

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

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FOURTH SPECIAL SESSION

April 28, 1982 and April 29, 1982

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July 16, 1982

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

Augusta, Maine

April 5, 1982

Senate called to order by the President.

Prayer by Dr. Peter L. Misner of the Winthrop United Methodist Church and the Wayne Community Church.

DR. MISNER: Let us pray. From the pressures and burdens of our calling in life, Lord God, we pause to acknowledge that You and not ourselves are the designer of the gift we hold in our hands. We give You thanks for the hope renewed in this season. As the earth comes once again to life, we are moved to recall the message of this holy week, that through suffering and darkness, life's morning comes also. Grant that our faith may be stirred this week in the message of earth, and of the spiritual heritage we share.

Today, in this Senate, we ask Your guidance for our State in its administration, that those called to special service in this high office may hold a clear vision for justice and for peace. Especially today, we pray for peace, that we may hold open channels of communication, through this place of responsibility.

May we be among those who hear with clarity, and speak with compassion, that we may be called daughters and sons of the eternal. In great humility, we offer our prayer. Amen.

Reading of the Journal of yesterday.

(Off Record Remarks)

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

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

The President then retired from the Senate Chamber.

Communications
Committee on State Government
April 2, 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 State Government has had under consideration the reappointment of Robert P. Bahre to the position of member of the Maine Guarantee Authority.

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

YEAS: Senators: 2
Representatives: 6
NAYS: Senators:
Representatives: 2 Rep. Kany,
Rep. Paradis

Abstain: Representative 1 Rep. Gwadosky
ABSENT: Senator Violette and Representative Masterton 2

Eight members of the Committee having voted in the affirmative and two in the negative, it was the vote of the Committee that the nomination of Robert P. Bahre to the position of member of the Maine Guarantee Authority be confirmed.

Sincerely,
S/DAVID R. AULT
Senate Chairman

S/JUDY C. KANY
House Chairman
Which was Read and Ordered Placed on File.

The PRESIDENT Pro-Tem: The Joint Standing Committee on State Government has recommended that the nomination of Robert P. Bahre be confirmed.

The pending question before the Senate is: Shall the recommendation of the Committee on State Government 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.

The Chair recognizes the Senator from Kennebec, Senator Ault.

Senator AULT: I would like to have the Committee Report read into the record, please.

The PRESIDENT Pro-Tem: The Secretary will read the Committee Report.

The Committee Report was Read.

(Off Record Remarks)

The PRESIDENT Pro Tem: 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, Carpenter, Charette, Clark, Collins, Conley, Devoe, Dutremble, Emerson, Gill, Huber, Kerry, McBreairey, Minkowsky, Najarian, Perkins, Pray, Redmond, Sewall, C.; Shute, Sutton, Teague, Traflet, Trotzky, Usher, Violette, Wood, The President.

ABSENT—Bustin, Hichens, O'Leary, Pierce.

No Senators having voted in the affirmative and 29 Senators in the negative, with 4 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 Robert P. Bahre is confirmed.

Committee on State Government
April 2, 1982

The Honorable Joseph Sewall
President of the Senate
State House
Augusta, Maine 04333
Dear President Sewall:

The Joint Standing Committee on State Government is pleased to report it has completed all business placed before it by the Second Regular Session of the 110th Maine Legislature.

Number of bills received:	27
Unanimous reports:	24
Ought to Pass	5
Ought to Pass as Amended	12
Leave to Withdraw	6
Ought Not to Pass	1
Divided reports:	3

Sincerely,

S/DAVID R. AULT
Senate Chairman
S/JUDY C. KANY
House Chairman

Which was Read and Ordered Placed on File.

Orders

An Expression of the Legislative Sentiment recognizing:

Frederick and Alice Packard, of Harpswell, who celebrated their 50th wedding anniversary on March 27, 1982. (S. P. 976) presented by Senator CLARK of Cumberland (Cosponsor: Representative DILLENBACK of Cumberland).

Which was Read and Passed.

Sent down forthwith for concurrence.

Joint Resolution

A Joint Resolution in Memoriam:

WHEREAS, the Legislature has learned with deep regret of the death of Walter T. Robertson, a very special citizen of the Blue Hill community. (S. P. 977) presented by Senator PERKINS of Hancock (Cosponsor: Representative BORDEAUX of Mount Desert).

Which was Read and Adopted.

Sent down forthwith for concurrence.

Committee Report
Senate

Ought to Pass — As Amended

Senator DEVOE for the Committee on Judiciary on, Bill, "An Act to Amend the Maine Implementing Act with Respect to the Houlton Band of Maliseet Indians." (S. P. 931) (L. D. 2076)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (S. 463).

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

Second Readers

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

House

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)

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

House — As Amended

Bill, "An Act to Clarify the 1981 Amendments Relating to the Operating Under the Influence and Habitual Offender Laws." (Emergency) (H. P. 2309) (L. D. 2138)

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.

Orders of the Day

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

Bill, "An Act to Clarify and Make Corrections in the Motor Vehicle Laws." (H. P. 2185) (L. D. 2071)

TABLED—April 1, 1982 by Senator EMERSON of Penobscot
PENDING—Enactment

On motion by Senator Emerson of Penobscot, Retabled for 1 Legislative Day.

The President Pro-Tem laid before the Senate the second Tabled and specially assigned matter:

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

TABLED—April 1, 1982 by Senator COLLINS of Knox

PENDING— Passage to be Engrossed

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

Senator COLLINS: Mr. President, I have several problems with this Bill, some technical and some of a general policy nature. I would like to ask a question of some knowledgeable member of the Committee.

First, the policy question. This is basically a question, a Bill which would encourage and facilitate public power districts for electrical energy. The policy problem that I see with it is that two or three towns might get together, let's say they were in a heavily populated area, and form a district and then exercise their power of eminent domain. Let's say they were suddenly able to take over one of these small hydro plants from a paper company, having

gone busted making paper. Then they could form the district and cut the entrails right out of the existing electric utility, by taking over its distribution line easements.

There is a carefully written section in this Bill, under eminent domain, which on the surface of it sounds as though existing electric utilities weren't to be disturbed, but the whole thing reminds me of the plot in the Merchant of Venice. You'll remember there was a promise there that the heart of a particular character would be delivered under certain circumstances, and those circumstances came to pass. Then the judge had to rule. Well, that judge was wise enough to be able to rule, yes, you can have the heart, but if you take any blood or flesh, then you're doomed.

Well, the heart of an electric utility, seems to me, is its transmission lines. It's all important, but it certainly has to have transmission lines. In order to have those lines, it has to have easements. An easement, of course, is a right of way, a right to cross someone else's land with your poles and wires and conduits and so on.

So, I'm very much troubled by the award of eminent domain here, because it seems to me that it would permit a town or a group of towns to band together and really put the pressure on the existing electric utility, skim off the very best part of that utility's business, and the less attractive parts would be left hanging to shift for themselves.

We can't really operate an electric utility business that way. And so, I really have some concerns about the public policy of this Bill.

My more technical question, and perhaps a member of the Committee would speak to this is that in the Committee Amendment that is on the Bill, in the section on eminent domain, it was carefully rewritten. It says, "except easements for rights of way for the construction of transmission lines". This is the part that troubles me, because if the easements or rights of way for construction of transmission lines, which are the arteries of the whole system, if those can be condemned by this public power body, and taken away, then it seems to me that the existence of the electric utility, the privately owned electric utility, is in jeopardy.

I would not like that language to pass. In fact, I think the whole Bill has its problems. I would like to hear comments from members of the Committee.

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

Senator TRAFTON: Thank you, Mr. President. Men and Women of the Senate, unfortunately, until this moment, I did not know what the concerns of the good Senator from Knox were, and I've done a little bit of investigation on them, but would like to have a little more time to respond to his comments about the eminent domain section.

I have some answers that I think, on the surface, seem accurate, but would like to have a chance to go back into the statutes. So I would ask that this be Tabled until later in today's session, and feel that, I would ask someone to Table it until later in today's session, and feel that we could adequately take care of the Senator's comments.

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

(Senate At Ease)

The Senate called to order by the President Pro-Tem.

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

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

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

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

(Senate at Ease)

The Senate called to order by the President.

Senator Sutton of Oxford was granted unanimous consent to address the Senate, On the Record.

Senator SUTTON: Thank you, Mr. President. This seems like an appropriate time to put on the record something I should have put on a few days ago, when we passed a Bill called L. D. 2068. With your permission, I'd like to read into the record statements in that regard.

Ladies and Gentlemen, I would like to take a moment to clarify one point in regard to L. D. 2068. The reference in Sub-paragraph "C" to Charter Restrictions which prevent commercial harvesting of trees or require a primary use of the land other than commercial harvesting is intended to apply to water districts. Many water utilities own large tracts of forest land which act as a watershed to their source of water. However, some water utilities, such as the Bethel and Rumford Water District, have recently experience problems with their eligibility under the Tree Growth Tax Law because of restrictions in the use which they may make of the forest land which they own. Generally, the charters of water utilities only allow them to use their property for the purpose of supplying water to the inhabitants of the communities which they serve. L. D. 2068 makes it clear that water utilities which own forest land may continue to keep their land under tree growth and receive the tax benefits of that program.

Thank you, Mr. President.

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

Senator HICHENS: Thank you, Mr. President.

There are always those who feel just a little bit neglected on the other hand, may feel that they have been rejected when a Birthday poem on their behalf—they're not privileged to hear because their Birthday didn't occur the first half of the year; or like the Portland Senator before we even convened observed his birthday January 3rd—and felt demeaned because in other sessions he was the very first to receive glad Birthday wishes—for better or for worse. So I stand before you all today and bring to your attention those who had birthdays from June on that I would like to mention; and I'd ask you to remember that the hot month of July no one observed a birthday as the days went fleeting by but on the 13th day of August in the year when F.D.R. became our U. S. President and the G.O.P. did Jar, the fair Senator from Portland—Najarian by name, was born and started on her way to the Maine Senate fame, two days after she observes her birthday—Charlie Pray begins another year of life—the 15th, so they say.

And on the 28th the Senator from district five pats his bald pate and thanks the Lord that he is still alive; and with a cheery greeting takes another year in stride that he's approaching 55 he doesn't try to hide. September finds four of our men with birthdays to remember with the Senator from District 33 on the agenda as celebrating his birthday, on September 3rd followed by the Senator from Rockland—so I've heard, who on the 17th will pass another milestone, and on the 28th Ron Usher finds that he is not alone for he must share birthday wishes with another in our league, the Senator from District 23 namely Tom Teague, just one October birthday is on record that I see. The Senator from Rumford by the name of O'Leary, who like the Sen-

ator from District 5 says he's not coming back, I'll miss both of them behind me trying to keep me on the track. November 5th, just three days after National Election the Senator from District 26—is our selection to wish a Happy Birthday too, and in case you do not know I'm referring to Judiciary chairman Dana Devoe. The day after, Senator Kerry hopes he will spend his day in a new abode in Washington after voters have their say; and I'm sure that you'll agree with me that it will be just fine as on November 6th for the first time he's thirty-nine. While on November 28th our sweet young Charlotte Sewall takes the day to celebrate another years' renewal. December finds the final three Senators in line to observe another birthday and we hope their day is fine. On the 17th the Senate President will gain another year and going in his sixties—will not slow down—don't fear. December 20th the day Emerson will celebrate while Redmond is not far behind—the 21st the date; and thus the year of '82 will draw unto its close, with memories of days gone by—we all can thus repose, and hope that we will meet again as we go on life's way to wish for each and all of us—another Happy Day.

The PRESIDENT: The Chair thanks the poet laureate of the Senate.

On motion by Senator Collins of Knox, there being no objections all items previously acted upon were sent forthwith.

(Off Record Remarks)

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

Recess

After Recess

The Senate called to order by the President.

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

Enactors

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

AN ACT to Provide that Corporate Reorganizations Affecting Public Utilities be Subject to Approval by the Public Utilities Commission. (H. P. 2267) (L. D. 2114)

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

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

The PRESIDENT: A Division has been requested.

The Chair recognizes the Senator from Androscoggin, Senator Trafton.

Senator TRAFTON: Thank you, Mr. President. Mr. President and Men and Women of the Senate, from discussions with our Public Advocate, I would like to make some statements about the legislative intent with regard to this Bill.

I think it is important to note in the language that, through passage of this Bill, that it is our intent that the PUC be able to deal with the current telephone company divestiture case pending.

The Bill will ensure that the PUC retains its existing authority to review developments in telephone regulations. It specifically prevents the PUC from interfering with the federal court's jurisdiction over the current AT&T anti-trust case. At the same time, the Bill does not narrow the PUC's existing powers to review under Sub-paragraph 1C of Section 104, or any other section, any transaction which divides facilities and equipment between AT&T and the telephone company that will provide local service to Maine customers. Thank you.

The PRESIDENT: Will all those Senators in favor of Enactment of LD 2114, please rise in

their places to be counted.

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

24 Senators having voted in the affirmative and 6 Senators having voted in the negative, LD 2114 was Passed to be Enacted 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:

Orders

Expressions of Legislative Sentiment recognizing:

Ocena Additon, of Leeds, who celebrated the 90th anniversary of her birth on March 17, 1982. (S. P. 978) presented by Senator AULT of Kennebec (Cosponsor: Representative BROWN of Livermore Falls).

Sergeant Paul J. Lessard, of Winthrop, who has retired after 23 years of service as a Maine State Police Officer. (S. P. 979) presented by Senator AULT of Kennebec (Cosponsor: Representative DAVIS of Monmouth).

Which were Read and Passed.
Sent down for concurrence.

Second Readers

The Committee on Bills in the Second Reading reported the following: Bill "An Act to Amend the Maine Implementing Act with Respect to the Houlton Band of Maliseet Indians." (S. P. 931) (L. D. 2076)

Which was Read a Second Time and Passed to be Engrossed, as amended,
Sent down forthwith for concurrence.

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

Papers from the House Joint Order

ORDERED, the Senate concurring, that Bill, "An Act to Revise the Salaries of Certain County Officers," H. P. 2280, L. D. 2126, be recalled from the Governor's desk to the House. (H. P. 2321)

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

Communication House of Representatives

April 5, 1982

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

The House voted today to Adhere to its former action whereby it Indefinitely Postponed Bill "An Act to Make Interstate Bank Ownership Possible." (S. P. 804) (L. D. 1891)

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

Which was Read and Ordered Placed on File.

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.

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:

The top 2 scholastic students at Oak Hill High School in Wales, for 1982, Peter Pilot of Wales, chosen Valedictorian and Earl Lamoreau, of

Litchfield, chosen Salutatorian. (H. P. 2324)

The Oak Hill High School Girls' Varsity Field Hockey Team, winners of the first Mid-Maine Conference Championship in this event: Tina, Buteau; Cindy Clary; Nancy Eaton; Pam Edgecomb; Liz Fair; Vicky Fongemie; Jody Hendrich; Rachel Hatch; Susan LaPlante; Linda Morin; Louise Small; Anita Vachon; Pamela Waterman; Kim Willette; Lisa Woodrum; managers, Lisa LaBrecque and Jennifer LaPerriere; and coach, Helen E. Steele; and assistant coach, Patricia Doyle. (H. P. 2325)

Harland Storey, who was selected the Eastern College Athletic Conference's 1982 Rookie of the Year in New England Division III. (H. P. 2326)

Mrs. Belle Williams, of Presque Isle, an outstanding citizen who will celebrate the 100th anniversary of her birth on April 4, 1982. (H. P. 2327)

Bob Parker, of Auburn, captain of the Edward Little High School Hockey Team for being named to the 1981-82 Maine Interscholastic Hockey League All-Conference Team. (H. P. 2328)

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 to Ensure Funding for the Eventual Decommissioning of any Nuclear Power Plant. (H. P. 2278) (L. D. 2124)

AN ACT to Amend Laws Relating to the Maine Development Foundation and Economic Development. (H. P. 1960) (L. D. 1933)

AN ACT to Clarify the Right of Local Housing Authorities to Issue Mortgage Revenue Bonds. (H. P. 2303) (L. D. 2137)

AN ACT to Promote the Maine Groundfish Industry. (H. P. 2270) (L. D. 2117)

AN ACT to Allow for Industrial Development Improvements Utilizing Tax Increment Financing. (H. P. 2053) (L. D. 1999)

AN ACT Permitting the Establishment of Student Loan Corporations." (H. P. 2296) (L. D. 2128)

AN ACT to Correct Errors in the Education Laws." (H. P. 2301) (L. D. 2134)

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

RESOLVE, 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)

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

Emergency

AN ACT to Provide for Fuel Use Identification Decals. (H. P. 2279) (L. D. 2125)

Emergency

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. 2101)

Emergency

AN ACT Governing the Closing of Public Elementary and Secondary School Buildings. (H. P. 2302) (L. D. 2135)

These being emergency measures and having received the affirmative votes of 28 members of the Senate, with No Senators having voted in the negative, were Passed to be Enacted and having been signed by the President, were by the Secretary presented to the Governor for his approval.

Emergency

AN ACT to Clarify the Discharge Require-

ments for the Processing of Certain Marine Resources." (H. P. 1787) (L. D. 1777)

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

Senator CONLEY: Mr. President and Members of the Senate, I wonder if a member of the Joint Standing Committee on Marine Resources could define exactly what this Legislation does, and if it would have any effect on our laws with respect to the quality of our water, and if it is a breakdown, in the sense of the laws that we have established with respect to preservation of our streams and waters, air, etc., right down the line?

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

The Chair recognizes the Senator from Waldo, Senator Shute.

Senator SHUTE: Mr. President and Ladies and Gentlemen of the Senate, I couldn't hear the entire question, but I can tell you what the law does. What the Amendment does, Amendment "A", the Majority 11 to 2 Ought to Pass Report of the Committee.

That is to, and the difference between "A" and "B" Committee Report, I think I went over that substantially the other day.

During the two year period, this two year period that we're talking about, from here on for two years, that the Department of Environmental Protection will not put in any strict standards or enforce any strict standards on the Sardine Industry. If you want to review it, I will.

It seems that last fall, the Department of Environmental Protection put some difficult standards on the Sardine Industry in the State. We have 14 processing plants right now in the State. Just a few years ago, we had 48. We now have 14. They employ 2,500 people on the coast.

The DEP put more strict standards in than the federal government required. We had a meeting with the DEP and the federal government on this. The federal government was rather surprised that they were called in on it, because they didn't know anything about the more strict standards the DEP put in on the processing plants.

All the time, we thought it was the federal government putting the strict standards on, but it wasn't. It was the DEP putting the strict standards on.

I don't think the DEP or the federal government, either one, know what standards should be put on the processing plants in the State. We need about two years for the industry and the DEP to work together to come up with some standards that can be complied with, and will, in the meantime, let this industry continue to operate.

As I said, since 1950, we have gone down from 48 packing plants down to 14. We have heard a great deal in this State about people wanting to create jobs, how many jobs have been created. Here we have 2,500 jobs. All it takes is a little time for industry and the DEP to come together, with some regulations and standards that both can comply with.

A few years ago, we were packing 3,000,000 cases of sardines a year. Now we're packing 1,000,000 cases. That's primarily because of the, maybe shortage of fish, plus the foreign competition. I think it was just a few months ago, I heard a great deal from Washington about the clothespin factory quotas coming into the State, and how many people did that employ, 400, 500, 600? It came out of Washington and we had to change the quotas around for the clothespin factories.

Now we have something the State can do here to save 2,500 jobs. I hope the State and the State Senate would get behind this Bill to give this industry just two years to work with the DEP to come up with some proper standards that can be enforced.

We've heard about wet standards and dry

standards, and problems of getting rid of the waste. We've even heard of places that have been taking that waste and now refuse to take it. I don't know if you would want that waste in your dump or not, whether we're creating more of a problem by getting rid of that waste on land than we would to put it back in the sea where it came from, or not. I would suspect that if the problem came from the sea, it might be well taken care of back in the sea.

So I would hope that the Senate today would go along with the Majority Report on this Bill, and help industries that we have in the State and not say how many new industries we're going to bring in the State. Why don't we save a few of the industries that we have here?

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

Senator CARPENTER: Mr. President, Ladies and Gentlemen of the Senate, I don't even like sardines, but I voted with the good Senator from Waldo, Senator Shute, the other day. Then, quite honestly, I had some second thoughts. Some of those second thoughts were hoisted upon me by some of the lobbying against this Bill.

The major argument seems to be that this is going to tie the hands of the Department of Environmental Protection.

Now, if you read House Amendment 729, which in effect is the only controversial, I guess the only part of this Bill left. Item 1, the legislative purpose, as the good Senator from Waldo, Senator Shute, just indicated, admits that there is a need to study standards and development of control technologies for the treatment of sardine plant waste water discharge. This two year period is to do that, to study and evaluate.

Well, I thought, I guess maybe it's not too much to ask the DEP that they not enforce any stricter standards until after at least they have a chance, two years, to evaluate and review them and develop them. The development seems to me to indicate that there ain't none right now that's acceptable. There seems to be an admission of this.

I'm not real crazy about the language that says, during the two year period no State agency may impose or enforce treatment standards or requirements more stringent than those required in the Subsection, but I've been at law school long enough to recognize legal words when I see them. 2A seems to me to be sufficiently flexible to allow the Commissioner of the Department of Environmental Protection plenty of latitude to get at any sardine processor who is taking advantage of this two year interim period.

I'll just read it to you very carefully, and you tell me whether or not this gives the Commissioner enough flexibility. "A license will be issued whenever the Commission finds that the facility employs proper housekeeping and management practices normally observed by prudent operators of similar facilities and efficient operation of all control technology".

Now if that doesn't give the DEP enough reach to get at a sardine processor, then DEP probably doesn't have the proper amount of legal advice. I would seem to me that even with the other language, subsequent language about no more stricter standards, that gives the enforcement agency of the State enough to be able to reach in and get at the sardine processor.

It seems to me that this has been worked out. The only controversial part of this whole thing, as I understand it, is that section on page 2 of the Amendment, which talks about you can't enforce any stricter standards. Since this interim is to develop those standards, I don't think that's really too much to ask for.

So I would hope we would stay with the original position of the Bill and that of the good Senator from Waldo, Senator Shute. Thank you.

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

Senator CONLEY: Mr. President, I request that when the vote is taken, it be taken by the Yeas and Nays.

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

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

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

The pending question before the Senate is Enactment of L. D. 1777.

A Yes vote will be in favor of Enactment of L. D. 1777.

A No vote will be opposed.

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEA—Ault, Brown, Carpenter, Collins, Devoe, Dutremble, Emerson, Gill, Hichens, Huber, Kerry, McBrearty, Minkowsky, Perkins, Pierce, Pray, Redmond, Sewall, C.; Shute, Sutton, Teague, Trotzky, The President, J. Sewall.

NAY—Bustin, Charette, Clark, Conley, Najarian, Trafton, Usher, Violette, Wood.

ABSENT—O'Leary.

A Roll Call was had.

23 Senators having voted in the affirmative and 9 Senators in the negative, with 1 Senator being absent, LD 1777 was Passed to be Enacted.

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

Senator PIERCE: Mr. President, I move Reconsideration.

The PRESIDENT: The pending question before the Senate is the motion by the Senator from Kennebec, Senator Pierce, that the Senate Reconsider its action whereby LD 1777 was Passed to be Enacted.

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

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

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

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

Emergency

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

This being an emergency measure and having received the affirmative vote of 30 Members of the Senate, with No Senators having voted in the negative, was Finally Passed and having been signed by the President, was by the Secretary presented to the Governor for his approval.

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

Paper from the House Joint Resolution State of Maine

In the Year of Our Lord
Nineteen Hundred and Eighty-two

JOINT RESOLUTION COMMEMORATING THE ONE HUNDREDTH ANNIVERSARY OF THE ESTABLISHMENT OF THE ORDER OF THE KNIGHTS OF COLUMBUS

WHEREAS, on March 29, 1882, the Knights of Columbus was chartered, in the state of Connecticut, and founded by Father Michael J. McGivney, curate at St. Mary's Parish in New Haven, Connecticut; and

WHEREAS, the Order embodies Knightly ideals of spirituality and service to church, country and fellowman; and

WHEREAS, Father McGivney's original group has blossomed into an international society of more than 1,359,000 members in some 7,156 council who dedicate themselves to the ideals of Columbianism; Charity, unity, fraternity and patriotism; and

WHEREAS, today, the Knights of Columbus are found throughout the United States, Canada, Mexico, the Philippines, Puerto Rico, Guatamala, Panama, Cuba, Guam, the Virgin Islands, and the Dominican Republic; and

WHEREAS, the Knights of Columbus sponsor, support and aid more than a thousand Scout troops, Catholic Youth Organizations, farm clubs, youth athletic clubs; and

WHEREAS, the Knights of Columbus average yearly 650,000 visits to the sick, donate 150,000 pints of blood, contribute 8,000,000 million man-hours of community service and 700,000 hours of labor for the sick or disabled, all in the spirit of unselfish service to the church, country, community and council; and

WHEREAS, from March 29, 1982, and throughout the year, the Knights of Columbus with Supreme Knight Virgil C. Dechant and Maine's State Deputy Richard D. Blanchard will celebrate the 100th anniversary; now, therefore, be it

RESOLVED: That we, the Members of the 110th Legislature on behalf of the people of Maine and our Nation of states, take this opportunity to extend our congratulations to the Knights of Columbus on achieving 100 years of faithful service to thank them for all their works that will continue to benefit mankind and wish them well in their Centennial Celebration; and be it further

RESOLVED: That suitable copies of this Joint Resolution be prepared and transmitted forthwith to Supreme Knight Virgil C. Dechant and Maine's State Deputy Richard D. Blanchard. (H. P. 2323)

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

Enactors

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

AN ACT to Clarify Solar Energy Tax Exemptions. (H. P. 2066) (L. D. 2007)

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

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)

AN ACT to Restrict Rate Increase Proposals by Public Utilities. (H. P. 1865) (L. D. 1859)

AN ACT to Define the Raising of Seeds as Agricultural Production under the Sales and Use Tax Law. (H. P. 1794) (L. D. 1784)

AN ACT to Provide for Improved Energy Policy Development and Electricity Demand Forecasts. (H. P. 2273) (L. D. 2120)

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)

AN ACT Concerning the Rate of Return on Investment Factor Under the Railroad Excise Tax. (H. P. 1795) (L. D. 1785)

AN ACT to Accept Relinquishment of Exclusive Federal Jurisdiction Over Marshall Point Light Station in the Town of St. George. (S. P. 855) (L. D. 1992)

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

Emergency

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

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

Emergency

AN ACT to Revise the Procedure for Municipalities Withdrawing from the Maine Forestry District. (H. P. 1911) (L. D. 1883)

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

Emergency

AN ACT to Eliminate the 2¢ Excise Tax Imposed on Jet Fuel Used by International Flights. (H. P. 1974) (L. D. 1949)

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

Emergency

AN ACT Relating to Harness Racing at Agricultural Fairs, the State Stipend and Parimutuel Pools. (S. P. 864) (L. D. 2006)

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

Emergency

AN ACT to Facilitate the Removal of Clouds on Titles to Proposed Unaccepted Streets in Subdivisions. (S. P. 854) (L. D. 1991)

Emergency

AN ACT to Provide an Alternative Withdrawal Procedure from the Tree Growth Tax Law for the 1982 Tax Year. (H. P. 2241) (L. D. 2101)

Emergency

AN ACT to Provide the Authority to the Commissioner of Marine Resources to Register a Trademark. (H. P. 2163) (L. D. 2063)

These being emergency measures and having received the affirmative votes of 30 Members of the Senate, with No Senators having voted in the negative, were Passed to be Enacted and having been signed by the President, were by the Secretary presented to the Governor for his approval.

Emergency

RESOLVE, for Laying of the County Taxes and Authorizing Expenditures of Androscoggin County for the Year 1982. (H. P. 2299) (L. D. 2132)

This being an emergency measure and having received the affirmative votes of 30 Members of the Senate, with No Senators having voted in the negative, was Finally Passed and having been signed by the President, was by the Secretary presented to the Governor for his approval.

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 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)

In the Senate, April 1, 1982, Passed to be Engrossed as amended by Committee Amendment "A" (H-728), in non-concurrence.

Comes from the House, the Bill Passed to be Engrossed as amended by Committee Amendment "A" (H-728) as amended by House Amendment "B" (H-751) Thereto, in non-concurrence.

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

Senator DEVOE: Thank you, Mr. President. Mr. President, I move the Senate Recede and Concur.

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

Senator CONLEY: Mr. President, I had an opportunity to look at House Amendment 751. I wonder if someone could explain to me exactly what it does to the Bill?

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

Senator DEVOE: Thank you, Mr. President. Mr. President, all this House Amendment does is remove the fiscal note and places the expense of the referendum on the County of Cumberland. It further shortens the length of the bond issue from 30 years to 20 years. It avoids setting the precedent that was a called for in the original Bill, of the State bearing the cost. So, that's why I move we Recede and Concur.

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

Senator TRAFTON: Mr. President, I would like to direct a question to any one who can answer. In looking at the House Amendment, filing number 751, on the fiscal note, it says, the bond repayment will be made from the court budget. Such amounts as necessary will be requested in annual appropriations each year.

From the remarks of the Senator from Cumberland, during our debate last week, I had thought that the bonds would be repaid by the citizens of Cumberland, not through the court budget. I wish someone would clarify exactly how these bonds will be paid off.

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

Senator CONLEY: Mr. President, I would just inform the good Senator from Androscoggin, Senator Trafton, that the bond issue will be paid by the taxpayers of Cumberland County. There will be lease arrangements with the State, with respect to leasing the court facilities. Those will be paid by the State over probably a 60 to 70 year period, depending on the life of the structure.

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

It is a vote.

Order

An Expression of Legislative Sentiment recognizing:

The Lady Rams, of Bangor High School, winners of the Girls' Class A State Swimming and Diving Championship. (S. P. 980) presented by Senator TROTZKY of Penobscot (Cosponsors: Representative TARBELL of Bangor, Representative ALOUPIS of Bangor and Representative DIAMOND of Bangor).

Which was Read and Passed.

Sent down for concurrence.

Orders of the Day

The President laid before the Senate: Bill, "An Act to Clarify the 1981 Amendments Relating to the Operating Under the Influence and Habitual Offender Laws. (H. P. 2309) (L. D. 2138) (Emergency)

Tabled—Earlier in the Day by Senator COLINS of Knox

Pending—Passage to be Engrossed.

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

Senator PIERCE: Mr. President, I present an amendment under filing number S-464 and move its adoption.

The PRESIDENT: The Senator from Kennebec, Senator Pierce, now offers Senate Amendment "A" to L. D. 2138 and moves its adoption. Senate Amendment "A" (S-464) was Read, and Adopted.

The PRESIDENT: The Senator has the floor. Senator PIERCE: Mr. President, I now present Senate Amendment "B" under filing number S-465 and move its adoption.

The PRESIDENT: The Senator from Kennebec, Senator Pierce now offers Senate amendment "B" to L. D. 2138 and moves its adoption. Senate Amendment "B" (S-465) was Read

and Adopted.

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

Sent down forthwith for concurrence.

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 Day by Senator PRAY of Penobscot

PENDING—Passage to be Engrossed

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

Senator TROTZKY: Mr. President, I move that LD 1932 be Indefinitely Postponed 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 Bill is simply some enabling legislation, where communities can set up a power district, sell bonds, possibly build a dam to generate power. They can do it, communities can do it without the Bill.

It's my feeling it basically is unnecessary legislation.

Some will tell you that it's the camel's nose under the tent, that it's public power pure and simple, and that it threatens the very existence of Central Maine Power Company. In reality, the Bill is unnecessary legislation, because communities, for example, if the City of Bangor wants to build a dam, they could have tried to. They could try to build one rather than go out and lease it to Swift River Company the rights to build the dam.

So communities can build hydro dams if they'd like to. Therefore, I think all this Bill does is put unnecessary legislation on the books and cost the taxpayers money.

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

Senator CONLEY: Mr. President, I wonder if the good Secretary could read the Committee Report.

The PRESIDENT: The Secretary will read the Committee Report.

The Committee Report was Read.

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

Senator CONLEY: That's what I thought, Mr. President. It seems that somehow or other that separation of powers is coming back into this Chamber to haunt us again.

I was talking with Bond Counsel earlier this morning with respect to the fact as to whether or not municipalities had the authority to establish hydro-electric power, dams, construction of dams, etc. They certainly would feel much easier and much more at rest if we had this in the statutes that would give that authority to the communities.

It seems to me that earlier in this Session I sponsored a little jewel for the, I co-sponsored a little jewel for the area of Bangor on the Penobscot River. In fact, I thought I had the good Senator from Penobscot come up in back of me to support this legislation. This was all dealing with how we were going to deny the City of Bangor the opportunity to reconstruct that dam that they wanted to for the purpose of providing hydro-electric power.

It seems to me, back through the years, that at least many years ago, the City of Bangor did provide electricity for the community. I see no reason why we should just all of a sudden raise a red herring before this Senate Chamber since the day that the Committee, under a unanimous Committee Report, reported this Bill out of his Committee to be passed by this Legislature.

I haven't heard one good reason for us to defeat it. I would urge the Senate to vote against the pending motion.

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

Senator TROTZKY: Mr. President and Members of the Senate: the reason for a bill is be-

cause communities want the Bill. I haven't heard from one community that wants this Bill. I came up to the Committee from the Education Committee and at the time, was unable to be there at the work session, but I looked back in my notes, and I don't know any communities that want the Bill, have sent any letters to Committee members.

If a city has rights to a dam, they can reconstruct the dam and they can sell the power to Central Maine Power or to Bangor Hydro, Maine Public Service, and receive compensation for revenues for the power they sell.

So, you know, one of the questions I always ask when a Bill is being passed is, is the Bill needed? In this case, the Bill is not needed.

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

Senator TRAFTON: Thank you, Mr. President. Men and Women of the Senate, I thought that this morning I was being posed a series of questions that I might be able to answer this afternoon. However, in that short period of time, I had no idea that the good Senator from Penobscot would go so far astray from our unanimous Committee Report.

I'd like to first of all respond to the questions that the Senator from Knox, Senator Collins, raised this morning. As I understand his questions, first of all, he was concerned that a number of towns could gather together and possibly condemn dams.

In response to that, anyone now can apply through FERC if they wish to take over a dam. It could be a number of towns. It could be any given individual. It could be a number of individuals or any combination of those. The standard for applying for FERC license is merely that the dam is currently not operating under maximum power, given the environmentally necessary conditions.

With response to the second question about eminent domain, indeed Section 2961 was very carefully drawn. Essentially it takes away all the eminent domain powers.

Let's assume for a minute that the concern of the Senator from Knox was that somehow an existing town with existing services from CMP, for example, was considering getting into some type of a municipal power district. First of all, that municipality would have to negotiate with CMP to buy, at whatever price CMP felt was equitable, both the distribution facilities and the sub-stations.

Now, if CMP were to refuse, that would pretty much end it right at that point. Even if CMP, if CMP refused, there would be one other option. That is that the power district could go to the PUC and ask for a consent, but they would be asking for a consent to build a totally duplicative system, which I'm sure that we all realize the PUC would not even give any credence to. If, in fact, the PUC was in such grave error to give credence to it, I'm sure that the financial world would never come forward and agree to finance such an effort.

I think that, getting back to the eminent domain, because of this procedure in order to get into the power business for any existing area, we can see that it would be ludicrous to suppose that a power district would even go for eminent domain until they had all the other parts of the system ready to go, the distribution facilities and the sub-stations. Certainly if they were carried into the courts, the courts I think would throw it out and say that's ridiculous. You don't even have a system, a viable system ready to operate.

Also, under Section 13A of the Utility Laws, the PUC must approve construction of any transmission line greater than 100 kilovolts. So again, another added protection before any eminent domain powers could be used.

Now the question has been raised as to why pass this Bill. This is enabling legislation. There isn't a great clamor necessarily for enabling legislation of any kind. I think it's important for us to anticipate problems and to

anticipate the needs that some of the underserved or unserved totally areas might have in this State.

You know, most of us are from areas that have very adequate service. Most of the southern part of the State is totally served by existing utility companies, but we still have unorganized townships that don't have any service, and even places like Monhegan Island don't have any service.

This Bill would apply really to those types of areas who might like to get into this system.

Now there are some municipal districts that are organized now. One benefit for them would be to give them a standard enabling piece of legislation so that they could follow standards and adhere to those standards. This isn't uncommon. In fact the Public Utilities Committee, just last year, enacted two other enabling pieces of legislation, one for both water districts and also for sewer districts. Again, I would remind the Senator from Penobscot, who apparently has left the arena, that we passed those bills despite the fact that there was no great public clamor.

Generally speaking, we as legislators see a value in standardizing these procedures and making it a little bit easier, facilitating it if you will, so that those wishing to engage in establishing these districts have some guidelines.

So, it's not a public power piece of legislation. I think there are those who think this is a tiger in the form of public power. Really, it's just a little kitty cat. It's an enabling piece of legislation. I would hope you would go along with it today.

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

Senator COLLINS: Mr. President, I appreciate the explanation provided us by the Senator from Androscoggin, Senator Trafton. I did not hear the Senator give me the answer that I was seeking with respect to the exception in Section 2961, the eminent domain section, in the Amendment. Here my question related to whether this public district could condemn, by eminent domain, the easement rights of way for the transmission lines of an existing electric utility?

I read that to say yes they can. The Senator has not denied that. I still am very much bothered by that kind of a power. If the Senator has any more information, that would relieve my fears, I would be glad to hear it.

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

Senator TRAFTON: Perhaps I wasn't clear enough in my reference to 13A, but that does require prior approval by the Public Utilities Commission before there can be any construction of anything greater than 100 kilovolt line, and that is a very small line.

So indeed, although eminent power may exist under this provision, in fact, it has to have another approval before it would be granted.

As I mentioned in my hypothetical case, in order for it to be granted there would have to be an assurance that a system was in place to use that transmission line before they would naturally approve construction of a new transmission line. The practicality of establishing a system in any area that is currently served by an existing utility is completely ludicrous.

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

Senator TROTZKY: Mr. President and Members of the Senate, the good Senator from Androscoggin mentioned that we did pass enabling legislation or model legislation for water and sewer districts because we have many water and sewer districts around the State.

There is no demand, there is no demand that I know of from any community, any letter that I received or any communication, for a municipal power district. It is public power. There's no question about it, it is public power.

The legislation really is practically meaning-

less. It's 10 pages of legislation is what it is. There's no demand that I know for it. I've learned one thing, when there's no demand for something, kill it.

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

Senator TRAFTON: No doubt we could debate this endlessly, but I think the lines may have hardened on this, so I would merely ask for the Yeas and Nays when the vote is taken.

The PRESIDENT: A Roll Call has been requested.

The Chair recognizes the Senator from Cumberland, Senator Conley.

Senator CONLEY: Mr. President, after listening to the good Senator from Penobscot, Senator Trotzky, he certainly has raised the question in my mind and that is, is there something wrong with public power? Is there something wrong with the Great Northern Paper Company, for example, to start generating electricity, selling it back to CMP or Bangor Hydro, and then purchasing it back again? Is there anything wrong with a community that establishes, if it's fortunate enough to have a river within its community, that can generate the needs of electricity to serve a community by selling it to CMP, if it's in their terrain, and selling it back to the community?

I don't see anything wrong with that. I think all kinds of bogeymen are being raised with this particular piece of legislation, but it actually does very, very little. It provides enabling legislation for a community, who might possibly want to generate, if they have the resources there, to generate electricity. It helps provide one of the, another alternative for the generation of electricity than we presently have.

It seems to me that the good Senator from Penobscot, when he put his stamp of approval, knowing how he seriously weighs the importance of his signature on a piece of legislation coming from that all powerful Joint Standing Committee on Public Utilities, he must have given this a great deal of consideration before he signed it out Ought to Pass.

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

Senator TROTZKY: Mr. President and Members of the Senate: If communities have a right to a dam, they can build, they can reconstruct a dam or build a dam if they like to. They do not need this legislation.

In other words, the community has the legal rights to both sides of the river and the flowage behind it. They can build a dam.

So, this Bill is not necessary for your communities to build these hydro dams. I ask every one of you, is there any demand from back home, from any of your selectmen for this Legislation?

The PRESIDENT: The Senator from Androscoggin, Senator Trafton, having spoken four times, requests permission to speak a fifth.

Is there objection?

The Senator may proceed.

Senator TRAFTON: Thank you, Mr. President. Men and Women of the Senate, again, I would respond to the question or the comment from the good Senator from Penobscot, Senator Trotzky, and remind him that only a year ago, with no public clamor, with no clamor from municipalities, we thought it was important enough to standardize the charters of sewer districts and water districts, so that we created enabling legislation.

I would ask the Senator, if it was good enough for water and sewer, why is it not good enough for utilities, electrical service utilities? I would like to hear a response from the Senator. I think it's very much the same kind of situation. We should definitely pass this Legislation.

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

Senator DEVOE: Thank you, Mr. President. Mr. President, even though my name is not Senator Trotzky, I'd like to try to respond to

the question for the good Senator from Androscoggin.

I think the difference between these two bills is that we had a lot of water and sewer districts. We don't have many municipal power districts. Two and three years ago, we were faced with a variety of amendment changes that the various districts were coming into the Public Utilities Committee with. We felt it was a reasonable idea to standardize the procedure for so many districts that were already then in existence and were going to perhaps come into existence.

Now, producing electrical power is a far different proposition than running a local municipal water district or sewer district. I think that's the key difference on this matter. Thank you, Mr. President.

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

Senator MINKOWSKY: Mr. President and Members of the Senate, the City of Lewiston is in a very unique situation. We have been generating our own electric power since we became a city in about 1863.

I was quite concerned when we were discussing the municipal takeover of the water and sewer districts when I was on the Board of Finance of the City of Lewiston. It came to light one important factor. Municipalities did not want to go through the waiting time in which to implement the rate increases, like the utilities must do at the present time, a nine month period of time from the time they have their public hearings.

In addition to that, the great difference between municipal operations such as water and sewer districts and the electric company is, the electric company are taxpayers. The municipal operations pay no taxes at all.

I think these are two very significant differences that we should really analyze.

If I go back to a remark made by the good Senator from Androscoggin, Senator Trafton, if a financial community would not sanction it, that is, about the bonding of it, then why all the fuss over this particular thing? If the municipalities are being adequately served, which is what the assumption I gathered from Senator Trafton is, then the outlying areas of the State, the smaller communities, who have co-ops, or small municipal water districts or electrical districts, do not have the financial resources in today's economy, with the amount of bonding that is absolutely necessary, I don't think you would find that those municipalities, even though you had this enabling legislation, anywhere in God's creation, especially with the curtailment of federal funds, ever could contemplate doing this particular thing.

This brings to mind a debate we had last year on the up front charge, the \$5.70 charge. It was interesting to note that the co-ops in the State of Maine, which pay no taxes at all, were charging an up front charge of \$16 per person. I thought this was really horrendous. Are we not representing the same constituency in the State of Maine, the low income, the elderly, the senior citizens? There seems to be such a deviation from the way we're handling things.

If things are being done in an ethical, constructive, regulated manner at the present time, why try to change the entire philosophy?

Another question that came up, which has not been addressed, is, I realize a former Senator of this Body was a sponsor of this particular Bill. I have a great deal of admiration for him, who is now deceased, as well as his widow, who now serves in the other Body, but, if I understand it correctly, the redraft, which I'm holding in my hand, is not the identical same piece of legislation that the Committee on Public Utilities had gone through. I was wondering possibly if somebody on the Committee might address that?

The PRESIDENT: The Senator from Penobscot, Senator Trotzky, requests leave of the

Senate to speak a fourth time, having spoken three times on this issue.

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

The Senator may proceed.

Senator TROTZKY: Mr. President and Members of the Senate, water and sewer districts, although we have model legislation in the books, they still have to come to the Legislature to get a charter.

Under this Bill, power districts will not have to come to the Legislature. In Chapter 322 of the laws of 1981 do allow municipalities to generate power.

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 Androscoggin, Senator Minkowsky.

Senator MINKOWSKY: Mr. President and Members of the Senate, just one more item for the record, and it is this. When the utilities, the municipal utilities were deregulated, the water and sewer districts, I just thought at least the Senate would like to know that in my municipality, the City of Lewiston, the water rates and the sewer rates went up 33%. A 33% increase without being deregulated. That was in two increments, 17% the first time and 16% the second time.

The PRESIDENT: The pending question before the Senate is the Indefinite Postponement of L. D. 1932.

A Yes vote will be in favor of the Indefinite Postponement of L. D. 1932.

A No vote will be opposed.

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

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

NAY—Ault, Brown, Bustin, Carpenter, Charette, Clark, Conley, Dutremble, Huber, Kerry, Najarian, Pray, Trafton, Violette, Wood.

ABSENT—O'Leary, Pierce.

A Roll Call was had.

Senator Usher of Cumberland was granted permission to change his vote from Yea to Nay.

Senator Ault of Kennebec was granted permission to change his vote from Nay to Yea.

16 Senators having voted in the affirmative and 15 Senators in the negative, with 2 Senators being absent, the motion to Indefinitely Postpone L. D. 1932, in non-concurrence, does prevail.

Sent down for concurrence.

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

Papers From the House

Non-concurrent Matter

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

In the Senate, April 1, 1982, the Bill Passed to be Engrossed.

Comes from the House, Passed to be Engrossed as amended by House Amendment "B" (H-750), in non-concurrence.

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

Senator MCBREAIRTY: I move we Recede and Concur.

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

Is this the pleasure of the Senate?

The motion prevailed.

Non-Concurrent Matter

Bill, "An Act to Make Corrections of Errors and Inconsistencies in the Laws of Maine." (Emergency) (S. P. 969) (L. D. 2136)

In the Senate, April 1, 1982, the Bill Passed to be Engrossed.

Comes from the House, Passed to be Engrossed as amended by House Amendments "A" (H-738), "B" (H-739), "C" (H-740) "D" (H-741) and "E" (H-744), in non-concurrence.

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

Senator COLLINS: Mr. President, may the floorleaders approach the Chair?

(Senate at Ease)

The Senate called to order by the President.

The PRESIDENT: The Senate is presently considering L. D. 2136.

On motion by Senator Devoe of Penobscot, the Senate voted to recede.

House Amendment "A" was Read.

On motion by Senator Devoe of Penobscot, House Amendment "A" was Indefinitely Postponed, in non-concurrence.

House Amendment "B" was Read.

On motion by Senator Devoe of Penobscot, House Amendment "B" was Indefinitely Postponed, in non-concurrence.

House Amendment "C" was Read.

On motion by Senator Devoe of Penobscot, House Amendment "C" was Indefinitely Postponed, in non-concurrence.

House Amendment "D" was Read and Adopted, in concurrence. House Amendment "E" was Read.

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

Senator PERKINS: Mr. President, a point of information, if I may. If I am in error, I just heard that we had Indefinitely Postponed House Amendment "C".

The PRESIDENT: The Chair would answer in the affirmative. House Amendment "C" has been Indefinitely Postponed.

Senator PERKINS: Mr. President, I would, therefore, move we Reconsider whereby we killed House Amendment "C".

The PRESIDENT: Would the Senator defer his motion until the Senate has disposed of House Amendment "E", please?

House Amendment "E" was Adopted, in concurrence.

The PRESIDENT: The Chair understands that the Senator from Hancock, Senator Perkins, now moves that the Senate reconsider its action whereby it Indefinitely Postponed House Amendment "C".

The Chair recognizes the Senator from Cumberland, Senator Conley.

Senator CONLEY: Mr. President and Members of the Senate, I wish to address myself to also the Reconsideration motion, but also to the entire errors bill in itself.

The Committee certainly has spent a great deal of time going through this Errors Bill. In its deliberations, there were many, many things that came in to the Errors Bill, recommended by various executive branches of government, that the Committee thought were not errors but were definitely substantive changes. They were not inconsistencies. They were things that were actually changing the statutes.

Now, I've always had a great deal of faith in the process that has been used with respect to the Judiciary Committee long before I ever arrived on that Committee, certainly with the former Chairman, the good Senator from Knox, Senator Collins, and with the present Chairman, we have today, the good Senator from Penobscot, Senator Devoe.

We've had this Bill now, it's been in the Senate once. It has gone down to the other Body and it has come up here with several House Amendment on it. Some of those Amendments

that were just Indefinitely Postponed are not errors or inconsistencies. They are definitely substantive changes, adding new language to the statutes.

I believe very firmly that if we're going to have an Errors Bill, it should be an Errors Bill. I think that we need to adopt, within the Joint Rules, a joint rule that is going to state, in order for that bill to be amended on the floor of the Senate or the other Body, that it should take two votes of both branches, because what we're going to do is just clutter up this Errors Bill with all kinds of amendments that are very much substantive changes in the law.

I remember only a few years ago, when I raised a great deal of objections at that time, when they had amendments down in the other Body that went from A right through the 26 letters of the alphabet, and back down on those using AA, BB, until we got into almost, like I say, another third of the alphabet.

Now if we're going to have an Errors Bill, we should maintain an Errors Bill, but if we're going to have a catchall bill, such as the one that is before us now, then let's do away with holding hearings on the Errors and Inconsistencies Bill and let it just become a lark that some people are trying to make it.

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

Senator PERKINS: Mr. President and Ladies and Gentlemen of the Senate, if I may refer you to House Amendment "C", which is H-740. In the first few years I was here, and I believe it was in 1975, I put in a bill which would establish the fees for collecting of boughs for the making of wreaths to \$1 as opposed to what it is now, as \$12. This bill was passed at that time and put in the statutes.

During the ensuing years, during the recodification of the law, this section was omitted. So now, in order for the people of many of our coastal areas who, during the months of October and November, collect boughs in order to supplement their incomes for Christmas, or for winter clothes, or what have you, in order for them to collect the boughs, they must pay instead of the \$1 license fee, must pay \$12.

Now I submit to you, and I'm in full sympathy with the good Senator from Cumberland, Senator Conley's, position, that we shouldn't be cluttering up these things, but I submit to you, this is an error. It falls correctly within the purview of this bill here. I don't think that if these are the people's bodies, that the people of the State of Maine are interested in having the many people who supplement their incomes during the fall, are interested in having them go from a fee of \$1 to a fee of \$12 for collecting wreaths and perhaps making 30 wreaths, or some of them may make 100 or 200, but to go from \$1 to \$12 or 12 times the fee, they are very interested in this particular action.

I think they are more interested in having something that would be equitable to all. I think this is where this Amendment lies.

I, therefore, would urge you to support this Amendment and send it back to the other Body with your support.

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 thank the good Senator from Hancock, Senator Perkins, for his comments. We discussed this extensively in the Committee. It was my recollection that there was a bill that was laying on the Tabled Unassigned in the House for many weeks last year that dealt with this. Perhaps the Committee Chairman of, I believe, the Committee on Energy and Natural Resources, can refresh the memories of all of us as to that particular bill and the meanderings that it took through these Legislative Halls.

It was for that reason, particularly, that it was a what seemed to me to be a rather partisan fight between the two bodies on this very subject that caused the Judiciary Committee

this year to decide that if this matter were going to be addressed, it were more properly addressed in a particular separate L. D. that dealt with that matter and that matter only.

Thank you very much, Mr. President.

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

Senator MCBREAIRTY: Mr. President and Honorable Members of the Senate, this is identical to a bill that came before the Energy and Natural Resources Committee last year. My position on the bill at that time was to take out the people who dealt with boughs completely, or charge them \$11.

The people who were on the Committee that was close to Christmas Tree and bough handlers chose to go with not taking the boughs out.

Now, what this is is a dedicated account that goes to the Forestry Department to police the handling of Christmas trees and boughs, police it to make sure they're not taking boughs in areas that they're not authorized to take.

This money goes to police it, so there's no way in the world that you can even do the paperwork on this permit with \$1.

I would back a bill next year, if I'm here, to take the bough handlers out. I don't believe they should be in there to start with. I don't believe they need that much policing. I think one of the officials of the Christmas Tree Association came before us last year and wanted the boughs taken out, but it wasn't.

So this is a bill that was before us last year. It is a substantive change in the law.

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

Senator BROWN: Thank you, Mr. President. Members of the Senate, I would like very much that you support the good Senator from Hancock, Senator Perkins. I don't know enough about the politics or the historical analysis of what has happened concerning this issue, but I do know the considerable concern that is being caused in my own County of Washington, because of this increase from \$1 to \$12.

In the Town of Milbridge alone, there was close to an uprising last year because of this increase. These are people that do not make a great deal of money. They can not afford this \$12 fee.

So I urge you to support the good Senator for Reconsideration of this Amendment H-740.

The PRESIDENT: Is the Senator ready for the question?

The Chair recognizes the Senator from Hancock, Senator Perkins.

Senator PERKINS: Mr. President and Ladies and Gentlemen of the Senate, I thank the good Senator from Washington. I, also, thank the good Senator from Aroostook, Senator McBreaity, for his explanation. I think he is very sympathetic in his cause.

I only present to you that because of some mix-up in last year's session that the bill Failed to be Enacted. At the last crunch of the session, which is exactly the position many of our Committees found ourselves in this past week, that the Bill was given a Leave to Withdraw.

You then have presented to the people who supplement their income a penalty of \$11 on each one of them, so that they can collect wreaths, or collect boughs to make wreaths. I only submit to you that then you propose that we do the same thing in the subsequent year, that you penalize them another \$11.

You see, I think everybody had intentions and I know the Representative in the other Body, of which I share the name, proposed a bill of this nature, but because it was in last Session, and because it went through the mix-up and with the recodification, the bill was not considered.

So therein we find ourselves in a bind because we couldn't get in for the acceptance of bill through the Council. We can't get in because they call it substantive through the Errors Bill. Yet, we've got people who are paying now \$11 more per year for a license in order to collect a few boughs to make some

wreaths with which to supplement their Christmas income.

I, therefore, would request that you join the good Senator from Washington and myself in Reconsideration.

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

Senator CONLEY: Mr. President and Members of the Senate, I certainly appreciate the arguments made by the good Senator from Hancock, Senator Perkins, but he has certainly spelled out exactly what the case is.

Now, there's no question in my mind that the Amendment before us is one of great substance. If we want to say okay. Let's relax the rules a little, go ahead and do it.

I'm just telling you what we're going to be doing in the future, we're going to be perpetuating one of the worst systems, with respect to passing legislation or cleaning up what we call errors and inconsistencies in the statutes, we are just going to continue. Because somebody has a little power, either in the House or in the Senate, to doctor up the statutes, that are mostly going to benefit them, irrespective of where they come from.

It's a matter of principle, principle with me. I believe in all honesty and in fairness, if they have a problem with the Christmas tree wreaths or whatever, then they should have a bill introduced and have a public hearing on it, and let the legislature take a positive action on it in that respect.

The PRESIDENT: Is the Senate ready for the question?

The Chair will order a Division.

Will all those Senators in favor of the motion by the Senator from Hancock, Senator Perkins, that the Senate Reconsider its action whereby House Amendment "C" was Indefinitely Postponed, please rise in their places to be counted.

The Chair recognizes the Senator from Hancock, Senator Perkins.

Senator PERKINS: I 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 Hancock, Senator Perkins, that the Senate Reconsider its action whereby it Indefinitely Postponed House Amendment "C" to L. D. 2136.

A Yes vote will be in favor of Reconsideration.

A No vote will be opposed.

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEA—Ault, Brown, Emerson, Gill, Min-kowsky, Perkins, Pierce, Redmond, Sewall, C.; Shute, Sutton, Teague.

NAY—Bustin, Carpenter, Charette, Clark, Collins, Conley, Devoe, Dutremble, Hichens, Kerry, McBreaity, Najarian, Pray, Trafton, Trotzky, Usher, Violette, Wood.

ABSENT—Huber, O'Leary.

A Roll Call was had.

12 Senators having voted in the affirmative and 18 Senators in the negative, with 2 Senators being absent, the motion to Reconsider does not prevail.

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

Sent down forthwith for concurrence.

Senate Paper

Senator USHER of Cumberland (Cosponsor: Senator REDMOND of Somerset) presents, RESOLVE, to Establish a Commercial Whitewater Study Commission. (Emergency)

(S. P. 981)

(Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27.)

Reference to the Committee on Fisheries and Wildlife suggested.

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

Senator PRAY: I move that the Rules be Suspended and the Bill be given its First Reading at this time.

The PRESIDENT: The Senator from Penobscot, Senator Pray now moves that the Senate Suspend its Rules.

Is this the pleasure of the Senate?

It is a vote.

Under Suspension of the Rules, the Bill Read Once, without Reference to Committee.

Is it now the pleasure of the Senate that under further Suspension of the Rules, that S. P. 981 be given its Second Reading by Title Only at this Time?

Read a Second Time.

The Chair recognizes the Senator from Kennebec, Senator Pierce.

Senator PIERCE: Mr. President, Members of the Senate, I think that it might be appropriate for some one to explain exactly what this is, those of us in leadership got to hear some about it, but obviously the rest of the Senators haven't.

The PRESIDENT: The Senator from Kennebec, Senator Pierce has posed a question through the Chair.

The Chair recognizes the Senator from Cumberland, Senator Usher.

Senator USHER: Thank you, Mr. President and Members of the Senate, I apologize for the lateness of this Resolve.

It has been brought to our attention there is a potential problem within the whitewater industry. Last year and the year before there were 9 licenses issued to the outfitters, and as of today there are 17, we think that with the high water, the natural water, this year it is going to create a potential problem. We are concerned about the safety and the economic impact on the land that is being used on the put in and take out sites.

We have been in contact with the Parks and Recreation, and the Warden Service who enforce all of these laws, and they are concerned about not having enough man power, what it is going to do to the fishermen, if there is an overload of rafts coming down the river.

These outfitters are cooperating fully on this.

We would like to get into a study right away so that we can resolve the problems if there is any potential of any legislation coming down the road, then we can put it in early of next session.

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

Senator DEVOE: A point of inquiry, Mr. President, what item are we on at this point?

The PRESIDENT: We are on item 3-1, Senate Paper 981, Supplemental Senate Journal No. 14.

Senator DEVOE: Thank you, Mr. President. May I direct an inquiry through the Chair to Senator Usher or any other member?

The PRESIDENT: The Senator may state his inquiry.

Senator DEVOE: What is the need for something like this? What is the problem that has apparently been created, or come to someone's attention in the State, that we need a Commercial Whitewater Study Commission? It has connotations of the Kennebec River Future Commission that we talked about last year at this time, and I'd just wondered if somebody in this Body can enlighten us a little more?

The PRESIDENT: The Senator from Penobscot, Senator Devoe has posed a question through the Chair.

The Chair recognizes the Senator from Penobscot, Senator Pray.

Senator PRAY: Mr. President and Ladies and Gentlemen of the Senate, I think that the

Senator from Penobscot, Senator Devoe has raised a very valid point. There are some concerns about two sections of whitewater, which are basically used for whitewater rafting, today. One of those happen to be the Kennebec River, the Upper Kennebec, and the other one is the West Branch of the Penobscot River.

For those of us who are adjacent to those areas, or have seen the whitewater rafting industry grow over the last 5 years, have some concerns as to the change of use and of course in more recent years, because of the popularity of the Whitewater rafting sport, the tremendous growth that has occurred in the last few years.

The whitewater rafting industry has gone from 2 companies 5 years ago, to I believe, 16 companies today. There were 8 last year. This growth has not only been common in the State of Maine, but throughout the United States. As a matter of fact many of the other states have already taken some type of legislative action creating moratoriums. The most recent being West Virginia which probably is one of the larger whitewater rafting states in the United States. They just established a moratorium in the West Virginia area.

In the State of Maine it was predicted by the Whitewater Rafting Association last year that they would take down somewhere around 10,000 to 16,000 people down these two sections of river. One if 13 miles in length, the other is 15 miles in length.

Putting that number of people on the rivers in addition to those who already use the river for other activities such as camping, fishing, canoeing, kayaking, and of course, the other rafters who are not commercial outfitters, have brought a number of individuals the concern that these waters can't stand that type of impact so quickly.

With the actions being taken by the other states, we have had a number of inquiries. Maine being the only open state left, the whitewater industry may want to focus more on Maine. In other words, West Virginia companies may decide that since Maine is still open, let's go to Maine and start our business there.

To do that we may very well be faced in another year with a doubling of the licenses and thus the doubling of the number of individuals that would be whitewater rafting.

The attempts of this proposal is to kind of close the door and take a good hard look at it and then let the First Regular Session of the 111th come up with either some proposals or not. At least at that opportune time we would have a better understanding and feeling of the situation, before it could be overly abused.

If we lose that resource which is so valuable, and of course the aesthetic value of the wilderness experience as it is today. I am afraid if we continue with the rapid growth that we have today, that we could very well be faced with that number of individuals, 20,000, 25,000, 30,000 people going down a 13 miles section of the river, and you are not going to have really very much of a whitewater wilderness experience.

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

Senator PIERCE: Mr. President, Members of the Senate, my understanding of the piece of Legislation has just been enlarged greatly. I can understand the need for a study, but it is now my understanding that we are about to pass a piece of legislation through here which will place a moratorium on all of these licenses without a public hearing. I think that that is absolutely wrong and something that we should not be doing.

Perhaps a better route would be for the Fish and Wildlife Committee to pursue the regular study order and make this a high priority if it is with them, and present those study orders like all the rest of the committees have done.

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

Senator TROTZKY: Mr. President and Mem-

bers of the Senate, there are few whitewater companies in the group that are operating on the rivers now, which are fairly large, and have many rafts going down the rivers.

Essentially as I have just seen Senate Paper 981, the first section of it, as Senator Pierce rightly points out is a moratorium on any new companies coming in until this Whitewater Study Commission produces its study.

My feeling is that there is a necessity for some kind of study to be done, because there are many rafts and there probably are safety problems, and so on. My concern is that by putting a moratorium on, you'll freeze in the companies that are already operating on the river and make it extremely difficult for any other companies, any local Maine people to come in and start a rafting company.

Most of the companies that are operating there, I have been informed by Senator Pray, are people who have come in from out-of-state, who have experienced the rafting business on other rivers and have started companies. He said to me that only one company of the 16 operating on the river are local Maine people.

I am not sure how to handle this, I feel that a study is appropriate, but I feel a moratorium that this Resolve establishes is wrong at this time.

The PRESIDENT: Is the Senate ready for the question?

The Chair recognizes the Senator from Cumberland, Senator Usher.

Senator USHER: If I might add a couple of things. There is no cost to the State for this. The industry will pay for this. Also, the moratorium is lifted as soon as the study is complete, which would be the first part of the summer.

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

Senator DEVOE: Thank you, Mr. President. If it is the correct motion, I move that this Resolve be Indefinitely Postponed.

The PRESIDENT: The motion is in order.

The Chair will order a Division.

Will all those Senators in favor of the motion by the Senator from Penobscot, Senator Devoe, that S. P. 981 be Indefinitely Postponed, please rise in their places to be counted.

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

The Chair recognizes the Senator from Waldo, Senator Shute.

Senator SHUTE: 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 Chair recognizes the Senator from Androscoggin, Senator Minkowsky.

Senator MINKOWSKY: Mr. President and Members of the Senate, I just want to be sure that we are on the right track, do we have a copy at the present time of the draft for S. P. 981, or is it just what we are hearing here this afternoon, as to what the Bill is all about?

Secondly, do I understand Senator Pray correctly, that this Bill or this Study Order is to limit competition in the whitewater business?

The PRESIDENT: The Chair would answer the Senator's first question, by saying that the Senate has not authorized that this Bill be printed as yet.

The Senator from Androscoggin, Senator Minkowsky, has posed a question through the Chair.

The Chair recognizes the Senator from Penobscot, Senator Pray.

Senator PRAY: Thank you, Mr. President. Mr. President, Ladies and Gentlemen of the

Senate, to respond to the good Senator from Androscoggin, Senator Minkowsky, as to whether or not this controls competition. Then I guess that the answer to that is clearly yes. It will control competition.

If that is the hangup on this proposal, then I think that we are letting something far greater go by. We control and regulate and restrict competition every day in this Chamber.

My concern is, not one of a great love for the rafting industry, I have seen a great change come to my Senatorial District because of it, some areas advantageously and some areas not so. My concern is far greater that resource of the limited number of rivers that we have in this State that will meet the aesthetic value, and also, the hydraulics to it such that whitewater rafting could take place.

I would just think that it would be a greater mistake if we attempt to in the following session, introduce some type of proposal to draw some types of guidelines in a regular session which usually runs into June, and then legislative proposals take 90 days thereafter, so we are talking about losing this year and next year as to any type of guidelines for the protection of that waterway.

I think that the effects of that are going to be far greater than what many of you realize, unless you have had an opportunity to see 14 or 16 companies all putting in 8 or 10 rafts all at one little site and trying to go down the river. Those of you who have had the opportunity of whitewater rafting within the last couple of years and haven't done it lately or plan to see it this year, if you did see it you'd see a great difference in the way that it has been run in the past, because of the market that is out there at this time and the fact that individuals are rushing to this great sport at this time.

I just think that the wilderness experience of that whole value is going to be lost in the exchange.

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

Senator GILL: Mr. President and Members of the Senate, I haven't been whitewater rafting, but it bothers me to have a piece of legislation come through this session, not being able to read it, not seeing what it really says, and passing on it.

If it was such an emergency piece of legislation, I question why it wasn't brought in, in the early part of the session so that it could have been dealt with in a timely manner, as opposed to sliding through our desks at this point in time.

I think, we do restrict people, we do pass a lot of legislation doing that and regulating people, but usually we give it a public hearing, so that we can have public input into it.

I for one would like to see this Legislation in print before we pass through it, and I also, question why this can't go before the normal procedure of going before Legislative Council for a study order. I don't think that much is going to happen in the interim between now and when we come back either in a special session or in a regular session, as opposed to passing it through in this manner.

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

Senator TROTZKY: Mr. President and Members of the Senate, one of the major issue here before us now, is to limit competition. When the original whitewater rafting legislation came through here it had a license fee of \$1,000. Before you could start a company, it came out of Fish and Game Committee, you had to pay the Fish and Game Department a license fee of \$1,000. That was amended down to \$250 to make it more reasonable.

I have a copy of the legislation or the intended legislation, section 1 is a moratorium. It says, after the effective date of this act, which would be right off if this Bill was passed, the Department of Inland Fisheries and Wildlife may not issue any permits for Commercial

Whitewater Outfitters, under Section 12, M.R.S.A., Section 7362.

Essentially what I see the intent here right off is to limit competition. Those companies that are in and have access to the river, will then come back and start lobbying the Commission that is doing the study, and eventually the Legislature to freeze that moratorium to keep that moratorium, in effect beyond the date of this study.

So I think until the Legislature knows more about this issue, it is wrong for us to right off limit the competition. Which we start doing this summer. That essentially is what this is going to do. There will be no more whitewater outfitters coming on this summer.

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

Senator SHUTE: Mr. President, Ladies and Gentlemen of the Senate, about 8 years ago, we had a member in the other Body, pass, introduce legislation to put a moratorium on the number of lobster licenses to be sold in the State of Maine.

There was such a public outcry against that legislation, that immediately the next session that legislation was repealed.

That was limiting the number of people in this State who could make a living, and limiting it, to certain people in the State.

I think that this thing here is the same thing.

If you have a problem, set up standards for it, but don't outlaw people from making a living in the State, by just putting a moratorium on as to who can get licenses and who can't.

I hope that we would kill this 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, I just want to share some information with you which I have recently received with reference to the use of the waterways.

Last year 8,000 people were rafted down the Penobscot, and on the Kennebec 7,500. To show you the growth of this industry from 1976 when it started. Those who owned the rafting belong to the Maine Rafting Association who kept records in the beginning. The first year 1976 they took 600 people down; 1977, 2,000; 1978, 4,200; 1979, 6,000; 1980, 9,000; and 1981, 15,500 were taken down.

The concerns, the argument of free enterprise, the hangup on this seems to be the reference to the moratorium. The Senator from Penobscot, Senator Devoe, I take it has moved the Indefinite Postponement based upon the moratorium.

This proposal is in Second Reading at this time, where I personally feel that a moratorium would be more beneficial to the resource, the river, the use of it, the economic impact I think that it is, also, equally important that we get some handle on this situation, perhaps the way to get that handle is to continue through with that study that is requested, by this Resolution as well.

The Senator from Cumberland, Senator Gill has stated that she would like to see a copy of it. I had to wait, until the Penobscot, Senator Trotzky finished speaking, because he had the only copy that I knew of in the Chamber.

I do think that this is a very important issue, and I would hate to see us Indefinitely Postpone it at this time.

It requires action by the other Body, and if they may want to amend, or someone in this Chamber may want to amend and there are motions available to put this in an amendable stage, and for those who had that one hangup, in reference to the moratorium, to offer that alternative of taking that section out of it.

I would hope that we would not Indefinitely Postpone the entire order or Resolution 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 Penobscot, Senator Devoe that S. P. 891 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, Brown, Devoe, Emerson, Gill, Hichens, Huber, McBreairey, Minkowsky, Perkins, Pierce, Sewall, C.; Shute, Sutton, Teague, Trotzky.

NAY—Bustin, Carpenter, Charette, Clark, Collins, Conley, Dutremble, Kerry, Najarian, Pray, Trafton, Usher, Violette, Wood.

ABSENT—O'Leary, Redmond.

Senator Brown of Washington was granted permission to change his vote from Yea to Nay.

A Roll Call was had.

15 Senators having voted in the affirmative, and 15 Senators in the negative, with 2 Senators being absent, the motion to Indefinite Postpone does not prevail.

The Chair recognizes the Senator from Oxford, Senator Sutton.

Senator SUTTON: Mr. President, I move that S. P. 981 be Tabled for 2 Legislative Days.

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

Senator COLLINS: I request a Division.

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

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

Papers from the House Non-concurrent Matter

Bill, "An Act to Revise the Salaries of Certain County Officers." (Emergency) (H. P. 2280) (L. D. 2126)

In the Senate, March 31, 1982, the Bill Passed to be Enacted, in concurrence.

Comes from the House, Passed to be Engrossed as amended by House Amendment "A" (H-745), in non-concurrence, having been recalled from the Governor's Desk pursuant to Joint Order (H. P. 2321).

The PRESIDENT: Is the pleasure of the Senate to Recede and Concur with the House? It is a vote.

Non-concurrent Matter

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

In the Senate, April 1, 1982, the Bill Passed to be Engrossed as amended by Senate Amendment "A" (S-459), in non-concurrence.

Comes from the House, Passed to be Engrossed as amended by Senate Amendment "A" (S-459) and House Amendment "A" (H-752), in non-concurrence.

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

Senator DUTREMBLE: Mr. President and Members of the Senate, the purpose of this Amendment is to put back in what was mistakenly left off and approved by the entire delegation. I would just like to read something into the record here to clarify the intent of the Amendment.

Money from the unappropriated surplus account can only be expended after authorization has been given by at least 14 members of the York County delegation, legislative delegation, and a vote taken at a meeting called by the Chairman of the York County legislative delegation. Thank you.

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

It is a vote.

Ought to Pass

The Committee on State Government on, Bill, "An Act to Require the Maine Guarantee Authority in Certain Instances to Repay the State for Money Borrowed on its Behalf by the State. (H. P. 2261) (L. D. 2107)

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. Under Suspension of the Rules, the Bill Read a Second Time and Passed to be Engrossed, in concurrence.

Sent forthwith to the Engrossing Department.

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

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

Bill, "An Act to Prohibit Public Utilities From Including Uncompleted Construction Work Costs in Their Rates. (S. P. 773) (L. D. 1844)

In the Senate, April 1, 1982, the Minority Ought Not to Pass Report Read and Accepted.

Comes from the House, the Bill Passed to be Engrossed as amended by Committee Amendment "A" (S-445), in non-concurrence.

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

Senator TROTZKY: Mr. President and Members of the Senate, this Bill would cause utilities to have to borrow at higher interest rates. It's an anti-consumer Bill, therefore, I would move that the Senate Adhere.

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

Senator CARPENTER: Mr. President and Ladies and Gentlemen of the Senate, as you remember, we debated this issue at some length into the evening the other night. If you will look at Senate Amendment number 445, you will see the essence of the Bill.

It would not, in my opinion, require utilities to borrow at higher rates. It would continue to allow Construction Work in Progress charges to be made, to be passed through to the consumer, if failure to do so would financially damage the utility.

That's the bottom line. We are no longer going to give the utility companies a free rein in asking for and possibly receiving CWIP. We're going to make them justify it. We're going to make the Public Utilities Commission investigate it. Then, in turn, rejustify it to us that failure to allow the charge would severely damage the utility.

I'm not up here this afternoon trying to hurt Maine Public Service Company or Central Maine Power Company, or any other Utility in this State. If the disallowance of CWIP would bankrupt Maine Public Service, Central Maine Power, New England Telephone, or any other regulated utility, I suspect that the good Senator from Penobscot, and I would be standing here side by side against the legislation.

I do not believe that. I do not believe for a second that is what is going to happen. If you read the Amendment, it's a far cry from the Bill that I originally introduced. Essentially all it is a codification, putting into the statute what is existing PUC policy. There's nothing too frightening about that.

I know that some of the utility companies have been running around here, lobbying hard, and raising all kinds of bogeyman issues which aren't real. I, also, know that there have been justification statements written for Senators to put in their local papers as to why they're going to vote against it, and all of that.

I guess probably my standing here probably isn't going to change a great number of votes. I would simply move that the Senate Recede and Concur and ask for the Yeas and Nays.

The PRESIDENT: A Roll Call has been re-

quested.

The Chair recognizes the Senator from Penobscot, Senator Trotzky.

Senator TROTZKY: Mr. President and Members of the Senate, the language that is presently in that Amendment is not a codification of existing PUC policy. I'll read a language here which came from the PUC. "The language is so restrictive that it would inevitably be perceived as prohibiting CWIP absolutely." That's the language that's in the Amendment before you.

"The effect of this perception on major investors could only be higher interest rates on major loans to utilities. Costs that would have to be recovered from ratepayers."

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

Senator TRAFTON: Mr. President and Men and Women of the Senate, the good Senator from Penobscot, Senator Trotzky, seems to continually raise the same arguments. One of the arguments he raises is that somehow we will pay higher interest rates, if we pass this Bill today.

I don't know exactly what line the Senator from Penobscot, Senator Trotzky, has into the financial community that enables him to know what the interest rates will be today, or tomorrow, or the next day.

I would suggest to you that some feel in the financial community that the interest rates are so high now that the only way they can go is down. So, it's very unclear to me how anyone can make that kind of a prediction at this particular point in time.

As we've already discussed, in the New Hampshire case, the conditions that resulted, the financial problems that resulted in their case were not precipitated by CWIP, but in fact were precipitated a long time before, probably in part due to mismanagement and some other problems that they had internally.

Now lest anyone think that this won't have a financial impact on someone, let me refresh our memories. It was only in the last rate hike case presented by Central Maine Power that \$27,000,000 additional dollars were asked for for Construction Work in Progress charges, to be put into the rate base. Fortunately, the Public Utilities Commission did adhere to its policy of generally not allowing that kind of charge in the rate base.

Only two days ago, Maine Public Service has filed a new case. They have asked for \$8,400,000 in the rate base for Construction Work in Progress charges.

So yes, there is someone who can stand to pay more money. That is the ratepayer. It's rather a nice situation for a business. The ratepayer takes the risk, pays the bill. If there are any profits to be made, the stockholders will receive those. The stockholders have all the control in terms of decision-making.

So I would suggest to you that this is a very unfair bargain for the ratepayers of this State, to ask them to subsidize operations which may, in fact, never give service to them.

As you know, in referring back to the request for the \$27,000,000 by CMP, we would now be paying for that if it had been the decision of the PUC to allow those. Yet, neither Seabrook nor Millstone are in operation, and possibly will never be in operation to offer any service to the ratepayers of this State.

So, I hope you will today move to Recede and Concur with the House, and adopt this language, which does keep in place the policy that the Public Utilities Commission has been adhering to in the past.

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

Senator TROTZKY: Mr. President, it's important to note that this Bill, as written, in not PUC policy. We just passed, the good Senator from Androscoggin referred to Seabrook and Millstone and investments made out-of-state by Maine's utilities. We just passed a bill this

afternoon which states that before any utility can invest in an out-of-state power generation facility, it must get prior approval from the PUC.

The PUC right now has flexibility, flexibility to put the Construction Work in Progress interest charges on the ratepayer or the stockholder, or to divide them in some way, or assign different proportions in relationship to the individual case.

In the case of Maine Public Service, in Aroostook County, they are having financial difficulty. If this Bill passes, it effectively eliminates discretion, it does not keep the present PUC policy, and would make certain that all the Construction Work in Progress charges are put on the stockholders.

The potential that a utility which is having severe financial problems will end up in bankruptcy. The PUC has a flexible policy right now, which allows them the discretion and in my judgment and in the judgment of other members of the Committee, it's best to leave that discretion as is.

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

Senator TRAFTON: Thank you, Mr. President. Men and Women of the Senate, I again, as the good Senator from Aroostook, Senator Carpenter, pointed out, we should really turn our attention to the Amendment S-445 and take a look at the language.

This language is not intended to prevent CWIP charges from being allowed in those cases where there is severe financial distress, which can not be otherwise re-mediated.

Now, the good Senator from Penobscot has been waving around this letter issued by one of the lawyers at the Public Utilities Commission. As we all know, lawyers can seem to find just about anything they want in language. We, also, have gone to lawyers and asked them to take a look at this language and tell us if indeed Mr. Johnson's assessment is correct.

So we have opinions on both sides. Naturally, our lawyers assure us that indeed what the wording is in S-445 does allow the option in those cases where there is severe financial distress, for those CWIP charges to be included. We seem to have a divergence as of opinion. I would just point out that for as many lawyers as we can find, I'm sure we can have more divergences as of opinion.

So I would hope that we wouldn't put too much stock in just one person's opinion.

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

Senator MINKOWSKY: Mr. President and Members of the Senate, by all indications, this certainly is an unpartisan issue. That's why I feel very comfortable in debating it. I have received several letters and I have followed up on several newspaper articles relevant to this issue, as well as talking to several constituents who called me during this past weekend.

Most of them don't understand exactly what CWIP stands for. In one letter I received, explained it I think very simplistically. It stated in this particular manner, CWIP is not putting the entire burden of construction costs on the current consumer of electricity. It is merely adding the interest on the bonds which raise the funds for construction. Otherwise even more bonds and shares must be sold to pay the interest and dividends.

At today's cost of money, this greatly compounds the total capital that must be required and must eventually be recovered in the future selling price of electricity.

Now I don't construe that as being against the ratepayers by any means.

Another point that came up, which I found rather interesting was an article that was put on our desks, which referred to the Seabrook situation. I understand the Seabrook situation is entirely different. They wanted to build the entire facility under the CWIP charges, where

we are not doing that in the State of Maine.

Now, in the Seabrook situation that was discussed in this particular article here, this had gone to the Supreme Court of the State of New Hampshire. The court clarified in this particular manner, Construction Work in Progress, or CWIP charges were deemed by the courts both a moral and a necessary tool for the Public Service Company of New Hampshire.

Yet, the New Hampshire Legislature went against it and enacted an anti-CWIP bill.

Following it up a little more clearly, there was an article that I picked up in the Maine Sunday Telegram, where the editorial states, and I'll just read a portion of it which I felt was of significant value. "The Legislature has thrust itself into all manners of questions of utility regulation, which properly ought to be left to the professional and qualified regulators equipped to do the job. The Legislative forays into the thickest of utility regulation are virtually endless, and seem limited only by the imagination of the lawmakers."

In the final paragraph, "the Legislative tinkering with the nuts and bolts of utility rate-making may be politically tempting, but it ought to be resisted. The results are rarely worthwhile either for the customer or for the utility."

Now this weekend, there has been several inquiries made of me about this particular CWIP Bill, some consumer groups. I guess they were a little bewildered, at least from the debate we held here last week, where the good Senator from Penobscot more or less indicated there was some kind of hanky-panky going on within the utility commission or the utility committee itself. That's what they voted on and what came out were two different drafts.

When I read the letter from the Maine Public Utilities Commission that has been debated earlier, which basically attests to what the good Senator from Penobscot, Senator Trotzky, referred to, I looked at one other paragraph in there. In short, it said, "the FERC language under the guise of protecting ratepayers from higher current charges could actually result in higher costs than the language agreed upon by the PUC and the Public Advocate, which was the one that was prior to the new one we have at the present time, speaking of the Public Advocate."

The language quoted in the first paragraph of this letter, "embodied present Commission practice", it was the Commission's understanding that the Committee wished to codify the standard. The FERC language would, on the other hand, codify a standard that is substantially more restrictive than that used by the Commission.

Now, I'm only a layman in this entire matter. I guess I never really had too much of an understanding of CWIP and everything else it represented. In fact, this is the first basic education I've had on this particular issue.

In talking to the people this past weekend, who consulted me about this particular matter, whom I said first of all, are you a proponent or an opponent? Naturally, they were proponents of this particular Bill. As we got more deeply involved, we started discussing other issues. It just came to light when the last one who called me, I received my mail Saturday where I got two bills from the local hospitals, I like to divvy it up between two hospitals. I had one son go to one hospital, and I had a \$41 charge for 5 minutes of work in an emergency room. Then the other hospital's charge was \$118 for x-rays and other things that my other son went to.

I looked at these particular bills and I looked at my insurance and I says now, what is this going to mean to my family. The end result is one thing. My insurance doesn't cover the \$41 charge, which comes out of my pocket. I further explored this to one other aspect. It was this. You know, being a municipal official in the City of Lewiston, I came across one thing. In our hospital situation, and we have two very

competitive hospitals, the end result was one thing. These people pay no taxes to that municipality whatsoever. Not a darn cent.

Yet, those third party payments are of paramount importance. I mentioned to these people in the process, if you didn't have adequate insurance, or the State didn't pick up part of these costs, what would you do? Number one, they said, they wouldn't pay the hospital bill. Secondly, I think they'd be so darn angry at the costs of these things, that they might tear the damn place down. That was the quote made to me.

We further investigated this to the point, and I realize this is not issue-orientated to this, I'm only bringing in a lot of other factors. Let's talk about the Maine Guarantee Authority, the Freddi Vahlsing fiasco, represented \$42,000,000 of taxpayers' money. That went down the tubes. I didn't see anybody raise any havoc over that.

A lot of other factors came into play over the years. Now we're talking about somebody, or a company that is trying, or many companies in the State of Maine who are taxpayers in addition to it, trying to make ends meet. The end result is, this type of legislation, which will prohibit them.

If the intent of the proponents of this Legislation is to take the private utilities out of business, and let the State run the organization, then I say more power to them. Let them address this very constructively, but, do not hamper and debilitate them any further than they have at the present time. In essence, this is what we are doing. I think this is absolutely incorrect. That's why I'm speaking from an unpartisan point of view.

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

Senator CARPENTER: Mr. President and Ladies and Gentlemen of the Senate, we've heard all the reasons manufactured in the world why this is an anti-consumer bill. I'm not qualified to stand here and discuss the Maine Guarantee Authority or Freddie Vahlsing's involvement or how much money the State lost. I don't really think that's germane to the issue we have in front of us.

I can read five lines in a piece of legislation. I can read where it says that this will not prohibit pass through of Construction Work in Progress charges if it will materially affect the utility, by increasing the cost of electricity to consumers. That's pretty clear. That's pretty clear language.

I wasn't in the Public Utilities Committee. I don't know what happened, but I don't really care, because this wasn't the bill that I originally put in. This is an extremely watered down version. It doesn't prohibit CWIP at all. It doesn't put the private utility companies out of business. Maine Public Service Company is in financial disarray. That's not my fault. Perhaps it is partially the fault of this Legislature, or the Public Utilities Commission, for not watching over them more closely in the past few years.

I hear the good Senator from Androscoggin, Senator Minkowsky, who has since left the Chamber, talking about poor struggling utility companies, trying to make ends meet. If you change a couple of words in those sentences, you're talking about poor struggling consumers trying to make ends meet, and old folks, who will never see the benefit of any of these plants.

That's where it's at. The last time I looked at the laws regarding the utilities in this State, they were guaranteed a monopoly to produce electricity or to carry on their particular public service. In exchange for that, they agreed to be regulated. They were promised a certain return on their money, a pretty healthy return on their money, more healthy than many of the consumers that most of us are supposed to represent in this Chamber.

So let's not play mind games. Let's not play word games, and try to justify out from under-

neath the language, it's very clear if anybody would just open up their amendment books, take a look at the Amendment. Thank you.

On motion by Senator Collins of Knox, Tabled until later in today's session, pending the motion of the Senator from Aroostook, Senator Carpenter.

Joint Order

An expression of Legislative Sentiment recognizing:

Baxter State Park acting director, Buzz Caverly, rangers: Bob Howes; Loren Goode; Tom Chase; Chris Drew; and Barry McArthur, and park staff: Shirley Brewster; Janice Caverly; Mary Cummings; Joan King; and Barbara Snowman for their dedication to the principles on which the park was created, and their helpfulness which makes the experience of park visitors truly memorable. (H. P. 2329)

Comes from the House, Read and Passed.

Which was Read and Passed, in concurrence.

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

Orders of the Day

On motion by Senator Huber of Cumberland, the Senate voted to remove from the Special Appropriations Table: Bill, "An Act to Clarify the Statutes Pertaining to Search and Rescue." (H. P. 1837) (L. D. 1834)

On motion by Senator Huber of Cumberland, LD 1834 was Passed to be Enacted and having been signed by the President, was by the Secretary presented to the Governor for his approval.

On motion by Senator Huber of Cumberland, the Senate voted to remove from the Special Appropriations Table: Bill, "An Act to Provide that Procedures Covered by the Maine Medical Assistance Program (Medicaid and Catastrophic Illness) Shall be Reimbursable Whether Performed by a Physician or Dentist." (H. P. 1838) (L. D. 1835)

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

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

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

Recess

After Recess

The Senate called to order by the President.

Orders of the Day

The PRESIDENT: The Chair will bring to the Senate's attention:

Bill, "An Act to Prohibit Public Utilities From Including Uncompleted Construction Work Costs in Their Rates" (S. P. 773) (L. D. 1844), Tabled earlier in today's session, pending the motion of the Senator from Aroostook, Senator Carpenter.

The PRESIDENT: The Chair would advise the Senate that this matter, through a mistake, was improperly before the Body. The Chair has ordered this Bill returned to the House of Representatives.

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

Paper From the House Joint Resolution STATE OF MAINE

In the Year of Our Lord
Nineteen Hundred and Eighty-Two

**Joint Resolution Memorializing Congress
to Call a Constitutional Convention to
Limit the Annual Federal Budget**

WE, your Memorialists, the Senate and House of Representatives of the State of Maine in the Second Regular Session of the One Hundred and Tenth Legislature, now assembled, most respectfully present and petition your Congress of the United States, as follows:

WHEREAS, with each passing year this Nation becomes more deeply in debt as its expenditures grossly and repeatedly exceed available revenues, causing a public debt which now exceeds one trillion dollars, costing billions for debt service, which is the third largest expenditure by the Federal Government; and

WHEREAS, the annual federal budget continually demonstrates an inability on the part of both the legislative and executive branches of the Federal Government to keep spending within the limits of available revenues as witnessed by only 7 years out of the last 51 years in which the budget was balanced; and

WHEREAS, unified budgets do not reflect actual spending levels because of the exclusion of special outlays which are not included in the budget and which are not subject to the legal public debt limit; and

WHEREAS, knowledgeable planning, fiscal prudence and common sense require that the budget reflect all federal spending and that the budget be in balance; and

WHEREAS, realizing that the policy of fiscal imbalance at the federal level, with its resulting inflation, is the greatest threat facing our Nation, we firmly believe that constitutional restraint is necessary to insure the fiscal discipline needed to restore financial responsibility; and

WHEREAS, The Constitution of the United States, Article V, provides that Congress may, upon the vote of two-thirds of both Houses, propose amendments to the Constitution or that Congress shall, upon application of the Legislatures of two-thirds of the states, call a convention for proposing constitutional amendments; now, therefore, be it

RESOLVED: That We, your Memorialists, respectfully urge and recommend that the United States Congress propose an amendment to the Constitution of the United States, requiring that, in the absence of a national emergency, declared by the vote of three-fifths of each House, the total of all federal appropriations made by the Congress for any fiscal year may not exceed the total of all estimated federal revenues for that fiscal year; that this amendment take effect 2 years after its ratification by the states; and that surplus in years of strong economy be applied to the national debt; and be it further

RESOLVED: That, in the alternative, the Congress of the United States call a constitutional convention for the specific and exclusive purpose of proposing an amendment to the Constitution of the United States requiring that, in the absence of a national emergency, the total of all federal appropriations made by the Congress for any fiscal year may not exceed the total of all estimated federal revenues for that fiscal year; and be it further

RESOLVED: That certified copies of this resolution be immediately transmitted by the Secretary of State to the President of the Senate and the Speaker of the House of Representatives of the United States Congress, to each member of the Maine congressional delegation and to the Legislatures of each of the several states attesting the adoption of this resolution by the Second Regular Session of the One Hundred and Tenth Legislature of the State of Maine.

(H. P. 2322)

Comes from the House, Read and Adopted as amended by House Amendment "A" (H-753).

Which was Read. House Amendment "A"

was Read.

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

Senator CONLEY: Mr. President, now that we have Adopted House Amendment "A", we have not Adopted House Amendment "A". Now that we are considering the Adoption of House Amendment "A", if it were to be Adopted, it strikes out all that garbage about calling for a Constitutional Convention. Would that be correct, sir?

The PRESIDENT: The Chair would advise the good Senator that the Chair has not read the Amendment, but would suspect that some of the Members, however, have.

Senator CONLEY: Well I hope that's the intent of House Amendment "A". Once we dispose of that, Mr. President, we could probably dispose of the whole thing.

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

Senator TEAGUE: I move we Indefinitely Postpone House Amendment "A" with a filing number of H-753.

What this Amendment does is gut the whole Joint Resolution, as the Minority Leader just said.

On motion by Senator Teague of Somerset, House Amendment "A" was Indefinitely Postponed, in non-concurrence.

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

Senator CONLEY: Mr. President, I would now move that this great piece of work before us, be Indefinitely Postponed.

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

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

The PRESIDENT: A Roll Call has been requested.

The Chair recognizes the Senator from Cumberland, Senator Conley.

Senator CONLEY: I always enjoy the wisdom expressed in the good words by the good Senator from Oxford. Now that he is leaving this Chamber, and I noticed that the good Senator from Penobscot, Senator Trotzky, has been referring to himself as sort of a lame duck.

I wonder if the lame duck, or that good Senator from Oxford, Senator Sutton, could tell me why, in God's name, he would want to support a Resolution memorializing Congress, calling for a Constitutional Convention?

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

The Chair recognizes the Senator from Penobscot, Senator Trotzky.

Senator TROTZKY: Mr. President and Members of the Senate, a couple of years ago, I put in the same Resolution, only it went through the Council, of which Senator Conley was part of that great body. They wouldn't allow it in because five Democrats decided that they were opposed to a so-called, Constitutional Convention.

What this essentially does, this Resolution, it says to Congress that either you come up with an amendment to the Constitution to be turned out to the people to prevent all these deficits in the budget, or else, you have to have a Constitutional Convention.

Essentially, the Constitutional Convention is the gun held to Congress's head to force them to come out with an amendment to get a balanced federal budget.

There's a lot of flexibility they can come out with. If there are emergencies, they can provide for or allow deficits during emergencies, but we've seen tremendous federal deficits that have occurred, and the tremendous amount of money that instead of going into the private sector, is going into buying government securities, Treasury Notes and so on.

The result of all this is that the economy is suffering from the large deficits that the public

has to finance. Most of these deficits started under Democratic administrations, one after another.

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

Senator TRAFTON: Mr. President and Men and Women of the Senate, I'm a little confused today. It seems to me the party lines are getting quickly obscured here. The deficit that we have now, that many Democrats have been speaking out against, is largely a result of Republican administration policies in Washington. The way I hear it, that's tipping the scales at \$100,000,000,000, which is the largest that we've ever experienced.

I don't think it's in any way unclear how the Democratic party feels about that deficit. We've been urging that that deficit be brought down.

The problem I have with what is before us today is now that the Amendment has been killed, I think we run a terrible risk in opening up our process to a Constitutional Convention. I think we all understand that certainly not the only issue that would come before this Constitutional Convention might be this issue, but there is a plethora of issues that might be brought up, and that it's a very cumbersome and difficult process.

So, I guess I won't vote for this today without that provision being taken, with that provision now being taken out of this Bill. I think all of us here as Democrats in the Chamber support a balanced budget. We have a balanced budget here. It seems to work well. We certainly, as a party, have encouraged Washington to adopt a better fiscal approach and to reduce the deficit.

I question the sincerity of this particular Resolution before us when, in fact, in 1980, we seem to have elected a person who is bringing us down the other road. I think the thing to do probably is wait until 1984, when we can change that policy around. That will be much more effective than passing a Joint Resolution today.

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

Senator WOOD: Mr. President, Men and Women of the Senate, I would like to call to your attention three statements that our President made in terms of the balanced budget.

In Time magazine, 8/2/76, President Reagan said, "inflation is the cause of recession, and the only cause, the one basic cause of inflation is government spending more than it takes in. The cure is a balanced budget."

President Reagan, in the Congressional Quarterly, 11/1/80, said "You can lick inflation by increasing productivity and by decreasing the cost of government to the place that we balance the budget and are no longer grinding out printing press money, flooding the market with it because the government is spending more than it takes in. My economic program calls for that."

Finally, in the Tennessee Banner, 10/24/80, "I have called for a 10% personal income tax cut every year for the next three years. Economists say that it will stimulate the economy. It will balance the budget by 1983, and possibly sooner."

I would like to know why the Republican leaders are forsaking their President? What do they know that we don't know? Why can't he balance this budget? Do we need this Resolution, or will he do it on his own?

I think we should leave it up to the President, who has promised to balance the budget, to balance the budget. If he doesn't do that, then by his own recognition, he should be swept out of office.

I think, never in the history of our country, have we had a Constitutional Convention. We've had one. It wrote the Constitution. It has survived all of this time. I think it would be ill-advised to write another one, especially when we have a President who has promised to balance the budget.

The PRESIDENT: Is the Senate ready for the question?

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

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

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

The pending question before the Senate is the Indefinite Postponement of HP 2322.

A Yes vote will be in favor of Indefinite Postponement of HP 2322.

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

A No vote will be opposed.

ROLL CALL

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

NAY—Ault, Collins, Devoe, Emerson, Gill, McBreairty, Perkins, Pierce, Redmond, Shute, Sutton, Teague, Trotzky.

ABSENT—O'Leary.

A Roll Call was had.

18 Senators having voted in the affirmative and 13 Senators in the negative, with 1 Senator being absent, the motion to Indefinitely Postpone HP 2322 in non-concurrence, does prevail.

The Chair recognizes the Senator from Androscoggin, Senator Trafton.

Senator TRAFTON: Mr. President, having voted on the prevailing side, I now move Reconsideration and would ask you all to vote against me.

The PRESIDENT: The pending question before the Senate is the motion by the Senator from Androscoggin, Senator Trafton, that the Senate Reconsider its action whereby it Indefinitely Postponed HP 2322.

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

The Chair recognizes the Senator from Cumberland, Senator Conley.

Senator CONLEY: Mr. President, it is my understanding that it takes a two-thirds vote of this House to pass this Resolution?

The PRESIDENT: The Chair would answer in the affirmative.

Senator CONLEY: Mr. President, I would request that when the vote is taken, it be taken by the Yeas and Nays on the Reconsideration.

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 Reconsideration.

A Yes vote will be in favor of Reconsideration.

A No vote will be opposed.

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

ROLL CALL

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

NAY—Ault, Brown, Bustin, Carpenter, Charette, Clark, Conley, Dutremble, Hichens, Huber, 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 Reconsider does not prevail.

Sent down for 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 Make Corrections of Errors and Inconsistencies in the Laws of Maine." (Emergency) (S. P. 969) (L. D. 2136)

In the Senate, April 5, 1982, the Bill Passed to be Engrossed as amended by House Amendment "D" (H-741) and "E" (H-744), in non-concurrence.

Comes from the House, Passed to be Engrossed as amended by House Amendment "A" (H-738), "B" (H-739), "D" (H-741) and "E" (H-744), in non-concurrence.

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

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

The PRESIDENT: The Senator from Penobscot, Senator Devoe, now moves that the Senate Adhere.

Is this the pleasure of the Senate?

The motion prevailed.

Orders of the Day

The President laid before the Senate:

Resolve, to Establish a Commercial White-water Study Commission. (S. P. 981)

Tabled earlier in today's session by the Senator from Cumberland, Senator Conley, pending Passage to be Engrossed.

The PRESIDENT: Is it now the pleasure of the Senate that this Bill be Passed to be Engrossed and sent down for concurrence?

The Chair recognizes the Senator from Waldo, Senator Shute.

Senator SHUTE: I ask for a Division, Mr. President.

The PRESIDENT: A Division has been requested.

Will all those Senators in favor of the Passage to be Engrossed of SP 981, without Reference to Committee, please rise in their places to be counted.

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

The Chair recognizes the Senator from Cumberland, Senator Usher.

Senator USHER: 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 of SP 981, without Reference to Committee.

A yes vote will be in favor of Passage to be Engrossed.

A No vote will be opposed.

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

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

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

ABSENT—O'Leary.

A Roll Call was had.

15 Senators having voted in the affirmative and 16 Senators in the negative, with 1 Senator being absent, SP 981 Fails of Passage to be Engrossed.

On motion by Senator Pierce of Kennebec, sent down forthwith for concurrence.

On motion by Senator Pierce of Kennebec,

Adjourned until 10 o'clock tomorrow morning.