

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

April 3, 1980

Senate called to Order by the President.

Prayer by the Honorable Louis Jalbert of Lewiston.

Representative JALBERT: Thank you. On this week, which is the observance week for Passover in the Jewish world, and the observance of Easter week for the Christian world, it reminded me this morning that this body would finally pass on legislation of national significance.

The eyes of the nation are upon you. The President, all candidates for President, the Congress, all those eyes are upon you, on the measure that you are about ready to act on.

On a more personal basis, looking around the Senate I see a great many members that it has been my privilege to serve with, over my nearly 4 decades in office. I never chose to come under this hallowed hall, but I see many, many friends, the widow of one of my dearest friends, who is in the Senate. On my very far left, the senator with whose father I served with, this body and several loyal friends of mine.

This body has been very very good to me over the years. It's my pleasure to stand in the back and look over what's going on, deciding that I'm going to stay where I belong.

I'm most appreciative of this day, the last day of the session to be given the honor to say the prayer. Of course, I would be remiss if I didn't mention the fact that on my right is what I consider a blood brother, whom I love very very dearly.

God bless you in our deliberations today, and God speed on your way home. Amen.

Reading of the Journal of yesterday.

**Paper from the House
House Paper**

RESOLVE, Authorizing an Appropriation of \$285,315 to Provide for Administrative and Other Necessary Operating Expenses Related to Certain Transitional Indian Services for the Period from July 1, 1980 to January 31, 1981. (Emergency) (H. P. 2052) (L. D. 2038)

Reference to the Committee on Appropriations and Financial Affairs is suggested.

Comes from the House, Passed to be Engrossed without Reference to Committee.

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

Senator KATZ: Mr. President, I do not wish to interrupt proceedings. I got up a little too quickly. But as the Senator from Penobscot indicated the other day, when we went home the other night we felt we had \$151,000 in our Treasury, an inadequate amount of money to do anything for cost of living increase for our employees and retirees.

Here is a bill for \$285,000 for expenses relating to certain transitional Indian services. I don't recognize that figure of \$285,000. I do recognize a figure of \$1.9 million that presumably was being held in escrow aside just in case we required it if the Fed's didn't step in.

I am mystified as to first where this figure comes from and second, where we got the money to appropriate it.

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

Senator HUBER: Mr. President and Members of the Senate: This \$285,000 would provide transitional expenditures in the areas still covered by the Department of Indian Affairs. It would provide 6 transitional employees and shortly I will present an amendment which insures that these employees are temporary for a 7 month period only, to cover the transition during the period when the Federal Government presumably is picking up the expenses,

which in 1980, including education, amounted to \$1,728,000.

The other amount in this bill of \$225,000 is primarily in the general area of what would amount to general assistance. The other funds presumably would be picked July 1 by the Federal Government.

If these functions were performed at their past rate the amount would have been \$450,000. This has been paired down according to the administration as closely as possible to the current figure of \$285,000.

The funding I will discuss and not necessarily justify. The Department of Finance and Administration informs us that there has been repayment from the Washington County VTI of a working capital advance which they had not counted in their balance. That's what we are told.

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

Senator KATZ: Mr. President, I wish I had a sense of personal confidence that all this happened within the last couple of days. But I have a sinking feeling it might not have. I cannot do business with people in whom I do not have confidence.

I would like to know when the Department of Finance and Administration found out about that repayment. I would like to know what other financial facts the Department of Finance and Administration is not sharing with this Legislature in good faith.

Those of us in the Senate wanted to give a cost of living increase to our State retirees. I wonder what's going to come up the day after we go home.

I notice that this is not effective until the second year of the biennium. I'm a long way from voting for it today, unless I get a little bit more candor and a little bit more information. I don't like surprises.

Under Suspension of the Rules, the Bill Read twice, without Reference to Committee.

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

Senator HUBER: Mr. President, I now present Senate Amendment "A" to the bill under Filing S-539 and move its adoption.

The PRESIDENT: The Senator from Cumberland, Senator Huber, now offers Senate Amendment "A" to L. D. 2038 and moves its adoption.

Senate Amendment "A" (S-539) Read and Adopted.

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

Senator KATZ: Just to clarify my position I intend to oppose enactment of this bill, until I have some good faith answers to some questions that I think this Senate needs answered. Not only where this money came from, but when it came, what else is in the offing and what might happen the week after we go home to our finances.

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

Senator PRAY: Mr. President, and Members of the Senate: I would stand hopefully on the closing day of this session to agree with the good Majority Floorleader, perhaps the second time in 2 days that I have agreed with him in the entire session.

Last Thursday night we stood here rather late in the evening. I saw a number of good programs go down the chute, because there wasn't any money available. Now we've been gone not quite a week and we come up with some additional revenues over a quarter of a million dollars.

Perhaps an alternative to voting on this today or to ending the session today is that we recess for another week or 2 weeks we might then come up with enough money to fund the retirees. Seemingly every time we turn around there are new figures coming before us, more money and more money.

My priority this session which all of you and I

thank all of you for sitting through it last Thursday night as we ran a series of Roll Calls and votes was the retirement issue. It was something that was close to me. I appreciate the patience that you all have shown, at that time.

I cannot, when it comes up for Enactment, support this proposal here today when the Attorney General and the Representative of the Indian Tribes stood before us yesterday in a caucus and told us that the Federal Government has already recognized the responsibility that it has. If it has already recognized it then I think that the financial obligations should go along with that and it should no longer be State expenditures in relationship to the State's relationship with the tribes. So when it does come up for Enactment I will not be supporting this measure.

The Bill, as amended, Passed to be Engrossed, without Reference to Committee.

Sent down forthwith for concurrence.

Joint Order

WHEREAS, this Legislature has before it Senate Paper No. 827, Legislative Document No. 2037, "AN ACT to Provide for Implementation of the Settlement of Claims by Indians in the State of Maine and to Create the Passamaquoddy Indian Territory and Penobscot Indian Territory," and is presently considering its passage; and

WHEREAS, this bill is the foundation for the future relationship of the State and its citizens and Maine's Indians; and

WHEREAS, this bill is of unusual significance and importance because of the basic principles it establishes and its future ratification by the United States Congress; and

WHEREAS, the significance of this bill warrants preservation of certain documents in an accessible manner to aid in explaining the Legislature's understanding and intent in considering this legislation; now, therefore, be it

ORDERED, the Senate concurring, that the following documents relating to Senate Paper No. 827, Legislative Document No. 2037, "AN ACT to Provide for Implementation of the Settlement of Claims by Indians in the State of Maine and to Create the Passamaquoddy Indian Territory and Penobscot Indian Territory" be placed in the Legislative Files:

1. The report of the Joint Select Committee on Indian Land Claims; and

2. The transcript of the hearing of the Joint Select Committee on Indian Land Claims, including the statement of the Honorable James B. Longley and the memorandum to the committee from Maine Attorney General Richard S. Cohen, dated March 28, 1980; and be it further

ORDERED, that each of the documents specified in this Order be prepared and printed in the Legislative Record under the direction of the Director of Legislative Research. (H. P. 2055)

Comes from the House, Read and Passed.
Which was Read and Passed, in concurrence.

Enactor

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

AN ACT to Provide for Implementation of the Settlement of Claims by Indians in the State of Maine and to Create the Passamaquoddy Indian Territory and Penobscot Indian Territory. (S. P. 827) (L. D. 2037)

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

Senator COLLINS: Mr. President this is the bill that we have worked on diligently for the past 5 or 6 days. I call to the attention of the Senate the report on every desk entitled 'Report of the Joint Select Committee on Indian Land Claims,' to which is attached a letter dated April 2, 1980 to the Joint Select Committee on Indian Land Claims from Richard S. Cohen, Attorney General, regarding the

proposed Indian Land Claims Settlement.

The Order that we have just passed was presented and passed for the purpose of creating more legislative history than we normally attach to our proceedings. This report and the memorandum of the Attorney General reflect material that has been quite thoroughly discussed, not only in debate but in informational caucuses within the Senate, and within the House of Representatives, during this period when we have considered L. D. 2037.

I think that all of us have had a chance to read and understand and discuss the materials that are contained in these reports, as I reviewed the reports last night and this morning, I felt that I had heard all of these items in one form or another in the discussion. Should there be any questions remaining in anyone's mind that are not answered in these materials, I hope they will be raised at this time.

I hope Mr. President, that with this material before us and with all the materials that we have digested in this process that we are now ready to vote on this important issue. I would request we have it by Roll Call. I urge the Senate to vote Yes for Enactment.

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

Senator SHUTE: Mr. President, and Ladies and Gentlemen of the Senate: I opposed this bill yesterday and I haven't changed my mind any today.

I think that each one of us knows that if we pass this bill in a matter of 2 days we're just rubber stamping something to send it to Washington and not act responsibly here in the Senate.

Now we have the very large possibility of having the taxpayers of the Nation pay billions of dollars to settle these claims, not millions, but billions of dollars. I've heard, statements in the Senate, yesterday, I heard statements here, that it's not State of Maine money, it's coming out of Washington. Well, as far as, I know every person in the State of Maine is a taxpayer, they pay taxes to Washington.

If you have several billions of dollars of claims in Washington we are going to pay the bill, the taxpayers are going to pay the bill.

Now under this legislation we're setting up a select class of people which we're not supposed to do under our Constitution, the State of Maine Constitution, or the Federal Constitution. But we're setting up a select class of people. I haven't found anyone in my district that wanted to do that. Why should we discriminate against the majority of the people in this country? Why should we discriminate against the taxpayers, other than to say send it to Washington, they're going to pay the bill, or the taxpayers will pay the bill?

We've had 2 Attorneys General say that we had a solid case. Governor Brennan, when he was Attorney General, he said we had a solid case, we could take to court. Attorney General Cohen has said we have a solid case we can take to court. What's happened?

Yesterday this body denied the good Senator from Penobscot, Senator Trotzky putting a referendum on this bill and sending it to the people. Which is in my estimation the highest court in the land. Not this elected body, but the people of the State of Maine, the highest elected court. Somehow or for some reason the people here feared that. They didn't fear it because it was going to slow down this Legislature because as I understand it, it doesn't go into effect until 90 days after we adjourn. If we had put the referendum out in June that would have been passed before the July 3rd date, when this becomes effective, and it would have been in Washington.

Now if this has to be in Washington by May, why wasn't there an emergency on it, so that it would be in effect immediately? This is not going to be in effect until July.

If a bill like this won't stand on its own merits before the people why should we think

that we have so much more power than the people, and that we can go ahead and pass something contrary to the people's thinking, contrary to what they want.

I think you're setting a real dangerous precedent here to pass this out. You're putting obligations on your children and your grandchildren. For years this country has tried to get rid of discrimination. Here you are discriminating against the majority of the people in our country.

There isn't any free money. I think you all know that. The good Senator from Androscoggin, Senator Minkowski, said yesterday there were 9,500 claims now before Washington. That's going to cost billions and billions and billions of dollars.

I think we're being short-sighted. This thing is being ramrodded through this Senate and the House. I've seen things like this happen before, if you want to get something passed, make out there is a real emergency, a crisis situation, emergency, and even put an emergency title on the bill. Then it has that sense of emergency that you have to pass it, because something drastic is going to happen.

Well I don't think anything drastic is going to happen whether you pass this bill or not. I think even the Supreme Court has got to realize what the mood of the people is. We're not just considering the State of Maine on this bill. You're setting a precedent for the whole United States, all the western States. So I would urge the Senate to vote against enactment of this bill.

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

Senator REDMOND: Thank you Mr. President. Members of the Senate. Each Legislature is faced with the job of correcting mistakes of the previous Legislature, because we always make mistakes. We have Errors Bills from Education, from the Judiciary Committee, from Inland Fish and Game. I think that we are making a mistake today. If we are it is a mistake that cannot be corrected by the 110th Legislature or the 111th Legislature, or any other Legislature, with just a routine passage of a simple L. D. It's impossible.

We have done everything possible to increase the chance of error. We rushed a committee hearing. We are rushing this bill. We have said No to a referendum. We have reduced our safeguards. Now we are being asked to vote on the Enactment. Now I say No, a thousand times No. No, to a Nation within a Nation! No, to 2 kinds of citizens and No to this bill!

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

Senator PRAY: Mr. President and Members of the Senate: Yesterday the Minority Leader of the Senate made reference to my home town, the Town of Millinocket, which does have a problem under the existing situation that we are in. The Town of Millinocket and East Millinocket have had some problems in tax participation notes and bonding issues. I have received a letter from the town manager that I would just like to have the people of this Chamber, the Members of this Chamber understand exactly what perhaps may be a crisis situation, in a parochial sense to some people.

The ability of the town to raise money to operate the town and provide capital improvement is constantly under pressure of a cloudy legal opinion. That cloud is the Indian Land Claims which is written into financial legal opinions and restricts the market ability of their securities. It affects their ability to get favorable interest rates.

For example, this year the town attempted to float \$3,000,000 in tax participation notes, which is quite common for the Town of Millinocket. After seeking the out-of-state market without any success they had to turn to the banks in the State of Maine. One of the local banks picked \$1.5 million of those tax participation notes. The remaining \$1.5 million was

not picked up at all. So the town itself is suffering due to the fact that they were unable to float those tax participation notes. If anybody knows Millinocket, if anybody knows the Great Northern Paper Company, the size, the State's largest private employer, a payroll of over \$1,000,000 a week, and have any doubt as to their security, as to the fact that the town is good for the \$3,000,000, then I think there is something wrong with them.

I'm very disturbed at other Maine banks, as in the past, a year ago, some other Maine banks picked up the additional \$1.5 million but they failed to do so at this time. I believe that more than the Indian Land Claim issue the banking industry of this State for some unknown reason, is not willing to stand behind the State and its municipalities and the communities of this State. If you want to interpret that as a slap on the wrist to Maine banks then I would consider it so, because I believe that they could have solved that problem.

Since they have not and I am faced with the towns in my areas that are suffering at this time and that they would suffer a continuing long period of time if this thing was not solved, I am not completely happy with the proposal that's before us. I have raised many questions, stayed very close to the issue, stayed very close to it since its conception a few years ago.

I was on the phone yesterday to Washington talking to the Banking Commission in Washington, talking to Senator Muskie's Office, trying to find a solution for these municipalities. Seemingly the only solution is a settlement of some sort. I do believe that we have very little margin to interpret what we consider to be fair and equitable.

I feel as if the State is giving up some things that it should not be giving up, but in the spirit of compromise each bill that comes before us that reaches that stage in the process where we have to negotiate we all give up something.

I do believe that it may come back to haunt us some day. Even with those grave reservations I will be supporting the enactment of that proposal today. I think it's the best that we can get at. I believe that in that same light that the \$81,000,000 is not there in Washington. I think that anybody that feels as if they are passing this with a price of \$81,000,000 has a misconception of that fact. The actions in Washington did not tend to be funding those levels of settlements, historically they have not with New York just being turned down with a settlement of \$8,000,000, just a short while ago.

I guess it's something that each one of us have to wrestle with. View the views of our constituents and try to interpret what is best for them in the long run, as to whether or not if we are going to accept this or not today. It's something that I have wrestled with for the last week or so. I was down at the hearing and have been attending the work sessions, and been carrying on the debate not only in this Chamber, but in caucuses and private conversations in the hallways, with a number of people involved on the committee, a number of people involved in the negotiations for the Attorney General's Office, from the other side. I feel that there have been a lot of compromises given on both sides.

I do feel personally that the State would be victorious in a court suit. But the expense of that court suit may be more expensive to the State. So I would urge the people with even the reservations that they have in reference to the bill to give it a vote to send it to Washington to allow Congress to see that the State, even though there is a lot of dialogue into the Legislative Record, showing that we are not completely happy with it, but that we do feel that we need a solution and that we are at this time turning to Washington for their assistance.

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

Senator HICHENS: Mr. President, and Members of the Senate: I always find it very

difficult to get up and speak in opposition to my very good friend and colleague, Senator Shute, because usually our opinions run along together very well, but I would have to answer some of the questions that he has brought up today. Some of the statements which he has made.

First regarding discrimination. He said if we pass this we are discriminating against the majority. I think by passing this we are helping to eliminate the discrimination that the Indians have had for years and years and years, a problem which should have been settled by our forefathers when this State became a State over 150 years ago, even before that when we were under the sovereignty of Massachusetts. Something that should have been taken care of long before this 109th Legislative Session, but it wasn't taken care of so we have to face it today.

He also suggests that we did wrong by not sending it out to the people in a referendum. If we do not fully understand in here within these halls after hearing the discussion, after hearing the report from the Judiciary Committee, from our Attorney General in caucus yesterday. How in the world are the people as a whole going to understand it? They naturally have the feeling that something is being taken away from them. I have the feeling that we are giving back something that rightfully belongs to the people who owned it in the first place.

They would say well, they were a conquered nation, so we have to treat them as a conquered nation. I do not agree. I feel that we should treat them in a fair and meaningful way.

Our Attorney General has stated that it will cost a great deal more if we do not pass this today and we let it go to the courts, even though we may win the court case. I would take his opinion. I have all wholehearted trust in the opinion of our Attorney General.

This goes on to Congress. They have to make the final decision as to payment for these claims. So I will vote for this bill today and hope that it may be the best decision that I have made.

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

Senator CARPENTER: Mr. President, and Ladies and Gentlemen of the Senate: We have sat here for 2 days and listened to the various arguments for and against this bill. I sent a note to a friend of mine yesterday who happened to be an attorney who was in the Chamber. I said is this a good bill? He came back and said Yes. Then he said. Well, not really, but it's the best we're going to get.

Now I think today is day 152 of the hostage situation in Iran. We've got hostages in South America. Sort of in a way the Senate feels as if it's being held hostage, the Legislature feels as if it's being held hostage. Talk about being between a rock and a hard place. You look at this bill and if you did poll your constituents there probably would be a lot of opposition to a settlement. This settlement, or the one that had been advanced before or the one that might have come but didn't.

I've looked at that and I've looked at the bill. I'm not an attorney, but I listened to the words of the good Senator from Knox, Senator Collins, and my good colleagues Senator Conley, Senator Devoe, James Sinclair, looked at the court record of this bill, the times we have gone to court and said hey, this is a frivolous thing, let's throw it out and get it over with. The court has said No. The best option we have heard yet is 60-40.

I think the analogy that the good Senator from Knox, Senator Collins gave yesterday is a pretty accurate one and one I intend to use when I talk about this bill to my people back home. That is if you've got a 60-40 chance of dying if you don't have your appendix removed, 40% really wouldn't give you much comfort. You probably would go ahead and have it done.

Look at the options. I'm going to vote for this bill today reluctantly. The people who are

voting against the bill, I haven't heard them say yet what they would rather have us do, except the good Senator, my good friend from Waldo, Senator Shute, who does prefer that we go to court. If that's what they want the opponents of this bill want to go to court, then they want us not to take a chance on the State being in the situation that Millinocket's in, guaranteeing that we're going to be in that situation.

I've heard the figure from very good sources, sources that we have to trust \$24, \$25 billion. That's billion with a B. Look at the settlement of \$81.5 million.

I don't think it creates a nation within a nation. That was one of my initial concerns. I don't think it does. I look at it and I say what are the alternatives. Is there going to be another negotiated settlement down the road? It seems to me that there was a proposal before us a year or so ago that was a little bit cheaper than this one. It seems to me that the pricetag is going up.

I just don't see what the viable alternatives are. You can play politics. We're going to pay for this bill. We're going to pay \$81.5 million. There are some of us in this Chamber and in the other Chamber who will probably pay with their political lives for this bill.

Somebody here has talked about the children and the grandchildren, and the great grandchildren. Where are they going to be if you go to court, if the ultimate cost in damages to the State of Maine \$24 billion.

Nothing will make this Chamber jump any faster than a promise of new jobs. Be it Pratt and Whitney, be it a company moving in here, Digital. Be it a company moving in there. Nothing will make this Chamber any happier than a promise, of 2, 3, 400, 1,000 new jobs. How many companies are going to take a serious look at the State of Maine, if they can't get good title to their land? I know what it does to my area. I know what it would do to my area.

I talked to a lady in Aroostook County yesterday. She called me on another issue. She said by the way, on the Indian thing, don't vote for it. Don't give them anything. Fine, go to court, \$25 billion. Oh my god, I didn't know that! Alright, so let's be responsible. Let's take a look at this bill.

It doesn't mean we like the bill. Doesn't mean we feel any guilt. I don't feel any guilt. For my grandparents, I'm sorry for what happened 200 years ago. But I'm here in the 109th Legislature and I'm charged with doing what is supposed to be the responsible thing. I think today to look at this settlement. As the good Senator from Knox, Senator Collins, has mentioned it isn't an ordinary L. D. This is a Resolution of a lawsuit, to look at this and say if we don't do this then we have got to go to court. I don't like the option of going to court. Thank you.

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

Senator MCBREAIRTY: Mr. President, Honorable Members of the Senate. I don't think any amount of debate here today will change one vote. I think the votes are already here to pass the bill.

I do think it's important for some of us that are going to vote against it to tell you why. Last Sunday I was 65 years old. I've served in public office nearly every year since I was in my early twenties. Any time during that time that any important issue was forced and hurried and people left out, I've always found that we were in trouble.

My town was SAD #2. The people were hurried. They were forced. They were told that if you don't join this district, you won't get your State subsidy, so we joined in a hurry. We spent 3 years in 3 sessions breaking that district, but we broke it because people weren't given the time to realize what they were doing.

Yesterday some of us asked about this go out to referendum which could have been done June 10.

Personally I have 2 spare rooms in my house. Any of my Indian friends if they had wanted to come up to my house and stay I would have gone out with them and tried to encourage my people to vote for this bill. But I didn't get that chance. So I'm going to vote against it today because I don't think we're giving the people a fair shake on this. Thank you.

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

Senator REDMOND: My good colleague from Aroostook, Senator Carpenter, has asked those who opposed this bill why don't they state what do they propose to do. I thought that question had been answered. However, for myself and for the benefit of those who are interested, I think that when we settle a lawsuit, it's for the entire State of Maine, I don't think there is any rhyme or reason why they should spread out the problem into the 2 counties that I serve in Franklin and Somerset. We don't have any of those problems there. The mortgage or the clear titles that are affected in the State are not in that area.

Secondly, I have very much respect and admiration for the people that have negotiated. I don't criticize them. I don't find any faults with them. However, I have found in my days that a decision as important as this should be kicked around a little bit.

I am a bank President. We have a Board of Directors. We make some substantial loans. We make loans that it's scary to think that a bank our size will make. However, we go to our participants, those other larger banks who are going to contribute, the medium sized banks, the individuals. We discuss it with them, until we are all in accordance.

This here is just going too fast! I've also learned over the years that people oppose what they do not understand. I think wholeheartedly that all you members of the Senate here share my belief. Those who can't vote for that, it's because they don't understand why Mr. Tureen can come here and rush us into this piece of legislation, which no one can ever undo once it is passed. This is the reason why we opposed it.

I would propose as the good Senator from Aroostook, Senator McBreaity, who offered to share his home. I would like to note that I have spent winters sharing my bed with Indians. I have worked side by side with them. I have the most respect and admiration for my fellow man. This has nothing to do with race, or creed. It has absolutely nothing to do. This is only a matter of how do we Enact legislation. Ladies and Gentlemen. That's all!

I'm sure that this case would probably get settled one way or the other. Sometimes when we get too close to our work I don't care how smart the people are that are doing that work. Sometimes we get so involved that we can't see the fog from the forest. This is why I'm opposing this.

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

Senator CONLEY: Mr. President and Members of the Senate: It's been interesting sitting here this morning listening to this debate.

I think it might be well if one searches their memory when these claims first went to court, the first word we heard from the State were that the claims were frivolous. Today we hear that there is a 60 - 40% chance that if we pursue the court system, we may, we may just possibly win these suits.

The good Senator from Knox, Senator Collins, put it straight on the line yesterday. We have the opportunity before us today providing that the Congress ratified the Act that we are about to Enact, to forever forgive and to eradicate all claims from here forward.

I think this is going to be a tremendous burden removed from the shoulders of all Maine citizens. I don't reluctantly support this bill. I enthusiastically support the bill, to put these claims to rest, so that we can as we've heard so many times, Indian and non-Indian

alike, be able to appreciate our fellow man.

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

Senator DEVOE: Thank you, Mr. President. Members of the Senate: I urge you to support passage of this bill. We have a Federal Statute involved. We have litigation in Federal court. We have had in the past and are continuing to have throughout the land decisions of Federal Courts that have apparently in one degree or another eroded the legal position of the State.

As is the case in any law suit, once a suit is commenced in court, sometimes those involved when there are as many people as we have in this State, by the very nature of the litigation, we ask our attorneys to represent us. I think that past and present members of the Attorney General's Office deserve the utmost thanks for the diligence and the ability and the sincerity of their presentation of the State's case.

Council for the Penobscots and Passamaquoddy's whether we agree or not, deserve commendation for the diligent way they have prosecuted their case as they saw it.

We have reached the point now where the Federal Court is pressing parties either settle the case or we will start to try it. We have no control over what Judge Gignoux, in his wisdom, decides in urge parties to set a trial date. I suggest to you, members of the Senate, that if we fail to pass this bill it will not be long before the media is reporting that a conference was held at the U.S. District Court in Portland, and that the court suggested or mandated a date on which the parties would appear before him in this courtroom and start to litigate this case. However intense the emotions which there are on both sides of this question, cannot eliminate that as an inescapable conclusion.

There will be some people in my district who will be extremely critical of me for urging passage of this bill. I'm sure each one of us who votes for this bill will in some manner or other be criticized by our constituents, but we were sent down here to do a job. The duty is on our shoulders. It's not on the shoulders of the electorate. We came here to do our work, and I say part of our work is either to accept or reject this bill.

Now the good Senator from Penobscot raised the question in my opinion maybe somewhat unfairly criticized Maine banks for not taking the entire amount of the requested bond issue or loan that the Town of Millinocket wanted. I would point out not only to the good Senator from Penobscot, but to others who may have had that same experience in their community, banks have a fiduciary duty to their depositors.

One of the steps that is always taken when a bank makes a big loan is to seek an opinion as to the legality of the loan. If a bank ignored the legal existence of this lawsuit and went ahead and loaned the money, and later had the case gone to court, there is a possibility that the depositors of the bank, some of whose funds may have been included in that loan, could bring suit against the bank officials for violating their fiduciary duty.

If we do not pass this bill and we have a trial date set for the Federal Court in Portland, it's my very firm belief that commerce of this State including the some \$19 million of bond issues that we just passed and that have been authorized to be issued, very likely the interest costs on those bond issues will be astronomical. If we can get an opinion of bond council at all. Very likely Commercial and Savings Banks and Savings and Loan Associations will take another look at whether or not they ought to loan monies for the purchase of real estate and take mortgages as security.

Industrial expansion may well ground to a halt. The attraction of new industries into this State may well cease, and if not cease, then be severely diminished.

As is the case in every law suit somehow lost control of the litigation when it began. Where

would we be if we had been trying to keep tabs on every concession that the State made to the plaintiffs in this case. Where would we be if we had been trying to come to an agreement on accepting concessions which the Indian Tribes and Nations may have made to us? We would be here years doing that?

It's just been in the last few days that we have seen a volcano, a live volcano out on the West coast. We're all wondering here on the East coast, is or is it not going to erupt, and if it does what is the extent of the damage?

I submit to members of this Senate that we have a legal volcano in this case. If we fail to recognize the severity of the problem, if we fail to recognize the seriousness of the consequences and fail to pass this Legislative Document, in that case does begin its process in the Federal Court in Portland, if we think we're in trouble now, we have no idea of the trouble that this entire State will then be in.

So my colleagues here in this Chamber, I urge you to make the difficult decision if it is going to be difficult to recognize the problem, to accept the duty which you assumed when you took your oath 15 months ago, and cast your vote in favor of this bill. Thank you very much, Mr. President.

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

Senator SUTTON: Thank you, Mr. President, and Ladies and Gentlemen of the Senate: I am not going to go over all of the things that I went over yesterday.

I have listened very carefully to the good Senator from Aroostook, Senator Carpenter, and our two learned colleagues from the Bar, discuss this. The more that I listen the more that I am convinced that this debate should be taking place not on the floor of the Maine Senate but in a court of law. If my two learned colleagues could defend the State's position as well in a court of law, as they are doing here today, I think that our 60-40 chance would be even better.

We do have three branches of Government. This matter has already been in court. And should be in court, it is a Federal problem, it is a court problem.

Notwithstanding that it has nothing to do with Indians it has to do with a particular problem that is facing the State of Maine, and it could be with anybody, or any group. For it to be here and for us to be faced with making the decision that we are being asked to make and it is a difficult decision it is probably one of the most difficult decisions that I have had to make. I am not going to support it because it is wrong, it is morally wrong and those who want to know what should be done about it. It should be in the court.

Talk about taking a doctor's advice, the doctor's advice is that we have a 60% chance of winning. You can look at a ½ glass of water, and it is either ½ empty or ½ full depending on how you feel, at that particular moment. I would say that our glass is over ½ full.

It is a legal problem and it belongs in a court, we should not be deciding judicial problems in the Maine Legislature. I would urge the Senate to defeat this piece of Legislation and let it go forth in the Federal Court where it should be.

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

Senator MCBREAIRTY: Mr. President, May I pose a question through the Chair to anyone who may answer it?

The PRESIDENT: The Senator may state his question.

Senator MCBREAIRTY: Many times in the past when people were dissatisfied with the decisions that we have made here, they have initiated a referendum. Now if this should happen on this bill, what effect will it have on the bill?

The PRESIDENT: The Senator from Aroostook, Senator McBreaity has posed a question through the Chair to any Senator who may care to answer.

The Chair recognizes the Senator from Knox. Senator Collins.

Senator COLLINS: Mr. President as far as I know the referendum process if enough signatures were obtained would hold up the progress of this Bill, as it would other bills. I do not think that that is really an issue today.

I would like to move from that answer to, one final word. It has been suggested by one previous speaker that this is a matter that ought to be handled in court. I would point out to the Senate that the origins of the matter were not created in a court. The problems were created in Legislatures. The Congress, the Legislature of Massachusetts, and the Legislature of the State of Maine, a long time ago. I think that it is especially appropriate that a Legislature should cure the problems, in so far as it can contribute to, the cure of the problems.

It has been suggested by a previous speaker that this is a discrimination against the taxpayers. I think that it is absolutely clear, that Maine taxpayers are going to benefit a great deal from this settlement. As to Federal taxpayers, and that includes the Maine taxpayers of course, as to Federal taxpayers we really do not know.

But I know and I think that everyone of us knows that there is a vast difference between \$81,000,000 and \$25,000,000,000. That prudent business judgment dictates that there are times when you make a settlement rather than risk the extreme liability that you may otherwise incur.

In my personal judgment we are doing the right thing for all taxpayers in this nation, when we recommend the settlement process.

We do not control the final result at all, the Congress controls that and always has. We are just playing our part here, to present it to Congress in a constructive way.

It was suggested that there is an element of discrimination against a majority of our citizens. I feel badly about that kind of statement because it just isn't true. History is a part of law, and we have to look at history. When we look at it, and evaluate it I think that we have to find, that this solution that is proposed in this bill, is a fair and equitable solution. In my judgment it is a moral solution. I support it with the same enthusiasm that has been expressed by others here. It is not just an expedient, it is not just a money saver, although those things are important to us. It is fair, it is just and it is right. I am thankful that I live in a Nation where minorities have rights under the law. Thank you.

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

Senator REDMOND: Thank you, Mr. President. I will be brief, I know that I can't change enough people's minds here to change the course of this bill.

However I would like to speak so that the Record will show that in spite of all these debates, sometimes we have a tendency to believe those who tell us that if we vote against the bill, that we are voting against taking care of the volcano.

Ladies and Gentlemen of the Senate, I want you all to know that I have spoken with other members of this body of government which oppose this bill. The last thing that they have on their minds is to stop or to slow down this settlement. They have the most firm commitment to try and help settle this thing, this volcano that is almost ready to erupt. This is the reason why they are opposing it. We want to bring about a settlement that will be lasting, so that our grandchildren won't have to come back and go through the something that we are going through. The same as everyone here through to California have to go through, and they never seem to see the end. This is the reason why we are opposing this. All we wanted was a little more time.

I understand that should the people of Maine, start gathering signatures and go for a referen-

dum that this is going to delay it still some more and this is probably going to give us a real hard time.

For all intensive purposes the reason that we wanted a reasonable amount of time to process this bill, was exactly for that because we want to do a good job.

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

Senator MINKOWSKY: Mr. President. When the Roll Call is taken I request leave of the Senate to pair my vote with Senator Martin of Aroostook, who if he were here he would be voting Yes and I would be voting No.

The PRESIDENT: The Senator from Androscoggin, Senator Minkowsky Requests Leave of the Senate, to pair his vote with the gentleman from Aroostook, Senator Martin. If he were here, he would be voting Yea and the Senator from Androscoggin, Senator Minkowsky would be voting Nay.

Is it the pleasure of the Senate to grant this leave?

It is a vote.

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

Senator GILL: Mr. President when the Roll Call is taken I would request Leave of the Senate to pair my vote with Senator Lovell, who if he were here he would be voting Yea and I would be voting Nay.

The PRESIDENT: The Senator from Cumberland, Senator Gill, Requests Leave of the Senate to pair her vote with the Senator from York, Senator Lovell who if he were here would be voting Yea and the Senator from Cumberland, Senator Gill, would be voting Nay.

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

It is a vote.

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

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

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

The pending question before the Senate is Enactment of L. D. 2037.

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 — Carpenter, Clark, Collins, Conley, Devoe, Farley, Hichens, Huber, Katz, Najarian, O'Leary, Pierce, Pray, Trafton, Trotzky, Usher, Sewall.

NAY — Ault, Chapman, Cote, Emerson, McBreairey, Perkins, Redmond, Shute, Sutton, Teague.

ABSENT — Danton, Silverman.

PAIRED — Minkowsky, Martin-Gill, Lowell.

17 Senators having voted in the affirmative and 10 Senators in the negative, with 4 Senators pairing their votes, and 2 Senators being absent the Bill, was Passed to be Enacted, and having been signed by the President, was by the Secretary presented to the Governor for his approval.

(Senate at Ease)

The Senate called to Order by the President.

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

Paper from the House House Paper

Bill, "An Act to Reduce the Per Gallon Tax on Motor Fuels from 9¢ to 7¢ and to Assess a 5% Sales Tax on the Wholesale Price Subject to Public Approval at Referendum." (H. P. 2054)

(L. D. 2040)

Reference to the Committee on Taxation is suggested.

Comes from the House, Indefinitely Postponed.

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

Communications Committee on Education

April 3, 1980

The Honorable Joseph Sewall

President of the Senate

State House

Augusta, Maine

Dear President Sewall:

In accordance with 3 M.R.S.A., Chapter 6, Section 151, and with Joint Rule 38 of the 109th Maine Legislature, the Joint Standing Committee on Education has had under consideration the nomination of Paul M. Stebbins to the position of member of the Board of Trustees of the Maine Maritime Academy.

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

YEAS: Senators 2

Representatives 9

NAYS: Senators 0

Representatives 0

ABSENT: 2 Representatives Connolly of Portland, Senator Minkowsky of Androscoggin

Eleven members of the Committee having voted in the affirmative and none in the negative with two being absent, it was the vote of the Committee that the nomination of Paul M. Stebbins to the position of member of the Board of Trustees of the Maine Maritime Academy be confirmed.

Sincerely,

HOWARD M. TROTZKY

Senate Chairman

LAURENCE E. CONNOLLY, Jr.

House Chairman

Which was Read and Ordered Placed on File.

The PRESIDENT: The Joint Standing Committee on Education has recommended that the nomination of Paul M. Stebbins be confirmed.

The pending question before the Senate is: Shall the recommendation of the Committee on Education be overridden? In accordance with 3 M.R.S.A., Chapter 6, section 151, and with Joint Rule 38 of the 109th Legislature, the vote will be taken by the yeas and nays. A vote of Yes will be in favor of overriding the recommendation of the Committee. A vote of No will be in favor of sustaining the recommendation of the Committee.

The Chair recognizes the Senator from Penobscot, Senator Trotzky.

Senator TROTZKY: Mr. President and Members of the Senate: The Joint Standing Committee on Education held a confirmation hearing for Paul Stebbins this morning.

Mr. Stebbins, has a military record, he was a graduate of the Maine Maritime Academy, so he is familiar with the academy. He also served in the Maine Maritime Service as an officer, also as a U.S. Naval Officer, he is familiar with the sea. He also was a principal of Biddeford High School, for 5 years. Assistant Principal of Trace Academy and also Registrar of St. Francis College in Biddeford.

The committee feels that he is well qualified to serve on the Board of Trustees of the Maine Maritime Academy.

The PRESIDENT: Is the Senate ready for the question?

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEA — None.

NAY — Ault, Carpenter, Chapman, Clark, Collins, Conley, Cote, Devoe, Emerson, Farley, Gill, Hichens, Huber, Katz, McBreairey, Minkowsky, Najarian, O'Leary, Perkins, Pierce, Pray, Redmond, Shute, Sutton, Teague, Trafton, Trotzky, Usher.

ABSENT — Danton, Lovell, Martin, Silverman.

No Senators having voted in the affirmative and 29 Senators in the negative, with 4 Senators being absent and none being less than two-thirds of the membership present, it is the vote of the Senate that the Committee's recommendation be accepted. The nomination of Paul M. Stebbins is confirmed.

Committee on Judiciary

April 3, 1980

The Honorable Joseph Sewall

President of the Senate of Maine

State House

Augusta, Maine

Dear President Sewall:

In accordance with 3 M.R.S.A., Chapter 6, Section 151, and with Joint Rule 38 of the 109th Maine Legislature, the Joint Standing Committee on Judiciary has had under consideration the nomination of Eugene W. Beaulieu to the position of District Court Judge.

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

YEAS: Senators 3

Representatives 8

NAYS: Senators 0

Representatives 0

ABSENT: Senators 0

Representatives 2 Rep. Silsby & Stetson

11 members of the Committee having voted in the affirmative and 0 in the negative, it was the vote of the Committee that the nomination of Eugene W. Beaulieu be confirmed.

Sincerely,

SAMUEL W. COLLINS, Jr.

Senate Chairman

BARRY J. HOBBINS

House Chairman

Which was Read and Ordered Placed on File.

The PRESIDENT: The Joint Standing Committee on Judiciary has recommended that the nomination of Eugene W. Beaulieu be confirmed.

The pending question before the Senate is: Shall the recommendation of the Committee on Judiciary be overridden? In accordance with 3 M.R.S.A., Chapter 6, section 151, and with Joint Rule 38 of the 109th Legislature, the vote will be taken by the yeas and nays. A vote of YES will be in favor of overriding the recommendation of the Committee. A vote of NO will be in favor of sustaining the recommendation of the Committee.

The Chair recognizes the Senator from Oxford, Senator Sutton.

Senator SUTTON: Mr. President, it is my understanding that Mr. Beaulieu is an appointment to replace that of Judge Pilot that was not reappointed recently.

It has been brought to my attention by some of the lawyers, in my area that they are quite concerned about the manner in which this was brought about. I told them that I would mention it for the Record anyway.

In Judicial Statutes there is a Committee on Judicial Responsibility and Disability that is charged with looking into problems that were alleged in this matter with Judge Pilot. This committee was not used and it bothered some of the lawyers around my area, that there was no use of this system that was set up to meet the possible problems that might occur in the

Judiciary.

Also they are concerned because of this there is going to be a problem with the life tenure situation that has been kind of the case in the past with Judges. I do not mention this to make a statement on my own one way or the other but I would like to bring it to the Senate's attention and put it on the Record that there are those that are concerned with the way that this particular nomination came about and the lack of the use of the system that is already on the Judicial Statutes.

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

Senator PERKINS: Mr. President and Ladies and Gentlemen of the Senate. The Senator from Oxford, has shared some of the views that have been expressed to me, because of the neighboring county, in which this is relative to, and with which the constituency are served by some of the attorneys in my area, would reflect in the area of Penobscot County, also.

I also, would suggest I in no way intend to take from the Chief Executive the power and the privilege over the appointing these. I only question that I within the right of this Senate in representing the people, who have asked me to do so will not be approving this nomination, because I feel that this is not in keeping with the past performances or with the wishes of those who have expressed their concerns with me.

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

Senator MINKOWSKY: Mr. President and Members of the Senate: Even though I did not attend the Judiciary Hearings relevant to this nomination several inquiries in my district, both in Sagadahoc County, as well as, Androscoggin County, came to my attention as far as the strategy that has been used as well as articles that have been sent to me that have been published in the Bangor Daily News. They left a great deal to be desired as to exactly the interpretation that I am starting to get on this particular Judicial Appointment.

I would like to pose a question through the Chair to the Chairman of the Judiciary Committee. Have they really weighed and analyzed very closely the performance and productivity of Judge Pilot to make that recommendation that he should not be reappointed?

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

The Chair recognizes the Senator from Knox, Senator Collins.

Senator COLLINS: Mr. President and Members of the Senate. The suggestion made by the Senator from Oxford, and the Senator from Hancock, that the new Commission on Judicial Discipline ought to have been used is a suggestion that I am sure will receive a lot of discussion in the months ahead.

Discussing it yesterday with a few members of the Judiciary Committee and Judges who were present at the time. We felt that that forum was not particularly appropriate for the type of question that was raised, in the Judge Pilot Case. However it is conceivable that that sort of problem might be discussed there in the future.

The Executive Department, has to make the final decisions on whether to appoint or not to appoint. Under the Maine Constitution judicial terms are for 7 years and a Chief Executive has no obligation to reappoint unless he sees fit to do so.

In Maine happily, it has become a very well established tradition that Judges are re-appointed unless they have been performing badly or have other disabilities that do not permit reappointment. I believe that the last previous failure to reappoint occurred in the administration of former Governor Curtis concerning a Judge in Washington County. Previous to that I believe that the last time runs way

back into the early 1930's or maybe into the 20's. So we have a strong tradition.

I think that the reasons that were given by Governor Brennan have been quite fully expressed in the press, and on television. It is the Executive that has to make that judgment. The question seemed to be a measurement of productivity, whether the work was hard work, whether it was being done as fully as that position deserved.

I have no views to express one way or the other. I do not practice in that particular court and have no information except what has been in the press. I think the people's concerns in this matter might well be discussed in the future vis-a-vis the commission that has been suggested as a source. But remember that that commission is basically for the discipline meaning that there's a definite wrongdoing, a departure from Judicial propriety, such things as too much alcohol, or abuse of minor laws or something of that nature.

The question of how hard someone works is a question of degree and to measure it is a pretty difficult thing for anyone. Whether we should put that commission into the business of measuring productivity on the bench I think would be a pretty difficult question. The number of cases you grind out isn't necessarily the measurement of whether you have done your job well. Some cases take a great deal of time and patience. There isn't much to show for it, but it's necessary to do it that way. At other times you may be able to take mere statistics. But you certainly can't in the Judiciary because each case load is a little different from another. I think that's all I could offer.

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

Senator TRAFTON: Thank you Mr. President, Mr. President and Members of the Senate: I think it would be a mistake here today not to turn our attention back to the issue before us. That would be the qualifications of Eugene W. Beaulieu for this position.

Regardless of the other issue which may or may not be addressed in other forms in the future years, I think that your vote today should reflect directly upon the qualifications that Mr. Beaulieu offers as a potential District Court Judge.

As a member of the Judiciary Committee and one who sat during the hearing this morning I would commend him to you. Many members of the Penobscot Bar came forward to testify both to his legal skills and also to the fact that he is a man of character, and a man of decency, and that he would do a fine and fair job on the bench.

The PRESIDENT: Is the Senate ready for the question?

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

ROLL CALL

YEA — Minkowsky, Perkins.

NAY — Ault, Carpenter, Chapman, Clark, Collins, Conley, Cote, Devoe, Emerson, Farley, Gill, Hichens, Huber, Katz, McBreairety, Najarian, O'Leary, Pierce, Pray, Redmond, Shute, Sutton, Teague, Trafton, Trotzky, Usher, Sewall.

ABSENT — Danton, Lovell, Martin, Silverman.

2 Senators having voted in the affirmative and 27 Senators in the negative, with 4 Senators being absent and 2 being less than two-thirds of the membership present, it is the vote of the Senate that the Committee's recommendation be accepted. The nomination of Eugene W. Beaulieu is confirmed.

Committee on Judiciary

April 3, 1980

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

In accordance with 3 M.R.S.A., Chapter 6, Section 151, and with Joint Rule 38 of the 109th Maine Legislature, the Joint Standing Committee on Judiciary has had under consideration the nomination of William S. Brodrick to the position of Judge of the District Court of Maine.

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

YEAS: Senators 3

Representatives 7

NAYS: Senators 0

Representatives 0

ABSENT: Senators 0

Representatives 3 Rep. Laffin, Silsby & Stetson

10 members of the Committee having voted in the affirmative and 0 in the negative, it was the vote of the Committee that the nomination of William S. Brodrick be confirmed.

Sincerely,
SAMUEL W. COLLINS Jr.

Senate Chairman
BARRY J. HOBBINS
House Chairman

Which was Read and Ordered Placed on File.

The PRESIDENT: The Joint Standing Committee on Judiciary has recommended that the nomination of William S. Brodrick be confirmed.

The pending question before the Senate is: Shall the recommendation of the Committee on Judiciary be overridden? In accordance with M.R.S.A., Chapter 6, section 151, and with Joint Rule 38 of the 109th Legislature, the vote will be taken by the yeas and nays. A vote of Yes will be in favor of overriding the recommendation of the Committee. A vote of No will be in favor of sustaining the recommendation of the Committee.

Is the Senate ready for the question?

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

ROLL CALL

YEA — None.

NAY — Ault, Chapman, Clark, Collins, Conley, Cote, Devoe, Emerson, Farley, Gill, Hichens, Huber, Katz, McBreairety, Minkowsky, Najarian, O'Leary, Perkins, Pierce, Pray, Redmond, Shute, Sutton, Teague, Trafton, Trotzky, Usher, Sewall.

ABSENT — Carpenter, Danton, Lovell, Martin, Silverman.

No Senators having voted in the affirmative and 28 Senators in the negative, with 5 Senators being absent and none being less than two-thirds of the membership present, it is the vote of the Senate that the committee's recommendation be accepted. The nomination of William S. Brodrick is confirmed.

On Motion by Senator Pierce of Kennebec, Recessed until 3 o'clock this afternoon.

Recess

After Recess

The Senate called to order by the President.

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

Senator CARPENTER: Mr. President, I would move that Rule 39 be Suspended for the balance of the day.

The PRESIDENT: The Senator from Aroostook, Senator Carpenter, now moves the Senate Suspend Rule 39 for the balance of the day.

Is this the pleasure of the Senate?

The Chair recognizes the Senator from Cumberland, Senator Clark.

Senator CLARK: Thank you Mr. President,

Mr. President, there are a number of us in this Chamber this afternoon who are experiencing some sinus difficulties, and find because there is an inordinate amount of people in the Chamber that should Rule 39 be suspended that probably there would be more smoke than normally there would be, if only the Senators were smoking.

Secondly and perhaps foremost, Senator Trafton, who is my seatmate and not present at this time, finds the smoke that she is inhaling particularly distasteful at this stage in her pregnancy.

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

Senator CARPENTER: I request leave of the Senate to withdraw my motion.

The PRESIDENT: The Senator from Aroostook, Senator Carpenter requests leave of the Senate to withdraw his motion to Suspend Rule 39.

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

It is a vote.

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

Enactors

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

AN ACT to Revise Allocations from the Highway Fund for the Fiscal Years from July 1, 1979 to June 30, 1981, and to Provide Increased Revenues to the Highway Fund. (H. P. 2053) (L. D. 2039)

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

Senator KATZ: Mr. President and Members of the Senate: I guess we've tried harder on the question of Highway Funding than on any other bill before the 109th Legislature. The fact is the Legislature is not used to cutting back. Both the Executive Department and the Legislatures over the years have been expert in adding on. The day of reckoning is here and we're faced with shrinking incomes, the inflationary costs of a department that's in serious financial trouble.

My party had hoped that along with the funding of this biennium we could arrive at an equitable solution, so that we could move in an orderly manner toward a long range understanding of where this department is going. At first we thought that a professional study to be followed up by a Special Session was possible answer.

Earlier we felt that a referendum on the so-called modified version of the Devane Revenue Measure with safeguards built in so that it wouldn't be a raid on the Treasury would be a possible answer. On both occasions the answer was not acceptable to the other body.

What we are faced with here today L. D. 2039 a bill which deals only with the emergency needs of the department for the rest of this biennium. Earlier today we heard the comment from the Senator from Knox, Senator Collins, with respect to the Indian affairs pertaining to a person who was extremely sick and needed surgery. I can't remember the analogy but in this particular case if that same patient were sick and perhaps terminally sick, it would be inappropriate to recommend aspirin and band-aids for him. That's what a bill which deals with this biennium does.

I know there will be those who will attempt to assign that responsibility on this group or that group or this house or that house for the failure to come to an accommodation. To them I'll say that it is a mutual failure.

All my party has to do today is to vote for this and the biennial budget will be funded. All the Governor would have to do is to shake hands and say he will agree to a Special Session after a professional study and the biennial budget will be funded. So who is to assume the responsibility? I do not lay it upon the shoulders of the

Governor. I certainly do not lay it upon the shoulders of my party. We've tried as men and women of good faith. We have thus far failed.

The Senate leadership of my party just left the Governor. It was not a finger pointing session, but a session of mutual confession of dis-appointment, that the 109th has thus far failed to come up with the acting solution. Consequently I shall not vote for the Enactment of this bill here today.

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

Senator CONLEY: Mr. President and Members of the Senate: It's been a long 52 days. When we tried to analyze what we've done over these 52 days, in spite of what the press has said to be a nothing session, I think there are many things that have been accomplished.

But I honestly believe that the most important bill other than the one that we Enacted this morning lies right before us today. For us to reject the highway package, will as far as I'm concerned spell failure for this Special Session of the Legislature. It spells failure because we have no knowledge of what is going to happen with the DOT over the rest of this biennium.

The possibility of up to 450 employees of the Department of Transportation being laid off. I would ask the members of this Senate is it responsible that the Senate should be playing Russian roulette with these employees' jobs. There is going to be a lack of maintenance and paving to our roads that are in such desperate need this summer. There are many many other things that are involved in this budget. This bill has been Enacted in the other body. We can take our partisanship and stick it in our back pocket and we can Enact this bill and go home and tell our people that we voted in the best interest of the State.

I don't intend to go on any further. I think that we have hashed this problem over and over and over again. Therefore, Mr. President, when the vote is taken, I request 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 Chair recognizes the Senator from Cumberland, Senator Usher.

Senator USHER: Mr. President and Members of the Senate: I asked the members of the Senate this afternoon to really think over the whole situation before they vote. Do they really know what is at stake before we vote? No budget! No budget means no paving program for this summer. Up to 450 people to be laid off. This is Statewide. If you have any State Highway Employees living in your area consider this before you vote.

Possible reduction in the Town Road Improvement Account. Some State Aid and State Highways may be returned to the towns which will add to the tax burden of the towns. The State is only required by statute to match one unit instead of the maximum of 6 units which they have been giving out. Consider this.

You're adding a great tax burden to your communities. When you go back home. Be prepared to answer the people because we're all done today. This is it! Beyond the 11th hour. We're so close to the vote now. You have to be serious about this vote. A lot of people are going to be laid off. A lot of work.

We have very good weather out there and this is the time to do the maintenance. The traveling is going to go on, and the potholes are going to continue. There's going to be all kinds travelling from out of stater's. We have to maintain

the roads, and the cost of maintaining the roads is going to go up.

If we return in October the price is going to almost double probably the way that inflation is going today. We can't keep up with it. If we return in October or whenever time if somebody does call us back, what is the price of gas going to be? It goes up almost every week now.

We should pass this budget today and at least get started on our maintenance. That's the backbone of the whole highway program. If you've got beautiful highways, they all deteriorate with the weather we have around here.

Be responsible today! If we're not back for 6 months it's going to cost us a lot of money.

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

Senator KATZ: Mr. President, it is a heavy burden that is being dumped on our shoulders. We are one body of a 2 body Legislature. The other body has had certain responsibilities, too. I'm not going to take the whole burden on my shoulders. I have a sense of failure, but I'm not going to assume this burden. There are other players on the stage too.

If the House had gone along with a previous proposal that we had arranged with the Governor, we wouldn't be here right now we would have accomplished what we attempted.

The Governor too has had opportunities to solve this problem and they were not acceptable to him.

So what I'm suggesting to our friends is please don't dump this all on us. We grieve for the fact that there are going to be dislocations. We're horrified by the fact that we haven't come to an agreement. But we're not going to leave the country. If there is an accommodation that can come along after this Legislature adjourns, we may be brought into Special Session. The thing that would be unacceptable to me is to have through frustration or partisan concerns fingers pointed in here. Who is to blame? Which one Adhered last? Which one missed the last opportunity?

If you wish to presume that you're faultless and the others are guilty, good luck but it just is not so. This is a complicated problem that no other Legislature has ever attempted, and we haven't succeeded.

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

Senator CONLEY: Mr. President, in the 16 years that I've been in the Legislature it has always been my impression that a bill was given 2 readings in one House and the other and then it was Enacted in the lower Chamber and sent up to the Senate for Enactment. That's the posture we're in today.

If we want to go home with a bill I would urge the Senate to vote for it. Otherwise, there is a burden cast upon this Senate for failure to meet its responsibilities.

The PRESIDENT: Is the Senate ready for the question?

The pending question before the Senate is the Enactment of L. D. 2039

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—Carpenter, Clark, Conley, Minkowsky, Najarian, O'Leary, Pray, Trafton, Usher.

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

ABSENT—Danton, Farley, Lovell, Martin, Redmond, Silverman, Teague.

9 Senators having voted in the affirmative, and 16 Senators in the negative, with 7 Senators being absent, L. D. 2039 Fails of Enactment in non-concurrence.

Sent down forthwith for concurrence.

Emergency

RESOLVE, Authorizing an Appropriation of

\$285,315 to Provide for Administrative and Other Necessary Operating Expenses Related to Certain Transitional Indian Services for the Period from July 1, 1980 to January 21, 1981. (H. P. 2052) (L. D. 2038)

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

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

Papers From the House Joint Order

Expression of Legislative Sentiment recognizing: Hermon High School, of Hermon, first-place and second-place winner in the 1979-80 State Debating Championship, which will compete in the national finals in Atlanta, Georgia. (H. P. 2057)

Comes from the House, Read and Passed. Which was Read and Passed, in concurrence.

Joint Resolution

Joint Resolution in Memoriam:

WHEREAS, the Legislature has learned with deep regret of the death of Hon. John L. Thomas of Waterville, a member of the 95th and 107th Maine Legislatures. (H. P. 2056)

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

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

Senator PIERCE: Mr. President, and Members of the Senate. I would just like to take a moment because, I think it is appropriate since John was an old friend to just say I probably knew him in about as many capacities as anyone, in that I worked with him at the college when I was there as Dean of Students. I belonged to fraternal organizations with him. I served on committees and commissions with him. I served in the Legislature with him. If ever there was a dedicated public servant, if there ever was anyone who was dedicated to a community, to the school that he did so much to build, it was John Thomas.

He will be missed greatly by all of us who knew him. He'll be missed by the City of Waterville, and certainly by the State of Maine.

Which was Adopted, in concurrence.

Orders of the Day

The Chair laid before the Senate:

Bill, "An Act to Reduce the Per Gallon Tax on Motor Fuels from 9¢ to 7¢ and to Assess a 5% Sales Tax on the Wholesale Price Subject to Public Approval at Referendum." (H. P. 2054) (L. D. 2040)

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

Pending—Reference.

On Motion by Senator Conley of Cumberland, Indefinitely Postponed, in concurrence.

Senate at Ease

The Senate called to Order by the President.

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

Order

An Expression of Legislative Sentiment recognizing: William L. Clarke, who is celebrating his 25th anniversary as Westbrook City Clerk. (S. P. 830) is presented by Senator Usher of Cumberland, (Cosponsors: Representatives Carrier of Westbrook and Laffin of Westbrook).

Which was Read and Passed in concurrence. Sent down forthwith for 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 Revise Allocations from the

Highway Fund for the Fiscal Years from July 1, 1979 to June 30, 1981, and to Provide Increased Revenues to the Highway Fund." (H. P. 2053) (L. D. 2039)

In the House, April 3, 1980, Passed to be Enacted.

In the Senate, April 3, 1980, Failed of Enactment, in non-concurrence.

Comes from the House, that Body having Adhered.

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

Senator CONLEY: Mr. President, I'll stay in a tone of levity, this is the last time we can get it right. I would move the Senate Recede and Concur and would ask for a Division.

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

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.

9 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.

Orders of the Day

The Chair laid before the Senate:

Emergency

RESOLVE, Authorizing an Appropriation of \$285,315 to Provide for Administrative and Other Necessary Operating Expenses Related to Certain Transitional Indian Services for the Period from July 1, 1980 to January 31, 1981. (H. P. 2052) (L. D. 2038) tabled earlier in today's session by Senator Pierce of Kennebec, pending Final Passage.

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

Senator KATZ: Mr. President, Ladies and Gentlemen of the Senate. Earlier today I expressed some concerns about this bill, a bill that surfaced at the last moment. A bill that had an unfamiliar figure of \$285,000 on it for Indian Affairs for Administrative Transitional Indian Services. I noticed that it was for the second year of the biennium and not for the first year. I just didn't understand the Emergency nature about it. In particular I didn't understand where the money came from because when we adjourned the other day we only had \$151,000 in the Treasury.

I have been informed that the money to fund this was found Wednesday afternoon, the day I presume that we adjourned, that it was found in a repayment account of some type. I expressed concern that this did not really, really give us great confidence that hours after we go home we find more money. Coming on top of the fact that we found some money for Judicial employees by taking another look at the estimates and found money for something else by taking a look at something else.

I just have the feeling that the Legislature was not operating in a rational manner if we didn't have adequate information. I am assured that this is an important bill. That it is an integral part of the agreement with the Indians to afford transitional services, during this period where the Federal Government is going to be considering. On that basis I would request the Senate to join in the Enactment of this Emergency Bill.

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

Senator NAJARIAN: Mr. President, and Members of the Senate. The House Members of the Appropriations Committee held a work session of this bill when the Senate was in session. That was the reason I wasn't able to answer any of the questions that were raised this morning about the bill.

The Senator is correct. The Department of Education and Cultural Services gave a capital advance to Washington County VTI for the renovation of certain buildings to be used for a Marine Training Center. That money was to be reimbursed by the Federal Government. Up to now \$320,000 of that \$450,000 has been reimbursed by the Federal Government, and they have transferred it back to the General Fund.

The Commissioner explained that he did not know that this money had been paid in until at the last week he was checking for the Governor at the last minute on the finances and told the comptroller's office. This normally would not be reported until the end of the year, but because he inquired about it he found that that money was available.

Just a bit of history on why this wasn't in for this year of the biennium. We have been playing as the sponsor of the bill says 'chicken with the Federal Government.' We were holding off putting up any money hoping that they would fund the Indians, for education, etc. It looks like now they will be funding the Indian education but there was an agreement between the Governors of both the Indian Tribes and Governor Brennan to hold off identifying any money for general welfare purposes, etc., until the very last moment, which apparently arrived yesterday. The Governor agreed that the time has come that we had to do something about providing funds for essentially welfare purposes, burials, some travel. There have been a lot of services that have been discontinued that we normally have funded in the past.

Another question, I think was asked do we foresee any similar needs arising after we adjourn today. The answer I received was no. Is there any more money lying around that we haven't been told about yet? The answer to that is none. So I hope that answers your questions.

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

Senator MINKOWSKY: Mr. President, and Members of the Senate, just a follow-up question to the explanation given by the good Senator from Cumberland, Senator Najarian. If we had not had this windfall of \$320,000 and we had this bill before us, what mechanism would we use to fund this particular bill?

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

Senator HUBER: Mr. President, and Members of the Senate, I share the Senator from Kennebec, Senator Katz's distaste for the untimely genesis of this bill and the apparent stumbling on the amount to fund it, but I think the objection is more in the funding method and the timing than it is the bill itself.

This would provide transition monies for primarily general assistance, mostly during the period from July 1 to October, the start of the Federal Fiscal Year. I think the bill is necessary. I think it should be passed. I'm afraid of the fact that it cropped up when it did crop up and was funded in the manner it had been funded perhaps destroys my last vested confidence in the Department of Finance and Administration and their funding, but I believe I am persuaded that this was not money that they have used previously and it was in fact unearthed at the poor time that it was.

I hope that we do pass the bill and address the unmet need between the end of our fiscal year and the start of the Federal Fiscal Year.

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

Senator PRAY: Mr. President, and Members of the Senate. This morning when L. D. 2037 came before us, the act to settle the Maine Indian Land Claims Proposal, I supported that proposal. It was my understanding that anything that had to do with the settlement was not going to cost the State of Maine anything.

Now I understand that this is a part of that settlement, the transitional period. It was my

understanding from the Attorney General and Tom Tureen representing the Maine Tribes, that the Bureau of Indian Affairs has already recognized the Penobscot and Passamaquoddy Indians as Federal Tribes and thus, the responsibility falls upon the Federal Government. It was in that light which I supported the proposal that went through here this morning.

When I look at the money all of a sudden that's found and I have no question about where it's being found, but I do also note a number of other what I consider to be higher priorities that we addressed last Thursday night which have gone by the wayside now. That same \$285,000 could have funded the Arthritic Drug Bill that we had that had a price tag of \$264,000. There is a whole list of them that we could go through, but it would serve no purpose.

I believe that to pass this proposal we only prolong cutting the umbilical cord between the State of Maine and the Tribes to allow the Federal Government to take responsibility.

We were told this morning that we had to pass the settlement right away. We were told that we couldn't have a referendum on it, because it had to be into Washington in time for them to include it in their Federal Budget. It's my understanding that if we fail to pass this then Washington still would have time to include money in their Federal Budget under the Bureau of Indian Affairs to take care of these same programs that are being funded in this bill. So I would hope that we would not vote for Enactment. Hopefully that we would send a message to the fact that we have decided that with the proposal passed here this morning, that we are giving the Federal Government its responsibility.

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

Senator PERKINS: Mr. President, and Ladies and Gentlemen of the Senate. I appreciate my two co-committee members, Appropriations Members explanation of the bill of which they nor I were able to attend the hearing on. I, being on the opposite side of the question this morning and this afternoon of being able to have the people decide whether they indeed were in favor of the Indian Land Claim Settlement and understanding that this is an integral part of that, of a settlement of which I did not approve, and would not have approved had I been at the hearing, I find myself this afternoon also disapproving of this measure also. Therefore, I will vote against the passage of this bill.

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

Senator NAJARIAN: Mr. President, and Members of the Senate. I just would like to try to attempt to answer the question raised by Senator Minkowsky. I never asked the question of how this would have been funded, had not they discovered this Working Capital Advance Repayment, but when there was a Title 20 shortfall they came up with the money by de-authorizing State position. So I assume something of that order would have been available to them to find the money for this, had they not had this money.

The PRESIDENT: Is the Senate ready for the question?

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 Final Passage of L. D. 2038.

A Yes vote will be in favor of Final Passage of L. D. 2038.

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, Emerson, Farley, Huber, Katz, McBrearty, Najarian, Trafton, Trotzky, Usher.
NAY—Ault, Chapman, Cote, Gill, Hichens, Minkowsky, O'Leary, Perkins, Pierce, Pray, Redmond, Shute, Sutton, Teague.

ABSENT—Danton, Lovell, Martin, Silverman.

14 Senators having voted in the affirmative, and 14 Senators voting in the negative, with 4 Senators being absent, L. D. 2038 Fails of Final Passage in non-concurrence.

Sent down forthwith for concurrence.

Senate at Ease

The Senate called to Order by the President.

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

Paper From the House Joint Order

An Expression of Legislative Sentiment recognizing: the Presque Isle High School Stage Band, winner of the first-place trophy in the Division One classification at the Maine State Jazz Festival in Newport. (H. P. 2059)

Comes from the House, Read and Passed.

Which was Read and Passed, in concurrence.

ORDERED, the Senate concurring, that when the House of Representatives and Senate adjourn, they both adjourn to nine-thirty in the morning on Friday, May 9th; at which time the House of Representatives and Senate shall meet for one legislative day for the purpose of considering possible objections of the Governor to any Bill or Resolve presented to him by the Legislature under the Constitution, Article IV, Part Third, Section 2. (H. P. 2058)

Comes from the House, Read and Passed.

Which was Read.

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

Senator CONLEY: Mr. President, if this Order were to have received passage it would have saved the State approximately \$300,000 in a special election. However, it's a clear understanding that this Order would end up in non-concurrence, if it were passed here. The leadership has agreed to adjourn Sine Die this evening. I, therefore, move that this Order be Indefinitely Postponed.

On Motion by Senator Conley of Cumberland, Indefinitely Postponed in non-concurrence.

Sent forthwith.

Non-concurrent Matter

RESOLVE, Authorizing an Appropriation of \$285,315 to Provide for Administrative and Other Necessary Operating Expenses Related to Certain Transitional Indian Services for the Period from July 1, 1980 to January 31, 1981. (Emergency) (H. P. 2052) (L. D. 2038)

In the Senate, April 3, 1980, Failed of Final Passage.

Comes from the House, Passed to be En-grossed, as amended by House Amendment "A" (H-983) and Senate Amendment "A" (S-539), in non-concurrence.

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

Senator SUTTON: Mr. President, I have a few observations to make about this matter, not necessarily in any particular order. We've been told that this Resolve is a necessary part of the treaty of agreement that we O.K.'d this morning or earlier in the day on the Indians. I don't understand if it is why it wasn't part of that as an appropriations on it.

We're told that some money was just found

to pay for it. We've been told that it should have been in the Appropriations Bill but it wasn't. The other day we looked at quite a few bills of importance, that died. We cut the care to Foster Homes in half. We didn't fund the training monies that some of us felt were necessary for the development department to help get new jobs in the State of Maine. This amount of money would have done both of those things.

It seems to me that it is completely inappropriate that we're faced with this right now. If it's as important as the folks say it is, the Governor has discretionary funds that he can use in my opinion and use them very carefully to take care of these needs.

In any event I will not support it. I move the Indefinite Postponement of this bill and all its accompanying papers.

The PRESIDENT: The Chair would advise the Motion is out of order since the bodies are not in concurrence. The proper motion would be to Adhere.

Senator SUTTON: May I respectfully withdraw that and ask that the Senate Adhere.

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

Senator TROTZKY: Mr. President, I oppose the motion to Adhere and ask the Senate if they would, to take a look at the last page of this bill which is 2038, on page 3. If you look carefully at the bill there are Reservation Indians and there are non-reservation Indians. We're in a transition period. If you look at most of the bill essentially it's to pay for the welfare costs, as well as non-Indians there are costs of welfare. The Indians also have problems. You look at it, for fuel, for food, for clothing, and so on.

I think it's wrong in a transition period like this just to easily get rid of this bill. The Indians don't have that many votes, but I think we have a moral obligation to live up to the agreements that have been made between the Governor of the State of Maine, as I understand, and the Indian Tribes.

I know I'm not exactly happy with the settlement that was agreed to this afternoon because people say they are State Indians, they are Federal Indians. Well really they are human beings and they are citizens of the State of Maine. I guess I resent this concept of saying people are State Indians or Federal Indians. There are real problems here. There are welfare problems. Consequently in this transition period there should be a sense of compassion for these people as well as other people so I hope the Senate would not vote to Adhere but would vote to pass this bill.

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

Senator HICHENS: Mr. President, and Members of the Senate, I've always been known here in the Senate as a good friend of the Indians. I think I've always voted for them and on the bills which have come before us I voted for them this morning, but I do not intend to vote tonight for them. I am going to support the motion to Adhere because I think that if we have found \$300,000 that can help the Indians that we can postpone this right now. We'll be coming back to work on the Highway Bill for certain in a very short time we can bring this up again if we can find another \$300,000 perhaps and take care of it as an emergency bill.

Last week we couldn't take care of the State Employees funding because we only had \$165,000. Now we have an extra \$300,000 I think that we should take care of them before we think of the Indians.

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

Senator KATZ: Mr. President, I move the Senate Recede and Concur with the House. You know it occurs to me that if this bill had been well handled, it would have been on the Appropriations Bill. The Appropriations Committee would have included it in the bill that was put out and never would have raised an eyebrow. Nobody would have raised a single question. Is

there any question in your mind that's exactly the way it would have happened? It's been mismanaged. It's out floating around here naked.

We're tired and tee'd off. We had our own bills killed last week. The fact is it's a legitimate subject for an appropriations measure. We're beating it over the head. I was the first one to rise up and call question to it. We're beating it over the head not because of the substance but because it wasn't well handled. It wasn't in the Appropriations Bill. Isn't that really what's happening here?

On that basis if that is true and that these are worthwhile expenditures the same expenditures that were existing to other low income people elsewhere, if this is the case, we can withhold our vote?

I request a Division.

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

Senator SHUTE: Mr. President, and Ladies and Gentlemen of the Senate. This is the other half of the bill you voted on this morning. Why it was a bill in 2 parts was that the bill we voted on this morning that bill wouldn't stand on its own merits with this bill so you split the bills up, split and divide and conquer.

This House Amendment takes the Emergency off the bill. So we need just a simple majority to pass it. It wouldn't stand the test of an emergency bill, just an hour ago. So the House took the Emergency off. Now all we need is a simple Majority.

Just a few days ago as the good Senator from York, has mentioned we didn't have money to do anything for the retirees in the State as far as giving them a cost of living increase. Now we come up with \$285,000 for this bill in just a matter of a couple of days. So I wonder just where the priorities are in this Senate or in the Legislature.

I think if this appropriation had been on the original bill this morning that bill might have had a littler tougher sledding. It's always easy to finagle these things around, remove the Emergency, split the bills up and finally, get your own way on it. I don't think you're getting your own way as far as the people in the State are concerned, or the people in the State aren't getting their own way. I know that members in this legislature may be getting their own way, but I doubt that the people in this State that elected us are going to get their own way. So I hope you vote against the motion to Recede and Concur. Then vote to Adhere.

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

Senator NAJARIAN: Mr. President, and Members of the Senate: It's not my understanding that this bill had anything at all to do with the settlement act that we passed this morning. The Appropriations Committee had discussed several times the appropriation for the Indian Tribes and deliberately did not put any money into the Appropriations Act because we were waiting to see if the Federal Government would fund it. We felt that if we showed the money in the State Budget then it was positively assured that the Federal Government wouldn't provide the money for these services for the Indians. That's why the Appropriations Committee didn't have it in the bill originally. I think in the last day with so much going on that somebody neglected to bring it up to us at that point and time.

They have provided for health services and we are pretty much assured that they are going to provide for the Indian Education. As I understand it the Supplements to the Federal Budget for this year are already in and there is nothing in that budget to cover these particular services for the Indians.

Until the Federal Government ratifies the settlement act that we passed this morning in our statutes the Indians are still wards of the State. We still have responsibilities in these areas towards them for welfare. I understand money perhaps for their sewerage treatment

plant, etc. I think we have a responsibility to provide this money however unhappy you are with how it came about and at the last moment and so forth. That's unfortunate but that's the way it is. But that does not absolve us of our responsibility to pass this bill and provide the money for these services.

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

Senator SHUTE: So that I understand this, if you Recede and Concur you're taking the Emergency off this bill. Then it takes a simple Majority to pass the bill. Is that correct?

The PRESIDENT: The Chair would answer in the affirmative.

A Division has been requested.

The Chair recognizes the Senator from Waldo, Senator Shute.

Senator SHUTE: 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 Somerset, Senator Redmond.

Senator REDMOND: For the Record here once again, the hour is late. We are all tired. But I wish to express myself before taking this vote. I just hope that the people here understand and my good friends the Indians understand that I'm not going to vote against having compassion for our good friends. I'm not voting against trying to help them out in funding the programs. I'm voting against is simply I'm voting against being a rubber stamp here for Mr. Tureen. We'll be back here. We have to fund our highways. They don't need this money right off anyway. We're not going to be hurting anyone.

I would like to see us follow due process in this Legislature.

The PRESIDENT: The pending question before the Senate is the motion by Senator Katz of Kennebec that the Senate Recede and Concur with the House.

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

A No vote will be opposed.

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEA—Carpenter, Clark, Collins, Conley, Devoe, Farley, Huber, Katz, McBreaity, Minowsky, Najarian, Trafton, Trotzky, Usher.

NAY—Ault, Chapman, Emerson, Gill, Hichens, Perkins, Pierce, Pray, Redmond, Shute, Sutton, Teague.

ABSENT—Cote, Danton, Lovell, Martin, O'Leary, Silverman.

14 Senators having voted in the affirmative, and 12 Senators voting in the negative, with 6 Senators being absent, the Motion to Recede and Concur does prevail.

Sent forthwith.

Senate at Ease

The Senate called to Order by the President.

At this point a message was received from the House of Representatives through Representative Tierney of Lisbon Falls, the Majority Floor Leader of the House, that the House had transacted all business before it and was ready to Adjourn Sine Die.

Enactor

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

RESOLVE, Authorizing an Appropriation of \$285,315 to Provide for Administrative and Other Necessary Operating Expenses Related

to Certain Transitional Indian Services for the Period from July 1, 1980 to January 31, 1981. (H. P. 2052) (L. D. 2038)

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

Senator REDMOND: I ask for 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 votes 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 Final Passage of L. D. 2038.

A Yes vote will be in favor of Final Passage.

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, Farley, Huber, Katz, McBreaity, Minowsky, Najarian, Trafton, Trotzky, Usher.

NAY—Ault, Chapman, Emerson, Gill, Hichens, Perkins, Pierce, Pray, Redmond, Shute, Sutton, Teague.

ABSENT—Cote, Danton, Lovell, Martin, O'Leary, Silverman.

14 Senators having voted in the affirmative, and 12 Senators voting in the negative, with 6 Senators being absent, L. D. 2038 is Finally Passed, and having been signed by the President was by the Secretary presented to the Governor for his approval.

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

Senator CONLEY: I move Reconsideration and urge the Senate to vote against me.

The PRESIDENT: The Senator from Cumberland, Senator Conley, moves that the Senate Reconsider its action whereby L. D. 2038 was Finally Passed.

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.

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

Senator HICHENS: Thank you, Mr. President.

Comes that time when we must say goodbye; papers, books all carefully placed away.

Here the softly spoken "Sine Die" — or interpreted as "Without Day".

Our associations at an end — as we travel on the paths ahead.

But remembered — friend akin to friend — less remembered words that have been said.

Some of us will hopefully return with problems of the State once more to cope;

And new rules and regulations learn — as in uncertain areas we grope.

Others of us will walk through the door — searching office on a higher plane.

Some choose not to serve here anymore — other realms of service to maintain.

We have argued, reasoned, compromised — sometimes reaching points of bitterness.

Yet when all our work can be surmised — we have found and conquered times of stress

In agreements that we trust will be for best interests of the people served.

And in the years ahead we hope to see laws effective in the realms deserved.

Partisan elected, we became as a unit — parties set aside

On most issues — many we can name — where non-partisan we really tried

To do what we thought as very best — for the folk by whom we were elected.

And I feel we all met the test — in serving on

Committees as selected.

Human as we are, we made mistakes — that discovered our successors soon may change.

And there are some paths we chose to take that those who follow us will rearrange.

But as we all walk out of here today — I believe we'll go with head held high,

And each of us in truthfulness can say — "we did our best" — and as the years pass by

We'll all remember days we have spent here — and the friends in these two years we've made.

The staff so genial, pleasant to the ear — keeping desks so plenteously arrayed.

And as we leave these halls — fond memories will keep us ever here in thought and minds.

And often we shall find our reveries — will bring us back. Blest be the tie that binds

Our hearts together in a mutual love that will sustain us as we go life's way,

And may God from His Heaven up above look down and bless us all from day to day.

Senator Farley of York was granted unanimous consent to address the Senate, Off the Record.

Out of Order and Under Suspension of the Rules,

On Motion by Senator Katz of Kennebec,

ORDERED, that a message be sent to the House of Representatives, informing that body that the Senate has transacted all business which has come before it and is ready to Adjourn Without Day.

Which was Read and Passed.

The President appointed Senator Katz of Kennebec to convey the message to the House of Representatives.

Subsequently, Senator Katz reported that he had delivered the message with which he was charged.

Out of Order and Under Suspension of the Rules,

On Motion by Senator Conley of Cumberland, ORDERED: That a message be sent to his Excellency the Governor informing him that the Senate has transacted all business which has come before it and is ready to Adjourn Without Day.

Which was Read and Passed.

The President appointed Senator Pray of Penobscot, to convey the message to the Governor.

Subsequently, Senator Pray reported that he had delivered the message with which he was charged and the Governor was pleased to say that he would attend the session forthwith.

Senate At Ease

The Senate called to Order by the President.

The Sergeant-at-Arms escorted the Governor of Maine, the Honorable Joseph E. Brennan to the rostrum.

The PRESIDENT: His Excellency, Governor Joseph E. Brennan.

Governor BRENNAN: Mr. President, Ladies and Gentlemen of the Senate. This Senate, at this session, leaves behind some truly historic accomplishments. You have taken the first step towards solving or resolving the most difficult legal issue ever to confront the State of Maine. A case that may indeed be the most complicated case in the history of American litigation. This case has also afforded us the opportunity to lay the foundation for a new relationship with our Indian neighbors, a relationship based on full fledged citizenship, on dignity and on self-respect for the Indian citizens of this State. Many of you have set aside your grave personal doubts about the wisdom of pursuing this course of action. In so doing I believe that you have followed the path of Statesmanship on this difficult issue and I com-

mend you for it.

There have been other important issues. Last weekend a Maine Newspaper published an editorial which listed the accomplishments of this Session and a space was left blank. I invite you to read that newspaper this Sunday, for I have offered them some suggestions about how they could have filled this blank space.

They could have started out with your act of sensitivity and compassion in supporting the dignity and self-sufficiency and hope for thousands of our citizens who depend on the Federally assisted programs that are collectively known as Title 20 Programs. Programs that help elderly people receive nutritious meals, and maintain their own households. Programs that provide protective services for the abused child. Programs to provide job training for our handicapped and for our retarded. Services for so many others who look to the State of Maine and justifiably so for help.

Any list of accomplishments in this Session would have to include the Agriculture Development Act which I believe history will find to be a turning point in the recovery of Maine's farming industry.

You also voted to continue and to improve education for our pre-school handicapped children.

There have been accomplishments in economic development, energy, corrections, education, and environmental health legislation. Each of you have your own suggestions that could be added to this list, but the true meaning and worth of this Legislature will never appear in the pages of a newspaper. It will emerge in the years and months ahead as the bills you passed become laws and have their effect on our State, and on the way we conduct our affairs, and on the lives of ourselves and our neighbors.

Sometime soon some small hydro-electric power project will be in service because this Senate came into Session during this Session. Somewhere in Maine downtown development will be boosted, because you were here. Someday a manufacturing plant will move into an industrial park because you were here to provide the tools to help promote our advantages to business. Every day I believe the lives of many people in our State will be enriched because you were here and cared about the immediate felt human needs.

Yes, much was accomplished in this session, but there was one item of business that never got through this body. I speak of the Highway Budget. It never got through despite our efforts to compromise and to accommodate the concerns that some of you had.

We sent up according to some counts nearly a dozen different versions, nearly a dozen different efforts on the part of the administration to compromise. Almost every person in this Senate voted in favor for one or more of these compromised measures, but not enough of you were willing to vote for the final effort that we made.

In my judgment the Highway Budget because of petty, partisan reasons, apparently for some hoped for, narrow partisan advantage. I want to advise you that this matter is not concluded. Although the drastic consequences of your action will be felt immediately.

I will meet my responsibilities without authorizations for new revenues, we will be forced to cut back programs. It will be on your conscience when up to 450 State workers are laid off and other jobs are lost in the private sector. It will be on your consciences when some paving programs are suspended and other services are cut.

Today's action in the Senate was certainly not this Senate's finest hour. This Senate could truly hold its head high for much of what had been done this session, for much of it is truly commendable. But the failure to act on the Highway Budget, it besmirches much of the good that you did this year. I think that is a

shame for the people of this Senate. Thank you very much.

The Sergeant-at-Arms escorted the Honorable Joseph E. Brennan, the Governor of Maine, from the Senate Chamber.

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

Senator MCBREAIRTY: Mr. President and Honorable Members of the Senate, by exposing my age early in the day I have been given the duty to perform. Before completing my duty I wish you all a safe trip home and a very pleasant and prosperous summer.

Mr. President, I move we Adjourn Sine Die.

On Motion by Senator McBreairty of Aroostook, at 7:45 PM on Thursday, April 3, 1980 the Honorable Joseph Sewall, declared the Senate of the 109th Legislature, Adjourned Sine Die.