

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

***One Hundred and Ninth
Legislature***

OF THE

STATE OF MAINE

Volume I

FIRST REGULAR SESSION

January 3, 1979 to May 4, 1979

STATE OF MAINE
One Hundred and Ninth Legislature
JOURNAL OF THE SENATE

February 2, 1979

Senate called to Order by the President.

Prayer by Reverend Douglas H. Robbins, Retired, of Augusta.

Reverend ROBBINS: Almighty God, in whom we live and move and have our being. We invoke Thy presence and Thy wisdom among us, as we resume this Legislation Session, in which right decisions should be made.

Help us to rise above the petty demands and irritations, which so often cloud our vision. May we do cheerfully and confidently the work which lies before us, that which shall be for the greater benefit of all of our fellow men. Open our minds, we pray, to the counsel of eternal wisdom, and breath into our hearts the peace and good will which will cause our labors to be well done, in spite of any difference we may have.

Deliver us from fear and favor, from shifting purposes, and wandering desires. May Thy continued blessing be upon our Nation and State; may we continue to fulfill our duties as good citizens and Members of the Family of Mankind. May not only the words we may speak, but the meditation of our hearts be found acceptable in Thy sight. Thou who art our strength and our redeemer. Amen.

Reading of the Journal of yesterday.

Out of Order and Under Suspension of the Rules.

On motion by Senator Pierce of Kennebec, ORDERED, the House concurring, that when the House and Senate adjourn, they adjourn to Tuesday, February 6 at ten o'clock in the morning.

Which was Read and Passed.

Sent down forthwith for concurrence.

Out of Order and Under Suspension of the Rules.

On Motion by Senator Pierce of Kennebec, the Senate voted to consider the following:

Divided Report

The Majority of the Committee on Transportation on, Bill "An Act to Clarify the Requirements Relating to Identification of School Buses." (H. P. 7) (L. D. 13)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-12).

Signed:

Senators:

EMERSON of Penobscot
USHER of Cumberland
O'LEARY of Oxford

Representatives:

McPHERSON of Eliot
JACQUES of Lewiston
McKEAN of Limestone
LOUGEE of Island Falls
HUNTER of Benton
HUTCHINGS of Lincolnville
CARROLL of Limerick
ELIAS of Madison
BROWN of Mexico

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

Signed:

Representative:

STROUT of Corinth

Comes from the House, Majority Report Read and Accepted, and the Bill Passed to be Engrossed as amended by Committee Amendment "A".

Which Reports were Read.

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

Senator GILL: Mr. President. I'd like to explain why we take this Out of Order. We have to conclude this today, we are under a time

limit. If we don't get this concluded, we're going to be in non-compliance with Federal Statutes.

South Portland and Portland are in a unique position in the State with this ruling. We have a Transit District that transports our children to and from school. We are the only Transit District in the State. This Bill would not pertain to any school bus changes with any other group in the State, other than the Portland Transit District. We would like the "School Bus" sign removed from the Transit District Buses, and those buses alone.

Right now we have a waiver from UMPTA in Washington, that will go until the 30th of June. If we don't get this passed today, we will be in non-compliance with the statutes as they stand because it would be 90 days after the end of the Legislature that this would come into effect. I would move acceptance of the Majority Report.

The PRESIDENT: The Senator from Cumberland, Senator Gill, now moves that the Senate accept the Majority Ought to Pass, as amended, Report of the Committee. Is this the pleasure of the Senate?

The Chair recognizes the Senator from Androscoggin, Senator Minkowsky.

Senator MINKOWSKY: Mr. President, and Members of the Senate: I haven't had much time to research this, other than some of the rhetoric I've heard about this particular bill. Does this mean that the Portland Transit District will be using Transit Buses to bring children to the various schools in the Portland area without using the color yellow-orange on the bus? Is that correct?

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

The Chair recognizes the Senator from Cumberland, Senator Gill.

Senator GILL: Mr. President. I would like to respond to Senator Minkowsky from Androscoggin. The Portland Transit District now does transport children to and from school. We do have a sign on the back of the bus that says "School Bus". We also have flashing red lights. We have been exempted from the provisions dealing with the yellow school buses that travel the rest of the State of Maine.

The problem is the Transit District in Portland is being subsidized by the Federal Government for general transportation of people. We will be in non-compliance; they will not allow us to have the "School Bus" sign on the bus because those buses are to be used for transportation of adults as well.

We have gone through a long process in sending a delegation to Washington to see if we could work something out from that end. But because of the State's Laws dealing with the school bus issue, we are in non-compliance and they have given us until June 30th, of this year, to be in compliance with the laws. I don't know if that answers your question, Senator.

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

Senator MINKOWSKY: Mr. President. It does partially answer my question. I think maybe the people in the Portland area who understand what this law will do insofar as the transportation of their children, in transit buses, might be very much aware that they must stop when loading or unloading. But I imagine the other people, from the other 15 counties in the State of Maine, might have some reservations and possibly pass these buses not realizing that they are in violation of the law that we're setting here this morning.

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

Senator GILL: Senator Minkowsky, our Transit District buses do not transverse the country like the school buses do throughout the State. We pick up students at regular bus stops of the Transit District. We carry them to their

schools. The children are taught to wait at their respective stops before they cross, they do not cross in front of a bus. People are aware because of the flashing lights, they will remain. In our locality they are aware that these buses are transporting children.

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

Senator MINKOWSKY: Mr. President. There seems to be a double standard involved in this particular piece of legislation. In the viewpoint of safety, I would say I would be very much opposed to allowing this particular bill to be accepted.

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

Senator NAJARIAN: Mr. President and Members of the Senate: Just to supplement, a bit, what Senator Gill from Cumberland County has said.

The point that she made was, that our present State School Bus Law is in conflict with the UMPTA Federal Regulation. All we're trying to do is to take the sign "School Bus" off the back of the bus. If we're not allowed to do that, the City of Portland and South Portland will have to expend about \$600,000 to buy school buses. Before we passed the School Bus Law in 1973, Portland School children used the Transit District Buses. We didn't have the flashing lights, we didn't have the sign "School Buses" and there were no safety problems involved then. What we did accomplish through that School Bus Safety Law for the children of Portland was to require that they all have seats. They use to have to stand in the aisles and the bus would stop quickly and some minor accidents happened from that situation. It is the feeling of the School Board of Portland, and South Portland and their superintendents, that there will be no increased risk to the children of Portland because the sign "School Bus" is removed from the back of the bus.

In addition, if we're not allowed to do this, we'll have to buy about 31 school buses and we have top priority in the \$4,000,000 set aside for school buses in the school funding law. That will effectively remove 31 buses from some other school district in the State of Maine, who probably need them more than we do.

In addition, it will mean that there will be 31 more buses on the streets of Portland, in the busy hours, 8 o'clock in the morning when everybody else is trying to get to work.

We don't see, as Senator Gill, has pointed out any safety problem, our children don't cross the street in front of the buses anyway, it just makes eminently good sense. It's a switch for Portland people to come up here and asking "not to spend money on us," I think you ought to take that into consideration.

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

Senator HICHENS: Mr. President and Members of the Senate: Yesterday we discussed a Bill which was declared to be a Portland Bill. I think this again is a Portland Bill. I cannot understand why it has been allowed to come before us, in such an emergency, when they knew this was coming quite awhile back.

I was very much involved with the School Bus Laws back in 1973, in fact, if I remember correctly, it was my Bill that was finally passed. At that time Portland was involved and at this time Portland should be involved.

I think as the good Senator from Androscoggin says we're setting a double-standard. The law says that a school bus, or any bus, cannot have flashing red lights unless it says, "School Bus," on that bus. I think it would be adding much to the confusion of people traveling in Portland whether they are residents or out-of-city residents. When they see a bus with flashing red lights, and it doesn't say "School Bus", what in the world is happening now.

I know the cost of \$600,000 has been stated, but for the safety of our school children and for

the good-being of the people in the State of Maine. I think that we should defeat this Bill.

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

Senator PRAY: Mr. President and Members of the Senate: In the original presentation, by the Senator from Cumberland, Senator Gill, she had mentioned that the City of Portland had received a waiver which was good until the end of June, if my understanding is right. I would be curious as to why we must act on this legislation today, if the waiver is good until the end of June, as she had stated? Would somebody respond to that?

The PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Gill, who requests Leave of the Senate to speak a fourth time. Is there objection?

The Senator has the floor.

Senator GILL: If we don't pass this Bill today, and what I hoped to do is put an emergency clause on it, the law wouldn't become effective until 90 days after the adjournment of the Legislature. If this did fail, and we had to purchase school buses, we wouldn't have time to purchase them.

The PRESIDENT: The Chair recognizes the Senator from Androscoggin, Senator Minkowsky, who requests Leave of the Senate to speak a fourth time. Is there objection?

The Senator has the floor.

Senator MINKOWSKY: Just a recap, a brief statement, that Senator Najarian of Cumberland made about 31 buses or \$600,000, appropriation on the part of the City of Portland. Regardless of the \$600,000, appropriation that it would cost the City of Portland, or the 31 extra buses it would take to clutter up the streets of Portland, this is a very minor thing versus the lives of children of Portland, in my estimation. I think you people are making a very serious mistake by placing a monetary situation, over and above, the lives of the "kids" in the City of Portland.

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

Senator NAJARIAN: Mr. President. I resent the implication that we're placing the money above the safety and the lives of the children of Portland. Certainly that's not true. The Transit District buses, as a matter of fact, are considered to be a lot safer than the old school buses as far as construction and that sort of thing. There's another consideration, that our Portland City Council is in a bind as far as our budget and city taxes for the next year are concerned. They have said, "the way the financing works, they have to put up the 'up front' money to start with, then they're reimbursed later on down the road." They have said, and I wish Senator Conley was here to speak as a member of the Portland City Council, that they, in no way, are going to make that money available to buy these buses in the first place. They don't have to. All they have to do is, a standard has to be set on how far children live before they'll be transported. As far as the City of Portland is concerned, all they have to do is say, "that we won't transport kids unless they live four miles from the school". No one in the City of Portland would qualify because we don't have that kind of distances. It's my understanding that the red flashing lights will not be removed if the "school bus" signs are taken off, and I guess that comes from pretty good authority. I can't remember exactly where it was now. I think the School Superintendent told me that he has been assured that the red flashing lights will remain on the Portland City Transit District buses.

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

Senator KATZ: Mr. President. I sense a reluctance on the part of, at least, a couple of Senators to go along with this Bill. As I sat on the Committee in Education and listened to the extraordinary shortcomings of school bus drivers in rural areas: who are put on the job and

put behind the wheel with out any special training, and sometimes with just a casual test, it seems to me that the youngster who gets on the Portland Bus may be a good deal safer than the youngster out in the rural communities with the yellow bus and the flashing red lights. I would reassure the members of the Senate that the safety record of the youngster on the Portland System is very good indeed. Although we might like to have those yellow buses floating around everytime there's a youngster inside. It seems to me that this bill, as amended, is a reasonable compromise and a practical compromise which matches, I think, the safety of the youngster very favorably up against the dollar cost. I would be very supportive of the motion to enact this Bill, or at least, push it along in its present form.

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

Senator CARPENTER: Mr. President, just to echo the last remarks of the Senator from Kennebec, Senator Katz, for those of you who haven't checked the licensing laws lately. Presently in the State of Maine, you can drive a school bus without a license. You can't haul dead chickens down the road, but you can drive a school bus. I have a Bill which will remedy that situation. In discussing this Bill, I would certainly feel much more comfortable if I lived in the City of Portland, even though perhaps, the Transit Buses don't meet all the "marking requirements" of a normal school bus. I would think, and I'm just digging into this situation with the school bus drivers in the State of Maine; I would certainly feel much more comfortable if I had a child in the City of Portland as Senator Katz has remarked, having them ride the Transit Authority Buses, than some of the school buses that we may potentially have being driven around the State of Maine.

The PRESIDENT: Is the Senate ready for the question? The Chair recognizes the Senator from Penobscot Senator Pray.

Senator PRAY: Mr. President and Members of the Senate: I am a little disturbed that this matter is of such a pressing nature that we must act today. We have been in, according to the Calendar, for 15 Legislative days and the Bill was so necessary that we haven't even sent it to committee, we had to act so quick.

But even with those reservations and the fearful reservation that we maybe taking the wrong step, I would like to urge the members of this body because of the lateness of the hour, for the necessity of Portland to address this issue, that we pass it today.

The PRESIDENT: The Chair recognizes the Senator from Androscoggin Senator Minkowsky, who requests Leave of the Senate to speak a fifth time. Is there objection?

The Senator has the floor.

Senator MINKOWSKY: I would like to request a Roll Call.

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

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

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

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

A Yes vote will be in favor of accepting the Majority Ought To Pass Report.

A Nay vote will be opposed.

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEA — Ault, Carpenter, Chapman, Clark, Devoe, Emerson, Gill, Huber, Katz, Lovell, Martin, McBreaity, Najarian, O'Leary, Per-

kins, Pierce, Redmond, Shute, Silverman, Sutton, Teague, Trafton, Trotzky, Usher.

NAY — Cote, Hichens, Minkowsky, Pray.

ABSENT — Collins, Conley, Danton, Farley. A Roll Call was had.

24 Senators having voted in the affirmative, and 4 Senators in the negative, with 4 Senators being Absent, the motion to Accept the Majority Ought to Pass, as amended, Report of the Committee does prevail.

The Bill Read Once.

Committee Amendment "A" (H-12), Read and Adopted, in concurrence.

On Motion by Senator Gill of Cumberland, under Suspension of the Rules, the Bill, as amended, given its Second Reading.

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

Senator GILL: Mr. President, I present Senate Amendment "A" (S-5) and move its adoption.

The PRESIDENT: The Senator from Cumberland, Senator Gill, now offers Senate Amendment "A" (S-5) and moves its adoption.

Senate Amendment "A" (S-5) Read and Adopted.

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

Whereupon, under further suspension of the rules, sent down forthwith.

Papers from the House Non-concurrent Matter

Bill "An Act to Remove the Sunset Provision on the Tort Claims Act." (S. P. 119) (L. D. 228)

In the Senate, January 31, referred to the Committee on Judiciary and Ordered Printed.

Comes from the House, referred to the Committee on Audit and Program Review, in non-concurrence.

On Motion by Senator Katz of Kennebec, tabled for 1 Legislative Day, pending consideration.

House Paper

Bill "An Act Concerning State Retirement Benefits for Police Officers and Firefighters." (Emergency) (H. P. 205) (L. D. 253)

Comes from the House, referred to the Committee on Aging, Retirement and Veterans and Ordered Printed.

Which was referred to the Committee on Aging, Retirement and Veterans and Ordered Printed, in concurrence.

Bill, "An Act to Amend the Law Relating to the Maine Milk Tax Committee." (H. P. 206) (L. D. 254)

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

Which was referred to the Committee on Agriculture and Ordered Printed, in concurrence.

Bill "An Act Appropriating Funds to Purchase 500 copies of 'The History of Current Maine Newspaper' by Alan R. Miller." (H. P. 207) (L. D. 255)

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

Which was referred to the Committee on Appropriations and Financial Affairs and Ordered Printed, in concurrence.

Bill "An Act Concerning the Maine Property Insurance Cancellation Control Act." (H. P. 208) (L. D. 257)

Bill "An Act to Clarify the Powers and Authority of Nonprofit Hospital Associations to Give or Deny Participating Hospital Status Under their Hospitalization Plans." (H. P. 209) (L. D. 256)

Come from the House, referred to the Committee on Business Legislation and Ordered Printed.

Which were referred to the Committee on Business Legislation and Ordered Printed, in concurrence.

Bill, "An Act to Amend the Mandatory Shoreland Zoning Act." (H. P. 210) (L. D. 258)

Comes from the House, referred to the Committee on Energy and Natural Resources and Ordered Printed.

Which was referred to the Committee on Energy and Natural Resources and Ordered Printed, in concurrence.

Bill, "An Act to Provide That There Shall be an Open Season on Deer During the Entire Month of November." (H. P. 211) (L. D. 259)

Comes from the House, referred to the Committee on Fisheries and Wildlife and Ordered Printed.

Which was referred to the Committee on Fisheries and Wildlife and Ordered Printed, in concurrence.

Bill, "An Act to Increase the Personal Needs Allowance for Recipients of State Supplemental Income Residing in Adult Foster Homes and Boarding Homes." (H. P. 212) (L. D. 260)

Bill, "An Act Concerning Prisoner Participation in Public Works Projects." (H. P. 213) (L. D. 261)

Come from the House, referred to the Committee on Health and Institutional Services and Ordered Printed.

Which were referred to the Committee on Health and Institutional Services and Ordered Printed, in concurrence.

Bill, "An Act Relating to the Liability of Landowners Permitting the Use of their Land without Charge." (H. P. 214) (L. D. 262)

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

Which was referred to the Committee on Judiciary and Ordered Printed, in concurrence.

Bill, "An Act to Expand Eligibility for Unemployment Compensation Benefits if a Worker has a Serious Personal Emergency" (H. P. 215) (L. D. 263)

Bill, "An Act to Clarify Unit Clarification Procedures under the Municipal Labor Relations Act." (H. P. 216) (L. D. 264)

Bill, "An Act to Provide that any Work Over 8 Hours in One Day shall be Compensation by 1½ Pay." (H. P. 217) (L. D. 265)

Bill, "An Act to Clarify Issues under the Municipal Public Employees Labor Relations Statutes." (H. P. 218) (L. D. 266)

Bill, "An Act to Adjust Unemployment Benefits for Employees on Layoff who are Temporarily Recalled to Work by their Regular Employer." (H. P. 219) (L. D. 267)

Bill, "An Act to Require that Certain Employers Provide Regular Physical Examinations for their Employees to Detect Carcinogenic and Pulmonary Disorders." (H. P. 220) (L. D. 268)

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

Which were referred to the Committee on Labor and Ordered Printed, in concurrence.

Bill, "An Act to Permit Sellers of Alcoholic Beverages to Remain Open to 2 A.M." (H. P. 221) (L. D. 269)

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

Which was referred to the Committee on Legal Affairs and Ordered Printed, in concurrence.

Bill, "An Act Relating to Special Entertainment Permits." (H. P. 222) (L. D. 270)

Comes from the House, referred to the Committee on Local and County Government and Ordered Printed.

Which was referred to the Committee on Local and County Government and Ordered Printed, in concurrence.

Bill, "An Act to Increase the Surplus Account of the Kennebec Sanitary Treatment District."

(H. P. 223) (L. D. 271)

Comes from the House, referred to the Committee on Public Utilities and Ordered Printed.

Which was referred to the Committee on Public Utilities and Ordered Printed, in concurrence.

Bill, "An Act to Require that Alternates on the Maine Labor Relations Board Fill Unexpired Terms when Vacancies Occur." (H. P. 224) (L. D. 272)

Bill, "An Act Relating to Training, Counseling, and Managerial Service Programs in Maine State Government." (H. P. 225) (L. D. 273)

Comes from the House, referred to the Committee on State Government and Ordered Printed.

Which were referred to the Committee on State Government and Ordered Printed, in concurrence.

Bill, "An Act to Remove the Sales Tax from Residential Electricity." (H. P. 226) (L. D. 274)

Bill, "An Act to Provide for Trade-in Allowance under the Tax Statutes on Self-contained Well Drilling Machines." (H. P. 227) (L. D. 275)

Come from the House, referred to the Committee on Taxation and Ordered Printed.

Which were referred to the Committee on Taxation and Ordered Printed, in concurrence.

Joint Resolutions

A Joint Resolution In Memoriam:

WHEREAS, the Legislature has learned with deep regret of the death of Nelson A. Rockefeller, former Vice-President of the United States and Maine native. . . (H. P. 202)

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

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

Senator PERKINS: Mr. President, Ladies and Gentlemen of the Senate: This day is indeed a sad day for my country and for the state, with the loss of our former Vice-President and resident, and native born son of the State of Maine.

I would like to just call our attention and ask that you join with me in expressing our sorrow for the loss of Nelson A. Rockefeller, who was a giver not a taker.

Which was Adopted, in concurrence.

A Joint Resolution In Memoriam:

WHEREAS, the Legislature has learned with deep regret of the death of Honorable Charles K. Savage of Mt. Desert. . . (H. P. 203)

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

Communications

COMMITTEE

ON

TRANSPORTATION

February 1, 1979

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

Augusta, Maine 04333

Dear President Sewall:

In accordance with 3 M.R.S.A., Chapter 6, section 151 and with Joint Rule 38 of the 109th Maine Legislature, the Joint Standing Committee on Transportation has had under consideration the nomination of Roger L. Mallar to the position of Commissioner of Transportation.

After public hearing and discussion on this nomination, the Committee proceeded to vote on the motion to recommend to the Senate of the 109th Maine Legislature that this nomination be confirmed. The vote was taken by the yeas and nays. The Committee Clerk called the roll with the following results:

YEAS:

Senators 3

Representatives 9

NAYS:

Senators 0

Representatives 0

ABSENT:

Representatives 1, Donald A. Strout of Corinth

12 members of the Committee having voted in the affirmative and 0 in the negative, it was the vote of the Committee that the nomination of Roger L. Mallar to the position of Commissioner of Transportation be confirmed.

Sincerely,

JEROME EMERSON

Senate Chairman

GEORGE CARROLL

House Chairman

Which was Read and Ordered Placed on file.

The PRESIDENT: The Joint Standing Committee on Transportation has recommended that the nomination of Roger L. Mallar be confirmed.

The pending question before the Senate is: Shall the recommendation of the Committee on Transportation be overridden?

In accordance with 3 M.R.S.A., Chapter 6, section 151, and with Joint Rule 38 of the 109th Legislature, the vote will be taken by the yeas and nays. A vote of yes will be in favor of overriding the recommendation of the Committee. A vote of No will be in favor of sustaining the recommendation of the Committee. Is the Senate ready for the question?

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEA — None

NAYS — Ault, Carpenter, Chapman, Clark, Cote, Devoe, Emerson, Gill, Hichens, Huber, Katz, Lovell, Martin, McBreairty, Minkowsky, Najarian, O'Leary, Perkins, Pierce, Pray, Redmond, Shute, Silverman, Sutton, Teague, Trafton, Trotzky, Usher, Sewall.

ABSENT — Collins, Conley, Danton, Farley.

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 Roger L. Mallar is confirmed.

DEPARTMENT OF

MENTAL HEALTH & CORRECTIONS

January 30, 1979

President of the Senate, Joseph Sewall
Speaker of the House, John Martin
and Members of the 109th Legislature
State House

Augusta, Maine 04333

Dear Legislators:

According to the provisions of Title 34, M.R.S.A. 263, I hereby submit a brief report outlining the organization table for the responsibilities of intake workers and others involved with juvenile justice within the Department of Mental Health and Corrections.

A more comprehensive report related to planning for prevention and programs dealing with juvenile delinquency as contained in Title 34, M.R.S.A. 262 will be forwarded on March 1, 1979.

Respectfully submitted,

GEORGE A. ZITNAY

Acting Commissioner

Which was Read and with accompanying report,
Ordered Placed on file.

OFFICE OF SECRETARY OF STATE

January 31, 1979

May Ross

Secretary of the Senate Chambers

Dear Mrs. Ross:

The Accompanying report is required by the Charitable Solicitations Act, c. 488 of the Public Laws of 1977, effective January 1, 1978.

This report describes briefly the original law and subsequent changes and contains a summary of the Secretary of State's activities during the calendar year 1978.

Sincerely,

RODNEY S. QUINN

Which was Read and, with accompanying report, Read and Ordered Placed on file.

The Charitable Solicitations Act, Chapter 488 of the Public Laws of 1977, became effective January 1, 1978.

This law originally provided that charitable organizations register with the Secretary of State by paying a \$10 fee; that organizations considering themselves exempt file annually; and that financial reports be required of every charitable organization registered pursuant to this act and receiving more than \$10,000 in gross contributions during the organizations fiscal year; that professional fund raisers register, with bond and \$100 fee; and that the fees collected by the Secretary of State be used for administration and enforcement of this act.

Chapter 654 of the Public Laws of 1977, effective July 6, 1978, amended the Charitable Solicitations Act. It eliminated the fee for registering charitable organizations with the Secretary of State's office, removed the requirement that organizations considering themselves exempt from the act file on an annual basis, increased the amount of gross contributions from \$10,000 to \$30,000 before a financial report was required and removed the provision allowing the Secretary of State the use of the funds collected for administration and enforcement of the act.

During the first calendar year the following have filed with the Secretary of State:

Charitable organizations	123
Professional fund raisers	5
Organizations claiming exemption	202
Total revenues to the State	\$1,334.88

of which \$188.63 of expenditures were made prior to the passage of Chapter 654. All other expenses for the administration of this act have been absorbed by the office of The Secretary of State and by utilization of the services of a CETA employee.

The Secretary of State held a public hearing December 29, 1978 on proposed rules and regulations governing registration statements and financial reports submitted pursuant to the act. Rules and regulations were adopted pursuant to the Administrative Procedures Act and became effective January 30, 1979.

The number of telephone inquiries or requests for public information concerning those registered under this act has been low.

MARINE RESOURCES COMMITTEE

February 1, 1979

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

Dear President Sewall,

In accordance with 3 M.R.S.A., Chapter 6, section 151, and with Joint Rule 38 of the 109th Maine Legislature, the Joint Standing Committee on Marine Resources has had under consideration the nomination of Spencer Apollonio to the position of Commissioner of Marine Resources.

After public hearing and discussion on this nomination, the Committee proceeded to vote on the motion to recommend to the Senate of the 109th Maine Legislature that this nomination be confirmed. The vote was taken by the yeas and nays. The Committee Assistant called the role with the following result:

YEAS:

Senators 3
Representatives 10

NAYS:

Senators 0
Representatives 0

13 members of the Committee having voted

in the affirmative and 0 in the negative, it was the vote of the Committee that the nomination of Spencer Apollonio to the position of commissioner of Marine Resources be confirmed.

Sincerely,

MELVIN A. SHUTE

Senate Chairman

GARY W. FOWLE

House Chairman

Which was Read and Ordered Placed on file.

The PRESIDENT: The Joint Standing Committee on Marine Resources has recommended that the nomination of Spencer Apollonio be confirmed.

The pending question before the Senate is: Shall the recommendation of the Committee on Marine Resources be overridden?

In accordance with 3 M.R.S.A., chapter 6, section 151, and with Joint Rule 38 of the 109th 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 PRESIDENT: The Chair recognizes the Senator from Kennebec, Senator Katz.

Senator KATZ: Mr. President. There is some question that emanates from the Governor's office, as I understand it, as to exactly when Mr. Apollonio could assume his duty.

There is a statutory requirement that he must be sworn in no longer than 30 days from the time he is confirmed by the Senate.

Might I suggest that it would be well if somebody might table this for one day until this question can be resolved?

On motion by Senator Pierce of Kennebec, tabled for 1 Legislative Day, pending consideration.

Senate Papers

Senator Pray of Penobscot presented, Bill, "An Act to Base Adjustments of Retirement Allowances on Cost of Living." (S. P. 130)

Which was referred to the Committee on Aging, Retirement and Veterans and Ordered Printed.

Sent down for concurrence.

Senator Pray of Penobscot, Cosponsor: Senator Hichens of York presented, Bill, "An Act to Include Services Performed by Chiropractors under Health Insurance Policies and Health Care Contracts which Pay Benefits for those Procedures if Performed by a Physician." (S. P. 131)

Senator Pierce of Kennebec presented, Bill, "An Act Relating to the Maine Medical and Hospital Malpractice Joint Underwriting Association Act." (Emergency) (S. P. 143)

Senator Pray of Penobscot presented, Bill, "An Act Requiring Motor Vehicles Registered in this State to Carry Liability Insurance." (S. P. 134)

Senator Clark of Cumberland presented, Bill, "An Act Concerning the Financial Responsibility Law." (S. P. 132)

The same Senator presented, Bill, "An Act to Increase the Certification Fees for Geologists." (S. P. 133)

The same Senator presented, Bill, "An Act to Amend the Geologists and Soil Scientists Certification Act." (S. P. 136)

Which were referred to the Committee on Business Legislation and Ordered Printed.

Sent down for concurrence.

Senator Pierce of Kennebec presented, Bill, "An Act to Clarify Standards for Consumer Membership under the Health Facilities Information Disclosure Act." (Emergency) (S. P. 141)

Senator Collins of Knox presented, Bill, "An Act to Permit Waiver of Facilities for the Handicapped in Certain Buildings." (S. P. 135)

Which were referred to the Committee on Health and Institutional Services and Ordered

Printed.

Sent down for concurrence.

Senator Collins of Knox, Cosponsors: Senator Carpenter of Aroostook and Senator Trafton of Androscoggin presented, Bill, "An Act Relating to Appropriation of Funds for Assistant District Attorneys." (S. P. 128)

Which was referred to the Committee on Judiciary and Ordered Printed.

Sent down for concurrence.

Senator Pray of Penobscot presented, Bill, "An Act Relating to Service Fees of Authorized Bargaining Agents." (S. P. 137)

Senator Sutton of Oxford, Cosponsors: Senator Pierce of Kennebec, Senator Chapman of Sagadahoc, Senator Teague of Somerset presented, Bill, "An Act to Raise the Ceiling of the Minimum Wage to \$4." (S. P. 127)

Which were referred to the Committee on Labor and Ordered Printed.

Sent down for concurrence.

Senator Pierce of Kennebec presented, Bill, "An Act to Amend the Laws Relating to Games of Chance." (S. P. 142)

Which was referred to the Committee on Legal Affairs and Ordered Printed.

Sent down for concurrence.

Senator Huber of Cumberland, Cosponsor: Senator Najarian of Cumberland presented, Bill, "An Act to Insure the Accountability of Counties in the Expenditure of Federal Funds." (S. P. 140)

Senator Martin of Aroostook, Cosponsor: Senator McBreairey of Aroostook presented, Bill, "An Act Relating to the Court of Probate of Aroostook County." (S. P. 144)

Which were referred to the Committee on Local and County Government and Ordered Printed.

Sent down for concurrence.

Senator Silverman of Washington presented, Bill, "An Act to Restrict Railroad Companies from Operating Trains Through Selected Intersections in Municipalities During Peak Traffic Conditions." (S. P. 138)

Which was referred to the Committees on Transportation and Ordered Printed.

Sent down for concurrence.

Committee Reports

House

Ought to Pass

The Committee on Local and County Government on, Bill, "An Act to Increase the Limitation on Contracts which the County Commissioners may Enter into for Purchases and Construction without Competitive Bidding." (H. P. 56) (L. D. 65)

Reported that the same Ought to Pass.

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

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

The Committee on Local and County Government on, Bill, "An Act to Increase Salaries of County Officers." (H. P. 201) (L. D. 227)

Reported that the same Ought to Pass pursuant to Joint Order (H. P. 135)

Comes from the House, the Bill Recommended to the Committee on Local and County Government.

Which was Read.

On motion by Senator Katz of Kennebec, re-committed to the Committee on Local and County Government, in concurrence.

Senate

Senator Emerson for the Committee on Transportation on, Bill "An Act Relating to School Buses Used by Nonprofit Organizations for the Purpose of Transporting Children to Or-

ganized Activities." (S. P. 31) (L. D. 19)

Reported that the same be granted Leave to withdraw.

Which Report was Read and Accepted.
Sent down for concurrence.

Divided Report

The Majority of the Committee on Transportation on, Bill, "An Act to Permit Privately Owned Snowplows to Keep Warning Lights on when on the Highways as well as Private Property." (S. P. 52) (L. D. 77)

Reported that the same Ought to Pass.

Signed:

Senator:

O'LEARY of Oxford

Representatives:

McKEAN of Limestone

STROUT of Corinth

HUTCHINGS of Lincolnville

ELIAS of Madison

McPHERSON of Eliot

LOUGEE of Island Falls

BROWN of Mexico

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

Signed:

Senators:

EMERSON of Penobscot

USHER of Cumberland

Representatives:

CARROLL of Limerick

JACQUES of Lewiston

HUNTER of Benton

Which Reports were Read.

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

Senator EMERSON: Mr. President, I move that we accept the Minority Ought Not to Pass Report of the Committee.

The PRESIDENT: The Senator from Penobscot, Senator Emerson, now moves that the Senate accept the Minority Ought Not to Pass Report of the Committee.

The Senator has the floor.

Senator EMERSON: You folks who have been listening to the reports of Committee on Transportation, it should be obvious by now that we are not "a bunch of sheep".

This bill is a bill regarding flashing amber lights that are used on pick-ups or other vehicles while plowing private driveways. It is permissible now to use these lights while in the driveway or while entering the highway. It is not permissible to use them on the highways.

There are probably 100's of pick-ups in this State with snowplows on that have these lights that are on the highways. I do not believe that they are any great threat to the public. If they thought that they were, they probably could use their fourway flashers.

Also on the highways there are large vehicles which are used to plow the highways, and they have plows 9, 10, 12 feet wide with a wing extended from the side. Now these vehicles use either amber flashing lights or rotary lights to warn the public that as they approach these vehicles, or are being approached by the vehicles, that there is need to take precaution.

Also, on the highways there are maintenance vehicles which use these lights. Around these maintenance vehicles there are highway vehicles, there are public utility vehicles and around these vehicles there are men working. They use lights on these vehicles for safety for the men working, so a car approaching, can take precautionary measures. I am concerned that if we have 100's of pick-ups going up and down the highways flashing these lights, it will be quite a common occurrence. It will be rather common place to see those lights and perhaps we won't take heed when we see them. I think that it might tend to reduce the effectiveness of the lights when they are really needed. I would urge you to support the Ought Not to Pass Report.

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

Senator AULT: Mr. President and Members of the Senate: I rise in opposition to the motion by the Senator from Penobscot and would urge you to defeat his motion so that we can accept the Majority Ought to Pass Report.

I sponsored this measure on behalf of a number of small time, snowplow operators who do not plow driveways, private driveways. The law presently says that vehicles equipped and used for plowing snow, on other than public ways, may be equipped with an auxiliary rotary flashing light, shall be mounted on top of the vehicle, in such a manner as to admit an amber beam of light over a 360° angle. Such lighting shall only be in use on a public way when the vehicle is entering in or upon such public ways in the course of plowing private driveways and other off highway locations.

The problem this presents to these small time operators is that when they are in a private driveway they may have this flashing light on, but as soon as they back out of the driveway they have to shut it off, proceed to the next driveway and then they may turn it on again, when they come out they have to shut it off. It is natural and it has happened with a number of them that they forget to shut it off between driveways while they are plowing snow, and some have been apprehended by the police.

I propose to change the law so that it says such lighting, shall only be in use on a public way, while the vehicle is plowing private driveways, and other off highway locations, connected with the public way.

The only time that they would be allowed to have this light on their vehicle is when they are actually plowing driveways. I do not agree with Senator Emerson that we would have 100's of these trucks going up and down the highways with these lights on. Naturally, they are not going to be allowed to have their lights on if they do not have the plow mounted on the trucks. So I would disagree with him on that issue. I would ask you to vote against his motion and would request a Division.

The PRESIDENT: A Division has been requested.

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

Senator O'LEARY: Thank you Mr. President. Mr. President and Members of the Senate: I signed the Majority Ought to Pass Report of the Committee, and I will be very brief.

As the good Senator from Penobscot, Senator Emerson, said, it is true, there were two opponents of this Bill at the public hearing, he accurately reflected the views of Roger Mallar. At the time I was considering signing Ought Not to Pass, but there was another opponent and that was Major Jamison of the Maine State Police.

Before he was done testifying before the Committee, he was a proponent of the Bill. His reasoning was that these plows that are on these trucks, some of them, as much as 8 feet wide, and the lights that they have on these trucks are mounted over the plows and it was a safety factor then for them to have an amber light on. That is the reasoning behind my vote. I hope that we do defeat the motion so that we can accept the Ought to Pass Report of the Committee.

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

Senator PRAY: Mr. President and Members of the Senate: I do not rise to address the bill in its present form, as it is before you.

I do have a problem which I would like to be able to address in the second reading with an amendment. Briefly to explain the situation, I would hope that you would hold any judgment on the entire legislation until we are able to get it in its second reading.

Some of these pick-ups and they are presently restricted, as to the width of the plow, or the length as it may be, to 8 ft. 6 in. A situation that

I was made aware of last weekend by a constituent who had met head-on, on the edge of the plow coming down a narrow back road which was not well plowed because of the recent storm; the town plow trucks had not had time to come around and clear that road properly, who met a pick-up truck with a plow on the road at night, was unable to see the edge of the plow, and of course the two vehicles scraped.

I would like to get this into the second reading, to be able to amend that to provide either reflectant or some type of light, as we now presently require on the state vehicles on that edge of the plow which is facing on coming traffic. So I would hope that you would, at this time, go against the motion of the Chairman of that Committee to accept the Minority Report, so that we could at least move this legislation along to where we could address this issue as well.

The PRESIDENT: A Division has been requested.

Will all those Senators in favor of Accepting the Ought Not to Pass Report of the Committee, please rise in their places to be counted.

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

14 Senators having voted in the affirmative and 14 Senators in the negative, the Motion to Accept the Ought Not to Pass Report does not prevail.

The Ought to Pass Report of the Committee, was Accepted.

The Bill Read Once and Tomorrow Assigned for Second Reading.

Senator Hichens of York was granted unanimous consent to address the Senate on the record.

Senator HICHENS: Mr. President and Members of the Senate:

"Just 36 years ago today — twas cold and clear", I've heard folks say, "And in mid morn quick as a bunny — a ground hog leaped — for it was sunny."

And by his side his shadow saw — and though January thaw had just passed by much to his pleasure — with his mind he took a measure of what directly lay ahead — and thinking fondly of his bed so warm and comfy, back he went — into his hole where he had spent the cold and blustry winter days — and as we know tradition says for six more weeks the snow and cold — would last to torment young and old."

To some those prospects seemed quite fierce — but in the home of Henry Pierce thoughts of the weather laid aside — anticipation they couldn't hide for soon they knew the long legged bird — would come! on February 3rd, He dropped his bundle of sheer joy and someone shouted "It's a Boy!"

They named him Richard — not the great — but one who in affairs of state may some day find himself a place — and by God's wondrous love and grace we who serve with him here today — wish all the best along life's way.

Nor may he journey far in life — before he finds himself a wife to share the years which lie ahead — and may he like some folks ne'er dread to see the groundhog come each year and see his shadow — with the fear that winter weather will prevail — with cold and snow and rain and hail but as we face another morn — the day which marks when he was born Lets' join best wishes as they say — to Dick Pierce — have a Happy Day.

Senator Pierce of Kennebec was granted unanimous consent to address the Senate off the record.

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

Enactor

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

Emergency

An Act to Clarify the Requirements Relating to Identification of School Buses. (H. P. 7) (L. D. 13) (C "A" H-12) (S "A" S-5)

This being an emergency measure and having received the affirmative votes of 23 Members of the Senate, with 4 Senators voting in the negative, was Passed to be Enacted, and having been signed by the President, was by the Secretary presented to the Governor for his approval.

Paper from the House**Joint Resolution**

A Joint Resolution In Memoriam:

WHEREAS, the Legislature has learned with deep regret of the death of Cecil L. Martin of Bristol, Connecticut. . . (H. P. 228)

Comes from the House, Read and Adopted.

Which was Read.

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

Senator MARTIN: Mr. President and Ladies and Gentlemen of the Senate: Cecil L. Martin, of Bristol, for those of us who are not aware, was the oldest brother of the gentleman from the other body, Speaker Martin.

Cecil passed away, Wednesday afternoon, after a long illness in Bristol and the funeral will be held tomorrow morning.

On behalf of the Martin family of Bristol and Eagle Lake, I would like to thank our good Secretary and members of this body for the wonderful flowers that were delivered yesterday. Thank you, Mr. President.

Which was Adopted, in concurrence.

Orders of the Day

Senator Katz of Kennebec, was granted unanimous consent to address the Senate off the record.

Senator Pray of Penobscot was granted unanimous consent to address the Senate off the record.

The Adjournment Order having been returned from the House, Read and Passed, in concurrence.

On motion by Senator Pierce of Kennebec, Adjourned until Tuesday, February 6, at 10 o'clock in the morning.
