

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

One Hundred and Ninth

Legislature

OF THE

STATE OF MAINE

SECOND REGULAR SESSION

January 2 to April 3, 1980

THIRD SPECIAL SESSION

May 22, 1980

THIRD CONFIRMATION SESSION

July 17, 1980

FOURTH CONFIRMATION SESSION

July 24, 1980

FIFTH CONFIRMATION SESSION

September 12, 1980

**REPORT, HEARING TRANSCRIPT AND
RELATED MEMORANDA OF THE JOINT
SELECT COMMITTEE ON INDIAN LAND
CLAIMS**

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

March 10, 1980

Senate called to order by the President.

Prayer by the Honorable Melvin A. Shute of Stockton Springs.

Senator SHUTE: Most Merciful God, supreme architect of heaven and earth, we beseech thee to guide and protect those Senators here assembled, and fulfill at this time that divine promise that thou art pleased to make to those who should be gathered together in thy name.

Teach us to know and serve thee right. Bless us and prosper us at all our laudable undertakings. Grant that our decisions will tend to thy glory, to the advancement of good government, and thy name shall have the praise forever. Amen.

Reading of the Journal of Yesterday.

**Papers from the House
Joint Orders**

Expressions of Legislative Sentiment recognizing:

The Buckfield High School Girls' Basketball team, coached by Ron Thompson, winners of the 1979-80 Maine Class D Girls' Basketball championship. (H. P. 1914)

The Buckfield Bucks, coached by Rodney Millett, winners of the 1979-80 State Class D Boys, Basketball Championship. (H. P. 1915)

Caroline E. Nason, daughter of Donald and Nancy Grape of Auburn, a district winner and representative of the 1980 Maine High School Oratorical Contest. (H. P. 1919)

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

House Papers

Bill, "An Act to Authorize Bond Issues in the Amount of \$4,000,000 in each of 3 Years for Court Facilities Improvements." (H. P. 1916) (L. D. 1985)

Bill, "An Act to Reduce the Costs to Counties of Supreme Judicial and Superior Courts." (H. P. 1920) (L. D. 1983)

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

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

Bill, "An Act to Authorize Deductions from the Term of Imprisonment of Certain Persons Serving a Split Sentence." (Emergency) (H. P. 1917) (L. D. 1982)

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.

Committee Reports

House

Ought to Pass — As Amended

The Committee on Appropriations and Financial Affairs on, Bill, "An Act to Expand the State's Tourism Promotion Effort." (H. P. 1680) (L. D. 1789)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-836).

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

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

The Committee on Public Utilities on, Bill,

"An Act to Amend the Kennebunk, Kennebunkport and Wells Water District Charter to Include the Town of Ogunquit." (H. P. 1821) (L. D. 1949)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-824).

Comes from the House, the Bill Passed to be Engrossed as amended by Committee Amendment "A" as amended by House Amendment "A" (H-841) Thereto.

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

Divided Report

The Majority of the Committee on Fisheries and Wildlife on, Bill, "An Act to Create a Woodcock Hunting Stamp." (H. P. 1834) (L. D. 1938)

Reported that the same Ought Not to Pass.

Signed:

Senators:

REDMOND of Somerset
PIERCE of Kennebec
USHER of Cumberland

Representatives:

PETERSON of Caribou
VOSE of Eastport
MacEACHERN of Lincoln
TOZIER of Unity
MASTERMAN of Milo
PAUL of Sanford
JACQUES of Waterville

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

Signed:

Representatives:

GILLIS of Calais
DOW of West Gardiner
CHURCHILL of Orland

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

Which Reports were Read.

The Majority Ought Not to Pass Report of the Committee, Accepted, in concurrence.

Senate

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

Bill, "An Act to Clarify Procedure in Freight Rate Proceedings Before the Public Utilities Commission Involving Railroads and Water Common Carriers." (S. P. 723) (L. D. 1872)

Ought to Pass — As Amended

Senator Ault for the Committee on State Government on, Bill, "An Act Concerning the Membership of the State Energy Resources Advisory Board." (S. P. 702) (L. D. 1838)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (S-445).

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

Second Readers

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

House

Bill, "An Act Relating to Bonds and Notes Issued by Sanitary Districts." (H. P. 1588) (L. D. 1808)

Which were Read a Second Time.

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

Senator CARPENTER: Mr. President, and Ladies and Gentlemen of the Senate: This is the minor little bill that we discussed here the other day. We accepted the Ought to Pass Committee Report to get it through to the Second Reader, and so that some of the questions could be answered that were raised by a letter that we all had on our desks last week.

Now that the Chairman of the Committee is back, I would appreciate it very much if he could respond to some of the questions that were raised here the other day, as were contained in the letter from the Bonding Council.

It seems to me that this bill is potentially very dangerous and allows the sewer districts or sanitary districts, whatever you want to call them some pretty broad powers. There are some questions that were raised and I would hope that somebody here this morning would clear up the questions. Thank you.

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

Senator DEVOE: Thank you Mr. President. I would like very much to try to answer the questions raised by the good Senator from Aroostook.

You have before you that which was distributed apparently, last Friday, by the Senator from Penobscot, Senator Pray, a letter from Ropes & Gray. The copy you have on your desk has some paragraphs and sentences underlined which apparently raised some questions about this bill.

Distributed this morning was another letter from another law firm in Boston, Palmer and Dodge, that I think if you have a chance to look at, will answer some of these questions. I'll be very brief in trying to respond to them.

This bill is the result of about a year's discussions, that the law firm of Palmer and Dodge has had with various lenders concerning whether or not they would lend money to a particular district in Cumberland County.

You will note in the letter of Palmer and Dodge that although Ropes and Gray states that they have not noticed any particular need for Legislation such as L. D. 1808, this may be because they have not been a party to the extensive discussions surrounding the financial structuring of proposed bond and note issues by the district.

L. D. 1808 is a direct result of more than a year of consultation between the district, it's financial, legal and engineering consultants, and members of the investment banking community, which would underwrite such bonds and notes.

These consultations have brought into direct focus the limitations contained in Chapter 310 of the Laws of 1965, which in the opinion of the district's financial advisors severely inhibit the issuance of debt obligations by the district on a basis competitive with similar issues in other jurisdictions.

This competitive disadvantage, in their opinion, would likely make obligation to the district unsaleable to a national market, or at least would impose increased debt service burdens on the district and it's customers.

Now it so happens that the opinion from Ropes and Gray was obtained as a result of my talking with someone here in the Legislature, not a Legislator, but one who appears before various committees on bills. I asked him if there were another firm, that could possibly analyze L. D. 1808.

An inquiry was made of Ropes and Gray, and the two page letter that Senator Pray distributed to you Friday was the result of that initial request. It so happens that I was not apprised of the fact that Palmer and Dodge was the draftsmen of this bill, otherwise, I would have directed my inquiry directly to Palmer and Dodge and would have had the information for Members of this Senate earlier.

However, it so happens that Palmer and Dodge in fact is the principal draftsmen, as is admitted later on in this four page letter that

you have. It's come forward in an effort to help all of the sanitary districts, not just the one that happens to be located in Scarborough.

So Members of the Senate, I am going to ask you if there are no further questions, I'm going to ask you to approve this bill in Second Reading now and send it down to the House for Enactment. Thank you very much, Mr. President.

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

Senator CARPENTER: Mr. President, and Ladies and Gentlemen of the Senate: It seems to me that we have a serious discrepancy in the opinions of two very reputable Boston based firms, one which has been obviously very instrumental in drafting this bill and obviously very interested in keeping the bill alive.

It seems to me that there are some very serious questions and I would like someone to tell me exactly why there was such a resistance to placing on this bill a referendum among the users of any particular sanitary district, prior to the trustees being able to issue bonds.

It seems to me that this is sort of standard procedure that prior to many of these small units issuing bonds, they go out to referendum and they have to justify their position before the users of that particular district. At least that does place some sort of a check on it. I would ask somebody why there was great resistance to this, I realize it does cost some extra money to hold a referendum among the users of the district, but it does seem to me that it may preclude an incident, somewhere down the road, where the trustees could be accused of doing something that wasn't quite ethical. At least it would give the people a chance to say whether or not they wanted the bonds issued?

So I would pose that question to anyone on the committee, as to why there is such a resistance to a referendum clause on this bill?

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

Senator DEVOE: Thank you Mr. President. Concerning the referendum, this matter received extensive discussion in committee.

Virtually all of the sanitary districts that we have in Maine are faced with massive construction projects, that are caused by the district seeking to comply principally with Federal EPA imposed projects.

In some instances the Department of Environmental Protection in Maine may be the party causing the district to have to construct projects, erect treatment plants, so as to bring the plants into compliance with the State Statutes.

In the federal case, as is the case presently, for all of the sanitary districts facing construction projects, Federal Law requires at all stages of the proceedings that notice be given to people in the district.

A Member of our committee happens to be a soil scientist and advised the committee that present Federal Law requires members of the district to be made aware of what is going on, copies of the plans are made available at the office of the district for anyone who cares to come in to view them.

I believe that the same thing is true when a state imposed DEP project is going to be constructed in a district. There has to be some evidence given that notice to the district, a full opportunity for district residents to come in and make themselves aware of the engineering points in the project, of the estimated costs of the project, the location of the project, alternatives that have been considered in the project. This all happens now as a result of federal statutes.

No district, it was pointed out in the committee, there has been no testimony received that any district since the sanitary district law went into operation, has gone off on a project that was not sorely needed in the district. There was no testimony or information like that.

Trustees of the district, I would remind the good Senator from Aroostook County have a fi-

duciary duty. They're either elected or appointed depending on what the law may provide. They have a fiduciary duty to the people in the district. There was no testimony that any trustee of any sanitary district has even violated his fiduciary duties.

I know the referendum provision seems rather attractive to a lot of Members of the Legislature, but at the present time federal law requires that notice be given at all stages of the proceedings to the people in the district.

Now, we have a possible case that could result where federal law mandates that a project be undertaken that a treatment plant be built. There is no escaping the impact of the federal law on a particular district.

We felt on the committee that where federal law is mandating virtually every construction project about to be taken up by a district, the referendum provision is not needed, because federal law mandates that these projects be taken care of. Thank you very much, Mr. President.

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

Senator CARPENTER: Mr. President, I believe the explanation given by the good Senator from Penobscot, and I thank him, for his remarks. What concerns me are projects that are not mandated by either the State or Federal Government.

The bill, as presently written, will allow the sanitary districts to issue bonds or notes for whatever reasons they deem necessary.

There was an amendment offered to the bill, in the committee, that would have required a referendum in non-mandated issues. That was rejected. It seems to me that there are still some real serious questions about this. I would move the Indefinite Postponement of this bill and all its accompanying papers.

The PRESIDENT: The Senator from Aroostook, Senator Carpenter, has moved L. D. 1808 be Indefinitely Postponed.

The Chair recognizes the Senator from Cumberland, Senator Conley.

Senator CONLEY: Mr. President, I share the same concerns as the good Senator from Aroostook, Senator Carpenter, has stated. I would pose a question through the Chair to the good Senator from Penobscot, and would ask him if there is a way that the voters of this sanitary district could bring about a referendum on the bonds, prior to their approval?

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

The Chair recognizes the Senator from Penobscot, Senator Devoe.

Senator DEVOE: To the best of my knowledge, Mr. President, there is no present statutory procedure. The only one that I know of, is for a resident of the district to start a suit in the Superior Court for the County, where the district is located, charging that the sanitary district trustees are committing malfeasance or misfeasance or in general are neglecting their fiduciary duties.

This was fully explained in committee. Apparently there are some people on the committee who did not want to accept the explanation, but any resident of any district always has that power to initiate a suit.

If he can convince the court which hears the case that the trustees have in fact, violated their duty, then certainly that project is not going to go forward and be constructed. Thank you, Mr. President.

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

Senator CONLEY: Mr. President and Members of the Senate: This bill may appear to be very insignificant as it sort of glides through both Chambers. You know there are so many branches of government that have their checks and balances before the ultimate decision is made.

It seems to me that when we get into an area such as this, we establish these entities within government who are alone by themselves, because of the fact the Legislature over the years has given them their blessings to act and to act responsible. I'm sure that most of these agencies do, but there is always that opportunity when one may just decide to bite off a little bit more than they can chew, and put some bonds out that a district will be indebted and possibly for generations to come.

We see this going on today in a sense, as we continue to review our own economic status within State Government. We're talking about bonds that have been authorized by the voters. Yet have not been put out for sale because we're waiting for better interest or the fact is that we don't see the dire necessity at this time to go forward with them.

When you get to a group of people, who do not, such as a system that we are talking about, who are not going to be in that particular sanitary district, as a member of that district for years to come, could very, very well think at that moment and time that it was the best thing to do.

There's no recourse. The average citizen doesn't have the financial ability to go into the Superior Court, to initiate against any Sanitary District to prevent them from the purchase of bonds or the selling of bonds, or approving of bonds.

I think that there should be some type of built-in insurance so that the voters if they are in disagreement, would at least be able to vote on it, throughout the district, or at least the avenue should be there for them to petition the courts for a referendum, some sort of safeguard should be built-in. I would hope that the good Senator from Penobscot, The Chairman of the Public Utilities Committee, would give some hefty thought to that.

The PRESIDENT: Is the Senate ready for the question?

The Chair will order a Division.

Will all those Senators in favor of the Motion of Senator Carpenter of Aroostook, that L. D. 1808 be Indefinitely Postponed, please rise in their places to be counted.

The Chair recognizes the Senator from Cumberland, Senator Conley.

Senator CONLEY: I request a Roll Call.

On Motion by Senator Katz of Kennebec, Tabled for 1 Legislative Day, pending the motion of Senator Carpenter of Aroostook.

House — As Amended

Bill, "An Act to Permit the Public Utilities Commission to Include in the Fuel Adjustment Clause Capacity Purchases from Small Power Producers and Cogenerators." (H. P. 1739) (L. D. 1857)

Bill, "An Act Broadening the Elderly Tax and Rent Refund Act to Include Persons who are Currently Married as well as Unmarried under the Eligibility Standards." (H. P. 1653) (L. D. 1762)

Bill, "An Act to Clarify the Law Concerning Income Taxation of Servicemen who are Maine Residents." (H. P. 1749) (L. D. 1865)

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

Bill, "An Act to Clarify the Provisions Relating to Executive Conflict of Interest and to Establish Financial Disclosure Requirements for Policymaking Executive Employees." (H. P. 1774) (L. D. 1877)

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

Sent down for concurrence.

Enactors

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

AN ACT Concerning the Incorporation of Mission Congregational Church. (H. P. 1791)

(L. D. 1909)

AN ACT to Adjust the Administration of the Abandoned Property Law. (S. P. 735) (L. D. 1914)

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

Orders of the Day

The Chair laid before the Senate the first tabled and specially assigned matter:

SENATE REPORTS—from the Committee on Health and Institutional Services—Bill, "An Act to Establish an Environmental Health Program." (S. P. 698) (L. D. 1834) Majority Report—Ought to Pass as Amended by Committee Amendment "A" (S-435); Minority Report—Ought Not to Pass.

Tabled—March 7, 1980 by Senator Katz of Kennebec.

Pending—Acceptance of Either Report.

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

Senator GILL: I would urge adoption of the Minority Ought Not to Pass Report.

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

The Chair recognizes the Senator from Aroostook, Senator Carpenter.

Senator CARPENTER: Mr. President, and Ladies and Gentlemen of the Senate, I would urge you to very carefully think about this whole issue before you vote with the good Senator from Cumberland, Senator Gill.

If you look at L. D. 1834, An Act to Establish an Environmental Health Program, it is a direct result of a study that this Senate, and this Legislature in it's First Regular Session authorized last year.

In the particular version we're looking at this morning, there is an amendment on it, to make it a little bit more palatable. Last year we decided that we really needed to take a look at just exactly what we were doing with some of our practices in the State of Maine.

It's come to our attention in the last few years that there are some things going on in this country, in this State, that may cause great harm to our people, a year, two years, five years, ten years from now.

During the first session of the 109th the need was recognized to provide additional assistance in the Public Health Implication of Environmental Health Programs. This led to the introduction of the famous environmental doctor bill.

In the work sessions and public hearings that followed after the introduction of that bill, we found out that additional medical input clearly was needed. It was suggested that this responsibility ought to fall to the Department of Human Services.

The Commissioner of Human Services subsequently met with members of the committee, offered some suggestions, in conducting a study into the need of Environmental Health Program, and the report came out in January, all of you should have a copy of it.

The reports contained the following: It contained a key description of the key elements that were needed in Environmental Health Program, a discussion of the activities that were presently being conducted in Maine to identify and address Environmental Health Problems, a discussion of the Environmental Health Problems identified by the other Northeastern States, and it had a recommendation for an Environmental Health Program in Maine.

I want to look at that report just for a second. All of you should have a copy of it. In talking about the responses of other states, it says 7 Northeastern States were surveyed in an attempt to identify common classes of Environmental Health Problems and the responses

they elicited. 5 common classes of problems were reported. Pollution of public and private water supplies by toxic chemicals. This problem was found to exist in all 7 Northeastern States. The detection and I'm not even going to try to pronounce it, the detection of PCB's, which have not been properly disposed of. All 7 states found this to be a problem. The decay of asbestos insulation of public and private schools. All 7 states said that this was a problem. The release of formaldehyde fumes through improperly installed insulation. All 7 states. Fire and accidents involving toxic chemicals, again, all 7 states, found that this was a common problem.

The Environmental Health Program proposed in L. D. 1834, would establish an organized effort in which State Government would try to detect, evaluating, and control environmental factors which are not known or suspected to be injurious to human health. The effort would be divided into 3 kinds of activity. Activities carried out for the purpose of monitoring the incidents of certain health problems, such as birth defects, pulmonary disorders and cancer, which are believed to be related to environmental disorders.

Activities carried out for the purpose of evaluating hypothesized associations between specific environmental factors and health problems, and activities carried out in response to acute contaminations of the air, water, and land by acute substances.

What we're asking for in L. D. 1834 is the ability to be granted the Department of Human Services to monitor the environment of this state. As many as 3 years ago, we had a water contamination problem down in the Town of Gray, the area of Gray. We don't know to this day what problems have been caused by that contamination. We don't have the capabilities at the State level to go in there and determine just exactly what damage has been done.

What about other accidents, other situations that have arisen. What about the asbestos situation? We don't have the capability today in this State to do an investigation, to do a monitoring of what we may be doing to your children and your grandchildren that are sitting in schools this morning at quarter of twelve, all over this State.

I think that's a pretty serious situation. I know some of the objections of this bill include the amount of money tacked onto the Fiscal Note. There's a \$200,000 price tag, and we all know exactly the situation we're in. It also calls for the hiring of some experts. If you will: Toxicology, Occupational Medicine, and other related health fields.

We must have, we must have the capability to determine what we're doing to the environment and subsequently to the health of the people of this State. I would ask you to very carefully look at this bill. We may be able to discuss the money situation and there may be a possibility of amending that down somewhat, don't get hung up on the Fiscal Note, I beg of you this morning.

Take a look at exactly what this bill asks for. The language in the bill asks for authority to do certain things. Take a look at this and see if you don't think it's needed. If you don't then vote with the good Senator from Cumberland, Senator Gill. If you think we've got a potential out there for a real disaster, then I wish you'd consider voting against the pending motion. Mr. President, I would request that when the vote is taken, it be taken for the Yeas and Nays.

The PRESIDENT: A Roll Call has been requested.

The Chair recognizes the Senator from Kennebec, Senator Katz.

Senator KATZ: Mr. President, I'll leave it to others to discuss the substance of the bill. I think I would like to call to your attention what I call the "Biennial Mentality" of this and previous Legislatures, that gets us into trouble.

The "Biennial Mentality." This bill starts a

brand new program in the second year of the biennium. The price tag is \$200,000. There is no indication, although we're all good at Arithmetic, that if it costs \$200,000 for one year, it probably is going to cost at least twice \$200,000 for 2 years. So we can reasonably presume that the cost in the next biennium is going to be \$400,000, but if you make allowances from your own personal experience as to what happens to new programs in the State, you might have reason to suspect that the cost in the next biennium will be more than \$400,000.

The Senator from Aroostook, Senator Carpenter, the sponsor of, I think, an important piece of legislation, has asked us don't get hung up on the money, because we'll take a look at the appropriation and maybe we can curtail it.

The "Biennial Mentality" is let's get it on the books, even if we don't have any more money. Let's get the authorizing language on the books, and we'll let the next Legislature worry about "identifying where the money is."

I am not going to participate in the substance of the bill. I'll leave that to others, but from a fiscal point of view, it scares the living day lights out of me.

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

Senator GILL: Mr. President and Members of the Senate: I think what we have before us are 2 issues that we have to deal with.

We have the issue of the bill itself, the Environmental Health Bill, but I think more important than that is the economic health of the State of Maine. I think that's what we come down to. I think the good Senator from Aroostook, Senator Carpenter, had said let's not worry about the financial situation right now, that we'll work that out. I think we best worry about the financial situation right now.

I think if you look at the bill itself, it says right on top: "Governor's Bill." I think the political practitioner, if you will, whose office is on the second floor, met with his staff of preventive medicine people, namely the Commissioner of Human Services, the Commissioner of Environmental Protection and the Commissioner of Conservation, and decided to come up with a bill that would be a preventive measure for the future of the State.

I don't disagree with their idea, but I think that what we have to look at now is the fact that we have before us a cancerous growth of inflation. I think last Friday the Governor's own message during his press conference stating that we had to pull back, we had to have a moratorium on further expansion of programs, in fact, we're going to look at programs and probably curtail them. We were going to have to have a moratorium on additional personnel in departments and in programs.

I think we best really heed the message that we all see. Today we received on our desks the printout of where we are fiscally at this point. We are far below what we had hoped to be at this point, if you'll all read the message there. So we have less than what we thought we were going to have in the long run.

I think what we should do is we should look at this very, very carefully. What we've been faced all along is the warning signals that we are in a crisis situation.

I think everyone here has had dealings with physicians along the way and dealings with their own personal health. It's nice to look at preventive measures. It's nice to think of how we can plan better to keep ourselves in better shape. I think of myself in this instance. If I went on a sensible diet and got enough exercise that probably it would be better off for me in the long run. But if I'm stricken with some cancerous growth isn't it best to take care of that immediately and then go on a treatment plan of the future after that's been taken care of.

I think that's exactly where we are. I think that we're in a position in this State where the economic health of the State is at risk. We have to cut programs.

I think this body generally has been thought of as a skillful surgeon in the past. I think that this is one time that I would urge the skillful surgeons of this body to assist the Governor in heeding the advice of the second opinion that he has received from his financial management, and bring the State back into good fiscal well being, so we can get on with the business at hand. I would urge you to vote against this.

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

Senator O'LEARY: Mr. President, presently before the Committee on Energy and Natural Resources we have a bill that deals with hazardous waste.

The bill, the Department of Environmental Protection would compile a list of all the hazardous materials, as they would be defined. It also gives enforcement powers to the Attorney General because we all are aware of some of these hazardous materials coming into the state.

Presently Mr. President and Members of the Senate. There is a lot of hazardous materials in this State that are being handled in the State by a number of us.

Mr. President and Members of the Senate, I work with a lot of these hazardous materials. People that are handling them outside of my occupation know very little about these matters. I myself know not where they are going.

There is also another bill, Mr. President, that sets a fee that will generate a fund of another \$2,000,000, for cleanups and everything else of these hazardous materials. Perhaps this \$200,000 that is being asked for in this bill, could come from that fund, I do not know.

I think that we in State Government have a certain responsibility and when you talk about the cost I would say it would be up to the Committee on Appropriations to determine which is the priority of the people of the State of Maine.

When you are talking about their health, and safety, I think there is no costs that are too great if you are honestly concerned with them. Thank you.

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

Senator NAJARIAN: Mr. President and Members of the Senate: I urge your support for this bill, because I do not think that there is any more important bill before this legislature and one that truthfully meets the emergency criteria to protect the public health and safety.

President John Kennedy, wrote in the preface of Stewart Udall's book "The Quiet Crisis" and I quote: "The race between wisdom and waste has not run its course, the nation's battle to preserve the common estate is far from won. The crisis may be quiet but it is urgent". That was in 1963, it is now 17 years later a new generation has been born and another is to follow.

In Maine we can be proud of our achievements, we have made our industrial rivers sparkle again. We have cleared our skies of serious pollution, our highways are no longer open bottle dumps, we have demonstrated a responsible approach to land use and we have protected our coast from the reckless abandonment of uncontrolled oil spills.

The past decade has been marked by an increasing commitment to protect Maine's environment from the contamination of our advanced industrial society. Not the least of this commitment has been a growing recognition that such contamination can be harmful to our health in ways both known and unknown.

Recent events such as New York's Love Canal demonstrates that harmful chemical poisoning who's impact on the health of the individuals living in adjacent areas has served to underscore this threat, our practices have created, and further suggests that our present practices may unwittingly threaten our health and that of future generations.

Maine is not immune, recent experiences if you have been reading the newspapers over the

last year are fresh in everyone's mind. The East Gray pollution of water supplies by toxic agents in a waste chemical dump used to dispose of materials ironically to clear up oil spills from Maine waters. The accidental dumping of a known carcinogenesis in the Piscataquis River at Guilford and its subsequent appearance in a down river public water supply. The accidental drift of herbicidal spray in Eastern Maine. The discovery of measurable amounts of mercury in a Yarmouth River. The study of Naval shipyard cancer deaths, and their relationship to asbestos. The continued need of the people of Maine to be offered the most objective appraisal of the long-term human health impact of the largest aerial spray program in the United States. Fires and Accidents involving toxic agents and the possible impact on human health of pollution of private and public water supplies by poisonous chemicals resulting from the illegal dumping and/or improper storage such as occurred in South Berwick.

The Bill before us today is the result of a study to develop a comprehensive response to the environmental health of Maine. This Legislation purposes the creation of a professionally trained and staffed unit in State Government that will be capable of providing the necessary technical assistance to state officials in making decisions concerning the introduction of hazardous and toxic substances into our environment.

The unit would have a medical advisory team, consisting of expertises in epidemiology, toxicology, bio-statistics, occupational medicine and related fields. It would give the State the capacity to address more adequately the assessment of our total environmental health.

I notice the arguments this morning seem to fall on classical Democratic, Republican lines. Republicans being more concerned about the economic health, while Democrats who have spoken are more concerned about human health. More concerned about cancerous growth of inflation than the cancerous growth in all our bodies.

I hope men and women of the Senate that you will support this measure and any objectionable parts of it can be amended out, but I do not think that the cost of this should be the detouring factor, because the human health of this State is more important than a couple hundred thousand dollars.

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

Senator HICHENS: Mr. President and Members of the Senate: The last two speakers have brought to a point, just what I am concerned with, with this bill.

The Environmental Health Program sounds wonderful. The cost does not bother me if we could really implement such a program, but I do not know how we can control human error. In a great many instances which have been referred to, by the good Senator from Cumberland, Senator Najarian, can't be controlled because of human error. It was human error that caused the spray to drift, down in Washington County. It was human error as far as the establishment of the truck, up in North Berwick, and not South Berwick, by the way. It has been human error in a great many cases, as far as the tank truck which tipped over down in Kennebunk. No board or any program is going to correct this human error.

As far as the asbestos problems down at the Kittery Naval Shipyard, this is a Federal project. When it was first instituted asbestos was supposed to be a great thing for us. It should have been discovered then, and no environmental health program would have discovered it then, and would not discover it now.

I do not think that the cost comes into this at all. I think it is a fact that it just can't be implemented, we are going to have these problems regardless of how strong a surveillance we have. I do not think that this bill is necessary at

this time, I hope that you will support the good Senator from Cumberland, Senator Gills' motion.

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

Senator CARPENTER: Mr. President, I know that it is getting late in the morning and I will not take up much more of your time, but I think that there have been some things said here, that ought to be clarified a little bit.

The good Senator from Kennebec, Senator Katz, talked about the "Biennial Mentality" of this Legislature, and I agree with him, we tend to look at things short-range rather than long-range, but why O' why must we always react.

If we find proof tomorrow that something was dumped in the water system of Augusta, Maine that caused cancer or heart attacks, then you can bet your boots that \$200,000 bill to monitor that kind of situation would go through this Legislature under the hammer, the rules would be suspended, the bill be given its second reading, and would be gone. But no we do not look down the road, we don't monitor, we don't try to act, prior to an incident.

If somebody had some proof, twenty years ago, when we were running around the country slapping asbestos up everywhere, if somebody had had some proof that asbestos might be a little bit harmful then maybe we would not have had deaths. Maybe if we had had an environmental program twenty years ago, either at the Federal level or the State level we would not have had all of the deaths that have been caused by asbestos. The good Senator from York, Senator Hichens talks about asbestos monitoring in the Kittery Shipyard being a Federal problem, well there are state people that have died because of that.

Now somebody has got to take the responsibility for that. I agree with the good Senator from Kennebec, that we do have a "Biennial Mentality" I think that this is an example, this bill, we have in front of us this morning is an example of maybe where we can get away from that "Biennial Mentality."

I did not say to be not concerned about the price tag, of this bill, as was stated by the good Senator from Kennebec, and the good Senator from Cumberland. I did not say to ignore the economic situation of this State. I did not say to ignore the economic impact of this bill. What I said was, when I spoke before was that perhaps the price really wasn't \$200,000 perhaps that was an item that we could look at a little more closely and bring it down. Certainly it is going to cost money and the people who vote against this bill this morning, aren't willing to spend some money to protect the health of the people of this state, then so be it, let them be on Record.

I can see programs that all the opponents of this bill have supported on the floor of this Senate that cost a lot more than \$200,000 that do not have any health implications. If we go ahead and ignore the health implications of some of the things that we are doing to our environment then we are going to pay a much much greater price, down the road.

The good Senator from Cumberland, Senator Gill, talked about a moratorium of hiring, a moratorium on spending, a moratorium on new programs. This is a new program, I do not disagree with that and I am not in the least bit ashamed to stand here this morning and support it, because thus far I have not seen anybody declare a moratorium on heart attacks, a moratorium on lung cancer, a moratorium on any kind of disease. Every day we see evidence in our news that some of the things that we have done to the environment have caused problems. Yet we are the State level, do not have any capabilities to monitor that sort of a thing. So 5 years from now, when there is a proven connection between some of these things, and some disease. 5 years from now the 115th Legislature, will react with a two hundred or 200 or 500 or \$600,000,000 program to clear this situation up and make people healthy

again. We will react rather than acting now in the second session.

I think that we have a crisis situation in state government in terms of economic squeezes if you want to call them that. We also have a potential crisis right here. A potential crisis in Gray, potential crisis in North Berwick, a potential crisis in the Falmouth interchange of Interstate 95 here a couple of months ago. We are doing nothing about that, we are doing nothing about that just as the good Senator from Kennebec, Senator Katz, says we are doing in his opinion essentially nothing to take care of the economic crisis that we are facing at this moment.

It just seems to me that the arrangements that have been put forth are a little bit superfluous and clouding over the whole issue a little bit. The good Senator from York, Senator Hichens talks about we cannot prevent this because it is human error. If you look at the bill, the bill does not say that we are going to teach truck drivers how to drive trucks better. The bill says that when there is an incident, a proven environmental incident that we are going to have the ability to monitor to check to see if there is a health hazard that has been posed. We are not talking about the human error, we are not talking about that in this bill, that is nowhere in the bill. The bill says that after the error has taken place that we ought to be looking at what damage has been done to us, to our bodies. I would ask you to vote against the pending motion.

The PRESIDENT: Is the Senate ready for the question?

The Chair recognizes the Senator from Cumberland, Senator Gill.

Senator GILL: Mr. President and Members of the Senate: I do not think that the members of this Senate can be looked at as wearing white hats, or black hats, as far as health of the people of the State of Maine are concerned. I think that when the good Senator from Aroostook, Senator Carpenter, speaks about crises, that exist, that is exactly why I asked you not to vote for this measure.

This government is riddled with crises, we have crisis in the prison, we have crisis in mental health, we have crises in the Pineland Decree implementing that and seeing that it is carried out, as supposedly it is supposed to be carried out. We have crisis in Title 20 monies, we have crises in providing the necessary funding to provide services to individuals who are in need now. We have many many crises and this is exactly why I asked you to please look at this piece of Legislation. Lets get ourselves on a good footing before we implement any new programs.

I look at this and I see environmental health unit, what we are asking the department is that we are asking for individuals with training and experience in environmental medicine. An epidemiologist, a toxicologist, people involved in statistics and related fields to collect this data. Those are the personnel that this bill calls for now. Can you imagine the cost that will ensue from the additional personnel to carry out the menial, the clerical, the other work involved with this. The equipment necessary to do the proper testing. This is only a drop in the bucket.

I think before we even look at this we have to get ourselves on a good financial footing, before we can ask for anything else. I prefer to try to, at this point, keep some of the programs that are dealing with the human needs of those who are actually suffering and that we may have to cut out because we don't have the funding to go along with it. We hear time and time again, this is a good bill. This is an important bill. There are many important issues, I think all of us could bring in.

This is exactly why we are in the financial crisis we are now, because everyone comes in with a pressure group or an important bill brought on by some group of people. I think we

kind of have to stop and look around and see where we are.

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

Senator PIERCE: Mr. President, I wonder if I could pose a question to some Member of the Appropriations Committee or any other Senator just to inquire whether or not the Governor supports this bill, conceptually or financially.

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

Senator NAJARIAN: Mr. President, the Governor supported this bill financially.

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

Senator GILL: Is the \$200,000 in the Governor's budget that he sent to appropriations? I was told that the \$200,000 is not in the Governor's Budget, that this is a separate L. D., flying as a separate L.D., that there is some money in the budget, that a stipend, if you will, that would go to this bill, but the \$200,000 is flying as a separate L.D.

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

The Chair recognizes the Senator from Cumberland, Senator Najarian.

Senator NAJARIAN: Mr. President and Members of the Senate: The funding for this is not in L. D. 1850, but he has provided for the funding in his overall budget, the \$200,000. He supports this as one of the separate L.D.'s, and has allowed for the \$200,000 to be taken out of available revenues, at his recommendation.

I would like to say, just in sort of response to Senator Katz, who said this bill just came in the Second Session. A Bill similar to this one was introduced in the last session, which was referred to the State Government Committee, and the study came out of that committee to be referred to this session of the legislature.

I think Senator Gill made reference to just some groups who were supporting this bill as if it were a minority, but I would like you to know that this bill is endorsed by the Maine Audubon Society, the Maine Blue Cross, Blue Shield, Maine Labor Group, on Health, Maine Lung Association, the Natural Resources Council, the State Nurses Association, Community Health Services, to name a few, plus the Poison Control Center in Portland, the Director of Research at Maine Medical Center, and the Blood Research Group in Scarborough.

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

Senator REDMOND: Mr. President, I think I should add my bit to this debate, in view of the fact that I'm going to vote against this bill, because I want all the members here to know that I'm very much concerned about people's health.

I believe that we have OSHA and we have DEP and LURC, it's all been said anyway. I would rather support an Order that we would ask OSHA to do the job better, or else that we would ask the State Departments that are in charge of the waste rather than creating a new bureaucracy. I don't think creating a new bureaucracy is going to solve the problem.

I think that this Legislature, if they are to act responsible should make sure some of these departments would curb some other bad projects that they have where they are spending money and it's not doing any good, and use that money to support this program.

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 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 Senator Gill of Cumberland that the Senate accept the Minority Ought Not to Pass Report of the Committee.

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

A No vote will be opposed.

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEA — Ault, Chapman, Collins, Cote, Danton, Devoe, Emerson, Gill, Hichens, Huber, Katz, Lovell, Martin, McBreaity, Minikowsky, Perkins, Pierce, Redmond, Shute, Sutton, Teague, Trotzky.

NAY — Carpenter, Clark, Conley, Farley, Najarian, O'Leary, Pray, Silverman, Trafton, Usher.

ABSENT — None.

22 Senators having voted in the affirmative, and 10 Senators in the negative, the Motion to Accept the Minority Ought Not to Pass Report does prevail.

Sent down for concurrence.

The Chair laid before the Senate the second tabled and specially assigned matter:

Bill, "An Act Relating to Group Self-insurers under the Workers' Compensation Act." (H. P. 1747) (L. D. 1863)

Tabled—March 7, 1980 by Senator Farley of York.

Pending—Passage to be Engrossed.

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

The Chair laid before the Senate the third tabled and specially assigned matter:

HOUSE REPORT—from the Committee on Local and County Government—Bill, "An Act to Provide for County Self-government." (H. P. 831) (L. D. 1038) Ought to Pass with Committee Amendment "B" (H-805)

Tabled—March 7, 1980 by Senator Katz of Kennebec.

Pending—Acceptance of Report.

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

The Chair laid before the Senate the fourth tabled and specially assigned matter:

Bill, "An Act to Allow the Commissioner of Marine Resources to Exercise Limited Authority over the Conservation of Atlantic Salmon." (H. P. 1630) (L. D. 1740)

Tabled—March 7, 1980 by Senator Shute of Waldo.

Pending—Motion of Senator Shute of Waldo that House Amendment "B" (H-809) be Indefinitely Postponed.

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

Senator SHUTE: Mr. President, and Ladies and Gentlemen of the Senate, I have a new amendment for this bill today. I think it's very close to what everybody could agree on, the two opposing forces, but I think we could save some time if the 2 opposing forces might get together and come up with maybe a better agreement. So I think the time of the Senate would be better served if this was tabled 1 day and given one more day to work on the bill.

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

Senator KATZ: Before this is tabled, Mr. President, I just sense that there are powerful forces at work here, and I don't understand what the issue is. In a sentence or two before it's tabled could I understand what the issue is?

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

Senator SILVERMAN: Having served on the Marine Resource Committee, what this bill is

doing, we have an Atlantic Salmon Commission, who has authority on the catching of Atlantic Salmon in Maine waters on the ocean and in the rivers.

For some reason the bill came out of committee unanimously Ought to Pass. What this bill does, it takes that authority away from the Atlantic Salmon Commission.

At that time I was the only one who was going to sign the Ought Not to Pass, but for some reason being the only one, and I've got up here so many times being the only one, I decided to let it go. I don't think this bill is going to go because there are many people who believe the Atlantic Salmon Commission serves a function and their authority should not be taken away. Thank you.

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

Senator CONLEY: Mr. President, I think the bill does a little bit more than what the good Senator from Washington has stated. It is a couple of conflicting amendments here. The Committee Amendment conflicts with the House Amendment, this whole bill, keep your eye on it, because before you know it, there may not be any bill. I hope that we can sit down and negotiate.

On Motion by Senator Chapman of Sagadahoc, Retabled for one Legislative Day.

The Chair laid before the Senate the fifth tabled and specially assigned matter:

Bill, "An Act Combining the Offices of Justice of the Peace and Notary Public and to Establish their Appointment by the Secretary of State." (H. P. 1718) (L. D. 1829)

Tabled—March 7, 1980 by Senator Conley of Cumberland.

Pending—Motion of Senator Hichens of York to Reconsider.

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

Senator HICHENS: Mr. President, I request that we vote against my motion to reconsider.

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

Senator CONLEY: Mr. President, obviously I would urge that you vote in favor of Reconsideration. Seeing that this is the last item on the calendar for today and seeing that all of us are here today I would think it would be very important if we got a Roll Call vote on this bill, so we'll know for sure just which way it's going down or not. Therefore, Mr. President, I request a Roll Call when the vote is taken.

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 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 Senator Hichens of York that the Senate Reconsider its action whereby it voted to Adhere on L. D. 1829.

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 — Clark, Conley, Devoe, Farley, Huber, Katz, Martin, Najarian, Pray, Sutton, Trafton.

NAY — Ault, Carpenter, Chapman, Collins, Cote, Danton, Emerson, Gill, Hichens, Lovell, McBreairty, Minkowsky, O'Leary, Perkins, Pierce, Redmond, Shute, Silverman, Teague, Trotzky, Usher.

ABSENT — None.

11 Senators having voted in the affirmative, and 21 Senators in the negative, with no Senators being absent the Motion to Reconsider

does not prevail.

Senate at Ease

The Senate called to Order by the President.

On Motion by Senator Collins of Knox the Senate voted to remove from the Unassigned Table:

Bill, "An Act to Transfer Probate Jurisdiction to the Superior Court" (S. P. 775) (L. D. 1968)

Tabled—March 3, 1980 by Senator Collins of Knox.

Pending—Passage to be Engrossed without reference to Committee.

On Motion by Senator Collins of Knox, Committed to the Committee on Judiciary and Ordered Printed.

Sent down 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 the Joint Standing Committee on Audit and Program Review report out a bill to the House Relating to Periodic Justification of Departments and Agencies of State Government under the Maine Sunset Law. (H. P. 1928)

Comes from the House, Read and Passed.

Which was Read.

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

Senator PIERCE: Mr. President, I wonder if some Member of the Senate might enlighten us as to what this measure concerns itself with?

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

The Chair recognizes the Senator from Aroostook, Senator McBreairty.

Senator McBREAIRTY: Mr. President and Members of the Senate: The Audit Bill started out as a Senate bill. In that bill we raised a fee that's listed as a tax. So by raising this fee that's listed as a tax, it has to start out in the House, rather than in the Senate. So that's the reason for this Order.

Which was Passed in concurrence.

(Off Record Remarks)

Senator Pierce of Kennebec was granted unanimous consent to address the Senate, Off the Record.

On Motion by Senator Pierce of Kennebec, adjourned until 9:30 o'clock tomorrow morning.