

# MAINE STATE LEGISLATURE

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**LEGISLATIVE RECORD**

**OF THE**

***One Hundred and Tenth***  
***Legislature***

**OF THE**

**STATE OF MAINE**

**SECOND REGULAR SESSION**  
**January 6, 1982 to April 13, 1982**  
**INDEX**

**FOURTH SPECIAL SESSION**  
**April 28, 1982 and April 29, 1982**  
**INDEX**

**FIFTH SPECIAL SESSION**  
**May 13, 1982**  
**INDEX**

**SECOND CONFIRMATION SESSION**  
**July 16, 1982**  
**INDEX**

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

Augusta, Maine

April 1, 1982

Senate called to order by the President.

Prayer by the Reverend Derek Bugler of Grace Episcopal Church of Bath.

REVEREND BUGLER: Having helped many times in launching ships at Bath Iron Works, I have learned two things about opening prayers. The first is that brevity is the soul of holiness, and secondly, that we are not very deep or sincere in many of these prayers.

And so, I ask your prayers sincerely this day, now or later in the day, for all of the people of this State, especially for the fishermen, the lobstermen, the tourist services and industries, the potato farmers, and all in agriculture, the shipbuilders, and all those in industry and commerce, and for all the people of this State, for the government of this State, Executive, Legislative, and Judicial, and especially for this Senate now assembled.

Direct us, Lord, in all our doings, with Your most gracious favor, further us with Your continual help, that in all our work begun, continued, and ended in You, we may glorify Your holy name, through Christ, our Lord, Amen.

Reading of the Journal of yesterday.

Out of Order and Under Suspension of the Rules:

On motion by Senator PIERCE of Kennebec, ORDERED, the House concurring, that when the House and Senate adjourn, they adjourn to Monday, April 5, 1982, at nine o'clock in the morning. (S. P. 973)

Which was Read and Passed.

Sent down forthwith for concurrence.

Committee Reports  
House

Ought to Pass — As Amended

The Committee on Local and County Government on, Bill, "An Act to Clarify the Effect of an Attorney's Opinion on the Procedures for Initiating Amendments to Municipal Charters." (H. P. 2069) (L. D. 2010)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-731).

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 Bill as amended, Assigned for Second Reading later in today's session.

The Committee on Taxation on, Bill, "An Act to Amend the Exemption from Sales and Use Tax for the Sale of Certain Instrumentalities of Interstate or Foreign Commerce." (H. P. 1905) (L. D. 1890)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-723).

Comes from the House, the Bill Passed to be Engrossed as amended by Committee Amendment "A" and House Amendment "A" (H-734).

Which Report was Read and Accepted, in concurrence, and the Bill Read Once. Committee Amendment "A" was Read and Adopted, in concurrence. House Amendment "A" was Read and Adopted, in concurrence. The Bill, as amended, Assigned for Second Reading later in today's session.

Divided Report

The Majority of the Committee on Audit and Program Review on, Bill, "An Act Relating to Periodic Justification of Departments and Agencies of State Government under the Maine

Sunset Law." (H. P. 1832) (L. D. 1814)

Reported that the same Ought to Pass in New Draft under Same Title. (Emergency) (H. P. 2239) (L. D. 2098)

Signed:

Sensors:

McBREAIRTY of Aroostook  
SEWALL of Lincoln

Representatives:

PETERSON of Caribou  
NORTON of Biddeford  
CUNNINGHAM of New Gloucester  
HUBER of Falmouth  
GILLIS of Calais

The Minority of the same Committee on the same subject matter reported that the same Ought to Pass in New Draft under Same Title. (Emergency) (H. P. 2240) (L. D. 2099)

Signed:

Sensor:

MINKOWSKY of Androscoggin

Representatives:

BERUBE of Lewiston  
ROLDE of York  
BAKER of Portland  
HICKEY of Augusta  
NADEAU of Lewiston

Comes from the House, the Bill in New Draft, (H. P. 2239) (L. D. 2098) Passed to be Engrossed as amended by House Amendment "A" (H-695), as amended by House Amendment "A" (H-702) Thereto, and House Amendment "B" (H-696).

Which Reports were Read.

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

Senator McBREAIRTY: Mr. President, I move the Acceptance of the Majority Ought to Pass Report.

The PRESIDENT: The Senator from Aroostook, Senator McBreairty, now moves that the Senate Accept the Majority Ought to Pass, in New Draft, Report of the Committee.

The Chair recognizes the Senator from Androscoggin, Senator Minkowsky.

Senator MINKOWSKY: Mr. President and Members of the Senate, I fully concur with the acceptance of the Majority Report, as projected by Senator McBreairty of Aroostook.

I'd like to point out to the Senate there was really no great difference between the Minority Report, which I signed with other Members of the Audit and Program Review Committee, and that projected by Senator McBreairty's Majority Report.

The major concern we had was with the food stamp program. Originally, the Committee was somewhat divided exactly as to how we should address the problem of food stamps.

By the time this particular document was clarified, it came to light that the document which I am favoring, this morning, the Ought to Pass Report, does contain the food stamp provision, taking the responsibility away from the counties and allocating the rest of it to the State of Maine.

When we had the Bill originally, we did not have this provision in it under the LD 2099, which is the Minority Report. We were going to put in a separate document addressing the food stamp situation in the State of Maine.

Fortunately, that has been resolved in the New Draft, under LD 2098.

I would, also, call to the attention of the Senate that it will be very, very important to pay close attention to the subsequent amendments that will be coming up.

I would endorse, and I move the Acceptance of the Ought to Pass Report, in New Draft.

(Off Record Remarks)

The PRESIDENT: The Senator from Aroostook, Senator McBreairty, has the floor.

Senator McBREAIRTY: Mr. President, Honorable Members of the Senate, LD 2098 is the result of a year's hard work by the Committee on Audit and Program Review, and three very

capable staff people.

We have completed the audit and review of the Human Services Department, which is a very large department. They have a total budget for this year that we're presently in. of \$365,000,000, plus \$65,000,000 that goes into the food stamp program. Much of this is federal money, but it still is all handled by that Department.

All cuts that we have made in this Department this year have basically been from administration. Through the block grant program, the services to the people out there in some cases was cut by 25%. We felt that if the services were going to be cut, that administration should be cut at least some.

One hundred seventy-two thousand dollars of our cut was directed right back into services to people. The other so-called cuts or what could have been savings in the Bill, we have taken up by adding the food stamp program, so we have ended up overall in our year's work with a small appropriation on the Bill.

We think that this food stamp program is a human service. We didn't feel that it should be coming from local property tax, because local property tax in many cases comes from the poorest of the poor. When we use this money for the food stamp program, some of this money is going to people who are not quite so poor. So we redirected these savings into the food stamp program.

I would hope that we will hold down any, or prevent any other appropriations to go on this Bill because every dollar we put on it will lessen the chance of getting the food stamp program funded. I believe that is an important issue.

So I would hope that you would go along with me today. Thank you.

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

Senator MINKOWSKY: Mr. President and Members of the Senate, the Chairman of our Committee, Senator McBreairty, and the Committee as a whole has done one extraordinarily commendable job in addressing one of the most complex agencies in the State government. There is absolutely no doubt about it. I guess regardless if we were on different sides of amendments, we both fully concur that the end result really was in the interests of the people of the State of Maine.

There are times when we get involved in trying to save money, but we also find other complex issues materializing where we must appropriate money. This is where we are talking this morning somewhat, when we do talk about these amendments added on by the other Body, which really serve a very beneficial need to people who have children in day-care services, that are not in a financial position to take care of those additional costs.

We were in a transition period between the Department of Human Services and the Department of Mental Health and Corrections. During this transition is when the problem we are addressing in the two subsequent amendments materialized.

If you take a moment and look at House Amendment H-702, it simply implements what we once had in the Department of Human Services, now transferred to the Department of Mental Health and Corrections, that simply states, "this Amendment maintains the current program of subsidies for sliding fee schedules for developmental day-care services and transfers the program from the Department of Human Services to the Department of Mental Health and Corrections." Nothing more than that.

That program was really under-utilized. Many people, regardless of their income levels, never realized that money was available to serve the needs of their children in a day-care center.

The major difference is from the Minority

Report is we are re-inserting this money into the Majority Report, which I think basically, if you look at the total volume of money that has been expended for Human Services, can be classified as infinitesimal. We're talking in an area of roughly \$37,000 by increasing it up to \$86,000, which really is minor.

In looking at House Amendment 695, this Amendment replaces fiscal allocation to the Department of Mental Health and Mental Retardation in the Majority Report with the higher figure recommended in the Minority Report, which I just finished bringing out \$37,000 to \$86,000.

These people who had children at Camp Waban and others in the State really deserve this consideration. I think regardless, every single member of that Committee was thoroughly impressed. I don't think we're fully cognizant of the heartache, the trials and tribulations, some of these people went through, whether they be low income people, moderate income people, or even people with substantial means.

The guidelines in House Amendment 702 have been re-established to be sure that everybody has a fair shake insofar as giving their children the best possible service that can be obtained.

I would hope, Mr. President and Members of the Senate, that you would Adopt these two particular House Amendments.

The Majority Ought to Pass, in New Draft, Report of the Committee was Accepted, in concurrence, and the Bill, in New Draft Read Once. House Amendment "A" (H-695) was Read. House Amendment "A" to House Amendment "A" was Read.

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

Senator McBREARTY: Mr. President and Honorable Members of the Senate, I move Indefinite Postponement of these two Amendments and would like to speak to my motion.

On motion by Senator McBrearty of Aroostook, House Amendment "A" to House Amendment "A" was Indefinitely Postponed, in non-concurrence.

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

Senator MINKOWSKY: Mr. President, I would ask for a Division on the Indefinite Postponement as I previously explained my stand and that of the Committee.

The PRESIDENT: A Division has been requested.

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

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

Senator McBREARTY: I'd like a Roll Call.

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

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

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

The Chair recognizes the Senator from Aroostook, Senator McBrearty.

Senator McBREARTY: Mr. President and Honorable Members of the Senate, the Amendment we're going to vote on is the \$49,000 that is being put back in for the developmental day-care operation. Now, most of the developmental day-care appropriation has never been spent, according to the legislative intent, which was to help families in over 80% of median income, because one, the fee schedule was too restrictive, and two other funds without any fee requirements were available. So the agencies used those funds instead.

This program presently has \$168,500 from General Fund. It has \$187,000 from federal

monies. We have put \$37,000 in this program in this Bill, which gives \$392,500.

Now if we add the \$49,000, it is actually adding or increasing this program by about 12% over what they've been over the fiscal year 1982.

For these other reasons, the Committee originally recommended for completely doing away with the law which set up the over 80% fee schedule to eliminate the appropriation.

As a compromise, within the Committee, the Majority Report puts back \$35,000, the amount which was contracted for 1983. For 1982, so that there will be no cuts, there will be no cuts in the service, we have put back enough so there will be no cuts in the service. The Department of Mental Health and Mental Retardation hasn't counted on or committed any money from this account for 1983. We have given them the total for 1982.

The Amendment puts back the statutes which implement the over 80% fee schedule and puts back all the dollars, since the Department of Mental Health doesn't have fee schedules for any of these, the rest of its funds, it is not clear that these dollars will be used, because agencies may prefer not to bother with these restrictions.

For the 1982 season, the Department of Mental Health is going to spend this extra \$49,000, contrary, I feel, to legislative intent. They're going to eliminate fees. They're going to assist on tuition. They're going to purchase equipment. This was not the intent. This is contrary to the intent of the Legislature.

If this had not been transferred over from Human Services to Mental Health, Human Services intended to let this lapse in 1982.

So I would hope that you would Indefinitely Postpone this Amendment.

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

Senator MINKOWSKY: Mr. President, the good Senator from Aroostook, Senator McBrearty, is correct somewhat in his appraisal, but the only factor that is not clear is the transition between the Department of Human Services and the Department of Mental Health and Corrections, was nobody was aware of the dollars involved.

Now that people are aware of the dollars involved, they're going to utilize them. I think this is a, if we're concerned for human needs, that nobody in good conscience could vote against depriving any segment of our society regardless of their income the right to use this particular money.

I really can't see, in good conscience, the objections raised by the good Senator from Aroostook, Senator McBrearty. Just because the Departments did not utilize, the Department of Human Services, did not use it correctly previously is no indication now that the people who will be served under the Department of Mental Health and Corrections should be penalized.

I would oppose the Indefinite Postponement of this Amendment.

Mr. President, has a Roll Call been requested?

The PRESIDENT: The Chair would answer in the affirmative.

The Chair recognizes the Senator from Cumberland, Senator Gill.

Senator GILL: Mr. President, and Members of the Senate, the Health and Institutional Committee had a bill that would allocate some money, I'm not sure whether it was last session or the year before, for this purpose. The money was put in the fund for Human Services, in the account of Human Services.

When the Sunset Review Committee, with all the work it has done on this particular bill, to my understanding, they did not talk to the people in Mental Health and Retardation about this particular amount of money and this account.

It was from their review with Human Services that they decided that the account was not living up to what it was supposed to. The money had not been spent down.

I think Senator Minkowsky is right in saying that the Department of Mental Health and Retardation now has their clients and they're tracking their own clients. Had they had cooperation or communication between the two Departments, the money would have been spent down.

I really think we should put this money back in at this time.

The PRESIDENT: Is the Senate ready for the question?

The pending question before the Senate is the motion by the Senator from Aroostook, Senator McBrearty, that House Amendment "A" be Indefinitely Postponed.

A Yes vote will be in favor of the Indefinite Postponement of House Amendment "A".

A No vote will be opposed.

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

The Chair recognizes the Senator from Kennebec, Senator Ault.

Senator AULT: Would you tell me which House Amendment "A"?

The PRESIDENT: The main House Amendment.

Senator AULT: Now is that under filing number 702 or 695?

The PRESIDENT: Under filing number 695.

Senator AULT: That includes 702?

The PRESIDENT: 702 has previously been Indefinitely Postponed.

The Secretary will call the Roll.

#### ROLL CALL

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

NAY—Ault, Brown, Bustin, Carpenter, Charette, Clark, Conley, Dutremble, Gill, Hichens, Kerry, Minkowsky, Najarian, Pray, Trafton, Usher, Violette, Wood.

ABSENT—O'Leary.

A Roll Call was had.

13 Senators having voted in the affirmative and 18 Senators in the negative, with 1 Senator being absent, the motion to Indefinitely Postpone House Amendment "A" does not prevail.

The Chair recognizes the Senator from Androscoggin, Senator Minkowsky.

Senator MINKOWSKY: Mr. President, is it in order to move from the Reconsideration of House Amendment "A" H-702?

The PRESIDENT: The Chair would answer in the affirmative.

Senator MINKOWSKY: I would so move, Mr. President, that we Reconsider our action whereby this Amendment was Indefinitely Postponed.

The PRESIDENT: The pending question before the Senate is the motion by the Senator from Androscoggin, Senator Minkowsky, that the Senate Reconsider its action whereby it Indefinitely Postponed House Amendment "A" under filing number H-702.

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.

House Amendment "A" was Adopted, in non-concurrence. House Amendment "B" was Read and Adopted, in concurrence. The Bill, in New Draft, as amended, Assigned for Second Reading later in today's session.

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

Senator CONLEY: May I raise a point of inquiry?

The PRESIDENT: The Senator may state his point.

Senator CONLEY: Would later in today's session mean perhaps later in the afternoon?

The PRESIDENT: The Chair would answer in the affirmative. Later in today's session means at a minimum, two hours.

Senator CONLEY: Thank you.

#### Senate

##### Ought to Pass in New Draft

Senator DEVOE for the Committee on Judiciary on, Bill, "An Act to Curtail the Practice of Plea Bargaining." (S. P. 515) (L. D. 1437)

Reported that the same Ought to Pass in New Draft under New Title, Bill, "An Act to Require Notification of the Victims and the Law Enforcement Officers When a Plea Bargaining Agreement is to be Submitted to the Court", (S. P. 970) (L. D. 2131)

Which Report was Read and Accepted and the Bill, in New Draft, Read Once. Under Suspension of the Rules, the Bill Read a Second Time.

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

Senator DEVOE: Thank you, Mr. President. Before we hopefully accept this Bill in the Second Reading, I would like to pay tribute to Senator Wood and his co-sponsor for having introduced this Bill last session.

The Judiciary Committee worked extensively on this Bill over the summer and fall. I think we have come up with a compromise that will be acceptable to everyone.

First of all, I want to make clear that this Bill does not invalidate a plea bargain agreement that would be approved by a court, if for some reason, a district attorney either failed in his duty to notify the victim of the plea bargain agreement that was to be submitted to the court. It would only subject the DA, in my opinion, to possible discipline by the court for failing to carry out the mandate of the statute.

This Bill preserves in the court the ultimate jurisdiction that is given it under the statutes and the rules of criminal procedure, to have the final say in whether to accept, modify, or reject a plea bargaining agreement.

This Bill focuses on the central problem that I believe caused the sponsor to introduce the Bill in the first place. That is that many times in the past, when crimes have been committed, victims of those crimes have found out about the plea bargain agreement after it had been carried into effect and that caused a great deal of citizen dissatisfaction.

Ultimately, the Committee decided to focus on that area of the problem. I think we've done it. I think the cosponsor and the sponsor of the Bill are pleased, so far as I know with this. I think the sponsor in the other Body is pleased with it. We offer it to the Legislature for acceptance. Thank you very much, Mr. President.

The Bill, in New Draft, Passed to be Engrossed.

Sent down forthwith for concurrence.

Senator McBREAIRTY for the Committee on Energy and Natural Resources on, Bill, "An Act Implementing Certain Recommendations of the Citizens' Commission to Evaluate the Department of Environmental Protection." (S. P. 925) (L. D. 2066)

Reported that the same Ought to Pass in New Draft under Same Title. (S. P. 968) (L. D. 2130)

Senator DEVOE for the Committee on Judiciary on, Bill, "An Act to Make Corrections of Errors and Inconsistencies in the Laws of Maine." (S. P. 836) (L. D. 1974)

Reported that the same Ought to Pass in New Draft under Same Title. (S. P. 969) (L. D. 2136)

Which Reports were Read and Accepted and the Bills, in New Draft, Read Once and Assigned for Second Reading later in today's session.

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

Senator CONLEY: Mr. President, I wish to raise a point of order to the Chair.

The PRESIDENT: The Senator may raise the point.

Senator CONLEY: It is my understanding that there is presently undergoing a hearing on a confirmation before the Joint Standing Committee on Labor. Three Senators will be appearing at the hearing. It would be my hope that if there is anything of controversy in this Body this morning, we would be able to Table anything until later in today so that they can process that hearing.

The PRESIDENT: The Chair would assure the Senator that certainly that would be the case.

#### Second Readers

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

#### House

Bill, "An Act Making Appropriations, Authorizations and Allocations Enabling the State Planning Office to Administer the Small Cities Program Community Development Block Grant." (Emergency) (H. P. 2263) (L. D. 2108)

Bill, "An Act Requiring Public Utilities Commission Approval for the Purchase of Portions of Electrical Generating Facilities by Electrical Companies or Fuel Conversion in Electrical Generating Facilities." (H. P. 2272) (L. D. 2119)

Bill, "An Act to Provide an Alternative Withdrawal Procedure from the Tree Growth Tax Law for the 1982 Tax Year." (Emergency) (H. P. 2241) (L. D. 2101)

RESOLVE, for Laying of the County Taxes and Authorizing Expenditures of Cumberland County for the Year 1982. (Emergency) (H. P. 2295) (L. D. 2127)

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

Bill, "An Act to Provide for Improved Energy Policy Development and Electricity Demand Forecasts." (H. P. 2273) (L. D. 2120)

Which was Read a Second Time.

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

Senator DEVOE: Thank you, Mr. President. Mr. President, I present Senate Amendment "A" to this Bill under filing number S-450 and move its adoption.

The PRESIDENT: The Senator from Penobscot, Senator Devoe, now offers Senate Amendment "A" to LD 2120 and moves its adoption. Senate Amendment "A" (S-450) was Read.

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

Senator DEVOE: Thank you, Mr. President. Members of the Senate, this Amendment would simply provide that the Office of Energy Resources could request the voluntary submission of certain energy forecasting data and plans for the future.

The present Bill says that it shall collect, which by implication, means that the company of which the information is going to be collected must provide it.

I would point out to you that if the Bill goes through in its present form, without this Amendment, it is entirely possible that disclosure of some of this information to the Office of Energy Resources could pose great difficulties for the companies because it would disclose their future plans. Thank you very much, Mr. President.

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

Sent down forthwith for concurrence.

Bill, "An Act to Promote the Maine Groundfish Industry." (H. P. 2270) (L. D. 2117)

Which was Read a Second Time.

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

Senator SHUTE: Mr. President, I present Senate Amendment "A" under S-456 to LD 2117.

The PRESIDENT: The Senator from Waldo, Senator Shute, now offers Senate Amendment

"A" to LD 2117 and moves its adoption.

Senate Amendment "A" (S-456) was Read.

The PRESIDENT: The Senator has the floor.

Senator SHUTE: Mr. President, Ladies and Gentlemen of the Senate, this Amendment is the amendment that, I said, I would bring in today on the groundfish bill we discussed yesterday.

The groundfish bill we discussed yesterday and the one that was finally adopted by the Senate would allow foreign vessels coming in to the State to use the groundfish logo on fish, no matter where they were caught, whether they were caught in Maryland, or any other place.

This Amendment would simply mean that fish that are caught by Maine commercial fishermen and landed in Maine would be able to use the Maine logo for promotional advertising.

I think this is probably what the fishermen in the State want. I thought prior to yesterday's debate that some of the fishermen might fish in the waters of the State, and because of fog or bad weather, having to land in Gloucester, or Canada, and then truck their fish to the State so that they wouldn't spoil, might want to use that logo, but evidently it wasn't the feeling of this Body that they do that. So I think this would clarify who could use it, it would be Maine fishermen, landing fish in the State of Maine.

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

Sent down forthwith for concurrence.

Bill, "An Act to Amend the Electric Rate Reform Act to Require the Public Utilities Commission to Consider Utility Financing of Energy Conservation." (H. P. 2275) (L. D. 2122)

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

Sent down for concurrence.

#### House — As Amended

Bill, "An Act to Establish Standard Procedures Enabling the Formation of Municipal Power Districts." (H. P. 1959) (L. D. 1932)

Which was Read a Second Time.

On motion by Senator Collins of Knox, Tabled until later in today's session, pending Passage to be Engrossed.

Bill, "An Act to Provide the Authority to the Commissioner of Marine Resources to Register a Trademark." (Emergency) (H. P. 2163) (L. D. 2063)

Bill, "An Act to Define the Raising of Seeds as Agricultural Production under the Sales and Use Tax Law." (H. P. 1794) (L. D. 1784)

Bill, "An Act to Revise the Procedure for Municipalities Withdrawing from the Maine Forestry District." (H. P. 1911) (L. D. 1883)

Bill, "An Act to Eliminate the 2¢ Excise Tax Imposed on Jet Fuel Used by International Flights." (Emergency) (H. P. 1974) (L. D. 1949)

Bill, "An Act Concerning the Rate of Return on Investment Factor Under the Railroad Excise Tax." (H. P. 1795) (L. D. 1785)

Bill, "An Act to Clarify Solar Energy Tax Exemptions." (H. P. 2066) (L. D. 2007)

Bill, "An Act to Restrict Rate Increase Proposals by Public Utilities." (H. P. 1865) (L. D. 1859)

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

Bill, "An Act to Allow for Industrial Development Improvements Utilizing Tax Increment Financing." (H. P. 2053) (L. D. 1999)

Which was Read a Second Time.

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

Senator PIERCE: Mr. President, I present Senate Amendment "A" under filing number S-454 and move its adoption.

The PRESIDENT: The Senator from Kennebec, Senator Pierce, now offers Senate Amendment "A" to LD 1999 and moves its adoption. Senate Amendment "A" (S-454) was Read and Adopted.

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

Bill, "An Act to Amend Laws Relating to the Maine Development Foundation and Economic Development." (H. P. 1960) (L. D. 1933)

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

Sent down for concurrence.

#### Senate — As Amended

Bill, "An Act to Create the Maine Condominium Act." (S. P. 870) (L. D. 2019)

Which was Read a Second Time.

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

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

Senator DEVOE: Thank you, Mr. President. Mr. President and Members of the Senate, I present Senate Amendment "A" to Committee Amendment "A" under filing number S-451 and move its adoption.

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

Senate Amendment "A" (S-451) to Committee Amendment "A" was Read.

The PRESIDENT: The Senator has the floor.

Senator DEVOE: Thank you, Mr. President. Mr. President, this Amendment simply deletes the requirement that a public offering statement be delivered to a purchaser three days before he signs the contract for the sale or the purchase of the condominium unit. It would keep the requirement that the public offering statement be shown to the purchaser prior to his signing the contract for purchase. He must still acknowledge in writing that he has received and reviewed the public offering statement to eliminate his right to cancel a contract prior to the conveyance taking place.

As we consider this matter, as I considered, as the sponsor of this Bill, it seemed to be a little cumbersome the way we had it in the Committee Amendment. I offer this Amendment to clarify that procedure. Thank you, Mr. President.

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

Sent down for concurrence.

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

#### (Senate at Ease)

The Senate called to order by the President.

#### Orders of the Day

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

Bill, "An Act to Make Interstate Bank Ownership Possible." (S. P. 950) (L. D. 2100)

Tabled—March 31, 1982 by Senator COLLINS of Knox.

Pending—Consideration.

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

The President laid before the Senate the second Tabled and specially assigned matter: SENATE REPORTS—from the Committee on Public Utilities — "Bill, An Act to Prohibit Public Utilities from Including Uncompleted

Construction Work Costs in Their Rates." (S. P. 773) (L. D. 1844) Majority Report — Ought to Pass as Amended by Committee Amendment "A" (S-445); Minority Report Ought Not to Pass.

Tabled—March 31, 1982 by Senator COLLINS of Knox.

Pending—Acceptance of Either Report.

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

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

SENATE REPORTS—from the Committee on Education — "Bill, An Act to Revise the Education Laws." (Emergency) (S. P. 561) (L. D. 1554) Majority Report — Ought to Pass in New Draft Same Title (S. P. 897) (L. D. 2042); Minority Report — Ought Not to Pass.

Tabled—March 31, 1982 by Senator COLLINS of Knox.

Pending—Motion of Senator TROTZKY of Penobscot to Accept the Majority Report.

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

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

HOUSE REPORTS—from the Committee on Marine Resources — "Bill, An Act to Clarify the Discharge Requirements for the Processing of Certain Marine Resources." (Emergency) (H. P. 1787) (L. D. 1777) Majority Report — Ought to Pass as Amended by Committee Amendment "A" (H-729); Minority Report — Ought to Pass as Amended by Committee Amendment "B" (H-730)

Tabled—March 31, 1982 by Senator SHUTE of Waldo.

Pending—Acceptance of Either Report.

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

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

Bill, "An Act to Eliminate the Requirement that Changes in the Public Utility Rates be Prorated." (H. P. 1790) (L. D. 1780)

Tabled—March 31, 1982 by Senator CONLEY of Cumberland.

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

Bill, "An Act to Adjust the Eating, Lodging and Recreational Place Licensing Fee." (S. P. 811) (L. D. 1907)

Tabled—March 31, 1982 by Senator COLLINS of Knox.

Pending—Consideration.

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

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

Bill, "An Act Concerning Maine Emergency Medical Services." (H. P. 2234) (L. D. 2092)

Tabled—March 31, 1982 by Senator PIERCE of Kennebec.

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 recognizes the Senator from Cumberland, Senator Conley.

Senator CONLEY: Mr. President, is the Senate in possession of (S. P. 906) (L. D. 2048), "An Act to Protect the Atlantic Salmon Fishery in the Lower Penobscot River from Veazie to the Southernmost Point of Verona Island"?

The PRESIDENT: The Chair would answer the good Senator in the affirmative, the Bill,

An Act to Protect the Atlantic Salmon Fishery in the Lower Penobscot River from Veazie to the Southernmost Point of Verona Island", having been recalled from the Governor's desk.

On motion by Senator Conley of Cumberland the Senate voted to Suspend the Rules.

On motion by Senator Conley of Cumberland, the Senate voted to Reconsider its action whereby LD 2048 was Passed to be Enacted.

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

On motion by Senator Collins of Knox, the Senate voted to take from the Table:

HOUSE REPORTS—from the Committee on Marine Resources — "Bill, An Act to Clarify the Discharge Requirements for the Processing of Certain Marine Resources." (Emergency) (H. P. 1787) (L. D. 1777) Majority Report — Ought to Pass as Amended by Committee Amendment "A" (H-729); Minority Report — Ought to Pass as Amended by Committee Amendment "B" (H-730)

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

Pending—Acceptance of Either Report.

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

Senator CONLEY: Mr. President, a member of the Senate that is on that Committee is presently missing. I would request that somebody would Table this item until later in today's session.

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

On motion by Senator Collins of Knox, the Senate voted to take from the Table:

Bill, "An Act to Make Interstate Bank Ownership Possible." (S. P. 950) (L. D. 2100)

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

Pending—Consideration.

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

Senator COLLINS: Mr. President, I now move that the Senate Insist.

The PRESIDENT: The Senator from Knox, Senator Collins, moves that the Senate Insist.

The Chair recognizes the Senator from Somerset, Senator Redmond.

Senator REDMOND: Mr. President, would it be proper to move that we Recede and Concur with the House?

The PRESIDENT: Extremely proper.

Senator REDMOND: I so move.

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

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 Kennebec, Senator Pierce.

Senator PIERCE: Mr. President, a parliamentary inquiry. It is my understanding that there is presently a public hearing in process. Should those Senators be notified so they can return to the Chamber?

#### (Senate at Ease)

The Senate called to order by the President.

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

Senator PERKINS: Mr. President, when the vote is taken I would ask for the Yeas and Nays.

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

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

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

The Chair recognizes the Senator from Knox, Senator Collins.

Senator COLLINS: Mr. President, this matter has been thoroughly debated and lobbied. I'm not going to speak to the merits. I do want to urge the Senate to stick with the position that it originally adopted the other day. That means that you should vote No on the motion to Recede and Concur, and then following that, vote Yes on the motion to Insist.

The PRESIDENT: Is the Senate ready for the question?

The pending question before the Senate is the motion by the Senator from Somerset, Senator Redmond, 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—Devoe, Gill, Hichens, Minkowsky, Perkins, Redmond, Sewall, C.; Trotzky.

NAY—Ault, Brown, Bustin, Charette, Clark, Collins, Conley, Dutremble, Emerson, Huber, Kerry, McBreairey, Najarian, Pierce, Pray, Shute, Sutton, Teague, Trafton, Usher, Viollette, Wood.

ABSENT—Carpenter, O'Leary.

A Roll Call was had.

8 Senators having voted in the affirmative and 22 Senators in the negative, with 2 Senators being absent, the motion to Recede and Concur with the House does not prevail.

Is it now the pleasure of the Senate to Insist?

It is a vote.

Sent down for concurrence.

On motion by Senator Pierce of Kennebec, Recessed until 2 o'clock this afternoon.

#### Recess

#### After Recess

The Senate called to order by the President.

#### (Off Record Remarks)

On motion by Senator Collins of Knox, the Senate voted to take from the Table:

HOUSE REPORTS—from the Committee on Marine Resources — "Bill, An Act to Clarify the Discharge Requirements for the Processing of Certain Marine Resources." (Emergency) (H. P. 1787) (L. D. 1777) Majority Report — Ought to Pass as Amended by Committee Amendment "A" (H-729); Minority Report — Ought to Pass as Amended by Committee Amendment "B" (H-730) tabled earlier in today's session on motion by Senator Collins of Knox, pending Acceptance of Either Committee Report.

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

Senator SHUTE: Mr. President and Ladies and Gentlemen of the Senate, this is the Report that was Tabled yesterday. As you may remember, it was an 11 to 2 Report, 11 members signing Report "A", and 2 members signing Report "B".

The difference in the two reports on your desk today, first the Report "A" would allow, during the two year period, would not allow State agencies during the two year period to impose or enforce treatment standards or requirements more stringent than those required by Subsections, of this Bill, which are on the first page, A, B, and C.

Those are employ good housekeeping standards; screen all process and waste water, and three, separate oil and oil bearing waste

waters grant the oil separators.

This Bill came about because last summer and this fall, the DEP put some very strong standards on the Sardine Industry in the State. Through negotiations between the Sardine Industry and the DEP, they haven't been able to resolve all of those problems yet. We only have about three more days left in the Legislature. I'm not sure those problems can be solved by the two parties in three days.

The Amendment to LD 1777 responds to the Committee's desire to preserve the regulatory status quo for the Maine Sardine Industry, while encouraging the industry and the Maine Department of Environmental Protection to work cooperatively toward a long-term solution to the effluent guideline problem.

The Amendment establishes a sardine plant's waste water treatment plant obligation in the terms of equipment or technology, rather than in the numerical terms that were imposed upon the sardine industry last fall.

The technological requirements are drawn from the current DEP regulations governing the Sardine Industry DEP regulations, Chapter 560, as amended, February 8, 1978.

A sardine plant which complies with these equipment requirements and observes proper housekeeping would be entitled to a two year license, which would not need numerical limits. A plant which complies with the housekeeping and equipment requirements would be deemed, to require, to be in compliance with State waste treatment guidelines and water classification standards during this two year period.

The purpose of this temporary moratorium on the Department of DEP enforcement is to ensure that all DEP and industry can truly cooperate in a long-term resolution of the issue. Without this clause, the DEP could enforce a lot of classification standards of the federal numbers. With this clause, the federal numbers could still be enforced by federal enforcement.

The long-term approach would be to take the form of a joint study with the DEP, and the industry to evaluate quality control measures, effluent guidelines and control technology, taking into account relevant technological advances, environmental and economic considerations. The study would be reduced ultimately to a report to the Committee where licensing would be setup.

The Sardine Industry is quite important to the State. I have one in my District, one packing plant in my District. Just 30 years ago, we had 48 sardine processing plants in the State, now we have 14. They employ 2,500 people in the State, and I think they should be given, at least, a two year moratorium to setup some guidelines with the Department, so they can keep operating for the next two years.

I hope you would Adopt Amendment "A".

#### (Off Record Remarks)

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

Senator BROWN: Thank you, Mr. President. Men and Women of the Senate, I'd like to compliment the good Senator from Waldo, Senator Shute, on his exceptionally good explanation as to why this Bill is before us at this time.

I'd like to enlarge just a brief bit on that, however, and also to point out some differences between these two Amendments, Committee Amendments, which we have before us.

Let me say in the beginning that both of these Amendments are in favor of granting to the Sardine Industry a period of time by which they can resolve the problems that have occurred with the Department of Environmental Protection, both versions. I'd like to point out the difference between the two, however.

Perhaps, before I do that, I'll give you just a brief history as to how this issue came about. Last December the 19th, the Department of Environmental Protection issued to the sardine processors of this State some guidelines

concerning the oil and grease discharges from their plants. They had gone from a 300 milligrams per liter down to 50 milligrams per liter. That standard could not be met with the current technology that is available to the sardine processors. It could not be met.

So the ultimatum that was issued by the DEP was in fact something that the processors in no way could abide by. If the Sardine Industry was to survive, there had to be a great deal of interest pulled together to reverse this decision with the DEP.

By the end of December, an organization which is well represented here today, called, "the SOS," Save Our Sardines, did an exceptional job at alerting people throughout Washington County, along the coast, of the seriousness that existed concerning this problem.

We had, by January the 6th, a statement from the Governor of this State, saying that no sardine plant would be closing because of these more stringent regulations that had been imposed upon the sardine industry. That was by January 6th.

We have had negotiations continue throughout the period of time. If you remember, about two weeks ago, I think it was two weeks ago tomorrow, to be exact, we passed a resolution in this Body and also in the other Body, which was sent to the DEP and the EPA, urging them to stand by the wet standard as opposed to the dry standard, which was a measurement used in the conveying of the sardine, or the herring, to the place where it is packaged or canned.

At that time, it was the understanding of the Committee, at least it was my understanding, on the Marine Resources Committee, that this Bill would not be before us at this time, after that resolution was sent. However, the sardine processors met and decided that the Bill was still necessary and essential to come before this Body.

I'd like to point out now just briefly, the differences between these two versions. There is Committee Amendment "A", which the good Senator from Waldo, Senator Shute, has told you about, and then the other Committee Amendment "B". It is a very lopsided report. I have no illusions that there is going to be any changing or turning around here, but I do want to point out the differences to you and so that when you vote, you will be able to vote on the one you feel is most proper.

The Amendments are exactly the same until we get to one little section, which has to do with enforcement. For those that might be interested, I'm referring now to LD 1777, House Amendments 729 and 730. H-729 is Committee Amendment "A", H-730 is Committee Amendment "B".

By the way, the Committee Amendment "B" should have had practically the same language in the Statement of Fact as Committee Amendment "A", but it was completely left off and legislators will understand that the Statement of Fact would not in fact be included in the law anyway.

I'd like to point, if I may, to lines number 5 and number 6 on page 2 of Committee Amendment "A". It says, "no State agency", I'm picking up on the third line down, "no State agency may impose or enforce treatment standards or requirements more stringent than those required by this Subsection."

Now both Bills are precisely the same except for that one little issue involving enforcement. That's the only difference between the two, is the enforcement issue.

We have had letters from the Department of Environmental Protection, and we have had it outlined within both of these Amendments what will occur over the next two year moratorium.

The thing that is different again, between the two, involves this issue of enforcement.

The EPA has allowed the DEP within the State agency to be the enforcing agency for the



Sardine Industry, because we're the only State in the country that processes sardines. So it is the DEP that is charged with the responsibility of enforcing State and, in this instance, federal regulation, because they have little interest in federal regulation, that's the EPA I'm saying, because we're the only State and they leave it up to the State agency.

So what we're saying in the Committee Amendment "A", which the good Senator from Waldo is urging you to pass is that the DEP will not be allowed, and this is the important part, will not be allowed to enforce standards, not impose standards, because both bills, both versions say impose, both of them say that they will not be able to impose more strict standards. The difference is that they will not be able to enforce more strict standards if, in fact, the EPA were to at some point in time to say that the State standards are not adequate and they're going to step in, in some way and change those.

So we're directing a State agency to, in the event, whatever happens at the federal level, and you and I both know that we're not expecting any more stringent regulations than we currently have, because there is an effort to dismantle environmental laws at the national level at this point.

In the event that there was more stringent regulations for whatever reason, the DEP would not be allowed to enforce them. That's the only difference between the two, Ladies and Gentlemen. I urge you to seriously think about this. I was concerned because it was setting a precedent. At least I believed it was setting a precedent.

Both of these bills are for the Sardine Industry. Both of these bills are trying to buy some time for the technology to be worked out. The difference is, are we, it's one thing to have slapped the hand of the DEP, which we very seriously did and effectively did. It's another thing to cut the hand off. In this instance, I think we're just cutting the hand off.

Based upon some other actions of the Department of Environmental Protection, they need their hands slapped, and continue to have their hands slapped but to cut that hand off is something that concerns me deeply.

Mr. President, I would request a Division on this issue. Thank you.

The PRESIDENT: Is the Senate ready for the question?

The Chair recognizes the Senator from Waldo, Senator Shute.

Senator SHUTE: Mr. President, Ladies and Gentlemen of the Senate, you may remember last year the Senate, also, passed two other resolutions to the DEP. Those resolutions were, and I was the sponsor of both of them, to not allow the DEP to dump petroleum products in Long Cove in Searsport, 500 gallons of petroleum products. That was passed unanimously in this Senate and in the House. The DEP continued with their project, and dumped the 500 gallons of petroleum products in Long Cove, in a fishing area.

Now, DEP doesn't seem to want the Sardine Industry to put back into the water the fish tailing that came out of the water. I don't see where that would hurt anything.

Now, the two Reports, there's nothing in Report "A" that says the federal government can't enforce their own standards on this issue. The DEP wouldn't be able to enforce them, but the federal government could enforce them. It was the DEP that brought in some more rigid standards than the federal government even knew about. We didn't know that until we had some federal authorities up here to find out that it was the DEP that were out there trying to get more rigid standards, not the federal government.

So, I would hope that you would go along with Report "A", and I'd ask for a Roll Call.

The PRESIDENT: A Roll Call has been requested.

The Chair recognizes the Senator from Androscoggin, Senator Trafton.

Senator TRAFTON: Thank you, Mr. President. Men and Women of the Senate, as you all know, I'm from Androscoggin County and we don't have a lot of sardines in Androscoggin County, however, this Bill, as I read it, does deal with the State waters. Certainly the people in my District are very interested in ensuring that the State waters are available for a multiple of uses.

I'd like to ask a few questions. I know that the good Senator from Washington, Senator Brown, has put a lot of time in on this issue, and expended a lot of energy. I still do have a few questions and perhaps he might care to respond to them.

The Senator Shute mentioned that this Bill would retain the regulatory status quo. In looking back over this and some of the comments that the good gentlemen have made on the floor today, in fact, as I read it, we are out of compliance with the regulatory status quo, which was established in 1976. There has been a period of 6 years now, that there has been no compliance, while every other industry has complied with these standards.

I guess I would ask why this situation had existed? Then, why a two year period would be allotted now for compliance? If I understand it, Stinson Canning Company, which is in Washington County, has recently designed, installed, and operated a very technically advanced treatment facility. All that was done in a less than a year period. So I would appreciate it if someone could tell me why the two year period was chosen to somehow, again, hold off on these regulations being enforced, both for, and also new regulations being imposed?

The other question I have related to other uses on the State waters. No one has addressed today what the impact of these discharges will have on other uses. Will this preclude other uses from the State waters in question, or is that not a problem?

The PRESIDENT: The Senator from Androscoggin, Senator Trafton, has posed some questions through the Chair.

The Chair recognizes the Senator from Waldo, Senator Shute.

Senator SHUTE: Mr. President and Ladies and Gentlemen of the Senate, I don't know that I can remember all the questions the good Senator asked, but I can try to answer a few of them.

First, there has been a new system installed, I think it is in Southwest Harbor, in that area somewhere. It is my understanding there's a problem right now, the factory is having problems getting rid of the sludge left over, because the fat content and salt content of the fish change each year, and you are creating a larger problem than you are trying to solve.

They did have a place last year that they dumped that sludge. Now, I understand this year that the Town or the person that owns the dumping site, refused to let them dump there anymore, because of the odor and getting rid of the salt and the fat and things. So I wonder how much good that system is going to do.

Probably we only right now, we only pack about a million cases of sardines a year. Just a few years ago, we were packing three million cases a year. I would think that that probably might help clean up any debris that is around some. It certainly hasn't helped the fishermen or the packers any, but it probably helped the environment a little bit.

As far as the uses of the water, I think we do have federal standards that we're supposed to bring our rivers up to over a period of years. Most of the communities in my area have put a lot of money into cleaning up those rivers. The biodegradable products coming from these factories, I don't see where they're doing a great deal of harm in the rivers. It has quite a lot to do with the tide, the current, and how much they're putting in. If you have a place where

there's a good tide, that stuff is carried for quite a ways in a short period of time.

The PRESIDENT: Is the Senate ready for the question?

The Chair recognizes the Senator from Washington, Senator Brown.

Senator BROWN: Mr. President, just to elaborate briefly, if I may, on the good Senator from Waldo, Senator Shute's, response to the Senator Trafton from Androscoggin. Let me, also, say that the good Senator from Waldo and I are not on different sides on this issue. You see, we're both on the side of trying to provide some extra time for the Sardine Industry to work out this problem that exists. There's just this one little matter of enforcement, whether we strip the DEP entirely of enforcement.

The first question that the good Senator from Androscoggin posed was regarding the regulatory, the status quo that has existed within the Sardine Industry over the last five or so years, concerning complying with the clean water standards.

The Sardine Industry has made progress. They have made effort at trying to take care of this problem. They have had two different experimental projects at different locations to attempt to solve this problem of the oil and waste discharge.

The good Senator referred to the Stinson Canning Company, which installed a fairly sophisticated system called, "the DAF", the Dissolved Air Flootation System. That system last year took 90,000 gallons, according to Mr. Stinson, of oil and grease which normally would have been dumped back into the bay.

I might also state, Ladies and Gentlemen, that in Washington County, we have a very effective flushing action within the bays. We do not have a problem up there that existed. The reason that the problem existed, was in the Rockland area, where the Majority Floorleader comes from. He may want to comment on that in some point in time.

The impact on users, I don't believe has been all that serious, frankly, because the complaints have been because of some floating solids that existed in the Rockland Harbor. Individuals have filed complaints with the DEP. The DEP has tried to correct that by imposing stricter regulations that the industry couldn't meet.

The dissolved air floatation does work at taking out a portion of the extra oil and grease, as demonstrated by Mr. Stinson in his operation, and also by the fact that Zapata Corporation will be installing such a system in one of their plants fairly soon, I understand.

So, again, the Sardine Industry, to summarize briefly, has made steps to correct the problem. The seriousness that they have perceived this problem, the industry, is very well demonstrated by the number of people that are here today, to be sure that we take care of what they perceive is a very serious problem.

Again, I'm convinced, Ladies and Gentlemen, that both of these Bills are the same and get the same amount of time and enforce the DEP not to impose any more strict regulations. The difference comes on enforcement. It's whether we strip the DEP of all enforcement responsibilities concerning this over the next two years, or whether we do in fact keep that as a provision within the law. Thank you, Mr. President.

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

Senator COLLINS: Mr. President, as the Senator from Washington has indicated, I have an interest in this Bill. I live on the shore of Rockland Harbor. We have three sardine canning plants within two miles of my home. I am a great hand to walk along the beach and see what is happening to the tidal deposits.

I am well aware that all the plants in my city have spent a great deal of money to conform to federal standards. I think that those federal standards are sufficient to protect us.



If I were afraid that Rockland Harbor was going to be harmed, after all the money that we have spent there, not only in sardine plants, but in putting in a sewerage treatment plant, and other devices that have cost us a great deal of money, I would certainly be letting it be known.

I urge you to support, in this Senate, the Majority Report, because I think it is a fair and adequate standard for our needs.

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

Senator BROWN: Thank you, Mr. President. Ladies and Gentlemen of the Senate, I just wanted to point out one thing in regard to the good Senator from Knox, Senator Collins. It is not a problem with State standards at this point. The DEP has been backed off. That's not where the problem exists. The processors would tell you that.

The problem is going to exist, has existed all with the federal standards. That's where the problem is going to come from. What this Amendment does is to tell the DEP they can not enforce federal standards. I have some problems with whether or not that is a Constitutional thing or not. Thank you, Mr. President.

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 Chair recognizes the Senator from Lincoln, Senator Sewall.

Senator SEWALL: Thank you, Mr. President. Under Joint Rule 10, I ask to be excused from voting.

The PRESIDENT: The Senator from Lincoln, Senator Sewall, requests Leave of the Senate to refrain from voting on this issue because of the possibility of the appearance of a Conflict of Interest.

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 Waldo, Senator Shute, that the Senate Accept the Majority Ought to Pass, as amended by Committee Amendment "A", 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, Carpenter, Collins, Devoe, Duntreble, Emerson, Gill, Hichens, Huber, McBreaity, Minkowsky, Perkins, Pierce, Redmond, Shute, Sutton, Teague, Usher.

NAY—Brown, Bustin, Charette, Clark, Conley, Kerry, Najarian, Pray, Trafton, Trotzky, Violette, Wood.

ABSENT—O'Leary.

A Roll Call was had.

18 Senators having voted in the affirmative and 12 Senators in the negative, with 1 Senator being excused, with 1 Senator being absent, the motion to Accept the Majority Ought to Pass, as amended, Report of the Committee, in concurrence, does prevail. The Bill Read Once. Committee Amendment "A" was Read and Adopted, in concurrence. The Bill, as amended, Assigned for Second Reading later in today's session.

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

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

The President then retired from the Senate Chamber.

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:

Franz Hurd, of Bangor, prominent Penobscot County farmer, upon the celebration of his 100th birthday, March 29, 1982. (H. P. 2281)

Elizabeth B. Chase, who has been named the 1982 Outstanding Citizen of the year for Brownville. (H. P. 2282)

Clinton Magoon, of West Peru, a senior at Rumford High School, who has been awarded a \$1,500 prize in a national painting contest; has appeared on the "Today" show with a nationwide viewing of his work; and whose painting is on display at the Metropolitan Museum of Art in New York City. (H. P. 2283)

The Honorable Romaine Roethel, of Novi, Michigan, National President of the American Legion Auxiliary, who will visit Gray, Maine, on April 23, 1982. (H. P. 2284)

Miriam Junge, of Indianapolis, Indiana, National Secretary of the American Legion Auxiliary, who will visit Gray, Maine, on April 23, 1982. (H. P. 2285)

J. Lowell Bowles, who is retiring after 22 years of dedicated service to the Town of Livemore as a selectman. (H. P. 2286)

Kevin Campbell, of Troop 351 of Kennebunkport, on achieving the high rank and distinction of Eagle Scout. (H. P. 2287)

Gerry Goulden, of Troop 351 of Kennebunkport, on achieving the high rank and distinction of Eagle Scout. (H. P. 2288)

Mary Tarbox, daughter of Mr. & Mrs. Marvin Tarbox of Perham, who was chosen Valedictorian of Washburn District High School for 1982. (H. P. 2289)

Darla Baker, daughter of Mrs. Patricia Baker of Washburn, who was chosen Salutatorian of Washburn District High School for 1982. (H. P. 2290)

The top 10 scholastic students of the 1982 graduating class of Edward Little High School in Auburn: Paul Farnsworth — Valedictorian; Scout Lauze — Salutatorian; David Cloutier; Patricia Dunn; Sue Keene; Rebecca Love; Ann Pelletier; Monique Poirier; Robert McLafferty; and John Shimko. (H. P. 2291)

Sue Flynn, of Auburn, for her fine showing at the National Nordic Junior Olympics at Lake Placid. (H. P. 2292)

Michael Haskell, of Auburn, for his fine showing at the National Nordic Junior Olympics at Lake Placid. (H. P. 2293)

Becky Flynn, of Auburn, for her fine showing at the National Nordic Junior Olympics at Lake Placid. (H. P. 2294)

The Rev. Charles Sweron Council #7920, of St. Agatha, which became the 61st Council of the Knights of Columbus in the State of Maine on December 2, 1981. (H. P. 2298)

George Shea, of Bangor High School, who has been named to the 1982 All-State Boys' Swim Team. (H. P. 2304)

Kevin Martin, of Bangor High School, who has been named to the 1982 All-State Boys' Swim Team. (H. P. 2305)

Konrad Martin, of Bangor High School, who has been named to the 1982 All-State Boys' Swim Team. (H. P. 2306)

Ben Isaacs, of Bangor High School, who has been named to the 1982 All-State Boys' Swim Team. (H. P. 2307)

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

#### Communications Local and County Government

April 1, 1982

The Honorable Joseph Sewall

President of the Senate  
State House  
Augusta, Maine  
Dear President Sewall:

The Committee on Local and County Government is pleased to report that it has completed all business placed before it by the Second Regular Session of the 110th Legislature.

BILLS RECEIVED IN COMMITTEE	18
Unanimous Reports	
Ought to Pass	3
Ought to Pass as Amended	5
Ought Not to Pass	1
Leave to Withdraw	6
Ought to Pass in New Draft	2
Ought to Pass in New Draft under New Title	1
Divided Reports	0
Recommittals	0

Sincerely,

S/THOMAS R. PERKINS

Senate Chairman

S/J.P. NORMAND LaPLANTE

House Chairman

Which was Read and Ordered Placed on File.

#### Committee on Appropriations and Financial Affairs

April 1, 1982

The Honorable Joseph Sewall  
President of the Senate  
State House  
Augusta, Maine  
Dear President Sewall:

The Joint Select Committee on Alcoholism Services is pleased to report that it has completed all business placed before it by the Second Regular Session of the 110th Legislature.

BILLS RECEIVED IN COMMITTEE	1
(LD 1940, "AN ACT Making Allocations Related to the Alcoholism Prevention, Education Treatment, and Research Fund for the Expenditures of State Government for the Fiscal Year ending June 30, 1983.")	
Unanimous Report	
Ought to Pass as Amended	1

Sincerely,

S/THOMAS R. PERKINS

Senate Chairman

S/NEIL ROLDE

House Chairman

Which was Read and Ordered Placed on File.

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

Senator CONLEY: Mr. President, I would ask of the Chair with respect to HP 2308, if it has been taken up.

The PRESIDENT Pro-Tem: The Chair thanks the Senator.

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

#### Paper From the House Joint Resolution

A Joint Resolution in Memoriam: WHEREAS, the Legislature has learned with deep regret of the death of Alfred King "Chappie" Chapman, former chairman of the English Department, Roberts Professor of English Literature, faculty member for 41 years at Colby College and beloved friend and teacher of legions of Colby students. (H. P. 2308)

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

#### Second Readers

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

#### House — As Amended

Bill, "An Act to Clarify the Effect of an Attorney's Opinion on the Procedures for Initiating Amendments to Municipal Charters." (H.

P. 2069) (L. D. 2010)

Bill, "An Act to Amend the Exemption from Sales and Use Tax for the Sale of Certain Instrumentalities of Interstate or Foreign Commerce." (Emergency) (H. P. 1905) (L. D. 1890) Which were Read a Second Time and Passed to be Engrossed, as amended, in concurrence.

Bill, "An Act Relating to Periodic Justification of Departments and Agencies of State Government under the Maine Sunset Law. (Emergency) (H. P. 2239) (L. D. 2098)

Which was Read a Second Time.

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

Senator BUSTIN: I present an Amendment and move its passage.

The PRESIDENT Pro-Tem: The Senator from Kennebec, Senator Bustin, presents an Amendment and moves its passage.

Senate Amendment "A" (S-455) was Read.

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

Senator McBREAITY: Mr. President, Members of the Senate, I would hope that you would not accept this Amendment. Last year, we had a bill in here to raise the fees dealing with the restaurants and eating places in the State that was thoroughly debated. At that time, I have the record here that indicates that in the debate, it was suggested that we wait until the Audit Committee had reviewed Human Services and this program.

We have reviewed Human Services, and this program. We have set a fee in our bill that we think is sufficient to carry this program through 1988. It is a \$10 increase. I'm sure if this is taken out, there will be a bill, that other bill would come off the Table, which will require a \$20 increase. We don't think we need it. The Department appeared before us and was in favor of our recommendation, even before we raised it to \$10.

So I would hope you would not accept this Amendment. We feel that there were fees high enough in our bill, that it will carry it through to 1988, and is sufficient. Thank you.

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

Senator BUSTIN: The reason that I have submitted this Amendment is because, previously in this Body, we passed LD 1907, which was a \$20 fee increase for a dedicated revenue account, for eating and lodging establishments, that is Tabled pending this discussion.

What the Audit and Program Review bill will do is make that a \$10 fee increase, and undedicate the account.

Now I think the only real issue here is whether the fund is dedicated or undedicated. Whether it is a \$10 increase or a \$20 increase has to do with that particular issue.

What really bothers me, is that this has been a dedicated revenue account, by request of the industry, since 1927. We have been inspecting, as the State of Maine, those eating and lodging establishments since that date under this system.

The other thing that really bothers me is that in undedicating this fund, what Senator McBreaity would like to do is use the monies that are not expended, out of those fees that restaurants are paying, to be used to fund a food stamp program.

I don't think the restaurant association really wants to be responsible for a food stamp program.

I don't object to the State funding that, but I wonder whether it is the province of Audit and Program Review to determine how that particular program should be funded. I certainly don't think it should be funded out of restaurant fees.

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

McBreaity.

Senator McBREAITY: Mr. President and Honorable Members of the Senate, there is no intent of using this money to fund the food stamp program. It does show up in our Bill as a credit, because it will be going to the General Fund.

We reviewed Agriculture back in 1979. We have a program there, a food inspection program. There was a great overlap at that time between the program we're discussing today and the Agriculture program. We had as many as three people going into the same establishment for different inspections. We separated them at that time. We undedicated the money that Agriculture is collecting. It has worked very well.

With it being undedicated, you have much more of a chance for an even, well-managed program, because dedicated funds, when you raise the fee, they have a lot of money, they have a tendency to maybe overspend while they have the extra money.

Then, when we let it go three or four or five years without raising them, as we have this time, their money dwindles and they end up with not enough money and have to cut the program.

So I would hope that we would not accept this Amendment. I believe it is better to have the Appropriations Committee handle this funding. The money will go in the General Fund for about the first three years, I have the schedule here, there will be a little too much going in, but they'll level out in about three years. Then they can continue for three years, the Appropriations Committee before the total amount is used up for that period of time.

So I believe it is much better to give them positions as we have done. We have given them seven full-time positions. I believe we'll have a better program. It will be continued on an even, it will have an even program. The Appropriations Committee, when they get to where the funds have been used in 1988, can come back and recommend a fee increase if they wish.

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

Senator BUSTIN: Mr. President and Members of the Senate, they will be back asking for a fee increase when they need it, whether it is dedicated or not dedicated. The point is that what the Audit and Program Review Committee is trying to do is say you will have seven full-time positions.

As a matter of fact, what they would like to do in order to save money and to be able to inspect more establishments is to hire seasonal employees. You don't have as many establishments open in the wintertime in Maine as you do in the summertime. So what they would like to do, one of the proposals I have heard from them, is that they would like to hire teachers who are off in the summer and be able to train them as seasonal employees to inspect those establishments during the summer, and not carry as many during the winter.

You are going to be back for a fee increase. Under the \$20 one, we won't have to bother with this until about 1989 or 1990. Under this one you're going to have to bother with it probably next year or the year after. When you find that you may not get a fee increase, and we haven't since 1975, you may find that if you can't fund those sanitarians, and the State is responsible for it, you will have to be funding it out of the taxpayers' dollars, out of the General Fund.

So I ask you, is it fair to ask restaurant owners to pay a fee that we're going to use, expend for other things, out of the General Fund, because we don't need it all this year, and also pay their taxes on their establishments, on their home, that will also pay if they don't have enough in that fund to pay for the sanitarians? It gets very confusing.

I would agree with the good Senator that

there are a lot of problems as to dual inspections that we have to clear that up. I just don't think this is the appropriate way.

When the vote is taken, I request the Yeas and Nays.

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

Senator McBREAITY: We have cleared up the dual inspections. We did that in 1979. I have the sheet here that will. We feel, after reviewing this and looking at it very carefully that seven full-time positions can do the job well. They can do their restaurants that are year round restaurants in the winter months, and then shift some to the summer restaurants in the summertime. They can get to these restaurants even more often than they are now.

Under the \$10 fee, as we have set it up, you won't run out, you won't need another appropriation until 1989. Under their program of \$20, and it's hard for me to believe that people out there would rather pay the \$20. I know my small establishments would not rather pay \$20, they will have to have a fee increase in 1990, one year later.

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

Senator HICHENS: Mr. President and Members of the Senate, I humbly would say that the good Senator from Aroostook has just contradicted himself. In his first statement he mentioned that these things hadn't been cleared up. Now he just said they had been cleared up in 1978, 1979.

He, also, referred to the overlapping of the Agriculture Department inspectors and the Human Services Department inspectors as working out very well, as they have taken care of that, hopefully. I think that is entirely a matter of opinion.

He has, also, just stated about the \$20 fee being too much on the small restaurants up in his area. They would not be subject to the \$20 fee. We had this Bill before Health and Institutional Services Committee, the one that is now on the Table, which went through the Second Reading in the Senate here. The Maine Restaurant Association and the camp owners were in favor of the \$20 fee. They are in favor of the dedicated funds. I believe that this Amendment should be accepted.

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

Senator GILL: Mr. President, I really didn't intend to get back into a debate about eating and lodging fees, but I did, as a member of the Committee, sign out a minority report which did undedicate the revenue. I did it because the Performance Audit Committee had worked with Human Services budgets and gone through all of their departments. They came out with the recommendation that this fund be undedicated, for the very reasons that Senator McBreaity has said today.

The Commissioner of Human Services is concurred with that recommendation. The Department under which this, the Department itself, the people in the department are concurred with the recommendation.

If we're going to get into a full blown debate about eating and lodging fees again, then I can tell you the story about the people who abuse that account. That was why we didn't have inspectors out on the field. There were people that were, through no fault of their own, taking their salaries out of that account, that dedicated account may have at one point in time served a useful purpose.

The number of places that have to be inspected now no longer can be handled in that account, apparently. We had three people who were out sick, taking their salaries from that account. That diminished the role of the inspectors out there on the road.

That is why I feel that it should be undedi-

cated, that they should go to Appropriations Committee any time they feel they need extra help to do the proper job.

I would urge you to vote against the motion of Senator Bustin for Acceptance of this Amendment.

The PRESIDENT Pro-Tem: The Chair recognizes the Senator from Kennebec, Senator Bustin, who having spoken three times, requests permission to speak a fourth.

Hearing no objection, the Senator may proceed.

Senator BUSTIN: Thank you, Mr. President. Mr. President and Members of the Senate, whether or not a person is sick, it happens to be a policy of this State, by statute, that when you're out sick, you get paid for it. And further than that, you can accumulate that sick leave.

Whether it comes out of dedicated or undedicated funds, it's going to have to be paid. That's one of the things that are not considered in that \$10 fee increase.

The other thing that hasn't been considered is what we hope is coming down very, very shortly, the contract from the contract negotiations. That's going to up whatever we're going to have to pay those sanitarians.

So the argument of whether it's dedicated or not, having to pay for sick leave, I think is a specious one at best.

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

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 Hancock, Senator Perkins.

Senator PERKINS: A point of clarification, if I may. If I am correct, the motion would be to accept a \$10 fee increase rather than a \$20 fee increase? Is that, am I correct?

The PRESIDENT Pro-Tem: The Secretary will give us the reference number on the amendment, please.

Senate Amendment (S-455)

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

Senator McBREAIRTY: Mr. President and Honorable Members, I'll try to explain this. In the Audit Bill, there's a \$10 fee. It's undedicated. It would provide seven full-time positions.

If this Amendment is accepted, it will amend that out of the Bill. Then what you will have left is a \$20 bill that's on the Table.

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

The Chair recognizes the Senator from Cumberland, Senator Gill.

Senator GILL: Would you please restate the question?

The PRESIDENT Pro-Tem: The pending question before the Senate is the Adoption of Senate Amendment "A" (S-455) to LD 2098.

The Chair recognizes the Senator from Kennebec, Senator Bustin, who having spoken four times, requests permission to speak a fifth.

Hearing no objection, the Senator may proceed.

Senator BUSTIN: Thank you, Mr. President. What the Amendment does is take out all reference to, in the Audit and Program Review Report, to the fee increases for sanitarians. That means that it would allow LD 1907 to go on its way, to go off the Table, because we've already passed it here, and go back down to the House.

The PRESIDENT Pro-Tem: A Yes vote will be in favor of the Adoption of Senate Amendment "A".

A No vote will be opposed.

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

#### ROLL CALL

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

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

ABSENT—O'Leary.

A Roll Call was had.

15 Senators having voted in the affirmative and 17 Senators in the negative, with 1 Senator being absent, the motion to Adopt Senate Amendment "A" does not prevail.

The Chair recognizes the Senator from Aroostook, Senator McBreairty.

Senator McBREAIRTY: Mr. President, I'd like to offer a Senate Amendment, I don't know whether I'm in the right order here or not, Senate Amendment "B" to House Amendment "A".

The PRESIDENT Pro-Tem: The Chair understands that the Senator's Amendment is to the House Amendment, which will require that the Senator move to Reconsider the Adoption of House Amendment "A".

The Chair understands that the Senator from Aroostook, moves that the Senate Reconsider the Adoption of House Amendment "A" to LD 2098.

The Chair recognizes the Senator from Penobscot, Senator Pray.

Senator PRAY: A parliamentary inquiry.

The PRESIDENT Pro-Tem: The Senator may state his inquiry.

Senator PRAY: If another Senator wishes to amend the existing proposal, would it take precedence over Reconsideration?

The PRESIDENT Pro-Tem: The Chair would answer in the negative.

The pending question before the Senate is the motion by the Senator from Aroostook, Senator McBreairty, that the Senate Reconsider its action whereby it Adopted House Amendment "A" to LD 2098.

The Chair recognizes the Senator from Androscoggin, Senator Minkowsky.

Senator MINKOWSKY: Mr. President, another point of inquiry. In looking over the Senate Amendment before us, S-461, and corresponding it to the Amendment that was killed this morning which was H-702, what is the germaneness of this present Amendment before us?

The PRESIDENT Pro-Tem: The Chair would answer the Amendment is not yet before us, since the motion for Reconsideration has not been acted upon. The Senator would hold his question.

The Chair recognizes the Senator from Androscoggin, Senator Minkowsky.

Senator MINKOWSKY: I guess another point of clarification is, why is it necessary to Reconsider? Can not this Amendment stand on its own without Reconsideration, under the Bill itself?

The PRESIDENT Pro-Tem: It is the understanding of the Chair that the proposed Amendment, S-461, is an amendment to the House Amendment. Therefore, it is necessary to Reconsider the Adoption of the House Amendment.

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

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

Senator McBREAIRTY: Mr. President, I'd like to offer Senate Amendment "B" to House Amendment "A" and move its adoption.

The PRESIDENT Pro-Tem: The Senator from Aroostook, Senator McBreairty now offers Senate Amendment "D" to House Amendment "A" and moves its adoption.

Senate Amendment "D" (S-461) to House Amendment "A" was Read.

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

Senator MINKOWSKY: Mr. President and Members of the Senate, would the good Senator from Aroostook inform me, as to what the difference is between the Senate 461 and the Amendment that was killed this morning, which was H-695?

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

The Chair recognizes the Senator from Aroostook, Senator McBreairty.

Senator McBREAIRTY: Mr. President and Honorable Members, there is practically no difference. We should not have taken that Amendment, killed that Amendment this morning. This will put the program back as it was, put the guidelines back on it that were put on it in the House.

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

Senator GILL: Mr. President, it is my understanding that this is now done by rules and regulations. What this will do is put it in the statutes, and it will keep the things the way they are right now in rules and regulations.

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

Senator MINKOWSKY: Mr. President, just a point of clarification. To be sure that in no way does this Amendment affect House Amendment 695, which is the one we Reconsidered insofar as the appropriation. I want to be sure that I understand clearly that in no way does this affect the appropriation of H-695 which we passed this morning.

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

The Chair recognizes the Senator from Aroostook, Senator McBreairty.

Senator McBREAIRTY: It does absolutely nothing to the appropriation.

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

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

Senator NAJARIAN: Mr. President, I'd like to present Senate Amendment "C" under filing number S-458 to LD 2098 and move its adoption.

The PRESIDENT Pro-Tem: The Senator from Cumberland, Senator Najarian, presents Senate Amendment "C" to LD 2098.

Senate Amendment "C" (S-458) was Read.

The PRESIDENT Pro-Tem: The Senator has the floor.

Senator NAJARIAN: Mr. President and Members of the Senate, LD 2098, at Section 28, establishes a 50¢ co-payment on prescription drugs for Medicaid recipients. It then goes on to exempt from this co-payment prescriptions for persons who are in State custody, and prescriptions for persons essentially who are in nursing homes, and use part of their income to pay their costs.

There's one further exemption from co-payment that should be added, or really must be added to this list. That is prescription drugs that are prescribed for children or people under 21, whose, those drugs which are necessary to treat their chronic or their diagnosed illnesses.

Now there are several areas in federal law and regulation that I could cite to back up this prohibition, but I have passed it to the members of the Audit and Performance Committee and to Senator Gill on the Health Committee. They have those provisions of the federal law to which this Amendment applies.

The federal law prohibits co-payments on Medicaid payments which are mandatory. The early periodic and diagnostic treatment is a mandatory Medicaid service.

Therefore, any co-payment on this service, including prescription drugs, would be a violation of the federal law.

Now, if we don't do, we are told, I have a memo from the Department saying that there would be some cost to this if they weren't allowed to charge the co-payment. However, there would be a far greater cost if we do not, because there is a federal penalty, which would, they would require the Department to pay 1% deduction from their participation in the AFDC program, which would amount to about \$400,000 in 1983.

I think it's an important Amendment, and I hope the Senate will adopt it.

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

Senator GILL: Mr. President and Members of the Senate, we have, under Medicaid, we have a couple of programs. One of them, some of them, we have several programs, some of which are mandated and some of which are voluntary.

The voluntary program that we have that are drugs for the elderly and the drug program generally, is a voluntary program that any state can vote or can accept to get into. This particular program is a mandated program. Under federal regulations, the State can not charge co-payment under mandated programs.

There is a letter coming from the federal government, to the Commissioner, that will indicate this and spell it right out for him. But somewhere along the line, there seems to be some lack of communication between the different programs that we have, the drug program that we have in this State.

This particular program is a mandated program. It is illegal, by federal standards, to charge co-payment for this program.

Senate Amendment "C" was Adopted.

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

Senator HICHENS: Mr. President, I now present Senate Amendment "B" to LD 2098 and move its passage.

The PRESIDENT Pro-Tem: The Senator from York, Senator Hichens, presents Senate Amendment "B" to LD 2098.

Senate Amendment "B" (S-457) was Read.

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

Senator McBREAITY: Mr. President and Honorable Members of the Senate, I would hope that you would not accept this Amendment. Presently, mobile home parks supposedly are being inspected by Human Services. I don't believe this is, they are carrying out this, or haven't been in the recent past.

Without Human Services regulations that they work under, it is identical to the State laws, environmental laws, that we have on the books.

The only thing that the Human Services regulations have in it that is not already covered by State regulations, environmental regulations, and other regulations, is garbage. Their regulations say you have to use a plastic bag. We don't have any State regulations that say you have to use a plastic bag for garbage. That's one difference.

The other difference is that they have some regulation that applies to outdoor toilets. We don't have many mobile homes that have outdoor toilets.

So other than that, without the Amendment, they are completely covered by State laws that are on the books. We really don't need them to be under Human Services.

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

chens.

Senator HICHENS: Mr. President and Members of the Senate, I hope that you have all taken time to read the correspondence you received from the Manufactured Housing Association. There are two or three paragraphs which I would like to bring to your attention.

There are parks in 179 Maine communities. According to a study done in 1980, only 90 towns have any ordinance relative to parks. Many of these ordinances, at least 60 or 70, do not set standards. They are worked to exclude, so as to keep the problem out, but not solve it.

The fact that a license is required serves as an impairment to prevent the return of the problem of a few years ago. Given that such problems do reoccur, at least we have a vehicle to solve them with.

The workload of the Department, given that there are 512 parks in the State, is not a relevant issue. Public health and safety is. The State inspectors visit every community where licensed establishments are. Putting aside the question of why you need to inspect every one each year, and the statements made by the agents that they are not now inspecting each one, the fact remains that this amounts to less than one inspection every other day for each man.

We note that there are more economical ways to enforce standards already in place. This program might be better served in some other agency.

While municipalities did not deal with the problems prior to 1975, perhaps they can now. We must be certain before we drop this in their laps and perhaps, also, this agency needs some direction to implement a program of having municipalities take over this program with the sharing of fees as provided for in the present statute.

In my own area, in the Towns of Eliot and Kittery, we have several problems in the past which the municipalities were not able to cope with themselves. If it wasn't for the law which we now have on the books, they wouldn't have been able to take care of that.

So I hope this Amendment is Accepted.

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

Senator McBREAITY: Mr. President and Honorable Members of the Senate, in our review, we found that there is really no more need to have the State inspecting mobile home parks than there is Street A, or Street B. What's the difference? They live in the town. They are usually as neat or neater than some of our back areas in our communities. We found absolutely no need.

Now, MMA was opposed to our recommendation for a while. When I got the State regulations and showed MMA people that they would come under present law and be covered, they backed off.

If this Amendment goes on, you should have a fiscal note of at least \$19,000, because they will be required to have one more person down there to carry this out. Either that or you will delete your inspections of your restaurants.

This Amendment would have some revenue on it, about \$15,000, but that, we have undedicated this revenue. You'd have to have a fiscal note if you're going to, and add a position, or they would have to work, use one of their people that we've given them to do restaurants.

The PRESIDENT Pro-Tem: The Chair will order a Division.

The Chair recognizes the Senator from York, Senator Hichens.

Senator HICHENS: Mr. President, again, the good Senator from Aroostook has brought out a point which would relate to the Bill we have just discussed and the Amendment we have just discussed regarding restaurants. He says that if we will need another man in this, we are going to lose a man on the restaurants. I think that's one reason that we should have support-

ed that other Amendment.

Nevertheless, on this Bill, if you had asked Mr. Moreau of the Human Services Department how necessary it is to inspect some of these mobile home parks, especially the one I referred to in the Town of Eliot, where they found trouble with many regulations and the sewerage system and so forth, which couldn't have been corrected in any other way except the Human Services Department intervening.

THE PRESIDENT Pro Tem: The Chair will order a Division.

Will all those Senators in favor of the Adoption of Senate Amendment "B" to L. D. 2098, please rise in their places to be counted.

The Chair recognizes the Senator from Aroostook, Senator McBreaity.

Senator McBREAITY: Mr. President, I would ask for a Roll Call on this.

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 was Ordered.

The Chair recognizes the Senator from Aroostook, Senator Carpenter.

Senator CARPENTER: Mr. President and Ladies and Gentlemen of the Senate, from personal experience, a job I had a couple of summers ago, I know the benefit of the Human Services inspectors in these areas. If there were not Human Services inspectors in this particular instance, and I was kind of on the other side of this because I was working for the fellow who owned the park, then the municipality, and it happened that the park was not even in my District, it was up north, the municipality would not have picked up substantial problems with the sewerage system.

So, I think you ought to support the good Senator from York.

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

Senator McBREAITY: Your plumbing inspectors, you can call on them. You can call on State people, if you feel you have a problem. There's plenty of people around to check it out, believe me.

The PRESIDENT Pro Tem: The pending question before the Senate is the Adoption of Senate Amendment "B" to L. D. 2098.

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

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, Charette, Conley, Gill, Hichens, Kerry, Najarian, Perkins, Pierce, Pray, Sewall, C.; Shute, Sutton, Teague, Trafton, Usher, Violette, Wood.

NAY—Clark, Collins, Devoe, Dutremble, Huber, McBreaity, Minkowsky, Redmond, Trozky.

ABSENT—Emerson, O'Leary.

A Roll Call was had.

21 Senators having voted in the affirmative and 9 Senators in the negative, with 2 Senators being absent, the motion to adopt Senate Amendment "B" does prevail.

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

Sent down for concurrence.

#### Senate

Bill, "An Act Implementing Certain Recommendations of the Citizens' Commission to Evaluate the Department of Environmental Protection." (S. P. 968) (L. D. 2130)

Bill, "An Act to Make Corrections of Errors and Inconsistencies in the Laws of Maine."

(Emergency) (S. P. 969) (L. D. 2136)

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

Sent down for concurrence.

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

**Communication  
Committee on Marine Resources**

April 1, 1982

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

Dear President Sewall:

The Committee on Marine Resources is pleased to report that it has completed all business placed before it by the second regular session of the 110th Legislature.

Total number of bills received	13
Unanimous reports	11
Leave to Withdraw	2
Ought Not to Pass	0
Ought to Pass	5
Ought to Pass as Amended	3
Ought to Pass in New Draft	1
Divided reports	2

Respectfully Submitted,  
S/MELVIN A. SHUTE  
Senate Chairman

Which was Read and Ordered Placed on File.

**Committee Reports**

**House**

**Ought to Pass**

The Committee on Local and County Government on, RESOLVE, for Laying of the County Taxes and Authorizing Expenditures of York County for the Year 1982. (Emergency) (H. P. 2300) (L. D. 2133)

Reported that the same Ought to Pass pursuant to Joint Order (H. P. 1846).

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

Which Report was Read and Accepted, in concurrence, and the Resolve Read Once. Under Suspension of the Rules, the Resolve Read a Second Time.

The PRESIDENT Pro Tem: The Chair recognizes the Senator from York, Senator Dutremble.

Senator DUTREMBLE: Mr. President, I offer Senate Amendment "A" to L. D. 2133 under filing number S-459 and move its adoption.

The PRESIDENT Pro Tem: The Senator from York, Senator Dutremble, presents Senate Amendment "A" to L. D. 2133.

Senate Amendment "A" (S-459) was Read and Adopted. The Resolve, as amended, Passed to be Engrossed, in non-concurrence. Sent down for concurrence.

The Committee on Local and County Government on, RESOLVE, for Laying of the County Taxes and Authorizing Expenditures of Androscoggin County for the Year 1982. (Emergency) (H. P. 2299) (L. D. 2132)

Reported that the same Ought to Pass pursuant to Joint Order (H. P. 1846).

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

Which Report was Read and Adopted, in concurrence, and the Resolve Read Once. Under Suspension of the Rules, the Resolve Read a Second Time and Passed to be Engrossed, in concurrence.

Sent forthwith to the Engrossing Department.

The PRESIDENT Pro Tem: Is it now the pleasure of the Senate that L. D. 2133, which the Senate Engrossed a few minutes ago, be sent forthwith to the other Body?  
It is a vote.

The Committee on Local and County Govern-

ment on, RESOLVE, Requiring the State Planning Office to Conduct a Follow-up Study on Municipal Practices Relating to Manufactured Housing and Report Its Findings to the Local and County Government Committee. (H. P. 2297) (L. D. 2129)

Reported pursuant to Resolves of 1981, chapter 34, that the same Ought to Pass.

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

Which Report was Read and Accepted, in concurrence, and the Resolve Read Once. Under Suspension of the Rules, the Resolve Read a Second Time and Passed to be Engrossed, in concurrence.

**Ought to Pass in New Draft**

The Committee on Education on, Bill, "An Act Governing the Closing of Public Elementary and Secondary School Buildings." (H. P. 1912) (L. D. 1898)

Reported that the same Ought to Pass in New Draft under Same Title, (H. P. 2302) (L. D. 2135)

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

The Committee on Education on, Bill, "An Act to Correct Errors in the Education Laws." (H. P. 1738) (L. D. 1727)

Reported that the same Ought to Pass in New Draft under Same Title, (H. P. 2301) (L. D. 2134)

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

The Committee on Local and County Government on, Bill, "An Act to Clarify the Right of Local Housing Authorities to Issue Mortgage Revenue Bonds." (H. P. 1870) (L. D. 1864)

Reported that the same Ought to Pass in New Draft under Same Title, (H. P. 2303) (L. D. 2137)

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

The Committee on Public Utilities on, Bill, "An Act to Ensure Funding for the Eventual Decommissioning of any Nuclear Plant." (H. P. 1803) (L. D. 1757)

Reported that the same Ought to Pass in New Draft under Same Title, (H. P. 2278) (L. D. 2124)

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

The Committee on Transportation on, Bill, "An Act to Provide for Fuel Use Identification Decals." (Emergency) (H. P. 1997) (L. D. 1973)

Reported that the same Ought to Pass in New Draft under Same Title, (H. P. 2279) (L. D. 2125)

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

The Committee on Education on, Bill, "An Act Permitting the Establishment of Student Loan Corporations." (H. P. 2128) (L. D. 2044)

Reported that the same Ought to Pass in New Draft under Same Title, (H. P. 2296) (L. D. 2128)

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

Which Reports were Read and Accepted, in concurrence, and the Bills, in New Draft, Read Once. Under Suspension of the Rules, the Bills Read a Second Time and Passed to be Engrossed, in concurrence.

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

**Communications  
Committee on Labor**

April 2, 1982

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

Dear President Sewall:

The Committee on Labor is pleased to report that it has completed all business placed before

it by the second regular session of the 110th Legislature.

Total number of bills received	15
Unanimous reports	12
Leave to Withdraw	7
Ought Not to Pass	0
Ought to Pass	3
Ought to Pass as Amended	2
Ought to Pass in New Draft	0
Divided Reports	3

Respectfully submitted,  
S/CHARLOTTE Z. SEWALL  
Senate Chairman

Which was Read and Ordered Placed on File.

**Committee on Labor**

April 1, 1982

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

Dear President Sewall:

In accordance with 3 M.R.S.A., Chapter 6, Section 151, and with Joint Rule 38 of the 110th Maine Legislature, the Joint Standing Committee on Labor has had under consideration the nomination of Russell A. Webb as First Alternate Employee Member of the Maine Labor Relations Board.

After public hearing and discussion on this nomination, the Committee proceeded to vote on the motion to recommend to the Senate that this nomination be confirmed. The Committee Clerk called the roll with the following result:

YEAS:

Senators — 3

Representatives — 9

NAYS: 0

ABSENT: 1 Representative Tuttle of Sanford

Twelve members of the Committee having voted in the affirmative and none in the negative it was the vote of the Committee that the nomination of Russell A. Webb as First Alternate Employee Member of the Maine Labor Relations Board be confirmed.

Sincerely,  
S/CHARLOTTE Z. SEWALL

Senate Chairman

S/EDITH S. BEAULIEU

House Chairman

Which was Read and Ordered Placed on File.

The PRESIDENT Pro Tem: The Joint Standing Committee on Labor has recommended that the nomination of Russell A. Webb be confirmed.

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

Is the Senate ready for the question?

The Doorkeepers will secure the chamber.

The Secretary will call the Roll.

**ROLL CALL**

YEA—None.

NAY—Ault, Brown, Bustin, Carpenter, Charrette, Clark, Collins, Conley, Devoe, Dutremble, Gill, Hichens, Kerry, McBreairty, Minkowsky, Perkins, Pierce, Pray, Redmond, Sewall, C.; Shute, Sutton, Teague, Trafton, Trotzky, Usher, Violette, Wood.

ABSENT—Emerson, Huber, Najarian, O'Leary, The President J. Sewall.

No Senators having voted in the affirmative and 28 Senators in the negative, with 5 Senators being absent and none being less than two-thirds of the membership present, it is the vote of the Senate that the Committee's recommendation be accepted. The nomination of Russell A. Webb is confirmed.



**Committee on Labor**

April 1, 1982

The Honorable Joseph Sewall  
President of the Senate of Maine  
State House  
Augusta, Maine  
Dear President Sewall:

In accordance with 3 M.R.S.A., Chapter 6, Section 151, and with Joint Rule 38 of the 110th Maine Legislature, the Joint Standing Committee on Labor has had under consideration the nomination of Harold S. Noddin as Primary Employee Member of the Maine Labor Relations Board.

After public hearing and discussion on this nomination, the Committee proceeded to vote on this motion to recommend to the Senate that this nomination be confirmed. The Committee Clerk called the roll with the following result:

YEAS:

Senators — 3

Representatives — 9

NAYS: 0

ABSENT: 1 Representative Tuttle of Sanford

Twelve members of the Committee having voted in the affirmative and none in the negative it was the vote of the Committee that the nomination of Harold S. Noddin as Primary Employee Member of the Maine Labor Relations Board be confirmed.

Sincerely,

S/CHARLOTTE Z. SEWALL

Senate Chairman

S/EDITH S. BEAULIEU

House Chairman

Which was Read and Ordered Placed on File

The PRESIDENT Pro-Tem: The Joint Standing Committee on Labor has recommended that the nomination of Harold S. Noddin be confirmed.

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

Is the Senate ready for the question.

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

**ROLL CALL**

YEA—None.

NAY—Ault, Brown, Bustin, Carpenter, Charette, Clark, Collins, Conley, Devoe, Dutremble, Gill, Hichens, Kerry, McBreairty, Minkowsky, Perkins, Pierce, Pray, Redmond, Sewall, C.; Shute, Sutton, Teague, Trafton, Usher, Violette, Wood.

ABSENT—Emerson, Huber, Najarian, O'Leary, Trotzky, The President J. Sewall.

No Senators having voted in the affirmative and 27 Senators in the negative, with 6 Senators being absent, and none being less than two-thirds of the membership present, it is the vote of the Senate that the Committee's recommendation be accepted. The nomination of Harold S. Noddin is confirmed.

**Enactors**

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

**Emergency**

RESOLVE, for Laying of the County Taxes and Authorizing Expenditures of Kennebec County for the Year 1982. (H. P. 2000) (L. D. 1958)

**Emergency**

RESOLVE, for Laying of the County Taxes and Authorizing Expenditures of Oxford County for the Year 1982. (H. P. 2199) (L. D. 2078)

**Emergency**

RESOLVE, for Laying of the County Taxes

and Authorizing Expenditures of Somerset County for the Year 1982. (H. P. 2218) (L. D. 2080)

**Emergency**

RESOLVE, for Laying of the County Taxes and Authorizing Expenditures of Franklin County for the Year 1982. (H. P. 2219) (L. D. 2081)

**Emergency**

RESOLVE, for Laying of the County Taxes and Authorizing Expenditures of Knox County for the Year 1982. (H. P. 2229) (L. D. 2087)

**Emergency**

RESOLVE, for Laying of the County Taxes and Authorizing Expenditures of Hancock County for the Year 1982. (H. P. 2230) (L. D. 2088)

**Emergency**

RESOLVE, for Laying of the County Taxes and Authorizing Expenditures of Penobscot County for the Year 1982. (H. P. 2231) (L. D. 2090)

**Emergency**

RESOLVE, for Laying of the County Taxes and Authorizing Expenditures of Aroostook County for the Year 1982. (H. P. 2235) (L. D. 2093)

**Emergency**

RESOLVE, for Laying of the County Taxes and Authorizing Expenditures of Washington County for the Year 1982. (H. P. 2253) (L. D. 2102)

**Emergency**

RESOLVE, for Laying of the County Taxes and Authorizing Expenditures of Lincoln County for the Year 1982. (H. P. 2001) (L. D. 1959)

**Emergency**

RESOLVE, for Laying of the County Taxes and Authorizing Expenditures of Waldo County for the Year 1982. (H. P. 2103) (L. D. 2026)

**Emergency**

RESOLVE, for Laying of the County Taxes and Authorizing Expenditures of Piscataquis County for the Year 1982. (H. P. 2196) (L. D. 2075)

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

Senator CONLEY: Mr. President, I wonder if the good Chairman of the Joint Standing Committee on Towns and Counties might explain what kind of an impact this is going to have on the property tax within these several counties?

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

The Chair recognizes the Senator from Hancock, Senator Perkins.

Senator PERKINS: Mr. President, Ladies and Gentlemen of the Senate, I think the good Senator from Cumberland is well aware of what the impact they will have on the property tax of Cumberland County, and perhaps a little later he will want to relate to that with regard to the courthouse facilities that he may want to propose a little later in the afternoon.

These being emergency measures and having received the affirmative votes of 25 Members of the Senate, with No Senators voting 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:

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

RESOLVE, for Laying of the County Taxes and Authorizing Expenditures of Sagadahoc County for the Year 1982. (Emergency) (H. P. 2149) (L. D. 2052)

In the Senate, March 9, 1982, the Resolve Passed to be Engrossed, in concurrence.

Comes from the House, Passed to be En-

grossed as amended by House Amendment "A" (H-666), in non-concurrence.

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

The Chair recognizes the Senator from Androscoggin, Senator Trafton.

Senator TRAFTON: Mr. President, I would like to direct a question to the chairman of the County Government Committee. I noticed on this that there is a House Amendment. Earlier this afternoon we, also, added a Senate Amendment to the York County Budget. I wonder if this signals a new change in policy for the county government.

I wrote the Senator from Hancock a short note and haven't had a reply, so I wanted to ask it on the record, because during the last year's session, we were told that no House Amendments would be allowed on the floor. I think it's important that the delegations who are planning for their county budgets to know whether or not House Amendments and Senate Amendments will be allowed on the floor.

The PRESIDENT Pro-Tem: The Senator from Androscoggin, Senator Trafton, poses a question through the Chair.

The Chair recognizes the Senator from Hancock, Senator Perkins.

Senator PERKINS: Mr. President and Ladies and Gentlemen of the Senate, you will note that these county budgets are coming all in a group. This was one of the reasons why they were held, in order to see that they were in order. The good Senator who posed the question apparently missed the note that the Local and County Government sent out earlier in the year explaining the new policy of the Committee. Which was to allow no amendments during the thing but to allow amendments which were endorsed by the unanimous consent of the delegation, after, on the floor of either body.

The PRESIDENT Pro-Tem: Is it now the pleasure of the Senate, that the Senate Recede and Concur with the House on this Resolve?

It is a vote.

**Joint Order**

An Expression of Legislative Sentiment recognizing:

Dennis Grover, of Monmouth Academy, on his being named "Coach of the Year," as the top girls' cross-country coach for 1982. (H. P. 2310)

Comes from the House, Read and Passed.

Which was Read and Passed, in concurrence.

**Committee Report  
House****Ought to Pass — As Amended**

The Committee on Local and County Government on, Bill, "An Act Authorizing the County of Cumberland to Raise Funds for the Construction of a Court House, Capital Improvements and Related Facilities." (H. P. 2087) (L. D. 2024)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-728).

Comes from the House, the Bill Passed to be Engrossed as amended by Committee Amendment "A" (H-728) as amended by House Amendment "A" (H-736) thereto.

Which Report was Read.

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

Senator PERKINS: Mr. President and Ladies and Gentlemen of the Senate, this is a piece of legislation to which I alluded to the good Senator from Cumberland earlier in the day. I think the Senator and members of that delegation might want to relate to it a little bit, because I think it may well change the posture of funding for court facilities from this day forth.

This Bill was presented earlier, and through various degrees of judgment, has survived to



this point with the cooperation of the Portland and Cumberland County delegations.

In its initial posture, it was a Bill presented to build a courthouse within the City of Portland, but with ramifications for the whole County, with a garage being built in it, too, for taxing the County of Cumberland.

Because the Local and County Government Committee felt that this was unwise in that other outlying areas of Cumberland County would be taxed for the garage, yet would not be having utilization of the court facility as much as those in Portland, we felt that this Bill, at that point, was not in a satisfactory posture, representing all the people of the County of Cumberland.

We, therefore, met with the delegation and with several others and had a series of continuing meetings, not the least of which was yesterday at noon.

At that time, this proposal developed. This proposal proposes the building of court facilities in Bridgton, Brunswick, and the City of Portland, along with a garage within that City, which still will be related to the property tax of the whole area.

At this point, under a 20 year bond, the total principal of the thing will be \$5,500,000. The interest the first year will be \$360,936, making a total first year cost of \$635,936. The interest, of course, would decrease as the principal was reduced.

One of the problems and I call this to your attention is that under this proposal, the court costs would be related directly to the State. If you will recall many of your county budgets, and mine, we bill the State for the court facilities and do not get full remuneration for our costs in many cases. It is a negotiable instrument.

Under this piece of Legislation, this would be a direct cost to the State, without the bargaining process of setting the fees, so the court would be in a lease/ purchase type of an arrangement on these court facilities.

This, I believe, is a change from the existing posture, even though in many cases the court facilities are county-owned or county-built and operated.

I add these pieces of information merely as information, and because it has a referendum proposal to the people of these areas, the Local and County Government passed it out. I will leave it to you as to its acceptance.

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

Senator TRAFTON: Mr. President, I would like to direct a question to the Chairman of Local and County Government. On reading the Fiscal Note, it didn't mention any increased costs to the General Fund. It is my understanding that the cost of the current leasing situation versus the cost of the new facility, should this bond issue pass, would be greatly different.

Do you have any figures on what the cost of the new lease would be, since that would be a General Fund expenditure, and shouldn't that possibly be included in the Fiscal Note so that we would know what the General Fund impact would be from year to year?

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

Senator PERKINS: Mr. President and Ladies and Gentlemen of the Senate, I entirely concur that there should indeed be a Fiscal Note, because there will be a cost to the General Fund. These notes that I have just received were recent developments that we asked for earlier in the morning. Since the Bill was passed out late yesterday, these notes were, the financial implications were just received today.

I might add that the court facilities now are at a rate of somewhere around \$7 per square foot. At the newer figures, they are going to at least double, if not more if you figure the inter-

est rates.

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

Senator CLARK: Thank you, Mr. President. Mr. President, Men and Women of the Senate, I would thank the good Senator from Hancock for his fine explanation of the Bill in its amended version before us. While I am not speaking in opposition to the Bill, I think it is important that the four towns that are included in Senate District 11 be included on the record relative to their position on this Bill.

I have been unable, because the mails don't work as fast as some of the printing facilities here, to submit to the Selectmen in the Town of Harpswell, the amended version of the Bill, but they were unalterably and unanimously opposed to the original Bill as presented.

I do, however, feel sure that the citizens of Harpswell and their elected representatives in the form of the Board of Selectmen are aware of the dire needs of the court facilities in District 8 in Brunswick. With, as I mentioned before the Committee on Local and County Government yesterday, with the sweetener added to L. D. 2024, perhaps, while I can not speak for that Board of Selectmen, perhaps their position would not be unanimously in opposition to this Bill in its amended form.

The Town Council in Brunswick, the largest town in what we call the fringe area of Cumberland County was unanimously opposed to the Bill in its original form. On Monday of this week, I presented what I knew at that time about the proposed Amendment, having conversed extensively with Senator Perkins from Hancock relative to the status of this Bill in his Committee prior to appearing before that Town Council.

The Town Council, at that meeting on Monday of this week, changed their unanimous original opposition from L. D. 2024 to a what is perceived to be a less than enthusiastic support of this measure in its amended form, because it included a new court facility for Court District number 8 in the Town of Brunswick.

They are opposed to the inclusion of the parking garage which would not be included in the lease/purchase arrangement with the State of Maine and the County of Cumberland.

The Town of Freeport recognizes the need for additional court facilities not only in Brunswick, which again, is recognized as a sweetener for the eastern end of Cumberland County, but do think that L. D. 2024 in its original or its amended version is precipitous. For, perhaps you have forgotten, it is the County of Cumberland that voted to change its form of government as provided by this Legislature in the last session, maybe it was the session before, but it was last year, when the County of Cumberland did vote for what is called "county home-rule." That referendum or that issue will be before the citizens of Cumberland County in June, on primary day this year.

The Town of Freeport would wish that this whole thing would be set aside and would be discussed, or before what is perceived to be the new form of county government, which has as its governing body, seven commissioners rather than the current three, and seven districts, rather than the current three, and a new finance committee, not comprised of the legislative delegation, but rather municipal officers representing the towns in Cumberland County.

The Town of Yarmouth recognizes the need of additional court facilities, but has little today in enthusiastic support of this measure.

I think it is inappropriate that a fiscal note is not attached to the Bill at this time. If I didn't think it would jeopardize the entire Bill, I would have had an amendment presented or would have tendered, or offered, an amendment to this Body to delete from the Bill that \$500,000, but I don't wish to jeopardize the status of the Bill.

I will be looking with interest to see that

prior to Enactment state, an appropriate fiscal note be attached to this Bill. Thank you, Mr. President.

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

Senator DEVOE: Thank you, Mr. President. Members of the Senate, to refresh the memories of some of the Senators here, I think it would be helpful to note that in 1978, the district court facility in Ellsworth, in Hancock County, was funded by an addition to the county building, and I imagine the State is paying on regular lease payments that were negotiated by the appropriate office of State government with the county commissioners.

In Aroostook County, in Caribou, in 1975, there was an addition to the county building put on to house the district court facility there, so the State is paying the county in that area.

The same is true in Houlton. They renovated a school building and the State is paying the County for that facility.

In Wiscasset, Lincoln County, in 1971, there was an addition to the court building by County funds. The State is now paying the County.

In South Paris, in 1965, there was a new building constructed by the County, and we're paying the County.

In Bangor, Penobscot County, we renovated an old empty supermarket and we're paying the County there.

In 1974, in Dover-Foxcroft, a new facility was built, a renovated residence, rather, done by the County.

In Fort Kent, in 1967, a new building was constructed. The State is paying the County.

In Kittery, in Springvale, in 1973 and 1975 respectively it was done, interestingly enough, by a city bond issue. The State negotiated with those respective communities.

In Belfast, in 1975, Waldo County, the County bought or took on a long-term lease of an old telephone building, renovated it, and we're now paying the County.

In Rockland, in 1978, there was an addition to the courthouse built by the County. We're paying the County.

So I just mention these things, and in addition, I forget to mention the city of Lewiston, in 1976, constructed a new facility and financed it by a city bond issue.

So, this is not a particularly new process that we are using here. It is unfortunate that we have to do this on a piecemeal basis, but we are all aware of the fact that the State turned down the court facilities bond issue of two or three years ago. I wish it had passed. I think most of us here wished that it had passed.

You have to recognize that the particular three facilities that we're going to try to help here all happen to be in Cumberland County, and all happen to have tremendous needs.

For that reason, I hope very much that the Senate will support this. Thank you very much, Mr. President.

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 Penobscot points out correctly, Senator Devoe, excuse me, points out correctly that this is not a new process but it is a bad process. There is a legitimate branch in State government, in the Judiciary, which has presented and has faced its capital means in various ways in the past.

Ultimately, the State budget bears the brunt. I think it is high time that the Judicial Branch outlines its capital needs, goes through the normal capital budget procedure, namely, through the BPI capital budget process, and presents itself as a legitimate and necessary branch of State government.

I think it is time we stop this piecemeal process, assure ourselves that first priorities are addressed first. I'm not saying that this Bill does not do that, but I have no assurance that

it, in fact, does.

I have discussed with the Chief Justice. He, I think, concurs that in the future they would like to do this. I think perhaps the time is now to assure that they, in fact, do so.

I hope, when this Bill does come to Enactment, it will be fully aware of the eventual General Fund cost of this, and they are, in fact, General Fund costs. They are very substantial.

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

Senator CONLEY: Mr. President and Members of the Senate, I had the opportunity back in 1979 to serve on the so-called, Select Committee of Judicial Review of the courts within the State system and the needs for renovation and construction of new court facilities.

There was no question in my mind of the need that was presented to this Committee. A bond issue was prepared by the Chief Executive's office, submitted to the Legislature, and was sent out to referendum. Unfortunately, that referendum was defeated, but it was defeated merely by a very minor vote.

It is unfortunate that at that time, I think, we had on the ballot with the court facilities was the tearing down or the dismantling immediately of the nuclear power plant in Wiscasset. As you all recall, there was just tremendous debate and attention that was given to that very important issue. Very little was said to the public with respect to the needs of the court facilities.

Perhaps those of us that serve in this Chamber may look upon judges as being the most political people in the world, in their own minds. Unfortunately, nobody gets out of the court house and does speak to the general public with respect to the needs of the court.

Now, as I stated, that bond issue was defeated. When this Bill was introduced early this session, there were several of us and not necessarily from Cumberland County, but people who are concerned with the lack of court facilities, thought it might be a good idea if we tried to rejuvenate the original bond issue that was defeated by a very narrow margin, and see if we couldn't get the full backing of the Chief Justice, and also the Governor, and put it together and put it out again.

Well, as you know, there's been an adoption of something of this 90% reduction of the bonds that we put out every year. Somehow or other, we couldn't keep it under that 90%, so therefore we were above the 90%. We wanted to live within those guidelines.

Hence is the reason why we have the so-called, "Cumberland County Court Facility Bill."

Now, when the Bill first came in, I had some grave concerns. I had concerns as to whether or not it was a back door approach. If the 15 or 16 counties rejected the court bond issue, and now what we're going to do is, well, for the bulk of it, we're going to say, well, let's now just allow the voters of Cumberland County to approve it.

That's not necessarily the case. As I look over this Bill, and again, keeping in mind of the needs that are there within, at least, I'll say the Portland Area, because I'm not as familiar perhaps of the Brunswick and Bridgton areas as other members of the County delegation who live in those areas may be familiar with, but I know that the Portland situation is atrocious.

I guess what I see is that we build a multi-million dollar, hundreds of thousands of dollar facility, we build a court, like I say, a courthouse that's empty, and then the BPI sits down with the County Commissioners of Cumberland and says, well, let's negotiate a lease.

It seems to me that really, you've got the taxpayers of Cumberland County sort of at a great disadvantage because now they have an empty building, which they obviously want to rent to the court, or lease to the court, and as least expensive as possible, to those people in Cumberland County that are going to be paying the

county tax rate on that, because it's obviously the property tax again is going to be affected by it.

I know that one time the City of Portland pays somewhere in the neighborhood of 42% of the entire County budget. That has been reduced somewhat over the years, and I think it's now down about the 37% bracket.

Again, I certainly would be interested in knowing exactly what these lease arrangements are going to be, obviously. We can't discuss those because nobody knows, nobody. No one in the court system can tell us. No one in BPI can tell us, and nobody is going to give a darn about it, unless the voters of Cumberland County act in the affirmative and say, go ahead, build this facility, or facilities, then we will negotiate the leasing arrangements.

Well, even with that big question mark, I sincerely and honestly believe that we must pay more attention, this Legislature, with respect to what is going on and what is not going on with respect to the court facilities.

It is my hope that if this Bill passes, and that it will get down before the voters of Cumberland County, that it will be ratified, and that they, on the other hand, will also receive the best possible financial deal that can be worked up. I certainly hope that whoever is Chairman of the Appropriations Committee in the next legislative session will make sure that BPI comes forward with lease arrangements that will be to the minimal with respect to the property tax rate in Cumberland County.

I would urge the Senate to vote for this Bill.

There being no objections all items previously acted upon, with the exception of those items previously held, were sent forthwith.

Which Report was Accepted, in concurrence, and the Bill Read Once. Committee Amendment "A" was Read. House Amendment "A" to Committee Amendment "A" was Read.

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

Senator CONLEY: Mr. President, with respect to this particular Fiscal Note, if the bond issue is being floated by the taxpayers of Cumberland County, I wonder if this \$3,000 Fiscal Note, is that allowing the county commissioners to appropriate the \$3,000, or is the \$3,000 coming from the General Fund that is going to pay for the ballots referring to the bond issue?

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

On motion by Senator Conley of Cumberland, Tabled until later in today's session, pending the Adoption of House Amendment "A" to Committee Amendment "A".

#### Divided Report

The Majority of the Committee on Legal Affairs on, Bill, "An Act to Amend the Concealed Weapons Law." (H. P. 2060) (L. D. 2005)

Reported that the same Ought Not to Pass.

Signed:

Senator:

SHUTE of Waldo

Representatives:

COX of Brewer

DUDLEY of Enfield

TREADWELL of Veazie

McSWEENEY of Old Orchard Beach

STUDLEY of Berwick

STOVER of West Bath

SWAZEY of Bucksport

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. 2262) (L. D. 2110)

Signed:

Sensors:

CHARETTE of Androscoggin

VIOLETTE of Aroostook

Representatives:

SOULAS of Bangor

PERRY of Mexico

BOISVERT of Lewiston

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

Which Reports were Read.

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

Senator SHUTE: I move the Acceptance of a Majority Ought Not to Pass Report, and would speak to my motion.

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

The Senator has the floor.

Senator SHUTE: Mr. President and Ladies and Gentlemen of the Senate, this is a Bill you may have had a letter on from your constituents that some have supported it, most of mine have opposed it, when they wrote me. This is a concealed weapons bill.

At the first of the session, we had the Legislative Document 2005 come in that was 9 pages long. The Committee felt that was a bit too complicated, so we had about five work sessions on the Bill. I would say we probably worked 20, 25 hours on the Bill, altogether.

The Committee came up with a new bill that is 13 pages long. So, of course the original Bill is 2 pages long. The original law that we had last year. Evidently that was too simple for, to process in local municipalities. We needed something more complicated for the applicants and the municipal officials to look over.

Although we did a lot of work on this Bill, and we have, I think, improved the Bill from what was originally put in, and we have some good sections in the Bill, there is still a lot of things wrong with it.

I would just like to go through a couple of those things as I see the problems with the Bill, and I hope then that we might dispose of the Bill and that would be the end of it.

In the Bill itself, we did change over the requirement for issuing authorities. Of course issuing authorities, now, under the new Bill, would present some problems as far as State police, sheriffs, deputy sheriffs, district attorneys, assistant district attorneys, anyone else to get a concealed weapons permit, because we don't have any provision in the Bill for those people to get a concealed weapons permit.

If they are non-resident, they can go to the State police and get a permit, but where do the State police go? Do they go to the town official, or the police chief in their municipality, or where?

In Section 4 of the Bill, who is to define, "habitually", in the definition of an alcoholic. Now, is somebody that has a drink at a social event and maybe they're a little tipsy once during the year, would they be considered an habitual alcoholic? Who would make that decision?

Also, who would make the decision on who is dependent on drugs? How many people in the Legislature are dependent upon some sort of drug to either keep them running here, whether it is aspirin or Bufferin, or whatever, and how many people would like to go without any drugs at all?

Under Section 6A, Section 10, 6A, between the first "or" and the second "or", that's on page 4 of the Bill, line 37 to 39, this says "any person that has committed a crime with a weapon would be prohibited from having a concealed weapons permit for five years."

Now, if you are caught hunting five minutes after dark, no matter how innocently it might be you would be caught committing a crime with a dangerous weapon, because you had your rifle or your shotgun with you, so therefore you would be prohibited from getting a concealed weapons permit for a period of five years.

In the case of the residents in the unorga-

nized territories, they'd make an application to the municipality closest to them. This Section says, the fees of this provision will be applied as in Section 2032. On Section 2032, that covers both resident and non-resident people.

Now, in Section 19, this Section removes provisions for allowing the permit holder to have 24 hours to show his permit if he doesn't have it with him, when he has his concealed weapon with him. Right now you have 24 hours to produce that permit before you are judged guilty in court.

On page 8, line 40, 41, repeals that section of the law, so you don't have that safeguard that you have now.

These are only a few of the problems I see with the Bill. I know that Maine Municipal is supporting this document, and I had a call from a municipality two days ago, so I stopped to see those people last night and told them the objections. They said they weren't surprised that Maine Municipal would support it, because the only people they do really represent are the large municipalities in the State, and didn't truly represent the local people.

I think if you had two or three more weeks, and about 40 or 50 more hours to work on this Bill, we could come up with something good, but I don't think that we ought to pass a Bill, merely because we have done 20, 25 hours worth work on it this year. Last year we put 40, 50 hours of work in on the Bill, and we thought we did a good Bill. I think we have, but there has been two municipalities that have had problems with that. I don't think we ought to change over the whole law until some municipality truly has a problem.

One of these municipalities didn't want to issue permits, anyway, the chief of police of that municipality said he didn't want to issue permits.

Certainly with this Bill, if any applicant can digest this thing in two or three days, and the municipal officials can digest it in two or three days, they will do well, because I know most members of the Committee don't understand the Bill.

So, I would hope we would go with the Ought Not to Pass Report.

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

Senator VIOLETTE: Mr. President and Ladies and Gentlemen of the Senate, I will answer some of the questions that the good Senator has posed. In Section 4, Subsection 3, makes issue relative to drug abusers and the language there is very specific in saying that this will, a drug abuser means a person who uses any drugs, dependency related, or hallucinogenics, in violation of any law of the State of Maine as it is now.

The issuing authority, in Section 8, Subsection 8, Section 4, simply is wherever that person happens to reside, where he goes to get his permit.

In Section 10, Subsection 6, where he speaks relative to having to answer the following questions, that language is presently already in the statute, and the language is very specific when it says that the dangerous weapon or firearm has to be used against another person. So someone being out in the woods in the evening, five minutes after dark, does not fall into that subsection. The language is very specific.

I would like to make some comments relative to this Legislation. I agree with the good Senator that the Committee spent a substantial amount of time reviewing this Legislation. We felt that we were making some changes that were necessary.

I take issue with the Senator when he seems to feel that the Municipal Association only represents the larger communities, because, in fact, up to this point in time, in only three months, the MMA has received requests for informations or rulings relative to the present statutes for no fewer than some 97 commu-

nities, of which some of them are the likes of Redfield, Benton, Lubec, Vanceboro, Enfield, Poland, Montville, Milford, Medford, Holden, Bradford, and on and on and on. I do not consider those communities to be the larger communities in this State. As a matter of fact, most of the larger communities do not have to talk to the MMA, because they have their own corporate or municipal attorneys.

Several municipalities have experienced difficulties with issuing concealed weapons permits. The problems experienced by these municipalities are continuing to worsen. This concealed weapons legislation does not restrict the use of firearms. It merely corrects some of the major flaws in the present law and addresses the problems of issuing permits at the local level.

In fact, the Legislation contains several provisions that are advantageous to and protect the rights of concealed weapon permit applicants and holders. Presently, under the law, if it goes unchanged, technical provisions remain undefined. The New Draft will include a definitional section which will be added to aid both the applicant and the issuing authority. One of the reasons why the law, as the Senator from Knox said, is so long is because we have included a section which defines the terms in the law so that somebody who is interested in knowing what an alcoholic is or a fugitive can simply look there to the statute, which is included whenever he is issued an application.

Presently, issuing authorities may not realize the statute automatically disqualifies people convicted of a Class A, B, or C crime from receiving a permit to conceal a weapon. Under the new redraft, issuing authorities would be alerted to this ineligibility.

Serious crimes committed by juveniles can not be considered in determining their eligibility to carry a concealed weapon once they have turned 18 under the present law. The new law, issuing authorities could consider juvenile offenses, which, if the applicant was an adult, would disqualify him from eligibility.

Issuing authorities, in determining good moral character, can now seek information from any records maintained by governmental entity. This new Bill, the issuing authority would be limited to the number of records explicitly listed in the law.

The General Fund would, presently the General Fund will continue to lose revenues as the State police investigate non-resident applicants. Investigating out-of-state records is a timely and expensive process. This new redraft will increase the fees for out-of-state applicants.

People granted a permit under the existing law are not required to sign the permit, thus increasing incidence of forgery. This new redraft would simply say that once one is issued to an applicant, one has to sign it.

Presently, State police continue to operate on the side of the law in investigating non-resident applicants, because it is impossible for State police to obtain out-of-state records within the day, the 30 days currently allowed. Under this new law, State police would be given 90 days to investigate non-resident original applications, and 45 days to investigate non-resident renewals.

Also, presently under the law, people with permits who move from the municipality that granted the permit, will have their licenses revoked and cannot reapply anywhere in Maine for 5 years. The new law would change this. A permit could not be revoked solely because the permit holder changes his legal residence.

I fail to see where there are any additional problems with this new piece of legislation. It takes care of a number of technicalities which we were not able to deal with last year, when we did a substantial amount of work on concealed weapons legislation.

The Committee spent a substantial amount of time this year, probably 5 full days of Com-

mittee work sessions. We and some of us, quite frankly, were displeased, and those of us, and I think that many of those who signed the Majority Ought Not to Pass Report, by the Sportsman's Alliance of Maine.

Our redraft to this Bill came out on Thursday. On Tuesday, we received a letter from the Sportsman's Alliance of Maine rejecting the redraft that only came out on Thursday. We had worked with these people. We had felt that they were in concurrence with us. These changes had to be made in order to tighten up the statutes relative to the applicant applying.

Also, those of you who received the letter from the NRA, received a letter written by a man who never read this draft of this Bill.

I think that the changes that the Committee has tried to make here are appropriate, that these changes ought to be made now, before these very same organizations that are opposed to this legislation come before the Legislature again next year, when they finally realize the problems that there are in this legislation, asking for us to make many of the very same changes that we are asking to make today.

I know that this Legislation doesn't have a great chance of much success of passing, but I felt that I ought to at least review the Bill very quickly with you, and explain to you where the changes were being made, and what they were, so that you would understand that they do not, in fact, take away any of the rights that an applicant has, only that they tighten them up, and make it harder for a municipality to refuse to issue a concealed weapons permit. That is what this Bill does.

And so I would hope today that, and I'm going to ask for a Division. I would hope today that you would reject the motion of the good Senator to Accept the Majority Ought Not to Pass Report, and that you would instead Accept the Minority Ought to Pass Report. Thank you.

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

Senator REDMOND: Members of the Senate, it would be remiss if I couldn't add my nickel's worth, because I have received much mail and phone calls regarding this Bill, LD 2025. In view of this, I'm going to vote for the, I'm going to support the motion of the Senator Shute, the Senator from Waldo, to Indefinitely Postpone the Bill.

I'd like to quote one person here. "Please vote against Legislative Document 2025, which is now pending in the Committee on Legal Affairs. The present concealed weapons law was carefully researched and written with the cooperation of several agencies and associations within the State. To be as fair as possible to everyone and to avoid the inequities that sometimes occur, I feel strongly that the present law adopted less than 6 months ago should remain in effect."

Another one, "I feel the existing statute, which has the support of our Maine sportsmen and the Maine chiefs of police is adequate and all that we need. Our present concealed weapons law is less than six months old, and is doing the job. Therefore, I am against Legislative Document 2025." It goes on, blah, blah, blah, blah, blah.

So, therefore, I hope that you will support the motion of the Senator from Waldo, Senator Shute, and Indefinitely Postpone this Bill.

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

Senator CHARETTE: Mr. President, Women and Men of the Senate, I wholeheartedly concur with my good friend, Senator Violette from Aroostook County. Many hours were spent on this concealed weapons bill. I know that the SAM people and NRA people have worked very hard towards the defeat of LD 2025. We are now talking about a new bill. The Committee itself did reject LD 2005. To my understanding, it has been canned. Today we are

faced with a new LD.

Many, many hours were spent in redrafting the concealed weapons bill. Again, before we even finished, and I hate to repeat some of the words from my good friend, Senator Violette, but we read in papers where the SAM people and NRA came out in opposition to this Bill, two or three days prior to the completion of that draft.

I'm not going to repeat all the areas that were addressed. It seemed to be a unanimous Committee agreement that every issue that we talked about seemed to be a problem area. Some of the changes seemed to be agreeable with all parties involved, even some of the SAM people that were in attendance.

The one representing SAM, I think, wholeheartedly concurred with most of our changes. At the last moment, somehow he seemed to have disappeared and someone else took over as far as hearing the proceedings, the workshop went on this Bill.

All I hear is every Senator in this room, obviously received tons of phone calls, 200 or 300 letters. Strange enough that I worked on this Bill as part of this Committee, I received 2 letters and 1 telephone call. I guess, in Lewiston, we just don't have any SAM members.

I realize, I am told that there are 6,000 SAM members, and of course we do have a million voters in the State.

So I'm not sure whether we should vote because SAM or NRA is telling us not to for this Bill. I think a lot of work, a lot of effort has been made. Of the issues, the MMA bulletin has laid out very nicely what this new draft talks about, what it is going to do, and as we mentioned, this will help the issuing authority as well as the one applying for a permit.

I would urge you to vote for the Minority Report. Thank you.

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

Senator SHUTE: Just to bring up a couple of things that were mentioned earlier, if you look on page 4 of the Bill, down in line 34, these are some of the answers the applicant has to make under this Bill. Is there a formal charge or instrument pending against you in this or any other jurisdiction for a crime which is punishable by one year or more in prison? Then we have an or, Or for any crime alleged to have been committed by you with the use of a dangerous weapon? Or, of a firearm against another person?

So between the second and third "or", that indicates to me that if you were hunting after or before daylight, or whatever, you have committed a crime with a dangerous weapon.

As far as the work session on this Bill, was held two weeks ago Tuesday. We say that SAM didn't respond, responded on Thursday. It might be well to remember, and I think members of the Committee probably do remember the executive secretary of that organization SAM, Ken Bailey, was at the work session that day, on Tuesday, and he told the Committee that he had a meeting that evening, and he was taking notes off the work session that we were having on his paper, and taking them to his organization that night, Tuesday evening. He was there and that is one reason why we come up with three or four more redrafts of this Bill. We still probably need three or four more.

So, as far as people needing a new permit before we're back here next year, the law has only been in effect five months and the permits are for two years. I'm sure that they can get a new permit within that two year period.

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

The Chair recognizes the Senator from Kennebec, Senator Ault.

Senator AULT: 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 Waldo, Senator Shute, that the Senate Accept the Majority Ought Not to Pass Report of the Committee on LD 2005.

A Yes vote will be in favor of the Acceptance of 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, Carpenter, Clark, Collins, Devoe, Emerson, Gill, Hichens, Kerry, McBreairey, Minkowsky, Perkins, Pierce, Pray, Redmond, Sewall, C.; Shute, Sutton, Teague, Trafton, Trotzky, Usher, Wood, The President, J. Sewall.

NAY—Bustin, Charette, Conley, Dutremble, Huber, Najarian, Violette.

ABSENT—O'Leary.

A Roll Call was had.

25 Senators having voted in the affirmative and 7 Senators in the negative, with 1 Senator being absent, the motion to Accept the Ought Not to Pass Report of the Committee does prevail.

On motion by Senator Conley of Cumberland, the Senate voted to remove from the Table:

Bill, "An Act Authorizing the County of Cumberland to Raise Funds for the Construction of a Court House, Capital Improvements and Related Facilities. (H. P. 2087) (L. D. 2024).

Tabled earlier in today's session, by Senator Conley of Cumberland, pending the Adoption of House Amendment "A" to Committee Amendment "A".

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

Senator CONLEY: Mr. President, I want to make clear that the Fiscal Note, the \$3,000 presently incorporated in House "A" that Cumberland County, being in the very sad disarray of lack of funds at this time in adopting their county budget, that there is no money in the budget for the ballots for this court facility, and therefore, this is a Fiscal Note that the State will pay for the printing of the bonds.

I move the Adoption of House Amendment "A".

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

Senator PERKINS: Mr. President, Ladies and Gentlemen of the Senate, it would seem to me that this Amendment is rather unusual in that when a county runs a referendum, the county picks up the tab for the referendum rather than the State.

I, therefore, would ask for a Division on the motion.

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

Will all those Senators in favor of the motion by the Senator from Cumberland, Senator Conley to Adopt House 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.

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

Senator DEVOE: Thank you, Mr. President. I'm going to ask for a Roll Call, please.

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 Androscoggin, Senator Trafton.

Senator TRAFTON: Mr. President, I would direct a question to the good Senator from Cumberland, Senator Conley. Perhaps he could share with us why the Senate should pick up the tab for this referendum, as opposed to Cumberland County. I thought this was a Cumberland County bond issue.

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

Senator CONLEY: Mr. President, I don't mind stating on it. I guess it wasn't clearly explained, when this Bill first came before us earlier this afternoon.

One, in 1975, the Legislature turned over to the State the running of the court system itself. That is why the Legislature went with a State-wide bond issue two years ago for the construction and rehabilitation of these court facilities.

It is at the request of the Chief Justice and the Cumberland County Commissioners who have agreed to go forward to the voters of Cumberland County to approve the rehabilitation and construction of these court facilities within Cumberland County.

I would clearly state, also, that the State took over the operations. The cost, certainly by a large degree, cost of education of children throughout the State because they recognize it as duty of the State to make sure that all children get a proper education within our school systems.

There are those who also feel that the people who become involved in crimes, or misdemeanors, or whatever you, however you want to look at it, that it's a problem of the State, it's not defined or narrowed to any one particular location in the State. It's a problem State-wide.

It is my understanding, I did not have anything to do with the House Amendment that is on here. It was put on at the request of someone down at the other end, because of the fact that there are no funds for the printing of the ballot incorporated within the Bill.

The County commissioners have clearly stated that they do not have anything in their budget that has been set aside by the delegation for the purpose, \$3,000, for the printing and the cost of these ballots. That is why the House Amendment is on there. That is why there is considered to be a cost, fiscal cost to the State.

I'd like to expound a little more, if we're talking about a lousy \$3,000. I can tell you what is going to, if the good Senator from Hancock, Senator Perkins, when he had this Bill, came before him, if he had gotten a breakdown on what it is going to cost the citizens of Cumberland County for the next 20 years, because it is the commitment of bonds of the property tax of Cumberland County that is going to pay for the construction and rehabilitation of these courthouses, not the State. The State is leasing these facilities as they are presently leasing facilities. They will never, within my lifetime that is, the taxpayers of Cumberland County, pay off the bonds if they approve of the construction of these things.

So what we're requesting, or what is being requested by House Amendment "A" is a very, very modest sum of money for the purpose of printing the ballots to go to referendum. If it is approved, like I say, then the taxpayers of Cumberland County have a very large financial obligation on their hands over the next more than 20 years. Twenty years was the life of the bonds, but if the amortization of those bonds is spelled out by the good Senator from Hancock earlier, the first year itself, I forget the exact figures he used, but they are astronomical. They are something like \$240,000 for the first year of amortization. That, when we talk about

a \$6,000,000 or a \$5,500,000 bond issue, is a lot of money that is going to be paid by those taxpayers in Cumberland County. It is certainly in no way, they are going to meet anywhere what the leasing arrangement will be with the court system.

Obviously, after we are all gone, I'm sure probably 50 or 60 years down the road, with the leasing arrangements that the State will more than pay its fair share through the leasing arrangements for the cost of that building, and rehabilitation, whatever it is that they're going to be doing. It certainly is going to have a very serious impact on the taxpayers at the time, if this is approved by the voters.

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

The Chair recognizes the Senator from Cumberland, Senator Clark.

Senator CLARK: Mr. President and Members of the Senate, I have a rather naive question. The question is this, is there precedent or is it common practice for the State to pay for a county-wide ballot? In other words, does the State usually pay for the printing of ballots for county referendum?

The PRESIDENT Pro-Tem: The Senator from Cumberland, Senator Clark, has raised a question through the Chair to any Senator who may care to answer.

The Chair recognizes the Senator from Cumberland, Senator Clark.

Senator CLARK: Mr. President, thank you. In light that there seems to be no one who can answer my question, I would simply state that I have some concern as a citizen of the State that the State do so as if it is not common practice. If indeed it is, then there seems to be nothing wrong with the extension of that practice to the County of Cumberland.

In my ten years of legislative service, I have never ceased to be amazed at the wizardry of the commissioners of the County of Cumberland, relative to their ability to secure funds for essential activities, whatever those activities may be.

Rather than burden the State, my normal inclination, if indeed it is not common practice for the State of Maine to provide funds for a county bond referendum issues, that the commissioners of Cumberland County should absorb the cost of printing the ballots for a county-wide referendum. That's my position.

So, I guess until my question is answered relative to what is the normal practice relative to preparing those ballots, I am going to oppose the motion of my good leader, another of the Senators from Cumberland, Senator Conley.

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

The Chair recognizes the Senator from Penobscot, Senator Devoe.

Senator DEVOE: Mr. President, I ask leave of the Senate to withdraw my motion for a Roll Call vote on this matter, and I would like to explain why.

In reading the Committee Amendment "A", H-728, I notice on page 2 of that Amendment, lines 26, 27 and 28, there is the sentence, "The county commissioners are authorized to raise and expend such funds as are necessary to implement the referendum."

Now it may be at the present time, the County does not believe that it has \$3,000, but I am going to guess, as is the case occasionally in Penobscot County, money has a way of turning up, and perhaps \$3,000 will turn up somehow, in some department, so that the funds can be used.

So, therefore, so that no further debate is precipitated on this matter, I would request leave of the Senate to withdraw my motion for a Roll Call.

The PRESIDENT Pro-Tem: The Senator from Penobscot, Senator Devoe, now asks Leave of the Senate to withdraw his request for a Roll Call.

Is this the pleasure of the Senate?

It is a vote.

The Chair recognizes the Senator from Cumberland, Senator Conley.

Senator CONLEY: Mr. President and Members of the Senate, I have absolutely no problem with House Amendment "A" one way or the other. If we're going to establish a very bad precedent by the State picking up the cost of the simple referendum ballot, and yet forcing the taxpayers of Cumberland County to pick up the cost of running the courts over the next 20 years, far be it from me.

I would now move the Indefinite Postponement of House Amendment "A" and hope that this Bill gets before the people and they ratify it.

On motion by Senator Conley of Cumberland, House Amendment "A" to Committee Amendment "A" was Indefinitely Postponed, in non-concurrence.

Committee Amendment "A" was Adopted, in non-concurrence. Under Suspension of the Rules, the Bill, as amended, Read a Second Time and Passed to be Engrossed, in non-concurrence.

Sent down for concurrence.

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

#### Committee Report House Divided Report

The Majority of the Committee on Taxation on, Bill, "An Act to Index Annually the Standard Deduction Provision of the Maine Personal Income Tax and to Provide for a Statutory Referendum." (H. P. 2074) (L. D. 2017)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-724).

Signed:

Senators:

TEAGUE of Somerset  
EMERSON of Penobscot

Representatives:

BROWN of Bethel  
MASTERMAN of Milo  
DAY of Westbrook  
INGRAHAM of Houlton  
TWITCHELL of Norway

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

Signed:

Senator:

WOOD of York

Representatives:

POST of Owl's Head  
HIGGINS of Portland  
KILCOYNE of Gardiner  
KANE of South Portland  
HAYDEN of Durham

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

Which Reports were Read.

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

Senator TEAGUE: Mr. President, I present Senate Amendment "A" to Committee Amendment "A" with filing number of S-462 and would speak briefly.

The PRESIDENT Pro-Tem: If the Senator would defer his motion for a moment. It is not yet in order.

Is it now the pleasure of the Senate to Adopt the Majority Ought to Pass, as amended, by Committee Amendment "A", Report of the Committee?

The Chair recognizes the Senator from York, Senator Wood.

Senator WOOD: Mr. President, Men and Women of the Senate, I would hope that we would not Adopt the Majority Report so that we can then Adopt the Minority Report. I would like to briefly outline my reasons for signing the Minority Report.

If you look at the two Reports, at first blush you would think that the Majority Report was being much more fair, much more generous for the taxpayers, and that somehow the Minority members were being sort of miserly to the taxpayers of the State of Maine.

That is only the first blush. I think that after thorough analysis of the Bill you would find that that simply is not the case. We have been dealing with tax indexation ever since I have been in the Legislature. I think the reason we keep dealing with it is because we never seem to resolve the problem.

Hopefully that problem will be resolved next November once and for all.

What is the problem if indexation and what is the problem trying to solve? Indexation is trying to solve the problem of inflation. I'm not sure that by indexing we are solving that problem. But who is actually being hurt? I would argue that the vast majority of taxpayers are only being hurt if they have to take the standard deduction. The rest of the taxpayers are not hurt by inflation, because if they fill out the long form, they can deduct various expenses that have already been accounted for by inflation.

If the cost of medical services goes up because of inflation, then that deduction goes up. If the day-care cost goes up, then that deduction goes up. If the cost of operating a business goes up, then that deduction goes up. So for those people that take the long form, there's really no need to index or to deal with inflation on those forms, because the inflation is already accounted for.

Eighty percent of the people in the State of Maine file the short form, and thus are caught with the standard deduction. These are the people that are most hurt by inflation, and are most helped by indexing. That is what the Minority Report tries to deal with, it tries to deal with those people, those 80% of the people in the State of Maine, the vast majority of the taxpayers, that file the short form, and tries to deal with those people in a meaningful way.

So that's why I think that the Committee, in the Minority Report, has been fairly generous with these people.

The Majority Report, however, goes further and helps those other people that have already been helped through the long form and through the inflation-proofing of that long form. I think at this time it would be inappropriate of us to help them, because if you look at other forms of taxation, the sales tax and the property tax, those two taxes are also hit by inflation. Yet, we are offering no assistance to those people. Every time the price of an item goes up, the sales tax on that item goes up. Every time the value of a piece of property goes up, so does the property tax go up on that.

So these two forms of taxes are just as prone to inflation, and yet this Legislature has never dealt with the problem of trying to deal with the inflation factor in these two taxes. I think to be overgenerous with one group of taxpayers at the expense of two other groups is simply not being very fair.

Finally, I think that the last two reasons why the Committee has been, the Minority Report has been less than generous is because of the problem that other states have encountered when they've gone to indexing. Many states have tried indexing, many of those states are in financial trouble. If you look at the Mid-west, there are several states out there that have had to raise taxes substantially because they have indexed their income tax.

Not wanting Maine to follow suit and be beset with all sorts of problems with indexing, we felt that we should take a moderate step, help those people with the standard deduction. Then in the future, if we have the necessary funds available, maybe we could begin helping people with property taxes and people with high sales taxes, and take care of the inflation factor.

And finally, I find it amazing that the very



people who have urged us not to pass any major new programs, not to do anything new and major, until the workers' contract is resolved, are now saying that we should spend so much money on indexing. I think that until those other issues are solved, we should not be spending a great deal more on indexing, but take the modest step the Minority has taken.

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

Senator TEAGUE: Mr. President and Members of the Senate, the good Senator, Senator Wood, has explained this Bill fairly well, but he wants to think twice on the standard deduction. When people take the standard deduction, they have no problems.

A lot of people that are itemized their deduction, filing long-term, the long form, in the present Maine income tax form, have had problems. They have had medical problems. This is why they file the long form.

This Amendment right here, under personal exemption, it raises it from \$1,000 to \$1,100. This helps the people with a large number of children. If they have two children, they multiply by two. If they have four children, they multiply by four.

Also, on this Amendment, it removes the referendum provision.

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

Senator TROTZKY: Mr. President, I just can't sit still here looking at all these indexing bills that are coming along, because what they are, they are a loss of revenue to the State of Maine. Democrats only want to give up \$1,000,000. Republicans want to give up more money.

I can tell you from the Education Committee's point of view, there are real needs in education. We want to be able to pay for the cost of sending kids to residential treatment centers. There was a real need, and yet we asked for \$500,000. More wasn't available.

I think we ought to start thinking about all these indexing plans. The State has some real needs. It may be a very popular thing, but we still have obligations in State government. If we can't fulfill those obligations to the people, I don't think we should be passing any of these indexing bills.

Therefore, I would move the Indefinite Postponement of this Bill.

On motion by Senator Trotzky of Penobscot, L. D. 2017 and, all its accompanying papers, was Indefinitely Postponed, in non-concurrence.

Sent down for concurrence.

The President Pro-Tem requested the Sergeant-at-Arms to escort the Senator from Penobscot, Senator Sewall, to the rostrum where he may 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 Knox, Senator Collins, to his seat on the floor of the Senate.

The PRESIDENT: The Chair would like to thank the able Senator from Knox, Senator Collins, for a very good job this afternoon.

On motion by Senator Collins of Knox, there being no objections all items previously acted upon with the exception of those items previously held were sent forthwith.

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

#### Orders

Expressions of Legislative Sentiment recognizing:

Mary E. Colson, of Gardiner, who observed the 98th anniversary of her birth on March 16, 1982, with family and friends. (S. P. 974) presented by Senator AULT of Kennebec (Cosponsor: Representative KILCOYNE of Gardiner).

Perry Wortman, of Greenville, a retired school administrator and teacher active in scouting, community volunteerism and service clubs, who is a recipient in the 5th annual Jefferson Awards. (S. P. 975) presented by Senator PRAY of Penobscot (Cosponsor: Representative MASTERMAN of Milo).

Which were Read and Passed.

Sent down for concurrence.

#### Second Reader

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

#### House—As Amended

Bill, "An Act to Clarify the Discharge Requirements for the Processing of Certain Marine Resources. (Emergency) (H. P. 1787) (L. D. 1777)

Which was Read a Second Time.

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

Senator BROWN: 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 Passage to be Engrossed, as amended, of L. D. 1777.

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

A No vote will be opposed.

The Doorkeepers will secure the Chambers.

The Secretary will call the Roll.

The Chair recognizes the Senator from Lincoln, Senator Sewall.

Senator SEWALL: Thank you, Mr. President. I asked to be excused again on this measure under Joint Rule 10.

The PRESIDENT: The Senator from Lincoln, Senator Sewall requests Leave of the Senate to be excused from voting on this matter because of the appearance of a Conflict of Interest.

Is this the pleasure of the Senate.

It is a vote.

#### ROLL CALL

YEA—Ault, Brown, Carpenter, Charette, Collins, Devoe, Dutremble, Emerson, Gill, Hichens, Huber, Kerry, McBreairty, Minkowsky, Perkins, Pierce, Pray, Redmond, Shute, Sutton, Teague, Usher, Violette, Wood.

NAY—Bustin, Clark, Conley, Najarian, Trafton, Trotzky.

ABSENT—O'Leary.

A Roll Call was had.

24 Senators having voted in the affirmative and 6 Senators in the negative, with 1 Senator being excused, with 1 Senator being absent, L. D. 1777, as amended, was Passed to be Engrossed, in concurrence.

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

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

Bill, "An Act to Require Certain Public Utilities to Submit a Plan to the Public Utilities Commission to Provide Financing to Customers for Energy Conservation and Renewable Measures." (H. P. 866) (L. D. 1027)

In the House, March 31, 1982, Report "A" Read and Accepted, and the Bill, In New Draft, (H. P. 2274) (L. D. 2121), Passed to be Engrossed.

In the Senate, April 1, 1982, Report "B" Read and Accepted and the Bill, in New Draft, (H. P. 2275) (L. D. 2122), Passed to be Engrossed, in non-concurrence.

Comes from the House, that Body Having Insisted.

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

Senator TROTZKY: I move the Senate Adhere.

The PRESIDENT: The Senator from Penobscot, Senator Trotzky, now moves that the Senate Adhere.

The Chair recognizes the Senator from Cumberland, Senator Conley.

Senator CONLEY: Mr. President, I move that the Senate Recede and Concur with the House.

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

Senator COLLINS: I request a Division, and urge the Senate to vote against the motion.

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

Senator CARPENTER: I request a Roll Call and urge the Senate to vote for it.

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, to 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, Devoe, Dutremble, Kerry, Najarian, Pray, Usher, Violette, Wood.

NAY—Ault, Collins, Emerson, Gill, Hichens, Huber, McBreairty, Minkowsky, Perkins, Pierce, Redmond, Sewall, C.; Shute, Sutton, Teague, Trafton, Trotzky.

ABSENT—O'Leary.

Senator Devoe of Penobscot was granted permission to change his vote from Yea to Nay.

A Roll Call was had.

13 Senators having voted in the affirmative and 18 Senators in the Negative, with 1 Senator 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.

#### Enactors

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

AN ACT Relating to the Sale and Purchase of Herring. (H. P. 2162) (L. D. 2062)

AN ACT to Establish a Small Claims Court. (S. P. 743) (L. D. 1746)

AN ACT to Clarify the Authority of Municipalities to Raise and Expend Money for Athletic Facilities. (H. P. 2265) (L. D. 2112)

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 and Make Corrections in the Motor Vehicle Laws. (H. P. 2185) (L. D. 2071)

On motion by Senator Emerson of Penobscot, Tabled for 1 Legislative Day, pending Enactment.

RESOLVE, Authorizing Washington County



Vocational-Technical Institute to Lease the Fishing Vessel, Fish Finder. (S. P. 961) (L. D. 2109)

**RESOLVE**, Authorizing the Department of Human Services to Direct the Development of an Assessment Tool and Referral System to Assist Persons Considering Boarding Home Care. (S. P. 963) (L. D. 2116)

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

#### Emergency

**RESOLVE**, for Laying of the County Taxes and Authorizing Expenditures of Cumberland County for the Year 1982. (H. P. 2295) (L. D. 2127)

This being an emergency measure and having received the affirmative votes of 25 Members of the Senate, with 1 Senator 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.

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

#### Committee Report House

##### Ought to Pass

The Committee on Health and Institutional Services on, Bill, "An Act to Extend the Health Facilities Information Disclosure Act and to Authorize the Charging of Fees for the Dissemination of Information." (Emergency) (H. P. 2238) (L. D. 2096)

Reported that the same Ought to Pass.

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

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

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:

Laurent E. Nadeau and Dora Y. Nadeau, of Biddeford, who will celebrate their 50th wedding anniversary on May 16, 1982. (H. P. 2311)

Atlantic Engine Company No. 2, Camden Fire Department, which will hold its 100th consecutive annual celebration on July 9, 10 & 11, 1982. (H. P. 2313)

Charles Milan III, of Brewer, 4-time world champion candlepin bowler and holder of numerous other candlepin bowling records, on his induction into the Maine Sports Hall of Fame, June 6, 1982. (H. P. 2314)

William W. Sprague, of Augusta, who has been awarded the 1982 Outstanding Citizen Award of Le Club Calumet. (H. P. 2315)

Claustin Lawrence, a senior at Cony High School, who won the Class "A" State Championship in Wrestling in the 119-lb. weight class. (H. P. 2316)

Cony High School Boys' Basketball Team for winning the Eastern Maine Class A Basketball Championship. (H. P. 2317)

Fred Shea, of Augusta, who celebrated the 95th anniversary of his birth on March 25, 1982. (H. P. 2318)

Cony center Gregg Cooper, who is the first recipient of the Phil Harris Award, awarded in recognition of athletic talent, sportsmanship and scholarship for basketball players in the Kennebec Valley Athletic Conference. (H. P. 2319)

Robert L. and Roger A. Verreault, founders of the Diamond Machine Company of Lewiston, for their business acumen and their loyal relationship to their employees and the community. (H. P. 2320)

Mrs. Louise McKenney, of Fort Fairfield, for

her many years of dedicated public service to the citizens of Aroostook County in the field of education. (H. P. 2312)

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

#### Enactors

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

AN ACT Relating to the Selection and Services of Traverse and Grand Jurors. (S. P. 793) (L. D. 1869)

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

AN ACT to Amend the Maine Certificate of Need Law. (S. P. 967) (L. D. 2123)

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

AN ACT to Permit and Regulate the Location of Group Homes in Residential Districts." (H. P. 2264) (L. D. 2111)

AN ACT Relative to the Theft of Utility Services. (H. P. 1821) (L. D. 1806)

AN ACT making Allocations Related to the Alcoholism Prevention, Education, Treatment and Research Fund for the Expenditures of State Government for the Fiscal Year ending June 30, 1983. (S. P. 832) (L. D. 1940)

AN ACT to Clarify the Criminal Restraint by Parent Law. (H. P. 1969) (L. D. 1944)

AN ACT Deleting the Requirement of a Federal Matching Share for the Expenditure of Funds for Expansion and Improvement of the Biddeford Municipal Airport. (S. P. 951) (L. D. 2097)

AN ACT Amending the Electricians' Licensing Law. (H. P. 2127) (L. D. 2045)

Which were Passed to be Enacted 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:

#### Communications Committee on Judiciary

April 1, 1982

The Honorable Joseph Sewall

President of the Senate

State House

Augusta, Maine

Dear President Sewall:

The Committee on Judiciary has completed all business placed before it by the Second Regular Session of the 110th Legislature.

Total number of bills received 32

Unanimous reports 5

Ought to pass 10

Ought to pass, amended 1

Ought to pass in new draft 1

Ought to pass in new draft & new title 1

Ought not to pass 3

Leave to withdraw 8

Divided 4

Total number of "held over" bills received 2

Ought to pass in new draft 1

Divided 1

Respectfully submitted,

S/DANA C. DEVOE

Senate Chairman

Which was Read and Ordered Placed on File.

#### Committee on Health and Institutional Services

April 1, 1982

The Honorable Joseph Sewall

President of the Senate of Maine

State House

Augusta, Maine

Dear President Sewall:

The Committee on Health and Institutional Services is pleased to report that it has com-

pleted all business placed before it by the second regular session of the 110th Maine Legislature.

Total number of Bills Received 15

Unanimous Reports 11

Ought to Pass 3

Ought to Pass as Amended 2

Ought to Pass in New Draft 1

Leave to Withdraw 5

Divided Reports 4

Respectfully submitted,

S/SENATOR BARBARA GILL

Senate Chairwoman

Which was Read and Ordered Placed on File.

#### Committee Report House

##### Ought to Pass in New Draft

The Committee on Judiciary on, Bill, "An Act to Clarify the 1981 Amendments Relating to the Operating Under the Influence and Habitual Offender Laws." (Emergency) (H. P. 2136) (L. D. 2053)

Reported that the same Ought to Pass in New Draft under Same Title, (H. P. 2309) (L. D. 2138)

Comes from the House, the Bill, in New Draft, Passed to be Engrossed as amended by House Amendment "A" (H-742)

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

#### Orders of the Day

The President laid before the Senate:

Bill, "An Act to Establish Standard Procedures Enabling the Formation of Municipal Power Districts (H. P. 1959) (L. D. 1932)

Tabled earlier in the today's session by Senator COLLINS of Knox, pending Passage to be Engrossed.

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

The President laid before the Senate:

SENATE REPORTS—from the Committee on Public Utilities—"Bill, An Act to Prohibit Public Utilities from Including Uncompleted Construction Work Costs in Their Rates. (S. P. 773) (L. D. 1844) Majority Report—Ought to Pass as Amended by Committee Amendment "A" (S-445); Minority Report Ought Not to Pass

Tabled—Earlier in today's session, by Senator COLLINS of Knox.

Pending—Acceptance of Either Report.

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

Senator TROTZKY: Mr. President, I move Acceptance of the Minority Ought Not to Pass Report of the Committee and I'd like to speak to my motion.

The PRESIDENT: The Senator has the floor.

Senator TROTZKY: Mr. President and Members of the Senate, this is what they call, "the CWIP Bill", CWIP meaning Construction Work in Progress. The State of Maine presently leaves, when a Maine utility is going to build a generating plant, for example, like Sears Island, they have to borrow money and that's invest the principal, and they pay interest on that money that they borrow.

The PUC, the Public Utilities Commission has discretion. They can let the shareholders pay some of that interest, or they can let the ratepayers pay some of the interest.

What they do is they look at each individual situation. They come up with sharing formulas between the ratepayer and the stockholder. Basically what the Amendment in front of you does is prevents the Public Utilities Commission from allowing any of the interest to be placed on the shareholders.

Essentially the problem with an Amendment like this, which is called, "an anti-CWIP Bill",

is if you have a utility which has financial problems such as Maine Public Service in Aroostook County, and if this Amendment were to pass, what would take place is that these charges would be put on the shareholders and would probably end up in bankruptcy for the utility.

Also, let me say something which is very important, is that this amendment that we have in front of us was not the Amendment that was voted out of Committee. I don't know how it got on there, came here to the Senate, but there was a letter which I placed on your desk from the Public Utilities Commission. On it it shows you the actual amendment that the Majority voted for in Committee.

What they voted for in Committee was just to put the rule that the PUC goes under, into law, just to put the law into the statute books.

Essentially, somehow after that Bill was voted on, a different amendment came out. The PUC, the letter you have from the Public Utilities Commission states very clearly that this is FERC language, which is more restrictive than the language which was agreed to by the Public Advocate which at that time was Gordon Weil, and the Public Utilities Commission.

There's another letter which I see Senator Trafton got, which was from the new Public Advocate, Peter Bradford, who was not there at the time when this Bill was debated. The letter states that the Governor's office supported the Bill in original form, and also that the Public Advocate now supports this new Amendment, which somehow was printed up.

I think that it is important to note that this Amendment, with the Passage of this Amendment, the language is so restrictive, and this comes from the attorney at the PUC that it would prohibit CWIP absolutely which would mean higher interest rates on major loans for Maine's utilities. Costs that would be recovered eventually from Maine's ratepayers.

This Bill, here, is an anti-consumer bill.

In short, the FERC language, and I am quoting from this letter, "Under the guise of protecting ratepayers from higher current charges would actually result in a higher costs than the language agreed upon by the PUC and the Public Advocate", which was actually supposed to be the amendment, that came out of Committee with the Majority Report.

So I hope that the Senate would accept the Minority Ought Not to Pass Report of the Committee on this Bill.

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

Senator TRAFTON: Mr. President, Men and Women of the Senate, only yesterday I was pleased to stand in concurrence with the Senator from Penobscot, Senator Trotzky, when he had seen the light on the reorganization bill, and say that in fact he was right. I am just as eager to stand today and tell you that he is dead wrong on this issue.

First of all, I would like to review a little bit about what happened in Committee. The letter that is before you from Mr. Johnson is not factually correct. There was never a Majority Report on any particular report of the Bill. In fact during the Committee work session, we had several times discussed the current FERC rule and directed at one point several of the people interested in this Bill to come back to us with some language that might get some unanimity on this bill, on the Committee.

For my part I would have supported the original Bill, as written. Many others, I think, would have too.

The original Bill was a much more restrictive Bill, and would have flat out not allowed the construction work in progress charges. The amendment before you today merely seeks to establish the status quo into statute.

This is indeed the current Public Utilities Commission practice, as a rule, not to allow construction work in progress charges into the

rate base.

This does follow the Federal Energy Regulatory Commission's rule, that is currently in practice.

Basically the policy of the Public Utilities Commission has been that we ask consumers to pay for things once they are up and running and giving some kind of service. CWIP sort of reverses that and asks that current customers pay for potential future service, which in fact may not be realized in the future.

It is fairly easy to understand, I think, why a utility would want this kind of charge in the rate base. In fact it is fairly easy to understand why any business might like this kind of opportunity, because essentially it gives them a sure source of revenue before they ever have to produce any kind of service for the ratepayers or the consumers.

In fact this doesn't seem to be a very fair situation for the ratepayer and it would be a complete reversal of the policy that we have generally followed.

I would like to refer to an article, a letter to the editor in the Sunday paper by Carl Pressey, who points out that adoption of this Bill provides the built-in incentive for utilities to monitor more closely their need for increased plant capacity and the costs for construction and modernization of plants. Without this kind of approach it is clear that a business, a utility in this case, doesn't have to go through that careful researching process and make a firm determination about whether this new plant facility is really needed.

Construction Work in Progress charges I feel actually encourages excess capacity and perhaps inflated building costs, because utilities do not have to bear the carrying costs, but in fact, it is the customers that are bearing that.

If in fact monies are not available, if the utility can't get funding in the ordinary ways that it would get funding, and briefly there are three ways that it gets monies, one is through retained earnings, which is an internal mechanism and then it has equity and debts, equity is selling its stock and raising money that way, and debt is going out and taking a loan.

If those ways are not available to it, I think, a prudent person might ask, is the investment really a necessary one and a financially sound one? If it is not why should the customers pick it up through the rate base when they have in fact no ability to influence that decision?

Obviously there is a certain amount of risk in going forward with these types of expansions, and since the stockholders benefit if there are profits to be made, it seems only fair that they should also bear the risks of going for it. Because indeed the customers would only stand under CWIP to bear the risks and indeed they would never see any of the profits.

I would urge you today not to accept the Minority Ought Not to Pass Report, but to go against that motion so that we can Accept this Bill, which as I mentioned earlier is fairly simple and fairly straightforward and it puts into our legislative policy what is the status quo now with the Public Utilities Commission, with a few fairly notable exceptions.

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

Senator TROTZKY: Mr. President and Members of the Senate, the Amendment before you is not the policy of the Public Utilities Commission as stated right here in the letter.

Secondly, the good Senator from Androscoggin, talks about utilities making investments which are unnecessary. This Legislature, you voted on, I think yesterday, a bill called prior approval, which I mentioned. Which states that any investment the Utilities makes in a generating facility must have prior approval by the Public Utilities Commission.

We have given the Public Utilities Commission, this year an increase of \$400,000 to hire consultants and so on to make sure that any investments made by public utilities are prudent.

You know, when New Hampshire passed an anti-CWIP Bill which is exactly what this is and what it resulted in were higher interest rates on loans, and possibly, also, no loans at all, because essentially there were no guarantees. There were no guaranteed revenues.

When we allow CWIP there is a source of revenue coming to the utilities and the utility can go out and borrow at lower rates. When they borrow at lower rates that benefits the consumer, the ratepayer.

So, the important issue to me on this Bill, you know it is not a simple Bill, that is one of the problems with this Bill, is that it is not simple, is that this Amendment here can result in higher rates to the consumers. Therefore, this Bill can very readily be an anti-consumer Bill. Specially in the case of Maine Public Service of Aroostook County it can result in, a utility that by the way is having financial difficulty, can result in, in bankruptcy for the utility by forcing these charges all on the stockholders.

You know I have always felt that in looking at the Public Utilities Commission the Committee that we have a responsibility, a responsibility to seek some kind of balance, some kind of reasonable balance. I think that there are bills which are necessary such as the reorganization bill, I think that most people felt that, but in this case what we do is in certain situations we put the balance so far over sometimes to the consumer that we end up bankrupting the utility, for example in Aroostook County. In other cases we can end up by the consumers instead of paying for the power plant while under construction have to pay for it later, and when they pay for it later they end up with much higher carrying costs because they have to pay interest rates on loans.

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

Senator TRAFTON: Thank you Mr. President. Men and Women of the Senate, I would like to respond to three points that the Senator from Penobscot, Senator Trotzky, raised. First of all, indeed it is the policy of the Public Utilities Commission not to allow Construction Work in Progress charges and I would refer you to the report of the Joint Standing Committee on Public Utilities, Maine Legislature, February 1982, where indeed they state that although the investment community dislikes this treatment of capital costs, and prefers these costs be recovered through rates in the year that they are incurred, the Maine Public Utilities Commission on the other hand is committed to its treatment of these capital costs.

So while the language before you may not be in the form of a rule, in practice what the Public Utilities Commission has done is not to allow these Construction Work in Progress charges.

Even in one instance which I am going to let the Senators from Aroostook handle where they have allowed some charges in, which are related to the financing of a project they did not allow them in and call them Construction Work in Progress charges.

The good Senator raised the issue of the New Hampshire situation and suggests that all of the problems that resulted in New Hampshire were as a result of the CWIP law that as was passed in New Hampshire. In fact, far before the CWIP law was passed many people knew that the New Hampshire Public Service Company was going to have some severe difficulties.

Before the Nuclear Regulatory Commission, Professor James Nelson predicted that the Public Service Company of New Hampshire would experience financial difficulties as a result of its involvement in Seabrook. The Company felt that they could go ahead regardless of that, but it should be noted that the Public Service of New Hampshire stock went below book value, and the bonds hit their "A" rating in 1974, which was shortly after they engaged in Seabrook and long before the New

Hampshire bill was enacted.

Finally in regard to the prior approval bill, and I have heard that this has been held up so that the prior approval bill could be passed, because this was somehow a great panacea. The two bills don't really relate, they do not deal with the same issue. The Bill before you today deals with financing and how you want the cost of the construction projects paid for and whether you feel that the consumers of today should pay for things that may or may not ever come into service in future years, or whether you think that the policy that we have generally had, that when plants are up and running and providing service that then is the time for the consumers to feel the bite in their electric bill. That is what is before you today.

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

Senator CARPENTER: Mr. President and Ladies and Gentlemen of the Senate, I know that the hour is late and I hope not to belabor this too long, but this is my Bill and I have some very specific concerns with it.

First of all, if we are going to argue the battle of two letters, from two bureaucrats, if they are going to determine policy then we might as well pack our bags and go home. If we are going to argue that, at least my letter has a signature on it. The letter from the Public Utilities Commission, staff attorney, not one of the commissioners, now, isn't even signed. Isn't even signed by that attorney. I suggest that that gentleman go back and take a course in statutory construction, again.

I would argue with the good Senator from Penobscot, Senator Trotzky, that this is a CWIP bill. This Amendment, if you look at filing S-445 it is absolutely is not a CWIP bill. It does not prohibit CWIP charges, as the statutes in our neighboring State of New Hampshire very clearly do. You can't do it, period.

The Bill, 1844 says, that you can't do it, period. This Amendment says, that you can't do it, unless, unless, the Commission finds that failure to allow such a return will cause the utility severe financial difficulty which can not be otherwise alleviated, without materially increasing the cost of electricity to the consumers, i.e. if the only way that they can bail themselves out is to get a loan and their financial situation is so bad that the interest rate on that loan is so high that it is going to increase the costs to consumers, then CWIP is allowed. It is very simple, read the Amendment.

It seems to me that somebody is getting very concerned about the possible passage of this Bill, because all of a sudden we have allegations floating around about different amendments, and yeah it's a different amendment, because you had two Ought to Pass Reports headed out of that Committee and you have an Ought Not to Pass. All of a sudden you have some of the people who wanted something said, let's get together and work something out. This is what they put together, which the Public Advocates office under-signature says, today is what they wanted. The old Public Advocate I would indicate was in favor of the original bill. Does it make any sense to you that he is not in favor of the watered down version? He was there in support of the original bill at the public hearing.

So let's not be, you know, let's not have any red herrings thrown out in front of us today.

This Bill would simply not allow utility companies Service Company of New Hampshire is still in business.

The good Senator from Penobscot would have the bonus put on me, as a ratepayer of Public Service for driving Maine Public Service into bankruptcy. The policies followed by the utility companies in this State are of great concern to me, but I do not think that I am directly responsible for their financial difficulties. I think that some of their investments and some of their policies have not been scrutinized by the PUC as closely as they should have been.

I would just indicate that they are the one utility in this State that has received permission to pass through CWIP, and they are also the one utility. I know in this State that is in danger of bankruptcy, maybe there is a correlation there, I don't know.

Let's not confuse the issue, if you want to see what this Bill does, in its present form, then read S-445. It says that you can't allow CWIP, it puts the burden on the Commission to show that if they don't allow CWIP that the company is going to be damaged and the ratepayers are going to pay a higher rate, because of the damage that would be done.

It simply solidifies or codifies, if you will, their present policy. It's little enough to ask for the consumers of this State.

Somehow the anti-CWIP position is being turned into a consumer position and I, it never ceases to amaze me how that sort of thing can be done in this Chamber, but somehow it is being turned into a anti-consumer position if we pass this Bill. That is absolutely not factual.

Mr. President, when the vote is taken I request the Yeas and Nays.

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

Senator COLLINS: Mr. President, and Members of the Senate, I support the arguments that have been presented to you, by the Senator from Penobscot, Senator Trotzky.

I have one or two observations of my own. Four years ago I served on the Committee on Public Utilities under the Chairmanship of the Senator from Penobscot, Senator Devoe and we had a CWIP bill. I think, that there has been one in frequently in the last 8 or 10 years. We had a hearing and I recall, that one of the witnesses was an elderly person, and she said, I don't want to have to be paying rates on a lot of stuff I'll never live long enough to enjoy. I thought that that sounds kind of sensible, so I began to look into the CWIP problem, as much as I could at that time. If you stopped with that elderly person's request and went no further you'd vote for CWIP, anti-CWIP I should say. The fact is that when you take away from the Public Utilities Commission the flexibility that they have now, you are really asking to pay in the future, interest, on interest, on interest. The economics, as I understand it, as it has been explained to me by those who have studied it considerably, adds up to the fact that if you deny a utility the right to earn money on Construction Work in Progress, instead of really saving money you are costing future customers \$3 to \$5 for every dollar that you are saving now.

Now different economists will take different approaches to this and some may come out with different ratios, but the fact is that, while it may seem inequitable to the small action of consumers that won't live long enough to pay the price or enjoy the future construction, or move away, there is a larger issue here. The larger issue, is that whether we like it or not there is a continuing growth in the demand for electrical energy in particular. We are conserving, we are doing a lot better in energy management than we were. The rate of growth is not so large, but it continues to grow and our population continues to grow and our quality of life continues to grow and just as long as this is the trend and I expect that it will be that way for a long time, we have to continually expect our utilities to build new plants and renew old plants and to develop ways of producing energy that fit with the needs as we can project them from today forward. Whether it is more nuclear, or more coal, or more hydro, or more solar, or whatever the technology of the future may turn out to be.

There has to be investment and the costs of money is one of the basic costs of utility facts of life.

I think in this respect that our Maine Public Utilities Commission has exercised pretty good judgment on the whole. If we tie their hands so

that they can't exercise that judgment, and they have to in effect boost up interest, on interest, on interest, as part of the structure that determines our rates, you know, you don't get something for nothing in this world. Sooner or later someone has to pay. The question is how soon and who is the someone? It is going to be we who are here and our children.

I think that we ought to keep this flexibility that we have in our system today.

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

Senator TROTZKY: Mr. President, and Members of the Senate, one of the powers to be and one of the larger utilities in the State said to me that it is going to take that utility a year to recover from my Senate Chairmanship of the Public Utilities Committee. So, what I am saying is that I think that I have been pretty pro-consumer.

The Senator from Aroostook, Senator Carpenter, stated that after the Committee vote, after the work session we had and the vote on the Bill, a bunch of people got together to work out a new Amendment. He said that and they worked out a new Amendment.

This Amendment here was not in Committee. The letter is right here, and it is signed it is signed in blue, and it doesn't come out on the xerox machine. Xerox hasn't figured out how to do that yet.

It is signed and it says, this is not the Amendment. This Amendment, I am not an attorney, you know, like Senator Collins and Senator Carpenter, but the wording is very important. Wording is very important, and the wording is very different in terms of putting the policy that the PUC has right now into law, that wording is what's on the letter that I passed out to you.

This wording is different, this wording essentially is much more restrictive, and basically makes it an anti-CWIP bill.

Again, it is a complex issue, but I think that it was stated very clearly by Senator Collins that if you don't pay now, you're going to pay later, and you are going to pay later with higher interest rates.

Essentially what this Bill is going to do is make it difficult for our utilities to borrow money at lower interest rates, and, therefore, to benefit the consumer.

It is, the way that it is structured right now, an anti-consumer bill.

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

Senator PRAY: Thank you, Mr. President. Mr. President and Ladies and Gentlemen of the Senate, as the co-sponsor of this proposal I of course attended the Committee hearing and sat through several hours of debate listening to a number of individuals both pro and con as the Chairman of the Committee went back and forth to allow everybody an opportunity as they usually do in such long discussion on items that have such controversy such as this and concern.

I was very impressed by the number of people who travelled a great distance, the number of people from Senator McBreairey's district in Aroostook County that came down to express their concerns on their utility, and the fact that the public utility itself had allowed a form of CWIP in their rate system. Though presently it is not called that.

One individual who was 75 years old, an older woman who said that when she was 72 she went to work so she could afford to pay her light bill. A number of us hear that time and time again particularly with the older citizens of Maine.

The State of Maine has one of the higher average age population in the country, particularly in the northeast as many of the younger, the youth of our State leave Maine for better employment opportunities elsewhere.

The question as to who is going to pay and when he's going to pay, as any economist or any good business person knows that there is a

certain amount of value in money that time holds, and thus the question of who and when is an individual going to pay. Clearly for our older citizens the value of that time in dollars is for them to have it at this time and not for the utilities to have it at this time.

The rhetoric that has been flowing back and forth would tend to say that to borrow in the future is going to cost more than to borrow today.

I happened to listen to the President of the United States in his address last night and he pointed out that since he was President interest rates have gone down, thus that would counter-argue the statements made by the Senator from Penobscot, that the interest rates are only going to go up, and up, and up.

The validity of that statement may stand the scrutiny of the Senator from Penobscot, because I think that there may be very weak statements that have been made, but nevertheless the question of where and how the value of dollars are going to be considered, I think, has to be taken into consideration by this Chamber as to whether or not we are going to allow this.

More important as to who is going to pay in reference to the age of the generation gap is the question of our neighbor to the south, of course, is New Hampshire which has already banned CWIP charges. I honestly do not know of a single construction project in the State of Maine by a utility company.

There is Seabrook I and II, that's not in Maine. There is Pilgrim, that's not in Maine, and the list goes on. Maine utilities are investing in out-of-state projects.

The concern is then that the State of New Hampshire and the legislature representing the people have protected their people so the question is who is going to pay for these projects, Maine people or New Hampshire people?

I happen to look at the Senate District Maps as they are now and I notice the number of Senators who border New Hampshire and probably would have when they hit those border towns maybe a number of constituents that work in New Hampshire and back and forth, such as the Senator from Oxford, Senator Sutton and Senator Hichens of York, to name a couple, probably some of these people have heard the conversations and the debate among their co-workers who work on one side of the border or the other.

I think that the question that we have today is not clearly the intent of either. Senator Carpenter or myself to band CWIP charges. It is a compromise proposal that came out of a group of individuals, which the Senator himself appointed to serve on that Committee. I did happen to notice none of them were members of the Public Utilities Committee. The proposal did come back before the Committee, members of the Committee supported it as a compromise position. I think that it is a position that at this time, I for one, am willing to settle with, and I think that it would be beneficial to the people of the State of Maine from the northern end in Senator McBreairey's district, who drove so far to testify on it, to those who are represented in the southern districts of this State bordering New Hampshire.

I would hope that we would defeat the pending motion.

The PRESIDENT: Is the Senate ready for the question?

The Chair recognizes the Senator from Aroostook, Senator McBreairey.

Senator McBREAIREY: My question to Senator Carpenter is, if this Bill passes will PUC still be able to allow Maine Public Service to pass along construction costs to the ratepayers of Aroostook?

The PRESIDENT: The Senator from Aroostook, Senator McBreairey, has posed a question through the Chair.

The Chair recognizes the Senator from Aroostook, Senator Carpenter.

Senator CARPENTER: Mr. President,

Ladies and Gentlemen of the Senate, Senator McBreairey, if the Utility was able to show the Commission that failure to allow such return would cause the utility severe financial difficulty which could not otherwise be alleviated without materially increasing the cost of electricity to consumers. Yes.

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 Penobscot, Senator Trotzky, that the Senate Accept the Minority Ought Not to Pass Report of the Committee.

A Yes vote will be in favor of Accepting 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, Collins, Devoe, Emerson, Gill, Hichens, Huber, Minkowsky, Perkins, Pierce, Redmond, Sewall, C.; Shute, Sutton, Teague, Trotzky.

NAY—Brown, Bustin, Carpenter, Charette, Clark, Conley, Dutremble, Kerry, McBreairey, Najarian, Pray, Trafton, Usher, Violette, Wood.

ABSENT—O'Leary.

A Roll Call was had.

16 Senators having voted in the affirmative and 15 Senators in the negative, with 1 Senator being absent, the motion to Accept the Minority Ought Not to Pass Report of the Committee does prevail.

Sent down for concurrence.

The President laid before the Senate:

SENATE REPORTS—from the Committee on Education — "Bill, An Act to Revise the Education Laws." (Emergency) (S. P. 561) (L. D. 1554) Majority Report — Ought to Pass in New Draft Same Title (S. P. 897) (L. D. 2042); Minority Report — Ought Not to Pass.

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

Pending—Motion of Senator TROTZKY of Penobscot to Accept the Majority Report.

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

Senator COLLINS: Mr. President, in deciding how to vote on this matter, I hope the Senate will take a look at Senate Amendment number 453, which is on our desks, has been here most of the day. This 10 page Amendment reflects the careful work of the Committee on Education in changing and correcting all of the things that have been brought to their attention over the past few weeks.

I have constituents in my own District who have been greatly concerned over this. Two of them have camped on my doorstep a great deal in the last three or four weeks. I have looked this over. It is my judgment that this addresses all of the concerns that they had. Not all of their concerns were concerns of substance, some of them were merely that they didn't know where to look to find the answers.

I hope that when we do consider this matter, that we will recall that not only do we have a \$50,000 investment in printing, but we have had a lot of work on this. We really ought to consider whether this Amendment meets the objections that people have raised.

The PRESIDENT: Is it now the pleasure of the Senate to Accept the Majority Ought to Pass, in New Draft, Report of the Committee?

The Chair recognizes the Senator from Kennebec, Senator Pierce.

Senator PIERCE: Mr. President, I would

ask for a Division.

The PRESIDENT: A Division has been requested.

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

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

The Chair recognizes the Senator from Kennebec, Senator Pierce.

Senator PIERCE: Mr. President, I would request the Yeas and Nays.

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

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

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

The pending question before the Senate is the motion by the Senator from Penobscot, Senator Trotzky that the Senate Accept the Majority Ought to Pass, in New Draft, Report of the Committee.

A yes vote will be in favor of the Acceptance of the Majority Ought to Pass, in New Draft, 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, Collins, Conley, Devoe, Dutremble, Huber, Kerry, McBreairey, Minkowsky, Najarian, Pray, Teague, Trafton, Trotzky, Usher, Violette, Wood.

NAY—Ault, Emerson, Gill, Hichens, Perkins, Pierce, Redmond, Sewall, C.; Shute, Sutton.

ABSENT—O'Leary.

A Roll Call was had.

21 Senators having voted in the affirmative and 10 Senators in the negative, with 1 Senator being absent, the motion to Accept the Majority Ought to Pass, in New Draft, Report of the Committee, does prevail, and the Bill Read Once. Under Suspension of the Rules, the Bill, in New Draft, Read a Second Time.

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

Senator TROTZKY: Mr. President, is it proper to present an amendment at this time? I present Senate Amendment "A" to LD 2042 under filing number S-453.

The PRESIDENT: The Senator from Penobscot, Senator Trotzky, now offers Senate Amendment "A" to LD 2042 and moves its adoption.

Senate Amendment "A" (S-453) was Read.

The PRESIDENT: The Senator has the floor.

Senator TROTZKY: Mr. President, I have to read something into the record now. The Amendment concerning Compulsory School Attendance changes the language back to follow the present law because of pending litigation. The Joint Standing Committee on Education does not intend to affect the consideration of issues involved in that litigation through the bill.

The key part of this Amendment is that it doesn't, the Bill does not become effective, the Act doesn't become effective until July 1, 1983. A Bill of this size, which has been gone over carefully by many attorneys, there may be a minor mistake here, but it gives this Legislature six months during the next session, if anybody finds any problems or a cross-reference may be omitted, that it can be corrected.

So, we're taking a conservative approach here.

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

Senator CARPENTER: Mr. President and Ladies and Gentlemen of the Senate, I apol-

ogize. I was still discussing CWIP with some people when the last vote went by, and I made a mistake. I understand that what the good Senator from Penobscot is trying to do. I appreciate all the effort that has gone into this. I guess I was almost willing to allow my vote to go down in favor of this Bill until I saw the memo this morning on the desk that said, that admitted that there had been 37 mistakes already found in the Bill, and that they were changing the effective date so that in case any more were found. I just think that's bad business.

I would apologize to the good Senator from Penobscot, my dear, dear friend, with whom I am in agreement most of the time, and will say that I'm going to have to vote against the Bill.

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

Senator TROTZKY: The main concern I have, Mr. President, was that there were no substantive changes. I did remain here for a half an hour to an hour after yesterday's session. No one came to me with any substantive changes. I'm sure that it's in pretty good form.

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

Senator PIERCE: Mr. President, I'd like to pose a question through the Chair to anyone who may care to answer. I know there have been a lot of people who are very concerned about the printing costs in this Bill. Awfully high, they say. Could anybody tell me the approximate cost of adding on this Amendment today?

The PRESIDENT: The Senator from Kennebec, Senator Pierce, has posed a question through the Chair.

The Chair recognizes the Senator from Knox, Senator Collins.

Senator COLLINS: I undertook to find that out last night, in talking with Mr. Silsby, he told me about \$5,000. When you consider what it costs per day for us to be here, why that's a fair price to pay.

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

Senator PIERCE: Mr. President, I'd like to pose a further question through the Chair. If it's going to cost, and I understand it is at least \$5,000 to put this on, why don't we put it on for free in the Errors Bill?

The PRESIDENT: The Senator from Kennebec, Senator Pierce, has posed an additional question through the Chair.

The Chair recognizes the Senator from Penobscot, Senator Trotzky.

Senator TROTZKY: Mr. President and Members of the Senate, where's my Bill? Okay, this Bill has to go through first and be Enacted before the Errors Bill could correct this. We knew that Senator Pierce and his Committee would not support that, so we wanted to be right up front with this, so that he could see everything up front when he is voting for it. That's why we did it this way.

We could have done it probably cheaper going the other way, but we felt because there was concern here and it was an important piece of Legislation, that we wanted everything up front so when it does get Enacted, it gets Enacted in perfect form.

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

Senator USHER: Mr. President, I'd like to pose a question to the Chairman. Are these going to be available to all the school boards within the State? I'd like to have a few more copies, so that they can go over them.

The PRESIDENT: The Senator from Cumberland, Senator Usher, has posed a question through the Chair to anyone who may care to answer.

The Senator from Penobscot, Senator Trotzky, having spoken four times, now requests leave of the Senate to speak a fifth.

Is there objection?

The Chair hears none. The Senator may proceed.

Senator TROTZKY: Mr. President and Members of the Senate, one of the benefits of doing it this way is that this is going to get, once this is passed, it is going to get wide distribution to all the superintendents of the State, to Mary Adams, to the Guardians of Education in Maine. In other words, the American Legion, Farm Bureau. Everyone will, it will be available during a long period of time before it actually becomes effective.

Therefore, if there is a small omission like a cross reference and so on, it can be corrected.

Whereas, you know, when you put a Bill out originally, you know, we put the bill out, it looks something like this. The Bill goes out, it goes out to quite a few constituency groups. They get a chance to look at.

This will get very wide distribution, and with the result that if there are any minor problems there, we can correct those.

Mr. President, this is not new. I was informed that back in 1954, the Education Laws were recodified at that point. Since that time there have been many, many changes in the Education Laws.

Essentially what the recodification does is it organizes the statutes into some kind of logical format, because of all the laws in Education that have been passed. We get 100 bills every session.

It, also, eliminates ambiguities in the present law, and it modernizes the drafting style according to the contemporary rules of statutory construction.

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

Senator PIERCE: Mr. President and Members of the Senate, over the years I don't think I have garnered a reputation for wasting the Senate's time with a lot of rhetoric. I certainly haven't done it when I can count the votes.

I think this is too important an issue, despite the fact that the votes aren't here today to stop this piece of Legislation, not to at least say a few words about it, because I have an awful lot of concerns.

I know that my good friend, the lame duck Senator from Penobscot, Senator Trotzky, has put a lot of work into this Bill. I know that he considers this to be his last hurrah. All I can say to the good Senator is, what a memorial to leave. He is foisting on the public a 400 page Bill. No one in the room can stand up and really defend it. A 10 page Amendment, the highlight of which is that it says their correcting 37 mistakes they've found in the last couple of weeks. Because we don't want to add it in the Errors Bill, because we're afraid something will happen to this if we try to Enact it, we're parliamentarily maneuvering. We're going to cost the taxpayers an extra \$5,000 to do that.

I want to say that if I knew that this Bill today did not have one single mistake in it, and I don't know that, and I don't think that's the case. I don't think anybody else in this Chamber thinks that, because obviously you're going to have a lot of mistakes in it. If I knew that it didn't have one single mistake in it, I wouldn't vote for it today.

I'll tell you why. Education is a very emotional, and I think a very, very important issue for this State, one which holds a great deal of the future for us here in Maine. We have three days left in this Legislature. We are stripping off the Emergency so we can pass it. I can't think of worse conditions in which to do it.

We clearly are putting the cart before the horse. We're saying we're going to Enact this, and then work out the problems, instead of working out the problems and then Enacting it. It seems to me a wise alternative, and a cheaper one, would have been to just hold this Bill in Committee until the first special session. Surely we'll have one, whether it be in a week or a month or two months from now. That would have given a little bit of time for people to look very, very carefully into this, people who I've heard characterized as the right wing,

as the crazies, as the Mary Adams, as the American Legion.

I'll tell you what else those people are. They're the taxpayers of this State. They're the public. They're the public that no longer, day by day, supports education like it used to.

One of the reasons we're trying to do this in the last three days of the Legislature when there's no darn need of it, because whether it's reality or perception, they think we're cramming something down their throats.

I'll tell you, education will never rise again in this State to the level it belongs, until most of those people are brought back into the fold. We're not going to do it by saying that all the wisdom in education sits right over there in that Education Building, because it doesn't. We're not going to do it by driving the wedge deeper with those people, and mocking them.

We're going to do it by forming partnerships and making them involved in the educational process.

We may have our recodification. The good Senator may win his battle. I'm just awfully afraid that day by day that goes by in this State, we are losing the war here in Maine. The educational community isn't coming closer together, it's dividing and getting farther and farther apart.

That concerns me. It has concerned me the last six months as I have gone around this State and talked about education, and talked about the importance of it. How we are 50th in sending our kids on to higher education, and trying to talk about some of the problems that we have in our public school system especially now. I won't go into that whole subject, because it certainly could be a detailed one.

I think that this Senate and this Legislature is making a mistake in passing this piece of Legislation now. I think we would have been much wiser for the cause and for the sake of education to have given it a little more time and done it altogether, instead of causing more division, which we're doing with the passage of this Bill.

The PRESIDENT: The Senator from Penobscot, Senator Trotzky, requests leave of the Senate to speak a sixth time.

Is there objection?

The Chair hears none. The Senator may proceed.

Senator TROTZKY: Mr. President and Members of the Senate, the good Senator from Kennebec admitted that he's been running around the State for the last six months. Well, he hasn't been to the Education Committee meetings, and he's a member of that Committee. This Committee sat, and we had many meetings, and we had many meetings with constituent groups, with attorneys of all kinds. We had a meeting with the groups that you mentioned before, upstairs, which you attended and then disappeared.

We took down their objections. If they were valid, we incorporated them in this Amendment. Most of them were generalities, generalities that we were rushed, generalities of all kinds, but not specific.

The people of the State of Maine happen to be proud of their schools. I think if we accentuate the positive and not the negative, we'll have a better educational system in the State of Maine.

This Committee worked hard on this. We had a public hearing. We went through many, many work sessions. The draft of this Bill was distributed. There were thousands of copies and so on. So this is not a rush job.

The real issue here is if you have, if you feel there are substantive changes in this, then I'd like to hear about them, and so would the Education Committee. We haven't heard anything. We have only heard generalities, because people are afraid of a recodification.

You've got to have a recodification when you have all kinds of ambiguities in the law, when sections of the law that deal with one subject are all over the place.



People are afraid of change, but the law itself, the recodification as far as we're aware, through all the hearings and work sessions, does not have substantive changes.

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

Senator HICHENS: Mr. President and Members of the Senate, I think the good Senator from Kennebec has explained the objections to passage of this Bill very fluently. I am concerned because of the good Senator from Penobscot has said that copies of this are going to all the superintendents, the school boards, Mary Adams, every one else in the State who apparently wants one. There's going to be a great cost in this distribution. They're going to keep it for a year and then they're going to have all of these corrections that are going to be coming, and more than the 37 we have here, in the next year. So they're going to have to fill in different places in that book, or we're going to have to print a new book to make up for all the mistakes that are made. It's going to cost \$5,000, I understand, to add these amendments, for the Engrossing of it. I think rather than to wait to vote on the final issue, that we might as well vote again on it now.

I move that this Bill and all its accompanying papers be Indefinitely Postponed.

The PRESIDENT: The Chair advises the good Senator that the only motion available to him at this time is the Indefinite Postponement of Senate Amendment "A".

Senator HICHENS: I would so move that then.

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

Senator CLARK: Mr. President, Men and Women of the Senate, I would hope that you would vote in opposition to the pending motion to Indefinitely Postpone Senate Amendment "A", for indeed there is little purpose in that exercise.

As a member of the Joint Standing Committee on Education, I can hardly remain in my seat, when it's not only the Education Committee of this 110th Maine Legislature that just took an unwarranted sock on the jaw, but education in general across our State.

While my good friend, the Senator from Kennebec, Senator Pierce, I believe is sincere in his position in opposition to what may be the, hopefully, the prevailing majority relative to the recodification of the Education Laws in this Chamber today, I would have to submit, and I reluctantly do so, that because of his current candidacy and his position relative to the recodification issue, that his attempt to defend his position is specious at best.

The Joint Standing Committee on Education and the educational community and the public are not foisting anything on the citizens of this State. That Legislative Committee of which I proudly am a member worked long and hard and extensively with staff assistants from upstairs, from the Department, from Maine School Management, elementary and secondary principals, the Maine Teachers Association, Mary Adams, Bettina Dobbs, and all of the members of the public, including our perennial attendee, who should be commended for his loyalty and devotion to the cause, Tom Eldridge from Bowdoinham, who is ever enshrined in the records of this Legislature from now on.

This is not a casual exercise. Nor was the expenditure of money in the initial printing of LD 1554 an act of irresponsibility.

The Committee on Education, in vast majority, can defend our action. I submit to you, since when have we, as human beings, ever passed that perfect law? Or did we not just deal with some nice little consistently present act, to make corrections of errors and inconsistencies in the laws of Maine, which we do not only at the beginning of every legislative session, but at the end of every legislative session, and every other single time an error or inconsisten-

cy raises its ugly head in the history of this State?

So we made 37 mistakes. So what? They are no longer mistakes, with the help of Bettina Dobbs, and the cooperation of the Guardians of Education in Maine, and the American Legion, who brought to our attention some language that we had inadvertently omitted, and with the assistance of Maine School Management, and our legislative staff upstairs, and the Department of Education, the 37 mistakes have been corrected.

I'm not standing in front of you saying, there are no more mistakes. Obviously, I hope there are not more mistakes, but I probably think there may be a few here and there.

Are we going to castigate the Department of Legislative Research, who really pulled a booboo and left out a whole section from the draft copy onto the copy that went through the computer and printed finally? Because those omissions are part of the 37 little uglies that have been so tauntingly hung before us this afternoon.

I would rather not hold the Bill in Committee until the next special session, for I know not when the next special session will be. I know that special sessions are usually for single emergency, really emergency items. I also know, and I stand before you as no more human than you, that I probably won't look at it between now and then. If you want to do so, go to it.

We aren't cramming this down anyone's throats, let alone those sincere, and wonderful people who took more time from their busy lives this week, as did all of the other people to whom I have referred, upstairs in that famous room where you look at the stars and the trees, as opposed to Business Legislation, where we look at ankles and shoes and knees. We worked out the errors in a cooperative, coordinated, sincere fashion.

After the concerns were addressed, we asked a simple question. Now, would you support the Bill? Some of the answers were, we would rather not. We like it the way it is. We're familiar with it.

The process that we have gone through and experienced, sub-committee work at great cost and dedication of time and energy and effort, not to mention legislative time, and not to mention printing costs. All of these come together, so that in the words of the superintendents who have talked with me these past two weeks regarding this issue before us, it is too important and too expensive to go through it all again.

That's what would be irresponsible, to spend not only all that we have spent so far, attempting to bring into current law, and into current language, and into current statute drafting styles, all of that which we have passed these many years and all of our multitudes of sincere and yes, imperfect efforts, it is too important and too expensive to set-aside and put on the shelf and say, we can't handle it now. We can, and I hope we will.

Yes, some of the problems that may result and some of the concerns that people don't know exist may rear their heads, but the effective date has been altered to 1983, July 1. So that those who are concerned with education in this State, all of those multitude of parties of interest can orient themselves and, like we do every legislative session, bring their concerns back to the Legislature so that they may be addressed.

I not only vehemently oppose the pending motion, but I support as strenuously and sincerely as I can the passage of this measure in amended form.

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

Senator HICHENS: I withdraw my Indefinite Postponement motion.

The PRESIDENT: The Senator from York, Senator Hichens, now asks Leave of the Senate to withdraw his motion to Indefinitely Post-

pone Senate Amendment "A".

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

It is a vote.

The Chair recognizes the Senator from Kennebec, Senator Pierce.

Senator PIERCE: Mr. President and Members of the Senate, I guess it's always easy for all of us to question each other's positions. It has never been quite as easy for me to question anybody else's motivations. I'm sorry that the good Senator from Cumberland chose to question mine.

Perhaps she might remember that what I made wasn't a political speech, but maybe I have just as an abiding feeling about education and just as strong a feeling as she has. I would submit to her that I had a couple of excellent chances to make some political speeches in here today. I saw a room full of Sardine Industry people, and I would have loved to take on the DEP. Excellent political speech.

I saw an Indexing Bill come in here. I had the votes to pass my version and send it down to the House. What a political speech. I happen to have a better Bill than the initiated Bill of the Governor's. I could have made a heck of a case for it, and I've got a majority of the Taxation Committee to back me up. Those are two good political speeches.

Perhaps, Senator, I care just as much about education as you do. Maybe our perceptions are just a little bit different. I'm not surprised that a member of the educational community gets so uptight about this subject, because I think too often, "they can't see the forest for the trees."

That is how quick the educational community is to circle the wagons. That is why there is so much of the public out there that keeps on taking potshots at them, or I should say us, I consider myself part of that educational community, that is what my background is.

I would submit that I was asked to be on the Educational Committee, because we only have 17 members here and a member of leadership usually wouldn't serve on a Committee. I had some background in education, and when the President and I discussed it it was never intended that I was going to be there for every work session, every hearing. I think that the Senator from Penobscot understood and knew that. I don't claim to put in the amount of time that he could and he should on that committee, because that is his job. When I chair a committee, I shoulder the load.

The Educational Committee, to a great extent, and I am willing to take 1/13 of the blame, maybe more, whatever, as one member said the other day, we have egg on our face. We didn't do the kind of educational job with this Bill after we handled this recodification that we should have.

We didn't do the kind of job that the Judiciary Committee did when they did a recodification. The Committee to some extent does have egg on its face. So what! We all make mistakes.

I think that we could have done it better, hindsight is wonderful for all of us.

I still feel that it is not in the best interest for education, for the people of the State of Maine, for us to pass this piece of Legislation in the closing days of this Legislature. I think that there will come a time when we will look back on it and perhaps regret that we did it.

The PRESIDENT: The Chair will order a Division.

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

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

25 Senators having voted in the affirmative, and 1 Senator in the negative, the motion to Adopt Senate Amendment "A" does prevail.

The Chair recognizes the Senator from York, Senator Hichens.

Senator HICHENS: Mr. President, I move



that this Bill, and all its accompanying papers, be Indefinitely Postponed.

The PRESIDENT: The Senator from York, Senator Hichens, moves that LD 2042 be Indefinitely Postponed.

The Senator has the floor.

Senator HICHENS: I, also, 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 all 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 motion before the Senate is the motion by the Senator from York, Senator Hichens, that LD 2042 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—Ault, Carpenter, Emerson, Gill, Hichens, Perkins, Pierce, Redmond, Sewall, C.; Shute, Sutton.

NAY—Brown, Bustin, Charette, Clark, Collins, Conley, Devoe, Dutremble, Huber, Kerry, McBrearty, Minkowsky, Najarian, Pray, Teague, Trafton, Trotzky, Usher, Violette, Wood.

ABSENT—O'Leary.

A Roll Call was had.

11 Senators having voted in the affirmative and 20 Senators in the negative, with 1 Senator being absent, the motion to Indefinitely Postpone LD 2042 does not prevail.

The Bill, as amended, Passed to be Engrossed.

Sent down for concurrence.

The President laid before the Senate:

Bill, "An Act to Adjust the Eating, Lodging and Recreational Place Licensing Fee." (S. P. 811) (L. D. 1907)

Tabled—Earlier in the Day by Senator COLLINS of Knox

Pending—Consideration.

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

Senator GILL: Mr. President, I move that we Recede and Concur with the House.

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

Is this the pleasure of the Senate?

The Chair recognizes the Senator from York, Senator Hichens.

Senator HICHENS: I request a Division.

The PRESIDENT: A Division has been requested.

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

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

16 Senators having voted in the affirmative, and 15 Senators having voted in the negative, the motion to Recede and Concur does prevail.

The President laid before the Senate:

Bill, "An Act to Protect the Atlantic Salmon Fishery in the Lower Penobscot River from Veazie to the Southernmost Point of Verona Island." (S. P. 906) (L. D. 2048)

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

Pending—Enactment.

On motion by Senator Conley of Cumberland, the Senate voted to Suspend the Rules.

On motion by Senator Conley of Cumberland, the Senate voted to Reconsider its action whereby LD 2048, was Passed to be Engrossed.

On motion by Senator Conley of Cumberland, the Senate voted to Reconsider Adoption of Committee Amendment "A".

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

Senator CONLEY: Mr. President, at long last I present Senate Amendment "A" to Committee Amendment "A" and move its adoption.

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

Senate Amendment "A" (S-460) to Committee Amendment "A" Read.

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

Senator PRAY: Thank you, Mr. President. Could the sponsor of the Amendment please explain what it does?

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

Senator CONLEY: Mr. President, it says right here in the Statement of Fact. "That this amendment simplifies and clarifies the language of the Committee Amendment. The Amendment is intended not to infringe on any existing legal rights, but requires specific Legislative Approval for the expansion of any rights for hydro-electric generation on the Lower Penobscot River." I notice that the good Senator from Aroostook, Senator McBrearty is giving me an affirmative nod.

It was approved, Mr. President, by the Committee. They went through it comma to comma.

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

Senator PRAY: Mr. President, as I look over this Amendment and the original Bill as we enacted it, I honestly at a quick glance can't see any differences.

I know of the priority of this proposal and the importance of this proposal, and since the sponsor may not be around in future terms, I would hope that we would Enact it at this time.

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

Sent down for concurrence.

The Adjournment Order having been returned from the House, Read and Passed, in concurrence, on motion by Senator Collins of Knox, Adjourned until Monday, April 5, 1982 at nine o'clock in the morning.