

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 12, 1980

Senate called to order by the President.

Prayer by Monsignor David K. Fitzpatrick of Saint Andrews Catholic Church of Augusta.

Monsignor Fitzpatrick: Let us pray! O Almighty God, father of all mankind, we ask you today to look kindly on this assembled body, and shower all present with your blessing.

We are gathered here in a spirit of service to all the citizens of our great State of Maine. Help us to be mindful of the great trust that is ours, that our actions will guarantee the rights of all our people, that all human law should be but a reflection of your will.

We pray that truth and justice will be the principles that guide us. Always prompt us to see clearly the needs of those around us, and motivate us to find solutions to them, putting aside all pettiness, and self interest.

We ask God's special blessings so that all that transpires in this Chamber may shine forth as evidence that we share your gift of wisdom in guaranteeing that law exists for the benefit and the protection of all the members of our society. Amen.

Reading of the Journal of yesterday.

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

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

On Motion by Senator Katz of Kennebec, Receded until the sound of the bell.

Recess

After Recess

The Senate called to Order by the President.

Papers from the House Non-concurrent Matter

Bill, "An Act to Make Corrections of Errors and Inconsistencies in the Laws of Maine." (S. P. 770) (L. D. 1964)

In the House March 10, 1980, Passed to be Engrossed as amended by House Amendments "B" (H-844), "C" (H-847), "D" (H-848), "E" (H-849) and "H" (H-856) and Senate Amendment "A" (S-426), in non-concurrence.

In the Senate March 11, 1980, Passed to be Engrossed as amended by House Amendments "B", "C", "D" and "H", and Senate Amendment "A", in non-concurrence.

Comes from the House, that Body having Adhered.

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

Senator COLLINS: Mr. President, I move that the Senate Recede and Concur, with the House.

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

Is this the pleasure of the Senate?

The Motion Prevailed.

Non-concurrent Matter

JOINT ORDER relative to the Committee on Audit and Program Review studying the operation and proposed expansion of the Office of Energy Resources (S. P. 772)

In the Senate March 7, 1980, Passed as amended by Senate Amendment "B" (S-439).

Comes from the House, Passed, in non-concurrence.

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

Senator HUBER: Mr. President, I move the

Senate Adhere.

The PRESIDENT: The Senator from Cumberland, Senator Huber, moves that the Senate Adhere.

The Chair recognizes the Senator from Penobscot, Senator Trotzky.

Senator TROTZKY: I move that the Senate Recede and Concur, with the House.

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

The Chair recognizes the Senator from Penobscot, Senator Pray.

Senator PRAY: I request a Division.

The PRESIDENT: A Division has been requested.

The Chair recognizes the Senator from Kennebec, Senator Katz.

Senator KATZ: I request Leave of the Senate, to be excused from voting from a perceived Conflict of Interest.

The PRESIDENT: The Senator from Kennebec, Senator Katz, requests Leave of the Senate to refrain from voting, due to a perceived Conflict of Interest.

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

It is a vote.

Will all those Senators in favor of the Motion by Senator Trotzky of Penobscot, to Recede and Concur, with the House, please rise in their places to be counted.

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

17 Senators having voted in the affirmative, and 8 Senators in the negative, the Motion to Recede and Concur does prevail.

The Chair recognizes the Senator from Kennebec, Senator Pierce.

Senator PIERCE: Mr. President, I move Reconsideration and ask the Senate to vote against me.

The PRESIDENT: The Senator from Kennebec, Senator Pierce, moves that the Senate reconsider its action whereby it voted to Recede and Concur on S. P. 772.

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

Will all those Senators opposed, please say No.

A Viva Voce Vote being had.

The Motion to Reconsider does not prevail.

(Off Record Remarks)

Joint Orders

Expressions of Legislative Sentiment recognizing:

Andrew Michaud, of St. Agatha, a student of SAD #33 and a winner in the Bilingual Education Program Essay Contest. (H. P. 1930)

Denise Berube, of Van Buren, a student of SAD #24 and a winner in the Bilingual Education Program Essay Contest. (H. P. 1931)

Denise Pelletier, of Madawaska, a student at Madawaska High School and a winner in the Bilingual Education Program Essay Contest. (H. P. 1932)

Novelist Marguerite Yourcenar, of Mount Desert Island, who was recently elected as the first woman member of the French Academy, founded in 1635. (H. P. 1933)

Geneva Judkins, of Turner, for 25 years of dedicated and faithful service as the town tax collector. (H. P. 1927)

Come from the House, Read and Passed.

Which were Read and Passed, in concurrence.

The 100th anniversary of the birth of Douglas MacArthur, a General of the United States Army and a truly great American. (H. P. 1929)
Comes from the House Read and Passed.

Which was Read.

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

Senator CONLEY: Mr. President, I move that H. P. 1929 be put on the table.

The PRESIDENT: The Senator from Cumberland, Senator Conley, moves that H. P. 1929 be Tabled pending passage.

The Chair recognizes the Senator from Kennebec, Senator Katz.

Senator KATZ: I request a Division.

The PRESIDENT: A Division has been requested.

Will all those Senators in favor of the Motion to Table H. P. 1929, please rise in their places to be counted.

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

8 Senators having voted in the affirmative, and 18 Senators in the negative, the Motion to Table does not prevail.

The Chair recognizes the Senator from Kennebec, Senator Katz.

Senator KATZ: Mr. President, it's very obvious the Minority Leader would like to make some glowing testimony to the memory of this great American, I think this would be the appropriate time.

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

Senator CONLEY: Mr. President and Members of the Senate: I noticed that yesterday the good Majority Floorleader took it upon himself to put 2 very similar orders on the table unassigned. I think that Beverly Varney and Sandra Hall, whoever they are, served the State perhaps in the same manner as the good former General Douglas MacArthur, both are citizens, both deserve the same type of respect. It seems to me for those Joint Orders be placed on the Table Unassigned, certainly has no more demeaning merit than to have this other order placed on the Table Unassigned, then we could address them all at once.

Which was Passed, in concurrence.

Old Town High School Boys' basketball team, 1979-80 Eastern Maine Class "A" champions. (H. P. 1938)

Old Town High School Girls basketball team, 1979-80 Eastern Maine Class "A" champions. (H. P. 1939)

Comes from the House, Read and passed.

Which were Read.

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

Senator PRAY: Thank you, Mr. President. Mr. President and Members of the Senate: I'm sure that many of you are aware that the President of this Chamber being from Old Town and representing these 2 schools, that won the Eastern Maine Class "A" Championship, both in boys and girls basketball. I had the opportunity to see those games. I have great hopes that they will go on to take the State also.

They played a very fine Caribou Team, but it was kind of a lop-sided victory. Caribou had an off night. Old Town, with some of its great ball players, won. Jeff Sturgeon, who made the all tourney team, and his father was a great at the University of Maine. As a matter of fact, my uncle, Teddy Boynton, maybe some of the older basketball fans around here can remember Don Sturgeon, about 15 years ago, broke his last record which he set in the thirties at the University of Maine.

But I just think to have those 2 orders go by, unnoticed, I think it's the first time that a single school has won both championships, the first time that 2 undefeated teams met each other in the tournament. I would just wish that that be pointed out, these orders then receive passage.

(Off Record Remarks)

Which were Passed, in concurrence.

On Motion by Senator Katz of Kennebec, the Senate voted to remove from the Unassigned Table:

JOINT ORDER—relative to Sandra Hall. (H. P. 1924)

Tabled—March 11, 1980 by Senator Katz of

Kennebec.

Pending—Passage.

Which was Passed, in concurrence.

On Motion by Senator Katz of Kennebec, the Senate voted to remove from the Unassigned Table:

JOINT ORDER—relative to Beverly Varney. (H. P. 1925)

Tabled—March 11, 1980 by Senator Katz of Kennebec.

Pending—Passage.

The PRESIDENT: The Senator has the floor. Senator KATZ: Mr. President, Ladies and Gentlemen of the Senate: One of the inhibiting factors to a Legislature is the fact that there are 184 of us. If each of us were to sponsor 2 or 3 Joint Orders in the course of the session, you can see that when you multiply by 184, you arrive at some pretty big figures, in any event.

For 9 terms I have been trying without success, and for this morning I say I quit! To try to establish some parameters as to how the Legislature should be used, for the recognition of outstanding achievements back home.

I had felt that we had agreed that athletic teams, no matter how splendid, who finished second, third, and fourth, much as we respect them should not be the beneficiaries of a Legislative Sentiment.

If you will notice the 2 Joint Orders that I Tabled yesterday, one recognized service of 6 years in emergency medical service, a person who made an outstanding contribution. But with a depressed feeling, I ask myself if each of us recognized these outstanding servants in our local communities, times 184, the Legislative Session would get bogged down.

Mr. President, in moving for the passage of this Joint Order, I say: "To you from failing hands, I throw this particular torch."

On Motion by Senator Katz of Kennebec, Passed, in concurrence.

ORDERED, the Senate concurring, that the Joint Standing Committee on Taxation report out a resolve, reimbursing certain municipalities on account of taxes loss due lands being classified under the tree growth tax law. (H. P. 1937).

Comes from the House. Read and Passed.

**Communications
Senate Chamber
President's Office**

March 11, 1980

Honorable Samuel W. Collins, Jr.

Honorable Barry J. Hobbins

Chairmen, Joint Standing

Committee on the Judiciary

State House

Augusta, Maine

Please be advised that Governor Joseph E. Brennan is nominating Edward E. Gaulin of Biddeford to serve as a Commissioner of the Workers' Compensation Commission.

Pursuant to Title 39 MRSA Section 91, this nomination is subject to review by the Joint Standing Committee on the Judiciary and confirmation by the Senate.

Sincerely,

S/JOSEPH SEWALL

President of the Senate

S/JOHN L. MARTIN

Speaker of the House

(S. P. 791)

Which was Read and referred to the Committee on Judiciary.

Sent down for concurrence.

(Off Record Remarks)

Committee Reports

House

Leave to Withdraw

The Committee on Business Legislation on, Bill, "An Act to Amend the Maine Consumer Credit Code to Exempt Extension of Credit for

Agricultural Purposes." (H. P. 1681) (L. D. 1790)

Reported that the same be granted Leave to Withdraw.

Comes from the House, the Report Read and Accepted.

The Committee on Business Legislation on, Bill, "An Act Pertaining to the Sale of Urea-formaldehyde Insulation." (H. P. 1782) (L. D. 1893)

Reported that the same be granted Leave to Withdraw.

Comes from the House, the Report Read and Accepted.

The Committee on Local and County Government on, Bill, "An Act to Establish County Corrections' Improvement Fund." (H. P. 1761) (L. D. 1886)

Reported that the same be granted Leave to Withdraw.

Comes from the House, the Report Read and Accepted.

Which Reports were Read and Accepted, in concurrence.

Ought to Pass — As Amended

The Committee on Appropriations and Financial Affairs on, Bill, "An Act to Increase the Limit on Compensation for Assistant District Attorneys in Prosecutorial District Number 7." (H. P. 1648) (L. D. 1765)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H. 861).

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

The Committee on Transportation on, Bill, "An Act to Provide for the Re-registration of a Motor Vehicle when the Previous Registration has Expired for more than 30 days." (H. P. 1724) (L. D. 1828)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H. 863).

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

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

The Committee on State Government on, Bill, "An Act to Expand the Kinds of Projects Eligible for Financing under the Maine Guarantee Authority Revenue Obligation Securities Act." (H. P. 1764) (L. D. 1896)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H. 862).

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

Which Report was Read and Accepted, in concurrence.

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

Senator REDMOND: Mr. President, I just would like to ask some of the members of the committee to explain what that bill does?

The PRESIDENT: The Senator from Somerset, Senator Redmond, has posed a question through the Chair to any member of the State Government Committee who may care to answer.

The Chair recognizes the Senator from Oxford, Senator Sutton.

Senator SUTTON: The intent of the bill was pretty well spelled out in the title, in expanding the types of projects that will be eligible for the Maine Guarantee Authority, the Revenue Obligations Act. You must look at the Committee Amendment to find that the bill has had some changes, that are also spelled out. It was fairly well received. The towns have found that in the

areas of parking, and some of the energy related operations, and dams and what have you that they would like to proceed but they have been inhibited because of the way the MGA is now structured. So this bill was introduced to overcome those objections.

The Bill Read Once.

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

The Committee on Business Legislation on, Bill, "An Act Relating to Motor Vehicle Warranties and Repairs." (H. P. 1777) (L. D. 1878)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H. 877).

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

Which Report was Read.

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

Senator COLLINS: Mr. President, I note that this is a unanimous report but I would be very much interested in knowing from members of the committee to what extent they are imposing new requirements of paperwork on small businessmen in Maine.

The PRESIDENT: The Senator from Knox, Senator Collins, has posed a question through the Chair to any Member of the Business Legislation Committee who may care to answer.

The Chair recognizes the Senator from Sagadahoc, Senator Chapman.

Senator CHAPMAN: Mr. President and Members of the Senate: This bill is a result of the bill in the first session of this Legislature, assigned to a study during the summer. A great deal of time and effort has gone into this subject.

Originally this bill had 3 provisions to it. 2 are before you today, essentially in the amendment, under Filing H-877. There has been some concern on the part of automobile dealers, and repair shops on this subject, particularly with regard to implied warranty provisions that were being considered, and which are now not included in the bill before you. So 2 things remain that are being addressed with this bill.

One is to stipulate that the retail rate customarily charged by the new car dealer, that is to be used for paying him for warranted work under a warranty for the new car, shall be the same rate that the franchisee normally charges for non-warranty work, provided that that rate is posted. So I guess you would say that the first paperwork provision is that the franchised dealer shall post the rate that he would normally charge for the labor rate for his repairs.

I think you will find that the new car dealers are quite supportive of that. Apparently there has been some problems, particularly with some of the foreign car franchises in this regard.

The second part of this bill addresses the subject of motor vehicle repairs. It stipulates that before a repair facility begins to repair a customer's motor vehicle that the customer shall have the right if he or she wishes to designate in writing the specific amount of the charges for repair, in excess of which the customer does not wish to agree to unless the customer is further notified, and agrees to either orally or in writing.

So in other words, we've had a number of problems come to the attention of the committee, where somebody has taken the car in for repair and agreed to estimate was \$100. They returned to pick up the car later that evening and find out the bill is \$200. That additional work was found and was commenced. Therefore the customer had the obligation of paying the \$200. Problems have ensued for not only the customer but for the repair facility.

This says that the repair facility, before they begin the repair, shall agree on an estimate,

beyond which estimate the customer stipulates that any amount in excess of a certain figure, they do not wish to go beyond. That would be noted on the repair order, if the customer wishes it to be done. Anything that's going to exceed that figure, it would be necessary for the repair facility to get an agreement, either oral or written at the repair facility's discretion.

This bill further stipulates that the customer shall have a right to inspect any replaced parts. It further stipulates that if used or re-conditioned parts are used, they can only be used if the customer agrees that those used, or re-conditioned parts may be used before they are installed.

Then it states that a notice shall be posted in the garage stipulating these facts. The customer has the right to put the amount in writing, for the amount they agreed to for repairs, on the repair bill. The committee specifically understood, with the repair facilities, that they would not have to have any change in their forms, that the triplicate copy forms that they are now routinely using would be sufficient, that they need not incur the expense of getting additional copies. It could all be handled there.

There was a general agreement in the committee with those concerned with the automobile repair industry that these provisions were accepted. So as far as the further writing provisions, there must be a posted statement of these repair rights, and that the customer shall have the right to have the amount of the repair estimate stipulated in writing, and stipulate an amount, in excess of which, in writing the repair costs shall not exceed without he or she being notified either orally or written of the amount that they will exceed.

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

Senator PERKINS: Mr. President, I question if I may Under the Statement of Fact, it says: "under present law, used cars are the only type of consumer goods that may be sold with an exclusion or modification of the uniform commercial code implied warranties." In other words, as is.

Section 2, eliminates this exception.

Section 3, does not make any substantive changes in the law.

The question if I may what is implied, what is the duration or what is this implied warranty consist of?

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

Senator CLARK: Thank you, Mr. President. I would respond to the Senator's question. The section relative to the exception to implied warranties, has been deleted from the bill.

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

Senator SHUTE: Mr. President and Ladies and Gentlemen of the Senate. Under Section 2603, I have a couple of questions about this, I just happened to notice it.

On replacing parts in an engine or transmission, when you go to pick up the automobile and you want to see the new barron that they put in the transmission, the engine, or the rear end. Do they have to dismantle the motor, or transmission or rear end to show you that they did put the new barron in the automobile?

The other question is, how long does the garage or the mechanic have to wait to get your approval to go on with the new repairs to the automobile before they can go along with that? If you have two or three automobiles in the garage and you finally come up to the limit of the amount of money you can spend on those automobiles. Are they supposed to tow them out and when they get your approval bring them back into the garage and continue those repairs?

I wonder if when you make a statement that you are willing to go along with a \$200, repair on your automobile, of course, this is probably not anything that the committee can answer,

but I wonder if you might be getting a larger bill, than you really should get. I know say, if I was the mechanic and I told somebody that this repair job would probably cost them \$200, and it finally wound up costing \$130. I might figure that well I have entitled to from the customer. I wonder if maybe there could be some answers to those questions?

The PRESIDENT: The Chair recognizes the Senator from Sagadahoc, Senator Chapman.

Senator CHAPMAN: Mr. President and Members of the Senate: My answer to the first question is No.

As to how long a garage would have to wait, to get the approval that is not stipulated. I want to point out that it is entirely at the customers option to request this right. It is not something that the dealer has to do. If the customer requests the right to be notified in writing of a certain amount beyond which he/she wants to be notified that is the customer's right. We are just spelling out that right.

I would presume that if such a request were made that that customer would indicate the phone number where they could be reached, or some way in which they could be notified. Presumably it is not going to be in the interests of either party to wait very long on something like that.

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

Senator SHUTE: Mr. President and Ladies and Gentlemen of the Senate: If I am reading Section 2603 correctly, it says: before payment of any charges are demanded the customer should have the right to inspect any replaced part. Now is that correct wording in the Bill, or am I reading that wrong. If you say the customer doesn't have the right to inspect the parts, that have been replaced in the engine or transmission, that would seem to imply to me that they do have that right if they have demanded that in writing, before the repair job was done.

The PRESIDENT: The Chair recognizes the Senator from Sagadahoc, Senator Chapman.

Senator CHAPMAN: Mr. President and Members of the Senate: The customer shall have the right to inspect the replaced parts that are out, that the job has been done, and they shall have the opportunity if they wish to look at those parts.

I guess in the past we have had instances where the claim has been that the parts are perfectly all right that have been replaced, the parts have then been returned or gotten rid of.

If the customer wishes they will have the right to look at those parts, and to make any further determination, or concern about the work done, if they wish. That is all that that says.

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

Senator KATZ: Mr. President, can I ask the Senate to look down the road just a few years on this one. I have some knowledge of what happens when you bring something in for repair. My business repairs watches and other things. It is our custom to take the little parts that are defective and to scotch tape them on the ticket, so that when the customer picks them up he knows that we actually did replace a part.

The problems with attempting to control in this area are absolutely overwhelming and they frighten me. The best guarantee that a customer has that the customer is being treated well, is the management of the firms that she deals with. There are occasions when any firm goofs, and makes an estimate of \$100, and goes ahead and the system doesn't work and it comes out \$150 or \$200. They run a real risk of losing a customer which is the very best restraint that there is. There is nothing more furious than a customer whose money you spent without telling her.

I think this is exactly the kind of bill, that we passed yesterday, and the day before, and the day before, which increased the role of regula-

tion and control over our lives. Then today's restraints and this is going to cost money, believe me to enforce, and this is a priority use of government. Is this the direction that we want to continue government going in?

I have got my doubts and I feel very very uneasy about this Bill and ask for a Division?

The PRESIDENT: A Division has been requested.

On Motion by Senator Danton, of York, Tabled for 1 Legislative Day, pending Acceptance of the Committee Report.

On Motion by Senator Katz, of Kennebec, the Senate voted to Suspend Senate Rule 39 for the remainder of today's session.

Ought to Pass in New Draft

The Committee on Business Legislation on, Bill, "An Act to Permit Optional Credit Life Insurance for the Comaker of a Debt." (H. P. 1599) (L. D. 1710)

Reported that the same Ought to Pass in New Draft under New Title: Bill, "An Act to Permit Optional Life Insurance for the Comaker of a Debt." (H. P. 1935) (L. D. 1986).

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

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

Divided Report

The Majority of the Committee on Judiciary on, Bill, "An Act to Prohibit Nylon Coated and Plastic Covered Bullets." (H. P. 1763) (L. D. 1895)

Reported that the same Ought to Pass.

Signed:

Sensors:

COLLINS of Knox

DEVOE of Penobscot

TRAFON of Androscoggin

Representatives:

GRAY of Rockland

HUGHES of Auburn

HOBBINS of Saco

SIMON of Lewiston

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

Signed:

Representatives:

JOYCE of Portland

SEWALL of Newcastle

STETSON of Wiscasset

SILSBY of Ellsworth

Comes from the House, Bill and Papers Indefinitely Postponed.

Which Reports were Read.

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

Senator COLLINS: Mr. President, I will move the Majority Report. I would like to explain the position of the majority of the committee.

I guess no one knows much less about bullets than I do, therefore I listened very intently to the presentation of this question to the committee.

The Maine State Police Ballistics Experts in the crime laboratory brought this bill before us, as a result of their research and experimentation. It is their view that we might succeed in solving some homicide cases if we did not have this type of bullet out in the public domain. The reason being that the nylon coated, or plastic coated bullets are more difficult to identify in ballistics testing.

Now the other side of the question of course is that the plastic coated bullets, do away with some of the lead fumes that can be bothersome to those who shoot on indoor ranges particularly police officers, and people who enjoy pistol shooting and that sort of thing in the winter time indoors.

Then there are various other arguments

about the plastic making bullets adaptable to different sizes of rifles and so on.

So there are some good arguments on both sides and I might well have tossed a coin to make my own decision on this particular case, but it was the feeling of those of us, I think, that voted in the Majority Report that the chance that we might be more successful in solving a few homicide cases, was worth this kind of attention. I have no allusions about the ultimate fate of this bill, as you will see from things on your desk and the like. But I did want to explain the thinking of the committee to the Senate.

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

Senator PRAY: Mr. President I just flipped a coin and I move the Indefinite Postponement of this Bill and all of its accompanying papers.

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

Senator REDMOND: Mr. President, L. D. 1895, would make it illegal to possess or to sell bullets with a nylon coated jacket in the State of Maine. Therefore it would make it a crime, I am opposed to that.

Sportsman's Alliance of Maine has left some material on our desks that will give us some good reasons why we should be against this bill.

One of them I won't read it, but one of them that I would like to mention is that of the U. S. Army Criminal Investigation Lab at Fort Gordon, Georgia, tested nylon coated bullets. They said that nothing was found during the testing that would indicate that nylon bullets, are not suitable for microscopic comparison or that they offer more problems than any other bullets, currently in circulation in the country.

Also the National Research Council of Canada, said pretty near the same thing. It could go on and on.

The Pine State Pistol and Rifle Association have taken a position along with Sportsman's Alliance of Maine on this bill, and plastic coated bullets are used all over legally and let's let it remain that way in Maine.

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

Senator COLLINS: I request a Division.

The PRESIDENT: A Division has been requested.

Will all those Senators in favor of the Motion by Senator Pray of Penobscot, that L. D. 1895 be Indefinitely Postponed, please rise in their places to be counted.

18 Senators having voted in the affirmative and 6 Senators in the negative, the Motion to Indefinitely Postpone in concurrence, does prevail.

(Off Record Remarks)

Divided Report

The Majority of the Committee on Transportation on, Bill, "An Act to Revise and Clarify Certain Provisions of the Motor Vehicle Laws." (H. P. 1667) (L. D. 1776)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-857).

Signed:

Sensors:

EMERSON of Penobscot
O'LEARY of Oxford
USHER of Cumberland

Representatives:

McKEAN of Limestone
LOUGEE of Island Falls
BROWN of Mexico
JACQUES of Lewiston
ELIAS of Madison
CARROLL of Limerick

The Minority of the same Committee on the same subject matter reported that the same Ought to Pass as amended by Committee Amendment "B" (H-858).

Signed:

Representatives:

STROUT of Corinth

HUTCHINGS of Lincolnville

HUNTER of Benton

McPHERSON of Eliot

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

Which Reports were Read.

On Motion by Senator Katz of Kennebec, Tabled until later in today's session, pending Acceptance of Either Committee Report.

Divided Report

The Majority of the Committee on Legal Affairs on, Bill, "An Act to Require Fire Warning Equipment in all Residential Dwellings." (H. P. 1729) (L. D. 1848)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-864).

Signed:

Sensors:

SHUTE of Waldo
FARLEY of York

Representatives:

DELLERT of Gardiner
McSWEENEY of Old Orchard Beach
STOVER of West Bath
VIOLETTE of Van Buren
SOULAS of Bangor

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

Signed:

Sensor:

COTE of Androscoggin

Representatives:

GAVETT of Orono
CALL of Lewiston
BROWN of Gorham
DUDLEY of Enfield

Comes from the House, Bill Passed to be Engrossed as amended by Committee Amendment "A" as amended by House Amendment "A" (H-878), Thereto.

Which Reports were Read.

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

Senator SHUTE: Mr. President, I move the acceptance of the Ought to Pass Report.

The PRESIDENT: The Senator from Waldo, Senator Shute, moves acceptance of the Ought to Pass, as amended, Report of the Committee.

The Chair recognizes the Senator from York, Senator Danton.

Senator DANTON: Mr. President and Members of the Senate. I hate to get up on this bill, because you know when we read about fires, and people burning you like to feel that something should be done about it, but certainly this bill here, if you would open up your book and look at it, has absolutely no way to enforce this law whatsoever.

First this bill only consists of the fact that you have fire detectors for two family dwellings. Why only 2 family dwellings? Down in my area most of the fires that we have had and have been fatal have been in single family dwellings. Why only 1 detector? Why should you limit it to only 1 detector? If it is such an emergency why should we wait until 1981 to get it into law, and get it going? Last, but not least, who is going to enforce this? The state, cities, towns?

This is a very costly item. We have here today, students that are visiting this Legislature, we should be passing Legislation with one thing in mind will they be paying the price as they get to be our ages and perhaps serve in these Chambers?

You know this is a bad bill, it has absolutely nothing in it or in the amendment as to how this bill will be enforced.

Now a few weeks ago I was watching public television. On public television, they had the State Fire Marshall's Office and a fire fighter from Portland, showing you the proper way to install a wood burning stove. It was a ½ hour program, anyone that watched that program

perhaps learned more on fire prevention than any law like this is going to do. This isn't going to do anything, we are just cluttering the books with this law.

If we are going to put something on there, at least let's pass a law, let's put a Fiscal Note on there, and let's provide the State Fire Marshall to go around and enforce the law and let's do it right.

This is a bad bill, I move, Mr. President, that this Bill, be Indefinitely Postponed, along with its accompanying papers.

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

Senator PIERCE: Mr. President and Members of the Senate: Some things obviously never change, bills like this keep coming back, as this one has, and I think the same two people who debated it last time, Senator Danton, and myself on the same side are taking it on again today.

As I look at the bill, the list of questions that comes to my mind, is almost endless, are we talking about approved detectors, unapproved detectors, who is going to approve the detectors, who is going to do the inspecting, what authority do they have, the list goes on and on. I would hope that we would dispense with the bill, very quickly and I certainly support the motion of the good Senator that this piece of Legislation be Indefinitely Postponed.

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

Senator NAJARIAN: I request a Roll Call.

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

Senator SHUTE: Mr. President and Ladies and Gentlemen of the Senate. I'll agree that this is a rather weak bill, loosely written, piece of Legislation, but it was the consensus of the committee that anything very strong probably wouldn't pass this Legislature. Such as including single family dwellings, and houses built before 1981, and more than 1 fire detector in each family unit. So that was the reason that bill only calls for 1 detector in each family unit.

Of course, if you followed the manufacturers recommendation you might have up to 6 or 8 smoke detectors in each family unit, being a conservative I felt that would put too much cost on the consumers, so I was against that approach, of course.

The enforcement of the bill, the sponsor agreed probably it would be well, not to put enforcement on the bill, this year, and see what happens to the bill, and possibly if there were problems with it then we could enforce it at a later date.

This is only going to affect 2 family or more dwellings. It is not aimed at single family units, so the costs shouldn't be very much to the majority of the people in the state.

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

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

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

The Chair recognizes the Senator from York, Senator Danton.

Senator DANTON: Mr. President, and Members of the Senate: I just could not sit here and not get up one more time on this Bill. You know I have all the respect in the world, for the good Senator from Waldo, Senator Shute, believe me when I say that especially when he talks about Salmon, I know what he is talking about, when it comes to this bill I have my doubts.

When the Chairman of the Committee gets up and tells you forget the single family dwellings, they do not need detectors, they can burn up, and you know that is about what he told you.

Then he says we do not need enforcement let's let the bill, fly along become a law, and

then down the road, maybe we'll put a little enforcement on it.

You know, Mr. President and Members of the Senate: I just had to get up and say that this bill is so bad, and as I look at the sponsors, which I do not want to mention and you have to look at the sponsors and especially way up on top of the bill, you know, that really upsets me. I am not going to say anything there, that really upsets me, but I'll tell you next time that I see him I'll let him know about it.

It is really a bad bill, I am not opposed and you know, when you get up and the good Senator from Kennebec, Senator Pierce, and I do these things, but when you get up and speak against it, it's just like saying well we want people to burn, or houses to burn, we don't, but if we are going to put something on the books, let's put a good law, on the books, not this. I would hope that you would vote to kill this bill.

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

Senator CONLEY: Mr. President and Members of the Senate. I have been sort of propelled out of my seat by the remarks of the good Senator from York, Senator Danton when he makes reference to what is way up on top of the bill.

In fact I was having a little talk with that person way up on top of the bill, the other day, I told him, you know, Governor, I do not want you to ever think that I am a rubber stamp, for everything that your administration stands for, nor are the members of my party — however, I said, that when these bills, that keep coming flowing into the session have that little connotation at the top. Are we to understand that they are really your bills?

I began thinking about it the other night. How to heck did this nightmare ever come about. Then it dawned on me that we did have an Independent Governor, and that there were members of that Legislature who felt that because of the fact that the Governor did not represent a particular political party that there had to be some way of distinguishing what legislation he was sponsoring. I guess probably this item here would be a good thing for the Performance Audit Committee to take up and review and perhaps come in and strike it out, because we do have a Governor today that belongs to a political party, and I really do not see the need of it being printed on the bills from here on in.

My eyes also captured something else in the title of this bill, and it shows me in defense again of the good Chairman of Legal Affairs the Senator from Waldo, Senator Shute, he did not sponsor the Bill so I wish that Senator Danton would be a little easier on him. God love him, he's got his mind all wrapped up with Atlantic Salmon and we just got that straightened out yesterday.

I noticed on this bill that we have got two sponsors from Eagle Lake, well at least one of Eagle Lake and one formerly of Eagle Lake, who apparently recognizes this problem in the southern tip of the State. It may be a serious problem, but I agree with what the good Senator from York, Senator Danton has stated.

If we are going to make a bill that is compulsory, if we are going to mandate people who have 2 or multi-story dwellings to put these detectors in, then they ought to be put in for everyone, no one should be escaping. We ought to mandate that they are in every bedroom, and that they are in the kitchen, or they are in the rooms where there are cots, like in the cellar, where there are playrooms or something, where mothers like to go down and watch those afternoon serials you know how they all are, and fathers, god bless the girls are being irritated again, I watch them, got to watch what you are going to alienate, particularly in my party.

I think that this should be assigned to the Legal Affairs Committee for a real thorough study over the next couple of years, and perhaps then may come back with a bill, that is

certainly far more equitable and fair to everyone.

(Off Record Remarks)

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

Senator DANTON: Mr. President and Members of the Senate: In public I want to apologize to the good Senator from Waldo, Senator Shute.

The PRESIDENT: The pending question before the Senate is the motion by the Senator from York, Senator Danton, that L. D. 1848 be Indefinitely Postponed.

A Yes vote will be in favor of Indefinite Postponement.

A No vote will be opposed.

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEA — Carpenter, Chapman, Clark, Conley, Cote, Danton, Emerson, Gill, Hichens, Huber, Katz, Martin, McBreairty, Perkins, Pierce, Pray, Redmond, Silverman, Teague.

NAY — Collins, Devoe, Lovell, Minkowsky, Najarian, O'Leary, Shute, Trotzky, Usher.

ABSENT — Ault, Farley, Sutton, Trafton.

19 Senators having voted in the affirmative, and 9 Senators in the negative, with 4 Senators being absent, the Motion to Indefinitely Postpone in non-concurrence does prevail.

Sent down for concurrence.

Divided Report

The Majority of the Committee on Energy and Natural Resources on, Bill, "An Act to License Users of Ionizing and Nonionizing Radiation Equipment." (H. P. 1682) (L. D. 1791)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-854).

Signed:

Senator:

McBREAIRTY of Aroostook

Representatives:

DOUKAS of Portland

MICHAEL of Auburn

HUBER of Falmouth

JACQUES of Waterville

AUSTIN of Bingham

KIESMAN of Fryeburg

DEXTER of Kingfield

BLODGETT of Waldoboro

HALL of Sangerville

PELTIER of Houlton

The Minority of the same Committee on the same subject matter reported that the same Ought to Pass as amended by Committee Amendment "B" (H-855).

Signed:

Senator:

O'LEARY of Oxford

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

Which Reports were Read.

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

Senator McBREAIRTY: Mr. President and Members of the Senate: I move the Majority Ought to Pass Report.

The PRESIDENT: The Senator from Aroostook, Senator McBreairty, moves that the Senate accept the Majority Ought to Pass as amended, Report of the Committee.

The Chair recognizes the Senator from Penobscot, Senator Pray.

Senator PRAY: Thank you, Mr. President, Mr. President, and Members of the Senate, the report that is presently before you that we are considering, and the Committee Amendment "B", the Minority Report basically only has one major difference, and that is the question of funding.

Report "A" is going to call for \$59,000 cost of the bill to the General Fund. We're all aware of the economic situation of the General Fund.

Report "B" calls for a users fee, in reference

to monitoring the radiation at Maine Yankee.

I would hope that we would defeat the motion to accept Report "A". I'm sure we're all realists. We realize it's going to end up on the Appropriations Table, where it's going to die. I would much rather see us adopt a user's fee, and monitor the radiation from Maine Yankee.

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

Senator McBREAIRTY: Mr. President and Members of the Senate: There seemed to be a great trend this session to steer away from the General Fund and put it into the users fees.

This happens to be a program that's been funded by Federal funds, and the Federal funds have dried up and they are going to have to turn it over to either the General Fund or the user fees.

In my area, I find that the people who are paying user fees, are having just as hard a time to pay their bills, as the people who are paying into the General Fund. In some cases, much harder. So I think that this, if it's high enough priority so that this Legislature wants it, I think it should come out of the General Fund, and not continue to put more and more load onto the people of Maine by user fees. Some of these people that are paying these user fees are on Social Security checks. It's just as hard paying user fees, as it is to pay a little more tax into the General Fund and fund it from that.

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

Senator O'LEARY: Mr. President and Members of the Senate: If you look at L. D. 1791 and then House Amendments "A" H-854 and H-855, there is quite a difference.

The bill itself has been emasculated, but there were a couple of points in the original bill that will still appear in Committee Amendment "B". This calls for registering of X-Ray Equipment, plus it also sets up the calibration and how it shall be done. It's a protection for those who go into a hospital and receive numerous X-Rays. It's also a protection to those who go to a dentist. The committee was appraised of the fact that a dentist will no longer hold his finger in your mouth while he X-Rays your teeth because after a certain amount of exposure, even he has come up with cancerous fingers.

Mr. President, in order to give credibility to Maine Yankee and to have factual up-to-the-moment reporting of any of the emissions and such. I felt that this price of \$59,200 as a user fee would be more equitable to the people of the State of Maine who are using electricity from this facility. I know that there are some people in the Bangor area and North that will not be paying any of these fees, or part of the cost in their electrical bill.

Because I am concerned that if it is put into the General Fund and lays on the table here, that it will not be funded. I think the people of the State of Maine do want it. So I would oppose Committee Amendment "A" and hope you will adopt Committee Amendment "B", and ask for a Division.

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

Senator CARPENTER: Mr. President, and Ladies and Gentlemen of the Senate: I'm having a terrible attack of "de-ja vu,". It seems like I've been here before.

If you look at Committee Amendment "A", Committee Amendment "B" to this bill, as the good Senator from Oxford, Senator O'Leary, just pointed out, the only difference is where is the money going to come from, or the basic difference is where is the money going to come from.

I heard the good Senator from Aroostook, Senator McBreairty talk about going to the General Fund. It seems to me that we had a bill something dealing with monitoring health hazards or environmental health hazards or something here the other day and I heard people thundering about the cancerous growth. We must cut out the cancerous growth in govern-

ment spending. It seems to me that I'm looking at a mirror, only in kind of a reverse, for what we heard here the other day.

It's alright to go to the General Fund when we're talking about nuclear power plants and monitoring radiation and things like that, but when we're talking about the overall health of the people of the State of Maine we just don't have the money because of the cancerous growth, that's not a phrase of mine, somebody else in this Chamber, I believe coined it.

It seems to me that there aren't too many Social Security checks going to Maine Yankee, or going to most of the places that have this X-Ray Equipment. I grant you that many of our constituents as the good Senator from Aroostook, are have a hard time making ends meet, but since this is rather a unique select area, I would think that it would be very appropriate that the people using and getting the benefit, getting the financial benefit of this equipment should pay the charge to see what damage they might or might not be doing to our health.

So I certainly would hope that you would vote against the Majority Report "A" and then get along to the so-called O'Leary Report. Mr. President, I would request the Yeas and Nays.

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

Senator PRAY: Thank you Mr. President, and Members of the Senate, it's always a good line to throw up that to pay for this \$59,200 is going to come from the users, those who subscribe to Central Maine Power. We also are well aware that Central Maine Power makes a profit. They have to have their rates approved by the PUC, and that they very easily could take it out of the profit margin.

There is no necessity to preclude today that automatically this \$59,200 is going to automatically come and be charged off to the users of CMP's power.

I think also if we considered the factors of the impact of the \$59,200 onto the some-odd half a million people perhaps or half a million subscribers to Central Maine, including businesses, as well as, residential area, that the \$59,200 would be a mere pittance of what the total revenues are, or even what the profit margin would be of Central Maine Power.

I do agree that this is a very important issue, as the Senator from Aroostook, Senator Carpenter, and of course, the Senator from Oxford, Senator O'Leary, pointed out.

I think that we have to realize that with a nuclear referendum coming up sometime either this summer or this fall, this is an issue very important to the people of this State, if not the entire nation.

I believe that we should consider some of the factors of what presently has happened under the existing program under the Federal Government which started 10 years ago. It started out with 4.2 staff members, the .2 comes from the fact that the staff members were shared with other departments, and only did a proportion of the work for this program. 10 years later, here we are in 1980 and we still only have 4.2.

It's not one of these agencies or one of these jobs that has grown like the Senator from Penobscot, Senator Trotzky, pointed out in his order, in reference to the Energy Department. It is a program that has kept a lid on expansion. It hasn't expanded. It's an issue of sincere importance to the entire people of this state.

I'm sure all of us are aware of the nuclear waste has a 1/2 life span of some 400,000 years. The deterioration, the uranium turns into plutonium, which has another factor in that. So we're talking about an issue that goes far, far into our future. I think the measurement of CMP or Maine Yankee should not be done by Maine Yankee alone, it should be done by the State.

If we do accept Report "A", I am positive that the statements made here today, when we come down to the final days of the sessions, and the limited resources of revenues that we have

in the General Fund, that there are a number of other issues that will compete. It's not quite accurate to stand here today and say if it's of a high priority, then we'll do it. There's only so many high priorities that we can have. We'll be throwing this up against pre-school handicaps, up against the retirees maybe, and a cost of living increase of some sort to them, and a number of other programs and attempts to expand the tax base, industrial development, economic development, agricultural development.

I think that the safe and the accurate route for us to take today is to reject the report moved by the Senator from Aroostook, Senator McBreairty. Then move on to Report "B", which will clearly put the cost upon those who are causing the problems of nuclear waste.

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

Senator CONLEY: Mr. President and Members of the Senate: \$200,803, an L. D., we had yesterday or the day before on Health Environment. This body rejected that bill because of the price tag that was incorporated in that bill. We can't afford it. That's what was said. That's what was said by the good Majority Floor-Leader, the Senator from Kennebec, Senator Katz.

There were other reasons stated by the good Senator from Cumberland, Senator Gill, but I think overall everyone agreed that it should be one of the real vital concerns that this Senate should have.

With this bill before us this morning, we do have that alternative, Report "B" provides that alternative. We can stay away from the General Fund, to pay this particular bill. It will give us an opportunity to weight what priorities are on the Appropriation Table, and we can make selections as to what we feel should come out of the General Fund. So I would urge the Senate to reject the pending motion. Again to accept Report "B" once that comes before us.

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

Senator O'LEARY: Mr. President, on page 2 of L. D. 1791, it has a fee for registration of diagnostic type X-rays, therapeutic type x-rays, source of about 500,000 volts per unit. That cost was \$175 per unit. There was all kinds of fees built into the original bill. Maine Yankee at that time would have had a \$75,000 per unit cost fee.

This proposal would have generated in a fund to be used by the department of \$103,500 but if you'll take a close look at Committee Amendment "B" (855), you'll see a Section II, that I think is equally important to the health and safety of our citizens here in the State of Maine.

It says: registering other sources of ionizing radiation. The purpose is to register other sources and devices capable of emitting; ionizing radiation. The department shall further promulgate rules requiring annual certification and calibration of this equipment by competent technicians.

Of course, there is a cost to this. This again will be handed down to the citizens using this type of equipment. It will be very minimal. Thank you, Mr. President.

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

Senator MCBREAIRTY: Mr. President, Honorable Members of the Senate: I have no strong feeling one way or another on this bill. I have no strong feeling as to how you fund it. I do have a strong feeling as to how I vote on bills that replace Federal programs with fees or local property tax. We've been doing that for quite sometime. I think we just have a clear cut choice here as to whether to continue to fund things with fees or to face up to our responsibility and raise a tax, if we have to, and fund them the way we should be funding them.

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

Senator PRAY: Mr. President, and Members of the Senate: I would like to remind the Senator from Aroostook, Senator McBreairty, that last year the issue of a Constitutional Convention for a Balanced Budget came up. One of the reasons a number of programs are being cut from the federal government and we're picking up the cost because Washington is attempting to balance the budget.

The question now comes down to the responsibility as to whether or not the state will pick up those costs. Both of the amendments that we have puts that responsibility onto the State. Here in this Chamber we're going to make the decision as to whether or not, they're going to come out of the General Fund, which I think is highly unlikely or 2: we're going to put that cost on those individuals who are the cause of the problems to start with.

Maine Yankee exists mostly with the ownership of Central Maine Power. The users fees is going to put it on the onus as to where the problem comes from. That's the question that we're debating here today. The question of the reality as to whether or not the state can fund it out of it's General Fund or not.

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 Aroostook, Senator McBreairty, that the Senate accept the Majority Ought to Pass, as amended, Report of the Committee.

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

A No vote will be opposed.

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEA — Chapman, Collins, Devoe, Emerson, Hichens, Lovell, McBreairty, Perkins, Pierce, Redmond, Shute, Teague, Trotzky.

NAY — Carpenter, Clark, Conley, Cote, Danton, Huber, Katz, Martin, Najarian, O'Leary, Pray, Silverman, Usher.

ABSENT — Ault, Farley, Gill, Minkowsky, Sutton, Trafton.

13 Senators having voted in the affirmative, and 13 Senators in the negative, with 6 Senators being absent, the Motion to accept the Majority Ought to Pass, as amended, Report of the Committee, does not prevail.

Is it now the pleasure of the Senate to accept the Minority Ought to Pass, as amended, Report of the Committee?

The Chair recognizes the Senator from Waldo, Senator Shute.

Senator SHUTE: I would ask for a Division.

The PRESIDENT: A Division has been requested.

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

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

14 Senators having voted in the affirmative, and 13 Senators in the negative, the Motion to Accept the Minority Ought to Pass, as amended, Report of the Committee in concurrence does prevail.

The Bill Read Once.

Committee Amendment "B" Read and Adopted, in concurrence, and the Bill, as amended, Tomorrow Assigned for Second Reading.

Divided Report

The Majority of the Committee on Agricul-

ture on, Bill, "An Act Relating to Agricultural Development." (H. P. 1719) (L. D. 1830)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-843).

Signed:

Senators:

HICHENS of York
CARPENTER of Aroostook

Representatives:

MAHANY of Easton
TOZIER of Unity
LOCKE of Sebec
MICHAEL of Auburn
WOOD of Sanford
NELSON of New Sweden
SHERBURNE of Dexter
TORREY of Poland
ROOPE of Presque Isle

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

Signed:

Representative:

ROLLINS of Dixfield

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

Which Reports were Read.

On Motion by Senator Katz of Kennebec, Tabled, pending Acceptance of Either Committee Report.

Divided Report

The Majority of the Committee on Judiciary on, Bill, "An Act to Declare the Right of the Public to Attend Judicial Proceedings." (H. P. 1728) (L. D. 1847)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-845).

Signed:

Senators:

COLLINS of Knox
TRAFTON of Androscoggin

Representatives:

JOYCE of Portland
CARRIER of Westbrook
SEWALL of Newcastle
SILSBY of Ellsworth
HOBBINS of Saco
GRAY of Rockland
SIMON of Lewiston
HUGHES of Auburn

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

Signed:

Senator:

DEVOE of Penobscot

Representative:

STETSON of Wiscasset

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

Which Reports were Read.

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

Senator DEVOE: Thank you Mr. President. Mr. President, I address this question with some trepidation being in a rather sharp minority. My view is that this bill is aimed at an imaginary problem in the State of Maine, rather than a real problem. Before you cast your vote on this, Members of the Senate, I would just ask you to think for a moment.

My opinion is that this bill, if enacted, will establish that the right to gather news by news media people is to be given greater priority than the defendants interest in getting a free trial in every case.

My view is that the news media in Maine has always been very responsible in the way that they have handled trials of sensational cases. My view is also that the Judiciary when faced with a motion to exclude people from a trial because some sensitive matter is to be discussed has also been equally responsible, in dealing

with that sensitive matter.

We have to remember that the Constitution gives defendants the right to a free trial. If you look at the Statement of Fact, in the Committee Amendment, and you read it, and if you accept it, then it's my belief that you are saying by your vote for the Majority Report that the news media must be given priority over possible infringement on a defendants right to a free trial.

Members of the Senate, that's why I signed the Minority Report, I just want to give you these ideas this morning before you cast your vote. Thank you very much, Mr. President.

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

Senator COLLINS: Mr. President, I would agree with the good Senator from Penobscot, Senator Devoe, that we have not had problems in Maine in general.

This bill, I think, was prompted largely by a Supreme Court decision nearly a year ago in which a case had been closed in New York State, and the United States Supreme Court said that was alright. It was a pre-trial proceeding that had been closed.

In taking that position which, of course, protected the right of the accused to a fair trial by avoiding excessive prejudicial publicity, the court went into considerable hyperbole of discussion about the right of open trials being solely the right of a defendant. That language was not necessary to the decision, and served to excite the media and many proponents of open court proceedings over the country.

So a bill was presented. The original bill was one that I could not have supported. It has been carefully amended, and debated in the Judiciary Committee a number of times. The amendment that would be before you if you adopt the Majority Report has the approval of the Attorney General. It has his assurance that it will not cause any impediments to successful prosecution efforts that that department makes.

I think that it adequately takes care of the concern that the good Senator has mentioned, because this is essentially what it says. "Except as provided by Statute, the general public may not be excluded from pre-trial criminal proceeding in which the court hears a motion to exclude evidence from trial unless the court finds a substantial likelihood that injury or damage to the accused's right to a fair trial will result from conducting the proceeding in public."

That's essentially what we have always understood the law to be, but some question marks were cast into the picture by the excessive verbiage in the Gannett Case.

The amendment goes on to spell out a little further and make it clear that nothing here will limit the powers of courts to maintain decorum by ordering unruly spectators removed from the courtroom, by reasonably limiting the number of spectators, or by exercising similar powers of the judges at common law, or to require that a proceeding to determine the validity of a claim of evidentiary privilege as provided by the Maine Rules of Evidence be open to the public.

So I see a value in the Legislature's stating it's view of the open-trial question, because it is one that is being raised more and more these days. I have to come down on the side of the open trial being the general rules and the exceptions being rather carefully expressed. Thank you, Mr. President.

The Majority Ought to Pass, as amended, Report of the Committee, Accepted, in concurrence, and The Bill Read Once.

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

Senate At Ease

The Senate called to Order by the President.

(Off Record Remarks)

Senate

Leave to Withdraw

Senator Collins for the Committee on Public Utilities on, Bill, "An Act to Provide Individual Staff Assistants for Members of the Public Utilities Commission." (S. P. 653) (L. D. 1692)

Reported that the same be granted Leave to Withdraw.

Ought to Pass — As Amended

Senator Ault for the Committee on State Government on, Bill, "An Act to Amend the Maine Health Facilities Authority Act to Include Certain Educational Institutions." (S. P. 680) (L. D. 1798)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (S-451).

(Representative Kany of Waterville, Abstained from participating and voting.)

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.

Ought to Pass in New Draft

Senator Collins for the Committee on Judiciary on, Bill, "An Act to Amend the Procedure for Appointment of Guardians and Conservators under the Maine Probate Code." (S. P. 721) (L. D. 1871)

Reported that the same Ought to Pass in New Draft under New Title: Bill, "An Act to Amend the Probate Code" (S. P. 792) (L. D. 1990)

Senator Collins for the Committee on Judiciary on, Bill, "An Act to Amend Support and Enforcement of Support Laws in Divorce and Related Cases." (S. P. 693) (L. D. 1813)

Reported that the same Ought to Pass in New Draft under New Title: Bill, "An Act to Remove Sex Bias and Facilitate Enforcement of Support Obligations" (S. P. 793) (L. D. 1991)

Which Reports were Read and Accepted and the Bills, in New Draft, Read Once and Tomorrow Assigned for Second Reading.

Divided Report

The Majority of the Committee on Judiciary on, Bill, "An Act Increasing the Fees for Probate Proceedings." (S. P. 752) (L. D. 1928)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (S-452).

Signed:

Senators:

COLLINS of Knox
DEVOE of Penobscot

Representatives:

GRAY of Rockland
SEWALL of Newcastle
SIMON of Lewiston
JOYCE of Portland
STETSON of Wiscasset

The Minority of the same Committee on the same subject matter reported that the same Ought to Pass as Amended by Committee Amendment "B" (S-453).

Signed:

Senator:

TRAFTON of Androscoggin

Representatives:

HOBBINS of Saco
SILSBY of Ellsworth
CARRIER of Westbrook

Which Reports were Read.

The Majority Ought to Pass, as amended, Report of the Committee, Accepted, and the Bill Read Once.

Committee Amendment "A" Read.

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

Senator CONLEY: Mr. President, and Members of the Senate: I wonder if I might direct a question through the Chair to the good Senator

from Knox, Senator Collins.

I think I might be the sponsor of this particular bill and I really don't know a tremendous amount about Probate. I wonder if this bill of mine that I sponsored is on its way to passing or not.

The PRESIDENT: The Senator from Cumberland, Senator Conley, has directed a question through the Chair to the Senator from Knox, Senator Collins, who may answer if he so desires.

The Chair recognizes that Senator.

Senator COLLINS: Mr. President, in answer to the good Senator from Cumberland, Senator Conley, I respond that this bill is a watered down version of his presentation. His presentation amounted to a fairly strong tax on estates in the upper echelon. It was felt that this court is more basically a service court than a taxing court, but it was recognized that there ought to be a modest increase to take account of the fact that inflation has happened a great deal since 1973, when there was the last revision. The Majority Report reflects a modest increase in those fees.

Committee Amendment "A" Adopted, and the Bill, as amended, Tomorrow Assigned for Second Reading.

Divided Report

The Majority of the Committee on Energy and Natural Resources on, Bill, "An Act to Clarify the Board of Environmental Protection's Responsibility to Regulate Roads under the Site Location Law." (S. P. 696) (L. D. 1832)

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (S-449).

Signed:

Senator:

TROTZKY of Penobscot

Representatives:

DOUKAS of Portland
HUBER of Falmouth
BLODGETT of Waldoboro
MICHAEL of Auburn
HALL of Sangerville
JACQUES of Waterville

The Minority of the same Committee on the same subject matter reported that the same Ought to Pass as Amended by Committee Amendment "B" (S-450).

Signed:

Senators:

McBREAIRTY of Aroostook
O'LEARY of Oxford

Representatives:

AUSTIN of Bingham
KIESMAN of Fryeburg
DEXTER of Kingfield
PELTIER of Houlton

Which Reports were Read.

On Motion by Senator McBreairsty of Aroostook, the Minority Ought to Pass, as amended, Report of the Committee, Accepted, and the Bill Read Once. Committee Amendment "B" 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 — As Amended

Bill, "An Act to Appropriate Funds for an Increase in Board Rates for Foster Parents and Clothing Allowances for Children under the Care or Custody of the Department of Human Services." (H. P. 1754) (L. D. 1881)

Bill, "An Act to Establish Visible Emissions Standards and to Adopt and Revise Certain Definitions Under the Environmental Laws." (H. P. 1690) (L. D. 1800)

Bill, "An Act Relating to the Reorganization of the Board of Trustees of the State Employees Group Accident and Sickness or Health Insurance Plan." (H. P. 1766) (L. D. 1889)

RESOLVE, Appropriating Funds to Camden Community School, Inc. (H. P. 1645) (L. D.

1755)

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

Senate — As Amended

Bill, "An Act Relating to the Qualifications for the Licensing of Auctioneers." (S. P. 708) (L. D. 1844)

Which was Read a Second Time.

On Motion by Senator Chapman of Sagadahoc, Tabled for 1 Legislative Day, pending Passage to be Engrossed.

Enactors

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

An Act to Provide Supplemental Funds to the Judicial Department. (H. P. 1635) (L. D. 1744)

On Motion by Senator Huber of Cumberland, Placed on the Special Appropriations Table, pending Enactment.

RESOLVE, Authorizing the State Tax Assessor to Convey the Interest of the State in Certain Lands in the Unorganized Territory. (H. P. 1742) (L. D. 1860)

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

Senator PRAY: Mr. President, and Members of the Senate, presently there was a community by the name of Williamsburg in Piscataquis County, of which a tax lien was placed upon that community in 1939. In 1940 the community deorganized. Presently there is a question pending and being researched by the Bureau of Taxation as to who is the proper party in reference to that tax lien. Until that question is answered I wish somebody would table this for 1 Legislative Day.

On Motion by Senator Katz of Kennebec, Tabled for 1 Legislative Day, pending Final Passage.

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

Orders of the Day

The Chair laid before the Senate: Bill, "An Act to Revise and Clarify Certain Provisions of the Motor Vehicle Laws." (H. P. 1667) (L. D. 1776), tabled earlier in today's session by Senator Katz of Kennebec, pending Acceptance of Either Committee Report.

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

Senator USHER: Mr. President, I would request that somebody would table this because I am still waiting for my amendment. It hasn't been printed yet.

On Motion by Senator Katz of Kennebec Retabled for 1 Legislative Day.

On Motion by Senator Katz of Kennebec, there being no objections, all items previously acted upon were sent down forthwith.

Senate at Ease

The Senate called to Order by the President.

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