

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 18, 1980

Senate called to order by the President.

Prayer by the Reverend Thomas Richard of the First Congregational Church of South Paris.

Reverend RICHARD: Let us pray! Almighty God you have called these men and these women of this body to lead our State, in a day of great need and tragic under achievement. Nerve this body with an iron will to do what needs to be done.

In our rural areas and our cities, in housing, in public well-being, in education, and in basic needs, imbue these Senators with devotion of duty, strong enough to unite them, above all party lines, in the common concerns of our State people.

We, in these moments of contemplation have in our hearts and our minds the hostages in Iran and we pray for them, their families, and a resolution to these long deliberations.

Hear our prayer for peace in the world. Call to our remembrance those who have given their lives to establish, maintain and defend the precious liberties we now enjoy, but let us not put off our own responsibilities for peace. Those responsibilities which each of us need continually to take upon ourselves in our daily lives.

As we greet this new day with its opportunities to do good, we ask for your presence. Be part of this body's agenda and give to them a high example of keen thought. Make them sensitive to human need and adequate action, and may this day's events inspire public confidence and more your divine blessing. Amen.

Reading of the Journal of yesterday.

Papers from the House
Non-concurrent matter

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)

In the Senate March 13, 1980, Passed to be Engrossed as amended by Committee Amendment "B" (S-450)

Comes from the House, Passed to be Engrossed as amended by Committee Amendment "A" (H-449) as amended by House Amendment "A" (H-920), Thereto, in non-concurrence.

On Motion by Senator Katz of Kennebec, Tabled until later in today's session, pending Consideration.

Committee Reports
House

Leave to Withdraw

The Committee on Taxation on, Bill, "An Act to Revise the Law Concerning Sales Tax Exemptions and Repeal Certain Exemptions." (H. P. 1907) (L. D. 1973)

Reported that the same be granted Leave to Withdraw.

Comes from the House, the Report Read and Accepted.

Which Report was Read and Accepted, in concurrence.

Ought to Pass

The Committee on Transportation on, Bill, "An Act to Revise the Law Concerning Sales Tax Exemptions." (H. P. 1908) (L. D. 1974)

Reported that the same Ought to Pass.

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

Which Report was Read and Accepted, in concurrence, and the Bill Read Once and Assigned for Second Reading later in today's session.

Ought to Pass — As Amended

The Committee on Taxation on, Bill, "An Act to Reorganize the Sales and Use Tax Law and to Encourage Conversion of Coal through Treatment of Coal as Oil for Sales Tax Purposes." (H. P. 1793) (L. D. 1918)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-911)

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

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

The Committee on Judiciary on, Bill, "An Act to Expedite Criminal Trials and Provide for the Election of Jury Trials." (H. P. 1733) (L. D. 1849)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-875).

Comes from the House, the Bill Passed to be Engrossed as amended by Committee Amendment "A" and House Amendment "A" (H-922)

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

Divided Report

The Majority of the Committee on State Government on, Bill, "An Act to Provide a Manpower Coordinator in the State Development Office and to Establish a Fund to Aid Manpower Services for Economic Development." (H. P. 1717) (L. D. 1823).

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-923).

Signed:
Senators:

AULT of Kennebec
SUTTON of Oxford

Representatives:

PARADIS of Augusta
BACHRACH of Brunswick
REEVES of Pittston
CONARY of Oakland
LANCASTER of Kittery
BARRY of Fort Kent
KANY of Waterville
MASTERTON of Cape Elizabeth
LUND of Augusta

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

Signed:
Representative:

DAMREN of Belgrade

Comes from the House, the Bill Passed to be Engrossed, as amended by Committee Amendment "A" (H-923).

Which Reports were Read.

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

Divided Report

The Majority of the Committee on Transportation on, Bill, "An Act to Clarify the Law Relating to Public and Private Driver Education Programs." (H. P. 1708) (L. D. 1811)

Reported that the same Ought Not to Pass.

Signed:
Senators:

EMERSON of Penobscot
O'LEARY of Oxford
USHER of Cumberland

Representatives:

CARROLL of Limerick
STROUT of Corinth
HUNTER of Benton
JACQUES of Lewiston
McKEAN of Limestone
BROWN of Mexico
ELIAS of Madison
McPHERSON of Eliot

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

Signed:

Representatives:

HUTCHINGS of Lincolnville
LOUGEE of Island Falls

Comes from the House, Bill and accompanying papers, Indefinitely Postponed.

Which Reports were Read.

The Majority Ought Not to Pass Report of the Committee, Accepted, in non-concurrence. Sent down for concurrence.

Senate
Ought to Pass

Senator Chapman for the Committee on Business Legislation on, Bill, "An Act to Extend the Period for Issuance and Coverage under the Maine Medical and Hospital Malpractice Joint Underwriting Association Act By One Year." (Emergency) (S. P. 764) (L. D. 1957)

Reported that the same Ought to Pass.

Which Report was Read and Accepted and the Bill Read Once, and Assigned for Second Reading later in today's session.

Second Readers

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

House

Bill, "An Act to Clarify the Education Laws." (H. P. 1965) (L. D. 2011)

Which was Read a Second Time.

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

RESOLVE, for Laying of the County Taxes and Authorizing Expenditures of Piscataquis County for the Year 1980. (Emergency) (H. P. 1961) (L. D. 2009)

RESOLVE, for Laying of the County Taxes and Authorizing Expenditures of Kennebec County for the Year 1980. (Emergency) (H. P. 1962) (L. D. 2010)

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

House — As Amended

Bill, "An Act to Clarify the Law Concerning Abuse Between Family or Household Members." (H. P. 1911) (L. D. 1979)

Bill, "An Act to Further Define a Cord of Wood." (H. P. 1909) (L. D. 1976)

Bill, "An Act to Provide for Improved Information on Workers' Compensation and to Provide Funds for Full-time Worker's Compensation Commissioners." (H. P. 1795) (L. D. 1911)

Bill, "An Act to Amend the Hazardous Waste Statutes in Order that the State May Respond to Dangers to Public Health, Safety or Welfare and Allow Delegation of the Federal Program." (Emergency) (H. P. 1759) (L. D. 1884)

RESOLVE, Authorizing the State to Convey its Interest in the Public Lots in the Town of Osborn to the Inhabitants of Osborn. (H. P. 1603) (L. D. 1714)

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

Bill, "An Act to Provide an Income Tax Checkoff for Voluntary Contributions to the Department of Inland Fisheries and Wildlife." (H. P. 1825) (L. D. 1929)

Which was Read a Second Time.

On Motion by Senator Katz of Kennebec, Tabled until later in today's session, pending

Passage to be Engrossed.

Bill, "An Act to Expand the Kinds of Projects Eligible for Financing Under the Municipal Securities Approval Act." (H. P. 1767) (L. D. 1898)

Which was Read a Second Time.

On Motion by Senator Katz of Kennebec, Tabled until later in today's session, pending Passage to be Engrossed.

Senate

RESOLUTION, Proposing an Amendment to the Constitution Allowing Either the Constitution or Statutes to Determine the Manner of Selection of Judges of Probate and Justices of the Peace. (S. P. 804) (L. D. 2007)

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

Sent down for concurrence.

Senate — As Amended

Bill, "An Act Relating to the Licensing of School Bus Operators within 60 Days of Examination and the Timing of Inspections of School Buses by the State Police." (S. P. 737) (L. D. 1916)

Bill, "An Act to Revise the Small Claims Law." (S. P. 684) (L. D. 1807)

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

Sent down for concurrence.

Enactors

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

An Act to Clarify the Provisions Relating to Executive Conflict of Interest and to Establish Financial Disclosure Requirements for Policy-making Executive Employees. (H. P. 1774) (L. D. 1877)

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

Orders of the Day

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

Bill, "An Act to Amend the Charter of the Limestone Water and Sewer District." (H. P. 1960) (L. D. 2008)

Tabled—March 17, 1980 by Senator Devoe of Penobscot.

Pending—Reference.

On Motion by Senator Katz of Kennebec retabled until later in today's session.

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

HOUSE REPORT—from the Committee on Energy and Natural Resources—Resolve, Authorizing the Exchange of Certain Public Reserved Lands Georgia-Pacific Corporation." (H. P. 1895) (L. D. 1971)

Tabled—March 17, 1980 by Senator Katz of Kennebec.

Pending—Acceptance of the Report.

On Motion by Senator Conley of Cumberland Retabled until later in today's session.

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

Bill, "An Act Making Supplemental Appropriations from the General Fund for the Fiscal Years Ending June 30, 1980 and June 30, 1981, to the Department of the Attorney General for the Defense of Land Claims Asserted by the Passamaquoddy Tribe and the Penobscot Nation. (Emergency) (S. P. 719) (L. D. 1869)

Tabled—March 17, 1980 by Senator Huber of Cumberland.

Pending—Adoption of Committee Amendment "A" (S-460)

Committee Amendment "A" Adopted.

On Motion by Senator Huber of Cumberland the Senate voted to reconsider it's action whereby it adopted Committee Amendment "A" to L. D. 1869

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

Senator HUBER: Mr. President, I now present Senate Amendment "A" to Committee Amendment "A" under Filing S-473 and move it's adoption.

The PRESIDENT: The Senator from Cumberland, Senator Huber, now offers Senate Amendment "A" to Committee Amendment "A" and moves it's adoption.

Senate Amendment "A" (S-473) to Committee Amendment "A" Read and Adopted. Committee Amendment "A", as amended, by Senate Amendment "A", Adopted. The Bill, as amended, Assigned for Second Reading later in today's session.

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

SENATE REPORTS—from the Committee on State Government—Bill, "An Act to Amend the Maine Guarantee Authority Act." (Emergency) (S. P. 780) (L. D. 1972) Majority Report—Ought to Pass; Minority Report—Ought Not to Pass.

Tabled—March 17, 1980 by Senator Katz of Kennebec.

Pending—Acceptance of Either Report.

On Motion by Senator Katz of Kennebec Retabled until later in today's session.

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

Bill, "An Act Establishing the Child and Family Services and Child Protection Act." (H. P. 1787) (L. D. 1906)

Tabled—March 17, 1980 by Senator Conley of Cumberland.

Pending—Passage to be Engrossed.

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

Senator CONLEY: Mr. President, I have an amendment to offer to this bill. If my vision is correct there is not presently a member of the Judiciary Committee here and I would appreciate it if somebody would table this until later in today's session.

On Motion by Senator Katz of Kennebec, Retabled until later in today's session.

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

SENATE REPORTS—from the Committee on State Government — Bill, "An Act to Create a Board for Barrier Free Design." (S. P. 692) (L. D. 1812) REPORT A — Ought to Pass in New Draft in New Title, "An Act to Assure Compliance with Existing Laws Affecting Disabled Persons' Access to Certain Buildings Open to the Public." (S. P. 798) (L. D. 2002); REPORT B — Ought to Pass in New Draft in New Title, "An Act to Assure Compliance with Existing Laws Affecting Disabled Persons' Access to Certain Buildings Open to the Public." (S. P. 799) (L. D. 2003); REPORT C — Ought Not to Pass

Tabled—March 17, 1980 by Senator Katz of Kennebec.

Pending—Acceptance of a Report.

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

Senator AULT: I move acceptance of Report "B".

The PRESIDENT: The Senator from Kennebec, Senator Ault, moves that the Senate Accept Report "B" of the Committee, Ought to Pass, in New Draft in New Title. (L. D. 2003).

The Chair recognizes the Senator from Cumberland, Senator Gill.

Senator GILL: I oppose that motion. Barrier Free Design was the original name of this bill. We brought the bill, before us because barriers like bodies come in various shapes and sizes, from architectural to attitudinal.

Our environment should not wall out people. We should design instead to accommodate everyone from the parents pushing a child, to an elderly person using a cane, to those confined

in wheelchairs, to those like myself who on certain days are more mobile than other days.

Barrier Free Design simply means that all persons, able-bodied and disabled, young and old may move freely, independently, conveniently, and safely within their environment.

The two reports that we have before us this morning, the report that I favor is L. D. 2002, and the other report that Senator Ault has asked to be accepted are not very dissimilar. The differences in the 2 bills, are the report that I favor 2002, does require persons who plan, or build, or remodel buildings to have the Fire Marshal look at their plans. The other report says that they "may" present their plans to the Fire Marshal to be looked at, with regards barriers.

The Fire Marshal at this point checks out plans as to fire and safety precautions. What we in the report that I favor would ask that he also check out as far as Barrier Free Design.

There is an appropriation on the bill, that would give 2 additional people to the Fire Marshal's Office to do this.

What we are trying to do in this case is consolidate what the Bureau of Public Works is doing and put it all in the Fire Marshal's Office so that it will be done in one place. That way it can be more effective.

We have also set up a voluntary advisory board, to advise the Fire Marshal as to what barriers are and who they affect. We have many people out there with different types of limitations, we have blind, we have people in wheelchairs, we have people who have difficulty going over a 1/2 inch rise. If we can, before the fact, take care of these properly it would be less costly than once the building is built to have to pull it apart to go into an expensive renovation process, or reconstruction process.

They come down to one says they 'shall' put their plans before the Fire Marshal the other says they 'may'.

The advice that the Fire Marshal gives is just advice to the people who are going through the building process. There are no extra standards that they have to observe, they are standards that we are with now but they are just consolidated so that the Fire Marshal will have the say over them. I would urge that we defeat 2003 and adopt 2002.

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

Senator SUTTON: Mr. President, Ladies and Gentlemen of the Senate: I am on the report today that Senator Ault signed, and would recommend the adoption of L. D. 2003.

My good colleague from Cumberland, and friend Senator Gill and I have very few differences in this regard.

I think that the difference in the 2 bills is of paramount importance to us. First of all you will notice that both of these bills are in new draft. The original bill that came before us, was a bill that was very comprehensive that encompassed all the existing laws, set up boards, paid people to be on the boards, and really put together quite a bureau of government to see that what is already in the law is being adhered to.

I want to emphasize that there is nothing in this as I see it that isn't already in the law, so the whole basis of what we are talking about then, is making sure that people understand what our current laws are. The laws are there; they are just not being enforced.

So in some of our opinions the whole thing is going to boil down to an educational situation rather than a punitive one. So the barrier board that is being suggested in this bill, main job is to educate the public and the business people of the State of Maine that there are existing laws that require certain architectural and structural differences as far as the handicapped are concerned, and we certainly support that.

To require every businessman in the State of Maine every time that he puts an addition on his plant, I believe that the figure is \$100,000

and that goes in virtually nothing no time at all, to send his plans to the Fire Marshal to have them reviewed, I think is an additional burden to the business people and the communities of this State that is not necessary.

I do believe though that they should be permitted to send these plans to the Fire Marshall and that he be required to review them. Right now he is not and should they be sent to him I am sure that he would send them back, saying, I do not need to do this. I think that we do need to bring to the attention of the Maine business community and all regards the problems inherent in barrier free construction and the handicapped. By the same token I think that we should do our educational job first. Then I would think out of good common sense that a business person that was going to make a new building or addition would send their plans and have them checked out, to make sure that they are all right. I do not think that we should require them to do so. It is just another piece of mandatory government that I do not think is necessary and I urge you to accept the proposal of our Chairman of the State Government Committee.

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

Senator GILL: I have before me, a resolve that was passed by the Legislature in 1965, whereby it stated: that the Legislature in Maine endorses the architectural barrier project and requests that all State Departments when planning construction of buildings specify in the design of such buildings that the needs of the handicapped be taken into account. Such matters as entrances, width doors, handrails and so forth.

The Resolution is intended to attract the attention to the fact that architectural designs of all new building construction should be made to accommodate the general needs of handicapped people without adding significantly to the cost.

This has been in effect, the resolve, was passed through the Legislature in 1965. We are at the point where we have had state buildings that do not fit into the requirements of the Human Rights Act.

A Resolve is an educational process for people, we are trying to up-lift them to know that there are other people out there that exist that do have difficulties in getting around. It just has not been effective.

This Bill truly has been worked on, it is not the same bill that came into the State Government Committee. The people that asked me to sponsor the bill, and then I and the State Government Committee have had many many work sessions, and we have diluted the bill to where 2003 might as well not be passed. There is nothing in it that is not able to be done at this point. What we are asking is that the plans must be submitted or should be submitted to the Fire Marshalls' Office. Just get his advice as to how they can handle these barrier problems. I would suggest that you do go along with 2002, because 2003 is just useless.

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

Senator CLARK: Mr. President and Members of the Senate. The good Senator from Oxford, Senator Sutton has invoked the words 'businessman' which has attached to it recently almost a holy connotation.

The fact of the matter is that there are buildings in this state which have been reconstructed and constructed since the year 1965, which are not accessible to the handicapped citizens of this state. These are public buildings, and once and for all I would hope that the members of this Chamber would be sensitive and responsive to the fact that handicapped people are indeed members of the public, and have equal access to all public buildings.

If you have ever experienced approaching a door, and been unable to enter because you were either unable to turn the knob or the ap-

pliance in which you were sitting could not fit through the opening, perhaps you would be more sensitive to the barriers which are not only currently existing, but which will continue to exist if we don't "Fish or Cut Bait" this morning.

I would hope that you would support the good Senator from Cumberland, Senator Gill, in her sponsorship and her support of L. D. 2002.

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

Senator SUTTON: Just one final word, I did not know that businessmen were getting to be holy, but I am glad that that was brought to my attention, specially since my pastor is here this morning. I hope that he will take that back to the friends in our community.

It makes me a little bit nervous when we have laws already on the statutes and public buildings are a prime example, they have been under mandate by law for years, that this should be done and the fact that it is not being done, based on the fact that it is already in the law. I see no reason to think that it is going to be done if we pass another law. Enforce the laws that we have got now, do a little educating and not just make a new law to enforce a law that is not being done.

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

Senator CONLEY: Mr. President I would only suggest that the Attorney General is going to be here before us in a very short period of time, we might address the Attorney General as to why that law is not being enforced, when he gets here.

The PRESIDENT: The Chair will order a Division.

Will all those Senators in favor of the motion by Senator Ault of Kennebec, that the Senate accept Report "B", please rise in their places to be counted.

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

7 Senators having voted in the affirmative and 13 Senators in the negative, the motion to accept Report "B" does not prevail.

On Motion by Senator Gill of Cumberland, Report "A" of the Committee Adopted, and the Bill Read Once, and Assigned for Second Reading later in today's session.

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

Bill, "An Act Establishing the Child and Family Services and Child Protection Act." (H. P. 1787) (L. D. 1906)

On Motion by Senator Conley of Cumberland the Senate voted to reconsider adoption of Committee Amendment "A".

Senator CONLEY: I now offer Senate Amendment "A" to Committee Amendment "A" and move its adoption.

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

Senate Amendment "A" (S-474) to Committee Amendment "A" Read.

The PRESIDENT: The Senator has the floor.

Senator CONLEY: Mr. President and Members of the Senate. First I would like to commend the Joint Standing Committee on Judiciary for its very tedious labor that has been done to this bill, over the weeks that we have been here.

Under L. D. 1906, as amended by Committee Amendment "A", the department would have to prove the need to terminate parental rights to a child in a court by a preponderance of the evidence.

Senate Amendment "A" would require that the State prove its case by clear and convincing evidence, a high standard of proof. While the lesser standard of proof might be sufficient when a child is possibly still in danger of abuse no such urgency exists once the child has been removed and the only issue is the termination

of parental rights.

It is not unreasonable to require the courts to get clear and convincing evidence before permanently ending this most basic of relationships. In fact recent State and Federal Court Cases have held that it is unreasonable and unconstitutional to terminate the parental rights simply on a showing of a preponderance of the evidence.

While some older cases indicate that this standard may be sufficient there is a significant likelihood of a court declaring that the preponderance of evidence standard unconstitutional. Therefore I would move the adoption of Senate Amendment "A".

Senate Amendment "A" to Committee Amendment "A" Adopted. Committee Amendment "A" as amended, by Senate Amendment "A" Adopted, in non-concurrence.

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

Sent down for concurrence.

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

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, Recessed until the sound of the bell.

Recess

After Recess

The Senate called to order by the President.

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

Bill, "An Act to Amend the Health Facilities Information Disclosure Act." (S. P. 732) (L. D. 1912) (Emergency)

Tabled—March 17, 1980 by Senator Pierce of Kennebec.

Pending—Motion of Senator Hichens of York that Bill and Papers be Indefinitely Postponed.

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

Senator GILL: Mr. President, this bill was debated on Friday afternoon. I don't like to really go through the whole debate, but this is an emergency measure and we didn't have the quorum in the Hall that day. I would ask you to vote against the pending motion, Indefinite Postponement. This bill was worked out of the Health and Institutional Committee. We tried to define the language and put it in a clearer form so it was easy to understand.

I mentioned the other day and I will mention again that one of the sections that talked about charges are reasonably just and reasonably related to reasonable financial requirements seemed to be a little bit difficult to understand even for people who had worked with the bill, and we wanted to clarify this language a little which we did.

We also have put a fee in there for those who come before the board to have their budgets reviewed, because under the present law, each hospital is required to submit a budget for review to either the board or the VBRO, which is the Voluntary Review Board. If the budget is submitted to the board, the State pays the cost of the review, but if the budget is submitted to the VBRO, the hospital pays for the review. We just don't have the money in the State to pay for all of these, so it gives the hospitals the chance to submit to whichever, the Board or the VBRO, wherever they want to submit it. It will cost them, wherever they want to submit it. What's been happening is some of the hospitals have been submitting to the VBRO, and

some have been submitting to the Board, and those submitting to the Board have been getting away without paying anything for this budgetary review.

The budgetary review will vote the hospitals the opportunities a chance to look at themselves to see where they can really keep costs down.

This Board was thrust upon us because of Federal mandates that might come into this State and set rates for hospital rooms and hospital care. We feel that in the State of Maine that hospitals themselves can look to themselves best and decide where they can cut and when they can cut, and where would it be more effective to cut. So I would ask you to vote against the pending motion.

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

Senator HICHENS: Mr. President and Members of the Senate: Last Friday, I too gave quite a lengthy discourse on my reasons for Indefinitely Postponing this bill. As mentioned by the good Senator from Cumberland, Senator Gill, a great many of you weren't there, but I am not going to go through that whole discourse again. It is in the Legislative Record, if you want to take the time to read last Friday's Record, you can see all of my arguments. I stressed the other day, and would stress to you again, that hospitals are in the business for just one reason, to care for sick people. Yet Maine hospitals 10 to 18% of all paperwork is regulatory. This is just the paperwork demanded by government, not paperwork related to the care of the patient. The cost of his paperwork to the hospitals in Maine in 1979 was \$6.6 million. Who pays for it all? No one else but those people who are patients in our hospitals.

I think this is a good example of what the taxpayer is faced with, and I don't see any reason for this bill enforcing these hospitals. I think they are trying to cut costs as much as they can without having the State tell them what they are going to do.

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

Senator NAJARIAN: Mr. President, and Men and Women of the Senate: This bill received the Majority Ought to Pass Report from the Health and Institutional Committee. In fact only 2 members of the committee signed out the Ought Not to Pass Report, 1 being the good Senator from York, Senator Hichens, and 1 member from the House.

When the Divided Report first appeared on our calendar Senator Hichens moved the Majority Ought to Pass Report. I thought he had mis-spoken, so apparently did the President, because he asked him to repeat that motion. I thought then that when he made that motion that any problems that he had with this bill had been resolved, so I was surprised when the good Senator spoke Friday and moved for its Indefinite Postponement.

I was further dismayed as he spoke that he has been harboring such feelings of hostility against this Hospital Cost Review Board since its inception. I too was originally opposed to the creation of this board and its counterpart the Voluntary Budget Review Organization, but I'm sure that my reasons for opposing it were different from those of the Senator from York.

The Board has been established, the Legislature, in its wisdom, as we say overruled both of us, and it's been established and there has been an Executive Director hired. In reviewing their Legislation they have discovered that there are some areas that are so un-clear as to be unworkable. That's all this bill attempts to do is to clarify the laws. It's so innocuous in fact, that even the Maine Hospital Association is not opposed to it.

The Indefinite Postponement of this bill will not abolish the Board, which I think is the intent, or what the good Senator from York,

would like to do, but it simply will allow the Board to operate with more confidence and effectiveness. So I hope that you won't Indefinitely Postpone this bill.

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

Senator HICHENS: Mr. President, I am amazed this morning that the good Senator from Cumberland, Senator Najarian, has put a lot of words into my mouth that never came out of my mouth. First she stated that I made a motion to accept the Report which I did, but I did not have to repeat that for the President's benefit, because this was another bill the Pesticides Bill, I made the motion, which was a surprise motion. I did repeat that one, but not on this issue.

I do not have any great feelings against the board. I was not on the Health and Institutional Services Committee 2 years ago when this was put through. I don't think I ever had any comments one way or the other, regarding that. I do not have any animosity toward the board whatsoever. What my big problem is is the cost that this is going to be which is going to be passed onto the patients in the hospitals, and there is no two ways about it.

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

Senator GILL: I don't want to prolong this because I'm going to have to be up on the other issues today. I was on Health and Institutional Committee when we passed this original bill. The idea behind this whole bill is to see where hospitals can cut costs within their own facilities.

What's come about because of this bill and the bonding together of hospitals, working together, is that they have been able to buy through unit buying; they have been able to look at themselves and see where they can do without. Perhaps office management type services within the existing facility and they can cooperate and have office management services provided for them. There have been a lot of areas where hospitals can band together to look to save costs among groups of hospitals. We want to continue to have them do this, so we can eventually reduce the cost of medical care.

This bill that we have before us is simply to clear up language from the existing Legislation that was passed two years ago. The board did not get a chance to even have their full membership on board only from December of 1979. The law became effective July of '78, and they had their first meeting in April of '79, so it took this time for them to get their full complement on board before they could see what changes might be needed in the law. They have come up with these changes and asked us to help them out. This is why the bill is before us. So I would ask you please to vote against the pending motion.

The PRESIDENT: The Chair will order a Division.

Will all those Senators in favor of the motion by the Senator from York, Senator Hichens, that L. D. 1912 be Indefinitely Postponed, please rise in their places to be counted.

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

7 Senators having voted in the affirmative, and 17 Senators in the negative, the Motion to Indefinitely Postpone does not prevail.

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

Senator PRAY: I move that this lie on the table 1 Legislative Day.

The PRESIDENT: The Senator from Penobscot, Senator Pray, now moves that L. D. 1912 be Tabled for 1 Legislative Day, pending Enactment.

On Motion by Senator Pierce of Kennebec, Tabled until later in today's session, pending Enactment.

The Chair laid before the Senate the eighth

tabled and specially assigned matter:

HOUSE REPORT—from the Committee on Appropriations and Financial Affairs — Bill, "An Act Appropriating Funds to the Department of Human Services, the Department of Mental Health and Corrections and the Department of Educational and Cultural Services for Insufficient Payments for Placement of Emotionally Disturbed Children in Residential Treatment Centers for the Fiscal Year Ending June 30, 1981." (H. P. 1868) (L. D. 1958); Ought to Pass as Amended by Committee Amendment "A" (H-915)

Tabled—March 17, 1980 by Senator Katz of Kennebec.

Pending—Acceptance of the Report.

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

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

Senator TROTZKY: Is it appropriate at this time to put a Senate Amendment on the Committee Amendment?

The PRESIDENT: The Chair would answer in the affirmative.

Senator TROTZKY: Mr. President, I present Senate Amendment "A" to Committee Amendment "A" under Filing Number S-475 and move its adoption.

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

Senate Amendment "A" (S-475) to Committee Amendment "A" Read.

The PRESIDENT: The Senator has the floor.

Senator TROTZKY: Mr. President and Members of the Senate, all this original committee amendment does, is it appropriates \$200,000 to Human Services, \$200,000 to Mental Health and Corrections and, \$200,000 to Education and Cultural Services.

This money is to help make payment for placements of emotionally disturbed children at treatment centers such as Bancroft North, Sweetser and so on. The problem is you have 3 different departments here. The schools have to go through 3 different bureaucracies with a lot of red tape. So what this amendment does, after the appropriations are made it transfers the monies to the Education Department so that there will be one single lead agency that these schools can apply to. It doesn't change the appropriations.

Senate Amendment "A" to Committee Amendment "A" Adopted.

Committee Amendment "A" as amended, by Senate Amendment "A", Adopted, in non-concurrence.

Under Suspension of the Rules, on Motion by Senator Conley of Cumberland, the bill, as amended, Read a Second Time, and Passed to be Engrossed, in non-concurrence.

Sent down forthwith for concurrence.

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

Bill, "An Act Relating to Games of Chance at Agricultural Fairs." (H. P. 1797) (L. D. 1919)

Tabled—March 17, 1980 by Senator Danton of York.

Pending—Passage to be Engrossed.

On Motion by Senator Conley of Cumberland, Retabled until later in today's session.

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

HOUSE REPORTS—from the Committee on Health and Institutional Services — Bill, "An Act to Amend the Laws Relating to Ambulance Service." (H. P. 1869) (L. D. 1959); Majority Report — Ought to Pass as Amended by Committee Amendment "A" (H-906); Minority Report — Ought Not to Pass

Tabled—March 17, 1980 by Senator Katz of Kennebec.

Pending—Acceptance of Either Report.

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

Senator GILL: Mr. President, I would ask for adoption of the Majority Ought to Pass Report.

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

On Motion by Senator Hichens of York, Retabled until later in today's session.

Pending the motion of Senator Gill of Cumberland.

On Motion by Senator O'Leary of Oxford, the Senate voted to Suspend Joint Rule 39 for the remainder of today's session.

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

AN ACT to License Users of Ionizing and Nonionizing Radiation Equipment. (H. P. 1682) (L. D. 1791)

Tabled—March 17, 1980 by Senator Katz of Kennebec.

Pending—Enactment.

On Motion by Senator Huber of Cumberland, the Senate voted to Suspend its Rules.

On Motion by Senator Huber of Cumberland, the Senate voted to Reconsider its action whereby L. D. 1791 was Passed to be En-grossed.

On Motion by Senator Huber of Cumberland, the Senate voted to reconsider its action whereby it Adopted Committee Amendment "B".

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

Senator HUBER: I now present Senate Amendment "A" to Committee Amendment "B" and move its adoption.

The PRESIDENT: The Senator from Cumberland, Senator Huber, now offers Senate Amendment "A" to Committee Amendment "B" and moves its Adoption.

Senate Amendment "A" (S-477) to Committee Amendment "B" Read and Adopted.

Committee Amendment "B" as amended, by Senate Amendment "A", Adopted, in non-concurrence.

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

Sent down forthwith for concurrence.

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

AN ACT to Declare the Right of the Public to Attend Certain Pretrial Criminal Proceedings. (H. P. 1728) (L. D. 1847)

Tabled—March 17, 1980 by Senator Katz of Kennebec.

Pending—Enactment.

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

Senator DEVOE: Thank you Mr. President. Mr. President, I promise I will be brief on this bill. There is before us today another bill from the Judiciary Committee in which there is folded into the Committee Amendment a provision that the rules of procedure can be adopted to handle certain matters.

When we debated this bill last week I tried to make that point that the law court has already requested, the Criminal Rules Committee to address the problem of handling proceedings in court when the matter of constitutional rights of the defendant is before that court, perhaps due to prejudicial publicity or something like that.

It's ironic that when we were taking the vote on this bill today we had a situation presented to us by the Attorney General of the release of the documents in the Indian Land Claims Case.

This bill deals with the Constitutional Rights of the defendants to get a fair trial, a fair trial. It's possible sometimes that at suppression hearings where evidence that has been seized is being considered by the Court whether it was seized in accordance with the Constitutional

Procedures, it could be that evidence is suppressed that that fact is reported in the Press, and that that information as to the nature of the evidence suppressed is indicated by wide media coverage and could possibly taint the proceedings at a later criminal trial. It's that kind of evil that prompts me to vote against this bill.

I would respectfully urge the members of the Senate to think twice before voting for this bill, because we're doing something that is rather novel in this country, very few states have done it. The possibility of using the Rules of Criminal Procedure itself to deal with this matter is something that should be given a try before we decide to Enact this Statute. Thank you very much, Mr. President.

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

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

AN ACT Relating to the Qualifications for the Licensing of Auctioneers. (S. P. 708) (L. D. 1844)

Tabled—March 17, 1980 by Senator Katz of Kennebec.

Pending—Enactment.

On Motion by Senator Chapman of Sagadahoc, Retabled for 1 Legislative Day.

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

AN ACT to Provide for the Education of Preschool Handicapped Children. (H. P. 1756) (L. D. 1882)

Tabled—March 17, 1980 by Senator Katz of Kennebec.

Pending—Enactment.

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

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

AN ACT to Promote Hunting, Fishing and Camping in Maine. (H. P. 1829) (L. D. 1933)

Tabled—March 17, 1980 by Senator Katz of Kennebec.

Pending—Enactment.

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

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

AN ACT to Clarify the Standard of Review for Agency Rulemaking and to Clarify Compliance Requirements with Conflicting Rules. (H. P. 1768) (L. D. 1890)

Tabled—March 17, 1980 by Senator Katz of Kennebec.

Pending—Enactment.

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

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

AN ACT Increasing the Fees for Probate Proceedings. (S. P. 752) (L. D. 1928)

Tabled—March 17, 1980 by Senator Katz of Kennebec.

Pending—Enactment.

On Motion by Senator Katz of Kennebec, Retabled.

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

AN ACT to Remove Sex Bias and Facilitate Enforcement of Support Obligations. (S. P. 793) (L. D. 1991)

Tabled—March 17, 1980 by Senator Katz of Kennebec.

Pending—Enactment.

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

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

AN ACT to Increase the Limit on Compensation for Assistant District Attorneys in Prosecutorial District Number 7. (H. P. 1648) (L. D. 1765)

Tabled—March 17, 1980 by Senator Katz of Kennebec.

Pending—Enactment.

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

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

AN ACT to Provide for the Reregistration of a Motor Vehicle when the Previous Registration has Expired for more than 30 Days. (H. P. 1724) (L. D. 1828)

Tabled—March 17, 1980 by Senator Katz of Kennebec.

Pending—Enactment.

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

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

AN ACT Providing for Administrative Modifications to Property Tax Laws Administered by the Bureau of Taxation. (S. P. 779) (L. D. 1970)

Tabled—March 17, 1980 by Senator Katz of Kennebec.

Pending—Enactment.

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

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

AN ACT to Permit Optional Life Insurance for the Comaker of a Debt. (H. P. 1935) (L. D. 1986)

Tabled—March 17, 1980 by Senator Katz of Kennebec.

Pending—Enactment.

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

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

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

Tabled—March 17, 1980 by Senator Katz of Kennebec.

Pending—Enactment.

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

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

Bill, "An Act to Equalize the Tax Burden Between Organized and Unorganized Territories for the Purpose of Funding the Maine Forestry District without Cost to the State." (H. P. 1853) (L. D. 1952) (Emergency)

Tabled—March 17, 1980 by Senator Katz of Kennebec.

Pending—Enactment.

This being an emergency measure and having received the affirmative votes of 24 Members of the Senate, with NO Senators voting in the negative, was Passed to be Enacted, and having been signed by the President, was by the Secretary presented to the Governor for his approval.

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

AN ACT to Clarify the Education Law. (H. P. 1944) (L. D. 1992)

Tabled—March 17, 1980 by Senator Katz of Kennebec.

Pending—Enactment.

This being an emergency measure and having received the affirmative votes of 23 Members of the Senate, with No Senators voting in the negative, was passed to be Enacted, and having been signed by the President, was by the Secretary presented to the Governor for his approval.

The Chair laid before the Senate the twenty-sixth tabled and specially assigned matter:

AN ACT to Assist Schools Receiving Tuition Students in Complying with the Federal Handicapped Laws on Program Accessibility. (Emergency) (H. P. 1945) (L. D. 1993)

Tabled—March 17, 1980 by Senator Katz of Kennebec.

Pending—Enactment.

On Motion by Senator Huber of Cumberland, Retabled for 2 Legislative Days.

On Motion by Senator Pierce of Kennebec, the Senate voted to remove from the table:

Bill, "An Act to Amend the Health Facilities Information Disclosure Act." (S. P. 732) (L. D. 1912) tabled earlier in today's session, by Senator Pierce of Kennebec, pending Enactment.

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

Senator HICHENS: I request a Roll Call.

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

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

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

The pending question before the Senate is Enactment of L. D. 1912.

A Yes vote will be in favor of Enactment.

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, Devoe, Emerson, Gill, Huber, Katz, McBrearty, Minkowsky, Najarian, O'Leary, Perkins, Pierce, Pray, Redmond, Sutton, Teague, Trafton, Trotzky, Usher.

NAY — Ault, Hichens, Shute.

ABSENT — Collins, Farley, Lovell, Martin, Silverman.

A Roll Call was had.

This being an emergency measure and having received the affirmative votes of 24 Members of the Senate, with 3 Senators voting in the negative, with 5 Senators being absent, was Passed to be Enacted, and having been signed by the President, was by the Secretary presented to the Governor for his approval.

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

Senator SUTTON: Mr. President, in regard to L. D. 1812 on the tabled and specifically assigned table, I would like to move Reconsideration.

The PRESIDENT: The Chair would advise the good Senator from Oxford, Senator Sutton, that all matters acted upon earlier in today's session were sent forthwith so that this document is no longer in this body.

The Chair laid before the Senate the twenty-seventh tabled and specially assigned matter:

AN ACT to Authorize Lincoln County to Raise Money for Capital Improvements to the Court House and Annex. (Emergency) (H. P.

1819) (L. D. 1947)

Tabled—March 17, 1980 by Senator Katz of Kennebec.

Pending—Enactment.

This being an emergency measure and having received the affirmative votes of 25 Members of the Senate, with No Senators voting in the negative, was Passed to be Enacted, and having been signed by the President, was by the Secretary presented to the Governor for his approval.

The Chair laid before the Senate the twenty-eighth tabled and specially assigned matter:

AN ACT Concerning Membership on the Board of Trustees of the Van Buren Light and Power District. (Emergency) (H. P. 1607) (L. D. 1718)

Tabled—March 17, 1980 by Senator Katz of Kennebec.

Pending—Enactment.

This being an emergency measure and having received the affirmative votes of 26 Members of the Senate, with No Senators voting in the negative, was Passed to be Enacted, and having been signed by the President, was by the Secretary presented to the Governor for his approval.

The Chair laid before the Senate the twenty-ninth tabled and specially assigned matter:

AN ACT to Include Arrangers of Credit under the Maine Consumer Credit Code and to Amend the Law Concerning Agricultural Loans, Residences, Security and Fines. (Emergency) (H. P. 1784) (L. D. 1903)

Tabled—March 17, 1980 by Senator Katz of Kennebec.

Pending—Enactment.

This being an emergency measure and having received the affirmative votes of 26 Members of the Senate, with No Senators voting in the negative, was Passed to be Enacted, and having been signed by the President, was by the Secretary presented to the Governor for his approval.

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

RESOLVE, for Laying of the County Taxes and Authorizing Expenditures of Waldo County for the Year 1980. (Emergency) (H. P. 1950) (L. D. 1998)

Tabled—March 17, 1980 by Senator Katz of Kennebec.

Pending—Final Passage.

This being an emergency measure and having received the affirmative votes of 25 Members of the Senate, with No Senators voting in the negative, was Finally Passed, and having been signed by the President, was by the Secretary presented to the Governor for his approval.

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

RESOLVE, for Laying of the County Taxes and Authorizing Expenditures of Penobscot County for the Year 1980. (Emergency) (H. P. 1948) (L. D. 1996)

Tabled—March 17, 1980 by Senator Katz of Kennebec.

Pending—Final Passage.

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

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

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

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

Obviously less than one-fifth having arisen a Roll Call is not ordered.

This being an emergency measure and having received the affirmative votes of 24 Members of the Senate, with No Senators voting in the negative, was Finally Passed, and having been signed by the President, was by the Secretary presented to the Governor for his approval.

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

RESOLVE, for Laying of the County Taxes and Authorizing Expenditures of Lincoln County for the Year 1980. (Emergency) (H. P. 1951) (L. D. 1999)

Tabled—March 17, 1980 by Senator Katz of Kennebec.

Pending—Final Passage.

This being an emergency measure and having received the affirmative votes of 26 Members of the Senate, with No Senators voting in the negative, was Finally Passed, and having been signed by the President, was by the Secretary presented to the Governor for his approval.

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

RESOLVE, for Laying of the County Taxes and Authorizing Expenditures of Knox County for the Year 1980. (Emergency) (H. P. 1952) (L. D. 2000)

Tabled—March 17, 1980 by Senator Katz of Kennebec.

Pending—Final Passage.

This being an emergency measure and having received the affirmative votes of 26 Members of the Senate, with No Senators voting in the negative, was Finally Passed, and having been signed by the President, was by the Secretary presented to the Governor for his approval.

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

RESOLVE, for Laying of the County Taxes and Authorizing Expenditures of Sagadahoc County for the Year 1980. (Emergency) (H. P. 1949) (L. D. 1997)

Tabled—March 17, 1980 by Senator Katz of Kennebec.

Pending—Final Passage.

This being an emergency measure and having received the affirmative votes of 25 Members of the Senate, with No Senators voting in the negative, was Finally Passed, and having been signed by the President, was by the Secretary presented to the Governor for his approval.

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

AN ACT to Authorize a Bond Issue in the Amount of \$7,000,000 for Energy Conservation Improvements for Public School Buildings and the University of Maine. (S. P. 734) (L. D. 1913)

Tabled—March 17, 1980 by Senator Katz of Kennebec.

Pending—Enactment.

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

The Chair laid before the Senate the thirty-sixth tabled and specially assigned matter:

Bill, "An Act to Establish an Environmental Health Program." (S. P. 698) (L. D. 1834)

Tabled—March 17, 1980 by Senator Katz of Kennebec.

Pending—Consideration.

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

Senator GILL: I move that we Adhere.

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

Senator CARPENTER: I would move that the Senate Recede and Concur and would speak briefly to my motion.

The PRESIDENT: The Senator has the floor.

Senator CARPENTER: Mr. President and Ladies and Gentlemen of the Senate: This is the famous environmental or infamous environmental health program that the Governor's Office and many responsible people in state government have said they would like to see the state initiate and indeed have said that we need desperately, in the State of Maine.

My motion to Recede and Concur if it does carry in this body, would put us into a position of establishing an environmental health program at a cost of \$50,000, to the State of Maine. This is a program as I have said that many responsible leaders in the state have said that we desperately need. Especially if we are going to keep on with some of the programs that we have in the State of Maine that may be doing some harm to the environment, i.e. I am speaking specifically of the Spruce Budworm Spray Program. I have a letter here too, the Committee Chair's on Health and Institutional Services Committee.

It states Commissioner Barringer's position on this issue and it is a very real concern and a concern that has been expressed to him by the U.S. Forest Services, and the Federal Agencies that are responsible for helping us with the Budworm Spray Program that the State of Maine needs to get its act together and to start to monitor the damage, the potential damage that perhaps is being done by the Budworm and other programs.

I also have a letter from the Department of Health, Education and Welfare; the Center for Disease Control in Atlanta Georgia, addressed to Frank McGinty down at the Department of Human Services, which says: They are considering not replacing an Epidemiologist which we currently have on loan from them.

One of the reasons being that the State does not have an adequate monitoring training program in existence.

So I know that the major concern here the other day was \$200,000 price tag that L. D. 1834 had on it, that has now been amended to create statutory language necessary to set up this program within the Department of Human Services to fund 1 position.

The amendment which is House Amendment 885, Statement of Fact, says that this amendment provides 1 health professional to direct the environmental health units, and removes from the bill, the department's ability to promulgate rules and regulations leaving that strictly in the hands of the Legislature.

It also removes another provision that was odious to some people, that being the right of entry and inspection.

So basically what you have left in this bill is a price tag that has been reduced down from \$200,000 to \$50,000 and the statutory language that is necessary for the State to establish this new program. We desperately need this statutory language because as it was pointed out by Commissioner Barringer, Commissioner Warren, Commissioner Smith, the state does not have the authority at this point to establish a monitoring program over the human health aspects of some of the things that we are doing to the environment.

I would ask all of you to very seriously consider that when we vote, to vote for the motion to Recede and Concur.

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

Senator GILL: The other day I spoke about this bill, and we did come through with the Minority Report, and it did pass this body.

I must tell you that since that day, I have been heavily lobbied and spoken to by many many people to see if I would go along with it to get down to the Appropriations Table and let it take its natural course there.

I think that the thing that bothers me more than anything is that someone brought out the fact that perhaps the Commissioner of Human Services could cut some programs to fund this particular bill, because that was at least partially one of his priority programs.

That kind of frightens me a little, that makes me shudder because all weekend long, I think along with many other people I received calls from many of the elderly, some of them were disabled who need the homemaker services that we are contracting with different agencies. They are being told that this is one area where the program might be cut, and some of these people just can't survive. In fact one lady who is an amputee, wouldn't call me directly she had her neighbor call me, because she was so upset. She was told that her homemaker would be cut. She thought that if that was done, then she would have to go into a nursing home. Little did she know that there was no nursing home beds available, and if she didn't have the homemaker there would be nobody there to take care of her.

It bothers me to think that the Commissioner could indeed find programs to cut in his department. I just wonder whether he might be overstepping some of the Legislative area where we have passed bills and we have funded bills, and whether he might just take upon himself to decide that those bills that we have passed in the last few years or even in this session might not be deemed worthy of his consideration, and they may be cut.

I think if anyone is going to cut programs, and I think we all have our priorities, or if anyone wants to add programs, be sure that it will be this Legislature that will do it and not a Commissioner who carries out the policy. We are the policy-makers. He isn't. He should carry out our policy.

I think that we all see the handwriting on the wall. When we don't have it, we don't do it. I think it comes down to this. We don't have the funds now, so we can't do this.

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

Senator TROTZKY: Mr. President, and Members of the Senate: I feel probably today there is a need for State Government to be able to monitor and look into the problems in the environment. However, what concerns me here is we're spending \$50,000 to put one person on a full time position.

I think a better approach to this would be for the State to be able to contract out to get the specific kinds of people it needs when it sees a specific problem. If it's pesticides then it has to be an expert in that field. If it's some chemical substance in a factory of something affecting workers, I think it's more effective to go out and hire specific people or to contract with the University and so on, rather than to automatically just put somebody on the State's payroll.

So if someone had some idea possibly to amend it in that form I could support it. I cannot support again building up more and more agencies and more and more State Payrolls.

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

Senator CARPENTER: Mr. President, and Ladies and Gentlemen of the Senate: To say that this has been one of the most frustrating bills that I've ever had to deal with in my 6 years in the Legislature probably would be an understatement.

I want to thank the good Senator from Penobscot, Senator Trotzky, for at least discussing the bills at least discussing the amendment. We went around in here the other day about the cost of this bill. Nobody discussed the bill. Nobody discussed the needs of the bill. Nobody discussed the health problems that are existing in Gray, or could have existed in Falmouth last year when the tank truck overturned. Nobody even touched on those issues. All we talked about was the cost, and that's something that we have to be concerned about.

We've reduced the cost of this bill from \$200,000 to \$50,000. I've got a Roll Call here of 13 Senators in here who wanted, 13 Senators all of whom this morning, I think, will vote against my motion, will vote against spending \$50,000

to at least investigate damages, health hazards to the people of the State of Maine. 13 Senators who voted to take \$59,200 out of the General Fund to monitor Maine Yankee, but there won't be one of those 13 this morning who will vote for this bill.

I've heard the good Senator from Cumberland talk about the cost and the growing rate of inflation and the cancer of inflation. As I said here the other day, I'm concerned about the human cancer. We can put a moratorium on the human cancer, then maybe we can lick the cancer of inflation.

This morning all I got is a discussion of cutting homemaker services. I don't understand where that is coming from. I don't understand what that has to do with the bill in front of us. I haven't found homemaker services anywhere in the bill or the amendment that was offered in the other body.

The question before you is pure and simple. Pure and simple. Do we want to establish, to allow, the Commissioner of Human Services to establish within his own Department at a cost of \$50,000 a program to see what we're doing to the health of our people. If we don't then you will vote No. If we do then you will vote Yes. Mr. President, I request the Yeas and Nays.

The PRESIDENT: A Roll Call has been requested.

The Chair recognizes the Senator from Cumberland, Senator Gill.

Senator GILL: Mr. President I think the issue here is really very simple. I think it comes down to the environmental health of this State vs. the economic health of this State. Where those lines are drawn it's very clear to me.

I know that in my own family there are many things I would like to do. There are many things that if I did them, my family would probably be taken much better care of. It would be a preventive type thing, we'd be able to investigate a little bit more where we could do better in our own circumstances. All I can do is relate what I would do in my own family vs. the whole State. That's what I'm trying to do here.

The economic health of this State. When you don't have it, you can't spend it. That's where we are down to. There are many, many, things, many, many programs I would like to see go through this place, but you can't do everything. You have to pick and choose what's available and what you can do with what you've got available. That's exactly where we are today.

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

Senator HICHENS: Mr. President and Members of the Senate: I beg to disagree with the good Senator from Aroostook, Senator Carpenter. When I spoke on this bill when it was first presented to us, I don't think I mentioned money or costs at all, I mentioned the human error.

I don't think that we can have any program that is going to prevent human error, such as we have with our spray drift, when a pesticide was distributed over Washington County. Such as we had with the trucks which were left in North Berwick. Such as we had with the tank cars that overturned in Kennebunk. Such as we have even in the Gray issue. Nobody knew that was even there, and I don't know how any man is ever going to find out it's going to be there until all of a sudden, it's discovered.

We have a Pesticides Bill, which was passed, which I reluctantly supported, which provides for an expert in this field. We also have a study outlined in that bill which the Members of the Agricultural and Natural Resources Committee will have a study on this coming year and I think we can take care of it without passing this bill at this time.

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

Senator MCBREAIRTY: Mr. President, Honorable Members of the Senate, We have already had before us and passed, I guess 2 or 3

bills to protect the health of the people in Maine. We have increased the funding of the Pesticide Control Board, along with changing it and adding a doctor to the Board.

We have I guess, practically passed L. D. 1884, which is a Hazardous Waste Bill, that will take care of any problem such as the problem that occurred in Gray, I think, and probably will report out a bill this afternoon, from Energy and Natural Resources, L. D. 1902, that's a Spill Bill that will help protect the danger of people's health.

So all of those bills that we passed or going to pass, are going to take some money. The Hazardous Waste Bill had no Fiscal Note on it, but they are trying to get one on now. So think may be we have passed enough for this year. I do oppose this bill.

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

Senator CARPENTER: Mr. President and Ladies and Gentlemen of the Senate: One more time and very briefly, just to vent a little bit of that frustration that I talked about.

I didn't know we were living under a quota system in the Maine Legislature that we can only pass so many pieces of legislation to help people and if we run up against our quota, and a better bill comes along, we don't pass it.

I don't think that the Pesticides Bill that I worked on really is that closely connected with what we're asking for in this particular L. D.

The good Senator from Cumberland, Senator Gill, talked about in her own family taking measures, taking preventive medicine measures if you will, that's exactly, exactly what this bill asks for. O.K. It asks us to try to get a handle on what's happening before we have somebody dying or being seriously injured by some of these programs that are justifiable and are needed and that are good and that are being run in the State of Maine.

I've heard the good Senator from Kennebec, Senator Katz, on highway issues and other issues talk about the State lurching from crisis, to crisis, to crisis. That's exactly what we're facing the potential for if we don't do something to get a handle at the State Level on the human health, on the health of our people, we are going from crisis to crisis and the day will come, and I'll predict it on the floor of the Senate this morning, the day will come when this program will be established in reaction. In reaction to a health situation that has come to our attention. Come to our attention too late to do anything about it.

Don't you think that just maybe if we'd had this health unit or something similar to it we might have prevented some of the deaths that have taken place over the past few years, in such things as asbestos poisoning. We're always worried about big brother, Federal Government, coming in here and forcing us to do something. Well in terms of environmental health, I'm kind of glad they're around, because they're trying to do something. They're trying to give us some assistance some advice.

The good Senator from Cumberland, Senator Gill, says if you don't have the money, you can't do it. On my Roll Call the 13 Senators in here who voted to help Maine Yankee, and take a little money out of the General Fund to help monitor the Maine Yankee situation I had intended to read them this morning, but I guess it wouldn't really accomplish anything. I think it would be very interesting to compare that Roll Call with the one we have coming up. Thank you.

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

Senator TROTZKY: I request that this be tabled until later in today's session.

The PRESIDENT: The Senator from Penobscot, Senator Trotzky, now moves that L. D. 1834 be tabled until later in today's session.

Is this the pleasure of the Senate?

The Chair recognizes the Senator from Cumberland, Senator Gill.

Senator GILL: Mr. President, could I have a Division on that please?

The PRESIDENT: A Division has been requested.

Will all Senators in favor of the Motion to Table L. D. 1834 until later in today's session, please rise in their places to be counted.

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

11 Senators having voted in the affirmative, and 16 Senators in the negative, the Motion to Table does not prevail.

The Chair recognizes the Senator from Aroostook, Senator McBreaity.

Senator MCBREAIRTY: Mr. President, Honorable Members of the Senate, just a little information, that might clear up something. On this Maine Yankee Bill that's a fee on Maine Yankee. That isn't coming out of the General Fund, if I understand it correctly.

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

Senator PRAY: Mr. President and Members of the Senate: To reiterate what the Senator from Aroostook, Senator Carpenter was trying to get across to the Members of this body that the report was divided, there was 2 ways to go on that report. One was to take money from the General Fund, or to establish a users fee. To point out is that the individuals who at that time voted to go with taking the money out of the General Fund basically the same individuals who today are opposing the utilizing the money from the General Fund to fund this program. So let's make it perfectly clear as to what we're talking about in reference to the users fee and money from the General Fund.

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 Carpenter, that the Senate Recede and Concur with the House.

A Yes vote will be in favor of the motion to Recede and Concur.

A No vote will be opposed.

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEA — Carpenter, Clark, Conley, Danton, Huber, Najarian, O'Leary, Pray, Silverman, Trafton, Usher.

NAY — Ault, Chapman, Cote, Devoe, Emerson, Gill, Hichens, Katz, McBreaity, Perkins, Pierce, Redmond, Shute, Sutton, Teague, Trotzky.

ABSENT — Collins, Farley, Lovell, Martin, Minkowsky.

11 Senators having voted in the affirmative, and 16 Senators in the negative, with 5 Senators being absent, the Motion to Recede and Concur does not prevail.

Is it now the pleasure of the Senate to Adhere?

It is a vote.

The Chair laid before the Senate the thirty-seventh Retabled and specially assigned matter:

Bill, "An Act to Increase Compensation to Municipal Clerks and other Issuing Agents for the Issuance of Certain Fish and Game Licenses." (S. P. 682) (L. D. 1805)

Tabled—March 17, 1980 by Senator Pray of Penobscot.

Pending—Adoption of Committee Amendment "A" (S-471).

On Motion by Senator Katz of Kennebec, Retabled until later in today's session.

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

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

JOINT ORDER—relative to the Joint Standing Committee on Local and County Government reporting out a resolve authorizing and directing the Department of Business Regulation to study and report on current practices relating to siting of manufactured housing. (H. P. 1954)

Tabled—March 17, 1980 by Senator Katz of Kennebec.

Pending—Passage.

Which was Passed in concurrence.

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

HOUSE REPORT—from the Committee on Business Legislation—Bill, "An Act to Define 'Expended for Charitable Purposes' in the Charitable Solicitations Act." (Emergency) (H. P. 1659) (L. D. 1768) Ought to Pass in New Draft Under New Title "An Act to Amend the Charitable Solicitations Act." (H. P. 1953) (L. D. 2001)

Tabled—March 14, 1980 by Senator Pierce of Kennebec.

Pending—Acceptance of Report.

The Ought to Pass, in New Draft, Report of the Committee, Accepted, in concurrence, and the Bill, in New Draft, Read Once.

House Amendment "A" Read and Adopted, in concurrence. Under Suspension of the Rules, the Bill, in New Draft, Read a Second time, and Passed to be Engrossed, as amended in concurrence.

There being no objections all matters previously acted upon with the exception of L. D. 1847, were sent forthwith.

On Motion by Senator Pierce of Kennebec, Recessed until 4 o'clock this afternoon.

Recess

After Recess

The Senate called to Order by the President.

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

Second Readers

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

House

Bill, "An Act to Revise the Law Concerning Sales Tax Exemptions." (H. P. 1908) (L. D. 1974)

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

House — As Amended

Bill, "An Act to Reorganize the Sales and Use Tax Law and to Encourage Conversion to Coal through Treatment of Coal as Oil for Sales Tax Purposes." (H. P. 1793) (L. D. 1918)

Bill, "An Act to Provide a Manpower Coordinator in the State Development Office and to Establish a Fund to Aid Manpower Services for Economic Development." (H. P. 1717) (L. D. 1823)

Bill, "An Act to Expedite Criminal Trials and Provide for the Election of Jury Trials." (H. P. 1733) (L. D. 1849)

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

Senate

Bill, "An Act to Extend the Period for Issuance and Coverage under the Maine Medical and Hospital Malpractice Joint Underwriting

Association Act By One Year." (Emergency) (S. P. 764) (L. D. 1957)

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

Sent down for concurrence.

Bill, "An Act to Assure Compliance with Existing Laws Affecting Disabled Persons' Access to Certain Buildings Open to the Public." (S. P. 798) (L. D. 2002)

Which was Read a Second Time.

On Motion by Senator Sutton of Oxford, the Senate voted to reconsider its action whereby it accepted Committee Report "A".

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

Senator O'LEARY: I move the Indefinite Postponement of Report "A".

The PRESIDENT: The Senator from Oxford, Senator O'Leary, moves that the Senate Indefinitely Postpone Committee Report "A".

The Chair recognizes the Senator from Cumberland, Senator Gill.

Senator GILL: I would ask for a Division on that motion.

The PRESIDENT: A Division has been requested.

The Chair recognizes the Senator from Oxford, Senator Sutton.

Senator SUTTON: It's not my intention, for what it's worth, to have the Committee Report "A" Indefinitely Postponed. I'm requesting reconsideration and hoping that it will pass so that we might eventually work our way back and accept Report "B".

We debated this this morning so I won't spend much time on it. I just wanted to draw it to the Senate's attention that although we all accept the problems of barrier free design, that the laws are on the books both Federal and State that cover the problems involved and that the Board that is suggested to be put together would educate the people. To pass this law which is nothing more than to enforce laws that are already on the books would be taking the long arm of government and just putting it back into people's lives even further than it is now.

All I'm concerned about is that we already are trying to govern people's lives too much. This is just another step in that direction. So I would urge the Senate not to accept the Indefinite Postponement of this bill, to defeat that motion and then accept the reconsideration so that we can look to accepting Report "B".

The PRESIDENT: The Chair would advise to avoid any possible confusion, the Senate has already voted to Reconsider its action whereby it accepted Report "A". The bill is now in that posture.

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

Senator O'LEARY: A Parliamentary Inquiry? Is it necessary to Indefinitely Postpone Report "A" in order to accept Report "B".

The PRESIDENT: The Chair would answer in the negative. Both reports are now in front of the body, and a motion would be in order to accept another report.

Senator O'LEARY: Mr. President, I withdraw my motion to Indefinitely Postpone Report "A" and move that the Senate accept Report "B".

The PRESIDENT: The Senator from Oxford, Senator O'Leary, now requests leave of the Senate, to withdraw his motion to Indefinitely Postpone Report "A".

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

The Chair recognizes the Senator from Cumberland, Senator Gill.

Senator GILL: What position am I in if I want to keep Report "A" on there or if I want to have a vote for Report "A"?

The PRESIDENT: The Chair would advise the Senator that both reports are now before the body if the Senate grants the Senator from Oxford, Senator O'Leary, permission to with-

draw his Indefinite Postponement Motion.

In other words the bill is presently before us as it was this morning when it first came into this body.

Senator GILL: Would I be in a position to ask for the Senate to adopt Report "A" at this point?

The PRESIDENT: The Chair would answer in the affirmative, after the Senate has granted the Senator from Oxford, Senator O'Learys, permission to withdraw his Indefinite Postponement motion.

Is it the pleasure of the Senate to Grant the Senator from Oxford Senator O'Leary leave to withdraw his motion to Indefinitely Postpone Report "A"?

It is a vote.

The Chair recognizes the Senator from Oxford, Senator Sutton.

Senator SUTTON: Mr. President, I would move the acceptance of Report "B".

The PRESIDENT: The Senator from Oxford, Senator Sutton, moves that the Senate accept Report "B".

The Chair recognizes the Senator from Cumberland, Senator Gill.

Senator GILL: Mr. President, I would request that the Senate vote against the motion to accept Report "B", and I would like to speak to my motion, if I may.

The PRESIDENT: The Senator has the floor.

Senator GILL: The differences in these 2 reports, Report "A" and Report "B". Report "A" is the one that I would like to see passed. I've worked very hard on this particular bill, the committee has also put many long hours into the redraft of this bill, I apologize Senator Ault.

The major differences between these 2 reports, are that in Report "A", this does require people who are renovating or constructing to send their plans to the Fire Marshal's Office for purview. He has to check buildings out now for public safety and for health purposes. All he would do is also check them out for barrier free.

Report "B", if it comes down to choosing the report, it is not worth having. It can be done in the existing statutes now. If this body does choose to go along and accept Report "B" over Report "A", I will have no choice but to ask for Indefinite Postponement of that Report. It can be done within the statutes now, within the existing law.

The whole problem came about because we have laws on the books that aren't being handled properly. What I've asked in this bill is an appropriation, and I have been reminded by several people that it's very inconsistent with my stand on the Environmental Health Bill this morning and several other pieces of Legislation.

This is not an expansion of standard. These are standards that are already in the Human Rights Act that aren't being upheld. The only way that we can uphold them is to put proper personnel in the proper place to see that they are being upheld. Human Rights Act is before us.

The Human Rights Act says a structure that we're talking about is a place where 5 or more will be employed. It talks about public housing and it talks about a place where the public has customarily had access and utilizes, which is constructed in whole or part with funds of the State or as public sub-divisions have.

All we're trying to do is see that the law is maintained, that the law is upheld. The only way we can do it is have the personnel within the Fire Marshal's Office. We're trying to consolidate this and put it in proper view and have everything handled properly.

I don't think anybody in this body is trying to keep the disabled from working. I don't think anyone in here is trying to keep the disabled out of buildings that they should ordinarily have access to, but I think that we assume that these things are being handled right and they are not.

I would urge you please to go along with Report "A" and vote against Report "B".

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

Senator CARPENTER: Mr. President and Ladies and Gentlemen of the Senate: I'm really confused and I mean that very sincerely. I would like to have somebody tell me right now, tell me what is presently in the law as far as penalties. i.e., I build a building and it's a public building and it is not barrier free. Could somebody please tell me if I am taken to task for that by somebody, what is the penalty for violating the Human Rights Law?

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

Senator GILL: The penalty is "any violation of this chapter by any person, firm or organization, responsible for the design or construction of any public building or facility shall be a Civil Violation punishable by a fine of not more than \$500 or subject to other appropriate equitable relief designed to secure substantial compliance with this Chapter." There is not more than a \$500 penalty.

The whole program is that there is nobody to see whether these are being upheld or not. The Fire Marshall can't do that. This is exactly why I put the money on this bill. You know how I feel about money. You know how I feel about expenses. I don't want to spend any more money. But we've got these laws on the books, and the only way that we can see whether they're being properly handled is to have the proper personnel in them. This is not an expansion of programming. This is only to put money in to see that the programs that we have and the laws that we have will be upheld.

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

Senator CARPENTER: Mr. President, I'll be very honest with the Members of the Senate. I just looked at this bill this afternoon for the first time since it came out of the committee. It seems to me that if the law as Senator Gill just read it to me is being violated, that there must be somebody in the State who can enforce that law.

Now I was talking to a couple of people who are supporting Report "A". They listed a couple of buildings that had been built in violation of the law, but yet, nobody has been punished for violating that law.

Now we're asking in both Reports, "A" and "B", the same amount of money, \$30,000 I guess, to enforce the enforcers, as near as I can figure out, but there's no enforcement power in either one of these bills.

If I want to build a building right today the existing law says it must be barrier free. If we pass either Report "A" or Report "B", if I send my plans to the State Fire Marshall and he says they are out of whack, I say thanks very much Don, and I go ahead and build my building, not barrier free. That just doesn't make much sense to me.

Maybe I'm reading this whole thing wrong, but it seems to me that if there are people in the State or firms or corporations or whatever building buildings which are not barrier free, we ought to do something about it. I don't see that this is going to do one thing about it, except give a warning to the person, a warning with no teeth in it, whatsoever it's like, telling a guy you were going to hit him in the nose, and your arms are tied behind your back. It gives a warning but it carries absolutely no weight. I would say that if there haven't been any prosecutions or punishments meted out in prior cases that a person would continue to violate the law because he knows he's not going to be punished. Again, maybe I'm wrong.

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

Senator GILL: The difficulty arises because we have a Human Rights Act. We also have a Human Rights Commission. Apparently the Commission was not funded properly to ob-

serve any building that comes under its jurisdiction to see whether they are in compliance or not under the Human Rights Act. The funding wasn't there for the Human Rights Commission to do that.

Here again we have one of those pieces of Legislation that we're asking for some money to take care of a problem because something wasn't funded properly. What we're asking for is this money so the Fire Marshall can monitor compliance, with the accessibility of the law. This is the only way it's going to be done.

If we don't pass this L. D. 2002 then we're going to go on just exactly like we have been. There are going to be State buildings built, they're not going to be in compliance. There are going to be public buildings, other public buildings built, and they won't be in compliance. The only way we can handle this is if we put the money in there for the Fire Marshall to do this.

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

Senator SUTTON: Mr. President, I don't completely agree with my good colleague, the Senator from Cumberland, Senator Gill, things will be different, and I'm a little surprised that she would say give me this bill or nothing, I'll have to vote against this.

I cannot take that posture and if we cannot get it, I will not vote against to Indefinite Postpone it because I think we do need the Board. I think the most important part of the bill is the barrier free board that's going to do the educating and try to pull together the loose ends that we are talking about. So I think that's really why it's most important and that's why some of us decided to make it permissive for the industry. By the way, did you hear that, every business in the State with 5 or more employees can't turn around now without reporting to the Fire Marshall, and that's ridiculous!

I think it is important that possibly we have this Barrier Free Board so that we can address the problems of the handicapped. That's why we have this Report "B", to put the Board together, to address the problem, to make it permissive for the folks to go to the Fire Marshall to see if they're in compliance and to educate and possibly bring to the Attorney General's attention or any other proper authorities any violations of the Human Rights Act, of laws that are already on the books. Something can be done. Senator Carpenter, certainly there can be. It's a disgrace to think there's any public buildings being built that are not proper, because the laws are already there.

This particular law is not going to solve that problem. I wish we would go ahead and accept "B" and let's get something started without putting the long arm of the State in places it shouldn't be.

(Off Record Remarks)

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

Senator CLARK: Thank you Mr. President, Mr. President and Men and Women of the Senate, earlier today this Chamber voted to accept Report "A". It wasn't long before we who are politically realistic realized that maybe that was not going to prevail.

I'm a strong proponent of Report "A", and I would commend the good Senator from Cumberland, Senator Gill, for her zealous and dedicated support of that, and her sponsorship of this bill.

It was 15 years ago, 15 long years ago when this State Legislature or the State Legislature went on Record in support of removing and eliminating entirely architectural barriers for Maine's disabled and/or handicapped citizens. I agree with the good gentleman and Senator from Oxford, Senator Sutton that it is indeed ridiculous that we here in 1980 are still addressing the issue for the issue is before us and the issue is in fact non-compliance.

The laws are there. Permissive legislation and lack of enforcement have not removed architectural barriers from all buildings accessible to the public in this State. That's a fact and it can't be disputed. It would seem after listening to people and watching the lobby in action that if we're going to accept a piece of the pie this afternoon in sharp contrast to the vote this morning, that we are going to accept Report "B".

While it may cause some concerns to my colleague from the County of Cumberland, Senator Gill, I suppose the bottom line is, Accept Report "B" or nothing!

I can accept Report "B" but not as a first choice. I do not think it inappropriate that this 109th Maine Legislature addressing purportedly Emergency Legislation finally speak positively with a loud voice to the continued existence of architectural barriers for handicapped citizens. It's a sham, the statutes which exist today. The State of Maine is not less proud or not more proud of it's implementation of architecturally free design than the private sector, for it is indeed the State of Maine who has been, in fact, in as much non-compliance as public buildings in the private sector.

What do we have to do to raise the consciousness of both of those entities to the plight of handicapped citizens? How long are we going to sit here and endorse permissive Legislation rather than stringent Legislation, and couple that with enforcement capabilities, before Maine's handicapped citizens have equal access as do those citizens who are not handicapped?

I shall vote against the pending motion to accept Report "B", for obviously I would much prefer Report "A". If that's the bottom line I'm forced to accept Report "B", then I will do so with a pledge that we will be back. Thank you.

The PRESIDENT: Is the Senate ready for the question?

The Chair recognizes the Senator from Cumberland, Senator Gill.

Senator GILL: I request a Roll Call.

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

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

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

The pending question before the Senate is the motion by Senator Sutton, of Oxford, that the Senate accept Report "B" of the Committee.

A Yes vote will be in favor of accepting Report "B" of the Committee.

A No vote will be opposed.

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

ROLL CALL

YEA — Ault, Carpenter, Chapman, Emerson, Katz, McBreairey, O'Leary, Perkins, Shute, Silverman, Sutton, Teague, Trotzky.

NAY — Clark, Conley, Danton, Gill, Hichens, Minkowsky, Najarian, Pierce, Pray, Redmond, Usher.

ABSENT — Collins, Cote, Devoe, Farley, Huber, Lovell, Martin, Trafton.

13 Senators having voted in the affirmative, and 11 Senators in the negative, with 8 Senators being absent, the Motion to Accept Report "B" does prevail.

The Chair recognizes the Senator from Cumberland, Senator Conley.

Senator CONLEY: I now move that this bill and all it's accompanying papers be Indefinitely Postponed.

The PRESIDENT: The Senator from Cumberland, Senator Conley, now moves that L. D. 2003 and all its accompanying papers be Indefinitely Postponed.

Out of Order and Under Suspension of the

Rules, the Senate voted to consider the following:

The Chair recognizes the Senator from Cumberland, Senator Conley.

Senator CONLEY: Mr. President, I just honestly feel that this bill as it presently stands before us now is absolutely nothing. It's just a farce, and we'd be better off without it.

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

Senator KATZ: It's sheer pretension of me to advise the Minority Leader, but there were 8 people not in their seats when the vote was taken on this motion.

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

Senator AULT: Mr. President and Members of the Senate: I disagree with the Senator from Cumberland, I do not believe that this is a farce. I believe that this new Board will be helpful in providing guidance for the laws that are in effect for anyone building a new building. I would also point out to him one other very important piece of the bill, which is on page 3, Section 9, where it covers the fact that right now if the State goes out and rents a building for use, they don't have to be barrier free. This Report, the bill, will require that they be acceptable.

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

Senator CONLEY: Mr. President, the fact that the good Senator from Kennebec, Senator Ault disagrees with me is of no surprise, but if anyone were present in the Chamber here before we came back in, it was totally obvious to me as to what was going on with this particular bill, all we had to do was sit in our Chair and sort of watch the rumblings around being made by the lobby.

I would only suggest that if anybody has any real concerns as to whether or not "A" or "B" is in question as to what does what, for them to get out of their seats and ask those 2 gentlemen sitting in wheelchairs as to what "A" does and what "B" does! I say right now that "B" does nothing because all it does is insert the word 'may' It doesn't mandate anything!

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

Senator CLARK: Mr. President, I rise this afternoon to speak briefly against the pending motion of Indefinite Postponement of Report "B". I would hope however that those who so zealously lobbied to defeat Report "A" would as zealously and honorably assure that the permissive Legislation which in fact does consolidate and clarify some of the statutes relative to architectural design, barrier free design, I would hope that those same people would assure that the 'may' which is contained in Report "B", be implemented.

I would hope and charge them at this moment that they are party to this Report "B", for in fact, their efforts are successful. I respect the integrity of the members of the lobby, who promoted Report "B" and I would use this opportunity to solicit their support for implementing it. Thank you.

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

Senator CONLEY: Mr. President, because of the fact that this will be in it's First Reading, and I'll oppose the Second Reading, I would withdraw my motion, but I'll give the lobby overnight the opportunity to really nail it down because there will be another Reconsideration tomorrow.

The PRESIDENT: The Senator from Cumberland, Senator Conley, requests leave of the Senate to withdraw his motion to Indefinitely Postpone.

Is this the pleasure of the Senate?

It is a vote.

The Bill Read Once, and Tomorrow Assigned for Second Reading.

Senate — As Amended

Bill, "An Act Making Supplemental Appropriations from the General Fund for the Fiscal Years Ending June 30, 1980 and June 30, 1981, to the Department of the Attorney General for the Defense of Land Claims Asserted by the Passamaquoddy Tribe and the Penobscot Nation." (Emergency) (S. P. 719) (L. D. 1869)

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

The PRESIDENT: The President would ask the Sergeant-at-Arms to escort the Senator from Kennebec, Senator Katz to the rostrum to assume the duties of President Pro-Tem.

The Sergeant-at-Arms escorted the Senator from Kennebec, Senator Katz to the rostrum, where he acted as President Pro-Tem.

The President then retired from the Senate Chamber.

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

Committee Reports

House

Divided Report

The Majority of the Committee on Business Legislation on, Bill, "An Act Prohibiting Non-degradable Connectors for Returnable Beverage Containers." (H. P. 1974) (L. D. 2013)

Reported that the same Ought to Pass pursuant to Joint Order (H. P. 1726).

Signed:

Sensors:

CHAPMAN of Sagadahoc
CLARK of Cumberland

Representatives:

ALOUPI of Bangor
JACKSON of Yarmouth
LIZOTTE of Biddeford
HOWE of South Portland
GWADOSKY of Fairfield
DUTREMBLE of Biddeford
BRANNIGAN of Portland

The Minority of the same Committee on the same subject matter reported that the same Ought Not to Pass pursuant to Joint Order (H. P. 1726).

Signed:

Sensor:

AULT of Kennebec

Representative:

BROWN of Bethel

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

Which Reports were Read.

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

Sensor CHAPMAN: Mr. President, I move the Senate accept the Majority Ought to Pass Report.

The PRESIDENT Pro-Tem: The Senator from Sagadahoc, Senator Chapman, moves that the Senate accept the Majority Ought to Pass Report of the Committee.

The Chair recognizes the Senator from Kennebec, Senator Ault.

Sensor AULT: Mr. President and Ladies and Gentlemen of the Senate, I'd like to just point out to you that I believe the title of this act is very misleading.

When we Passed the Returnable Bottle Bill in 1978, we added part of the law that did away with these things as far as I was concerned. When it went into effect in January, the then Agricultural Commissioner gave the distributors, whoever manufactured these things, a waiver on the law, and allowed them to use these things because they told him that they had a new product that would break down when it was left out in the elements.

I maintain that they have been in violation of the law for 2 years. This bill as it's re-writing the law is just going to bring them so that they are now in compliance with the law because it's going to allow them to use these.

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

Sensor CHAPMAN: Mr. President and Members of the Senate: I direct your attention to the bill, to the page towards the end of your book, it's a very short one, it amends current law which prohibits the use of connectors unless they are biodegradable within a reasonable period of time. It adds 2 more words, it adds the words chemical degradable or photo degradable. It requires that those connectors in addition to being biodegradable may instead be photodegradable, which is break down in exposure to light or chemical degradable, exposures for chemical action.

Perhaps this was in part to address the problem that Senator Ault addressed, that there was some difficulty in having some of these connectors break down due to biodegradable or bacteria action.

I have an incident that I might just relate here, which emphasizes to me the importance of having these things especially the photodegradable. I live on a hill overlooking a pond, a small island in the middle of that pond. One day I noticed a rather unusual interesting looking bird on that island, something I hadn't seen before and I got my binoculars out. This unusual and interesting bird was a Canadian Goose with a connector around it's neck. That Goose was obviously was at the time, it was going to fly around for quite a while.

Exposure to light might encourage that to break down. It was a sorry sight to see that. It might be an argument in support of prohibiting the use of them altogether. The fact remains I guess that that is not a very practical thing. There is some need to contain six cans together, but we add the requirement that they shall be subject to photodegradable, certainly would improve upon the situation. I would urge the Senate to adopt the Majority Report.

On Motion by Senator Chapman of Sagadahoc, the Majority Ought to Pass Report of the Committee, Accepted, in concurrence, and the Bill Read Once, and Tomorrow Assigned for Second Reading.

Divided Report

The Majority of the Committee on Fisheries and Wildlife on, Bill, "An Act to Adjust License Fees for Inflation, for the Department of Inland Fisheries and Wildlife. (H. P. 1830) (L. D. 1934)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-927)

Signed:

Sensors:

REDMOND of Somerset
USHER of Cumberland

Representatives:

GILLIS of Calais
CHURCHILL of Orland
PAUL of Sanford
JACQUES of Waterville
MacEACHERN of Lincoln
DOW of West Gardiner
VOSE of Eastport
TOZIER of Unity
PETERSON of Caribou

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

Signed:

Sensor:

PIERCE of Kennebec

Representative:

MASTERMAN of Milo

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

Which Reports were Read.

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

Sensor PIERCE: Mr. President and Mem-

bers of the Senate: I'm not going to make a motion on this bill. I decided that after yesterday I'm going to change my role on these Fish and Game Bills. Even when the good Senator from Cumberland, Senator Conley, and myself teamed up, we just fell victim to the Senator from Somerset, Senator Redmond. He's too tough for us. There's no doubt about it and after getting pounded on bill after bill, I'm going to stop making motions.

So I'm now going to have a new role. I just want to bring these little gems to your attention. This one requires the Fish and Game Commissioner to bring a set of license fees to us at the beginning of each biennium, just like he has always done when they needed fee increases. I'm not sure the real purpose of the legislation but this will continue to roll on with some of the other little beauties, I guess.

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

Sensor REDMOND: Mr. President, I move the Ought to Pass Report of the Committee.

The PRESIDENT Pro Tem: The Senator from Somerset, Senator Redmond, moves the Senate accept the Minority Ought to Pass, as amended, Report of the Committee.

The Chair recognizes the Senator from Penobscot, Senator Pray.

Sensor PRAY: Mr. President and Members of the Senate: After listening to the Senator from Kennebec, explain what the bill does do, and looking at it, I'm not sure if it does anything.

I notice in here that it says annually that the Commissioner will bring in a biennial recommendation to the Legislature for the next 2 calendar years. All I can see is what we're doing, basically putting something in the law that is presently being done. There's no necessity for it or if there is a necessity, I wish somebody would explain it.

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

Sensor REDMOND: Mr. President and Members of the Senate: I believe in response to the good Senator from Penobscot's question, althrough on the surface it appears as though this bill is not doing anything, it's my understanding that it does. It does lay the law. So the Commissioner will know, he'll be mandated to do that. He can do it now, but there are a lot of uncertainties as to whether he should be or whether he should not be, or whether there is enough inflation for him to come to the Legislature, and this just spells it out, it just simply spells it out.

Moreover, I would like to repeat once more to the Members of this Senate, that this bill was very highly recommended by the Joint Select Committee on Fisheries and Wildlife that performed that Study.

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

Sensor SUTTON: Very briefly, I think this is a bad bill and I would ask for a Division.

The PRESIDENT Pro Tem: A Division has been requested.

Will all those Senators in favor of the motion of the Senator from Somerset, Senator Redmond, that the Senate accept the Majority 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.

4 Senators having voted in the affirmative, and 15 Senators in the negative, the Motion to accept the Majority Ought to Pass, as amended, Report of the Committee, does not prevail.

The Chair recognizes the Senator from Cumberland, Senator Conley.

Sensor CONLEY: Mr. President, recognizing the power of the Senator from Somerset, I

would now move reconsideration and urge the Senate to vote against me.

The PRESIDENT Pro Tem: The Senator from Cumberland, Senator Conley, now moves that the Senate Reconsider its action whereby it voted not to accept the Majority Ought to Pass, as amended, Report of the Committee.

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

Will all those Senators opposed, please say No.

A Viva Voca Vote being had.

The Motion to Reconsider does not prevail.

The Minority Ought Not to Pass Report of the Committee, Accepted, in non-concurrence.

Sent down for concurrence.

Ought to Pass — As Amended

The Committee on Judiciary on, Bill, "An Act to Establish a Modified Procedure on Matters before the Public Utilities Commission Relating to Contract Carrier Permits and Special and Charter Bus Licenses." (H. P. 1771) (L. D. 1891)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H. 928)

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

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

Communication Committee on Fisheries and Wildlife

March 18, 1980

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

The Committee on Fisheries and Wildlife is pleased to report that it has completed all business placed before it by the Second Regular Session of the 109th Legislature.

Bills received in Committee	13
Unanimous Reports	6
Ought to Pass	1
Ought Not to Pass	3
Leave to Withdraw	0
Ought to Pass as Amended	2
Ought to Pass in New Draft	0
Divided Reports	7

Sincerely,
S/SENATOR ANDREW REDMOND
Chairman

Which was Read.

On Motion by Senator Conley of Cumberland, Ordered Placed on File.

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

Papers from the House Joint Order

An Expression of Legislative Sentiment recognizing:

Leslie "Cappy" Hall, of Lincolnville, a 1980 Jefferson Award Winner. (H. P. 1968)

Comes from the House, Read and Passed.

Which was Read and Passed, in concurrence.

Orders

Expressions of Legislative Sentiment recognizing:

Wendy Lee Gilbert, of Eliot 1980 Young Mother of the Year (S. P. 806) is presented by Senator Hichens of York; (Cosponsor Representative McPherson of Eliot). Lillian Herrick Crowell, of Eliot, 1980 Merit Mother of the Year (S. P. 807) is presented by Senator Hichens of York; (Cosponsor: Representative

McPherson of Eliot).

Which were Read and Passed.
Sent down for concurrence.

Communication Senate Chamber President's Office

March 18, 1980

Honorable Roland L. Sutton
Honorable Jasper S. Wyman
Chairmen
Joint Standing Committee on Labor
State House
Augusta, Maine

Please be advised that Governor Joseph E. Brennan is withdrawing his nomination of Donald W. Webber of Auburn to serve as the public alternate member of the Maine Labor Relations Board. This nomination is presently pending before your Committee.

Sincerely,
S/JOSEPH SEWALL
President of the Senate
S/JOHN L. MARTIN
Speaker of the House

(S. P. 808)

Which was Read, and referred to the Committee on Labor.

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 Orders

Expressions of Legislative Sentiment recognizing:

State Police officer Maurice Ouellette for his alert and courageous action in stopping a runaway car, thus avoiding loss of life of crossing school children. (H. P. 1977)

State Police officer Peter Herring for his alert and courageous action in stopping a runaway car, thus avoiding loss of life of crossing school children. (H. P. 1978)

The Tigers of Fort Fairfield High School, coached by Clarence Clark, winners of the 1979-80 Class C ski championship for girls. (H. P. 1972)

Carole Hamm of Lincoln, Miss Tri-County 1980. (H. P. 1971)

Kenneth Violette, Jr., of Old Town, a member of Troop 74, who has attained the high rank and distinction of Eagle Scout. (H. P. 1966)

The Red Riots, of South Portland, winners of the Western Maine Class A Boys Basketball Championship for 1979-80. (H. P. 1969)

The Holy Cross Bantam hockey team, of Lewiston, 1980 Class B state champions. (H. P. 1967)

Dorothy J. Stoddard, of Yarmouth, President of the AMVETS Auxiliary Department of Maine. (H. P. 1970)

Come from the House, Read and Passed.

Which was Read.

On Motion by Senator Conley of Cumberland, Passed in concurrence.

Papers from the House Joint Resolutions

A Joint Resolution in Memoriam:

WHEREAS, the Legislature has learned with deep regret of the death of Volunteer Fireman, William R. Quentin, of Scarborough, whose life was tragically lost while serving his community. (H. P. 1979)

Come from the House, Read and Adopted.

Which was Read and Adopted, in concurrence.

A Joint Resolution in Memoriam:

WHEREAS, the Legislature has learned with deep regret of the death of Former Congressman Allard Lowenstein, of New York, Representative to the United Nations Human Rights Commission. (H. P. 1976)

Come from the House, Read and Adopted.

Which was Read.

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

Senator CONLEY: Mr. President and Members of the Senate: Reading this Memorial today certainly over the week-end brought to me as I was reading the newspapers and learned of this very tragic death, a feeling of, I don't know how to explain it.

I met Allard Lowenstein late last summer on a Human Service Conference that was held down in the City of South Portland. I picked him up at the airport, and the thing about this man was that he was so full of life and so brilliant and so witty and so sharp, and just so sensitive. It seemed to me that everything around him, he was just cognizant of everything in life. He was one of the most warming and charming individuals that I think I have ever met in my lifetime.

Recently many of you have read in the papers, he has been a very, very strong ally of Senator Edward Kennedy of Massachusetts, in his challenge for the Democratic nomination in the primary. He did a great deal of work for Senator Kennedy in Maine, as some of you may have seen him in his T.V. debate with the Majority Floorleader of the House on Channel 10, representing Senator Kennedy in his conquest for that nomination.

I met him again more recently. I just want you to know that I feel that the country has certainly lost one of its probably outstanding citizens. I know that the fact that this life was snuffed out over night that I too have lost something. I just don't know how we recover from such a thing.

Which was Adopted, in concurrence.

Committee Report House

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

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

Enactors

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

An Act Adopting the Voluntary Energy Efficiency Building Performance Standards. (H. P. 1913) (L. D. 1978)

An Act Relating to the Administration of the State Employees Group Accident and Sickness or Health Insurance Plan. (H. P. 1765) (L. D. 1897)

An Act to Expand the Kinds of Projects Eligible for Financing under the Maine Guarantee Authority Revenue Obligations Securities Act. (H. P. 1764) (L. D. 1896)

An Act Relating to Periodic Justification of Departments and Agencies of State Government under the Maine Sunset Law. (H. P. 1936) (L. D. 1988)

An Act to Amend the Maine Sunset Law. (S. P. 801) (L. D. 2005)

An Act to Revise and Clarify Certain Provisions of the Motor Vehicle Laws. (H. P. 1667) (L. D. 1776)

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

An Act to Increase Registration Fees for Watercraft. (H. P. 1835) (L. D. 1939)

On Motion by Senator Pierce of Kennebec, Tabled, pending Enactment.

An Act to Increase Trapping Fees. (H. P. 1833) (L. D. 1937)

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

Senator PIERCE: I move that this bill be

tabled.

The PRESIDENT Pro Tem: The Senator from Kennebec, Senator Pierce moves that L. D. 1937 be tabled.

The Chair recognizes the Senator from Somerset, Senator Redmond.

Senator REDMOND: Mr. President I would like to pose a question through the Chair.

The PRESIDENT Pro Tem: The Chair would suggest to the Senator that a tabling motion is not debatable.

Senator REDMOND: I request a Division.

The PRESIDENT Pro Tem: A Division has been requested.

Will all those Senators in favor of the motion by Senator Pierce of Kennebec, that L. D. 1937 be tabled, please rise in their places to be counted.

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

10 Senators having voted in the affirmative and 13 Senators in the negative, the motion to Table does not prevail.

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

Senator PRAY: I move Indefinite Postpone.

The PRESIDENT Pro Tem: The Senator from Penobscot, Senator Pray moves that L. D. 1937 be Indefinitely Postponed.

The Chair recognizes the Senator from Somerset, Senator Redmond.

Senator REDMOND: Thank you, Mr. President, I request a Division.

The PRESIDENT Pro Tem: A Division has been requested.

Will all those Senators in favor of the motion by Senator Pray of Penobscot, to Indefinitely Postpone L. D. 1937, please rise in their places to be counted.

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

2 Senators having voted in the affirmative, and 19 Senators in the negative, the motion to Indefinitely Postpone does not prevail.

The Chair recognizes the Senator from Kennebec, Senator Pierce.

Senator PIERCE: Mr. President, I move that this item be tabled, until later in today's session.

The PRESIDENT Pro Tem: The Senator from Kennebec, Senator Pierce moves that L. D. 1937 be tabled until later in today's session.

The Chair recognizes the Senator from Somerset, Senator Redmond.

Senator REDMOND: I request a Division.

The PRESIDENT Pro Tem: A Division has been requested.

Will all those Senators in favor of the Motion by Senator Pierce of Kennebec, to Table L. D. 1937 until later in today's session, please rise in their places to be counted.

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

11 Senators having voted in the affirmative and 12 Senators in the negative, the motion to table until later in today's session, does not prevail.

The PRESIDENT Pro Tem: The pending motion before the Senate is Enactment of L. D. 1937.

The Chair recognizes the Senator from Kennebec, Senator Pierce.

Senator PIERCE: I move this item be tabled.

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

Senator CARPENTER: I request a Division.

The PRESIDENT Pro Tem: A Division has been requested.

Will all those Senators in favor of the motion by the Senator from Kennebec, Senator Pierce that L. D. 1937 be Tabled, please rise in their places to be counted.

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

13 Senators having voted in the affirmative and 9 Senators in the negative, the motion to Table, pending Enactment does prevail.

An Act to Create a Combination Nonresident Hunting and Fishing License. (H. P. 1832) (L. D. 1936)

On Motion by Senator Pierce of Kennebec, Tabled, for 1 Legislative Day, pending Enactment.

An Act Relating to Motor Vehicle Warranties and Repairs. (H. P. 1777) (L. D. 1878)

On Motion by Senator Pierce of Kennebec, Tabled, for 1 Legislative Day, pending Enactment.

An Act to Increase Interest Rates on Judgment Debts. (H. P. 1687) (L. D. 1795)

On Motion by Senator Pierce of Kennebec, Tabled, for 1 Legislative Day, pending Enactment.

RESOLVE, Authorizing Ervin Grant Bracy of Portland to Bring a Civil Action against the State of Maine. (S. P. 758) (L. D. 1954)

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

Emergency

An Act Increasing the Indebtedness of Veazie Sewer District and Amending the Charter of Veazie Sewer District. (H. P. 1820) (L. D. 1948)

Emergency

An Act to Revise the Salary of Certain County Officers. (H. P. 1946) (L. D. 1994)

These being emergency measures and having received the affirmative votes of 22 Members of the Senate, with No Senators voting in the negative, were Passed to be Enacted, and having been signed by the President, were by the Secretary presented to the Governor for his approval.

Emergency

An Act to Authorize Operational Moneys for the Mattawamkeag Wilderness Park. (H. P. 1845) (L. D. 1950)

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

Senator HUBER: Mr. President, I would again oppose as I did on the Committee Report, passage of this Bill.

I believe the Bill responds to a local need, the funding, the emergency funding for the operation of Mattawamkeag Wilderness Park, was deleted by the County Delegation, and the same delegation is attempting to put this into the State Budget.

I am sure that there are other county parks. I am sure that there are facilities within the Department of Parks and Recreation of higher priorities that are still not receiving funding.

I hope that the Senate would not pass this specific Bill, I realize that has been talked about in these corridors considerably and has considerable emotion concerning it. I do think it would be diversion of existing priorities and I hope that the Senate will not enact this.

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

Senator CARPENTER: I request a Roll Call.

The PRESIDENT Pro Tem: A Roll Call has been requested.

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

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

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

The pending question is Enactment of L. D. 1950.

A Yes vote will be in favor of Enactment.

A No vote will be opposed.

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

ROLL CALL

YEA — Ault, Carpenter, Conley, Devoe, Emerson, Hichens, Katz, McBreaity, Minkowsky, Najarian, O'Leary, Pray, Shute, Silberman, Trotzky, Usher, Sewall.

NAY — Chapman, Clark, Danton, Gill, Huber, Perkins, Pierce, Redmond, Sutton, Teague.

ABSENT — Collins, Cote, Farley, Lovell, Martin, Trafton.

A Roll Call was had.

This being an emergency measure and having received the affirmative votes of 17 members of the Senate, with 10 Senators voting in the negative, with 6 Senators being absent, and 17 members of the Senate being less than 2/3 of the membership present, Fails of Enactment.

Emergency

RESOLVE, for Laying of the County Taxes and Authorizing Expenditures of Oxford County for the Year 1980. (H. P. 1947) (L. D. 1995)

This being an emergency measure and having received the affirmative votes of 24 members of the Senate, with No Senators voting in the negative, was Finally Passed, and having been signed by the President, was by the Secretary presented to the Governor for his approval.

Constitutional Amendment

RESOLUTION, Proposing an Amendment to the Constitution of Maine to Amend the Referendum and Initiative Provisions. (H.P. 1638) (L. D. 1747)

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

This is a Constitutional Amendment and in order for its passage it requires the affirmative vote of two-thirds of those members present and voting.

Will all those Senators in favor of the passage of this Resolution, please rise and remain standing, until counted.

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

23 Senators having voted in the affirmative and 1 Senator having voted in the negative, and 23 being more than the required two-thirds vote, the Resolution Received Final Passage, and having been signed by the President, was by the Secretary presented to the Secretary of State.

Orders of the Day

The Chair laid before the Senate:

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)

Tabled—Earlier in the Day by Senator Katz of Kennebec.

Pending—Consideration.

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

The Chair laid before the Senate:

Bill "An Act to Provide an Income Tax Checkoff for Voluntary Contributions to the Department of Inland Fisheries and Wildlife." (H. P. 1825) (L. D. 1929)

Tabled—Earlier in the Day by Senator Katz of Kennebec.

Pending—Passage to be Engrossed.

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

Senator O'LEARY: Mr. President, I read this bill, Committee Amendment "A" is the

bill, with a lot of interest and I see in here, in 4 different places it says: 'Non-game Wildlife'

Now it is my understanding of the Department of Inland Fisheries and Wildlife is for the protection and enhancement of our hunting species.

That is not what bothers me so much, Mr. President, as the Income Tax Form itself. Any time that I see or hear an announcement that they are going to make it a lot easier I get a little more confused. I do not dare to use H&R Block, and I am just an ordinary working man. So when there is another check-off box, it scares me even more.

Mr. President I move the Indefinite Postponement of this Bill, and all of its accompanying papers.

The PRESIDENT Pro-Tem: The Senator from Oxford, Senator O'Leary moves that this bill, and all of its accompanying papers be Indefinitely Postponed.

The Chair recognizes the Senator from Somerset, Senator Teague.

Senator TEAGUE: Mr. President, this bill was a unanimous report out of the Committee of Taxation, Senator O'Leary I think is really trying to complicate the matter. The State Income Tax Form the only thing that we would have is on the back of that Income Tax Form, a check-off box, and if a person had a refund coming to them from the State of Maine, so much money. All they would have to do is put a check mark in this box, the amount of money would be given to the Fish and Game Department.

I would request a Division.

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

Will all those Senators in favor of the Motion by Senator O'Leary of Oxford, that L. D. 1929 be Indefinitely Postponed.

The Chair recognizes the Senator from Oxford, Senator Sutton.

Senator SUTTON: I would like to ask the Chairman of the Taxation Committee or anyone on there if they are going to put enough boxes on there to cover all of the departments of State Government?

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

Senator TEAGUE: Mr. President, this amendment also has a self-destruct clause at the end of it. The effective date. This section is effective for returns filed on or after January 1, 1981, and before January 1, 1984. This section is repealed on January 1, 1984.

So if it does not work maybe you could add some more boxes at that time.

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

Senator O'LEARY: Mr. President I would suggest that we self-destruct this bill, as of today.

If I am familiar with my constituents in one area it is in taxes. I think that it is going to cost more to put this box on our Income Tax Forms, than they are going to get in contributions.

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

Senator CLARK: Mr. President and Members of the Senate: It may seem like a lot of fun to kill a bill that has reached this stage, but in fact this bill, was a point of major consideration for the Select Committee on Inland Fisheries and Wildlife which recommended a package of bills, for consideration before this Second Regular Session of the 109th Maine Legislature.

It may seem like a lot of fun as we gang up on still another Inland Fisheries and Wildlife Bill, and kill a unanimous committee report out of the Joint Standing Committee on Taxation.

There may be some merit, Yes even credibility to the assertion of the good gentleman from Oxford, Senator O'Leary, who says we

shouldn't quote or paraphrase him, "clutter up our Income Tax Form" namely the Maine State Income Tax Form.

That particular issue, was a matter of serious consideration to the Joint Standing Committee on Taxation. For if any committee is sensitive to the uniformity of the Maine State Income Tax Form, with that of the Federal, then I would submit to you men and women of this Chamber that it would be the Joint Standing Committee on Taxation.

A gentle reminder to members of this chamber, that the Department of Inland Fisheries and Wildlife, is not solely and exclusively dedicated to the game management activity. For the wildlife of this state, belongs to us all, and that department is experiencing some financial difficulties. This bill before us, seemed like a viable instrument to address an area of under-activity in that department, and that is the preservation of the non-game species.

It wasn't a frivolous recommendation to this Legislature. It was a serious recommendation, and considerable research went into it. This measure is duplicated in the State of Colorado. A state that holds no peer with reference to hunting and fishing. Yet that state embraced this concept to provide a balance for those who do not participate, the non-users of hunting and fishing licenses, who do not participate in the management of non-game species, namely citizens like me, for I no longer buy a hunting and fishing license, yet I do have concern.

I admit that nothing precludes me from writing out a check and sending it to the Department of Inland Fisheries and Wildlife. But if I were about to receive a refund on my Maine State Income Tax then it might be just a little more encouragement and incentive for me at that time, knowing that this money had already been removed so to speak from my spending, to check-off 'Yes.' I would like to contribute \$5 of my refund, this is only exclusively for those who are going to receive refunds, to go to the department to balance some of the effort that they expend in the management of game species.

There are lot's of people like me, out there, sometime they are called 'Bambi Lovers'. That is not really a very positive name. I do not think that I am a 'Bambi Lover' I don't think that I am anything other than an ordinary citizen.

I took seriously this recommendation when it came before the Select Committee and this was 1 of 3 recommendations from that committee that the Standing Committee on Taxation reported out positively. I would submit that perhaps we ought to look at this a little more seriously for indeed it is a viable instrument to address a real need in that department.

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

Senator SUTTON: Mr. President and Ladies and Gentlemen of the Senate: I would apologize to the good Senator from Cumberland, if she thinks that we are being too frivolous. That we take some of the serious things that come before us sometimes with a smile rather than a long face, because I think that it does get a little long, sometimes in the day and I guess, we sometimes smile not necessarily based on the statute of a piece of Legislation, but just maybe because our faces hurt.

I also am a little concerned, I keep hearing that a Committee does so and so, so we should do so and so. I was of the impression that Committees recommended to the Senate and the Senate made their choices based on their own thoughts and information based on the recommendations of the Committee.

Also I am a little concerned about the fact that some of us get criticized for looking at these in the enacting stage. Quite frankly I have a little trouble keeping up. I know that I am going to get better because I see a lot of you do a lot better than I do, but I have a little trou-

ble keeping up with these things as they go along. Quite frankly this is the first time that I have seen it.

I think that it is a bad precedent, I wasn't being frivolous I do not think asking people to give a hand-out to the state in this regard is any way to run State Government. I think that it is a bad bill, and that is why I support the Indefinite Postponement of this Bill, and all of its accompanying papers.

The PRESIDENT Pro Tem: A Division has been requested.

Will all those Senators in favor of Indefinite Postponement, 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 9 Senators in the negative, the Motion to Indefinitely Postpone in non-concurrence does prevail.

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

Senator O'LEARY: Mr. President having voted on the prevailing side I now move Reconsideration, and ask for the Senate to vote against me.

The PRESIDENT Pro Tem: The Senator from Oxford, Senator O'Leary, moves that the Senate Reconsider its action whereby this Bill was Indefinitely Postponed.

Will all those Senators in favor of Indefinite Postponement, please say Yes.

Will all those Senators opposed, please say No.

A Viva Voca Vote being had.

The motion to reconsider does not prevail. Sent down for concurrence.

The Chair laid before the Senate:

Bill, "An Act to Expand the Kinds of Projects Eligible for Financing Under the Municipal Securities Approval Act" (H. P. 1767) (L. D. 1898) tabled earlier in today's session by Senator Katz of Kennebec, pending Passage to be Engrossed.

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

Sent down for concurrence.

The Chair laid before the Senate:

Bill, "An Act to Amend the Charter of the Limestone Water and Sewer District (H. P. 1960) (L. D. 2008) tabled earlier in today's session by Senator Katz of Kennebec, pending Reference.

On Motion by Senator Devoe of Penobscot, Retabled for 1 Legislative Day.

The Chair laid before the Senate:

HOUSE REPORT—from the Committee on Energy and Natural Resources Resolve, Authorizing the Exchange of Certain Public Reserved Lands Georgia-Pacific Corporation. (H. P. 1895) (L. D. 1971) tabled earlier in today's session by Senator Conley of Cumberland, pending Acceptance of the Report.

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

Senator SILVERMAN: Mr. President, I move this be tabled 1 Legislative Day.

The PRESIDENT Pro Tem: The Senator from Washington, Senator Silverman, moves that L. D. 1971 be tabled for 1 Legislative Day.

The Chair recognizes the Senator from Kennebec, Senator Pierce.

Senator PIERCE: Mr. President, I would ask for a Division.

The PRESIDENT Pro Tem: A Division has been requested.

Will all those Senators in favor of the motion of Senator Silverman of Washington to table L. D. 1971 for 1 Legislative Day, please rise in their places to be counted.

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

10 Senators having voted in the affirmative, and 8 Senators in the negative, the Motion to Retable L. D. 1971 for 1 Legislative Day does prevail.

The Chair laid before the Senate:

SENATE REPORTS—from the Committee on State Government—Bill "An Act to Amend the Maine Guarantee Authority Act." (Emergency) (S. P. 780) (L. D. 1972) Majority Report—Ought to Pass; Minority Report—Ought Not to Pass, tabled earlier in today's session by Senator Katz of Kennebec, pending Acceptance of Either Committee Report.

On Motion by Senator Conley of Cumberland, the Majority Ought to Pass Report of the Committee, Accepted, and the Bill Read Once and Tomorrow Assigned for Second Reading.

The Chair laid before the Senate:

Bill, "An Act Relating to Games of Chance at Agricultural Fairs." (H. P. 1797) (L. D. 1919), tabled earlier in today's session by Senator Conley of Cumberland, pending Passage to be Engrossed.

On Motion by Senator Conley of Cumberland the Senate voted to Reconsider it's action whereby it Adopted Committee Amendment "A".

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

Senator DANTON: I present Senate Amendment "A" to Committee Amendment "A" and move its adoption.

The PRESIDENT Pro Tem: The Senator from York, Senator Danton, now offers Senate Amendment "A" to Committee Amendment "A" and moves it's adoption.

Senate Amendment "A" (S-480) to Committee Amendment "A" Read.

The PRESIDENT Pro Tem: The Senator has the floor.

Senator DANTON: Mr. President and Members of the Senate: What this amendment does, since the banning of the slot machine, it had just tightened up the other games that are left so you don't have these storefront operations, and they're allowed on premise of bonafide organizations. It allows the Agricultural Fairs to have their games and what have you. It hasn't changed anything.

Senate Amendment "A" to Committee Amendment "A" Adopted.

Committee Amendment "A" as amended, by Senate Amendment "A", Adopted, in non-concurrence.

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

Sent down for concurrence.

The Chair laid before the Senate:

HOUSE REPORTS—from the Committee on Health and Institutional Services—Bill, "An Act to Amend the Laws Relating to Ambulance Service." (H. P. 1869) (L. D. 1959); Majority Report—Ought to Pass as amended by Committee Amendment "A" (H-906); Minority Report—Ought Not to Pass

Tabled—Earlier in the Day by Senator Hichens of York.

Pending—Motion of Senator Gill of Cumberland to Accept the Majority Report.

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

The Chair laid before the Senate:

Bill, "An Act to Increase Compensation to Municipal Clerks and other Issuing Agents for the Issuance of Certain Fish and Game Licenses." (S. P. 682) (L. D. 1805)

Tabled—Earlier in the Day by Senator Katz of Kennebec.

Pending—Adoption of Committee Amendment "A" (S-471)

On Motion by Senator Conley of Cumberland, Retabled for 1 Legislative Day.