work in research has gone into LD 1576. LD 1576 is an attempt by the Audit and Program Review Committee to cut costs and make more efficient the agencies and departments we have reviewed the past year. Cutting costs while reviewing a Department like Transportation, which is already underfunded by millions of dollars, has not been an easy task. I am convinced that the Audit and Review process is a very valuable legislative tool.

Many of the benefits accomplished from the review process will never show up in any bill. Many of the benefits will be impossible to measure. Almost the first statement made by Human Services people, when they came before us in January was, we have just completed an in-house review of ourselves. I was told by a reliable source that in their in-house review, thousands of dollars of unnecessary expense was eliminated, I honestly believe that their in-house review was at least partly prompted by the fact that they were scheduled to come before the Audit Committee.

The Bill before you today and the bills coming out of the Audit Committee in the future will be a real test between legislative, or bureaucratic control. I am not completely happy with every item in LD 1576, any more than I was completely happy with the Part I Budget I recently voted on. It is impossible for the Appropriations Committee, or the Audit Committee, to come out with a Bill that will make everybody happy.

If we allow ourselves to be picked off one at a time by special interest groups, we might just as well throw in the towel. As a whole, I believe LD 1576 is a good Bill, and I urge you to support the Bill in its present form.

When we talk about transfer of inspection stations to the Department of Motor Vehicles, we're only talking of transferring the inspection of the inspection stations. D.M.V. already handles driver testing and issuing licenses. They handle issuing titles, and registration. They already are testing school bus drivers.

One of the things that prompted this recommendation is the fact that D.M.V. already inspects and licenses 600 dealers who are also inspection stations. They will be there already.

Now it seems ridiculous for two departments or agencies to go to the same place. Transfer of this function would provide Maine residents with the same service, or even better, possibly, with an annual savings of \$124,000.

D.M.V. now has six investigators already in the field. An additional seven would be added to this field force. The additional position given the State Police in the Appropriation Bill and in the transfer of the truck safety program from the P.U.C. will mean that no troopers will be laid off. Thank you.

The PRESIDENT: The Chair recognizes the Senator from Androscoggin, Senator Minkows-

ky.

Senator MINKOWSKY: Mr. President and Members of the Senate: as a member of the Committee on Audit and Program Review, I find it difficult this afternoon to speak against the Chairman of our Committee, whom I hold in the highest regard, and in his wisdom assigned me to the task force to evaluate the Department of Public Safety.

Originally, I was very much opposed to the State Police maintaining the jurisdiction over the inspection stations in the State of Maine. In fact, it was my recommendation, chairing that subcommittee, that there will be a tremendous cost savings involved in this, by transferring this responsibility from the Department of Public Safety to the Department of Motor Vehicles.

The rationale was very simple at the time, that we would not have to cope with the 20 year retirement of State Police officers, that the D.M.V. people would be working 25 years, that they presently had part of the responsibility. In essence, it sounded good in the beginning. I went along with it.

The Chairman is absolutely correct. We did spend a good year evaluating, analyzing, and disseminating the information before us. As time went on, I started getting different projections, or different points of view. These are the points of view I'd like to bring to the Senate this afternoon. I leave it up to you for your scrutiny and final determination.

Along with this recommendation is a loss of funding for more than nine State Police officers, whose duties, as the Chairman has brought out, including licensing, administration, enforcement of motor vehicle laws, or the motor vehicle law inspection program.

These fully trained and fully equipped State Police officers are on call 24 hours a day. While performing their duties pertaining to motor vehicle inspections, they also investigate accidents, rendering aid and assistance when necessary to the injured. Each officer is trained and certified in first aid, cardiopulmonary resuscitation, and cardiac care.

These same officers, also on a daily basis, perform regular and routine traffic law enforcement duties. They are on the road day and night with radio-equipped and marked vehicles. Often these vehicles are in better position to respond to emergency calls.

I bring these out primarily to show you that they are doing more than just plain inspection station investigations. The statistics provided to me by the Maine State Police indicate the following. In 1980, 168 non-inspection arrests and convictions were realized by the inspection officers, resulting in over \$6500 in fines. They also issued 2700 defective equipment warnings to motor vehicles. These services can not be performed by non-law enforcement personnel.

What we are talking about this afternoon, under D.M.V. would be non-law enforcement personnel.

The inspection officers are directly responsible for the investigation of theft, or the improper use of inspection stickers, which, on many occasions, lead to other criminal activities. One of the most important and most time consuming functions of the inspection division is school bus inspection program, which our Chairman so ably brought out. I might add that over 3800 man hours were put into that particular program.

It is my understanding that 20 years ago, the Legislature transferred the motor vehicle inspection to the State Police, and then authorized two clerical positions and five uniformed officers to pay a portion of the money collected from the sale of inspection stickers. The State Police added six officers for adequate statewide coverage since that time. Even though the number of registered vehicles have increased by 45 percent, we are operating with less than two troopers and the same number of clerical personnel.

It is also my understanding that a more cost-effective approach is a rationale in transferring this program to the Department of Motor Vehicles, which will utilize civilian personnel rather than police to perform these tasks. 20 years ago, a 45 percent increase in workload, and a reduction in personnel, in terms of efficiency, this is a record that even the private sector would be very proud of.

I could go on and on to justify my feelings today, as to why I have changed my position. Someone brought out earlier that, if it's not broken, why fix it? In my estimation, the Department of Public Safety has done a very creditable job, and I believe deserves our consideration to maintain that program within the Division or Department of Public Safety.

Another concern that was raised, if this program is assigned to the Department of Motor Vehicles, it can be predicted that the legislation will be proposed to authorize the Department of Motor Vehicles to investigate certain law enforcement powers. Does this mean D.M.V. people will be carrying weapons? We were assured by the Deputy Secretary of State that they would not, but as like any bureaucratic organization, I think the long term answer would be somewhat yes.

I understand also there is a similar situation in the State of Massachusetts, where they transferred these responsibilities to the Department of Motor Vehicles there. According to the report, the Massachusetts registry was confronted with a similar law enforcement frustration and today, its authority in some other areas exceed that of any law enforcement agency in the state. It makes personnel having the authority to stop vehicles, issue processes, make arrests, and carry weapons. It is hard to believe that this was the initial intent of the Massachusetts Legislature.

It is even more difficult to believe that this legislature and its people of the State of Maine want to create the possibility of another State law enforcement agency.

For these reasons, Mr. President, I concur wholeheartedly with the good Senator from Penobscot, Senator Emerson, in his motion to add this Amendment on to the existing Bill.

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

Senator CONLEY: Mr. President, I would pose a question through the Chair to the, any member of that illustrious Committee on Performance Audit, and would ask that those state troopers presently doing his job, or service, are they under the 20 year retirement?

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

The Chair recognizes the Senator from Aroostook, Senator McBreaity.

Senator MCBREAIRTY: Mr. President and Members of the Senate: The real purpose of this recommendation is to get uniformed, gun-toting, souped up vehicle, people away from inspecting filling stations. There's absolutely nothing in this Bill that prevents them from stopping an automobile on the highway and checking for a sticker, or checking for the conditions of the vehicle.

The percentage of time spent in different categories given to us by the Department, I have here on a sheet. I'm going to give it to you. They say presently, 20.1 percent of their time is administration. Court appearances, 1.5 percent. Investigations, 10.3 percent. Report writings 6.8 percent. Patrol hours, 1.3 percent. So, according to their figures this past year, they spent 33 hours on patrol, or 1.3 percent.

To cover the non-inspection stations, or what they say they're done, the 285 uniformed officers we already have would have to spend about 1.5 hours more a year to make it up.

The purpose of this bill is, to get away from the 20 year retirement, full-fledged officer, inspecting inspection stations. We feel it can be done by people that are not in that category,

and relieve the people that we need on the road for that purpose.

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

Senator MINKOWSKY: Mr. President and Members of the Senate: In response to the good Senator from Cumberland, Senator Conley, and as a member of, as he quoted, the illustrious Committee on Audit Program Review, which I've been very, very proud of, the answer to his question is yes, the State Police, members who are assigned to the motor inspection program, do fall under the retirement system in 20 years. This is why, earlier in my presentation, I brought out the other duties that they performed in addition to the state inspection program. I hope that would somewhat clarify that the diversified responsibilities these officers have.

Also to further add one point. I don't have the exact figures, but I think the inspection program itself pays for at least five of these full time officers who do the inspection program, plus the many other law enforcement duties that are assigned to each one of the State troopers.

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

Senator CONLEY: Mr. President and Members of the Senate: I'd really like to know how to get one of these jobs. I think Santa Claus has come early this year. I must commend the good Senator from Aroostook, Senator McBreaity, and his Committee, who have recommended that the transfer of these duties be put where they should be.

Perhaps being around here too many years brings on senility in an early age, but I notice budget after budget, request after request, that comes before the Legislature, is the asking for another 5, another 10, state police.

We ought to go back and review what were the State police ever established for? They were established to go out onto the highways, and catch guys like me. They do a very good job. I an attest to that.

I don't think that these gentlemen should have to waste their time to be going into stations, inspections. My Lord, when I think that it costs us \$35,000 a year for a trooper, and to be wasting his time doing mediocre things such as this, that someone off the waterfront, after a little training, could do, would serve the purpose of this function very well.

Let's get them out on the highways where they belong. Let them perform the duties that they'd been trained for. We put them through this great place up here in Waterville, that the good Senator from Kennebec, Senator Pierce, is always out pounding for, the Maine Criminal Justice Academy, which I support. Let's kill this Amendment, and let's allow these troopers to get out into the field and get them away from the restaurants and the diners, and the other little inspection places that they go, and put in a solid 8 hours work.

I think it's ridiculous to have somebody doing a job like this, with 20 year retirement. If you don't think the taxpayers wouldn't be upset at it, go back and ask them.

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

Senator PIERCE: Mr. President and Members of the Senate, I'll only say it once, and I'll get right to the point. If Gerry Conley and Dick Pierce agree on a law enforcement bill, I would hope that this Senate would overwhelmingly support Senator McBreaity on this issue.

The PRESIDENT: Is the Senate ready for the question?

The Chair will order a Division.

The Chair recognizes the Senator from Cumberland, Senator Conley.

Senator CONLEY: Mr. President, I would move that this Senate Amendment be Indefinitely Postponed.

The PRESIDENT: The Chair recognizes the

Senator from Knox, Senator Collins.

Senator COLLINS: Mr. President, however we stand on this particular issue, I think it's important to note the purpose of Senate Amendment "B". In the other Body, when House Amendment "C" was placed on the Bill, it had a flaw in it relating to the handling of the funding, however we may vote on the final issue of whether or not to accept the House Amendment, it ought to be properly funded. I would hope that at least we would go along with the Senate Amendment, and then face the real issue. I hope you'll vote in favor of this Amendment.

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

Senator MINKOWSKY: Mr. President and Members of the Senate, it bereaves me to listen to the evaluation rendered by the good Senator from Cumberland, Senator Conley. I'm sure that he does not have any hostility or any malevolent feelings towards the fine job that the Maine State Police have done over the years. Realizing through his own admission, the trials and tribulations that he went through, it is obvious to me why he feels as strongly as he does. Also bear in mind one other factor. The good Senator had to admit openly, they did a very, very good job in addressing his particular problems, even when I-295 wasn't even opened.

We must bear in mind one thing. We're not talking just to a \$50,900 saving, as it states in the Bill. There are many other conversion costs from the State Police to the Department of Motor Vehicles that must be addressed. If I understand it correctly, we're talking of the start-up costs, which were not listed, the two-way communication units for each vehicle, re-printing of at least 3000 inspection manuals, 1800 inspection station licenses, 5000 mechanics' licenses, all forms and paperwork bearing the name Maine State Police, as well as 1800 outside signs for each inspection station.

We are talking more than just transferring from one bureaucratic agency to another bureaucratic agency. I'm just as concerned as the good Senator from Cumberland, Senator Conley, about the taxpayers. I guess, in the past, displaying the conservative attitude I have as a life long Democrat, you can be sure that I have addressed this very, very closely, and certainly would have the best feelings of my constituents, and the people of the State of Maine as a whole in mind before making such a move.

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

Senator MCBREAIRTY: Mr. President, Honorable Members of the Senate, many of the items that the good Senator just mentioned can be taken care of very easily. The signs can be taped over, as our stickers are put on our plate. The books, and applications, and forms, that they presently have, a rule can be adopted that the old ones stay in effect until the new ones are needed. So, this is not an item in this Bill at all.

The PRESIDENT: Is the Senate ready for the question?

The Chair recognizes the Senator from Cumberland, Senator Conley.

Senator CONLEY: Mr. President, may I state a point of order to the Chair? I'm a little confused.

The PRESIDENT: The Senator may state his point of order.

Senator CONLEY: The Senate Amendment before us is an amendment to the House Amendment?

The PRESIDENT: The Senate Amendment before us is Senate Amendment "B" to House Amendment "C".

Senator CONLEY: To House Amendment "C". This Amendment is to correct the deficiency in the House Amendment "C"?

The PRESIDENT: The Chair would have to

direct that question through the Chair to a more knowledgeable member, or a knowledgeable member of the Committee, or the amender.

The Chair recognizes the Senator from Kennebec, Senator Pierce.

Senator PIERCE: Mr. President and Members of the Senate: It's my understanding that the Senate Amendment would correct a technically in the House Amendment, and therefore, in all fairness, I would support the Senate Amendment. Then I would move Indefinite Postponement of the House Amendment, as amended by the Senate Amendment.

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

Senator CONLEY: Mr. President, I request Leave of the Senate to Withdraw my motion to Indefinitely Postpone the Senate Amendment.

The PRESIDENT: The Senator from Cumberland, Senator Conley, Leave of the Senate to Withdraw his motion to Indefinitely Postpone Senate Amendment "B".

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

It is a vote.

Senate Amendment "B" to House Amendment "C". Adopted.

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

Senator CONLEY: Mr. President, I now move that House Amendment "C" be Indefinitely Postponed.

The PRESIDENT: The Senator from Cumberland, Senator Conley, moves that the Senate Indefinitely Postpone House Amendment "C" as amended.

The Chair recognizes the Senator from Knox, Senator Collins.

Senator COLLINS: I request a Division.

The PRESIDENT: A Division has been requested.

The Chair recognizes the Senator from Aroostook, Senator McBreairty.

Senator McBREAIRTY: Mr. President, 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 Cumberland, Senator Conley, that the Senate Indefinitely Postpone House Amendment "C", as amended.

A Yes vote will be in favor of the Indefinite Postponement of House Amendment "C" as amended.

A No vote will be opposed.

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEA—Ault, Brown, Bustin, Charette, Clark, Conley, Dutremble, Gill, Huber, McBreairty, Najarian, Pierce, Pray, Redmond, Sewall, C.; Shute, Sutton, Teague, Trafton, Troitzky, Viollette.

NAY—Carpenter, Collins, Devoe, Emerson, Kerry, Minkowsky, Perkins, Usher, Wood.

ABSENT—Hichens, O'Leary.

Senator Devoe of Penobscot was granted permission to change his vote from Nay to Yea.

22 Senators having voted in the affirmative and 8 Senators in the negative, with 2 Senators being absent, the motion to Indefinitely Postpone House Amendment "C", as amended, in non-concurrence, does prevail.

House Amendment "D" Read.

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

Senator McBREAIRTY: Mr. President, I move Indefinite Postponement of Amendment "D" and would like to speak briefly to my

motion.

The PRESIDENT: The Senator has the floor.

Senator McBREAIRTY: Mr. President, Honorable Members of the Senate, in our review this past winter, this past year, one of the things we reviewed was airports. When we put them all up on the wall and took a look at it, we found one airport in the State of Maine being funded by State dollars, one only.

This did raise a question as to why. We were seriously considering a recommendation that would have phased out the funding of Augusta Airport over a three year period. One of the reasons for considering this recommendation of phasing out over a three year period was because the Department of Transportation told us that they felt, within a three year period, with new contracts that will be coming out, that the Augusta Airport could be self-supporting.

Legislators of Augusta felt that this was too sudden, and they should have more time to study and review. They did appoint a committee to do this. They came back with a proposal that we defer our action for one year. They, also, came back with the Amendment that they wished that we put in the Bill. I have it in my hand here, exact words that they requested that we put in the Bill.

We put it in, we deferred it for one year. We wrote the officials a letter, a Mr. David N. Elvin, Mayor, a letter telling him exactly what we did. There was no response. We assumed that everybody was happy.

The other day, in the other Body, they did offer an amendment that would restore the funding for the second year of the biennium. We felt that leaving it out was a real incentive for them to do some work. They assumed that, too, because we accepted their amendment.

I have a little news article here that was in today's paper, the K.J. It says, "In Augusta's Democrat, Daniel JB. Hickey, who sponsored the airport amendment, said Tuesday, he was surprised it survived a test in the House." I'm surprised that it was even offered in the House, because I feel that they're in a better position to stick to their agreement that they made, than to come back and try to amend the Bill.

I would hope that you would Indefinitely Postpone the amendment. There is no intent, another year of forcing Augusta to do anything. We will reconsider next year. Thank you.

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

Senator BUSTIN: Mr. President and Members of the Senate, I would appreciate your support of House Amendment 329 as presented. I would ask you to vote against the Indefinite Postponement.

The City of Augusta has been notified by the State that they no longer want to operate the Augusta State Airport. The City should make arrangements for taking over its operation. That's true.

On November 17, 1980, the City Council unanimously passed a resolve which was sent to the Performance and Audit Review Committee, on November 21, 1980, requesting that Committee to defer action on making a recommendation on the transfer until the next session of the Legislature, so that the City could have a reasonable time period for the City to complete studies in order for the Council to take a comprehensive position on the issue.

I appreciate the fact that the Committee has recommended funding for the first year, to give us a chance to study it. It seems to me that that is the carrot, like anyone who is extended the carrot, we appreciate what the Committee has done.

It's just the other part of the proposal that bothers us, the stick. The stick in this case is that \$79,000 has been withheld for the second year. However, if there are some problems with the takeover, and one of those problems could be the involvement of the federal government, and the State's commitment to them, for

the money that has been put into the renovations at the airport. If there are some problems, and we aren't able to come up with a solution in that time period, the Augusta Legislative delegation will have to come before you to request restoration of the second year funding.

The stick, is that we better come up with a way to take over the State Airport. It seems to me that this sets up a very negative atmosphere for any committee to work under. I would prefer to establish as positive an atmosphere as I can for the studying of this issue.

It is an important issue. It should be considered in as positive a manner as is possible. I think you can all put yourselves in the position of the members of the Augusta City Council. It is just human nature to say, they're not going to tell us what to do.

So let the airport close. They can land their planes in a field in Unity, and travel the extra miles to Augusta. That position is just as unreasonable as is the position of the Committee in trying to force the decision on us.

Give us a chance to do a thorough, positive study. Don't hold a stick over our heads. I think it will be better all around, and we just might end up with a better airport. It does, after all, serve the very complex in which we are serving today, namely, the State House and all its accompanying humanity. Please vote on the Indefinite Postponement motion.

I ask for a Roll Call.

The PRESIDENT: A Roll Call has been requested.

The Chair recognizes the Senator from Aroostook, Senator McBreairty.

Senator McBREAIRTY: Mr. President, Honorable Members of the Senate, I feel that we had a mutual agreement. We agreed to defer any action of any kind until next year. The funding in there now will take care of the airport until the end of 1982.

There will be no way of forcing Augusta to take over this airport, unless they are willing to do so. There's a little problem of federal government in there. We're not real sure at the end of the next year that we'll want to give it to them. We have had a mutual agreement. I feel they should honor it. Thank you.

The PRESIDENT: Is the Senate ready for the question?

The Chair recognizes the Senator from Cumberland, Senator Conley.

Senator CONLEY: Mr. President and Members of the Senate: On this particular Amendment I intend to part company with the good Senator from Aroostook, Senator McBreairty. I would like to state why.

We've had bills lying around the Legislative Halls for the last several years with respect to, well, most recently is the two percent tax assists this town and the cities. We have a fee bill coming down the line to assist towns and cities to make up for tax exempt properties.

What other community in the State, really, for a community this size, has more tax exempt property, owned and operated by the State of Maine, than the City of Augusta? What little money is in this particular Bill, or Amendment, that will help the City of Augusta for a short period of time, really isn't asking much. It would seem to me that it's just being Santa Clause again, for a very brief period of time, until the City of Augusta is able to get its house in order.

I was speaking with the good Senator from Rockland a few moments ago. My memory goes back several years, when the City of Portland pleaded, actually got down on their knees and pleaded that the Legislature take this airport off our hands for one dollar. And as usual, you guys all stuck together and said, keep your lousy airport. That's the best thing you ever told the City of Portland, because today it's the biggest money-raising thing that they have going. That is for revenues being collected outside of the property tax.

I would only ask for, with this Amendment, to allow it to stay on the Bill, to give them just that little extra time to put their home in order. Don't be a bit surprised if someone from the County of Kennebec, or the City of Augusta, isn't standing here someday, will thank you for that, and also say that they're making money today.

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

Senator McBREAIRTY: Mr. President, Honorable Members of the Senate, I just feel there must be some misunderstanding. This Bill funds the airport until the end of the fiscal 1982 year. Unless there's mutual agreement between the Federal Government, this Legislature, and the City of Augusta, at the end of 1982, the airport will still belong to the State of Maine and we will have to fund it. Augusta will not have to unless they mutually agree with us to take it over. We can not force it on them.

The federal government will not let us close down the airport if Augusta doesn't want it. We will have to continue it as a state airport.

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

Senator BUSTIN: Mr. President and Members of the Senate: I think Senator McBreairty has made a very excellent point. That's why I want to set up the most positive attitude that we can set up for this study. The only way you can do that is, in my estimation and in the estimation of the Augusta delegation, is to please fund it for 1983 so that we don't feel we're under the gun to make a positive report. I think we will. I'm not going to promise it. Please don't put us under that kind of a situation.

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

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

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

The pending question before the Senate is the motion by the Senator from Aroostook, Senator McBreairty, that the Senate Indefinitely Postpone House Amendment "D".

A Yes vote will be in favor of the Indefinite Postponement of House Amendment "D".

A No vote will be opposed.

The Doorkeepers will secure the Chamber.

The Chair recognizes the Senator from Waldo, Senator Shute.

Senator SHUTE: Mr. President, I wish permission to pair my vote with the gentleman from York, Senator Hichens. If he were here, he would be voting Nay and I would be voting Yea.

The PRESIDENT: The Senator from Waldo, Senator Shute, requests Leave of the Senate to pair his vote with the gentleman from York, Senator Hichens. If he were here, he would be voting Nay and the Senator from Waldo, Senator Shute, would be voting Yea.

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

It is a vote.

The Secretary will call the Roll.

ROLL CALL

YEA — Collins, Devoe, Emerson, Gill, Huber, McBreairty, Minkowsky, Perkins, Redmond, Sewall, C.; Teague, Trotzky.

NAY — Ault, Brown, Bustin, Carpenter, Charette, Clark, Conley, Dutremble, Kerry, Najarian, Pierce, Pray, Sutton, Trafton, Usher, Violette, Wood.

ABSENT — O'Leary.

A Roll Call was had.

12 Senators voted in the affirmative and 17 Senators in the negative with 2 Senators pairing their votes and 1 Senator being absent, the motion to Indefinitely Postpone House Amendment "D" does not prevail.

House Amendment "D" Adopted, in concurrence.

The Bill, as amended, Tomorrow Assigned for Second Reading.

The PRESIDENT: The Chair laid before the Senate, Bill, "An Act to Clarify the Inland Fisheries and Wildlife Laws of Maine." (H. P. 1423) (L. D. 1577) Tabled earlier in today's session, by Senator Pray of Penobscot, pending Enactment.

On motion by Senator Pray of Penobscot, Retabled for 1 Legislative Day.

On motion by Senator Collins of Knox, there being no objections all items previously acted upon were sent forthwith.

On motion by Senator Pierce of Kennebec, Adjourned until 9:00 o'clock tomorrow morning.