

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 24, 1980

Senate called to order by the President.
Prayer by the Honorable Nancy Randall Clark of Freeport.

Senator CLARK: Let us pray! O'God we gather in this Senate as members of your human family, as brothers and sisters, as your children.

We confess freely that we are less than perfect offspring, for we are sometimes prone to be one another as rivals, to act out of jealousy, to haggle over belongings, to keep our family room called earth in a bit of a mess.

Yet, we are capable as your people of great friendship, understanding, concern, cooperation, compromise, and yes, even agreement.

During this time God we ask you, as our parent, to inspire us to our best and to express our hope of becoming ever closer as a family in service to the citizens of this State. All this we ask with boldness and gratitude, in your name. Amen.

Reading of the Journal of yesterday.

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

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

On Motion by Senator Pierce of Kennebec, Recessed until the sound of the bell.

Recess

After Recess

The Senate called to Order by the President.

**Communications
Department of Transportation**

March 21, 1980

Governor Joseph E. Brennan
and
Members of the 109th Legislature
Dear Governor and Legislators:

In accordance with Chapter 25 of the Resolves of 1979, the Department of Transportation herewith submits a report on the feasibility of Cargo Port Facilities in Maine. This Study was completed by the firm of Booz-Allen and Hamilton of Bethesda, Maryland.

The consulting firm has concluded that investments in Maine port facilities are justified and recommends development of facilities at Portland and Searsport. The Advisory Committee that assisted in the study supports these conclusions and recommendations. Based on the results, the Department will be developing specific proposals for your consideration.

Very truly yours,
S/RICHARD A. LUETTICH
Acting Commissioner

Which was Read and with accompanying Report, Ordered Placed on File.

**Committee on Aging, Retirement
and Veterans**

March 21, 1980

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

The Committee on Aging, Retirement and Veterans 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 7
Unanimous Reports 5

Ought to Pass 0
Ought Not to Pass 0
Leave to Withdraw 1
Ought to Pass as Amended 4
Ought to Pass in New Draft 0
Divided Reports 2

Sincerely,
S/RALPH LOVELL
Senate Chairman

Which was Read and Ordered Placed on File.

**Committee Report
Senate**

Ought to Pass — As Amended

Senator Silverman for the Committee on Aging, Retirement and Veterans on, Bill, "An Act Appropriating Funds to Allow Maine State Retirement System Members a Cost-of-Living Increase." (S. P. 677) (L. D. 1784)

Reports that the same Ought to Pass as amended by Committee Amendment "A" (S-508).

Which Report was Read and Accepted and the Bill Read Once. Committee Amendment "A" was Read and Adopted.

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

Sent down forthwith for concurrence.

Orders of the Day

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

Bill "An Act to Establish a Single Maine Estate Tax Based Upon a Percentage of the Federal Gross Estate." (H. P. 1769) (L. D. 1899)

Tabled—March 21, 1980 by Senator Collins of Knox.

Pending—Adoption of Senate Amendment "A" (S-502) to Committee Amendment "A".

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

Senator COLLINS: I request a Division.

The PRESIDENT: A Division has been requested.

The Chair recognizes the Senator from Cumberland, Senator Huber.

Senator HUBER: Mr. President, a Parliamentary Inquiry? Would it be appropriate to present an amendment to the Committee Amendment at this time?

The PRESIDENT: If the Senator would defer his motion please until we have disposed of Senate Amendment "A". At that time it would be appropriate.

The Chair recognizes the Senator from Sagadahoc, Senator Chapman.

Senator CHAPMAN: Mr. President, and Members of the Senate. I would urge the Senate to vote favorably on the adoption of Senate Amendment "A". It's the amendment that restores the provision that prevents life insurance bequeathed to widows, widowers, or named beneficiaries to be subject to the estate tax. This would retain the way current law exists now, and would be a reduction in new revenue of only approximately \$66,000. I would urge the adoption of the amendment.

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

Senator CONLEY: I request a Division.

The PRESIDENT: A Division has been requested.

The Chair recognizes the Senator from Androscoggin, Senator Trafton.

Senator TRAFTON: Mr. President, I would like to direct a question through you to the Senator from Sagadahoc, Senator Chapman. Since this would only exempt life insurance, I wonder what the fairness is here between only exempting life insurance when in fact a widow or a widower might have many of their funds invested in a trust fund or something? How is it that life insurance should be the only thing exempted here?

The PRESIDENT: The Senator from Androscoggin, Senator Trafton, has posed a ques-

tion through the Chair.

The Chair recognizes the Senator from Sagadahoc, Senator Chapman.

Senator CHAPMAN: Thank you, Mr. President, and Members of the Senate: In response this of course is the situation that exists at the present time. Life insurance proceeds are not as I see it an estate asset, but a contractual right, a promise to pay, which the insured buys. Life insurance is not accumulated wealth which is the basis of the tax in the first place, but it is a tax upon wealth that is going to be paid off in the event of the contract where the determinate of that contract is the death of the insured.

So if you have \$100,000 in the bank and you own a \$100,000 life insurance policy the total estate value is \$100,000, not \$200,000 before the death you have absolutely no right to that \$100,000 until after the death occurs.

The PRESIDENT: Is the Senate ready for the question?

Will all those Senators in favor of the motion of Senator Chapman of Sagadahoc, to adopt Senate Amendment "A", please rise in their places to be counted.

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

14 Senators having voted in the affirmative, and 13 Senators in the negative, Senate Amendment "A" is Adopted.

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

Senator HUBER: Mr. President, and Members of the Senate. I present Senate Amendment "B" to Committee Amendment "A" under Filing S-507 and I would like to speak briefly to my motion.

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

Senate Amendment "B" (S-507) to Committee Amendment "A" Read.

The PRESIDENT: The Senator has the floor.

Senator HUBER: Mr. President, and Members of the Senate. Last week I outlined my problem with this bill in its present form which is not really an objection to the bill itself, but is a response to anticipated Legislative action concerning the \$2.6 million one-time savings.

Obviously if the Legislature uses these one-time funds for on-going programs the cost in the next biennium will be \$5,000,000 and the amendment on page 2 would provide that this \$2.5 million is used for a one-time need. Namely, these same functions addressed by a Bond Issue which is currently on the Appropriations Table, a Bond Issue to Promote Energy Conservation in State Buildings.

This use of this money would be a non-recurring expense, with non-recurring revenues. I realize that there are many other uses that the Legislature would like to use the money for and most of them are on-going. However, I think we have ample problems for the next biennium without having an additional one, an additional problem to them, which may be in the amount of \$5,000,000.

I would hope that the Senate would seriously entertain this amendment and should it fail at least pay attention to how this additional \$2.5 million is used. Hopefully to fund a non-recurring expenditure, which is, in fact, non-recurring and not simply a delusion that is in fact something that the Legislature will enact and re-enact year after year.

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

Senator TEAGUE: Members of the Senate, I hope you would not accept this Senate Amendment "B" to Committee Amendment "A". I just feel that this is taking the \$2.6 million dedicating it to these items right here. I just have other priority items that I wish this money would go to, and I would ask for a Division.

The PRESIDENT: A Division has been requested.

Will all those Senators in favor of the Motion of Senator Huber of Cumberland, to Adopt Senate Amendment "B" 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 21 Senators in the negative, Senate Amendment "B" Fails of Adoption.

The Chair recognizes the Senator from Cumberland, Senator Conley.

Senator CONLEY: Mr. President, I would move that the Senate Reconsider its action whereby it adopted Senate Amendment "A".

The PRESIDENT: The Senator from Cumberland, Senator Conley, moves that the Senate Reconsider its action whereby it adopted Senate Amendment "A" to Committee Amendment "A".

The Chair recognizes the Senator from Kennebec, Senator Katz.

Senator KATZ: I request a Division.

The PRESIDENT: A Division has been requested.

The Chair recognizes the Senator from Cumberland, Senator Conley.

Senator CONLEY: I request a Roll Call.

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

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

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

The Chair recognizes the Senator from Kennebec, Senator Katz.

Senator KATZ: Mr. President, I was out of my seat, and as I understand it we're voting to Reconsider the Senate Amendment "A" of the Senator from Sagadahoc, Senator Chapman.

It's a complicated issue and many of us feel very, very uneasy dealing with complicated issues like insurance, but we're used to dealing with questions of taxes. As I have been listening to debate, it seems to me that the basic question in dealing with this amendment offered by Senator Chapman is if we wish to put a tax on the proceeds of life insurance that has never been on before. If that's the issue then every Member of this Senate should clearly understand he's voting for a new tax, a tax, not a fee, not a license, not a service charge, but a new tax that has never existed before.

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

Senator TRAFTON: Mr. President, again I would direct a question to any knowledgeable Senator particularly after the remarks of the Senator from Kennebec, Senator Katz, because I did not understand it in that light. It is my impression from the Committee Report and the discussion to date that we are moving in a totally new direction with regard to our Inheritance and Estate Taxes. In fact, the Senator from Cumberland, Senator Huber, has at length explained to us the potential reduction in that very tax and the potential loss of revenues here in his amendment just tried to dedicate that loss of revenue for a purpose which he felt was important.

So in fact, I see this in that light as a complete new direction in our Estate Taxes, paralleling the Florida Tax. As I understand it, if we are moving in that direction, that the Florida proposal does not have an exemption for life insurance. That's one point I would like to make.

I still have a problem with the fairness here. Many people may choose to put their monies in life insurance policies. They may feel that's a good investment. On the other hand, based on some information that I have received some people feel that life insurance is not the best investment in today's economic times, and that there are better investments to provide for your widow or widower, when that time

occurs.

So on the one hand we would be creating a great incentive for people to buy life insurance and denying those individuals who feel a better investment could be made, say, in some type of trust fund or some type of other contractual arrangement for the eventual use of that money for their estate. So if any knowledgeable Senator could respond to those remarks I would appreciate it.

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

Senator TEAGUE: At the present time we have a Maine Inheritance Tax. Life insurance is completely exempt. As we phase in and down, at the end of 8 years we would be on the Federal Estate Tax, and in the Federal Estate Tax, life insurance is taxed.

The Committee came up with the compromise position, that the first \$50,000 of life insurance would be exempt and that's in our Committee Amendment.

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

Senator CLARK: Mr. President, the Chairman of the Joint Standing Committee on Taxation has reviewed most accurately the general thrust and intent of the Committee on Taxation relative to moving in this new direction. It is a sincere intention that eventually the State of Maine does adopt what is commonly in everyday language called the 'Florida System'.

I would direct a question to the sponsor of the Senate Amendment and ask if the proposed revenue loss of \$66,000 is indeed for 1 year or is it for one quarter, because it's my understanding that there is a potential loss of revenue rather than a \$66,000 of approximately \$240,000 for one year. How was that loss of revenue determined?

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

Senator CHAPMAN: Mr. President, and Members of the Senate, in response to the question, you'll notice a Fiscal Note on the amendment really states that the \$66,000 is the loss of revenue in 1980-81. This was developed and prepared by the Legislative Finance Office.

At one point they were talking about a higher figure, but it's a complex area as we all are realizing and upon realizing the impact of the Committee's amendment which included \$50,000 they found that the loss was substantially less than originally projected. Only \$66,000 in the first year and it will diminish rapidly in succeeding years.

I would just like to emphasize again what the Senator from Kennebec, Senator Katz said, that is that this is a new tax. We presently have no tax on life insurance proceeds paid to named individuals and this would impose a tax on those benefits.

Life insurance is used primarily or to a great extent by the non-wealthy individuals to provide basic survival and education benefits for their heirs. We will be imposing a tax now, if we do not adopt my amendment on these planned benefits. A \$50,000 in the committee amendment is not a substantial amount in this day and age and with inflation being what it would be that would hardly pay for a college education for a couple of children in years to come.

The bottom line really is it is inappropriate and unfair and unnecessary to tax life insurance benefits, particularly where so small a loss of revenue, \$66,000 is involved.

One other point. This bill has a phase in period of 8 years. If we could jump immediately into the Florida situation being referred to here, then fine, but we can't jump immediately into the Florida situation. There would be a substantial loss of revenues to the State. It is desirable that we try to achieve that goal so that we have a bill that will phase in 8 years to achieve that particular status.

At that time the question is moot as to whether life insurance is taxed or not. But in the in-

terim it's a very serious matter. I'm concerned that we may not make those 8 years, and retain this bill in its posture, the State is facing some severe financial problems. The temptation is going to be great to perhaps stop this along the way, or tap it some more or change it. In that interim, then, if that should happen, life insurance is taxed.

I feel that we should adopt this amendment and make it clear that we do not intend to change present status as far as the taxation of life insurance benefits to named beneficiaries, widows, widowers, until such time as this 8 year period is completed and we've reached the desired goal.

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

Senator CLARK: Mr. President, I believe it's necessary to correct some of the remarks from the good Senator from Sagadahoc, Senator Chapman. In that in the Statement of Fact, in Senate Amendment "A", there is a Fiscal Note, the loss of revenue as a result of this amendment will be \$66,000 in 1980 and '81. In fact, if you read the bill, L. D. 1899, that bill will take effect in only one-quarter of the year 1980 and '81. The loss of revenue will be \$66,000 for one quarter of that year.

The truth of the matter is that in the year 1981-82 the loss of revenue will be at least \$260,000. That is why I believe that the Fiscal Note on this Senate Amendment is somewhat misleading.

Yes, L. D. 1899 is moving in a new direction. That new direction is as we've mentioned repeatedly here in this Chamber an effort to more align Maine's Estate Tax with the Florida Estate Program. If in fact, Senate Amendment "A" is attached to the bill, it increases the loss of revenue to the State of Maine as we're moving through this 8 year transitory period. It's difficult for me to stand and speak in opposition not only to the good Senator from Sagadahoc, Senator Chapman, but against in fact the life insurance industry of the State, because it is a most important segment of the economy of this State, but if we are in all sincerity trying to make this transition to what ultimately benefit all citizens of the State and what is those of low, middle and high income levels then I believe that we should try to retain the purest form of transition instead of imposing an increased revenue loss to the State during that difficult 8 year period.

The bill was worked within the Committee and with all sorts of really expert advice from the private sector as well as Legislative Assistants to make the revenue loss as even during that 8 year transitory period as possible. This will increase the revenue loss for the state, yes, at a time when probably we can least afford it. The fact of the matter is if we're going to make Maine in line with what is a much more fair Estate Tax Proposal that is aligning with the Federal Credit System then we're going to retain 1899 in the form that is before us without the addition of Senate Amendment "A".

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

Senator REDMOND: I support the amendment of the Senator from Sagadahoc, Senator Chapman. I support it because I have a feeling that this bill is probably going to be adopted, however, I'm against the whole bill.

The State of Florida is run by senior citizens who choose their own programs and they don't care after they're dead. They can get taxed, then the State of Florida can pay for those things that they have chosen. But in the State of Maine in the area where I serve we have many farmers, we have some lumbermen, we have many small business people that the business has been handed down from one generation to the other. Traditionally this is the way it has been done. This is where from father to son they encourage the children to work on the farm because it's going to be theirs.

Now some of these farms in this day and age with this terrible inflation that we don't care for but it's here, it's nothing to find a farm that if it was sold would bring about \$300,000. The son who's so fortunate to inherit the farm with \$150,000 mortgage on it, I don't think that that's very fair to ask him to pay an Inheritance Tax on that farm.

I'm speaking for those who live in my district and there are many more. It would take too long to mention them. So I'm against the entire bill, but I'm going to vote for the amendment.

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

Senator COLLINS: Mr. President, if a man dies and he owns equal value of horses and cows, the question is should we just tax the horses? Most people would say no, cows have value too. The amendment as I see it is saying, no, we shouldn't tax the cows because they give milk. That's the way the thing analyzes in my mind. I hope you will vote yes.

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

Senator CHAPMAN: Mr. President, and Members of the Senate. It's interesting to note, I think that life insurance is not taxed, as I understand it, in more than half of the states in this country. Those, where it is, many of them, they are working towards or they have achieved the Florida like statute, and there certainly is a trend in that direction. I feel at that time that it is a moot question, it's only right at that time that it be included.

My concern is this is a new tax now and we're imposing it now at the beginning of an attempt to achieve this direction, knowing full well that pitfalls are great and we may have difficulty arriving at the conclusion of this 8 year period of accomplishment.

It's my desire that we retain the status at the present time and allow people who made contractual arrangements funded by life insurance to be able to depend on the benefits that they have contracted for and allow this trend to phase itself in before we remove that particular provision.

This is a new tax and I don't feel that it is right at this time to impose it. The loss of revenue, by the way, and I think I'd like to put this in perspective. The bill, the original bill raises one-time revenue of \$2,638,000. This would reduce that by \$66,000 to \$2,572,000 of new one-time revenue.

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

Senator CLARK: The Senator from Somerset, Senator Redmond, has raised an issue which I don't think has been adequately addressed relative to this committee amendment which is under Filing Number H-954, that is the issue of farmland.

The Committee Amendment incorporates at the time of death the valuation of the farmland, as farmland, not as highest and current use, highest invest or current use, or whatever the language is, that most real estate in the State is appraised, that would promote the handing down, so to speak, of farmland to the younger generation at the point of death. I think that is probably a very positive move on behalf of the Committee on Taxation, in order to preserve our farmland. So I really I guess I'm not terribly responsive to the concern that that good Senator expressed. I think perhaps that it might have been a misunderstanding.

The PRESIDENT: Is the Senate ready for the question?

The Chair recognizes the Senator from Somerset, Senator Teague.

Senator TEAGUE: Just to add a few more figures. 26 states tax the proceeds of insurance; 5 states tax all but a limited amount of insurance proceeds, and this varies from \$20,000 to \$75,000; 17 states provide a partial exemption for insurance proceeds, but there are only 3 states that totally exempt the proceeds of life insurance.

The PRESIDENT: The pending question before the Senate is the Motion by Senator Conley of Cumberland that the Senate Reconsider its action whereby it adopted Senate Amendment "A" to Committee Amendment "A".

The Chair recognizes the Senator from Sagadahoc, Senator Chapman.

Senator CHAPMAN: Mr. President, and Members of the Senate, just to comment on the last remark. It's my understanding that even now in certain types of business insurance that are taxable in Maine. This exemption is only retaining exemptions for those named beneficiaries, widows, and widowers, or named dependents. That's the area that I'm addressing only.

The PRESIDENT: A Yes vote will be in favor of the Motion to Reconsider adoption of Senate Amendment "A" to Committee Amendment "A".

A No vote will be opposed.

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEA — Clark, Collins, Conley, Devoe, Minowsky, Najarian, O'Leary, Pray, Teague, Trafton, Usher.

NAY — Ault, Carpenter, Chapman, Cote, Danton, Emerson, Farley, Gill, Hichens, Huber, Katz, McBreairty, Perkins, Pierce, Redmond, Shute, Silverman, Sutton, Trotzky.

ABSENT — Lovell, Martin.

11 Senators having voted in the affirmative and 19 Senators in the negative, with 2 Senators being absent, the Motion to Reconsider does not prevail.

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 forthwith for concurrence.

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

Bill, "An Act to Amend Allocations from the Highway Fund for the Fiscal Years from July 1, 1979 to June 30, 1980 and from July 1, 1980 to June 30, 1981, Decrease the State Aid Bonus from 40% to 20%, and Revise Drivers' License and Examination Fees." (H. P. 1723) (L. D. 1827)

Tabled—March 21, 1980 by Senator Emerson of Penobscot.

Pending—Consideration.

On Motion by Senator Emerson of Penobscot, Retabled until later in today's session.

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

Bill, "An Act to Empower the Board of Trustees of the Maine Veterans Home to Borrow Funds and to Issue Bonds, Notes and Other Evidences of Indebtedness." (Emergency) (H. P. 1781) (L. D. 1892)

Tabled—March 21, 1980 by Senator Katz of Kennebec.

Pending—Indefinite Postponement of Senate Amendment "A" (S-505) to Committee Amendment "A".

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

Senator NAJARIAN: Mr. President and Men and Women of the Senate. I would like to explain again my amendment and what it does.

First of all, I want everybody to be assured that the same people who drafted my Senate Amendment, also drafted the Committee Amendment; the Legislative Aids that serve the Committee on Veterans and Retirement and John McCarthy in the Attorney General's Office.

When I spoke on this bill last Thursday, I had no intentions of doing anything and I received notes from all over the Senate, asking me to prepare an amendment which I have done. The more that I have gotten into it and the more I am glad I did.

In the first place there seems to be concern,

the concern that I have heard this morning, is whether or not the employees of this Maine Veterans Home should be Senate employees, and would that delay their Certificate of Need.

I have a letter from the Deputy Commissioner, I believe is his title, saying that this would in no way delay the Certificate of Need process.

I have had it distributed on all of your desks. I'll just read it to you: "The purpose of this letter is to advise you that I do not see any reason why the enactment of the amendments which you have proposed to the statutes pertaining to the Maine Veterans Home should delay the department's review of the Trustees' application for a Certificate of Need.

"It is true that the enactment of such amendments would necessitate the revision of the proforma financial statements which were submitted as a part of that application. However I see no reason why the representatives of the home and members of the Department staff, could not quickly come to agreement regarding such revised financial statements, thus allowing the review of the application to proceed unimpeded.

"We have accommodated such changes in Certificate of Need application on numerous occasions, for example, as you know Eastern Maine Medical Center recently revised its proposal to renovate and expand its facilities.

"Although we have not yet received the information which was shared with the Maine Health Systems Agency two weeks ago we are still committed to completing our review of the revised application within the allotted time.

"I would be happy to respond to any questions that you may have regarding this matter.

"Sincerely, Francis McGinty, Health and Medical Services."

He has also assured me, and I know that he has spoken with many other members of the Senate this morning that my amendment in fact would enhance the desirability of this project, by reducing its costs.

I cannot believe that this Chamber who voted in the last week or two not to add State employees by 4 into the Department of Human Services, would now turn around and allow 150 to be added in the next biennium. When not having those employees, State employees, will not have any effect whatsoever on the quality of care provided to the Veterans of the Nursing Home.

They project that the average cost per employee at the Maine Veterans Home, would be \$11,760. St. Joseph's Manor which was built in Portland in 1979, 200 bed facility has 180 employees, and the average salary is \$8,000. The Maine Veterans Home is only projecting 142 employees. Even though that is probably unrealistically low, 142, the savings in operating costs would amount to over \$500,000 per year. If you multiply that times 20, 30, 40 years whatever the life of the mortgage is there will be a substantial savings to the General Fund.

They project that every one of these veterans will be Medicaid patients. We pay 30% of those costs from the General Fund. So anything that we can do to reduce the operating costs is going to save the State money.

In addition I just want to talk more about their projection of 142 employees. The Portland City Hospital, which even though it is called a hospital is an intermediate care facility the same as the Maine Veterans Home would be is 185 beds, and they have 195 employees. I just told you that St. Joseph's Manor, 200 beds, has 185 employees. So if you said that eventually this Maine Nursing Home is going to have the same number, that increases it 43 and will save us another \$500,000. So it could be that the operating costs would be reduced a minimum of \$500,000 if their employee projection holds. As much as \$1,000,000 if it does not.

In addition, another reason for keeping the costs down is that the cost to the State for Medicaid patients is going to be more expensive

than the most expensive private nursing home, that is now in existence or proposed to be built. The reasons for this is that the Federal Standards for construction are so much higher than for the other types of nursing homes. That adds at least \$20 per day to the cost per patient. So it is going to cost us more in the first place, so anything that we can do to reduce this cost is certainly a plus, it seems to me.

Another important change which I am trying to make is that currently the Committee Amendment says that the home may borrow up to a \$1,000,000 for any purpose related to the home. I have amended that to say: "for any purpose related to the maintenance and operation of the home." The reason that I did that is because Camden Community Hospital applied for a Certificate of Need for a construction project totalling \$2.5 million. They had a cost overrun of \$1.8 hundred thousand. Seeking to get approval for that. When they get approval for that, that means that the State and Federal Governments are going to pick up the costs of those items, 30% State; 70% Federal Tax Dollars.

Included in that \$1.8 hundred thousand overrun were such things as: chandeliers, conference rooms, marble topped conference tables, fireplaces, duck pond, flag pole, you name it. Those kinds of things would come under anything related to the home. They are all related to the home and there is no way that we could deny reimbursement if that is the kind of facility that they were going to build. I just limited the purpose of borrowing to those things related to the operation and maintenance of the home.

The only way that they can pay for this home, pay off the mortgage, pay the debt and the operation is through patient charges. Anything that they are not allowed to charge to the patient they have no other way of getting the money to pay for. Anything that is allowed the State is going to pick up 30% of the cost and the Federal Government 70%. It is a way of saving money without interfering with the quality of care to the patients. I do hope that you will adopt this amendment.

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

Senator CONLEY: Mr. President and Members of the Senate. The good Senator from Cumberland has spelled out what I believe to be perhaps one of the most interesting speeches that will be given on the floor of the Senate this session.

It is important that we heard what she had to say. This is a very emotional issue. It is an emotional issue because it deals with Veterans.

The veterans are all upset because of the delay that they have had up to the present time, getting approval of the Certificate of Need.

I might say that there is no one in this Chamber who is more familiar with nursing home costs than the good Senator from Cumberland, Senator Najarian. She serves as a member of the Health Systems Agency and is in review of all proposals that come before that board.

Presently we have heard, many of us have heard from the various veterans, or veterans groups from around the State with respect to this bill. Very few of them know what is in the bill. Very few of them had anything to do with the drafting and I would doubt very much that there would be very few of us in this Chamber who know exactly what is incorporated in the present Legislation.

The good Senator has mentioned the fact that very possibly if this bill passes without amendment that up to 150 State employees could be hired, because the bill clearly states that those individuals who are employed shall be employed through the personnel system, of the State which makes them State employees. Once they are on board then they become subject, I assume very quickly to the Collective Bargaining Rights of this State. We would have an immediate demise of ranks within the Togus

Veterans Hospital where people would be crossing the bridge as quickly as possible to get employed at this Veterans Home for higher wages.

The figure that she has mentioned as being a 1/2 million dollars in my understanding is only a very minimal figure. A minimal figure and could be as high as a \$1,000,000 per year.

We have heard a lot about 'biennial mentality' the last couple of weeks. If there is ever an issue before us that we should give our strictest attention to it is the present amendment dealing in 'biennial mentality' because if we do not adopt this amendment, the new Legislature coming in next January will have a problem tenfold trying to amend this particular bill.

I would urge the Senate to adopt this amendment and in no way is it going to hamper, in fact, as the good Senator from Cumberland, Senator Najarian, stated it will even enhance, enhance, the Certificate of Need to go forward with the construction of this facility.

I think that it would be short sightedness on the part of the Senate if they did not vote to adopt the amendment. When the vote is taken I request a Division.

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

Senator COLLINS: Mr. President I am indeed surprised to hear the suggestion that State employees are so much better compensated than the general population. Perhaps this is true, if so, I doubt very much that it is as great a figure as has been suggested by the Senator's from Cumberland.

My concern however, is that we not jeopardize this Veterans Home Program which is well underway, and which has had its financial statements prepared, on the basis that the employees would be State employees.

This kind of change of horses in the middle of the stream, is bound to take some time, the more time that is consumed the more building costs will go up and the more problems will arise with this project.

I would like to point out also that at the very best, no one is going to be hired to staff this facility until 1982. If on further careful analysis and study the points that have been raised by the good Senator from Cumberland, are valid and sound, there is no reason that they can't be addressed next year in time to alter the situation before any staffing is done in 1982.

I hope, therefore, that you will vote yes on the pending motion which is to Indefinitely Postpone.

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

Senator NAJARIAN: Mr. President and Members of the Senate. Theoretically the good Senator from Knox, Senator Collins, is correct. We could amend this Legislation next January, but politically as I see it, it would be impossible. The nursing home would already have the ability to borrow the \$1,000,000 what they need. Already I have the President of the Maine State Employees Association wanting to speak to me who would like very much to have 150 new State employees, of which they would contract with.

Another reason for not having them State employees is the fact that you are going to have a mass exodus from AMHI to the new facility.

I didn't say that the wages of the employees were greater than that of the general populace, I said in nursing home personnel the wages of State employees are higher than intermediate care nursing home facilities in the private sector by about an average of \$1.00 per hour.

I can't believe it, here I am talking like a Republican and I have opposition from the Republicans. That is the only thing about this that bothers me. I should be saying what Senator Collins is saying, and vice versa.

Another reason is that you are setting a higher standard which all the nursing homes in the State are going to try to emulate and you

are going to drive up the cost of all the nursing homes through their employees of which the State, 80% of them, are medicaid patients of which the State is paying 30% for about 7,000 nursing home patients throughout the State of Maine. You are going to add 200 more at even higher and higher cost than are necessary.

We can't do anything about Federal Construction Standards which will drive the costs up \$20 per day more than our other nursing homes, but we can do something now about the employees. If we do not do it, it will never be done in my opinion, because politically it will be a hot potato.

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

Senator KATZ: Mr. President. I have a few remarks that I would like to make as an individual but before I do, might I inquire from the Senator from Cumberland, Senator Najarian, who is in a peculiar position in that she will be probably the only person in the State who will have a role to play after the Senate adjourns, because of her role in the Cost Containment?

Were this amendment to be adopted would she then become an advocate of the completion of this home and the realization of the project? Because her answer then would indicate to me whether she is basically a friend or foe of the home.

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

Senator NAJARIAN: Mr. President and Members of the Senate. I am a member of the Health Systems Agency, and a member of the Project Review Committee, which reviews this proposal.

I just do not see any way where even without this, how they can't receive a Certificate of Need, because it has gone to referendum. I would not be an opponent of the nursing home, at that point.

It is hard to say before you have had the public hearing, but I do not see how you can vote against something that has been ratified by the voters. That is the first thing.

The Governor has said that, who has final approval of this project so I do not think that in any case their Certificate of Need is in jeopardy. Anything that we can do now to reduce the costs, would certainly enhance it. So I would be supporting the Maine Veterans Home as a member of the Project Review Committee.

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

Senator KATZ: Mr. President, I want to make it clear that I am speaking as the Senator from Kennebec. It is not often that I find myself these days aloof from the majority of, my party.

I have listened to the remarks of the good Senator from Cumberland, Senator Najarian. I do not share any concerns about the purity of her motives. I just must conclude that she has done a better job than some of the rest of us who have been sitting on the periphery.

I do not feel that she wishes to jeopardize the construction of the home. I do not feel that she is attempting to put any road blocks in front of the approval of the home by the Health System Agency. I do believe that the figures that she has presented to the Senate make all kinds of sense.

As a Republican I have some uneasy feelings, because I have some relationship with private nursing homes, and do know that the costs are somewhat lower than State employment. I am convinced that the figures that she presents to us in cost savings that might result from her amendment are probably reasonably accurate.

I do believe that without the amendment we will get a significant number of new State employees, whom we may not be able to peel off in a subsequent session because of the interest of MSEA and other similar interests.

I would feel very very uneasy voting against the amendment here today because I think that it is well conceived, well researched, and in

fact does not do damage to the interests of those who are opposing it.

I can understand the unease of veteran groups that just want things to go exactly as they are without any changes by the Senate. But if she is right and if there is a savings of 1/2 million dollars per year without jeopardizing the home, if there is a potential savings of \$1,000,000 a biennium, I do not see how in any frame of mind I can't vote with her on this amendment and I consequently will do so.

The PRESIDENT: Is the Senate ready for the question?

The Chair recognizes the Senator from Washington, Senator Silverman.

Senator SILVERMAN: I would like 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 Indefinite Postponement of Senate Amendment "A" (S-505).

A Yes vote will be in favor of Indefinite Postponement.

A No vote will be opposed.

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

ROLL CALL

YEA — Ault, Chapman, Collins, Cote, Devoe, Emerson, Farley, Gill, Hichens, O'Leary, Perkins, Pierce, Redmond, Shute, Silverman, Teague, Usher.

NAY — Carpenter, Clark, Conley, Huber, Katz, McBrearty, Minkowsky, Najarian, Pray, Sutton, Trafton, Trotzky.

ABSENT — Danton, Lovell, Martin.

17 Senators having voted in the affirmative and 12 Senators in the negative, with 3 Senators being absent, the Motion to Indefinitely Postpone Senate Amendment "A" (S-505) does prevail.

Committee Amendment "A" Adopted, in concurrence.

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

Senator CONLEY: I object.

The PRESIDENT: The Chair would query the Senator is the objection to the Forthwith? There is no objection to the Passage to be Engrossed?

The Chair recognizes the Senator from Cumberland, Senator Najarian.

Senator NAJARIAN: Mr. President and Members of the Senate. There seems to be some sentiment any way to removing the part of the statutes that say that they are encouraged to build the home for the administrator. So maybe if you are not prepared to amend these other things that we could at least prepare an amendment to do that much.

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

On Motion by Senator Pierce of Kennebec, Recessed until 2 o'clock this afternoon.

Recess

After Recess

The Senate called to order by the President.

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

Senator CLARK: Thank you, Mr. President, because increasing numbers of my colleagues in this Chamber find afternoon sessions particularly onerous, because they are addicted to that noxious weed tobacco in one form or another,

I move that Rule 39 be Suspended for the duration of this session today and in order, Mr. President, for tomorrow also.

On Motion by Senator Clark of Cumberland, the Senate voted to Suspend Senate Rule 39 for the remainder of today's and tomorrow's session.

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

Senator HICHENS:

End of Session Birthdays

There are always those who feel just a little bit neglected;

On the other hand, may feel that they have been rejected

When a birthday poem on their behalf — they're not privileged to hear

Because their birthday didn't occur in the first half of the year

When we're in session — so I stand before you all today

And bring to your attention — with the brief words that I say

In honor of our members who from late June through December

Observe their several birthdays — and I'd ask that you remember

That in the hot month of July the Danton boy named Pete

Will pass another milestone — realizing that his seat

Next year will not be occupied by him, but by another.

We wish him all the very best — as our good Senate brother.

In August — Senator Chapman — who is also a lame duck

Will observe another birthday — and we wish John best of luck.

Also in August, three more Senators have a birthday too

And I refer in subsequence this trio now — to you.

Senator Najarian was on my list for May

But I discovered she was born on a hot August day.

So I would add my wishes that we remember her

Along with other Senators to whom I now refer.

The Senator from Penobscot, namely Charlie Pray

On the 15th day of August will celebrate his day.

Among the many people at his fair camping site

Far removed from Senate Problems. We hope his day is bright.

On the 28th of August — Roland Sutton took first breath

And in this game of politics he's sometimes scared to death

For fear that his decisions might not please everyone

And I would offer this advice — you've lots to learn — my son.

Our September babies — totaled up is four

Whom I bring to your attention on this Senate floor.

On September 3rd Mike Carpenter was born in '47

And on September 17th — the Collins' gift from heaven

Came in the form of Samuel, in the county so I'm told.

And on September 28th — two men within our fold

Are celebrating birthdays — namely Usher and Tom Teague

Who are settled in with us quite well — within the Senate League.

No October birthdays on my Senate list I find,

But looking at November there's two names come to mind,

The anti-abortion champion — our good Sen-

ator Devoe

First saw the light November 5th — and he has let us know

How conscientious he can be — in manner and in deed,

In serving his constituents and meeting every need.

The Senator from Lewiston made his place in the sun;

And if you're not sure who I mean — Al Cote is the one.

On December 17th, the Senate Pres. greeted the morn,

And on the 19th, 20th and 21st three boys were born,

Who grew to make their living here within the State of Maine

And ran successful contests, a Senate seat to gain.

In order they are Lovell, Emerson and friend Redmond,

Who with his division Roll Calls we have learned to grow quite fond.

And with this lengthy listing you'd think this verse would end

But somehow I neglected to mention a good friend

Who last year was forgotten when his birthday was due

On the 15th day of April — and so I remind you

That next month he will pass another milestone on life's way,

And so a special hand to Howard Trotzky on his day.

So join with me this morning in wishing happy days

That lie ahead for our good friends, as we go our separate ways.

Senator O'Leary of Oxford was granted unanimous consent to address the Senate, Off the Record.

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

House Reports—from the Committee on Agriculture — Bill, "An Act Relating to Agricultural Development" (H. P. 1719) (L. D. 1830) Majority Report — Ought to Pass as Amended by Committee Amendment "A" (H-843); Minority Report — Ought Not to Pass

Tabled—March 21, 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:

House Reports—from the Committee on State Government — Bill, "An Act to Reorganize the Department of Mental Health and Corrections." (H. P. 1786) (L. D. 1904) Report A — Ought to Pass in New Draft (H. P. 1956) (L. D. 2006); Report B — Ought to Pass as Amended by Committee Amendment "A" (H-901); Report C — Ought Not to Pass

Tabled—March 21, 1980 by Senator Pierce of Kennebec.

Pending—Acceptance of a Report.

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

Senator GILL: Mr. President, I'd like to move for Report "C" please.

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

The Chair recognizes the Senator from Knox, Senator Collins.

Senator COLLINS: Mr. President, this is one of the bills in this session that has attracted a good deal of thought, and attention. I have to speak in opposition to the pending motion. If the pending motion should be defeated, then I would be moving the adoption of Committee Report "B".

My interest in this particular topic derives in

part from the fact that I reside in the County of Knox, where the State Prison is located and in part from the fact that on the Judiciary Committee we see from time to time examples of the problems that exist in our Department of Corrections.

This balcony view that I have been privileged to share the past 6 years on the Judiciary Committee, and for nearly 30 years as a practitioner of law in Knox County, leads me to the view that we ought at this time to make a separation between Mental Health and Corrections.

In discussing this bill with some of those Senators who oppose this separation I find that their prime objection is that they believe it will cost the State more. I would point out to the Senate that Report "B" with the Committee Amendment, which strips off the appropriation does not add any cost to this separation of the department. When I pointed this out to one of my good friends in the Senate he said to me that's true but I am afraid of more expense down the road. I'm sure we're all concerned about expense down the road as well as in the immediate budgetary picture. Regardless of the fact that costs are likely to increase in corrections I think we need to take a longer view and I think we need to consider whether this move will improve the situation in terms of Number 1, of management and Number 2, in terms of morale.

There are probably 2 ways to get at improving the Corrections picture. One is to work on more money and the other is to work on management and morale. I submit to you that in these past several years when we have had a department joined together there has been very little talent at the top that knew anything about corrections. We've had some excellent people but by and large they have been those with a background in Mental Health.

If we split these 2 departments the proposed Department of Corrections will have a budget of \$13,900,000 and an authorized employee count of 711, making it one of the largest agencies of State Government. It should be noted that the remainder of the Department of Mental Health and Mental Retardation, will continue with 2,100 employees and a budget of approximately \$37,000,000.

Now I don't say that this separation is panacea for all of the problems in the system, but the importance of management, lines of authority and enhanced morale should not be discounted.

The Maine State Prison is no different than any other prison in the country. If morale is bad, and the management morale is so-so, there is a very good chance of violence and disruption and the flowing of blood and very costly experiences, very traumatic experiences and a loss of confidence in government.

I submit that we are more likely to get single accountability from and to this Legislature and the Executive Branch if we make this separation. One of the important things to consider if you look at Report "B" that I support, is the fact that the additional personnel, the staff, the central office of this department is being divested from the existing Department of Mental Health and Corrections. These personnel transfers are equivalent to a quarter of a million dollars appropriation.

The Budget situation in Maine is not likely to be any better during the next Regular Session of this Legislature than is the situation right now, but insofar as this proposal has received the time and the scrutiny of the Legislature this session, this is the most opportune time to proceed with the enactment of this Legislation.

The intent of the bill is to provide better management and attention to correction issues. One of the things that has made me especially attentive to this matter this year, is the fact that during the fall from time to time there would be sessions held at the Maine State Prison by the Federal Court. Federal Judge Edward T. Gignoux has been there, I think at

least 3 times holding court on suits brought by inmates.

Now, we all know what happened at Pineland. Pineland is now being operated under Court Order and I've heard the Chairman of the Appropriations say many times that we have to do this because that sort of advocacy of responsibility, that sort of putting it over on someone else, that sort of neglecting our own responsibilities as State Legislators is what brings on suits such as we have at Pineland.

I submit to you that if the same thing happened at the Maine State Prison we are not going to be spending less money, we are going to be spending much more money. I submit to you that one of the ways to meet this challenge that's going on right now in the Federal Courts is to have a separate department with lines of responsibility that runs directly to the Governor and this Legislature.

I hope very much that the Federal Courts do not have to take over the administration of our State Prison or any of our institutions. I'm very much opposed to letting ourselves get into that position in the first place.

So I ask you if your concern is budgetary, your concern is efficiency, if your concern is to do a good job as a State Legislature and not leave it to the Federal Court, I ask you to defeat the pending motion which says do nothing, and to then vote in favor of Report "B", which says do something without at this present time spending any additional money. Thank you, Mr. President.

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

Senator GILL: Mr. President and Members of the Senate, it's not very often that I disagree with the good Senator from Knox, Senator Collins.

I have put a lot of time and effort into this also. My Committee, Health and Institutional Services Committee hears a lot of the Legislative pending dealing with the Corrections Facilities. I also consider myself to be a very good friend of the people within the Corrections Administration, namely the Commissioner, Kevin Concannon, Don Allen, who is the Director of the Department, Ed Hansen, who is at the Correctional Facility up in South Windham, Dick Wise who is in my own community of South Portland, with the Youth Center.

I understand what frustration they go through in trying going through their daily routine and work and not be able to have the things they feel they should need to have the Corrections Facilities meet their obligations as such.

I really look on this proposed split as something like that old shell game that we all know a little bit about, where we have the pea under the shell, and we're shifting the pea which the Department of Corrections from shell to shell.

I've met with the Governor's people. I've met with the Governor himself. I've been lobbied by all the people within the Corrections Institute. Nobody has been able to tell me just how this split is going to correct the problems that we have today within the Corrections Facility.

When Senator Collins talks about having direct access to the Governor, I don't think there is anybody who has had more access than Don Allen to the Governor. I've seen him downstairs myself at different times, when things come up. He's right on the second floor. In my mind the Governor has access to anybody in his administration, when he wants them. There's communication there. All someone has to do is pick up the phone and say I've got a problem, and I'm sure he'll be able to see the Governor. We can do that if we have problems with him too.

I think the thing that bothers me is that no department has ever been set up, I believe, in the history of State Government where somewhere down the road it hasn't cost money. What we need is money for classification of prisoners. What we need is money for treatment plans for

prisoners. What we need is money for capital improvements at the facilities.

I don't see that this proposed bill in this proposed split is going to do any of those things. They did take the money out of part of the bill and they've got a Report "B" with no money on it now. It's to set up a new unit. It's to set up the ability of the department to reorganize itself.

I have heard people say that at one time the Department of Corrections had personnel, had planning personnel, had administrative personnel, that were swallowed up under the umbrella of Mental Health and Corrections. This was done without Legislation. If they want to get those personnel back under Corrections, why don't they just transfer them back again without Legislation? If they want to get planning done so they can bring before this Legislature some plan for 3 years down the road, 2 years down the road, or even 10 years down the road.

I've asked to see what they consider their priorities to be. Nobody can outline them for me. Nobody can tell me what they are going to cost. I haven't looked at this whole separation in a willy-nilly fashion. I have asked questions and questions have not been answered to me. I think that at this point I just can't go with a split in the department. I think we need a lot more information than we have at hand. I'm willing to look for this information within this coming summer and maybe when we come before this body again, with the proposed legislation, but at this time I just can't do that.

I also serve on the Governor's Advisory Board for Corrections. I must say that this tool was not at all used. In the time that I have been on there in the last year, we have had one meeting. It seems to me that this is the Governor's Advisory Board. I think he could have worked through this Board to communicate information to various Members of the Legislature, to various Members of the Public, to come up with a good plan so that we could go ahead with this. This was not done.

I think really the timing of the Legislature is really bad. I hear my people saying 'consolidate, don't expand'. I hear them saying 'cut personnel, don't increase'. I'm sure the Governor can hear them saying the same thing.

I would like to see what the fiscal picture does look like at the end of December of 1980. I would like to see the planning. I would like to see what priority needs they find that they really need in the Correctional System.

In a section of the bill, it talks about further Legislation to amend and recodify statutory provisions concerning the department will be prepared for presentation to the 110th Legislature, on the basis of what new experience shows to be necessary.

You and I, as I have said before have seen enabling Legislation come before this body and then the next year down the road the money bill comes in and it's very, very, costly.

I was looking up something else not too long ago and I came across one of Aesop's old Fables, that talked about the dog that had a bone and was going across the bridge and saw his own shadow in the water, and he dropped the bone that he had because it looked bigger in the water than the one he had in his mouth. I would maintain that the Department of Corrections has a bone right now, not enough, true, but don't drop it and give up something that you've got in hand for something that you won't have.

I think that we can do a lot. Everybody has been aware of the problems that exist at the prison, and at the corrections facility up in South Windham, at the Youth Center in South Portland. I think that some of these problems now have been brought to light. They can be worked out under the existing umbrella, with a strong head of Department of Corrections, with a strong head of Department of Retardation, with a strong head of Department of Mental Health.

I think Commissioner Concannon when he was before my committee for confirmation, the question was put to him. What would you do? Would you be able to handle this? He did say that he would be in favor of the split, but if the split didn't occur, of course, he could handle it.

So I think that we can run things as they are, look for planning, look for improvement, and come back in January and look at this picture in a good light.

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

Senator DANTON: Mr. President and Members of the Senate: I wasn't going to speak on this issue. I do support the position taken by the good Senator from Knox, Senator Collins. I think he's absolutely right in his remarks.

I thought that I should get up, seeing how I was here when reorganization took place during the 105th and 106th Legislature. It was intended at that time that we watch what we did by organizing departments under one umbrella. Mental Health and Corrections, at that time was 2 departments and we did make them into one. But when you talk about a commissioner being charged with a \$50,000,000 budget, 2,800 employees and 700 of those employees being in the Corrections or Division whichever you prefer, it's really a job and when you take Mental Health that's a specialized field, take Corrections, it's a specialized field.

I had occasion a few months ago to visit up at Thomaston with one of the Members of the Parole Board and Probationary Board. I want you to know that the situation there is not an easy one. It's a tough situation and I think that we should have a person there, not that the person that's there now isn't qualified, but I think it should be a department by itself. I think we should have a person there that's going to handle just Corrections. There's no question in my mind that Commissioner Concannon told you at the committee hearing that he would handle both departments. Of course, he's going to do his best. It's a very touchy situation, when you talk about Corrections on one hand and Mental Health on another. I would hope that the Senate today would take, and there's no money involved in this splitting, I would hope the Senate today would support Senator Collins.

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

Senator HICHENS: Mr. President and Members of the Senate: 8 Years ago I sponsored a bill to separate the 2 departments. One Mental Health and the other Corrections. That bill was heard before the State Government Committee at that time and never came out of committee with a favorable report so we did not have any debate on it on the floor whatsoever.

I do not know all the reasons they had against separation at that time, but all of a sudden it's become a very vital issue with us now. Looking back I think if we'd done it at that time we wouldn't have run into all the problems that we are facing today.

It bothers me in this year of fiscal responsibility that we can come out with a bill that is going to separate 2 departments. It had money on it at first then all of a sudden it's not going to cost anything. I've heard too many of these arguments, these things that suddenly don't cost anything after they had a good price tag on it. With that it makes me very suspicious as to what is being planned.

I would remind you that a couple months ago when we confirmed the new commissioner that I said that I did not think one man could handle both Corrections and Mental Health in a very satisfactory way. I still feel that way but under the conditions we have now with all of our fiscal problems I do not think that we should change over this year. Maybe next year if things lighten up a little bit we can consider it but today I would have to vote with the motion to Indefinitely Postpone.

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

Senator PRAY: Thank you, Mr. President, Mr. President and Members of the Senate: I'm sure that our memories are not so short that when we came down here a year ago the Corrections problem was such a serious problem in the State that we formed a Select Committee on Corrections to study the problems of the institutions that we have and the problems with the prison populations and the populations in county jails and the laws that we were passing, the mood of the people, the mood of the Legislature had been passing over the past few years.

We've been asking for stiffer penalties. There have been several attempts to mandate sentences, to take the discretion away from the judges. In the past 5 years in this country we have increased our prison population by over 200,000 people, and the same is true right within the State of Maine. The trend has been to put more people behind bars.

I think establishing the priorities of those taxpayer dollars as to what would give the taxpayers more of a return in the long run is the proposal that the Senator from Knox, Senator Collins has already spoken of, is that which would divide the departments. We have roughly 400,000 clients under the Mental Health that are being handled by the State, around 30,000 in the Retardation, and we have roughly 5,500 inmates.

The numbers game or the shell game whatever you want to call it, I think, is not the inclusion of the 3 departments, but it's to separate them. It's to establish the responsibilities and the direction which we will go in for future savings to the State. I think the cost is minimal at this time.

The Senator from York, Senator Hichens, made reference to the initial appropriations on the bill and what we come down with. How many bills do we see each year that that same thing happens? Everybody comes in and asks for whatever they can get, and through the process and through the Appropriations Committee prioritizing and the rest of us doing the same, those sums are always whittled down. We decide which we really can do and what we can't do.

I think that the Members of the Committee have realized the fiscal restraints which we must exercise and they have done so in the proposal that has been offered today, if we defeat the pending motion.

It should be interesting to note that we are the only state that's left in the Union have the 3 departments combined. All other states, over a number of years ago have deserted that bureaucracy of putting the Mental Retardation and the Mental Health all in the same field.

I think that we have a capable individual as Director at this time. I think that Don Allen has done a tremendous job, but I think if we give him a little more help and a little bit more direction, which under his own department I think he would have the problems that we have been facing with prisons can be better addressed and perhaps the 110th Legislature would not have to have a special committee on Corrections.

Somewhere there a year ago we decided that Corrections should be a separate committee, separate from Mental Health, separate from Health and Institutional Services, because of the problems that we have had. I think that the Senator from Knox, Senator Collins has done an excellent job in defining those problems and the opportunity that we have to solve this problem. I would hope that you would support the Senator from Knox.

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

Senator PERKINS: Mr. President and Ladies and Gentlemen of the Senate. The good Senator from Penobscot, has referred to a Corrections Committee, of which I was Senate

Chairman.

One of the many things that we did while, or during the last year, we had 30 some meetings, we toured all the prison facilities, and viewed many of the problems and interviewed many people who had different attitudes and lights with regard to our correction facilities.

At no time was there any expression from any of the people that we talked to, regarding the separation of the departments.

The address that seemed to be the main concern of the people within the corrections system and those who had served past and those who are now serving presently was that the help that could come to the Corrections people came from the bottom and not the top. That maybe addressing the classification system made more sense and would be better for morale than trying to change the top.

Serving on the Appropriations Committee I have seen for 2 terms now, the Mental Health and Corrections Department come before Appropriation and ask for money. At each time Don Allen, and the people of corrections have come and I have never found them to be tongue tied or in anyway reticent about stating their problems and what they needed for corrections.

So I maintain to you here today that the problem with corrections is not at the top but at the bottom. These are the areas that we need to address.

Now let's talk a little bit about separation and making new commissioners and see where the salaries lead us. This bill when it started had a proposal of over \$200,000 and it was finally whittled down to \$56,000 and now the proposal is to reject the Ought Not to Pass, and accept no appropriation.

If you deal with Public Safety or Business Regulation or Manpower Affairs or Conservation, these Commissioners which are the more recent of the creations draw salary of \$600 per week plus fringes. That to me relates out to over \$36,000 and each one has a secretary and this pay for the secretarial help is over \$9,000. This in no way relates to me anything about a zero appropriation.

I agree with those who say that it is done all the time, but I think that now is the time to put a stop to it. If we are going to be honest with ourselves and the people in our budget we can no longer afford to pass Legislation with zero appropriation and then the next year come in and fund it. The day of signing bills, and mortgaging the future because we think that there is going to be a surplus, is gone. There are no surpluses, and with 2 departments already in trouble I can't see any incentive to pass bills to have another department that is going to be working in the red also.

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

Senator PRAY: Mr. President and Members of the Senate: I agree with the Senator from Hancock, Senator Perkins as to what the Fiscal trends of our times are.

I think that we also have the understanding that Legislatures come and go and the salaries are set and established and there is nothing to stop us from establishing what the pay of a Commissioner of Corrections would be.

There is nothing saying in this bill, that Don Allen, if he goes from being director to being Commissioner of the Department of Corrections that he is going to receive a salary increase. I would believe that if you check now as director he already, has a secretary, he already has a few fringe benefits, as the Senator pointed out.

The ongoing cost of that Committee on Corrections looking at a number of facilities in the State. We looked at using Charleston Air Force Site which is being closed down and there was talk on that committee of looking at the Old Kittery Naval Yard. All the conservations in corrections, on the Select Committee on Corrections are either expansion of the prison, or

other facilities that would be available.

Don Allen did come in and spend a lot of time with us. The importance of that field, and the cost of keeping a person incarcerated itself is close to \$40,000 per year, per individual.

If we feel that we could not spend an additional few dollars, if we did demand a few dollars, for a Commissioner should let us and the people of this State know that we establish a priority on this field.

The cost of crime we are all aware of that. We receive an annual report, as to what crime does cost the taxpayers. We know it in our county budgets when we sit there and we work on the Sheriff's Department, those of you keeping track of your municipal budgets as well, see that the Police Department is a big item on that budget. The final dollar as far as corrections go ends up in the prisons, ends up in the Department of Corrections as to how we solve that problem of those that we catch.

I think that we are taking a small step in the proposal that is being offered, it is going to be reevaluated in future Legislatures and they can decide if more money should be spent.

If we pass this Legislation today, we are not committing the future to a necessity of spending money.

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

Senator FARLEY: Mr. President and Members of the Senate: A few years ago I had the pleasure of working for a newspaper and I worked in the advertising department, Classified Advertising Manager. Once a week we used to meet for an hour or so and discuss advertising and policy programs and general promotional things.

At the same time, also during the week the News Department would meet. One either the News Department or the Advertising Department came up with a brain storm that maybe we ought to meet together, to see what the policy of the newspaper was, as in the case here one umbrella.

The first time we met it took about three hours, and after the meeting the publisher called me in the office and said Bob what do you think of the meeting. I said, well we did a lot of talking nothing much was done. So the next meeting three hours again. A lot of talking and nothing was done, and we met the third week and about 1½ hours into the meeting I said, you know there is something really wrong here, you know there are 2 groups of people there that have 2 distinct different ideas, and principles and everything, there is no way that advertising has anything to do with the News Department, and the News Department similarly does not want to infringe in our department.

I think that it is a good example that we have right here. I do not know of anything further apart than Mental Health and Corrections.

To think that one man can cover both, and make both facilities happy, I think that it obviously has to be mixed up. I would hope that we would support, defeat the pending motion and support the motion further down the road of the good Senator from Knox, Senator Collins.

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

Senator CONLEY: Mr. President and Members of the Senate: The past 3 or 4 weeks I have been sort of casting my eye across the Senate to the far corner of the Senate and noticing the good Senator from Knox, Senator Collins. Every so often the thought occurs to me, that I would like to take him outside and beat his head in. I look at him and I see that he is bigger than I am, and people around Rockland tell me that he is faster than I am, so I back off.

This morning was one of the occasions when he got up and spoke on this particular bill, which was the opposite of my persuasion and that thought reoccurred to me.

This afternoon he is sitting at ring side I think sort of rooting me on.

I do not know a great deal about mental health and I know less about corrections. Sometimes I sort of lend an open ear and an open mind to those who are the professionals and those individuals who do know about mental health and those who know about our correction institutes.

When Kevin Concannon was just a wee little boy on Sherman Street in Portland, I used to wipe his nose for him. As far as Mr. Allen is concerned I met him over the years when he was located down at the South Portland Boys Training Center. Both of these gentlemen have convinced me that they are experts, that they are professionals, that they do know what they are doing and what their job is.

After listening to my colleague the good Senator from Cumberland, Senator Gill who has such outstanding faith in these 2 gentlemen not to respect their views in regards to this particular bill, somewhat leaves me mystified.

I think for the betterment of the inmates that are serving in our correctional institutes throughout the State that it would be far better for them that we had one commissioner directly in charge of the operations to maintain that these facilities are run in a responsible manner.

I couldn't agree with the good Senator from Knox more wholeheartedly to note that we may very well find ourselves in a situation of being before Judge Gignoux and find out that we are going to be mandated by the federal courts to do more or have a more efficient operation within the institution.

As a final and closing remark, I recall that this bill has had a long history in this Chamber, was introduced some months ago, and at the time of introduction if my memory serves me correctly that both the good Senator from York, Senator Hichens, and the good Senator from Cumberland, Senator Gill who both are members of the Joint Standing Committee on Health and Institutional Services were a little bit perturbed that this bill was not sent to their committee.

I wonder if that isn't just a wee bit of parochialism that might be shining through? Or could it be that this might be just another bill, of Governor Joseph E. Brennan?

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

Senator SHUTE: Mr. President and Ladies and Gentlemen of the Senate: I do not usually get mixed up in Mental Health and Corrections bills, but I think that this is one of those bills, that we have come in here every session or so, that you buy now and pay later. Like you divide the department now and next year you pay the price for it.

If this is coming to give a great deal more latitude to the Department of Corrections, I do not know that I am strictly in favor of that. I have seen some of that over in my county the last couple of weeks. We have an inspector come over to the County Jail, a jail 3 years old, and says that we have to repaint the whole jail because the prisoners have knocked off some of the paint.

He says a doctor should visit the jail, twice a week over there, for 20 prisoners. Now I know families that have 12 members in the family. They don't have a doctor come to the house even twice a year, but we have to have a doctor come to the jail twice a week.

Now is this going to give us the option of having more inspectors come around to the jails? That we have more inspectors tell us what we have to do? That we have to bow down to what the Federal Government might impose upon us in the Corrections Department?

Now as I remember it, when Mr. Concannon was appointed commissioner of this department we had both the Mental Health and Corrections under that department. He was certainly capable of operating that department when we the Senate voted on him less than a month ago.

Now we have heard that this was a special committee that recommended this. I also heard here about two months, ago, or three months ago, that we had a Select Committee on Transportation come before this Legislature that made recommendations, and this Legislature did not adopt those recommendations for that Select Committee. I have heard of hundreds of committee recommendations, come before the Legislature and we do not adopt them. So I do not see any reason why this Legislature feels obligated to adopt the recommendations of this Select Committee.

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

Senator AULT: Mr. President, I believe most of the State Government Committee that heard this Bill, and agonized through the work sessions had sympathy for separating Corrections from Mental Health. We were aware of the fact that Mental Health provides services that people need and sometimes request. Whereby Corrections provides a service that people usually do not ask for. There is a difference.

We realize that there is a potential for a problem at Thomaston, especially after reading and hearing of New Mexico last month, or whenever it was. We believe that there are a number of convicted people incarcerated in Thomaston that shouldn't be there especially with some of the hardcore criminals that should be.

My disappointment in this legislation was that it did not go far enough. I believe that if the Governor has a plan that would pull some of those people out of Thomaston, get them back closer to home in regional or county jails and provide the funding for it, I would be sympathetic to that idea. If the Governor will come forth with a broad far reaching plan that I have to admit is going to cost more money but if it does the job that I think should be done then I would support it.

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

Senator FARLEY: 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 to Accept Report "C" the Ought Not to Pass Report of the Committee.

A Yes vote will be in favor of Accepting Report "C".

A No vote will be opposed.

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEA — Ault, Chapman, Cote, Devoe, Emerson, Gill, Hichens, Katz, McBreairey, Perkins, Pierce, Shute, Sutton, Teague, Trotzky.

NAY — Carpenter, Clark, Collins, Conley, Danton, Farley, Huber, Minkowsky, Najarian, O'Leary, Pray, Redmond, Silverman, Trafton, Usher.

ABSENT — Lovell, Martin.

15 Senators having voted in the affirmative and 15 Senators in the negative, with 2 Senators being absent the Motion to Accept Report "C" does not prevail.

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

Senator COLLINS: Mr. President, I move the Senate Accept Report "B".

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

Senator KATZ: Mr. President, I move that this matter lay upon the table until later in today's session.

The PRESIDENT: The Senator from Kennebec, Senator Katz moves that this matter be

tabled until later in today's session.

The Chair recognizes the Senator from Cumberland, Senator Conley.

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

The PRESIDENT: A Division has been requested.

Will all those Senators in favor of tabling this matter 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.

16 Senators having voted in the affirmative and 14 Senators in the negative, the motion to table until later in today's session does prevail.

The Chair laid before the Senate the sixth tabled and specially assigned 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)

Tabled—March 21, 1980 by Senator Pierce of Kennebec.

Pending—Enactment.

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

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

Bill, "An Act to Provide Funds for Residential Energy Conservation." (S. P. 766) (L. D. 1963)

Tabled—March 21, 1980 by Senator Pierce of Kennebec.

Pending—Enactment.

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

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

Bill, "An Act to Improve Governmental Remedies for Violations of the Antitrust Laws." (H. P. 1975) (L. D. 2014)

Tabled—March 21, 1980 by Senator Pierce of Kennebec.

Pending—Adoption of Senate Amendment "B" (S-500).

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

Senator CHAPMAN: Mr. President, and Ladies and Gentlemen of the Senate: This amendment is under filing S-500 and it removes the authority of the Attorney General to bring actions. An item that the committee felt was extremely important in order to make sure that the proper expertise was focused on issues of this type.

I feel that as a matter of fact the bill at one time, was in a posture without this and caused great concern among many people.

Further it would retain the authority for municipalities and political sub-division to bring their own actions. The concern that inexperience might, or the desire to seek some attention would enter into these suits. Therefore I would move that the Senate not adopt Senate Amendment "B".

The PRESIDENT: A Division has been requested.

The Chair recognizes the Senator from Cumberland, Senator Clark.

Senator CLARK: Thank you, Mr. President. Mr. President and Men and Women of the Senate: I would support the Chair of the Committee on Business Legislation because it is my understanding that Senate Amendment "B" under filing number S-500 with all due respect to the good Senator from Kennebec, Senator Katz, is actually worse than nothing at all, because the Statement of Fact, in it suggests that municipalities can't now collect treble damages if they win an antitrust suit. Clearly under present Maine law, they can collect treble damages.

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

Senator KATZ: Mr. President, it is a relief to

come across a bill, which is very simple in its implications.

This bill seeks to expand the responsibilities of the Attorney General's Office. If you are in favor of expanding the Attorney General's Office responsibilities you will like this bill. If you have concerns about expanding its authorities you will have reservations about this bill.

The amendment before us, seeks to limit the expansion of their authority. If you would like to limit the expansion of their authority, vote for this amendment.

The PRESIDENT: Will all those Senators in favor of the Adoption of Senate Amendment "B" please rise in their places to be counted.

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

12 Senators having voted in the affirmative and 11 Senators in the negative, Senate Amendment "B" (S-500) Fails of Adoption.

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

Senator KATZ: Mr. President could you clarify was the motion the adoption of the amendment?

The PRESIDENT: The Chair evidently was in error in its count. The motion prevails by a count of 12 to 11, in favor of adoption of Senate Amendment "B".

Senate Amendment "B" Adopted.

The Bill, as amended, 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 to Authorize Bond Issue in the Amount of \$8,000,000 for Improvements to Vocational-Technical Institutes and the Maine Maritime Academy." (H. P. 1757) (L. D. 1887)

Tabled—March 21, 1980 by Senator Perkins of Hancock.

Pending—Enactment.

On Motion by Senator Perkins of Hancock, Retabled until later in today's session.

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:

Dorothy Birt, of East Millinocket, a dear friend who has captured the affection of all for the past 18 years in a very special way. (H. P. 2016)

The Honorable Walter A. Birt, upon his retirement from the Maine House of Representatives, following 18 years of dedicated and unselfish public service to his community and State. (H. P. 2017)

The Town of North Yarmouth, which is celebrating the Tricentennial Anniversary of its founding in the year 1680. (H. P. 2007)

Donald Learnard, of Durham, commander of AMVETS for the past year. (H. P. 2009)

The Presque Isle High School Girls' Basketball Team, winners of the Sportsmanship Award at the 1979-80 Easter Maine Class A Tournament. (H. P. 2010)

Maude Wing, of New Flagstaff, who will celebrate with family and friends, the 100th anniversary of her birth on May 29, 1980. (H. P. 2011)

The 1979-80 South Portland Red Riots boys' basketball team, winners of the State Class "A" boys' Basketball Championship for the second consecutive year. (H. P. 2012)

Burns Lilley of Oakfield, who has been honored by the Maine Association for his agricultural and public service achievements as an outstanding farmer. (H. P. 2013)

The Cony High School boys' hockey team, coached by Meylon Kenney, runner-up in the 1979-80 Maine Class "B" Hockey Tournament. (H. P. 2015)

Come from the House, Read and Passed.

Which were Read and Passed, in concurrence.

Committee Reports House

Ought to Pass

The Committee on Local and County Government on, RESOLVE, for Laying of the County Taxes and Authorizing Expenditures of Hancock County for the Year 1980. (Emergency) (H. P. 2004) (L. D. 2024)

Reports that the same Ought to Pass pursuant to Joint Order (H. P. 1676).

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

The Committee on Local and County Government on, RESOLVE, for Laying of the County Taxes and Authorizing Expenditures of Franklin County for the Year 1980. (Emergency) (H. P. 2005) (L. D. 2026)

Reports that the same Ought to Pass pursuant to Joint Order (H. P. 1676).

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

The Committee on Local and County Government on, RESOLVE, for Laying of the County Taxes and Authorizing Expenditures of Somerset County for the Year 1980. (Emergency) (H. P. 2018) (L. D. 2027)

Reports that the same Ought to Pass pursuant to Joint Order (H. P. 1676).

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

The Committee on Local and County Government on, RESOLVE, for Laying of the County Taxes and Authorizing Expenditures of Aroostook County for the Year 1980. (Emergency) (H. P. 2019) (L. D. 2028)

Reports that the same Ought to Pass pursuant to Joint Order (H. P. 1676).

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

The Committee on Local and County Government on, RESOLVE, for Laying of the County Taxes and Authorizing Expenditures of Washington County for the Year 1980. (Emergency) (H. P. 2020) (L. D. 2029)

Reports that the same Ought to Pass pursuant to Joint Order (H. P. 1676).

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

The Committee on Local and County Government on, RESOLVE, for Laying of the County Taxes and Authorizing Expenditures of Androscoggin County for the Year 1980. (Emergency) (H. P. 2021) (L. D. 2030)

Reports that the same Ought to Pass pursuant to Joint Order (H. P. 1676).

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

Which Reports were Read and Accepted, in concurrence, Under Suspension of the Rules, the Resolves Read Twice, and Passed to be Engrossed, in concurrence.

Sent forthwith to the Engrossing Department.

Orders of the Day

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

HOUSE REPORTS—from the Committee on State Government—Bill, "An Act to Reorganize the Department of Mental Health and Corrections." (H. P. 1786) (L. D. 1904) Report A—Ought to Pass in New Draft (H. P. 1956) (L. D. 2006); Report B—Ought to Pass as Amended by Committee Amendment "A" (H-901); Report C—Ought Not to Pass

Tabled—Earlier in the Day by Senator Conley of Cumberland.

Pending—The Motion of Senator Collins of Knox to Accept Report "B".

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

Senator KATZ: Mr. President, I move this bill and all its accompanying papers be Indefinitely Postponed.

The PRESIDENT: The Senator from Kenne-

bec, Senator Katz, moves that the Senate Indefinitely Postpone L. D. 1904 and all its accompanying papers.

The Chair recognizes the Senator from Cumberland, Senator Conley.

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

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

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

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

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

Senator CONLEY: Mr. President and Members of the Senate: I would just like to state that the debate on this bill took place only moments ago and I would urge the Senate to vote against the pending motion.

The PRESIDENT: The pending question before the Senate is the motion by Senator Katz of Kennebec, that L. D. 1904 and all its accompanying papers be Indefinitely Postponed.

A Yes vote will be in favor of the Motion to Indefinitely Postpone.

A No vote will be Opposed.

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEA — Ault, Chapman, Cote, Devoe, Emerson, Gill, Hichens, Katz, McBreaity, Perkins, Pierce, Shute, Sutton, Teague, Trozky.

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

ABSENT — Lovell, Martin, Redmond.

15 Senators having voted in the affirmative and 14 Senators in the negative, with 3 Senators being absent, the Motion to Indefinitely Postpone does prevail.

The Chair recognizes the Senator from Kennebec, Senator Katz.

Senator KATZ: I move Reconsideration.

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

Senator CONLEY: I move that this be tabled until later in today's session, pending the Motion to Reconsider.

The Chair recognizes the Senator from Kennebec, Senator Katz.

Senator KATZ: I request a Division on the Tabling Motion.

The PRESIDENT: A Division has been requested.

Will all those Senators in favor of the motion of Senator Conley of Cumberland, to table 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.

The Chair recognizes the Senator from Kennebec, Senator Katz.

Senator KATZ: Mr. President, 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 Conley of Cumberland to Table L. D. 1904 until later in today's session.

A Yes vote will be in favor of the Motion to Table.

A No vote will be opposed.

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEA — Carpenter, Clark, Collins, Conley, Cote, Danton, Farley, Huber, Minkowsky, Najarian, O'Leary, Pray, Silverman, Trafton, Trozky, Usher.

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

ABSENT — Lovell, Martin, Redmond.

16 Senators having voted in the affirmative, and 13 Senators in the negative, with 3 Senators being absent, the Motion to Table until later in today's session does prevail.

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 Pierce of Kennebec, Recessed until the sound of the bell.

Recess

After Recess

The Senate called to order by the President.

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

Bill, "An Act to Increase Real Estate Broker and Salesman License and Examination Fees." (S. P. 705) (L. D. 1841)

Tabled—February 13, 1980 by Senator Katz of Kennebec.

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

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

Senator CHAPMAN: This bill was heard before the Business Legislation Committee, had strong support from the Real Estate people themselves to put this fee upon themselves. It was no opposition. I would urge the Senate to support this bill.

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

Senator FARLEY: Mr. President and Members of the Senate: I would direct a question to the Chairman of the Committee what is their total budget now? How many employees do they have in their office in Augusta here?

The PRESIDENT: The Senator from York, Senator Farley, has posed a question through the Chair.

The Chair recognizes the Senator from Sagadahoc, Senator Chapman.

Senator CHAPMAN: Mr. President and Members of the Senate: I don't have that information in my possession at this moment. Essentially this was a bill to continue services without any real increase in services. As you will remember we had some wages increased in our last session. It is self-supporting in that the fees support its activities. The increases are relatively small and they were supported by the industry. I can't give you any more information at this time than that.

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

Senator CLARK: Thank you, Mr. President, Mr. President and Members of the Senate: L. D. 1841 is my bill and it was tabled unassigned a number of weeks ago and I've been wondering when it was going to come off the table. I must admit that I was caught somewhat unaware.

I have conveyed to the good Senator from York, Senator Farley, a copy of the Financial Statement, distributed to the Members of the Joint Standing Committee on Business Legislation so that while he is looking at that I can tell you a little about this bill.

As has been stated by the Chair of that com-

mittee, the primary purpose of this Legislation is to generate approximately an additional \$39,000 each year. The need for increased revenue is simply that expenditures have for several years been exceeding revenue and diminishing the fund balance.

A similar bill has previously been defeated in the First Session of the 109th Maine Legislature, the Real Estate Fund had a balance at that time. It is true that the fund did have a balance at the year end. It should be noted that the balance is continually declining. The second part of the problem before the Commission and of more immediate concern is the cash flow.

The Real Estate fund only receives about 20% of its income in the first half of the Fiscal Year. Therefore, it is necessary to bring forward a balance each year sufficient to carry us into the third and fourth quarters of an upcoming fiscal year. It is also of importance to point out that L. D. 1841 is not the result of planning for new or expanded programs as has been alluded to by the good Senator from Sagadahoc, Senator Chapman. The additional revenue is necessary to carry on current programs at current levels. As we all are aware the cost of doing business is continually increasing but inflation is not the only cause.

The Real Estate Commission has experienced costs for carrying out its responsibilities for example, you are aware that the Real Estate Commission is a part of the Department of Business Regulation and must pay its share of funding that department. The Real Estate Commission must now pay the Attorney General's Office for all legal services and the Commission must pay for computer licensing services. We all know that these costs do not come inexpensively. In fact these 3 items alone have increased expenditures by \$30,000 and were not even anticipated when the current fee schedule was established 12 years ago.

This bill also effects changes other than increases in fees. More significantly the 6 months delay required before applicants may reapply for a license examination after failing twice has been eliminated. I believe, as sponsor of the measure that this requirement was originally enacted to preserve the integrity of license examinations, that is to prevent applicants from merely remembering all of the questions. The Real Estate Commission has for several years employed one of the most sophisticated examination systems in State Government. Therefore, this safeguard that is currently in the statute is no longer necessary and there is a repeal of the provision, as I've mentioned, in the bill. It is the commission's view that if an applicant has the will to continue he or she should not be required to wait the additional six months.

This bill also makes 2 housekeeping changes. The first is the fee schedule under one section for easy reference, and the second specifically provides for transferring licenses between resident and non-resident status. A few years back the law was changed to accommodate the Real Estate Broker who, for example would change residence let's say, Portsmouth to Kittery. He or she qualified for a license while residing in Portsmouth and is not less qualified just because of the move across the State line.

Probably because of an oversight salesmen were not included in the Legislative change. However, it is my understanding as the sponsor of the measure that because the law and common sense also does not prohibit such a transfer, it may be accomplished without this change. However, for clarification and licensing information the change was included in L. D. 1841.

In summary the fee increases are not expected to build inflationary reserve. The increase in revenue is a modest request and is not expected to cause any undue hardship on licensees. As a comparison the National Average for Real Estate Broker License Renewal is

\$63 for 2 years, as opposed to the State of Maine \$40 request. New Hampshire's is \$40, Vermont is \$50, Rhode Island is a whopping \$100, Quebec is \$300 and Connecticut is \$300.

Finally the increase is necessary to continue current programs. I would hope that we would defeat the pending motion of Indefinite Postponement, and would remind all of my colleagues here in the Senate Chamber that it was not without some sincere thought that the Committee on Business Legislation reported this bill out with a Unanimous Ought to Pass Report.

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

Senator HICHENS: Mr. President, several weeks ago when I made this motion to Indefinitely Postpone the bill, it was in my general consensus of opposing all increases in license fees and I had sent a copy of the bill to the several Real Estate people in my area, hoping that I would get a good return from them in answer to my question as to whether they wanted an increase in license fees or not.

I only heard from 1 of my Real Estate Brokers in the 1st District and she was in favor of this bill. So now I withdraw my motion.

The PRESIDENT: The Senator from York, Senator Hichens, requests Leave of the Senate to withdraw his motion to Indefinitely Postpone L. D. 1841.

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

It is a vote.

The Chair recognizes the Senator from York, Senator Farley.

Senator FARLEY: Mr. President, on the sheet that the good Senator from Cumberland, Senator Clark, provided here, they're estimating the balance in the fund at the end of 1979-80 of \$93,673. The bill we have in front of us would provide another additional \$39,000, which would leave a balance in the fund at this year of somewhere about \$130,000, \$136,000.

I would just like to know the figures here provided with one source of information, one request that I ask. The other question I ask I can't find on this sheet anywhere. I would like to know just how many number of employees there are in the Real Estate's Commission Office, a little further description as to what their job description is and what do they do?

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

Senator CLARK: Thank you, Mr. President, Mr. President Men and Women of the Senate, the Real Estate Commission Staff today is the same size as when the industry was half today's number which is 7,600. In 1976 the Commission dismissed a secretary for budgetary reasons, and that position remained vacant until September 1979. Part time help to assist with licensing was eliminated.

The annual roster at one point cost \$6,000 to print. Through design and distribution changes the cost today in spite of inflation is a little over \$3,000. Out-of-state travel has been cut, mailings have been combined to save postings, postage costs and these and many other measures have been taken to hold down operating costs.

The Commission's revenue has just not increased at the same rate as expenditures. I would just simply suggest that with the exception of hiring the secretary who was eliminated prior to September, 1979, the size of the staff is static.

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

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

Bill, "An Act to Increase License and Examination Fees for Barbers." (S. P. 706) (L. D. 1842)

Tabled—February 14, 1980 by Senator Pierce 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.

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

Bill, "An Act to Increase the Fees for the Driver Education Evaluation Program." (H. P. 1691) (L. D. 1801)

Tabled—February 2, 1980 by Senator Pierce 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.

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

JOINT ORDER—relative to Creating a Select Committee on the Regulation of Foreign Trucking Companies (H. P. 1958)

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

Pending—Passage.

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

Senator EMERSON: Mr. President, I now offer Senate Amendment "A" to this H. P. 1958 and would explain it briefly.

The PRESIDENT: The Senator from Penobscot, Senator Emerson, now offers Senate Amendment "A" to H. P. 1958 and moves its adoption.

Senate Amendment "A" (S-491) Read.

The PRESIDENT: The Senator has the floor.

Senator EMERSON: This amendment would add to the study for the Regulation of Trucks, foreign trucks, would add a study for use of fuel tax.

Senate Amendment "A" Adopted.

Which was Passed, in non-concurrence.

Sent down forthwith for concurrence.

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

Bill, "An Act Increasing the Fees for Probate Proceedings." (S. P. 752) (L. D. 1928)

Tabled—March 18, 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.

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

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

Tabled—March 18, 1980 by Senator Pierce of Kennebec.

Pending—Enactment.

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

Senator MINKOWSKY: Mr. President and Members of the Senate: I'm going to oppose the Enactment of this particular piece of Legislation this afternoon, even though it has reduced the boat registration fees to \$9 for a 3 year span of time vs. what the original proposal was, which called for \$15 for 3 years.

As a reminder you are all aware at the present time that a small boat owner in the State of Maine does pay \$5 for a 3 year registration of his small boat which he only uses on a seasonal basis. You may recall also I opposed that particular motion, an amendment came in which would change it around to say that now the

Registration Fee will be \$9 for the 3 years span of time.

I also mentioned during that segment of time that there were a number of bills brought to us by the Fish and Game Department, or Inland Fisheries and Wildlife, and nobody seemed to have a clear cut handle on how much revenue all these bills are going to produce.

I think that since the large ponds and lakes really belong to the people of the State of Maine and if we're concerned with the seasonal use, the family man or the fisherman that we should not further tax him for this boat registration fee. I emphasized previously that not only are we getting him for the boat, we're getting him for the trailer as well as municipal tax.

Now I think this particular person who may be is not a fisherman or a familyman who enjoys it periodically on weekends deserves some type of consideration from this Maine Legislature. I will not ask that the bill be Indefinitely Postponed, except the fact that I want to be on record as opposing this particular Legislation. I would simply ask for a Division Mr. President.

The PRESIDENT: A Division has been requested.

Will all those Senators in favor of Enactment of L. D. 1939, please rise in their places to be counted.

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

17 Senators having voted in the affirmative, and 10 Senators in the negative, L. D. 1939 is Passed to be Enacted and having been signed by the President, was by the Secretary presented to the Governor for his approval.

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

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

Tabled—March 18, 1980 by Senator Pierce of Kennebec.

Pending—Enactment.

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

Senator USHER: Mr. President, and Members I move Indefinite Postponement of this bill and all its accompanying papers.

The PRESIDENT: The Senator from Cumberland, Senator Usher, now moves the Indefinite Postponement of this bill.

The Chair recognizes the Senator from Somerset, Senator Redmond.

Senator REDMOND: I request a Division. This bill has been debated. It had its public hearing, came out of committee overwhelmingly Ought to Pass, and has been debated. It's a good bill so I hope that you will vote to Enact it.

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

Senator CONLEY: Mr. President, I would pose a question through the Chair to the good Senator from Somerset, or Franklin, whichever one it is, I would like to know what the non-resident trapping fee is?

The PRESIDENT: The Senator from Cumberland, Senator Conley, has posed a question through the Chair to the Senator from Somerset, Senator Redmond, who may answer if he so desires.

The Chair recognizes that Senator.

Senator REDMOND: Mr. President, I'm going to check it out. The non-resident trapping fee is \$300, is that satisfactory?

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

Senator USHER: Mr. President and Members of the Senate: The main reason I am opposed to this bill is the singling out of a special group. We have 47 or 48 different licenses within the department. This is the only one that's asking for an increase. The others were turned down by the committee. I signed this bill out Ought Not to Pass. I think there was

only 2 or 3 of us that signed it.

The previous bill before this one was to change the Registration Fee on the Watercraft. I thought that was very reasonable, because it hasn't been touched for many, many years, but this is a license fee. I don't think we need it for one special group.

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

Senator REDMOND: I disagree with the Senator from Cumberland. These fees were increased, there's a reason for it. The trappers have been getting good prices for their pelts and there wasn't very much resistance at the public hearing from the trappers. As you all know the Department of Fisheries and Wildlife operates out of dedicated funds. The only funds they get are fees from trapping and hunting licenses, and so forth. Although it may make sense that we don't increase the fees, it doesn't make sense to increase any fee. All the departments are in trouble this year.

In spite of the bombshell that was dropped last week here in the Senate. A letter that was sent to the Governor trying to make the Commissioner look as if he wasn't doing his job. Ladies and Gentlemen of the Senate I have done work on that and I can assure you that the Commissioner has taken some steps. He's taken some steps that indicate that he is determined, that he is taking a good look at his department.

The projection for the coming year that he's going to save about \$1,000,000 cash flow although perhaps that is not realistic. Some \$400,000 is in curtailing procurement of equipment. Now that there we may say well, in a couple of years from now there will be a shortage. However, there is still some \$600,000 that looks to me that he is saving. He can't lay off anyone as we all know, he can't lay them off. However, since last year, he has stopped hiring people, and each time someone retires he's not hiring anyone now. So he is very determined and he is trying to do the best he can.

I wish that I would have, a reply has been prepared regarding that letter that was sent to the Governor. I don't have it here. I understand that it is being sent today. It proves that those accusations were made are all false, are mostly false. If you look at them in the proper context. Any accountant can take and juggle figures around to make a man look like a liar, however, in the ultimate the Commissioner is not trying to deceive us.

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

Senator SUTTON: Mr. President, as I have heard some of my colleagues mention before going to speak on this particular bill. But it occurred to me, I've been wrestling with a problem here on this Fish and Game Bill ever since the start of the session.

All of the folks around our way, every time we talk about this and I've had it so many times say that we've got to get rid of some of the biologists. I have no question whatsoever about the qualifications of the head or the Commissioner of this department. I think I'm going to vote to Indefinitely Postpone this bill in hope that possibly the message might get back and we'll lose one biologist.

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

Senator PRAY: Mr. President and Members of the Senate: The good Senator from Somerset, Senator Redmond, made several statements which I would like to respond to. First of all in reference to how the trappers feel about this bill. I wasn't at the hearing so I don't know how those who turned up at the hearing felt about it, but my phone has been ringing a little bit so I know how those people in my district feel a little bit about the increase. Particularly being the only license, sporting license issued by the Fish and Game Department that is going up, as far as hunting and trapping or fishing.

First of all in reference to the price of fur, for those of you who live in the Unorganized Territory you understand that the price of fur fluctuates upon the demand. In the last couple of years the price has increased somewhat. But as I remember back even a few years ago that market like any other market can drop at any moment.

The Department also over the last few years had been annually decreasing the area in the State in which people can trap. The Commissioner has the authority to close off any township in the State to trapping. The present Commissioner and his predecessor have closed off large areas of the State because of their concern about the wildlife and the amount of trapping that has taken place.

I am going to support the motion by the Senator from Cumberland, Senator Usher, because I basically see the situation occurring here. It's an attempt on one end by limiting the areas of the State from those people and as the price of gasoline goes up those individuals who do traveling have to get further and further into the back woods, which is going to require more fuel. I see those individuals who are doing it for an occupation have the capabilities to pay the higher fees because they are out working it all the time. They can afford to pay the higher licenses. Those individuals who are doing it for a little bit of relaxation after a long days work to run out and check a few traps in the Organized Territory, aren't going to be able to do it any more.

Seeing this squeeze coming on in 2 different directions I think we've got to try to stop that squeeze in one direction and that's in the fee increase. I would hope that the Members of the Chamber would support the Motion to Indefinitely Postpone.

The PRESIDENT: The Chair will order a Division.

Will all those Senators in favor of the motion by Senator Usher of Cumberland, that L. D. 1937 and all its accompanying papers be Indefinitely Postponed, please rise in their places to be counted.

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

12 Senators having voted in the affirmative, and 12 Senators in the negative, the Motion to Indefinitely Postpone does not prevail.

The Chair recognizes the Senator from Penobscot, Senator Pray.

Senator PRAY: Mr. President, a Parliamentary Inquiry, the motion now would be Enactment?

The PRESIDENT: The Chair would answer in the affirmative.

Senator PRAY: Mr. President and Members of the Senate: Just one last issue to bring up, the only last argument that I haven't touched that the Senator from Somerset, Senator Redmond, spoke on was the concern to the financial problems of the department. I want to point out the price tag on this bill its roughly \$10,000 to \$20,000. For anybody who feels that by giving the department this license increase or this one fee increase to its system, isn't going to help that department even pay for one biologist, as the Senator from Oxford, Senator Sutton is concerned about. It's ludicrous to feel that we are going to assist them in their financial burdens. Upon Enactment, Mr. President, I would request a Roll Call.

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

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

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

The Chair recognizes the Senator from Cumberland, Senator Clark.

Senator CLARK: Mr. President and Mem-

bers of the Senate: Speaking as a Member of the Select Committee on Inland Fisheries and Wildlife, both the Majority and the Minority Report from that Select Committee contained the recommendation to increase the trapping license and tagging fees.

I think it's inappropriate that the issue of a biologist be incorporated into the debate on this particular issue, for indeed most of us know that biologists are funded primarily and generally up to 90% from Federal Funds, and that the dedicated revenues and fees which go into the Department of Inland Fisheries and Wildlife in fact go to Game Management.

The increase in fee incorporated into this measure is an increase of \$10 for residents, \$45 for non-residents, and it does create a Junior Trapping Fee of a small sum, I believe it is \$5. I would hope that we would Enact this measure this afternoon.

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

Senator PRAY: Mr. President and Members of the Senate: Since the Select Committee has come up in reference to Fisheries and Wildlife and this is one of the proposals they recommended, I think we should also understand that that same committee recommended that we have a woodcock hunting stamp, that we increase the trapping fee by \$10 which would have raised \$42,000 instead of the \$10,000 which this bill does. It also calls for the establishment of a Big Game Fee which would have raised \$300,000, but none of those proposals came out of the committee. So just because the Select Committee made these recommendations I don't feel that we should feel as if this Chamber has to follow suit.

We did not follow suit in reference to the big item which would have given the department \$300,000. When the boat fee bill came along, that was amended down, so we did not follow that committee's recommendation for the \$265,000 which they requested to increase the fees on that one.

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

Senator CONLEY: Mr. President and Members of the Senate: Earlier today we passed a Joint Order honoring the Honorable Walter A. Birt upon his retirement from the Maine House of Representatives, following 18 years of dedicated and unselfish public service to his community and the State.

I notice that this Joint Order went unnoticed under the gavel. I just want to as one member of this body offer my congratulations to that distinguished gentleman who has been an outstanding Member of this Legislature throughout the years.

I had the opportunity of serving with him on the Appropriations Committee back, Mr. President, when you were the Chairman of that Joint Standing Committee. In those days we used to refer to him as 'Jesum'. I just want to wish him a happy retirement and hope that he enjoys himself in his home town of East Millinocket.

(Off Record Remarks)

The Sergeant-at-Arms escorted the Honorable Walter A. Birt of East Millinocket to the rostrum.

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

Senator CONLEY: Mr. President, I would now move the question that we kill this bill.

The PRESIDENT: The pending question before the Senate is Enactment of L. D. 1937.

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 — Chapman, Clark, Collins, Devoe, Gill, Hichens, Huber, Katz, Najarian, Pierce, Redmond, Teague, Trafton, Trotzky.

NAY — Carpenter, Conley, Cote, Danton, Emerson, Farley, McBreairty, Minkowsky, O'Leary, Perkins, Pray, Shute, Silverman, Sutton, Usher.

ABSENT — Ault, Lovell, Martin.

Senator Pierce of Kennebec was granted permission to change his vote from Yea to Nay. 13 Senators having voted in the affirmative, and 16 Senators in the negative, with 3 Senators being absent, L. D. 1937 Fails of Enactment.

The Chair recognizes the Senator from Kennebec, Senator Pierce.

Senator PIERCE: Mr. President, having voted on the prevailing side, I now move Reconsideration.

The PRESIDENT: The Senator from Kennebec, Senator Pierce, now moves the Senate Reconsider its action whereby L. D. 1937 Failed of Enactment.

The Chair recognizes the Senator from Penobscot, Senator Pray.

Senator PRAY: I would oppose the motion to Reconsider and would request a Roll Call.

The PRESIDENT: A Roll Call has been requested.

The Chair recognizes the Senator from Penobscot, Senator Pray.

Senator PRAY: I would like to withdraw my request for a Roll Call.

The PRESIDENT: The Senator from Penobscot, Senator Pray, requests Leave of the Senate, to withdraw his request for a Roll Call.

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

It is a vote.

The Chair recognizes the Senator from Penobscot, Senator Pray.

Senator PRAY: I request a Division.

The PRESIDENT: A Division has been requested.

The Chair recognizes the Senator from Kennebec, Senator Pierce.

Senator PIERCE: Mr. President, it's probably not especially momentous whether we pass this bill or don't pass this bill. I think it's kind of unique that all these bills that came out of the Select Committee, this is one of the few, maybe one of the one or two that I voted for. The watercraft fee increase which the Senate just Enacted, I was on the wrong end of a 12 to 1 Report. I was the only one that voted against it.

I can only say from my own experience, any of you who have ever hunted or fished, it's got to cost you \$10 or \$20 a pound for every fish you ever catch. The one category of people who actually make money are people who go out and trap, and we're charging them \$25 for a license. I think it is really darn cheap for them to have that. So if we are going to raise a fee I see nothing wrong with raising this fee. I just want to make it clear although the Roll Call will show this because I had to change my vote to get Reconsideration, that I certainly want to go on Record as favoring the increase. I think there is nothing wrong with it. I think this is the one increase that we should pass and ironically perhaps that we won't.

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

Senator PRAY: Mr. President and Members of the Senate: If we want to get into valuation of the sporting industry and which costs the least not to do, is how can the gentleman from Kennebec, Senator Pierce, say that an individual that has a \$8,000 or \$9,000 boat ought to only pay \$3 Registration, I stand corrected \$5 for 3 years. If we want to think on a pound to pound basis, as he just mentioned there's the extremity there. If the gentleman from Kennebec feels as if that hunting and fishing is that expensive I would suggest that he hire a guide.

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

Senator KATZ: Mr. President, the Senator

from Penobscot, Senator Pray is clearly trying to inject logic into a Fish and Game Debate, and I reject that out of hand.

The PRESIDENT: Is the Senate ready for the question?

A Division has been requested.

Will all those Senators in favor of Reconsideration on L. D. 1937, 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 15 Senators in the negative, the Motion to Reconsider does not prevail.

Sent down for concurrence.

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

Papers from the House Joint Orders

Expressions of Legislative Sentiment recognizing:

Mel "Grandpa" Richards, of Milbridge, winner of the Jefferson Award for 1980. (H. P. 2024)

Trooper Burchell D. Morrell of Strong, Trooper of the Year for 1979, the highest annual award of the Maine State Police. (H. P. 2025)

Jeffrey W. Sturgeon, of Old Town, who scored 1,058 points in 4 years for the Old Town High School boys' basketball team. (H. P. 2026)

Come from the House, Read and Passed.

Which were Read and Passed in concurrence.

(Off Record Remarks)

Senator Carpenter of Aroostook was granted unanimous consent to address the Senate, On the Record.

Senator CARPENTER: Mr. President and Members of the Senate: My distinguished Floorleader, the good Senator from Cumberland, Senator Conley, got up a few moments ago and on the record announced or presented to the Senate the Honorable Walter Birt of East Millinocket. I believe we had another Joint Order go through here today to Honor his lovely wife and better half, the equally Honorable Dorothy Birt of East Millinocket, who is in the rear of the Chamber. I thought it might be appropriate for the Senate to recognize her.

(Off Record Remarks)

The Sergeant-at-Arms escorted the Mrs. Dorothy Birt to the rostrum.

(Off Record Remarks)

Non-concurrent Matter

Bill, "An Act Increasing the Minimum Handling Fee for Returnable Beverage Containers from 1¢ to 2¢." (H. P. 1973) (L. D. 2012)

In the House, March 19, 1980, Passed to be Engrossed.

In the Senate, March 20, 1980, Bill and Accompanying Papers, Indefinitely Postponed, in non-concurrence.

Comes from the House, that Body having Adhered.

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

Senator O'LEARY: Mr. President, I move that the Senate Recede from its action whereby this bill was Indefinitely Postponed.

The PRESIDENT: The Senator from Oxford, Senator O'Leary, moves that the Senate Recede from its action whereby L. D. 2012 was Indefinitely Postponed.

The Chair recognizes the Senator from Kennebec, Senator Pierce.

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

The PRESIDENT: A Division has been requested.

The Chair recognizes the Senator from Penobscot, Senator Pray.

Senator PRAY: A Parliamentary Inquiry?

The PRESIDENT: The Senator may state the Inquiry.

Senator PRAY: Mr. President, if the Motion to Recede is defeated, the Motion to Recede and Concur would be out of order, is that correct?

The PRESIDENT: The Chair would answer in the affirmative, the Motion to Recede and Concur would then be out of order. The only motions available would be to Insist or to Adhere.

Senator PRAY: Thank you Mr. President.

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

Senator CARPENTER: Mr. President, a Parliamentary Inquiry? Would the Motion to Recede and Concur be in order at this time?

The PRESIDENT: The Chair would answer that it is not in Order. The motion to Recede would take priority over Recede and Concur.

The Chair recognizes the Senator from Sagadahoc, Senator Chapman.

Senator CHAPMAN: Mr. President and Members of the Senate: I would urge the Senate to vote against the Motion to Recede. If successful I would like to make a motion somewhere down the line to Adhere.

Obviously a lot of work has gone into this measure over the weekend. Many of you were the recipients of calls, so was I. A lady called me and informed me that everybody in her area wanted this bill. Upon further quizzing on my part she found it very difficult to explain what it was all about.

I would like to remind you of the penny that you looked at the other day, and think again if one additional penny here is a tax on consumers of \$5,000,000 at least. I feel it's more than that. Keep that in mind. A tax is a tax is a tax.

I supported the Bottle Law and worked to see that the referendum was successful, I do not support an increase of 1¢ in the handling fee. The consumers voted to retain this law. I don't see consumers clamoring to have an extra penny put on the handling fee. I submit to you that the consumers' interest is served best by not passing this issue.

The distributors and the store's interest in my view is not harmed by not passing this matter. They have the ability to set the price of their product now freely, at what ever level they feel necessary to cover their costs.

I would submit that redemption centers are not better served by this bill, for if the stores feel that they are gaining by extra handling fees, they are going to be less inclined to support the redemption centers.

As I have said before the only place where you really succeed or are doing well, is where the stores in those areas or where those redemption centers are, support them contractually, with sums necessary to support them. I just direct your attention again to the fact that stores, distributors, have the ability to set their mark-up, to set the prices necessary to cover their costs. I would hope that the Senate would turn down attempts to amend this bill or to pass it and would in the final analysis, Adhere to its former action and to prevent the additional tax on consumers of \$5,000,000.

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

Senator O'LEARY: Mr. President, to say that I have been hounded over the weekend with telephone calls would be putting it very lightly. As you know I work 11 to 7 on the weekends. There happens to be a telephone beside my bed and I haven't had a heck of a lot of sleep this weekend.

When you speak of the \$5,000,000 that the extra penny will bring in, if you look at my amendment my amendment will reduce that by 3/4 of a cent or down to a million and a quarter. With a 1 1/4¢ which is equal to 6¢ on a case of 24.

Now I know there is another amendment to follow this one that wipes out everything that I would like to really get at in my amendment

and that is the distributors and this excess money that stays in special accounts and serves no useful purpose, except to enhance the profits of the distributor. If you look at the second part of my amendment that's exactly what it does.

I believe Mr. President and Members of this Senate, that the distributors in this State must have in accounts anywhere from \$6,000,000 to \$8,000,000 if not more that is held there waiting for returnables that will perhaps never return. This is a modest attempt for the State to recover the interest off the money that will go to the Commissioner of the Department of Agriculture which will be turned into the General Fund.

I would hope that future Legislatures will take a look at this problem and try to find a way to recover these monies perhaps to subsidize redemption centers and such. I know that Government shouldn't be in the business of free enterprise. I don't like it but we are stuck with it, with a 1¢. I know that there is problems with some of these redemption centers trying to operate on the penny but I look at the penny and a quarter that's being a 25% increase. I will not oppose the amendment that will be offered by the good Senator from Cumberland, Senator Clark, which will wipe out that part where I was trying to get at the distributors and will keep the increase down to a cent and a quarter. I hope you will vote to Recede.

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

Senator MCBREAIRTY: Mr. President, Honorable Members of the Senate, it seems that we have charged people as much tax as they will stand. I think our vote a few minutes ago proves that we've charged them as much license fees as they will stand. So now we're calling it a handling charge.

I'm not very good with figures but I had this little bottle took my little pocket calculator and wondered how much handling charge we're charging on a gallon because we've been talking about gasoline in the gallon. Now it takes about 18 of these bottles to make a gallon.

So presently 18 bottles is brought on the market at 40¢ a bottle or over \$7. The handling charge is 18¢ so if we increased it a cent we'll be charging a handling charge on this particular beverage of about 36¢ on a gallon.

Now if this bill goes through I'm sure we won't have any problem getting the gas tax up to 9¢ on our highway, because we're only charging 9¢ on a gallon of gas now.

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

Senator CARPENTER: Mr. President, and Ladies and Gentlemen of the Senate: I just would point out that since the Bottle Bill was first Enacted in 1976 there has been approximately a \$50,000,000 increase passed through from the distributor through the store owner or redemption center whichever one you have to take your bottles back to. The little store owner hasn't gotten any of this. My fellow Senator from Aroostook, Senator McBreairty, I haven't heard him say anything about that increase.

In the meantime, this whole period of time, handling all those bottles, and many of them handle many more than they actually sell, we're looking for an extra penny for that person. I have heard the argument put forward here that the store owner, all he has to do is raise his prices. What about the redemption centers? What price does he raise to pick up this extra penny?

November of 1976 a particular bottle cost 36¢. Between that time and the time of the second referendum in November of 46¢. Between November and now it's up to 51¢. The store owner hasn't gotten any of this. The distributor, and I like the good Senator from Oxford, Senator O'Leary, I like his amendment very much. If he had gone from 1¢ to 2¢, and added that second paragraph in there to get at the distributors to get at some of this money, that they

are sitting on, I certainly could buy it, but I can't vote for it. I'll vote for the motion to Recede, but I can't vote for the amendment because it only goes to a penny and a quarter.

Somebody sometime is going to have to start addressing and I hope it is in the next session of the Legislature start addressing this money that is flowing through to the distributors. It's not accounted for. It doesn't go back in many cases to the people who paid the deposit. The store owner isn't getting it. The store owner is still under the burden of handling all those bottles. Store owner, redemption centers, or whoever. So I think that we better keep things in perspective.

If the good Senator from Aroostook, Senator McBreairty, wants to talk about how much we're charging for a handling charge on a gallon, let's talk about what the increase has been in the area of \$50,000,000 that has flowed through to the distributor since this bill was Enacted in 1976.

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

Senator COLLINS: Mr. President, I would urge the Senate to vote in favor of the Motion to Recede. If that prevails I would then move that we Concur with the House.

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

Senator MINKOWSKY: Mr. President and Members of the Senate: I certainly appreciated this past week-end having the opportunity to hear from more small store owners. I guess I learned a little more about my own Senatorial District that we do have a redemption center in it, in the Town of Richmond.

I made a few inquiries regarding the redemption center. To my amazement I found out really it was a family operation that really served not only that area of Sagadahoc County but also reaching into Androscoggin County into the town of Lisbon Falls. The only reason they were able to survive at the 1¢ rate was because they were a family operation. The lady told me if she had to rely upon paying the minimum wage that they would have folded up like many other redemption centers.

This analogy further goes on to the small grocery store which over 20 years ago I had a family operation. At that time we were not faced with the minimum wage of high school boys to work in that store. Today many of these small stores are faced with it, which means an added cost to them.

Another interesting fact came to light that just in recent times some of the larger distributors have increased their case load or case to the retail store by as much as 14¢ per case. I happen to be thinking here's some people on the other end of the spectrum, the redemption centers and the small family store that is acting as a messy conduit to pick up all this trash. I think it gave me some insight that we should be giving them some consideration regardless of how eloquently raising that penny that was done earlier to show exactly how much more it's going to cost the consumer. One way or the other no matter how we try to analyze or break this particular issue down that consumer is going to pay that additional cost. The only answer the consumer has in this particular case is to stop buying that particular beverage.

I would hope Mr. President and Members of the Senate that this body does Recede and go along with the other body, in helping and assisting that small retail store in which to have at least part of his cost of doing business.

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

Senator O'LEARY: Mr. President, it was very interesting this morning to have a call from a constituent of mine who runs a very small store. He told me that in his cellar he had stored and waiting for the trucks to come in and pick them up an inventory of \$800 worth of bottles. Now this ¼¢ that I'm proposing right

here is a 25% increase which means that he would have \$1,000 worth.

The 2 centers that were at my home yesterday and the day before, collection centers said that a ¼ of a cent even would be a marked improvement and they could live with it. That is a 25% increase.

Now there's another amendment to come along to follow this one. I hope you will vote to Recede and attach mine, then attach the following amendment.

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

Senator TROTZKY: Mr. President and Members of the Senate: I concur with what was said by Senator Minkowsky that the consumer pays in the end. But the issue that I see here today is that because of inflation we're going to go from 1¢ to 2¢. 2 years down the line or 3 years down the line, we're going to have another bill in here to go from 2¢ to 3¢, and on and on and on.

We deal with a minimum wage increase every year and I'm not so sure, maybe we should try to limit some of the Legislation that comes in here, but this is just the beginning. As time goes by and inflation it's going to go on and on. Now I'm used to phone calls. I've had quite a few phone calls. I think it's about time the Senate said No to some of these special interest groups even though there are a lot of votes out there. This, to me, is not good Legislation.

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

Senator REDMOND: I'm going to vote to Recede. I noticed the good Senator from Penobscot, Senator Trotzky, mentioned that because of inflation they are asking an increase of a penny. It is not because of inflation that they are asking an increase of a penny, it's because they have been dictated. The law dictates to them that they must process these bottles for a penny apiece.

Inasmuch as I support our free enterprise system, free enterprise and competitive businesses and in order to make it competitive, I feel that there should be enough there if they're going to tell them what they are going to charge, we have to tell them to charge enough to give a chance for the competitor if he wants to get more business he can always offer more services. I think it's only fair. But to dictate to them that all they can charge is a penny, that's not free competition.

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

Senator CHAPMAN: Mr. President and Members of the Senate: The store has a full ability to charge whatever it wants to cover its overhead. It handles these bottles and cases when they come in, the fee is when they go back out. The free enterprise systems of charging and having it charged within the competitive environment has worked, worked well, and will continue to work.

Two wrongs don't make a right. It was wrong to have established this in the first place. That's my inclination. It doesn't mean that it makes it right if we increase it to 2¢ now. The consumer pays in the end, as the Senator from Penobscot, Senator Trotzky, just said, is he pays, and is going to pay plenty. This is a hefty tax in the order of \$5,000,000.

We were of a mind to dispense with this issue last Friday, and at one point in time I thought we were going to be able to do that. It was my understanding that this bill did return to us but was called back, so that you would have a week-end's worth of attention to this issue.

The float that we have discussed that resides with the distributors is an issue to be discussed and handled another time. The committee had grave concern about that but was unable to come up with something that they wished to present to this Legislature. It's a difficult issue and the more one gets into it, they'll find that out. That is another issue and should not be confused with this one on handling fees.

Redemption Centers would like the increase of an extra penny, but will stores be as anxious to send more business to Redemption Centers if they feel that they are able to get 2¢ instead of 1. Or will they want the mandated 2¢ themselves? I still say that Redemption Centers are best served where they are supported on a contractual basis by the stores in that region of the Redemption Center.

A store can set its own price at any amount that it needs and doesn't need a handling fee to do it. The distributor who gives the handling fee to the store owner when he returns the bottles, is passing that handling fee right back to the store and cost of the product in the first place. I would hope that the Senate will not Recede and will eventually Adhere.

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

Senator CONLEY: Mr. President, I wish to pose a Parliamentary Inquiry through the Chair. It's my understanding we presently have the motion to Recede before us. I take note that the other body has moved to Adhere. I've heard the good gentleman from Oxford, Senator O'Leary, mention the fact of offering an amendment. Isn't it a fact that the only question that we can entertain before this body is to Recede and Concur.

The PRESIDENT: The Chair would advise the Senator that only 3 motions are available to the Senate, to Recede, Concur and Adhere, and that this bill in its present posture is not amendable.

The Chair recognizes the Senator from Kennebec, Senator Katz.

Senator KATZ: Mr. President, let me rephrase the question. If a situation like this were to arrive in the Senate from the other body, and the Senate had Adhered, would it accept any further business from the other body?

The PRESIDENT: The Chair would answer in the affirmative, the Chair would not accept any further. Once the Senate has Adhered, the Senate has Adhered.

Senator KATZ: Thank you, sir.

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

Senator KATZ: Mr. President, on that basis, I just don't understand the jeopardy that anybody who wishes to talk about this any further. I think that we are in a certain jeopardy. If you wish to continue talking about it, I would suspect the appropriate motion would be to Recede and Concur, because according to the Senate's interpretation of this Legislation the bill is going to be presently dead, unless we agree with the House.

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

Senator O'LEARY: I'm not sure that I'm quite up to what I should be doing. If the Senate was to vote to Recede and Concur, would the bill be in front of us so that we could back it up by Receding?

The PRESIDENT: The Chair would answer in the negative, the vote to Recede and Concur means that the Senate would then be going along with the House position, which means that the bill was Passed to be Engrossed.

The Senator has the floor.

Senator O'LEARY: Mr. President and Members of the Senate: I'm sorry that I had this amendment prepared before I had seen the Supplemental. I should have read it more carefully.

Mr. President and Members of the Senate: I withdraw my motion to Recede and now make the motion to Adhere.

The PRESIDENT: The Senator from Oxford, Senator O'Leary, requests Leave of the Senate to withdraw his motion to Recede.

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

It is a vote.

The Chair recognizes the Senator from Knox, Senator Collins.

Senator COLLINS: I move that the Senate

Recede and Concur.

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

The Chair recognizes the Senator from Cumberland, Senator Conley.

Senator CONLEY: Mr. President, this means now that if you are in favor of a \$5,000,000 tax. If you vote Yes, and if you're opposed you vote No.

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

Senator PERKINS: Mr. President, Ladies and Gentlemen of the Senate: The good Senator from Cumberland has a way with words. I'm not sure that all of us would agree with his way with words. He certainly has the ability to place them in the sequence that would go the way he would like us to follow. I reject that lead and would submit to you that if you would go his way you would have the big guys win again. I suggest to you that if you are in favor of the little guys you will vote to Recede and Concur.

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

Senator CONLEY: Mr. President, really I was just quoting words from the Majority Floorleader earlier this morning.

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

Senator TROTZKY: I would suggest to the Senior Senator from Cumberland, that the consumer is going to get it in the end anyway, because if this bill fails probably the small store owners will raise the price of a bottle of soda and the public will be paying anyway. But that's the appropriate way and I would hope the Senate would vote against the motion to Recede and Concur.

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

Senator O'LEARY: I'm afraid Mr. President, the pending motion is to Recede and Concur. I haven't heard anyone yet ask for a Division, and I would sir.

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

Senator PERKINS: I would ask for the Yeas and Nays.

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

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

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

The Chair recognizes the Senator from York, Senator Farley.

Senator FARLEY: Mr. President and Members of the Senate: It is amazing to me what we've come to hear in the last 5 years. It started off with a little litter control bill to clean up the litter. You've just heard what it cost the Maine consumer already. Now here we are. If not a \$5,000,000 tax at least a \$5,000,000 subsidy. I don't know how you can make a distinction either.

Many of you got telephone calls over the week-end from your little grocery store. Obviously they are aware of this piece of Legislation, thanks to some of the people to my rear. How many calls would you have got if your constituents would have known about it, the people who are going to pay the tab? You delay this bill until next when we come back, and you're going to pay you're vote on telephone calls. We'd win 33 to zip in this room here.

Now we've lost millions of dollars on this bill. I'll repeat that I've never, never supported the Bottle Bill, in any shape, form, or manner. We've lost millions of dollars in revenue to the State of New Hampshire already. All you're going to do is send them more people.

Presently a 6 pack of beer in New Hampshire is \$1.79. In Maine \$3.01. Now I know that the

people back home are pretty smart when it comes to figuring. If they're still doing business in Southern Maine or anywhere on the New Hampshire border now you're certainly going to drive them across the border and when we come back next year, we find another hundred to \$150,000 short revenues from the income from the Bureau of Alcoholic Beverages, you'll be voting on some piece of Legislation to raise additional revenue or cutting some program.

To ask people, your constituents to vote for \$5,000,000 more to subsidize, subsidize the redemption center because that's what the thrust of the piece of Legislation as introduced. The fact that they may not get now that you have made a little handsome reward to the small grocery store. What's the redemption center going to do then? Come back with a bill mandating the penny go to him? Where's it going to stop?

I suggest it would be smart on all of our parts to defeat the pending motion of Recede and Concur, and someone make the right motion to Adhere, and do something for the consumer in the State of Maine, not just a few people who knew about the piece of legislation and got on the telephone over the week-end.

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

Senator DANTON: Mr. President, I think my seatmate did an extremely good job in bringing the case to those of us who never supported the Bottle Bill 5 years ago, because we knew then that we would be here today asking for more money. It amazes me that the good Senator, Senator Perkins, from Hancock talks about the big guy and the little guys. As I remember it 5 years ago the big guys never wanted the Bottle Bill. It was guys like the good Senator from Hancock, Senator Perkins, who couldn't vote for it fast enough, to take and make the people pay more money for their beverages.

Today the good Senator wants to charge the people of Maine \$5,000,000 more. Now where were the big guys and the little guys. I got 2 phone calls over the week-end. I know the lobbyists think I got more than that but I got 2. One was from Irene Corey, I'll mention exactly who called me. She runs the Farm Store. She wanted me to support the bill. After I got through talking to Irene, she agreed with me. The second phone call was from Dick Potvin. He runs Potvins' Market on Saco Avenue in Old Orchard Beach. He agreed with my position. He doesn't want the consumers to pay any more money. He agrees with the Senators position on the Committee. Let the marketplace make its own way.

Now I have all the sympathy in the world for the Mom and Pop stores. I did 5 years ago, because I never voted for the bill, I knew what they would go through. I can remember the old days and I'm sure the good Senator from Hancock, Senator Perkins can remember them if I can, because he's got a little snow on the roof, too. So I think today if we don't want the people to pay more money. I know how I'm voting. I'm not going to vote for them to pay \$5,000,000 in taxes, but if you people want to pass this bill, then you vote for it.

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

Senator PERKINS: Mr. President, and Ladies and Gentlemen of the Senate: The good Senator Danton has referred to a little color or change in the top of my head. Also the change there has been the memory that I recall the same song and dance was given 5 years ago, was given this past fall on the referendum. Don't do it. They're going to charge you more. Don't do it. The same distributors don't seem to want to care about what the good Senator from Cumberland refers to as floats. They aren't willing to absorb any of that, only pass it through.

I maintain to you that they don't have to pass this through. 500,000,000 of these containers

will yield \$5,000,000 in floats to the distributor. These same people who have given this same song and dance at each turn of this returnable situation. It was the same cast of players and the same situation here we go again. Senator Danton, let's see!

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

Senator FARLEY: Mr. President and Members of the Senate: A few days ago in this Senate, the bill was debated with reference made to the cans that are not returned at the penny and the millions of dollars that are floating around here. What's it going to be like at 2¢? Do you think 2¢ is going to make the guy bring the can back?

The PRESIDENT: Is the Senate ready for the question?

The pending question before the Senate is the Motion by Senator Collins of Knox, 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 Chair recognizes the Senator from Kennebec, Senator Pierce.

Senator PIERCE: Mr. President, I would ask leave of the Senate to pair my vote with Senator from York, Senator Lovell, who if he were here he would vote No and I would vote Yes.

The PRESIDENT: The Senator from Kennebec, Senator Pierce, requests leave of the Senate to pair his vote with the Senator from York, Senator Lovell, who if he were here would be voting Nay and the Senator from Kennebec, Senator Pierce, would be voting Yea.

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

It is a vote.

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

ROLL CALL

YEA — Ault, Carpenter, Collins, Devoe, Emerson, Gill, Minkowsky, Najarian, Perkins, Pray, Redmond, Shute, Silverman, Sutton, Teague, Usher.

NAY — Chapman, Clark, Conley, Cote, Danton, Farley, Hichens, Huber, Katz, McBreairty, O'Leary, Trafton, Trotzky.

ABSENT — Martin.

16 Senators having voted in the affirmative, and 13 Senators in the negative, with 1 Senator being absent, and 2 Senators pairing their votes, the Motion to Recede and Concur does prevail.

The Chair recognizes the Senator from Kennebec, Senator Ault.

Senator AULT: I move Reconsideration and urge you to vote against me.

The PRESIDENT: The Senator from Kennebec, Senator Ault, now moves the Senate reconsider its action whereby it voted to Recede and Concur.

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

Will all those Senators opposed, please say No.

A Viva Voce Vote being had.

The Motion to Reconsider does not prevail.

Non-concurrent Matter

Bill, "An Act to Clarify the Inland Fisheries and Wildlife Laws of Maine." (H. P. 1879) (L. D. 1962).

In the Senate, March 21, 1980, Passed to be Engrossed as amended by Committee Amendment "A" (H-919) as amended by House Amendments "A" (H-925) and "B" (H-956) thereto, in concurrence.

Comes from the House, Passed to be Engrossed as amended by Committee Amendment "A" as amended by House Amendments "A" and "B" thereto and House Amendment "A" (H-930), in non-concurrence.

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

Senator REDMOND: I move we Recede and

Concur with the House.

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

Is this the pleasure of the Senate?

The Motion Prevailed.

Enactors

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

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

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)

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

An Act to Increase the License Fee under the Maine Coastal Protection Fund. (H. P. 1618) (L. D. 1728)

An Act to Enable the State to Protect the People of Maine and its Natural Environment from Damages Resulting from the Discharge of Hazardous Matter. (H. P. 1780) (L. D. 1902)

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

An Act to Make Additional Revisions to Salaries of Certain County Officers. (H. P. 2002) (L. D. 2023)

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

Emergency

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

Emergency

An Act to Provide for Renegotiation of the Cost-sharing Formulas for School Districts. (H. P. 1817) (L. D. 1945)

Emergency

An Act Creating the Rangeley Water District. (S. P. 722) (L. D. 1874)

These being emergency measures and having received the affirmative votes of 23 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 Amend the Laws Relating to Ambulance Service. (H. P. 1869) (L. D. 1959)

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

Senator HICHENS: Mr. President, and Members of the Senate, I think it was about 4 terms ago we began to have problems with the voluntary ambulance services throughout the State and Bills were put in to put these ambulance services under the regulations of the Human Services Department.

We had several hearings while I was Chairman of the Health and Institutional Services Committee come up with some ideas and a law which we thought was going to help these voluntary ambulance groups. The next session they were back again having all sorts of problems and we again passed a law which we thought was going to solve the problem.

Every year we have had the same problems come up again and again. This last year there was a Study Committee set up to have hearings around the State and come up with some good ideas. It was presented to us at a hearing and the proposal that was brought out was severely opposed by a great many people throughout the State. It was reworked again and a compromise brought out which was supposed to handle the problems.

I contacted the volunteer ambulance groups in my own area after they had expressed their disapproval with the original bill and then the operations began around through the Senate here with 3 Members of the Human Services Department over here lobbying for 2 or 3 days which bothers me very much when I see them over here, and so concerned with getting a bill through I wonder who it's going to protect. Whether it's going to protect the constituency or whether it's going to protect their jobs in the Human Services Department.

I realize today that I am not going to have the support probably to Indefinitely Postpone this bill. I will not make the motion but I want to go on Record as opposing the bill.

This being an emergency measure and having received the affirmative votes of 22 Members of the Senate, with 2 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.

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

Order

An Expression of Legislative Sentiment recognizing:

The 1979-80 Brunswick High School math team, coached by Coach H. Millary, winners of their 10th consecutive Pi-Cone math league championship, capturing all top awards. (S. P. 812). is presented by Senator Clark of Cumberland, (Cosponsors: Representatives Bachrach of Brunswick and Martin of Brunswick)

Which was Read and Passed.

Sent down for concurrence.

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

Communication

Local and County Government

March 21, 1980

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

Dear President Sewall:

The Committee on Local and County Government is pleased to report that it has completed all business placed before it by the second regular session of the 109th Maine Legislature.

Total Number of Bills	8
Unanimous Reports	7
Ought to Pass	1
Ought to Pass as Amended	4
Ought Not to Pass	0
Leave to Withdraw	2
Divided Reports	1

Respectfully yours,
JEROME EMERSON
Senate Chairman

Which was Read and Ordered Placed on File.

Enactors

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

An Act to Eliminate the "Pay-in" Inequity within School Administrative Districts and Community School Districts. (H. P. 1992) (L. D. 2022)

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

Bond Issue

An Act to Authorize a Bond Issue in the Amount of \$4,000,000 for Court Facilities Improvements. (H. P. 1916) (L. D. 1985)

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

Out of Order and Under Suspension of the

Rules, the Senate voted to consider the following:

**Committee Report
House
Ought to Pass**

The Committee on Local and County Government on, RESOLVE, for Laying of the County Taxes and Authorizing Expenditures of Cumberland County for the Year 1980 (Emergency) (H. P. 2022) (L. D. 2031)

Reports that the same Ought to Pass pursuant to Joint Order (H. P. 1676).

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

Which Report was Read and Accepted, in concurrence.

Under Suspension of the Rules, the Resolve, Read Twice and Passed to be Engrossed, in concurrence.

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

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

Bill, "An Act to Establish a Single Maine Estate Tax Based Upon a Percentage of the Federal Gross Estate." (H. P. 1769) (L. D. 1899)

In the House, March 20, 1980, Passed to be Engrossed as amended by Committee Amendment "A" (H-954).

In the Senate, March 24, 1980, Passed to be Engrossed as amended by Committee Amendment "A" as amended by Senate Amendment "A" (S-502) thereto, in non-concurrence.

Comes from the House, that Body Having Adhered.

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

Senator TEAGUE: I move we Recede and Concur.

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

The Chair recognizes the Senator from Sagadahoc, Senator Chapman.

Senator CHAPMAN: Mr. President and Members of the Senate: I would urge the Senate to vote against the motion to Recede and Concur.

This is a new tax on life insurance. No matter how you look at it life insurance is not taxes now, it will be taxed in the posture if we Recede and Concur.

There are some other problems with the bill too. It was hastily worked on in the last days of this session, but more specifically I feel that because it establishes a tax on life insurance proceeds, the issue should be set aside for another day to take a look at it, more careful analysis, under less pressure than we obviously have right now.

In an effort to attempt to achieve something good here the committee agreed to an 8 year phase-in on this bill. I suggest that that 8 year phase-in is pretty risky. That the chances of this bill faltering before achieving its desired goal at the end of the 8 years is great. In the meantime we are taxing life insurance on the front end and should this measure befall any problems along the way, life insurance remains to be taxed.

It seems that we are addressing taxes under all kinds of clothing this issue, but a tax is a tax is a tax, ladies and gentlemen.

The Governor would like this bill, I'm sure very much since it raises a one time additional revenue of \$2.5 million. Are we now going to pass this measure, tax widows, and widowers and named beneficiaries, in order to accept this bill with its faults and its uncertainties just to see that we have this extra money. I suggest that we hold back, that we do it right in a more timely manner at another time.

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: I would remind the Members of this body that the main thrust of this measure when it was reported out of the Joint Standing Committee on Taxation was to stop the major mass exodus of those people who can afford or have the ability to move or change their residencies from the State of Maine to other states, mainly Florida.

Many people don't have that choice, because some Maine citizens have the ability to move, Florida mainly, benefits. L. D. 1899 with a Committee Amendment under Filing Number H-954 represents a major effort and perhaps the single effort of the 109th Maine Legislature in the area of tax reform. It's been too long coming.

We are trying to stop the out-migration of Maine citizens, for well to do individuals also, the state will gain much, much more in income tax revenue than it may lose in a State tax reduction. If Maine residents continue the mass exodus to Florida, Maine has not only lost death taxes, but has lost their income taxes.

It's unfortunate or at least I believe it's unfortunate that the unanimous Ought to Pass Report from the Joint Standing Committee on Taxation is now not unanimously supported. I would submit that yes, that committee was under some pressure. Aren't all committees as the Legislative Days decrease to report this bill out of committee, but it wasn't done in a frivolous fashion. It was a massive effort, not only on behalf of the members of the committee but on the members of the private sector who are involved particularly and personally in the area of estate and death taxes and Legislative Staff.

The bill has a number of pluses, or assets. The bill would continue to align itself with what we call the 'Florida Plan'. It would adopt the Federal evaluation for Maine's Estate Tax.

For farmland of particular concern, for Members of this Chamber, who represent the more rural areas than do I, farmland is valued at current use rather than at highest and best use. This would help to keep farms in families and to preserve open space.

For small businesses in the State there is a special break for spouses who have participated in building up that business. That is it excludes some parts of the value of business from the Estate.

I would remind you that the compromise which was effected to address the concerns of Maine's Insurance Industry provides for \$50,000 exclusion in the Committee Amendment. As I mentioned to you in the waning days of last week's session, there is also on top of that 50% for spouse survival, if we have for example a \$50,000 homestead and \$100,000 worth of insurance, there will be no tax paid. That is because there is a \$30,000 exemption, \$50,000 insurance exemption and the marital deduction which is one-half of the estate of \$70,000 whichever is greater.

Obviously my presence in debate on the floor today has not been terribly successful, but I would urge that we support the pending motion which is Recede and Concur.

The PRESIDENT: The Chair will order a Division.

Will all those Senators in favor of the Motion to Recede and Concur, please rise in their places to be counted.

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

The Chair recognizes the Senator from Sagadahoc, Senator Chapman.

Senator CHAPMAN: I request a Roll Call.

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

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

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

The Chair recognizes the Senator from Sagadahoc, Senator Chapman.

Senator CHAPMAN: Briefly, one final remark, the Senator from Cumberland, Senator Clark, indicated this bill came out of the Committee Unanimous Ought to Pass, that is true, reluctantly supported on my part so that I could attempt to amend what I hoped would be a good measure.

The Committee did not address early on the issue of the life insurance only until the last hours. They attempted to address it. I felt it was critically important that this issue be attempted to be adopted. I think this measure, should we adopt it, will impact heavily on the middle income person, the middle aged person perhaps too, who has been prudent about addressing the future, is going to find that in the first years at least is going to pay a higher price.

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

Senator CLARK: Thank you, Mr. President, Mr. President and Members of the Senate: I must respond to my good friend's remarks, the Senator from Sagadahoc, Senator Chapman. If there is one segment of Maine society in which this measure will not impact negatively it is those who find themselves in middle income. I neglected to remind you or to draw your attention to the fact that in the Committee Amendment under Filing Number H-945, the proposed Estate Tax has an exemption increasing from \$30,000 in the first year to \$340,000 in 1987 and thereafter.

Again the effect of the marital deduction and the State exemption plus the \$50,000 worth of insurance exemption would be, that little insurance if any, would actually be taxed ever.

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

Senator CHAPMAN: Mr. President, another final comment, I'm sorry on my part in response to these from the Senator from Cumberland, Senator Clark. In 1987 perhaps what she says will be true, but I submit to you that if you don't live that long then the otherwise would be true.

I've tried to point this out before, this is an 8 year phase-in. At the end of 8 years fine, but until we reach that point in time I feel that life insurance as it is now should be excluded. When we reach that point if we do and I hope we do, then let life insurance become part of the estate as would be the plan.

The PRESIDENT: Is the Senate ready for the question?

The pending question before the Senate is the Motion by the Senator from Somerset, Senator Teague that the Senate Recede and Concur with the House.

A Yes vote will be in favor of the Motion to Recede and Concur with the House.

A No vote will be opposed.

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEA — Carpenter, Clark, Collins, Conley, Devoe, Huber, Minkowsky, Najarian, O'Leary, Pray, Teague, Trafton, Usher.

NAY — Ault, Chapman, Emerson, Farley, Gill, Hichens, Katz, McBreaity, Perkins, Pierce, Redmond, Shute, Silverman, Sutton, Trotzky.

ABSENT — Cote, Danton, Lovell, Martin.

13 Senators having voted in the affirmative, and 15 Senators in the negative, with 4 Senators being absent, the Motion to Recede and Concur does not prevail.

The Chair recognizes the Senator from Sagadahoc, Senator Chapman.

Senator CHAPMAN: I move the Senate Adhere.

The PRESIDENT: The Senator from Sagadahoc, Senator Chapman, moves that the Senate Adhere.

The Chair recognizes the Senator from Cumberland, Senator Clark.

Senator CLARK: Mr. President, I would request a Roll Call on the Motion to Adhere.

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 Chapman of Sagadahoc, that the Senate Adhere.

A Yes vote will be in favor of the Motion to Adhere.

A No vote will be opposed.

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEA — Ault, Chapman, Farley, Gill, Hichens, Katz, McBreairty, Perkins, Pierce, Redmond, Shute, Sutton, Trotzky.

NAY — Carpenter, Clark, Collins, Conley, Devoe, Emerson, Huber, Minkowsky, Najarian, O'Leary, Pray, Silverman, Teague, Traf-ton, Usher.

ABSENT — Cote, Danton, Lovell, Martin.

Senator Emerson of Penobscot, was granted permission to change his vote from Nay to Yea.

14 Senators having voted in the affirmative, and 14 Senators in the negative, with 4 Senators being absent, the Motion to Adhere does not prevail.

On Motion by Senator Conley of Cumberland, Tabled for 1 Legislative Day, pending Consideration.

Papers from the House

Non-concurrent Matter

Bill, "An Act Appropriating Funds to Allow Maine State Retirement Members a Cost-of-Living Increase." (S. P. 677) (L. D. 1784)

In the Senate, March 22, 1980, Passed to be Engrossed as amended by Committee Amendment "A" (S-508).

Comes from the House, Passed to be Engrossed as amended by Committee Amendment "A" as amended by House Amendment "A" (H-970) thereto, in non-concurrence.

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

Non-concurrent Matter

Bill, "An Act to Improve Governmental Remedies for Violations of the Antitrust Laws." (H. P. 1975) (L. D. 2014)

In the Senate, March 24, 1980, Passed to be Engrossed as amended by Senate Amendments "A" (S-490) and "B" (S-500)

Comes from the House, Passed to be Engrossed as amended by Senate Amendment "A", in non-concurrence.

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

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

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

The Chair recognizes the Senator from Kennebec, Senator Katz.

Senator KATZ: Mr. President, the Senate has debated this twice. We have taken a position. I would request a Division, and ask that you vote against the motion to Recede and Concur.

The PRESIDENT: A Division has been requested.

The Chair recognizes the Senator from Sagadahoc, Senator Chapman.

Senator CHAPMAN: Mr. President and Members of the Senate: I would urge that the Senate support the motion to Recede and

Concur. We did debate this earlier so I won't get into it again, only just to point out that the bill covers a very involved subject and with this amendment is very open, frankly would cause its demise, I feel. I think there are some merits I would urge the Senate to support the motion to Recede and Concur.

The PRESIDENT: Will all those Senators in favor of the motion to Recede and Concur, 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 15 Senators in the negative, the Motion to Recede and Concur does not prevail.

Is it now the pleasure of the Senate to Adhere?

The Motion Prevailed.

The Chair recognizes the Senator from Kennebec, Senator Katz.

Senator KATZ: I move Reconsideration of the motion to Adhere.

The PRESIDENT: The Senator from Kennebec, Senator Katz, now moves that the Senate Reconsider its action whereby it voted to Adhere to L. D. 2014.

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

Will all those Senators opposed, please say No.

A Viva Voce Vote being had.

The Motion to Reconsider does not prevail.

Sent down for concurrence.

Enactors

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

Emergency

RESOLVE, for Laying of the County Taxes and Authorizing Expenditures of Androscoggin County for the Year 1980. (H. P. 2021) (L. D. 2030)

Emergency

RESOLVE, for Laying of the County Taxes and Authorizing Expenditures of Somerset County for the Year 1980. (H. P. 2018) (L. D. 2027)

Emergency

RESOLVE, for Laying of the County Taxes and Authorizing Expenditures of Aroostook County for the Year 1980. (H. P. 2019) (L. D. 2028)

Emergency

RESOLVE, for Laying of the County Taxes and Authorizing Expenditures of Washington County for the Year 1980. (H. P. 2020) (L. D. 2029)

These being emergency measures and having received the affirmative votes of 27 Members of the Senate with No Senators voting in the negative, were Finally Passed and having been signed by the President, were by the Secretary presented to the Governor for his approval.

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

Committee Reports

House

Ought to Pass

The Committee on Local and County Government on, RESOLVE, for Laying of the County Taxes and Authorizing Expenditures of York County for the Year 1980. (Emergency) (H. P. 2023) (L. D. 2032)

Reports that the same Ought to Pass pursuant to Joint Order (H. P. 1676).

Comes from the House, the Resolve Passed to be Engrossed, as amended by House Amendment "A" (H-971)

Which Report was Read and Accepted, in concurrence, and the Resolve Read Once. House Amendment "A" Read and Adopted, in concurrence.

Under Suspension of the Rules, the Resolve, as amended, given its Second Reading, and Passed to be Engrossed, in concurrence.

Sent forthwith to the Engrossing Department.

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

Communication Senate Chamber President's Office

March 24, 1980

Honorable Howard M. Trotzky
Honorable Laurence E. Connolly
Chairmen, Joint Standing
Committee on Education
State House
Augusta, Maine

Please be advised that Governor Joseph E. Brennan is nominating Paul M. Stebbins of Biddeford for appointment to the Board of Trustees of the Maine Maritime Academy.

Pursuant to 1941 P & SL Chapter 37, this nomination will require review by the Joint Standing Committee on Education and confirmation by the Senate.

Sincerely,
S/JOSEPH SEWALL
President of the Senate
S/JOHN L. MARTIN
Speaker of the House
(S. P. 813)

Which was Read and Referred to the Committee on Education.

Sent down for concurrence.

Senate At Ease

The Senate called to order by the President.

Orders of the Day

The Chair laid before the Senate: Bill, "An Act to Amend Allocations from the Highway Fund for the Fiscal Years from July 1, 1979 to June 30, 1980 and from July 1, 1980 to June 30, 1981, Decrease the State Aid Bonus from 40% to 20%, and Revise Drivers' License and Examination Fees." (H. P. 1723) (L. D. 1827)

Tabled—Earlier in the Day by Senator Emerson of Penobscot.

Pending—Consideration.

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

Senator KATZ: Mr. President for those of you who are perplexed at the lack of movement on the Highway Budget I would suggest that several days ago, there was every reason to believe that we would have no Highway Bill.

I think that thanks to the good work of the Chairman of the Committee, Senator Emerson and others there is a chance that we will have an acceptable amendment before us in the morning. On that basis I would hope that somebody would table it for 1 day.

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

The Chair laid before the Senate:

Bill, "An Act to Empower the Board of Trustees of the Maine Veterans Home to Borrow Funds and to Issue Bonds, Notes and Other Evidences of Indebtedness." (Emergency) (H. P. 1781) (L. D. 1892)

Tabled—Earlier in the Day by Senator Conley of Cumberland.

Pending—Passage to be Engrossed.

On Motion by Senator Najarian, the Senate voted to reconsider its action whereby it Adopted Committee Amendment "A".

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

Senator NAJARIAN: I present Senate Amendment "B" to Committee Amendment "A" under filing number S-516.

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

Senate Amendment "B" (S-516) to Committee Amendment "A" Read.

The PRESIDENT: The Senator has the floor.

Senator NAJARIAN: Mr. President and Members of the Senate: Several Senators who were interested in this bill and its costs got together during the lunch break and have worked out a compromise.

There are 2 language changes, in Senate Amendment "B" that differ from Senate Amendment "A" which we debated this morning.

I'll speak briefly to both of those and then to one part of the bill, that the Committee Amendment does the same in both amendments.

The original Committee Amendment said: the home could borrow funds not in excess of \$1,000,000 for any purpose related to the home. I have amendment that to say: for the operation and maintenance of the home, and the new language agreed upon says; they may borrow funds which for prudent and reasonable capital operation and maintenance purposes. That was the first change.

The second change, is a very significant change and I want to point it out to you. It says: the Department of Human Services, shall not modify its principles of reimbursement for long-term care facilities to specifically exclude reimbursement for the depreciation of the assets created with Federal or State grants.

I think that this is a very undesirable precedent that we are setting, because we are putting into the first time, into the statutes for the first time, what is reimbursable and what is not.

I can see coming down the road, that we might have for example the long-term Health Care Association coming up here and trying to get things covered by reimbursement that the Department of Human Services doesn't think is a desirable expense and it should not be paid for in the Medicaid Program.

By inserting this amendment it will cost about \$85,000 to \$90,000 per year, by allowing them to depreciate the assets purchased with their Federal and State grant money.

I just say I can make this exception because this is a unique project in that it has been ratified by the voters. As a continuing thing I would think that it would be very bad for this legislature to even accept bills, which deal with reimbursement principles. It is a one time exception and should not be intended to establish a precedent.

The second comment I wish to make is in the language that the employees shall not be deemed employees of the State. It is my intention that not only that they shall not be deemed employees of the State that they shall not be employees of the State. That was the word that was in the original committee amendment and that I just overlooked in the redrafting of it.

Thirdly, we of both parties, the veterans and those Senators that were in on the discussion have agreed that we will remove the language in the Committee Amendment which says, The Maine Veterans Home is a Public Body Cooperative and an Instrumentality of the State, I want to read into the Legislative Record, our intent in this instance.

The deletion in this amendment is not intended in anyway to jeopardize the status of the Maine State Veterans Home, as a State entity for the purposes of receiving any Veterans Administration Grants, or operational subsidies.

The reasons that we deleted the phrase "Instrumentality of the State" was because neither side was sure of other ramifications of the use of this phrase. Thank you very much, I hope that you will adopt this amendment.

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

Senator KATZ: Mr. President I want to compliment the Senator from Cumberland, Senator Najarian, for being tenacious and at the same time flexible.

If you recall our debate this morning and how divisive it was it would be nice to report to you that it is a fact that the veterans groups have been reassured that they have accepted the

wording on this bill, and they have done it in good graces and I hope with a clear conscience. On that basis we all could support it.

I just want to restate the concern of the Senator from Cumberland, is one word in here that says that these employees, shall not be deemed employees of the State. In the Statement of Fact it says that the purpose of this amendment is to provide that employees of the Veterans Home aren't employees of the State. Upon Enactment of the Bill, the Statement of Fact gets dropped off. I want to make it very clear that it is the intent of all of us who are supporting compromise that this Legislation in fact reflects the Statement of Intent that the employees of the Home are not employees of the State.

If there is any contrary points of view I wish that they would be stated in the Record, now.

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

Senator CONLEY: Mr. President, I would just pose a question to the good Senator from Kennebec, Senator Katz. When he says employees of the State, he is actually saying State Employees?

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

Senator KATZ: The Senator is correct. That was my intention.

Senate Amendment "B" to Committee Amendment "A" Adopted. Committee Amendment "A" as amended, by Senate Amendment "B" 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 Agriculture—Bill, "An Act Relating to Agricultural Development" (H. P. 1719) (L. D. 1830). Majority Report—Ought to Pass as Amended by Committee Amendment "A" (H-843); Minority Report—Ought Not to Pass.

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

Pending—Acceptance of Either Report.

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

Senator KATZ: There has been concern throughout the day that the proposed level of funding is not acceptable to an adequate number of Senators to Enact this bill.

We passed messages back and forth to the Executive Department as yet we have had no indication that they are going to be supportive of anything other than the level of funding that is presently I think \$365,000. On that basis I would like to let this set overnight so that we can see whether we communicate and perhaps some one might table this for 1 day.

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

The PRESIDENT: The Chair recognizes the Senator from Aroostook, Senator McBreairty. Senator McBREAIRTY: Mr. President and Honorable Members of the Senate, I move that we Suspend the Rules.

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

Senator CONLEY: I object.

The PRESIDENT: The Chair will order a Division.

Will all those Senators in favor of the Motion by Senator McBreairty of Aroostook, that the Senate Suspend its Rules, please rise in their places to be counted.

Will all those Senators opposed, please rise in

their places to be counted.

17 Senators having voted in the affirmative and 11 Senators in the negative, the Rules are not suspended.

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

Senator KATZ: Mr. President the pending question is now Enactment and I wonder if the Senator would share with us the reasons why he asked to have the Rules Suspended, because that is presently debatable I would presume.

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

Senator McBREAIRTY: Mr. President and Honorable Members of the Senate. Was the question why?

The PRESIDENT: The Senator from Kennebec, Senator Katz, requested that the Senator from Aroostook, Senator McBreairty explain his reasons why he desired to Suspend the Senate Rules?

Senator McBREAIRTY: Mr. President and Honorable Members of the Senate. This is a bill, that was let in the first of the session, it happens to be as many of you have said before, my only bill.

This bill, has been amended to the point where I can't even vote for it myself. There has been agreement today, at both ends of the hall that if I offer an amendment and send it down that it will be accepted, and that is why I asked for the Suspension of the Rules.

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

Senator CONLEY: Mr. President I wonder if the good Senator would explain exactly what his amendment does to this bill?

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

Senator McBREAIRTY: Mr. President and Honorable Members of the Senate. The intent of the bill when it was let in was to clear up the Site Location Law.

The intent was to take roads from the law. The amendment that we have before us would allow exemption in the organized half of the state from the Site Location Law, if roads were built to meet standards set up by DEP.

The amendment would require in unorganized areas of the State that roads in order to be exempt in the protection districts, LURC Protection District, would have to meet LURC standards to be exempt.

In the management districts, the guidelines of the Maine Land Use Regulation Handbook, section 6, erosion control and logging jobs, or as revised would have to meet this standard or guide to be exempt.

So presently a bill, that comes in to take roads out of the Site Location Law, takes in in some way every road in the State of Maine.

Now the Bill, as it is before us, now or came back from the House, would do practically the same only some roads, in the management district in LURC territory wouldn't even come back to the Energy and Natural Resources Committee, or the Legislature for approval. This is one of the objections that I have to the bill.

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

Senator PRAY: A Parliamentary Inquiry? Would to move Suspension of the Rules, be in order at this time?

The PRESIDENT: The Chair would answer in the affirmative.

Senator PRAY: I would to move to Suspend the Rules.

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

The Chair recognizes the Senator from Cumberland, Senator Conley.

Senator CONLEY: Mr. President I would object.

The PRESIDENT: The Chair will order a Division.

Will all those Senators in favor of Suspending

the Rules, please rise in their places to be counted.

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

17 Senators having voted in the affirmative and 7 Senators in the negative, the Rules are Suspended.

On Motion by Senator McBreairty of Aroostook, the Senate voted to reconsider its action whereby L. D. 1832 was Passed to be Engrossed.

On Motion by Senator McBreairty of Aroostook, the Senate voted to reconsider its action whereby Committee Amendment "A" was adopted.

On Motion by Senator McBreairty of Aroostook, the Senate voted to reconsider its action whereby Senate Amendment "A" to Committee Amendment "A" was Adopted.

On Motion by Senator McBreairty of Aroostook, the Senate voted to Indefinitely Postpone Senate Amendment "A" in non-concurrence.

On Motion by Senator McBreairty of Aroostook, the Senate voted to reconsider its action whereby House Amendment "A" to Committee Amendment "A" was Adopted.

On Motion by Senator McBreairty of Aroostook, the Senate voted to Indefinitely Postpone House Amendment "A" in non-concurrence.

On Motion by Senator McBreairty of Aroostook, the Senate voted to Indefinitely Postpone Committee Amendment "A" in non-concurrence.

Senator McBREAIRTY: I present Senate Amendment "B" and move its adoption.

The PRESIDENT: The Senator from Aroostook, Senator McBreairty, now offers Senate Amendment "B" to L. D. 1832 and moves its adoption.

Senate Amendment "B" (S-514) Read.

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

Senator CONLEY: Mr. President and Members of the Senate: For what appeared to be just a minor amendment to this Bill we certainly went down the long road, and I would like to make sure that we have that exact clarity as to what this amendment does, I would appreciate it if someone would table this bill until tomorrow.

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

Senator McBREAIRTY: Mr. President and Honorable Members of the Senate. When somebody plays games with a bill all winter it takes a while to back it up and correct the problems with it and that is what happened to this bill. This was one of the first bills heard and one of the first bills, that came out of committee and is still here next to the last day.

This bill, as I said before seems to have the approval of both ends of the hall. I would hope that you might send this on its way, so that we could dispose of it one way or another.

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

Senator MINKOWSKY: Mr. President, I move that this be tabled until tomorrow.

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

Senator McBREAIRTY: Mr. President and Honorable Members of the Senate. I ask for a Division.

The PRESIDENT: A Division has been requested.

Will all those Senators in favor of tabling this Bill 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.

9 Senators having voted in the affirmative and 17 Senators in the negative the Motion to Table does not prevail.

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

Senator PRAY: Mr. President and Members of the Senate: I would like to assure the good

Minority Floorleader that this amendment does do what the Senator from Aroostook, Senator McBreairty earlier stated. I think that his concerns of checking it out to be absolutely sure that we are not exempting logging roads in either the unorganized or the organized territories to the point where soil erosion and other past problems of road building is going to be exempt from any guidelines or any regulations.

The amendment is very specific in that, it establishes what guideline will be followed, and I am sure that between now and when it comes back from Engrossment he'll have an opportunity to look at the bill in its entirety.

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

Senator CONLEY: Mr. President for the Record and I think that it should be put in the Record, several years ago the Legislature passed a Site Selection Law, and I as one member of this Legislature don't like to have a commissioner of any department interpreting what the intent of the Legislature was.

At that time, he made a statement that the so-called logging roads were not included or were not intended to be part of this Site Selection Law, the Attorney General's Office of this State said that it was.

The bill that was before us today, being amended in that fashion I am still not sure exactly what the good Senator from Aroostook, Senator McBreairty's amendment does, and I want him to know that I hold no animosity I would like to have had the opportunity of actually going through the amendment particularly when I heard that it was concocted in somebody's kitchen at 7 o'clock this morning, that we all get an opportunity to read the amendment to see exactly what it does.

The fact is that it is on its way, I am sure other eyes will look very very carefully, upon it at the other end.

Senate Amendment "B" Adopted and the Bill as Amended, Passed to be Engrossed.

Sent down for concurrence.

(Off Record Remarks)

The Chair laid before the Senate:

Bill, "An Act to Provide Funds for Residential Energy Conservation." (S. P. 766) (L. D. 1963)

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

Pending—Enactment.

On Motion by Senator Pierce of Kennebec, the Senate voted to Suspend its Rules.

On Motion by Senator Pierce of Kennebec, the Senate voted to reconsider its action whereby L. D. 1963 was Passed to be Engrossed.

On Motion by Senator Pierce of Kennebec, the Senate voted to reconsider its action whereby Senate Amendment "A" was Adopted.

Senator PIERCE: Mr. President, I now present Senate Amendment "B" under filing number S-513 and move its adoption.

The PRESIDENT: The Senator from Kennebec, Senator Pierce now offers Senate Amendment "B" to Senate Amendment "A" and moves its adoption.

Senate Amendment "B" (S-513) to Senate Amendment "A" Read.

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

Senator CONLEY: Mr. President I might interject upon the members of the Senate that this particular amendment was cleared not only through the Minority Floorleader but through the sponsor of this piece of Legislation as well.

Senate Amendment "B" to Senate Amendment "A" Adopted.

Senate Amendment "A" as amended, by Senate Amendment "B" Adopted in non-concurrence. The Bill, as amended, Passed to be Engrossed.

Sent down for concurrence.

The Chair laid before the Senate:

Bill, "An Act to Authorize Bond Issue in the Amount of \$8,000,000 for Improvements to Vocational-technical Institutes and the Maine Maritime Academy." (H. P. 1757) (L. D. 1887)

Tabled—Earlier in the Day by Senator Perkins of Hancock.

Pending—Enactment.

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

The Chair laid before the Senate:

HOUSE REPORTS—from the Committee on State Government—Bill, "An Act to Reorganize the Department of Mental Health and Corrections." (H. P. 1786) (L. D. 1904) Report A—Ought to Pass in New Draft (H. P. 1956) (L. D. 2006); Report B—Ought to Pass as Amended by Committee Amendment "A" (H-901); Report C—Ought Not to Pass.

Tabled—Earlier in today's session, by the Senator from Cumberland Senator Conley.

Pending—The Motion by the Senator from Kennebec, Senator Katz to Reconsider.

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

Senator CONLEY: I move that this be tabled for 1 Legislative Day.

The PRESIDENT: The Senator from Cumberland, Senator Conley moves that the bill be tabled for 1 Legislative Day.

The Chair recognizes the Senator from Kennebec, Senator Katz.

Senator KATZ: I request a Division.

The PRESIDENT: A Division has been requested.

Will all those Senators in favor of the Motion to table, 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 16 Senators in the negative, the Motion to table does not prevail.

Is it now the pleasure of the Senate to Reconsider its action whereby this Bill was Indefinitely Postponed?

The Chair will order a Division.

The Chair recognizes the Senator from Cumberland, Senator Conley.

Senator CONLEY: Mr. President the question has been answered as to who had the retraining program.

The PRESIDENT: Will all those Senators in favor of the motion to Reconsider, 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 16 Senators in the negative, the Motion to Reconsider does not prevail.

Sent down for concurrence.

The Chair laid before the Senate:

Bill, "An Act Appropriating Funds to Allow Maine State Retirement Members a Cost-of-Living Increase." (S. P. 677) (L. D. 1784) tabled earlier in today's session, by Senator Teague of Somerset, pending Consideration.

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

Senator TEAGUE: I move that the Senate Recede and Concur.

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

Is this the pleasure of the Senate?

The Motion Prevailed.

(Senate at Ease)

The Senate called to order by the President.

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

On Motion by Senator Pierce of Kennebec,
adjourned until 9:00 o'clock tomorrow morn-
ing.