

## Caswell, Lynne

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**From:** roadways@juno.com  
**Sent:** Tuesday, November 19, 2019 2:09 PM  
**To:** gcorbin@memun.org  
**Cc:** Caswell, Lynne  
**Subject:** abandoned rds Part 2  
**Attachments:** ROADWays LegRec\_1976-03-24\_HP\_p0619-0648 LD 2108.pdf; ROADWays LegRec\_1976-03-25\_HP\_p0663-0697 LD 2108.pdf

This message originates from outside the Maine Legislature.

Garrett -

Here is the legislative discussion on the bill that created section 3028. The full name of each file includes the page number within that file where you will find the relevant discussion, but in case that doesn't come through, the first one starts on page 61, the second on page 66, and the last on page 77. Oops - I'm over limit - that last one will have to be in a separate email. I'm sending both of these emails to Lynne Caswell also, to be distributed to the Committee. Roberta Manter, Maine ROADWays

# MAINE STATE LEGISLATURE

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**Legislative Record**

OF THE

**One Hundred and Seventh Legislature**

(First Special Session)

OF THE

STATE OF MAINE

1976

KENNEBEC JOURNAL

AUGUSTA, MAINE

## HOUSE

Wednesday, March 24, 1976

The House met according to adjournment and was called to order by the Speaker.

Prayer by the Reverend David Glusker of Augusta.

The journal of yesterday was read and approved.

Papers from the Senate  
Divided Report

Majority Report of the Committee on State Government on Bill "An Act Revising Lobbyist Disclosure Procedures" (S. P. 622) (L. D. 1954 reporting "Ought to Pass" in New Draft (S. P. 765) (L. D. 2312)

Report was signed by the following members:

Messrs. CURTIS of Penobscot  
GRAHAM of Cumberland  
— of the Senate.

Mrs. SNOWE of Auburn  
Mrs. KANY of Waterville  
Messrs. COONEY of Sabattus  
FARNHAM of Hampden  
PELOSI of Portland  
CARPENTER of Houlton  
LEWIN of Augusta  
WAGNER of Orono  
QUINN of Gorham

— of the House.

Minority Report of the same Committee reporting "Ought to Pass" in New Draft under New Title Bill "An Act to Require Registration and Reporting of Professional Lobbyists" (S. P. 766) (L. D. 2313) on the same bill.

Report was signed by the following member:  
Mr. WYMAN of Washington

— of the Senate.

Came from the Senate, with the Minority "Ought to Pass" Report accepted and the New Draft passed to be Engrossed as amended by Senate Amendment "C" (S-466)

In the House: Reports were read.

The SPEAKER: The Chair recognizes the gentleman from Sabattus, Mr. Cooney.

Mr. COONEY: Mr. Speaker, I move acceptance of the Majority "Ought to pass" Report.

The SPEAKER: The gentleman from Sabattus, Mr. Cooney, moves that the House accept the Majority "Ought to pass" Report.

The Chair recognizes the gentleman from Bangor, Mr. McKernan.

Mr. MCKERNAN: Mr. Speaker, Ladies and Gentlemen of the House: I would oppose that motion. I think that we in the state and all citizens in the State of Maine would be better served by rejecting this motion and accepting the minority report.

Before I go on much further, I want to explain my involvement in this bill. If you recall, we had some problems last year with the lobbyist bill which we passed in the regular session, even before we found out that we had repealed it. One of the major things we found was wrong with it was when the Speaker attempted to discuss health care in his county with an expert in that field and found out through an opinion from the Attorney General's Office that it was improper for that person to discuss the matter with the Speaker unless he registered as a lobbyist. So it is my understanding that it was at that point that the Speaker decided that something should be done about the law that we passed in the last session.

It is my further understanding that he and Senator Merrill from the other body got together to attempt to draft a bill that would in fact cure some of the problems and the defects in the bill we originally passed. It was at that point that we also found out that we had inadvertently repealed the bill anyway. But undaunted and despite that, the Speaker still went ahead and tried to come up with a better draft

so that we wouldn't just reenact the bill that we passed in the last session.

It was right before the public hearing that the draft was finally completed and Senator Merrill and the Speaker asked me if I would go down and speak in favor of the draft that Senator Merrill was presenting to the State Government Committee. I did go down and testify and I have been trying to follow the issue through the numerous drafts that have been flying across the desks of the members of the State Government Committee.

As I said, I am supporting the minority report and there are some reasons why. I would like to read you briefly a paragraph and a half out of something I had distributed yesterday from the American Civil Liberties Union. I might add, parenthetically, that I did get a copy back on my desk with a note on it saying "Another waste of the taxpayers' money." I would suggest that anytime one is attempting to protect First Amendment rights of freedom of speech, putting information on desks of legislators is certainly not a waste of money and in fact is something that we all should take rather seriously. I think it is one of the most important rights that we have in the Constitution.

But reading from the testimony of a member of the American Civil Liberties Union before Congress concerning lobbying bills, I would just like to read you one paragraph in which this member of the American Civil Liberties Union states as follows:

"In our judgment, every individual or organization exercising the right to petition the government, be it a commercial, environmental, religious, good government or civil liberties point of view, reflects a special interest and nobody has a monopoly on what is the public interest. Indeed, we believe that the real public interest can only be determined after all those so-called special interests, which, in the best democratic tradition, will and should often disagree are heard."

Now, the American Civil Liberties Union concludes that "The ACLU does not oppose per se responsible legislation addressed to specific lobbying abuses. Indeed, it may well be that specific legislation is appropriate to deal with such potential abuses of the payment of monies or other things of value by a lobbyist to a public official or the deliberate misrepresentation by a lobbyist with respect to who he or she represents or to deliver a misstatement and information by a lobbyist to an official, among other similar abuses."

I think that is the point we have reached here in the State of Maine, that the public demands and we as legislators should demand that there be registration of lobbyists and that there be reasonable regulations so that we as legislators can find out and the people of this state can find out what money is being spent to influence our decisions over here. But we have to be careful. As the American Civil Liberties Union says, we have to make sure we don't overregulate and we don't therefore create a so-called chilling effect on the rights of people to exercise their First Amendment rights of freedom of speech and to petition their government.

I would hope that you would not accept the majority report, that you accept the minority report as the more reasonable approach to regulating the lobbyists in this state.

The SPEAKER: The Chair recognizes the gentleman from Gorham, Mr. Quinn.

Mr. QUINN: Mr. Speaker, Ladies and Gentlemen of the House: The question before us is one of two bills, and many of the points raised by the gentleman from Bangor, Mr. McKernan, are correct. When you start dealing with First Amendment freedoms, you have a great deal of difficulty, and when you attempt to regulate what is essentially a proper expression of opinion or attempt to influence legislation, you

have a good deal of trouble in accomplishing this regulation.

There are two bills here, one is the retailed version of the one we did pass last year and which did have some trouble with it. The other one is a brand new one.

Not addressing who prepared any of the bills, since I don't think this is germane, I think we should discuss what are in the bills if you are going to deal in any manner of sense, if you are going to deal properly with the kind of thing Mr. McKernan just talked about.

Essentially speaking, there are three differences between the bills you have before you, and all three of those differences boil down to what would have to be classed as loopholes through which lobbyists can escape.

In the bill recommended by the majority of the committee and which is the best product the committee could turn out — it represents about 10 drafts of work and consultation with lobbyists and consultation with lawyers — we require that work done in research or in preparation of actual lobbying activities be reported. The other bill, suggested by the one minority member, does not require that. Let me give you an example.

In the 106th Legislature, the Portland Water District obtained a new charter through this legislature. It was a major piece of legislation, ran to over 30 pages, took a great deal of work in preparation and time. Since I have had some curiosity about the activities of the Portland Water District, I went to their lobbying report and I discovered that they paid \$865 in fees to obtain that charter. I submit that has to be an all-time bargain for a major piece of legislation which was before committee three different working sessions and one formal public session, which required the services of a lobbying firm which announces that it charges \$60 an hour for its time, and one of the major legal firms in Portland.

What had happened, of course, is that the overwhelming majority of the work which was performed for the Portland Water District was simply classed under legal fees and not reported as such. All the reports included that we had access to here was the amount of time that the lobbyists actually spent either on the floor or before committee. So we felt in our committee, at least 12 of us did, that that kind of activity is most certainly properly reportable under lobbying activities.

The second major difference between the two bills is that under the one suggested by the minority member, a lobbyist who is in fact a partner of a law firm which are themselves acting as lobbyists does not have to report his income obtained as a part of the law firm. I think that the implications of this are immediately obvious. The major committee report of 12 members required that this be done.

The other differences between the bills are essentially minor in nature. The majority report requires that \$500 income shall be the limit at which you report lobbying. The one reported by the one minority member says "eight hours in a given month."

We used the \$500 figure in an attempt to let the small or the occasional or the volunteer lobbyist escape. The one minority member felt that we should catch anybody who is here, regardless of what they do. I don't think it is necessary.

There is one other minor report about which news makes some comment but which is not terribly important in our opinion. In our report, we require that the lobbyists report their expenditures. In the other bill reported by the minority member, they do not have to report their expenditures in detail. Frankly, I don't think it is a terribly important item, but I do feel, if it is to be addressed, it should be done.

As far as the other smoke screen given by the



gentleman from Bangor, when he quotes the history of the trouble we had with the previous bill, this boils down very simply to who can speak before us without being classed as a lobbyist, and I think it is important to read from the bill that we propose. It says, and this is the majority of the committee. It describes lobbying as an attempt to influence legislative action. Then it goes on to say, lobbying shall not include a communication by any individual acting solely on his own behalf, or an individual who receives compensation or reimbursement of less than \$500, or any communication made by a person in response to an inquiry or request for information by an official of this branch or any communication of a person in religious society exercising his religion. We on the committee feel that that allows more than adequate opportunity for First Amendment freedoms, that it will in no way interfere with the rights of people to petition for grievances or express their opinion before this legislature, and we feel that the one bill reported by the one minority member is a deliberate attempt by professionals, who know how to put these things in the laws, to make some escape from the rather stringent reporting procedures in the majority report.

To state it very simply, the majority report is a tougher one, it is that simple, and I urge you to support the majority report.

The SPEAKER: The Chair recognizes the gentleman from Enfield, Mr. Dudley.

Mr. DUDLEY: Mr. Speaker and Members of the House: I have listened with great care to what the gentleman has just said; however, I don't agree with him. I don't think it covers in some areas as much as the final report signed by one Senator.

First of all, I have had some experience with lobbyists down through the years here. I remember once a group of people were trying to divide the town of Enfield into two parts and their lobbyist worked probably a year preparing this bill at great expense. I understand it was somewhere around \$30,000. Then, of course, they lobbied here before this House and I think a lobbyist should report what he lobbied here. But I think in preparing the bill, it took a long time, that is not part of it, that is a legal fee. What I am trying to say is that we have got to divide what is a legal fee and what is lobbying.

Many of these bills put in by water districts and what have you have taken a long time a lot of hours to prepare, and I draw a line between preparing the bill and being here lobbying. It is distinctly a different area.

The other part that I like about the final report signed by one Senator is that it takes in everybody. I think if we are going to pass a law, we just can't pass it to say certain people are going to report. I want them all to report. I don't care if it is only \$2. I don't like these laws that cover just certain people, and for these reasons, I hope we finally take the time and not be hasty about this and pass the report that was signed by the single Senator. I think he has good judgment. He must have, because he sees the bill as I see it, that everybody should be covered.

Having been around here and dealt with these people a lot longer than some of you people, I think I do have some judgment on this, whether you do or not. And having had some experience with how long it takes to prepare a bill, I have been working on one myself for a long time and it is a bill which you will be seeing before you in a little while. I traveled in several countries observing how they did it, and if I had been a lobbyist, and I suspect that could have been charged up to lobbying, preparing the bill which has taken me some time to do. I dare say just writing on it in the last six months, different parts of it and traveling to see what different

people do, had I been a lobbyist, that would have been part of my lobbying. I don't think lobbying starts until you get here and start trying to tell people your version.

I understand quite seriously that there should be a marked distinction made between lobbying and preparing a bill. A legal fee is one thing, but being here to lobby is strictly a different thing.

The SPEAKER: The Chair recognizes the gentleman from Gorham, Mr. Quinn.

Mr. QUINN: Mr. Speaker, Ladies and Gentlemen of the House: Without taking issue with the remarks of the gentleman from West Enfield, he raises essentially two points. The first one is, he disagrees with the idea of having to report activities not directly connected with the third floor of this House. That is a valid position, one he may well take and one which I would not challenge on its merits of truth or value, it is a matter of opinion — you pay your money, you take your choice.

But he did raise another point which I want to make very clear in your mind. When he urges you to pass the bill written "by the other Senator," he infers that he will catch everybody. Believe me, that is not so, that bill will catch fewer people and require less reporting than will our bill. That is a matter of fact. I invite you to read the two bills. The majority report is the tougher of the two bills, let there be no mistake about it.

The SPEAKER: The Chair recognizes the gentleman from Sabattus, Mr. Cooney.

Mr. COONEY: Mr. Speaker, Ladies and Gentlemen of the House: I am not going to deal with the extreme detail of this bill in my remarks. This report you see before you is the tenth or eleventh draft of this bill that the State Government Committee has produced. We have agonized over this for week after week after week in trying to produce a bill which addressed the problems that were created by the past lobbyist law and still balance the civil liberties rights with our legitimate right to know what dollars are being used to influence public policy in the legislature.

The majority report is a tighter, more comprehensive report, pure and simple. The minority report is a sellout. The lobbyists will be able to drive a Mack truck through it. It is better than no lobbyist law and I will support it if that is what you feel is necessary. It goes a long way toward meeting our needs, but we are not going to get as accurate a report under that law as we will under the majority proposal. So it is up to you. I think we have our public trust to keep. The public wants to know as fully as possible, as fully as we can constitutionally make possible what money is being spent to influence us.

I happen to feel that that money doesn't influence us and that we make up our own minds free of that influence, but we have a responsibility to show the public every day that those lobbyists and the money they spend are not having an inordinate influence upon us. So, I firmly support the majority report. It addresses the balance between civil liberties and the need to know. It addresses the problems that were in the previous law and it goes a long way to simplify for each lobbyist the actual report they must file, so I urge your support of the majority report.

I request a roll call vote.

The SPEAKER: The Chair recognizes the gentleman from Bangor, Mr. McKernan.

Mr. MCKERNAN: Mr. Speaker, Ladies and Gentlemen of the House: I can't resist responding to the gentleman from Sabattus, his remarks that the majority report is in fact a tighter law. The majority report exempts religious societies, it exempts county officials and it exempts municipal officials from having to register when they come over here to try to

influence our votes and are being paid to do so. I ask you whether that is a bill that doesn't have any loopholes?

Let me give you an example. If you remember, back about 10 months ago we went through this same debate on whether or not people who are paid by religious groups or societies to come over here and influence legislation that is going to directly affect their religious groups, or that they feel is going to directly affect their groups, whether they should be exempted? We voted that they shouldn't. If they are paid to be over here to express a point of view, they ought to register just like everybody else. Well, now, in this bill, which is the tight one, in the majority report, that exemption is back in there.

Let me give you an idea of the language. It says, any communication by an individual officially representing a recognized religious society, when the communication is solely to protect the constitutional rights of the members of a society, to freely exercise their religion. People are over here doing that, supposedly won't have to register.

I say, first of all, what is a recognized religious society? We have seen a lot of publicity recently on a lot of the fundamentalists and splendor groups from religious societies. How many of those are recognized religious societies? Secondly, and I think more importantly, what communication is solely to protect the constitutional rights of the members of that society to freely exercise their religion? Who is going to make the determination, the Secretary of State on whether or not he is speaking in a constitutionally protected area? I think that constitutional rights ought to be asserted and protected in all instances by the court. That is who makes the decisions.

We can't do anything in this legislature to violate the constitutional rights of religious groups. So, why do they need to have a lobbyist over here anyway, unless they are trying to protect themselves from non-constitutionally protected areas, like their own political beliefs or their own beliefs on the way government ought to be run. I think they have a perfect right to be here, just as everyone else has a right to be here to petition their government, but we ought to know what is going on.

An example, one church group has somebody here, their legislative liaison, who is in the halls, appears at hearings, to protect their religion. He is also the guy who has been running around and badgering the State Government Committee to put this exemption back in. Shouldn't he have to register if he is going to be doing that? Allowing him an exemption from registering, I don't believe, is one of his societies religious beliefs that is protected under the First Amendment.

Another provision of this tight bill that doesn't allow any loopholes. Take a look in the definitions and you will see that a person does not include, who has to register, any county or municipality, a person representing, being paid to be over here by a county or a municipality. We have just been through that with the educational funding bill.

The Town Manager of the Town of Castine has a perfect right to be over here and I want to make it clear that I am not saying that he was over here lobbying or anything else, but what I am saying is that everybody knows that the Town Manager of the Town of Castine had a pretty deep interest in that education bill. He had a particular point of view that he was trying to express and convince other legislators to go along with, and there are some of us here in this legislature who don't think that view was necessarily best for the people of the State of Maine. It may have been for the Town of Castine and I have no doubt that there was, but the point is, if somebody like that can come over here trying to influence legislation while he is being paid by that town, he

ought to register just like everyone else, because that is a group that is trying to influence legislation and being paid to do so.

I feel the same thing about counties. As I said, this is the bill that really tightens up the law and there are three exemptions right there in the minority report.

The other point that I want to make, which I think may have been sort of hazy in the gentleman from Gorham's description of the research and drafting provision — that is Section 317A of the majority report. I think you ought to realize exactly what that provision says. It says that a lobbyist would have to report any money he or she receives for lobbying including but not limited to research, drafting, consultation, etc. First of all, there is a question of what is "but not limited to?" If a person is doing some provision where they would be representing the beer and wine wholesalers as Executive Secretary or what — is the money received for that, is that supposed to be included in these reports? I for one would hate to be convicted of not reporting the "but not limited to" and that is what can happen under this law. There is a criminal penalty. Somebody can be convicted because he didn't report the "but not limited to," because it wasn't listed here and he didn't know what it was. So, there is that problem, but that is just a picky language problem that can be corrected.

The problem I really have with this, I give you a personal example. Our law firm in Bangor does no lobbying. However, we do represent Bangor-Hydro. I don't do any of that work, so I can't really give you a concrete example. But, for instance, what if one of our law partners drafted some detailed piece of legislation to be introduced in the legislature for some reason for Bangor-Hydro? Was paid \$5,000 because it took so long? Under this bill, does this have to be reported? That's right, everybody is saying, yes, it should be. It doesn't have to be. We don't lobby for Bangor-Hydro, we are not a lobbyist, that is legal work. Alright, I think Harold Beckett lobbies for Bangor-Hydro, should he have to report that? He didn't have anything to do with it, so the only person you are hitting under this is the person who actually does the legal work and happens to also lobby, so there is that inconsistency also.

Again, even more importantly than that, I think you have to look at what we are trying to do. What we are trying to do here is to find out how much money is being spent to influence legislation. Whether a bill is drafted in an hour and has all sorts of loopholes or whether it is drafted over five days for \$2,500 has absolutely no bearing on the legislative process. The money we want to find out about is after the bill is before us or while it is being presented to us, how much money is being spent actually contracting legislators. That is what the definition of lobbying is in both bills — to spend money and time spent directly communicating with members of the legislative branch. That is what we want to find out. It doesn't matter to us how much time they spend talking to their clients. We want to know, what are they doing over here to influence our votes? That is what the public wants to know.

I think you can see that it is not as rosy as everybody seems to be saying about this majority report. There are provisions in this which I think go against what we want to do here in the legislature in order to protect the people's right to know about what is being spent over here and I think the minority report does that.

The SPEAKER: The Chair recognizes the gentlewoman from Waterville, Mrs. Kany.

Mrs. KANY: Mr. Speaker, Ladies and

Gentlemen of the House: Representative McKernan did raise a lot of questions which should be answered. I would draw your attention to Page 2. Representative McKernan only read part of that sentence, for instance, about the religious official being excluded under the definition of lobbyist, and the rest of that sentence goes on to say that if that religious official is not acting solely just to protect his religious rights and an instance of this might be, say, if we were forcing everybody in the State of Maine to have TB tests and a Christian Scientist felt that that would be an invasion upon their religion, then that individual would be exempted. The rest of the sentence says that the religious official would not be exempted if he were lobbying to seek economic advantage or benefit for the religious society and in this particular case, as an example of a Christian Scientist official, if he were lobbying here just so that the Christian Scientists would not all have to pay for Blue Cross and Blue Shield privileges if they were employees of the State of Maine, then he would not be exempted. We did, definitely, address this particular question and we really tried to split that fine line between preserving an individual's right to practice their religion and lobbying.

As Representative McKernan said earlier, the Civil Liberties Union has taken an interest in this whole issue nationally and in various other states and we are all very much aware of this First Amendment problem. The reason that we can't have an extremely simple bill is because when you go into lobbyist disclosure, you are hitting two First Amendment rights that are kind of clashing head-on. One, of course, is the freedom of individuals, as citizens, to petition their government and the other right, which is also a First Amendment right, which is being clashed with, is the freedom of the press, which has normally been interpreted by the supreme court as freedom of access to information. That is the citizen's freedom of access to information. We felt that if we tried to get too simple a bill, we would end up with something very simplistic and we certainly were very much aware of all that those who are particularly interested in Civil Liberties of their concerns here. We made sure that we did not include indirect lobbying, we made sure that the registration fee was not too high, that it would cover only the cost of administering this particular law so that it would not be denying anyone the privilege of lobbying or the right to lobby, which is their definite right. So we were all very much concerned with these things which have been brought up.

You have so many things in there, Representative McKernan, that I can't remember all of them to address. I guess you kind of ended up by talking about the time. You felt something about that \$500 was perhaps too high and that perhaps time was a better way of measuring the lobbyist, I am not quite sure. The reason we did put that \$500 limit, and this law would only go into effect when \$500 was spent on lobbying, was so we wouldn't include the people who just lobbied for a very short period of time, might come down one day or two, or call the Speaker or call yourself or anyone else, just a few times.

I would like to say one thing, and that is that the lobbying definition which has been so objected to and which the Attorney General had ruled as being too all encompassing was, basically, the same definition that had been in the books since 1954, so that was not something that we of the 107th should feel ashamed to have included. But we did work very hard on this bill and I think most of you would be pleased with the exclusions and the way that we looked at the civil liberties and really attempted to draw that fine line between those two clashing First Amendment rights.

The SPEAKER: The Chair recognizes the

gentleman from Ellsworth, Mr. DeVane.

Mr. DEVANE: Mr. Speaker, Ladies and Gentlemen of the House: The reason that the gentlelady from Waterville, I think, has difficulty responding to the many articulate and legitimate objections of the gentleman from Bangor, is that the majority report seeks to draw fine lines, as she put it, that Solomon couldn't draw were he with us.

I would offer to you what the lobby does. The lobby is the proponent of the point of view in the interest of what are called private interests, not all special. I hope that if anybody who hears this discussion today and doesn't know what a range of organizations and groups employ lobbyists, that they go to the Secretary of State's Office and see what we are talking about. Every special interest isn't a money interest. Every vested interest isn't a money interest, some of the vested interests of this state have two feet and sometimes all four in the public trough and they register and they are lobbyists.

I would suggest to this House what the lobby does. The lobby urges the membership to take a point of view, that it take a particular action, and I would suggest to you that the most important thing is what the lobby doesn't do. The lobby doesn't vote.

Despite what the man on the street thinks, the lobby never passed or killed a bill. The membership passes or kills a bill. Now that, I think, is the key of the whole business, and I suggest to you, as a member of this body, I do not give a hoot to whom the rest of you respond. I have never gone to my constituents and said, my God, the lobby killed this. I would be embarrassed if they were dumb enough to believe it. When any citizen of this state says to me, what happened to so and so, I say the membership killed it, and each member responded for their own reasons.

I have never seen such solemn nonsense that goes in relation to the lobby. The lobby does not vote. There hasn't been one iota of difference in the activity of the lobby here since we haven't had a lobbyist disclosure bill. If there is, I don't perceive it. If anything goes on that this naive member does not see, it went on before, it is going on now and it will go on after and if anybody knows of sub rosa activities of the lobby, as was suggested in the regular session, I wish they would be specific because we would all resent that.

The plain and simple facts are, and with the apologies of the State Government Committee, before whom I have appeared and said this, the general public, because of the over-emphasis and the foolishness which is entertained in the legislature about the lobby, is reported by the press and the general public frankly thinks the lobby is down here twisting arms or wining and dining or whatever they are doing. The lobby down here, as I said to the State Government Committee, is snigger than a country parson, as they should be. The lobby does not vote.

The lobbyist disclosure bill which was passed by this legislature last year was repeatedly described in the press of this state as a tough, new lobbyist disclosure bill and the fault, I say to you, in that instance, lies with the press, because it should have been described as a ridiculous bill. Even an incompetent court would have thrown that out. I, for one, wish it hadn't been repealed and would have enjoyed watching our court pretend to be Solomon and then decide that in fact it is unwarranted.

If there is a member of this body that feels intimidated or has ever been intimidated by a lobbyist, I wish they would send me a note. I will become concerned about the lobby when somebody tells me something the lobby is doing that isn't public. I will become concerned about the lobby and who does what when a single

member says to me, I am frightened by so and so.

Now, I have tried for three days, first time to lobby — toughest thing in the world, try to talk to your neighbor and change their minds — I wouldn't do it for love nor money, but I will tell you that if a member of this body feels that they are intimidated or coerced by a member of the lobby, I would like to know about it and I will sign any bill, including hanging.

Here is a note and it says: "Here is a note." All right, seriously, is there a member that would put up a microphone? Who is frightened? Now, I get a microphone up. I don't know a member here who is intimidated, who is unduly influenced or think they are. "Charlie Cragin frightens Judy Kany." I didn't think it was possible, even for Charlie Cragin. I thank you for the note and I will address that point. If there are members here that are frightened by Mr. Cragin, it is because Mr. Cragin represents a client, who can get an awful lot of response.

I am not surprised when the gentleman from Westbrook the Republican, so frequently joins with Democrats and Republicans who are from papermaking communities. Isn't it amazing that the gentleman from Yarmouth and the gentleman from Stonington so often are responsive to the State Lobstermen's Association? Isn't it amazing? Isn't it amazing that this member so often responds to the view of the State Publishers and Broadcasters? Incredible! Isn't it amazing that Mr. Day observes that a number of teachers in here had a point of view consistent with the Maine Teacher's Association? My gosh! There is more solemn nonsense spoken here and transmitted to the public of this state about the role of the lobby and the disservice.

What is going on in this legislature for a year and a half has not changed the lobby, will not change the lobby, it simply has changed the public's perception of what the lobby does to the membership and the membership, by being overly concerned, has done the legislature harm. I was angered and embarrassed to be asked at the end of the last session if I had a new cottage and, by God, I resent that.

I would ask you to reject the majority report because, once again, it is not as ridiculous as the bill that was passed last time but it is as unlikely to do anything productive, and I would ask you to join with the gentleman from Bangor and reject it.

The SPEAKER: The Chair recognizes the gentleman from Bangor, Mr. Henderson.

Mr. HENDERSON: Mr. Speaker, Ladies and Gentlemen of the House: Other than the last few words that the gentleman spoke, I do agree with most of what the gentleman from Ellsworth indicated, that we are responsible for anything that is passed or killed in this House because we push the switches and lobbyists didn't vote.

However, one of the things that the lobbyists do is draft bills. In fact, they drafted, as I understand it, unless someone can correct me, one of our dean lobbyists drafted the minority report, or most of it. We pass a lot of complicated legislation in this place which we are not sure what was in there and what little changes were made, and I think this is directly related to the comments I made the other day with respect to our compensation and our staff. We push the button, but we have to rely on people for information and we have to try to understand what is in the written in the legislation.

I think it is only reasonable that we, as well as the public, know not only what we spend for legislative assistance to address legislation, but who else is drafting the legislation. If I am incorrect about the minority report, maybe someone can change my mind.

The SPEAKER: The Chair recognizes the gentleman from Sanford, Mr. Gauthier.

Mr. GAUTHIER: Mr. Speaker, Ladies and Gentlemen of the House: I would like to reply to Mr. DeVane, when he, as a young legislator, tells us here that the lobbyists have no control of this House, they don't vote, they probably don't vote, but I will tell you one thing, I have been here 13 years and they have had a lot of control. In fact, a lot of bills were passed that both leaders, majority and minority leaders never thought that the lobbyists could pass in this House. In fact, I was called in the corner here several years ago, and in that corner, there was the majority floor leader at that time, the gentleman that was in charge of the campaign for Mr. Ford who resigned recently. I don't remember his name, but he was there in that corner and he was a very strong Republican, he wasn't a Democrat, called me in there and several others who were Democrats, and also Emilien Levesque was there, both of them leaders, and he made the statement, not a Democrat made the statement, but he made the statement — he said we are trying to pass honest bills here for the people of this state but he said, boy, the lobbyists are much stronger than we are.

The SPEAKER: The Chair recognizes the gentleman from Orono, Mr. Wagner.

Mr. WAGNER: Mr. Speaker, Ladies and Gentlemen of the House: The gentleman from Ellsworth speaks of solemn nonsense, of cabbages and kings, I would not be so bold as to suggest that he may be in danger of speaking some solemn nonsense himself, because like him, I do not fear any lobbyist in the House but I am in somewhat of a state of trepidation at the prospect of getting not a note from that gentleman but a letter.

We have spent a good deal of time, we have gone through 10 drafts on this bill in State Government Committee. I support the majority report. I think the gentleman from Ellsworth presents a very valid philosophy and one which really should be the question here, whether you feel that in exercising your First Amendment rights of communication, the citizens and paid servants for those citizens, should have free access to the legislature with or without public scrutiny. I think that there is no question they should have that access, they should be able to hire representation, the best that they are able to afford, but I think that the public has a right to know what they are doing and who is doing it. Mr. DeVane feels that this makes no difference how much money is spent or what particular attorney or representative for a concern or an individual is spending that money.

I feel the overwhelming sentiment of the public, rightly or wrongly, whether it has been fanned by the press or whether it is artificial or a real concern, they have a perception that the "lobby" is affecting our decisions and often improperly. I don't necessarily share that view, but I think that the public, in having that view, has a right to see who is spending the money and to be able to make their own judgment, if they are that concerned.

The gentleman from Bangor is concerned about exemptions for religious institutions, and I can understand his concern in light of recent events in the queen city. We listened to this — this is a very difficult question like all these questions that address lobbying, whether you should bend a little farther to give to be doubly sure that you protect the rights of freedom of religion and freedom of communication.

I think, though, in the final analysis, I have no qualms about these exemptions. I certainly do not support a Swiss Cheese approach, which allows attorneys or lobbyists to exclude from their accounting any drafting or research time because this may not represent a direct contact

with the legislator but it certainly represents a capability that reflects the financial support and drafting a bill carefully and doing research on the bill, does represent a financial capability that the average citizen does not have and I think the public has a right to know where that is coming from and who is employing him.

That is all this bill is. It does not in any way interfere with anyone's right to communicate with their legislator, it simply makes that process visible. I urge you support the majority report.

The SPEAKER: The Chair recognizes the gentleman from Sanford, Mr. Gauthier.

Mr. GAUTHIER: Mr. Speaker, Ladies and Gentlemen of the House: The Republican Majority floor leader at that time I mentioned a few minutes ago just came to mind: he was Harry Richardson from Portland.

The SPEAKER: The Chair recognizes the gentleman from Kittery, Mr. Kauffman.

Mr. KAUFFMAN: Mr. Speaker, Ladies and Gentlemen of the House: I have heard considerable debate in regard to this lobbyist bill. It seems that certain members of this legislature are very much concerned over the amount of money the lobbyists pay. However, this is all on record down in the Secretary of State's Office and other than the news media, who check at the end of the session, there hasn't been a half a dozen people down there to check that account.

I support the minority report.

The SPEAKER: The Chair recognizes the gentlewoman from Brunswick, Mrs. Bachrach.

Mrs. BACHRACH: Mr. Speaker, Ladies and Gentlemen of the House: When it is claimed that the lobbyists don't influence the legislature, I would like to point out that we have just spent a whole hour discussing legislation, chiefly due to the fact that the lobbyists have presented an alternative bill, and I would hesitate to pass a bill which, everyone knows, has been written by the lobbyists, for the simple reason that I think people are suspicious that one shouldn't write one's own legislation.

The SPEAKER: The Chair recognizes the gentleman from Bangor, Mr. McKernan.

Mr. MCKERNAN: Mr. Speaker, I would like to pose a question to any member of the State Government Committee, whether or not this certain lobbyist that helped draft this bill didn't in fact help draft both drafts and that they are almost identical?

The SPEAKER: The gentleman from Bangor, Mr. McKernan, has posed a question through the Chair to any member of the State Government Committee.

The Chair recognizes the gentleman from Gorham, Mr. Quinn.

Mr. QUINN: Mr. Speaker, Ladies and Gentlemen of the House: I will answer the question — indulge me just one second. I don't feel that who wrote the bill is really at issue, but for fact of the matter, the committee report is the common cause boiler plate law, which is in existence in Rhode Island, in New York, in Texas, in modified form in California, it is essentially the same law that was proposed by the common cause people, who are themselves lobbyists, by the way, a year ago tailored to meet the circumstance in Maine and further tailored to take care of the peculiar objections which arose as the result of the fact that we were imposing on some private people. As far as I know, the minority report was written fully and completely by Senator Wyman.

The SPEAKER: The Chair recognizes the gentleman from Dover-Foxcroft, Mr. Smith.

Mr. SMITH: Mr. Speaker, Ladies and Gentlemen of the House: I have hesitated to get involved with this. As a matter of fact, up until yesterday, when I started talking with people who were involved with both these drafts, I had

no intention of getting involved in this because I was not familiar with the provisions of the law.

However, I think it is important, from an overall point of view, to end up this session with a satisfactory lobbyist disclosure bill, and it is from that point of view that I stand up here today before you, to bring your attention to a couple of important matters that the gentleman from Bangor, Mr. McKernan, has touched upon, which are, in fact, legitimate concerns that every member of this body, I think, should think about.

I would like, first of all, to call your attention to the majority report, which seems to be the one that at this point at least seems to be most favored, L.D. 2312, and I would like to call your attention on Page 6 to Section 320, which is entitled Penalty, Subsection 2, which is headed Fine and Imprisonment. I will read it to you: "The penalties for wilfully or knowingly failing to file a registration or a report as required by this chapter or for violating Section 319, shall be a fine of not more than \$1,000 or imprisonment for more than 11 months, or both." This, clearly, is a very strong criminal penalty.

I would like to have you flip back to Page 5, under the reporting section, Section 315, and we can either take Section A or B — taking Section B as an example, let's drop down to the second sentence which says, and these are outlining those matters which must be reported: "Such expenditures shall be itemized" — talking about expenditures to be reported — "by amount of expenditure, date of expenditure and the purpose of expenditure" — and then the clause — "including but not limited to" — that is the most important one — "meals, lodging, travel and other expenses."

Now, the Maine Constitution in Article I, Section 6, states: "In all criminal prosecutions, the accused shall have the right to be heard by himself and his counsel, or either, at his election" — and then it says — "to demand the nature and the cause of the accusation."

Going back to Page 5, the phrase "including but not limited to," when stacked up against the constitutional provisions would clearly be unconstitutional. The gentleman from Bangor has used the phrase, and it is a technical phrase that lawyers use, "chilling effect" and I think it may have been lost on many people. That is a phrase that the court has used to indicate that civil liberty First Amendment rights have been violated and have over-turned a great number of such statutes. I have no doubt but when the supreme court of this state stacks this statute and these provisions up against this Constitution, you are going to end up with no lobby disclosure law, at least in the reporting section.

Now, the gentlewoman from Waterville, Mrs. Kany, shocked me a moment ago, and I may have misheard her, because she said that these provisions of this law, if I understood her correctly, were lifted from a previous disclosure law in the state. She said she did not say that and I will discontinue the argument at this point, then).

So I think regardless of what bill we enact here today, we are going to have to take a very close look, because we are going to be without a lobbyist disclosure law if we take the majority report as written. I have looked at the same provision in the minority report and that does not violate that section of the Constitution, and I think we are going to have to have some work to do on this bill if we accept the majority report today.

The SPEAKER: The Chair recognizes the gentleman from Lewiston, Mr. Jalbert.

Mr. JALBERT: Mr. Speaker, Ladies and Gentlemen of the House: I have been a member of this body since 1945. From 1933 through 1936,

I worked for a governor, let's say that I was an errand boy between the Governor's Office for about 2½ years and this body. I speak this morning, because yesterday, there apparently is a series being made by a newsman concerning lobbyists and their activities and legislators and their activities. And so that I might repeat some of the answers that I gave to the questions that were posed to me.

I am not going to say that back in 1933 to 1936, or when I first got here, that we had bad legislators, but I will tell you this right now, that in those days, if you didn't have a lobbyist with you or if they decided to go against you, you were dead gone. They knitted themselves together into a ball and they were power.

I think today what we are doing, actually, and I have lived half of my life from here, I have got to know, unless I am a total idiot, somewhere along the line, what I am talking about, and I submit to you that we are actually today pointing the finger at ourselves. There are times in caucuses, particularly, not very much on the floor of the House because I have broken all records in the last session for staying in my seat, but I can't stay in my seat when I feel that this body that I love from my heart, not only be abused but abuse itself. I would like to have you people here who have been influenced because of lobbyists twisting your arms or cajoling you or pestering you. I would like to have you raise your hands, those of you whose minds have been changed. You can't raise your hand for a very good reason, in that there has been many times that I have been driven up a wall because of lengthy debates on things that were absolutely needless and useless. It reminded me of me back 25 or 30 years ago, and that is why three years ago I took all the records of the legislature and gave them away to a library to hide.

The fact of the matter is, you are not influenced because as long as I have been here, I have never seen or thought that I would be part of a body that would be so conscientious, hard working and honest as this group here, and I don't ask for any favors too much around here. I don't think that there are five of you who could raise your hands today to see that at any time since the last session has started, have I come up to you to ask you to vote for or against a bill that I am interested in? If I can't do it from the committee room, then I can't do it here.

It amazes it so often how many times we have argued a 12 to 1 report. That is the reason we have 17-A, if you can't convince anybody on a committee, or one or two people on a committee out of 13, what is the use of battling it out here?

The strange part of it is this, I witnessed last night, among ourselves, the biggest lobby job since I have been here on a bill that hardly meant anything, a liquor bill. I didn't care how I voted for the bill. I went to the chairman of the committee, the good gentleman from Jay, and I said to him, look, we are trying to help a nice fellow here, he is interested in this bill, would you lay off a little bit. He said, I won't say another word. I never saw a lobby job done so fast for a person within this House, because he wanted to either pass or kill a bill, but he wanted us to go with him and we went with him, believe it or not, not for the bill, we went with him because we liked him, at least that is the way I voted.

Believe me, nobody, if you took the whole lobby and brought them in this room, if the Speaker broke down the rule and said the lobbyists could come in, if they all came in together, they could never begin to do the job in 45 minutes that was done here last night by us.

I get tired sometimes, I run out of steam and I say I am all done and then somebody says to me, you are all done when you die, and I guess

that is right. Don't indict yourselves; nobody bugs you, nobody can con you into voting, no lobbyist can do it.

I have gone to one lobbyist, the Honorable Dana W. Childs, a former Speaker of the House, who I recommended to my employer to hire, and the only reason I went to him was because I know he said he would steer me straight. I have gone to him, said, Dana, if I vote on this thing, am I in any way, shape or manner in conflict? I have gone to the Speaker and have asked to be excused and he has excused me. There are times when I have excused myself when I didn't have to.

But I don't want to lie. What record I have got that is any good, I want to keep, because I love this House. I might argue with some of the members, but I love the membership of this House and I have a tremendous amount of respect for their integrity. They are not getting conned by the people out there. The people out there are conning the people who are hiring them. That is the fact of the matter.

Actually, I have been accused of some of the young members not liking me because I was friendly with lobbyists. I asked a lobbyist last session one time, how about taking me out to eat, and he told me to get lost, so I took him out and it makes that even.

Do not indict yourselves, and that is exactly what you are doing. This body here, and I can speak from experience, this is the best session. These members are the best members I have ever served with. I am not saying other legislatures haven't been good, but this one here rates number one. There is no use in my trying to lobby anybody, and I am supposed to be pretty good at it. You couldn't con nine tenths of you people with a sledge hammer. What difference does it make what there is on the books. I am going with the Wyman Report.

The SPEAKER: The Chair recognizes the gentleman from Pittsfield, Mr. Susi.

Mr. SUSI: Mr. Speaker, Ladies and Gentlemen of the House: My personal position on this is that when we get down to the wire, I am going to support whatever bill we have before us, but that is not saying that I don't have a choice between the two bills, I certainly do have.

Going into this, the one thing that I was hoping we could retain through the whole process is the ability to determine, after the legislation is adopted, how much money is being spent on any particular issue so if an issue comes before a session and we want to know how much beef there is behind it, you can find out what the stakes are in the game, then you know pretty much how important the game is. If that legislation would make it possible for me to go to the Secretary of State's Office and determine whether it is ten, twenty, thirty or forty thousand, how much is being spent on that issue, then I would have been happy. But under the minority report, that wouldn't be possible, because under it, each of these legislative agents would, on his own, be able to determine what percentage of his fee is attributable to research, to drafting, in contrast to the effort that he makes to affect the legislation. What also raised a question in my mind is whether calls made out of his office to hometown business people or whatever couldn't perhaps conveniently be classified as research.

My point is, even after this, you won't be able to tell how much money is being spent on these issues, and I feel this is a serious deficiency in the minority report.

Statements have been made here this morning that would lead you to believe that the effect of the lobby in the legislative process here is minimal. I don't concur with that at all. The accusation has been made that the employers of the lobby are conned rather than us, and that



may be true in some instances, I don't doubt that it is. But by and large, the sharpest business people in this state spend literally hundreds of thousands of dollars each session on lobbying efforts and if these expenditures through the years hadn't paid off, I am sure that they would have discontinued the high level of expenditures in this area.

I have noticed a change in the pattern. It is very clear to me that the lobbying efforts are going away from the House. There isn't the concentrated lobbying effort in the House that there used to be. It is concentrated in other areas. I would say the combination of two things has happened — a minimizing of the effort on the House and an overall increase in the overall effectiveness of the lobby in the legislature. I think they are concentrating more on the committees and other areas of the legislature.

I don't think that we have any occasion today to come to the very comfortable conclusion that the lobby is dissipating, that it no longer is a viable part of the legislative process. This isn't true, it is still around and is very effective right today.

Our present situation, we have a choice between the minority and majority report. If we support the majority report, 11 to 1 majority report, and in my opinion, the majority report represents considerable more legislative input. I think the minority report represents considerable more lobbyist input. I believe that we could reasonably support the majority report, go to a committee of conference and perhaps stiffen up a little bit the provisions of the minority report, and I think we might have a passable lobbyist bill coming out of this session.

The SPEAKER: The Chair recognizes the gentleman from Ellsworth, Mr. DeVane.

Mr. DeVANE: Mr. Speaker, Men and Women of the House: This member supports, vehemently, disclosure by lobbyists.

I would respond to comments by four members of this House. To Mr. Gauthier I would say, the lobby is as strong as the membership is weak. It is as futile to determine one's own influence as it is one's own popularity. The membership decides who influences them. I cannot conceive that people do not understand that we each are sovereign and decide who shall influence us.

To Mr. Wagner, I should remind that gentleman that I appeared before the State Government Committee and asked the State Government Committee to put in the lobbyist disclosure bill a provision that every penny that is spent by a person hired to influence legislation, that every penny that they might spend to entertain, to accommodate a member of this legislature be disclosed — a cup of coffee, lodging, that is what the public is thinking about and that, sir, should be disclosed and with criminal penalty.

I care not one way or the other if a lobbyist's salary is disclosed, because I care not if somebody gets paid \$100,000 or if they are a penniless volunteer, their opinions are equal and the value of them is equal. I care not what anybody pays their lobbyists. I am perfectly willing to see it public, but it doesn't change their effectiveness. I shouldn't think. If you care more for the opinion of somebody highly paid than somebody unpaid, I suggest that there is something wrong with your thinking, and that provision should have been the critical provision and not what is in the bill.

I would say to Mrs. Bachrach and to Mr. Susi, of course the lobby influence is the legislation. That is what they are here to do, that is what they do, but the membership decides to whom they shall respond. I hope.

The SPEAKER: The Chair recognizes the gentleman from Old Town, Mr. Gould.

Mr. GOULD: Mr. Speaker and Members of the House: Very briefly, I favor the minority report because I think it is the best thing since tranquilizers, and after talking to some of the lobbyists, anyone needs tranquilizers.

The SPEAKER: The Chair recognizes the gentleman from Lewiston, Mr. Jalbert.

Mr. JALBERT: Mr. Speaker and Members of the House: You are perfectly right as far as time is concerned, and I admit that I am one of those who has come to you and said, what are we going to do to speed this up. I want to go home too, but there are times when you have to get up and speak.

If the gentleman from Pittsfield, Mr. Susi, ever agreed with me, there would be coronary number two, as far as I am concerned. You know, last Sunday I was speaking with a mutual friend of all of us and the gentleman from Pittsfield's name came up and of course I started out and I didn't cut loose and breathe for about seven and a half minutes. When I got through talking, my wife said, Louis, is that the nice man you speak about to me, Mr. Susi from Pittsfield, that you tell me you like so much? Is said, that is the same guy.

But you know, the funny part about it is, he was once a good floor leader of the opposition party, and I have seen him go up and ask lobbyists for advice.

The SPEAKER: The Chair recognizes the gentleman from Sanford, Mr. Gauthier.

Mr. GAUTHIER: Mr. Speaker, Ladies and Gentlemen of the House: Just a few words. I don't want to delay the session, but in answer to Mr. DeVane, I would like to say to Mr. DeVane that this is his first session and the committee came out 11 to 1, and I think I would respect their views on this.

The SPEAKER: The Chair recognizes the gentleman from Auburn, Mrs. Snowe.

Mrs. SNOWE: Mr. Speaker, Ladies and Gentlemen of the House: I am not going to attempt to address the role of the lobbyist this morning in regards to this legislature. I think that has been done sufficiently. I guess at this point what I am going to do is at least draw the differences between the two bills on which we will be basing our decision.

In the majority report, we use the eight hours for the determination of whether or not one is a lobbyist, we use the \$500 figure and the minority report uses the eight hour determination.

In our bill, the majority report, we exclude county and municipal officials. The minority report does not. In our bill, we do include lobbying before a committee, testimony before a committee; the minority report does not. I think that is a major loophole. Oftentimes lobbyists spend a lot of time before a committee.

Also, in the majority report, a lobbyist includes an individual who is a partner, associate member or employee of a partnership firm, corporation or professional association which has been employed for lobbying when such individual is acting for the lobbyist in representing the employer. Our bill includes such an individual; the minority report does not our bill excludes religious organizations; the minority report does not.

I think it depends at this point which things could be tightened in the bill. I think that is all that matters here this morning.

The SPEAKER: The Chair recognizes the gentleman from Sanford, Mr. Lovell.

Mr. LOVELL: Mr. Speaker, Ladies and Gentlemen of the House: I have a great deal of respect for the gentleman from Dover-Foxcroft, Mr. Smith, and in his talk he stated that the majority report was unconstitutional, so we need to vote for the minority report. Now, in the years I have been here, I have never had a lobbyist buy me a cup of coffee or sandwich or anything at all. I say, let's vote on this thing. We

have talked long enough on it. Let's vote and let's get the minority report passed.

The SPEAKER: The Chair recognizes the gentleman from Waterville, Mrs. Kany.

Mrs. KANY: Mr. Speaker and Members of the House: I just wanted to reply to that. I discussed this with Representative Smith outside, and his whole objection, that was page 5, under expenditures, "including but not limited to" and I am sure that he or anyone else would be perfectly happy with it if that were amended out on the second reading by a House amendment.

Representative Smith, when he discussed the whole business of penalties, didn't really stress the fact that the penalties would only come into effect any time when people wilfully and knowingly filed incorrect information or wilfully or knowingly failed to file a registration report, and this is very important language legally, in that it is pretty hard to ever find someone wilfully and knowingly doing something. It is just a failure to act; in other words, no one would ever be penalized, but they would have to wilfully and knowingly fail to do something. I would like to make that very clear.

Right now, we have no lobbyist disclosure law. I don't really care if we have one, to tell you the truth. Our whole committee has been working on this for so long that I am sure most of us feel this way. I don't even know if it is all that important to have one, but if we are going to put something on the books, why don't we put on something fairly good.

We have had a lobbyist disclosure law on the books for about 20 years, up until now, now we don't have one. So this is not some new item that has just come up during the 107th. This is old stuff, and if we want a law on the books, why don't we have a good one; otherwise, let's just leave it the way it is now and not bother to have any at all.

The SPEAKER: A roll call has been requested. For the Chair to order a roll call, it must have the expressed desire of one fifth of the members present and voting. All those desiring a roll call vote will vote yes; those opposed will vote no.

A vote of the House was taken, and more than one fifth of the members present having expressed a desire for a roll call, a roll call was ordered.

The SPEAKER: The Chair recognizes the gentleman from Houlton, Mr. Carpenter.

Mr. CARPENTER: Mr. Speaker, I wish to pair my vote with the gentleman from Mapleton, Mr. Rideout, if I were voting on this issue, I would be voting yes; if he were here and voting, he would be voting no.

The SPEAKER: The pending question is on the motion of the gentleman from Sabattus, Mr. Cooney, that the House accept the Majority "Ought to pass" Report. If you are in favor of that motion you will vote yes; those opposed will vote no.

#### ROLL CALL

YEA — Bachrach, Bennett, Berry, P. P.; Berube, Blodgett, Boudreau, Carroll, Carter, Chonko, Clark, Connolly, Cooney, Cox, Curran, P.; Davies, Dow, Farnham, Flanagan, Gauthier, Goodwin, K.; Greenlaw, Henderson, Hennessey, Hinds, Hughes, Hunter, Ingegneri, Jacques, Jensen, Joyce, Kany, Kennedy, Laffin, LaPointe, Martin, A.; Martin, R.; Mills, Mitchell, Morin, Mulkern, Nadeau, Najarian, Peakes, Pelosi, Post, Powell, Quinn, Raymond, Shute, Snowe, Stubbs, Susi, Talbot, Tozier, Tynedale, Usher, Wagner, Wilfong, Winship.

NAY — Albert, Ault, Bagley, Berry, G. W.; Birt, Bowie, Burns, Bustin, Byers, Call, Churchill, Connors, Cote, Curran, R.; Curtis, Dam, DeVane, Doak, Drigotas, Dudley, Durgin, Dyer, Farley, Fenlason, Finemore, Fraser, Garsoe, Goodwin, H.; Gould, Gray,

Hall, Hewes, Higgins, Hobbins, Hutchings, Immonen, Jackson, Jalbert, Kauffman, Kelleher, Kelley, Laverty, LeBlanc, Leonard, Lewin, Lewis, Littlefield, Lizotte, Lovell, Lunt, Lynch, MacEachern, Mackel, MacLeod, Mahany, Maxwell, McBreaarty, McKernan, McMahon, Miskavage, Morton, Norris, Palmer, Pearson, Perkins, S.; Perkins, T.; Peterson, P.; Peterson, T.; Pierce, Rolde, Rollins, Saunders, Silverman, Smith, Snow, Spencer, Sprowl, Strout, Tarr, Teague, Theriault, Tierney, Torrey, Truman, Twitchell, Walker, Webber. The Speaker.

ABSENT — Carey, Faucher.

PAIRED — Carpenter, Rideout.

Yes, 59; No, 88; Absent, 2; Paired, 2.

The SPEAKER: Fifty-nine having voted in the affirmative and eighty-eight in the negative, with two being absent and two paired, the motion does not prevail.

Thereupon, on motion of Mr. Dudley of Enfield, the Minority "Ought to pass" Report was accepted in concurrence and the New Draft read once. Senate Amendment "C" (S-466) was read by the Clerk and adopted in concurrence and the New Draft assigned for second reading tomorrow.

#### Non-Concurrent Matter

RESOLVE, to Reimburse the Town of Waldoboro for Assisting in the Capture of Escapees from the Maine State Prison in Thomaston (H. P. 1807) (L. D. 1966) on which the Minority "Ought to Pass" Report of the Committee on Legal Affairs was accepted and the Bill Passed to be Engrossed in the House on March 23, 1976.

Came from the Senate with the Majority "Ought Not to Pass" Report of the Committee on Legal Affairs Read and Accepted in non-concurrence.

In the House:

The SPEAKER: The Chair recognizes the gentleman from Waldoboro, Mr. Blodgett.

Mr. BLODGETT: Mr. Speaker, it is apparent that the members of the other body are unable to recognize a good and fair bill when they see one. I move to insist and ask for a Committee of Conference.

Thereupon, the House voted to insist and ask for a Committee of Conference.

#### Orders

Mr. Theriault of Rumford presented the following Joint Order and moved its adoption: (H. P. 2239) (Cosponsor Mr. Fraser of Mexico)

WHEREAS, The Legislature has larned of the Outstanding Achievement and Exceptional Accomplishment of The Panthers of Rumford High School Douglas Roberts; Andrew Shorey; Timothy Ziko; Jack Kaubris; Matthew Kaubris; Robert Reid; Chris Gorham; Timothy Shea; David Gerrish; Michael Fraser; Peter Carignan; John Zinck; James Puiia, Manager; Vincent Martin, Assistant Manager; Kelly Gorham, Mascot-Manager And Their Coach, John Shaw And Assistant Coach, Rick Milliken New England Basketball Champions For 1976

We the Members of the House of Representatives and Senate do hereby Order that our congratulations and acknowledgement be extended; and further

Order and direct, while duly assembled in session at the Capitol in Augusta, under the Constitution and Laws of the State of Maine, that this official expression of pride be sent forthwith on behalf of the Legislature and the people of the State of Maine.

The Order was read.

The SPEAKER: The Chair recognizes the gentleman from Rumford, Mr. Theriault.

Mr. THERIAULT: Mr. Speaker and Members of the House: The members of this wonderful team who you have just heard named are now in the balcony and I would like to ask

them to stand and be recognized. (Applause, the members rising.)

I would further like to say that one of the members of that team happens to be the grandson of our own Mr. Emile Fraser.

The SPEAKER: The Chair would make a couple of comments, if he might. Yesterday, Mr. Theriault indicated that his starting to feel ashamed for having to put in so many orders honoring Rumford High for its many accomplishments. For this one, we congratulate you, since you have brought honor not only to yourself and to your school but also to the entire State of Maine. The order from the gentleman from Rumford, to which I referred earlier, dealt with the Gymnastics team of your high school, and for that we congratulate you and appreciate your being here with us today.

The Chair recognizes the gentleman from Rumford, Mr. Theriault.

Mr. THERIAULT: Mr. Speaker, you made a big error. You said I was ashamed — not ashamed, embarrassed, never, never ashamed.

The SPEAKER: The Chair recognizes the gentleman from Dixfield, Mr. Rollins.

Mr. ROLLINS: Mr. Speaker, Ladies and Gentlemen of the House: I, too, am proud of the boys on the basketball team from Rumford High School. We have another member of this House who is graduate from Rumford High School, and I will let her speak for herself.

Thereupon, the Order received passage and was sent up for concurrence.

By unanimous consent, ordered sent forthwith to the Senate.

Mr. Burns of Anson presented the following Joint Resolution and moved its adoption: (H. P. 2238)

Joint Resolution On The End of Log Driving In The State Of Maine And On The Demise Of The Kennebec Log Driving Company

WHEREAS, during the summer of 1975 Maine's last log drive took place on the Kennebec River; and

WHEREAS, during this drive over 220,000 cords of fir and spruce were driven over 160 miles down river from Moosehead Lake to Winslow; and

WHEREAS, the Kennebec Log Driving Company, which is one of the last log driving companies in the United States and which, since 1835, has driven logs from the upper Kennebec River downstream to saw mills and paper mills, ceased river operations with the end of this last log drive; and

WHEREAS, log drives on the Kennebec are a nostalgic part of Maine history, recalling the days of dynamite, bateaux, peaveys, log rafts, log booms, pickpoles, picaroons and towboats; and

WHEREAS, log drives on the Kennebec recall most vividly the fabled rivermen of the past, giants in caulked boots who leaped nimbly from jam to jam in order to skillfully pry loose the key log which sent the whole mass tumbling down river as the driver leaped to safety; and

WHEREAS, log drivers are now faded into the river mist to return only when drives are recreated along this glistening waterway by loggers of the past telling their grandchildren "how it really was when great rivermen had a place to be great;" now, therefore, be it

RESOLVED: That we, the Members of the Senate and House of Representatives of the 107th Legislature, join this moment to recall these days of the last log drive and the many that preceded it and in so doing pause to commemorate this colorful and lasting episode in Maine's history; and be it further

RESOLVED: That we note with pride the long history of the Kennebec Log Driving Company and note with sadness the passing of the last river operations of that company; and be it further

RESOLVED: That upon passage in concurrence, the clerk of the House shall send suitable copies of this resolution to the Kennebec Log Driving Company, the Scott Paper Company and the Hudson Pulp and Paper Corporation in honor of the occasion.

The Resolution was read.

The SPEAKER: The Chair recognizes the gentleman from Anson, Mr. Burns.

Mr. BURNS: Mr. Speaker, Ladies and Gentlemen of the House: It is sad to introduce this order in this bicentennial year. Log driving in Maine is as old as this country. Most every brook, stream and river in this state has been used as an inexpensive and available form of transportation, carrying millions of logs and cords of pulpwood to the factory. The history of the State of Maine could be written just by following the history of the river drives.

The Kennebec Log Driving Company is not a new name in the halls of this House. They were constituted by the Maine Legislature in January 1835. In researching this order, I found that my sixth great grandfather was one of the signers of the original petition, and each generation thereafter has worked for them.

If you happen to be in the upper part of the Kennebec River Valley this summer, please pause and reflect, it will be a scene that you will see no more.

The SPEAKER: The Chair recognizes the gentlewoman from Millinocket, Mrs. Laverty.

Mrs. LAVERTY: Mr. Speaker, I would like to thank Mr. Burns for presenting this joint resolution, in that I come from the log driving country on the Penobscot. I was brought up in the Great Northern Paper Company country where the log drive was part of our lives and we hate to see this era go. Thank you, Mr. Burns.

Thereupon, the Resolution was adopted and sent up for concurrence.

By unanimous consent, ordered sent forthwith to the Senate.

#### Later Today Assigned

Mr. Leonard of Woolwich presented the following Joint Resolution and moved its adoption (H. P. 2235)

Joint Resolution concerning the Desirability of Repealing The Safe Water Drinking Act enacted by Congress as PL 93-523

WHEREAS, the 93rd Congress of the United States has enacted Public Law 93-523, cited as the "Safe Drinking Water Act;" and

WHEREAS, this Act regulates all public water supplies including those which are not operated by a water utility; and

WHEREAS, the Act requires the State of Maine to enact complicated, complex, unnecessary and expensive legislation by July 1, 1977; and

WHEREAS, if the State fails to enact legislation deemed appropriate by the Environmental Protection Agency, all suppliers of water in Maine will be subject to the regulation of regional offices of the Environmental Protection Agency; and

WHEREAS, such regulation is not needed in the State of Maine, and

WHEREAS, the law will result in increased cost to the citizens of Maine, outweighing any benefits; now, therefore, be it

RESOLVED: That we, the Members of the 107th Maine Legislature now assembled in special session, hereby respectfully request and urge the Maine Delegation to the Congress of the United States to convince their colleagues of the necessity of repealing Public Law 93-523, and to work toward securing repeal of this Act as soon as possible; and be it further

RESOLVED: That duly attested copies of this Resolution be immediately transmitted to those congressional delegates with our thanks for their prompt attention to this important matter.

The Resolution was read.

On motion of Mr. Leonard of Woolwich, tabled pending adoption and later today assigned.

Mr. Birt of East Millinocket presented the following Joint Order and moved its passage: (H. P. 2237)

WHEREAS, the Department of Inland Fisheries and Wildlife undertakes a wide range of biological research; and

WHEREAS, the research division is responsible for the improvement, propagation and maintenance of all forms of wildlife and fish; and

WHEREAS, these activities have an impact on the lives of all Maine people; now, therefore, be it

ORDERED, the Senate concurring, that the Joint Standing Committee on Fisheries and Wildlife shall review the content and expected application of research carried out by the research division of the Department of Inland Fisheries and Wildlife, and shall review the capabilities, plans and needs of that division; and be it further

ORDERED, that the committee shall complete this study no later than 90 days prior to the next regular session of the Legislature, and submit to the Legislative Council within the same time period its findings and recommendations including copies of any recommended legislation in final draft form; and be it further

ORDERED, that upon passage of this Order in concurrence, the Clerk of the House shall forward a suitable copy of this Order to the Senate and House chairmen of the committee. The Order was read.

The SPEAKER: The Chair recognizes the gentleman from East Millinocket, Mr. Birt.

Mr. BIRT: Mr. Speaker, Ladies and Gentlemen of the House: This is an order that arose out of a study that the Performance Audit Committee did last summer. We have had one bill that came out of this study relative to the financing of the department. But during the discussion, we had some requests and information to do a further study on the biological research and the biologists and we decided that this was probably a little bit beyond the scope of what we in the committee were capable of doing, but we did feel that it should be looked into. As a result, this order came out of that committee and we are referring this to the Department of Inland Fisheries and Wildlife and the Fish and Game Committee to make a more extensive review of this entire program.

Thereupon, the Order received passage and was sent up for concurrence.

Mrs. Hutchings of Lincolnville presented the following Joint Order and moved its passage: (H. P. 2243)

WHEREAS, The Legislature has learned of the Outstanding Achievement and Exceptional Accomplishment of Kenneth Urquhart of Lincolnville who has achieved the honor and distinction of Eagle Scout in Troop 244, Hope-Lincolnville of the Pinetree Council of The Boy Scouts of America

We the Members of the House of Representatives and Senate do hereby Order what our congratulations and acknowledgement be extended; and further

Order and direct, while duly assembled in session at the Capitol in Augusta, under the Constitution and Laws of the State of Maine, that this official expression of pride be sent forthwith on behalf of the Legislature and the people of the State of Maine.

The Order was read.

The SPEAKER: The Chair recognizes the gentlewoman from Lincolnville, Mrs. Hutchings.

Mrs. HUTCHINGS: Mr. Speaker, Ladies and Gentlemen of the House: Kenneth Urquhart of

Lincolnville is being honored today as attaining the highest rank of boy scouting, that of Eagle Scout. He is the first from Lincolnville to earn this honor. His Scout Master, Mr. James Calahan of Camden, has kindly supplied me with some background information of Ken's achievement.

It was early in 1972 that Ken Urquhart began his scouting career as a member of the Hope-Lincolnville Troop 244 which, incidentally, is the only one in the state to be included in two counties. On December 22, 1975, he earned his Eagle Scout rank, awarded at a Court of Honor January 19, 1976.

I would like to speak of some of the work involved in attaining this highest rank in scouting. Ken earned 24 merit badges, including those in categories of citizenship, in community, in nation and in the world. He also earned one in camping, having completed a 50-mile hike, camping out in excess of 60 nights, plus attendance at summer camp for at least a week each summer. He received badges in emergency preparedness, environmental science, personal fitness and cooking, and has earned 10 skill awards. He has completed three major community service projects of his own choice.

During this time, he has served as patrol leader and assistant patrol leader. He also actively taught younger scouts many of the scouting skills in which he has become proficient. And last, but not least, Ken Urquhart has maintained excellent school ranks and held part time employment after school, nights and weekends.

Ladies and gentlemen, it is with great pleasure and pride that I am privileged to have Ken Urquhart here today and to honor him in this legislature. (Applause)

Thereupon, the Order received passage and was sent up for concurrence.

Mr. Torrey of Poland presented the following Joint Resolution and moved its adoption: (H. P. 2236)

#### IN MEMORIAM

Having Learned of The Death of Edward F. Sawyer of Mechanic Falls former Town Manager and Outstanding Citizen

The Senate and House of Representatives of the State of Maine do hereby extend their sincere heartfelt condolences and sympathy to the bereaved family and friends of the deceased; and further

While duly assembled in session at the State Capitol in Augusta under the Constitution and Laws of the State of Maine, do herein direct that this official expression of sorrow be forthwith sent to the family of the deceased on behalf of the Legislature and the people of the State of Maine.

The Resolution was read and adopted and sent up for concurrence.

Mr. Talbot of Portland was granted unanimous consent to address the House.

Mr. TALBOT: Mr. Speaker, Ladies and Gentlemen of the House: A short while ago, I sponsored in this House a memorial in behalf of the death of a giant of a human being, a black American, Paul Robeson. Today, I would like to read into the record, for my behalf and your behalf, a short letter which I received today from the Paul Wilson Achieves, Inc. "Dear Mr. Talbot: Deepest thanks for your kind letter of February 12 and the accompanying resolution of condolence from the House of Representatives of the State of Maine. Please convey the family's deep appreciation to the other member of the House. Sincerely yours, Paul Robeson Jr."

#### House Reports of Committees

##### Ought to Pass in New Draft

##### New Draft Printed

Mrs. Clark from the Committee on Business Legislation on Bill "An Act Concerning the

Geologist and Soil Scientist Certification Act" (H. P. 1993) (L. D. 2182) reporting "Ought to Pass" in New Draft Under New Title Bill "An Act Relating to the Geologists and Soil Scientists Certification Act" (H. P. 2240) (L. D. 2322)

Report was read and accepted, the New Draft read once and assigned for second reading tomorrow.

#### Divided Report

##### Tabled and Assigned

Majority Report of the Committee on Fisheries and Wildlife on Bill "An Act to Clarify the Fish and Game Laws" (H. P. 1933) (L. D. 2121) reporting "Ought to Pass" as amended by Committee Amendment "A" (H-1049)

Report was signed by the following members:

Mr. PRAY of Penobscot — of the Senate.

Messrs. DOW of West Gardiner  
TOZIER of Unity  
MacEACHERN of Lincoln  
USHER of Westbrook  
MARTIN of St. Agatha  
MILLS of Eastport

— of the House.

Minority Report of the same Committee reporting "Ought to Pass" as Amended by Committee Amendment "B" (H-1050)

Report was signed by the following members:

Messrs. McNALLY of Hancock  
GRAFFAM of Cumberland

— of the Senate.

Messrs. CHURCHILL of Orland  
PETERSON of Caribou  
WALKER of Island Falls  
KAUFFMAN of Kittery

— of the House.

(On motion of Mrs. Najarian of Portland, tabled pending acceptance of either Report and tomorrow assigned.)

#### Consent Calendar

##### First Day

##### Later Today Assigned

In accordance with House Rule 49-A, the following items appeared on the Consent Calendar for the First Day:

(H. P. 1965) (L. D. 2154) Bill "An Act to Repeal Certain Statutory Provisions for the Licensing of Boarding Homes and Day Care Facilities" Committee on Health and Institutional Services reporting "Ought to Pass" as amended by Committee Amendment "A" (H-1056)

On the request of Mr. Goodwin of South Berwick, was removed from the Consent Calendar.

Thereupon, the Report was accepted and the Bill read once. Committee Amendment "A" (H-1056) was read by the Clerk.

On motion of Mr. Goodwin of South Berwick, tabled pending adoption of Committee Amendment "A" and later today assigned.

#### Consent Calendar

##### Second Day

In accordance with House Rule 49-A, the following items appeared on the Consent Calendar for the Second Day:

Bill "An Act to Amend the Procedures of the Maine Labor Relations Board" (C. "A" H-1022) (H. P. 1961) (L. D. 2148)

On the request of Mr. Tierney of Durham, was removed from the Consent Calendar.

Thereupon, the Report was accepted and the Bill read once. Committee Amendment "A" (H-1022) was read by the Clerk and adopted and the Bill assigned for second reading tomorrow.

Bill "An Act Clarifying the Use of the Mental Health Improvement Fund" (H. "A" H-1024) (H. P. 2068) (L. D. 2238)

Bill "An Act to Incorporate the Frye Island

Municipal Services Corporation" (Emergency) (C "A" H-1026) (H. P. 2109) (L. D. 2263)

No objections having been noted at the end of the Second Legislative Day, the above items were passed to be engrossed and sent up for concurrence.

Bill "An Act Relating to Town Ways" (C "A" H-1028) (H. P. 1920) (L. D. 2106)

On the request of Mr. Henderson of Bangor, was removed from the Consent Calendar.

Thereupon, the Report was accepted and the Bill read once. Committee Amendment "A" (H-1028) was read by the Clerk.

Mr. Henderson of Bangor offered House Amendment "A" to Committee Amendment "A" and moved its adoption.

House Amendment "A" to Committee Amendment "A" (H-1070) was read by the Clerk.

The SPEAKER: The Chair recognizes the gentleman from Bangor, Mr. Henderson.

Mr. HENDERSON: Mr. Speaker, Ladies and Gentlemen of the House: This bill, its primary objective is to deal with the problem of town ways which have been lost through the records that might have been established hundreds of years ago and are difficult to find, no one knows where they are and then the possibility of a developer coming in this small town, going up on the back ridge and his finding out that there is such a town way and demanding that it be opened up at the expense of the town.

This bill would say that if those ancient town ways hadn't been used or in any way maintained by the towns for, I think it is 30 years, those are in effect discontinued so that the town is not liable for these invisible ways that someone might remember and require that the town rehabilitate.

However, this House Amendment will also say that these abandoned, discontinued ways, would not be completely out of the control of the municipality, in that the local legislative bodies may vote to open these up for recreational uses. They don't have to, but if they would like to use them for hiking paths or ski trails or whatever, the towns would not lose the right to these old roads, that they could be used for that purpose.

On motion of Mr. Dam of Skowhegan, tabled pending adoption of House Amendment "A" to Committee Amendment "A" and later today assigned.

Bill "An Act Exempting Public Accountants and Certified Public Accountants From the Insurance Consultant Law and Deleting the 3-Year Limitation on Applications for Permits to Practice Accountancy" (C "A" H-1037) (H. P. 2084) (L. D. 2252)

Bill "An Act to Provide a Procedure for Establishing Additional Exceptions for the Definition of Rental Units and to Clarify the Procedure for the Appointment of a Rent Control Administrator or Board under the Municipal Rent Control Act" (C "A" H-1040) (H. P. 2099) (L. D. 2259)

Bill "An Act to Promote the Sales of Maine Potatoes" (C "A" S-457) (S. P. 701) (L. D. 2220)

Bill "An Act to Revise the Potato Licensing Law" (C "A" S-458) (S. P. 702) (L. D. 2221)

No objections having been noted, the House Papers were passed to be engrossed and sent up for concurrence and the Senate Papers passed to be engrossed in concurrence.

Bill "An Act to Amend the Employment Security Laws" (C "A" S-453) (S. P. 691) (L. D. 2210)

On the request of Mr. Tierney of Durham, was removed from the Consent Calendar.

Thereupon, the Report was accepted in concurrence and the Bill read once. Committee Amendment "A" (S-453) was read by the Clerk

and adopted in concurrence and the Bill assigned for second reading tomorrow.

Bill "An Act to Require the Employment Service to Provide Services to High School Students" (C "A" S-456) (S. P. 719) (L. D. 2255)

No objection having been noted at the end of the Second Legislative Day, was passed to be engrossed in concurrence.

Bill "An Act to Revise Requirements for Permanent Markers Under the Land Subdivision Laws" (C "A" S-451) (S. P. 717) (L. D. 2268)

On the request of Mrs. Najarian of Portland, was removed from the Consent Calendar.

Thereupon, the Report was accepted in concurrence and the Bill read once. Committee Amendment "A" (S-451) was read by the Clerk. Senate Amendment "B" to Committee Amendment "A" (S-453) was read by the Clerk and adopted in concurrence. Committee Amendment "A" as amended by Senate Amendment "B" was adopted in concurrence and the Bill assigned for second reading tomorrow.

Bill "An Act to Assure Resources for the Resolution of Disputes" (C "A" S-455) (S. P. 666) (L. D. 2296)

No objection having been noted at the end of the Second Legislative Day, the Bill was passed to be engrossed as amended in concurrence.

Bill "An Act to Promote Efficiency in Maine State Government" (C "A" S-450) (S. P. 699) (L. D. 2223)

On the request of Mr. Kelleher of Bangor, was removed from the Consent Calendar.

Thereupon, the Report was accepted in concurrence and the Bill read once. Committee Amendment "A" (S-450) was read by the Clerk and adopted in concurrence and the Bill assigned for second reading tomorrow.

Bill "An Act Relating to the Refund of Fees on Certain Unused Semitrailer Registrations" (Emergency) (C "A" S-449) (S. P. 649) (L. D. 2066)

No objection having been noted at the end of the Second Legislative Day, the above item was passed to be engrossed as amended in concurrence.

#### Passed to Be Engrossed

Bill "An Act Concerning the Salary of Knox County Register of Probate and Clerk Hire and Legal Fees of the York County Treasurer" (H. P. 2230) (L. D. 2318)

Was reported by the Committee on Bills in the Second Reading, read the second time, passed to be engrossed and sent up for concurrence.

#### Second Reader

##### Indefinitely Postponed

Bill "An Act Regulating Water Well Drilling" (H. P. 2231) (L. D. 2319)

Was reported by the Committee on Bills in the Second Reading and read the second time.

The SPEAKER: The Chair recognizes the gentleman from Buxton, Mr. Berry.

Mr. BERRY: Mr. Speaker, Ladies and Gentlemen of the House: This bill first came to my attention several years ago, and I think it has been before us every session that I have been here, or some variation of it. I was opposed to it in all of the other sessions and I still am, and I would like to explain some of the reasons why.

My basic reason is that it is what I would call an industry lockout, and I mean by that, anybody wishing to go into the well drilling business after this becomes effective, sometime in 1977, would have to serve an apprenticeship with a well driller, provided that

he could be hired by one, for a number of years, then pass an examination to drill wells. We already have several situations like that in the State of Maine, the electricians operate in that fashion, the plumbers do, and those probably are areas that should be regulated, although I don't think drilling water wells is one area that should be regulated or even could be effectively.

At one time, I did assist a person drilling water wells, quite a few years ago, and I can assure you, it is not something that would be easy to regulate.

I called Mr. Hoxie, who is the Director of Health Engineering Department in the Department of Human Services yesterday, and I discussed this bill with him to some length. Mr. Hoxie informed me that they aren't having any problems with the drilled wells. Most of the problems are with the dug wells, the shallow wells, and he said, if you want to regulate something, regulate those. That is where the problem is.

He also suggested that it might be more feasible, if people do think well drillers in the State of Maine are abusing the customers, the best solution to the problem might be to create a statute that would make the well driller purchase a bond, and I am inclined to agree with him. I think if you do feel that these people are not responsible and you want to make them more responsible, make them buy a bond. If they don't live up to the contract that has been written with the customer, it is very simple.

I also discussed portions of the bill with Mr. Hoxie, and I asked him, what do you think the definition of a well means as outlined in this bill? He told me that he thought that definition included every type of well, drilled and otherwise. That is the way he read it. He later called the Attorney General's office and somebody in the Attorney General's Office said they weren't sure but they thought maybe it only applied to drilled wells. So I went a little further and I called six well drillers last night and I asked them what they thought this meant. Part of them thought it meant drilled wells and part of them thought it meant all kinds of wells. And while I had the six well drillers on the phone, I asked them how they felt about the bill. Four of them didn't like it, two of them did like it and very candidly told me over the phone they liked it for the reason that sooner or later it would eliminate some of their competition.

If you will note on Page 3 of the bill, paragraph 2, it states, and this is talking about private wells, your own private well, "Said person shall not be exempt from rules and regulations promulgated pertaining to standards of well construction." If you wanted to do anything to your own well on your own property, you would have to do it in accordance with rules and regulations that are not yet drawn up.

I am not going to go on to any great length, Mr. Speaker, but I think while I am here, I will move the indefinite postponement of this bill and all its accompanying papers.

The SPEAKER: The gentleman from Buxton, Mr. Berry, moves that this bill and all its accompanying papers be indefinitely postponed.

The Chair recognizes the gentlewoman from Freeport, Mrs. Clark.

Mrs. CLARK: Mr. Speaker, Men and Women of the House: Again you have before you a redraft of a measure which was submitted to the Committee on Business Legislation and reported out with a unanimous "ought to pass" report.

Indeed, the gentleman from Buxton, Mr. Berry, has alluded to the fact that this bill, in many forms, has been before us before, and he is correct. As a matter of fact, L. D. 2018, which was introduced into the special session of this



legislature, represents the fifth time that this bill has been introduced, and the redraft, L. D. 2319, no more resembles the first introduced bill than 'the man in the moon.'

L. D. 2319 is the result of a concerted study on behalf of the Committee on Business Legislation, input from the Department of Geology, with Mr. Brad Caswell, who is State Geologist, input from the Representative from Bar Harbor and the Representative from Waldoboro, Representatives Blodgett and MacLeod, Mr. Ira Goodwin, who is President of the Maine State Well Drillers Association and a number of interested business people who have come before the committee.

The bill, L. D. 2319, does not in fact exclude people in this state from following what are considered healthful, safe water provisions in the drilling of wells. L. D. 2319 is an explicit bill, and I refer you to page 8 and the Statement of Fact. The Statement of Fact reads: "The purposes of the new draft are as follows: To transfer the administration of the Water Well Drilling Board from the Bureau of Geology to the Department of Business Regulation, to transfer the power to suspend or revoke licenses from the board to the Administrative Court, with due process, to restrict the rule-making powers of the board, to reduce the experience required for licensed drillers, to make well-completion reports optional rather than mandatory and to generally clarify the wording of the original bill, L. D. 2018."

I would refer you specifically to those sections in the bill, namely, Section 7, item 2 at the top of the page, which is something new in the history of the State of Maine, explicitly stating those criteria which will be included in reports which are submitted to the state agencies. This is a first for this legislature and we feel, on the Committee of Business Legislation, that this will clarify those money areas of administrative law which have caused such great confusion and/or frustration on behalf of the citizens of the state.

I would seek your support in defeating the pending motion on the floor for indeed this is a good bill.

The SPEAKER: The Chair recognizes the gentleman from Enfield, Mr. Dudley.

Mr. DUDLEY: Mr. Speaker and Members of the House: I do dislike to have to speak to you so many times in the same day but I support this measure to indefinitely postpone. I don't want any more boards here. I don't want to buy any more buildings and I don't want to construct any more around this complex. We tend to, year after year, lean in that direction. Number one, this on page three, Water Drilling Board, down at the bottom of the page a little further, you will see that they get \$25 a day for travel and so forth, this all comes out of the people that I represent, their pockets. I am not going to talk long because the hour of lunch is near.

On page four at the bottom of the page, this is the thing that really bugs me and it will really bug the people that I come from because there is one thing they can still do free, is dig a hole in the ground and get some water, but they can't after this bill passes. Let me read to you on page four, the bottom page, no water well shall be constructed, enlarged — enlarged mind you, even enlarge your well — or deepened except as provided in this chapter unless done by a well driller licensed by the board. Now, I think this is a bit ridiculous and the people I represent, I know, would too because that is one thing they can still do is breathe a little free air and dig a hole in the ground and get some water, and we can send it down here and be tested. If there is anything we don't need is another board and some more construction around this complex.

I hope you will support the motion of the gentleman that sits in front of me, Mr. Berry,

and indefinitely postpone this measure and the sooner the better.

The SPEAKER: The Chair recognizes the gentleman from Scarborough, Mr. Higgins.

Mr. HIGGINS: Mr. Speaker, Ladies and Gentlemen of the House: I would like to try to answer a few of the questions that have been posed here today. First of all, by the good gentleman Mr. Dudley, this board is a board that the industry itself from at least what we can tell from their representatives wholeheartedly endorses. The board is funded by dedicated revenues paid in by the licenses, not paid by the people of this state nor is it taken out of the general fund of the tax dollars of the rest of the people of this state.

He has tried to lead you to believe that a private individual on the bottom of page four, cannot deepen his own well or enlarge it or whatever, but if you will look on page three of the exact same bill, under Exclusions, item two, says nothing in this chapter shall prevent a person from constructing enlarging, deepening or otherwise altering a well on property, which such a person owns or leases. Now anybody that owns their own well can go out and do whatever work that they want to do on it.

Mr. Berry, in that same section that I just referred to, had some problems with the rules and regulations that are promulgated by this board. Our committee has worked diligent hours, I think, in designing some sort of a board that would be fair to all those that are concerned. It has two master drillers on it, two members of the establishment, so to speak, and a consumer member. I don't think that this industry should be any different than the industry of electricians or plumbers or whatever, we are talking about a water supply here for people who are going to drink it. We are talking about someone who builds a house, who invests anywhere from \$500 to \$5,000 in a well and a water supply. If that water supply is no good, then he is out and if this particular contractor who has performed a service for this particular individual is insolvent or irreputable, then he is out his money and he doesn't have any recourse. We heard in committee of people who were going into this business and doing shoddy work and those people have no recourse whatsoever.

I am not saying that this is going to stop all shoddy workmanship done in this state. All it is asking is, that people who perform this service register, that they at least take some kind of an examination, and pass it. I don't think that this is an industry lockout.

If the gentleman from Buxton has problems with the definition of drilled wells as to what that exactly means, I am sure that can be amended with the help of the Attorney General's Office.

I might also add when you talk about this board I, as I am sure a lot of you, have had trouble with rules and regulations promulgated by boards or administrative officials or commissioners or whatever and I think if you read over on page four, item four, under rules and regulations, you will see that the Committee on Business Legislation has tried to give those people who are going to be affected by this act a good deal of input and information as to just where they will stand under these rules and regulations. All the licensees will receive notice prior to any hearing that is going to be held with an agenda enclosed and the proposed rules or regulations that they expect to be taken up at that time. It also provides that, after that hearing, a copy of all rules and regulations adopted by the board shall be sent forthwith to all persons licensed and registered under this chapter.

There is a 30 day waiting period that gives these people the opportunity to give further input, if for one reason or another, they were adversely affected at that hearing and were not

able to attend or want to take legal action. I think that is a far cry from some of the administrative boards and the rules and regulations that are promulgated by other boards in this state.

I think it just plainly boils down, ladies and gentlemen, to the fact that should we let just anyone enter this field of well drilling since it is a vital field and everyone of us drinks water every day and I don't know how many here are on wells, I know I am not, but I may well be eventually, and I just think the question is, should we just by random sample allow people to enter this profession any more than we allow electricians or plumbers from entering this profession without the proper credentials, proper education or at least expertise, and that is what this is talking about expertise.

I think this is a good bill and I have worked to the best of my ability to see that it is not unfair to the people that it is regulating nor to the people of the State of Maine.

The SPEAKER: The Chair recognizes the gentleman from Bar Harbor, Mr. MacLeod.

Mr. MACLEOD: Mr. Speaker, Ladies and Gentlemen of the House: I just would like to explain my position in being involved with this piece of legislation. In my terms here in the House, I think that it is safe to say that I listened to the "A" bill for well drilling a number of times or possibly as many times as Representative Berry has. These have been defeated in the past for some small quirk. One time it was because it included the dug wells. Now Mr. Berry alludes to the fact that dug wells are a problem in our state. I think there are many in the well drilling business and many of us would agree this is true.

This bill is a start, at least, to try to put this operation under some form of regulation. I think my main concern was, and I got interested not for my area but from another area in the state, a well driller who happens to be a very personal friend of mine over the years called me up one evening and he said, "Jim, we are looking for a sponsor for a bill to try to help our industry get organized and do something about this situation that exists in the state today." Many of my close seatmates are looking at me kind of quizzically, how did I get involved in establishment of another bureau here in Augusta, and goodness knows, I certainly have indicated that I am not adding too many more bureaus. These are existing agencies which are getting together with the well drillers to try to have some type of recourse if you get a bad well drilled. They can't, and I don't think it is humanly possible, I am no authority on well drilling and I am not going to try to be here this morning, but there would be recourse if you get a bad job done, faulty piping, or whatever is done in well drilling. I also know that at the hearing on the original bill which, I guess the committee felt was too wordy and was making a mini-bureaucracy out of the Geology Department but you will have to admit the Geology Department very closely is interested in our soil structure in the state and our supply of water and this and they are the ones that are getting the complaints from the homeowners and especially the small ones calling up, where do I go when I get a bad job done and apparently there is no place they can go. It can be worn out in the courts because a lot of these small owners aren't able to pursue it because it is too expensive so this was a legitimate attempt on behalf of a good portion of the industry. I won't say that every one of them goes along with the plan but, at the original hearing that we had in the regular session, a great many well drillers showed up, as a matter of fact, the room was packed, there was one dissenting member because he didn't want to pay as big a fee as some of the larger well drillers. I can see that, if I have got four rigs and a little fellow has only got one, why does he have to pay as much? I think the committee has taken care of that. This is a rewrite, within the committee, they have worked many hours on it and they took it, they saw fit to take it out of Geology and

put it over under the Department of Business Regulation, where right now your plumbers are and all this type of thing, electricians, you have to have union men now to install plumbing and this type of thing. I realize that I dislike over-regulation but I feel that the well drillers have requested this for four different sessions that I know of and it has been defeated for just these same arguments that I am hearing now and I feel that the state organization of well drillers felt that there should be something.

In other words the way it stands right now, as I understand it, Don Hall and Jim MacLeod tonight can go out and purchase a well drilling rig and go drilling wells and nobody has anything to say how we drill them, what they look like or what type of work we do.

I would hope that you could support this piece of legislation on behalf of the industry and the consumers of the State of Maine.

The SPEAKER: The Chair recognizes the gentleman from Rangeley, Mr. Doak.

Mr. DOAK: Mr. Speaker, Ladies and Gentlemen of the House: I will be brief. I do have some experience with driven wells and shallow wells in my profession as a, not a union plumber but a plumber in the State of Maine. I am not unionized yet and hope I never have to be.

I think some of the fears as to dug wells should be eased. I don't see any reason for objecting to it. This is not going to affect the dug wells because it states on page 2, in section 4, well means any artificial excavation drilled. No one drills a dug well, we dig them. Therefore, I think that would allay some fears in that respect.

The one thing that I would like to see done in this bill, however, would help some of the people in the state and that would be on the report section on page 7, where it says, well completion reports and it says "may" submit. I would like to see that mandatory, it has been removed. The reason I would like to see it mandatory, for my own benefit more than anybody else perhaps, but for other plumbers who do work and do service work on driven wells and that is that many times the customer does not have the depth of the well, the input of the well and if we had some central place that we could call and find out the depth of the well and such, then we would be able to serve that customer a little bit better.

I am sure there is some reason for the "may" being in there rather than "shall" and I suspect that Mrs. Clark will let me know. It certainly would be nice to have some central area whereby the people that do work on these wells could call up and find out the depth of the well and the input of the well so that we could then be a little bit more efficient in our working with them.

I would speak in favor of this bill, rather than the indefinite postponement because I think that these people who like to be licensed would like to be regulated.

The other thing that I have to say is that I have had a personal experience with a well driller in this state who did a bum job for a party in my community and I have blackballed that man in my area as much as possible ever since, because he never did reappear, he never did try to give the customer any restitution at all, the court just kept on carrying it along and this guy got off scott free and he got a whole boodle of money out of my community from a guy that couldn't afford it and the fellow finally had to have another well drilled on account of it. I think if we have some regulations whereby this gentleman could have his license taken

away from him, perhaps he would be a little bit more careful next time.

The SPEAKER: The Chair recognizes the gentleman from Freeport, Mrs. Clark.

Mrs. CLARK: Mr. Speaker, Ladies and Gentlemen of the House: In response to the gentle inquiry from the honorable gentleman, Mr. Doak, regarding item 2 on page 7, where it reads, a registered well drilling contractor "may" submit to the board a report on forms designed by the board etc. The reason the Committee on Business Legislation used the word "may" instead of "shall" is that currently the well drillers in this state are complying with requests from the Bureau of Geology to submit well drilling reports about 87 percent and we felt, as a committee, that it is not necessary when well over 80 percent of the industry are already complying that we mandate that aspect. We are sure that they will comply. Specifically, since the issues which will compile the report are itemized as you see them on page seven.

There is a need, ladies and gentlemen of the house, for some basic uniform construction standards of drilled wells in this state. Drilled wells do represent an enormous investment on behalf of Maine citizens and this bill addresses that issue and concern.

The SPEAKER: The Chair recognizes the gentleman from Stockton Springs, Mr. Shute.

Mr. SHUTE: Mr. Speaker, Ladies and Gentlemen of the House: I think we, in the legislature, can enact any laws necessary to regulate this business without forming any commission board or what have you.

I know the people in my area are quite disturbed at the legislature for forming so many boards and commissions and then giving those boards and commissions the authority to promulgate rules and regulations, because that is where the problem comes in.

We have no idea what kind of rules and regulations this commission is going to come up with and I think before we enact any legislation giving commissions the authority to promulgate rules and regulations, we should see those.

We had this bill in the Legal Affairs Committee either one or two sessions ago and, after reading this bill, I don't see that there is any great improvement over the previous bills that we have had in Legal Affairs on this same well drilling — forming a board for well drillers.

I agree with Mr. Dudley's remarks on Section 4885. That section reads, "no water well shall be constructed, enlarged, deepened, except as provided in this chapter." I would presume that would mean that you must meet all the rules and regulations promulgated by this board, even if this well is on your own property and you are doing the work yourself.

Then it goes on to say, "unless done by a well driller licensed by the board." I don't think people ought to have to hire a licensed well driller when they are doing something to their own well on their own property. So, for that reason I will go along with the motion of the gentleman from Buxton, Mr. Berry.

The SPEAKER: The Chair recognizes the gentleman from Livermore Falls, Mr. Lynch.

Mr. LYNCH: Mr. Speaker, Ladies and Gentlemen of the House: We have, over many years taken steps to enact legislation to protect people from making unwise moves. I think there are two areas that we have enacted some legislation and we ought to enact more. One is in the septic sewer system and the other is in water well drilling to protect the people from making expenditures of large sums of money, money that many people, especially in the rural areas cannot expend unwisely. I support the bill.

The SPEAKER: The Chair recognizes the gentleman from Dexter, Mr. Peakes.

Mr. PEAKES: Mr. Speaker, Ladies and Gentlemen of the House: This is an area that we worked very, very hard on. We had good participation from the well drillers and we learned a great deal about the industry. I, as an attorney, have been aware in my community and other communities of much litigation in this area.

I think that these well drillers have an honest desire to improve their industry, to make it more accountable to the people, and I hope you will go along and defeat the motion to indefinitely postpone.

The SPEAKER: The Chair recognizes the gentleman from Scarborough, Mr. Higgins.

Mr. HIGGINS: Mr. Speaker, Ladies and Gentlemen of the House: In reference to dug wells, as opposed to drilled wells, this was a question that we had in committee and one which we addressed and felt that it would be pretty tough to regulate dug wells. This is where we get into the area that Mr. Shute is talking about and Mr. Dudley is talking about, of a person who wants to do the work themselves, hire an independent contractor maybe or just a guy that owns a tractor to come in and dig a well for him and he buys the tiles himself and puts them in the ground. That is no way, I don't believe, without over-regulating that you could possibly register or regulate what these people would be doing. That is an infringement upon them. So, what we are saying is, if a person is going to drill a well on his property, that person must be qualified. Now, there is nothing here that prevents him from digging a well himself, buying the tile and putting it in. But, there is no way that that individual in his own house is going to drill a well without hiring a contractor unless he happens to be a contractor himself, he doesn't have the equipment to drill a well, you have got to have a machine that costs in the neighborhood of \$200,000.

As far as the board goes, if you are going to set up regulations or licensing, who would you rather have do the promulgations of rules, a commissioner of one or a board made up, as I said before, of two drillers, a consumer, and two people, one I think from the Transportation Department and one from Health and Welfare. I am not sure, because we cut two out of the seven. At any rate, there are two members from the drilling profession on the board and one consumer and I think this is fairer than having it tucked in to the Department of Geology or Health and Welfare or wherever else the bureaucrats want it. I think this board is going to give them a fair hearing and is not going to institute any rules that are going to be unfair to the people that they are representing.

So, I would hope that you would not indefinitely postpone this bill today. When the vote is taken, I request the yeas and nays.

The SPEAKER: The gentleman from Scarborough, Mr. Higgins, requests a roll call.

The Chair recognizes the gentleman from Brewer, Mr. Cox.

Mr. COX: Mr. Speaker, Ladies and Gentlemen of the House: I hesitate to rise for this purpose but I did detect an inaccuracy in one of the statements of the gentleman from Scarborough and this was that a person could not drill a well on their own property without a piece of equipment that would cost probably \$200,000. I have seen at least one of these pieces of equipment that a person can buy for his own use that looks to me as if it would probably only cost a few hundred dollars. I have seen them advertised in the past, now, I can't guarantee that these pieces are available at the moment but I have seen them.

The SPEAKER: The Chair recognizes the gentleman from Skowhegan, Mr. Dam.

Mr. DAM: Mr. Speaker and Members of the House: Since the debate has started and they have gone back and forth over this on private wells this is where, I think, I have a concern for the people especially that live in my area.

On Page 3, the good gentleman from Scarborough, Mr. Higgins, read only part of Section 2. In Section 2 it says, "nothing in this chapter shall prevent a person from constructing or enlarging or deepening or otherwise altering a well on property on which such person owns or leases." Then comes the little sleeper. "Such persons shall not be exempt from the rules and regulations." They can do the digging but they are going to do it, even on their own property, according to the rules and regulations even if they are going to use the water themselves.

The other thing that bothers me is the word "drill" and Mr. Doak had a few words to say on that, saying it is quite well spelled out what is drilled and what is dug. Well, in my area, and I am sure in other areas of this state, that many water systems use points. For you people that don't know what a point is, it is a 42 to 48 inch pipe with a mesh or screen on a point and it ranges from anywhere from an inch and a quarter up to four inches which you can buy for standard your own work. Most people in homes use inch and a half, in commercial establishments, if they are not drawing much over 1000 gallons an hour, they will run two two-inch points, three feet apart. In order to put these points down and get water the simplest method is to take the old fashioned post hole digger that the farmer used to put his posts in on his land and go down until you come to the fine sand or fine water saturated sand that would be down maybe six, eight or ten feet, sometimes twelve and thirteen feet, below the top of the surface of the earth. Then you hook your pipe together, put that pipe in the hole, get someone to hold a wood block, which is the old fashioned method, and the other man swings a sledge hammer and drives the point down. If you are alone, you can butt a rig or make a little rig with an oversized pipe loaded with lead and you can work it down yourself by dropping the lead weight on top of the pipe.

This brings to my mind a question, is not boring with a post hole digger actually drilling? Is this digging or is this boring or is it drilling? It is not spelled out in this bill. I can see this bill is just like some of the bills we have passed in previous session, we go home, we think we passed something good to help the people, finally it comes back to haunt us, that we really passed something that will hurt the majority of the people.

I would say today, why should not the well drillers support this bill? Anytime you regulate any industry, and I think we have seen this more on the federal level with the gas and oil industry than we have from any other industry, the prices go up. Who pays those prices? You do, the individual, the homeowners.

When you regulate well drilling, it is almost like saying that the legislature is unionizing that industry. They are making that industry a super-professional organization so they can get together and more effectively do their price fixing. When we get into price fixing, there again, who pays the bill? The homeowner.

It is true, there may be some need for regulations, but I have not heard of too many problems in my area, in fact, I have heard of none, and I serve as a plumbing inspector, I serve also as a building inspector for my town. I also serve some parts of the unorganized territory of this state and I have heard of no problems. They can be regulated without creating another board, setting up another bunch of offices, putting more people on the state payroll and putting a greater burden on

the people who are paying the bills, and that is the private homeowner. I hope today that you people would support the motion for indefinite postponement of this bill.

The SPEAKER: The Chair recognizes the gentleman from Gardiner, Mr. Bowie.

Mr. BOWIE: Mr. Speaker, I wish to be excused from voting pursuant to House Rule 19.

The SPEAKER: The gentleman from Gardiner, Mr. Bowie, is excused pursuant to House Rule 19.

The Chair recognizes the gentleman from Dexter, Mr. Peakes.

Mr. PEAKES: Mr. Speaker, Ladies and Gentlemen of the House: I think sometimes that we would still have the square wheel. I heard this same speech by Mr. Dam on various other matters and I am not surprised.

I think in the hearing that we went back and forth on these various things, and I think this is an honest effort on behalf of the well drillers to clean up their industry and to have accountability.

On this committee, as Mr. Higgins mentioned, there will be five members, including the Director of Health Engineering, Department of Human Services or its designee. There will be the Director of the Bureau of Geology, Department of Conservation, or its designee. There will be two well drillers and there will be a consumer member, and I would think that this type of board, the makeup, would prevent any unnecessary regulations and any unfair practices in this agency.

I sincerely hope that we will move forward and defeat the motion to indefinitely postpone.

The SPEAKER: The Chair recognizes the gentleman from Buxton, Mr. Berry.

Mr. BERRY: Mr. Speaker, Ladies and Gentlemen of the House: I will be as brief as I possibly can. I think one of the questions you have got to ask yourselves, if you are indeed trying to make a decision on which way to go on this bill, is, do we currently have great abuse in the well drilling field? That is the question I asked Mr. Hoxie. I work side by side with well drillers almost every day of the week when I am not here. I don't see this abuse. Mr. Hoxie said, no, the abuse is not there. The abuse is with the dug well, which this bill doesn't even address.

My good friend Mr. MacLeod mentioned that anybody — in fact, I think he mentioned Mr. Hall could go out and buy a well drilling rig and go into business with no knowledge at all of the business. True, Mr. Hall can, if he has got money enough and is willing to dump enough money into a well drilling rig. Mr. Higgins says \$200,000. I think he is a little high, I think maybe for \$125,000 you could buy a well drilling rig. But I submit to you, anybody that is not sincere in going into the well drilling business would not go out and spend \$125,000 just to fly in and out of places all over the State of Maine.

I also asked the well drillers, do you know of any areas of abuse in drilled well construction? All six of the drillers that I called said, very, very few. One man said he knew of two instances where he called them a fly-by-night that moved through the state — two instances. The other five didn't know of any.

I don't see any need of regulating any business in this manner. I know that the Bureau of Geology is interested in this bill. They see it as a means of getting information free. I discussed this with a well driller, one of the largest in southern Maine, by the way, and when the Speaker gets the bill for the phone call, I expect I will be discussing something with him, because this went on for probably half an hour. He said, we are not going to supply that information, whether it says 'may' or 'shall'. We are not going to go home at night and fill out endless forms. We already have enough paper work to do. He was afraid that if it says 'shall' or says

'may', this next year it will say 'shall', which probably it will. I am not concerned with that. He said, I don't see how the Bureau of Geology can rely on this information anyway, even if we do supply it. He said, in most cases it will be inaccurate. We certainly are not going to put information on a piece of paper if we go out and drill a well, that probably the casing doesn't end up in ledge. He said, do you think that any well driller is going to put that on paper and send it to the Department of Geology? I said, no, I didn't think they would. He said, no, we are not.

The information that is being asked for on page 7 is absolutely worthless, and I submit to you that if the Bureau of Geology can use any of that information at all, it is going to be totally inaccurate.

The SPEAKER: A roll call has been requested. For the Chair to order a roll call, it must have the expressed desire of one fifth of the members present and voting. All those desiring a roll call vote will vote yes; those opposed will vote no.

A vote of the House was taken, and more than one fifth of the members present having expressed a desire for a roll call, a roll call was ordered.

The SPEAKER: The pending question is on the motion of Mr. Berry of Buxton, that L. D. 2319 and all accompanying papers be indefinitely postponed. All in favor of that motion will vote yes; those opposed will vote no.

#### ROLL CALL

YEA — Albert, Bennett, Berry, G. W.; Berry, P. P.; Berube, Birt, Burns, Bustin, Call, Carpenter, Carroll, Carter, Chonko, Churchill, Cote, Cox, Curran, R.; Curtis, Dam, Davies, Dow, Drigotas, Dudley, Durgin, Farley, Faucher, Fenlason, Finemore, Flanagan, Garsoe, Goodwin, H.; Goodwin, K.; Gould, Gray, Greenlaw, Hall, Henderson, Hennessey, Hewes, Hobbins, Hutchings, Ingegneri, Jacques, Jensen, Joyce, Kany, Kauffman, Kelleher, Kennedy, Laffin, Laverty, LeBlanc, Leonard, Lewin, Lizotte, Lovell, Lunt, MacEachern, Mackel, Mahany, Martin, R.; Maxwell, McBreairty, McMahon, Mills, Mitchell, Morin, Nadeau, Pearson, Pelosi, Peterson, P.; Peterson, T.; Post, Powell, Quinn, Raymond, Rollins, Saunders, Shute, Silverman, Spencer, Sprowl, Strout, Stubbs, Talbot, Tarr, Tozier, Truman, Tyndale, Usher, Wagner, Walker, Webber, Wilfong, Winship.

NAY — Ault, Bachrach, Bagley, Blodgett, Boudreau, Byers, Clark, Conners, Connolly, Cooney, Curran, P.; DeVane, Doak, Dyer, Farnham, Fraser, Higgins, Hinds, Hughes, Immonen, Jackson, Kelley, LaPointe, Littlefield, Lynch, MacLeod, Martin, A.; Miskavage, Morton, Mulkern, Najarian, Norris, Peakes, Perkins, S.; Perkins, T.; Pierce, Rolde, Snow, Snowe, Susi, Theriault, Tierney, Torrey, Twitchell.

ABSENT — Carey, Gauthier, Hunter, Jalbert, Lewis, McKernan, Palmer, Rideout, Smith, Teague.

EXCUSED — Bowie.

Yes, 95; No, 44; Absent, 10; Excused, 1.

The SPEAKER: Ninety-five having voted in the affirmative and forty-four in the negative, with ten being absent and one excused, the motion does prevail.

Sent up for concurrence.

Bill "An Act Providing for the Collection of Motor Vehicle Use Taxes" (H. P. 2232) (L. D. 2320)

Bill "An Act Relating to the Priority of Attorneys' Liens in Regard to Allegedly Stolen Property" (H. P. 2234) (L. D. 2321)

Were reported by the Committee on Bills in the Second Reading, read the second time, passed to be engrossed and sent to the Senate.

On request of Mr. Rolde of York, by un-

animous consent, unless previous notice was given to the Clerk of the House by some member of his or her intention to move reconsideration, the Clerk was authorized today to send to the Senate, thirty minutes after the House recessed for lunch and also thirty minutes after the House adjourned for the day, all matters passed to be engrossed in concurrence and all matters that required Senate concurrence; and that after such matters had been so sent to the Senate by the Clerk, no motion to reconsider would be allowed.

Mr. Fraser of Mexico was granted unanimous consent to address the House.

Mr. FRASER: Mr. Speaker, Ladies and Gentlemen of the House: It was discovered in the other body a while ago that one of the names of the boys was left off that list and I had it corrected in there and I would like to have it corrected in here. This boy's name is Mike Arsenaull, and I would like to also have it put on the Order before it is mailed to him.

The SPEAKER: The Chair will inform the gentleman that we can reprint the Order.

(Off Record Remarks)

On motion of Mr. Rolde of York,  
Recessed until two-thirty in the afternoon.

After Recess  
2:30 P.M.

The House was called to order by the Speaker.

Bill "An Act to Enable Counties to Hire County Administrators" (H. P. 2092) (L. D. 2251)

Was reported by the Committee on Bills in the Second Reading and read the second time.

The SPEAKER: The Chair recognizes the gentleman from Winslow Mr. Carter.

Mr. CARTER: Mr. Speaker, I offer House Amendment "A" and move its adoption.

House Amendment "A" (H-1051) was read by the Clerk.

The SPEAKER: The Chair recognizes the gentleman from Winslow, Mr. Carter.

Mr. CARTER: Mr. Speaker, Ladies and Gentlemen of the House: It was evident to me in the last session, and I am sure to many of you, that the counties in the State of Maine were experiencing all types of problems, mainly in the financial area and in the administrative area and it was apparent that we either abolish the county government or strengthen its position. We seem to have taken the route for reform and I offer this amendment in that spirit.

This amendment is permissive and it would allow the county commissioners that are really sincere and want reform to hire administrative assistants. This amendment would provide for streamlining of county government, provide the reform that we are all looking for and it would certainly improve the efficiency of the counties.

It was done, as I said before, in a true spirit of reform and if the county commissioners are really sincere and they really want reform, this is one way they can do it and, at the same time, without increasing the burden on the taxpayer by they themselves taking a cut in salary. Since they are going to be relieved of their duties, most of them, the salaries that they are now receiving will be excessive. The salary proposed is in line with many commissions and boards and councils that are serving under manager-council form of government across the state. I would hope that you would go along with this amendment and support it.

The SPEAKER: The Chair recognizes the gentleman from Falmouth, Mr. Snow.

Mr. SNOW: Mr. Speaker, Ladies and

Gentlemen of the House: I rise in opposition to this amendment. The gentleman from Winslow, Mr. Carter, and I see eye to eye about the need for reform in county government, I am sorry that we do not agree on this amendment.

This bill is one of three, which is the product of a special county government reform study committee of which I am a member. One of the other bills, which calls for annual county budgets, the House acted favorably on yesterday. The third bill has yet to come before us.

In the instance of this bill, Mr. Carter's amendment would reduce the honorarium of the commissioners, should they hire a county administrator. The logic of this is very easy to understand. If they have an administrator, their duties will be less than they were before. However, the bill also contains a provision that if the commissioners choose to hire an administrator and it is optional, then the administrator will also perform the duties of county clerk.

Now, the salaries of county clerks throughout the state range, I understand, from \$4,000 or \$5,000 to close to \$12,000. Obviously, this is a cost which would no longer be borne by the county. I also feel that Mr. Carter's amendment will tend to deter the employment of county administrators, because I don't imagine that many commissioners will cut their own pay to hire one. Yet, the need in some counties is quite obvious and perhaps quite pressing.

In the county from which I come, which is Cumberland County, the budget is \$2 million or more in the course of the year. To illustrate perhaps some the need for some of this, I would just cite one item, which goes back a little while, you may have read about it in the paper. In this instance, the jail administrator or cook purchased strip sirloin steak at about \$3 a pound to feed the inmates in jail. It seems to me that if the county had business management, this type of thing would be less likely to occur.

I hope you will not adopt the gentleman from Winslow, Mr. Carter's amendment and, Mr. Speaker, I would ask for a vote.

The SPEAKER: The Chair recognizes the gentleman from Orland, Mr. Churchill.

Mr. CHURCHILL: Mr. Speaker, Ladies and Gentlemen of the House: I certainly hope that everyone will support Representative Carter's amendment because it only stands to reason that if the county commissioners are only required to meet once a month and they are receiving anywhere from — I haven't seen this last salary scale, but from \$1200 to a few thousand dollars, \$4,000 to \$5,000 for county commissioners, especially the chairman, it is no more than natural for them, if they can hire a county administrator for \$18,000 a year or even \$12,000 a year, to get out of doing their own duties, they wouldn't have to meet. Right now, the county commissioners sometimes meet once a week or twice a month, instead of once a month and if they can have an administrator, this wouldn't be required of them. It is no more than fair, if county government is in favor of strengthening county government without putting another layer in there, then they should at least sacrifice part of their pay if they are not going to be required to be there at all the meetings. I think if we want to be sincere about streamlining county government, then county government should accept the decrease in the county commissioners salaries.

The SPEAKER: The Chair recognizes the gentleman from Scarborough, Mr. Higgins.

Mr. HIGGINS: Mr. Speaker, I have a question along the same lines — I think the amendment is a good one but I think Mr. Snow has posed a question and probably answered it himself — if you say to these commissioners that if you hire an administrator, then you are going to cut your salary. My question, I guess, maybe gets down to the crux of the bill. Can a

legislative delegation order, under this bill, the county commissioners to hire an administrator? If they appropriate money to hire an administrator, do the county commissioners have to do so?

The SPEAKER: The Chair recognizes the gentleman from Skowhegan, Mr. Dam.

Mr. DAM: Mr. Speaker, the answer is no.

The SPEAKER: The Chair recognizes the gentleman from Portland, Mrs. Najarian.

Mrs. NAJARIAN: Mr. Speaker, Ladies and Gentlemen of the House: I rise to support the amendment offered by Mr. Carter. I know that in Cumberland County we have three commissioners. I think they are paid around \$5,000 or \$6,000 and they meet once a week. This bill provides that if they hire a county administrator, that the county commissioners will be paid \$25 per diem for every day that they attend a meeting.

Last regular session, I sponsored a bill to provide that the clerk of courts would be an appointed official rather than an elected official and in that bill was the provision that the counties could use the court clerk as county clerk. Mr. Snow brought out the fact that the county administrator could do the work that the county clerk is now doing and thereby save money, but they don't even need a county clerk now. In the first place, they can use the court clerk as their county clerk.

I think it is a very good bill. I think the commissioners are overpaid now for the kind of work they do and I hope you will support Mr. Carter's amendment.

The SPEAKER: The Chair recognizes the gentleman from Brunswick, Mrs. Martin.

Mrs. MARTIN: Mr. Speaker, Ladies and Gentlemen of the House: This is my committee. I am not the boss of it but this is my committee, and I support Mr. Carter's amendment. I can tell you one thing, in answering Mr. Snow, if the commissioner gets \$5,000 a year and had been on the job, the people in the jails wouldn't have been eating \$3 steaks.

The SPEAKER: The Chair recognizes the gentleman from Skowhegan, Mr. Dam.

Mr. DAM: Mr. Speaker, Ladies and Gentlemen of the House: I have no hangup on this bill at all. This bill, as Mr. Snow told you, was the result of the Joint Select Committee Study on County Government, but I do take exception when certain people get up and tell how they sponsored a bill and what their bill did when it does not do that.

We had three bills before us in the regular session that dealt with the judicial process in the State of Maine. I understand there is still a conflict in some of the bills as far as the date but that has nothing to do with the county government part.

If one of these bills was the bill that the good lady from Portland, Mrs. Najarian, sponsored, this is all well and good, but the bill that got passed does not say that the clerk of courts can serve the commissioners. This very body created a new position on the county level and created the position of county clerk. When they took the county clerk, the clerk of courts, off the ballot and put them as appointed positions to be appointed by the court system. Under the old system, before this legislature made a change, when the clerk of courts was elected by the people, that clerk of courts not only served in the judicial process but it also served as the county commissioner's clerk for the county commissioner's court, but this very body created a new position. The clerk of courts cannot serve as the county commissioner's clerk. We have already taken care of that last year.

What this bill would do — we already have the clerk, we authorized the counties to hire them, it has been in the budget for the various counties — all this would do would say that if the



commissioners choose to have an administrator, they shall not hire the clerk.

Whether this bill passes or not is no great hurrah or hullabaloo because they can use that clerk, they can designate a title for it, so what? The only thing is, there are no restrictions, there is no qualifications, there is nothing written into it. So if this is the way you want your government to run, vote for the amendment. The county commissioners are not up tight on it, the county government is not up tight on it because they will survive and they will keep their clerk, except their clerk won't have a title of administrator, that is all it amounts to.

The SPEAKER: The pending question before the House is on the adoption of House Amendment "A". Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

Mr. Dam of Skowhegan requested a roll call.

The SPEAKER: For the Chair to order a roll call it must have the expressed desire of one fifth of the members present and voting. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken, and more than one fifth of the members present and voting having expressed a desire for a roll call, a roll call was ordered.

The SPEAKER: The pending question before the House is on the adoption of House Amendment "A" to L.D. 2251. Those in favor will vote yes; those opposed will vote no.

#### ROLL CALL

YEA — Albert, Bagley, Bennett, Berry, P. P.; Berube, Birt, Blodgett, Boudreau, Bowie, Burns, Call, Carter, Chonko, Churchill, Clark, Connolly, Cooney, Curran, P.; Davies, DeVane, Doak, Drigotas, Dudley, Durgin, Dyer, Farley, Farnham, Fenlason, Finemore, Flanagan, Garsoe, Goodwin, H.; Goodwin, K.; Gould, Gray, Hall, Hennessey, Hewes, Higgins, Hobbins, Hunter, Hutchings, Jackson, Jacques, Joyce, Kany, Kauffman, Laffin, LaPointe, Laverly, Leonard, Lewin, Lewis, Littlefield, Lovell, Lunt, Lynch, MacEachern, Mackel, MacLeod, Mahany, Martin, A.; Maxwell, McBreairty, McKernan, McMahon, Mills, Miskavage, Mitchell, Morin, Morton, Mulkern, Nadeau, Najarian, Norris, Peakes, Pelosi, Perkins, S.; Perkins, T.; Peterson, P.; Post, Powell, Quinn, Raymond, Saunders, Shute, Silverman, Smith, Snow, Sprowl, Strout, Susi, Tarr, Teague, Tierney, Torrey, Tozier, Tyndale, Usher, Wagner, Walker, Wilfong, Winship.

NAY — Aull, Bachrach, Berry, G. W.; Bustin, Byers, Carpenter, Carroll, Conners, Cote, Cox, Curran, R.; Curtis, Dam, Dow, Faucher, Fraser, Greenlaw, Henderson, Hinds, Hughes, Immonen, Ingegneri, Jalbert, Jensen, Kelleher, Kelley, Kennedy, Lizotte, Martin, R.; Pearson, Peterson, T.; Rollins, Snow, Spencer, Talbot, Theriault, Truman, Twitchell, Webber.

ABSENT — Carey, Gauthier, LeBlanc, Palmer, Pierce, Rideout, Rolde, Stubbs.

Yes, 103; No, 39; Absent, 8.

The SPEAKER: One hundred three having voted in the affirmative and thirty-nine in the negative, with eight being absent, the motion did prevail.

Thereupon, the Bill was passed to be engrossed as amended by House Amendment "A" and sent up for concurrence.

Bill "An Act to Provide Funds to the Department of Inland Fisheries and Wildlife" (S. P. 718) (L. D. 2254)

Was reported by the Committee on Bills in the Second Reading, read the second time and passed to be engrossed in concurrence.

Bill "An Act to Permit Local Plumbing Inspectors to Approve Repairs to Existing Septic Systems" (H. P. 2206) (L. D. 2306)

Was reported by the Committee on Bills in the Second Reading and read the second time.

The SPEAKER: The Chair recognizes the gentleman from Bangor, Mr. Henderson.

Mr. HENDERSON: Mr. Speaker, Ladies and Gentlemen of the House: I understood there was to be an amendment prepared and I hope that someone might be able to comment on that possibility.

Mr. Wilfong of Stow offered House Amendment "A" and move its adoption.

House Amendment "A" (H-1076) was read by the Clerk.

The SPEAKER: The Chair recognizes the gentleman from Old Orchard Beach, Mrs. Morin.

Mrs. MORIN: Mr. Speaker, I would like to ask what that amendment does?

The SPEAKER: The gentlewoman from Old Orchard Beach, Mrs. Morin, has posed a question through the Chair to anyone who may care to answer.

The Chair recognizes the gentleman from Stow, Mr. Wilfong.

Mr. WILFONG: Mr. Speaker, Ladies and Gentlemen of the House: This is a bill that basically allows the certified Maine plumbing inspectors the opportunity to grant a variance of sorts to members of the public who are requesting that their present existing sewerage systems — let's assume, for example, that you have a sewerage system that is malfunctioning and you need to have it repaired. As the law is presently written, you have to have a soils analysis and you have to go through a lot of rigamarole that I don't think you should have to go through and what this would do, it would allow the local plumbing inspectors, who are certified by the state, to waive the soils analysis test and save you \$50. They are perfectly capable people to do this, and if it is going to be near a well or near a boundary, you still are going to have to go to DEP, but as long as it is not going to interfere with anyone's property or any one's well, then that plumbing inspector is going to be able to issue that permit to repair your existing system and it is going to save you \$50 and a lot of hassle.

The SPEAKER: The Chair recognizes the gentleman from Gardiner, Mr. Bowie.

Mr. BOWIE: Mr. Speaker, Ladies and Gentlemen of the House: This bill and the amendment, as near as I can determine, would completely do away with our present plumbing code in this area of our private sewerage systems.

My good friend Mr. Wilfong from Stow did bring up the matter of a malfunctioning system. Under the present law, you still can replace your own pipe, your own tank, but the drainage field or leaching field is what made it malfunction? I don't think that a local plumbing inspector can determine what made it malfunction. In the old days, we use to have a percolation test but it was found that this wasn't an effective way to determine how many feet of drainage field for so many people in a house, and I think the present method of a soils analysis is probably one of the best methods of determining how many feet of leaching bed we need for a given area in the State of Maine. This is one of the best methods that I have seen, and I am not in the business but I have a lot of people that I know who are in the business.

I think that giving a local plumbing inspector this much authority is going to take us right back to the old days, and I am talking about the old days when a plumbing inspector did not know, had no way of knowing with the old percolation method just how many feet you really had to have.

I think that a lot of the problems we have with malfunctioning fields today is due to the old method. If you go out and you check the new systems that have been put in with the soils investigations, proper amount of drainage beds, whether they be underground or they be the new

mound system, I just think we have come a long ways and I don't think that when you are dealing with a person's sewerage system that \$50 or \$80 or \$80 to have it properly installed really is going to make that much difference.

The SPEAKER: The Chair recognizes the gentleman from Windham, Mr. Peterson.

Mr. PETERSON: Mr. Speaker, Ladies and Gentlemen of the House: I would like to read you the first sentence of the amendment. Remember, this is discretionary with the licensed plumbing inspector who is certified by the state. "When the plumbing inspector finds upon site inspection that compliance with existing regulations or ordinances requiring soil analysis would result in unnecessary and undue hardship by reason of site conditions, lot size or impracticability, a waiver from the regulations or ordinances may be granted when the waiver will not result in a violation of other regulations or ordinances adopted pursuant to the plumbing code."

I was one of the members of the 106th Legislature that voted to adopt the plumbing code, which does go to the soils analysis and is much better than percolation tests. This still applies to new housing, that you are going to have to have a soils analysis, but there are a lot of people who have lived in homes for a number of years whose septic systems haven't kicked up for 10 or 15 years, and the only thing that is wrong with that system is that it is plugged up. The leach field is filled with solids. That fill can be replaced without endangering the well distance or the lot distance, and this says that the plumbing inspector will only do it if this will not violate any other provision of the code. What we are trying to do is protect homeowners who have existing systems which have been functioning properly, for a number of years, allowing them not to have to pay for this site investigation which ranges from \$50 to as much as \$175 or \$200.

What happens, people say, let's have the soils analysis so we won't get pollution, but we are getting pollution now because people will not go through the added expense of getting the soils analysis and so they allow their systems to continue to malfunction. This is running into the lakes and ponds. I think this is going to help local plumbing inspectors find people who have malfunctioning systems, and this is only discretionary with the plumbing inspector. If he decides that it is going to violate some provision of the plumbing code, he refers it to Augusta. This is only when, in his common sense, and believe me, they are making discretionary calls all the time, they are the ones who have the discretion to determine whether or not your system is in compliance with the plumbing code.

We have narrowly defined a set of circumstances in which a licensed plumbing inspector may grant the waiver for the soils or site investigation. This is not an attempt to cause more pollution. You know where I stand in terms of the environment. This is not an attempt to undermine the plumbing code but it is an attempt, I think, to strengthen it.

I would appreciate your support in the adoption of the amendment.

The SPEAKER: The Chair recognizes the gentleman from Skowhegan, Mr. Dam.

Mr. DAM: Mr. Speaker, Ladies and Gentlemen of the House: Maybe I shouldn't get involved in this one, because I suppose someone could holler conflict because I serve as a plumbing inspector for the town of Skowhegan, as I have said before, and parts of the unorganized territories in the State of Maine. But in this amendment, when you get down to the words, "which would result in unnecessary and undue hardship by reason of site conditions, lot size or impracticability, a waiver from the regulations may be issued by

the local plumbing inspector." It doesn't say anything in there about doing away with the soil analysis, but evidently this is the intent of the gentleman from Windham, Mr. Peterson.

I would like to get into the record that under the present law, already the Department of Human Services has instituted a procedure or a process where they have selected different areas of the state, and the local plumbing inspector may grant that waiver which is being asked for in this part of the amendment. If it works out well, and it is only a test now, it will be expanded to cover the whole state and all plumbing inspectors in the state.

There is a provision in the waiver system that is set up now, where the municipal officers are involved, and of course the homeowner is involved, and abutting landowners, if there would be any chance of contamination of their wells or water course flowing across their property. Also, it is very clear that you must inform the homeowner that it is a waiver, he will sign it, he understands fully what is happening and what is going on, and he assumes the responsibility, the responsibility to an extent. While this amendment here says the plumbing inspector shall be immune from any liability, I would call your attention to that it is not only the plumbing inspector but it is your municipality. Court cases in the State of Maine, recent court cases, involving the Town of Richmond and the Town of Chelsea, the court has ruled that when the plumbing inspector did not do his job, the municipality would go in and redo the systems at municipal expense. Municipal expense is only one thing, taxpayers' money.

In one instance, there were 23 malfunctioning septic systems that are on record in court cases. It has been in the KJ and it is on record in H&W. This amendment, while I understand what the gentleman is trying to get at, does not do what he thinks it is going to do. It will cause problems for the municipal officers. As Mr. Bowie said, you might as well wipe out the plumbing code, and as you go back to the plumbing code as enacted by this legislature, you will see where it says that on any existing construction, if the lot size is too small or putting in an approved system would cause an undue financial hardship on the owner or the soil is not exactly right — now this can be in clay, so we rule that out entirely — but if there is any chance that a system will function and function at all, the department will issue a waiver. And when the department issues a waiver, it is a lot better than when the local plumbing inspector goes in and commits your municipality to paying for any malfunction that might occur after he gives that waiver.

If you people want to do anything with this bill at all, I would suggest there be some work done on the amendment so that the homeowner would be well informed as to what type of system he is getting, the fact that he might be spending eleven or twelve hundred dollars and two months later turn around and be spending it again, and I am sure that the lending institutions of this state would tighten up quite considerably on lending money if a person, such as myself, was going to go out and make a site analysis. There is a lot of difference between inspecting the sewerage system, whether it be internal plumbing or subsurface disposal systems, than doing the actual soil investigation. Soil investigators are trained, they are certified, they are licensed and recognized by the Department. While some soil investigators are restricted only to certain areas of the state, and by that I mean some of them, even though they are licensed to do soil investigations in general, they are not permitted to move into the shoreland zoning area of the state—

The SPEAKER: The Chair would advise the gentleman that the only matter before this body is the adoption of House Amendment "A" and

would he kindly restrict his remarks to the adoption of House Amendment "A".

Mr. DAM: If that plumbing inspector is involved in this amendment and the plumbing inspector has no knowledge of soil, this would be like saying that any person here can practice medicine and open up an operating room and be immune from any damages that they cause.

This is a bad amendment the way it is, and if you people want to do something, then I suggest maybe it could be tabled and be reworked to try to do what Mr. Peterson wants done.

The SPEAKER: The Chair recognizes the gentleman from Augusta, Mrs. Miskavage.

Mrs. MISKAVAGE: Mr. Speaker, Ladies and Gentlemen of the House: This amendment only confirms the fact that this bill appears to be one of those 'city slicker versus the country cousin' type of legislation and it would benefit residents of rural areas as opposed to those who live in urban areas.

The City Engineer of Augusta takes the same position that Mr. Bowie and Mr. Dam take. He said, among other things, if this bill is passed, it could be a step backward. If it is enacted, it could bypass the soils investigation process where an existing system malfunctions. Most malfunctions are systems installed under the percolation test procedure. A soils analysis is most desirable, if not imperative.

A local plumbing inspector approving repairs to existing septic systems, without using the current procedure, would certainly leave himself open for litigation should the system fail again. This not only leaves the local plumbing inspector liable, but would also leave his employer, namely, the local municipality also liable.

A local plumbing inspector's duty or function is to enforce the state or local plumbing codes. This bill would put the local plumbing inspector in a position of enforcing or reviewing his own work.

The SPEAKER: The Chair recognizes the gentleman from Orland, Mr. Churchill.

Mr. CHURCHILL: Mr. Speaker, Ladies and Gentlemen of the House: I hate to contradict the good lady sitting next to me, but on the first page of this amendment it says: "The owner or the family dwelling to whom the waiver is granted shall sign a waiver of liability on a form provided by the plumbing inspector."

I certainly favor this amendment. It is only to try to get at a few elderly people and a few people in the rural areas, and to oppose this bill would be like opposing motherhood. There are instances, I have had one in my area that the lady lives on \$2,000 or \$2,400 a year, and the code enforcement officer has informed her, and the soil scientist, that it will cost her between three and five thousand dollars just to construct a holding tank which will have to be pumped out because her lot is only 200 feet square. When the original septic tank was installed, naturally, years ago they only put in about two or three lengths of pipe running out of the septic tank. Well, naturally after several years, this is boiling up on top of the ground. There is no doubt in my mind but what this woman could have someone with a backhoe come in and install a leach field 20 by 40, with gravel, hay and such, etc., whatever is required in the plumbing laws, and she could improve this. But no, because the soil scientist came in and tested it, and he only charged her \$45 plus the cost of the backhoe digging three or four holes in back of the house, and he told her, no, you have to have a holding tank installed, either that, or in something like a half a mile she can put in a sand filter and chlorinate the water from this and run it into the bay if she can get a variance. Either way, it is out of this woman's reach to install either of these things, so she is going to be forced off her place because it would be cheaper for her to let

the town rent somewhere for her and let her live in a rent somewhere.

Out in the country and in the rural areas there are many places where there is no reason why we couldn't make an improvement. The local plumbing inspector knows these instances and could grant variances to allow these people to improve their leach fields. I don't think it would hurt anyone except the plumbing inspectors that would oppose this and the code enforcement officer in the built up areas, the urban areas, because possibly it might be running down onto some neighbor's lawn or in back of their house. I can understand this part. But this is up to him to judge whether they can make this improvement, and out on farms, where there is a hundred acre farm, there is no reason why you couldn't install a leach field without having a soil scientist come in.

I have a paper right here that quotes the price of \$64 for doing this. I have figures quoted as high as \$145, and we have heard them up to \$200 for the backhoe coming in and making these tests, and then they will say, your soil isn't any good anyway. I really think we could make some improvements here and allow a few variances that would help these elderly people living on fixed incomes a great deal.

When the vote is taken, I want it taken by the yeas and nays.

The SPEAKER: The Chair recognizes the gentleman from Rangeley, Mr. Doak.

Mr. DOAK: Mr. Speaker and Members of the House: I perhaps should disqualify myself from voting on this issue because it may seem that I would be making an extra nickel on this as a master plumber for many years.

I am going to have to oppose this bill and this amendment, even though I know that it is trying to address a problem which is a serious problem in the State of Maine. I realize this because I am dealing with it regularly and I certainly would like to do something to help these people that have these problems, but at the same time, I am not about to place myself in the position where I am going to hurt these people by letting them do something that is going to be detrimental to their health and to their ability to live in a healthy environment and take care of themselves properly.

Also, I would hate to be the one that would say, yes, go ahead, we can do this or that and then find out that it isn't going to work. They have cost themselves two or three hundred dollars and they wound up with something that lasted three or four months. I ask you, did we hurt them more by letting them go ahead and cost them this extra amount of money, or would it have been better to have had a proper job done in the first place?

I am not going to speak very long on this, because I know the Speaker is very anxious to get this session on and I am too, and I don't want to stay here all night any more than anybody else. But I am concerned about this because we do have this plumbing code and we had it for reasons, and it is for the service and protection of people in this state. Certainly, there are going to be people objecting to it because it is causing them inconvenience and is causing them problems, and I know this. But before you vote on this, I would like you to answer these questions for yourself. Who will be liable when the plumbing inspector designs the system and it fails? Who is going to be hurt? The plumbing inspector, the municipality, the property owner, answer that for yourself.

Shall the homeowner be left with the cost of a second improper installation? He very possibly could be. How much is the plumbing inspector going to charge for this site evaluation? He gets paid by a permit fee from the state when he gets a permit. How much is he going to charge

to come out and design a system and evaluate that possibility and that malfunction?

Right in this past year there have been about 50 people who are soils analysts and soil scientists who were not qualified to do soils analysis and site inspection. Right now, I don't know how many plumbing inspectors are in the State of Maine. I think there is perhaps one local plumbing inspector in the State of Maine that is certified to do a soils analysis in a site location deal.

I think it is a bad bill and I would hope that you would defeat this amendment so that I could indefinitely postpone this bill and all its accompanying papers and get on with the business.

One more thing before I quit. The Department of Health and Human Services do have a waiver of conditions which they were going to put into effect and were going to put out as of April 1. When this bill started coming in, they decided to hold up on it because they didn't know where we were going with it and what was going to happen, so therefore they have held up on it. I think it is a good piece of literature, I think it is a good piece of business, I think it is going to keep this plumbing code intact and I think it is going to serve the people of the State of Maine very well.

The SPEAKER: The Chair recognizes the gentleman from Brewer. Mr. Norris.

Mr. NORRIS: Mr. Speaker, Ladies and Gentlemen of the House: I hope you wouldn't indefinitely postpone this amendment or this bill, because I have had some little knowledge and have been acquainted with some of the systems that the code puts forth and the Department of Human Services says you must have, and they can't make their minds up. They tell me now that the mound system is out, that they have had so many problems with it where people who have built homes anywhere from twenty to a hundred and fifty thousand dollars are told now that the mound system doesn't work, that everything is going to have to be a trench, it is going to have to be at least 75 feet long, so if a fellow has bought a lot in an area that he hasn't got at least 300 feet to operate with, he is going to be in trouble. So when the professionals can't determine what they are supposed to put in, and I include with that the soil scientists and the engineers and the plumbers, God bless them, but they can't tell you right now, if you call the Department right now and ask them which type of system you are supposed to use, you will get a lot of jargon and then they will come out and tell you to put in a trench system. As far as they know right now, that is the way to go, as far as they know, but they are not absolutely positive.

I would hope that the people with their present homesteads in the country, the retirees, such as Mr. Churchill mentions, will be given a chance to continue on and live the way they have the last 50 years or 70 years in their own little bailiwicks, and if their septic system breaks down, they will have a chance to have it repaired and have a government inspector look at it and tell them it is all right for them to live there the rest of their life, the next 5 or 1 or 2 or 3, whatever it may be.

The SPEAKER: The Chair recognizes the gentleman from Waldoboro, Mr. Blodgett.

Mr. BLODGETT: Mr. Speaker, Ladies and Gentlemen of the House: I think we have had a number of issues brought forward here that are not really germane to the amendment, that I assume we are discussing at this point. I would urge you, however, to adopt the amendment and then go on to adopt the entire bill.

A couple things that we ought to consider, though, in this entire operation, and that is the comments made as far as the Department of Health and Welfare promising to make some changes to accommodate some of the problems that now exist in the state.

Last year, during the regular session, we discussed this same problem with the members of the Department of Health and Welfare, and at that time they promised that they were going to make some changes if we didn't make any changes in the plumbing code. Well, here we are one year later, and here we are getting the same promises again. Some of these comments that we are getting from them are opposed to what the opponents of this bill would stand for. For example, they are willing to waive such things as having the field being closer to the well, closer to the property lines, these things which presumably we would be opposed to. I say this whole business is just trying to put us off, hoping that we are not going to lose them any business at all.

This bill simply allows repairs to existing systems. If you have a piece of pipe that gets broken, you cannot fix it without a soils test, without permission from the people in Augusta. That just does not make sense to those of us living in these rural areas that these simple repairs cannot be made. It makes no sense whatsoever.

I would urge you to vote in favor of the amendment and then for the bill.

The SPEAKER: The Chair recognizes the gentleman from Skowhegan, Mr. Dam.

Mr. DAM: Mr. Speaker, I realize you would like to get along with the business, and we all would, but I feel I must correct a couple statements that the good gentleman from Waldoboro made. I can't sit here and hear statements made that I know are not correct. Number one, the department is not hedged on implementing the voluntary waiver form. I have used this for seven months. Other plumbing inspectors in this state have used it. The department is now satisfied that this will work and they are ready to go statewide with the program, but there is lot of difference between their program and what is in this amendment. In their waiver system, there are safeguards. This has nothing. It says in here that the waiver will be filed. It doesn't say where it is going to be filed; it says it will become a matter of public record. Everything is public record in a municipality when it pertains to the people, so it is public record, but where is it going to be for the people to look at. If anybody wants to do something, if they are concerned in the small communities, why wasn't this limited to communities of less than 2,500? Why was it stuck on all communities saying that they can do this. If this is done, you might as well wipe out the code, forget it, and you will have more pollution and more problems than you have ever seen. The department has moved, they have made the recommendation, they have worked on it seven months and it is there for the state now. They are ready to implement it.

If the plumbing inspector in Waldoboro, Mr. Blodgett's district, didn't get approved to issue the waivers while they were in the experimental stage, then that is something else, but many, many plumbing inspectors did, over a hundred got the chance to use the waiver system and try it out. It has worked and it is going to go statewide.

Actually, there is no need for this bill. In the existing law, as I said before, an undue hardship, a small lot size, this is all taken care of because it says right in the existing law that the variance shall be granted, not may, it says it shall be.

Mr. Doak of Rangeley moved the previous question.

The SPEAKER: For the Chair to entertain a motion for the previous question, it must have the expressed desire of one third of the members present and voting. All those in favor of the Chair entertaining the motion for the previous question will vote yes; those opposed will vote no.

A vote of the House was taken, and obviously more than one third of the members present having voted for the previous question, the motion is entertained. The question now before the House is, shall the main question be put now? This is debatable with a time limit of five minutes by any one member. All those in favor of the main question being put now will vote yes; those opposed will vote no.

A vote of the House was taken.

72 having voted in the affirmative and 11 having voted in the negative, the main question was ordered.

The SPEAKER: A roll call has been requested. For the Chair to order a roll call, it must have the expressed desire of one fifth of the members present and voting. All those desiring a roll call vote will vote yes; those opposed will vote no.

A vote of the House was taken, and more than one fifth of the members present having expressed a desire for a roll call, a roll call was ordered.

The SPEAKER: The pending question is on the motion of the gentleman from Stow, Mr. Wilfong, that House Amendment "A" be adopted. All in favor of that motion will vote yes; those opposed will vote no.

#### ROLL CALL

YEA — Albert, Ault, Bagley, Bennett, Berry, G. W., Berry, P. P., Berube, Blodgett, Boudreau, Burns, Byers, Call, Carpenter, Carroll, Carter, Chonko, Churchill, Conners, Cote, Curran, P.; Curtis, Davies, DeVane, Drigotas, Dudley, Durgin, Farley, Fenlason, Finemore, Flanagan, Garsoe, Goodwin, H.; Goodwin, K.; Gould, Gray, Greenlaw, Hall, Henderson, Hennessey, Hewes, Higgins, Hinds, Hobbins, Hughes, Ingegneri, Jackson, Jacques, Joyce, Kuffman, Kelleher, Kelley, Kennedy, Laffin, Leonard, Lewis, Littlefield, Lizotte, Lunt, Lynch, MacEachern, Mackel, MacLeod, Martin, A., McMahon, Mills, Mitchell, Morin, Morton, Mulkern, Nadeau, Najarian, Norris, Pelosi, Perkins, S.; Perkins, T.; Peterson, T.; Pierce, Post, Powell, Quinn, Rolde, Rollins, Saunders, Shute, Silverman, Snow, Snowe, Spencer, Sprowl, Strout, Susi, Taibot, Tarr, Teague, Theriault, Tierney, Torrey, Tozier, Twitchell, Tyndale, Usher, Wagner, Walker, Webber, Wilfong, Winship, The Speaker.

NAY — Bachrach, Birt, Bowie, Bustin, Clark, Cox, Curran, R.; Dam, Doak, Dow, Dyer, Farnham, Faucher, Fraser, Hunter, Hutchings, Immonen, Jensen, Kany, LaPointe, Laverty, Lewin, Lovell, Martin, R.; Maxwell, McBreairty, McKernan, Miskavage, Peakes, Pearson, Peterson, P.; Raymond, Stubbs, Truman.

ABSENT — Carey, Connolly, Cooney, Gauthier, Jalbert, LeBlanc, Mahany, Palmer, Rideout, Smith.

Yes, 107; No, 34; Absent, 10.

The SPEAKER: One hundred seven having voted in the affirmative and thirty-four in the negative, with ten being absent, the motion does prevail.

The Chair recognizes the gentleman from Wayne, Mr. Ault.

Mr. AULT: Mr. Speaker, Ladies and Gentlemen of the House: This is a bad bill. The plumbing code went into effect on July 1, 1974, and it has made a heck of a lot of difference as far as the State of Maine is concerned, being a state of lakes, etc. This piece of legislation is going to repeal the plumbing code, as far as I am concerned. It is going to allow the local plumbing inspector to go in, design a drainage field and inspect his work and charge the homeowner a fee of \$28, and he is not going to be liable for this system.

Another problem with this bill in its present condition is — Mr. Speaker, you sponsored a bill in the 106th that required mandatory zoning 250

feet back from any waterway, I believe. There is a requirement in that law that there shall be a soils analysis prior to approval of any sewerage system within the 250 foot zone. You now have a conflict.

I move indefinite postponement of this bill and all its accompanying papers.

The SPEAKER: The Chair will order a vote. The pending question is on the motion of the gentleman from Wayne, Mr. Ault, that this Bill and all accompanying papers be indefinitely postponed. All in favor of that motion will vote yes; those opposed will vote no.

A vote of the House was taken.

35 having voted in the affirmative and 79 having voted in the negative, the motion did not prevail.

Thereupon, the Bill was passed to be engrossed as amended by House Amendment "A" and sent up for concurrence.

Bill "An Act to Establish a Division of Travel Information" (Emergency) (H. P. 2022) (L. D. 2201)

Bill "An Act Relating to Location of State Liquor Stores" (H. P. 1805) (L. D. 1964)

Were reported by the Committee on Bills in the Second Reading, read the second time, passed to be engrossed and sent to the Senate. (Later Reconsidered)

#### Second Reader Tabled and Assigned

Bill "An Act Relating to Residency for the Purposes of Municipal Relief of the Poor" (S. P. 738) (L. D. 2288)

Was reported by the Committee on Bills in the Second Reading and read the second time.

(On motion of Mr. Lizotte of Biddeford, tabled pending passage to be engrossed and tomorrow assigned.)

#### Amended Bills

Bill "An Act to Prohibit Payment of Dependency Allowance to Persons with a Spouse Employed Full Time" (H. P. 2118) (L. D. 2267) (C. "A" H-1029)

Was reported by the Committee on Bills in the Second Reading, read the second time, passed to be engrossed as amended and sent up for concurrence.

Bill "An Act Relating to Voting Places in Certain Unorganized Townships" (H. P. 1982) (L. D. 2151) (C. "A" H-1003)

Was reported by the Committee on Bills in the Second Reading and read the second time.

Mrs. Boudreau of Portland offered House Amendment "A" and moved its adoption.

House Amendment "A" (H-1063) was read by the Clerk and adopted.

The Bill was passed to be engrossed as amended by Committee Amendment "A" and House Amendment "A" and sent up for concurrence.

Bill "An Act Appropriating Funds for the Purchase of Town Histories" (H. P. 1949) (L. D. 2135) (C. "A" H-1027)

Was reported by the Committee on Bills in the Second Reading and On motion by Mr. Martin of St. Agatha, the House reconsidered its action whereby Committee Amendment "A" was adopted.

The same gentleman offered House Amendment "A" to Committee Amendment "A" and moved its adoption.

House Amendment "A" to Committee Amendment "A" (H-1061) was read by the Clerk and adopted. Committee Amendment "A" to House Amendment "A" thereto was adopted.

The Bill passed to be engrossed as amended by Committee Amendment "A" as amended by House Amendment "A" thereto and sent up for concurrence.

Bill "An Act Relating to Teacher

Employment" (S. P. 640) (L. D. 2029) (C. "A" H-459)

Was reported by the Committee on Bills in the Second Reading.

The Chair recognizes the gentleman from Scarborough, Mr. Higgins.

Mr. HIGGINS: Mr. Speaker, Ladies and Gentlemen of the House: I have a couple of questions in reference to this bill. I am not an arbitrator and I am not a teacher, and I guess I have a little trouble deciding or understanding exactly what "just cause" means. Also, I am interested in the fact of why we are reducing probation from three years to two years and is not, in fact, just cause a stronger bargaining point or whatever for teachers in their contracts? If we are throwing out tenure, then is not this amendment, which I guess is now the bill, going to throw all teacher contracts into the hands of an arbitrator and thereby remove it from the school boards? I would like to have those answered.

The SPEAKER: The gentleman from Scarborough, Mr. Higgins, has posed a question through the Chair to any member who may answer if they so desire.

The Chair recognizes the gentlewoman from Vassalboro, Mrs. Mitchell.

Mrs. MITCHELL: Mr. Speaker, Ladies and Gentlemen of the House: The committee amendment is now the bill, as the gentleman has said. It does not throw out teacher tenure.

Half the teachers in this state are covered by collective bargaining or approximately half and half are not. This simply gives the teacher the choice. If they prefer to organize for collective bargaining, they may do so, and it makes clear what has been a gray area in the collective bargaining position due to a court case in Winslow, when the court said that the teacher tenure law superseded the ability to negotiate just cause into one's contract. This proposed statute change would say that the collective bargaining units have the right to negotiate just cause into their contracts. In terms of reducing the probationary period, the members of the committee felt that two years was an adequate time for teacher probation.

Thereupon, the Bill was passed to be engrossed as amended and sent up for concurrence. (Later Reconsidered)

Bill "An Act to Temporarily Exempt Property Owners On Islands In Casco Bay from Certain Waste Discharge Compliance Requirements" (S. P. 708) (L. D. 2235) (C. "A" 452)

Was reported by the Committee on Bills in the Second Reading.

On motion of Mr. Peterson of Windham, the House reconsidered its action whereby Committee Amendment "A" was adopted.

The same gentleman offered House Amendment "A" to Committee Amendment "A" and moved its adoption.

House Amendment "A" to Committee Amendment "A" (H-1065) was read by the Clerk.

The SPEAKER: The Chair recognizes the gentleman from Windham, Mr. Peterson.

Mr. PETERSON: Mr. Speaker, Ladies and Gentlemen of the House: This bill, "An Act to Temporarily Exempt Property Owners on Islands in Casco Bay from Certain Waste Discharge Compliance Requirements," has been expanded to cover the whole coast and not just the island dwellers of Casco Bay. Other people along the coast may face the same difficulty that the dwellers in Casco Bay may experience.

This amendment would extend the time for which people who have entered into a licensing procedure with DEEP, it would give them an extra amount of time. Certain people have sought licenses and are making attempts to install

systems which would properly function on the island. This bill is giving an extension to people where it is physically impossible to meet the requirements of their deadline of July 1, 1976. This moves that deadline back to 1977, the same as we did for Scott Paper, and it pertains to all the islands and it also allows those people who are trying to comply with the law an additional amount of time.

The SPEAKER: The Chair recognizes the gentleman from Kittery, Mr. Kauffman.

Mr. KAUFFMAN: Mr. Speaker, I would like to pose a question through the Chair to anyone who might answer it. Does this include all towns on the coast who have sewerage systems going into the rivers?

The SPEAKER: The gentleman from Kittery, Mr. Kauffman, has posed a question through the Chair to anyone who may care to answer.

The Chair recognizes the gentleman from Windham, Mr. Peterson.

Mr. PETERSON: Mr. Speaker, Ladies and Gentlemen of the House: This does not pertain to anyone other than a person who owns a dwelling on the island, it does not interfere with the other deadlines that have been set by the state. This does not move back the period of time in which municipalities would have to comply with the law.

The SPEAKER: The Chair recognizes the gentleman from Kittery, Mr. Kauffman.

Mr. KAUFFMAN: Mr. Speaker, Ladies and Gentlemen of the House: If that is the case, I am opposed to this amendment. We have several homes in my area which has dumped into the river for years. The physical and geographical location of these homes makes it impossible for them to put a septic tank in and I know the town, maybe in a hundred years, they might be able to get a sewer down in that particular area. I think if this is going to apply to one certain area of the state, it should apply to all areas.

The SPEAKER: The Chair recognizes the gentleman from Waldoboro, Mr. Blodgett.

Mr. BLODGETT: Mr. Speaker, Ladies and Gentlemen of the House: In an attempt to try to answer Mr. Kauffman's question, it wouldn't interfere at all with these people. In fact, it would grant an extension of the closing date and should help these people that you speak of who have problems rather than restrict them. It would be to your benefit to support this.

Thereupon, House Amendment "A" to Committee Amendment "A" was adopted. Committee Amendment "A" as amended by House Amendment "A" thereto was adopted.

The Bill was passed to be engrossed as amended by Committee Amendment "A" as amended by House Amendment "A" thereto in non-concurrence and sent up for concurrence.

Bill "An Act Relating to Costs in Contested Cases and Depositions in Probate Court" (S. P. 709) (L. D. 2236) (C. "A" H-454)

Were reported by the Committee on Bills in the Second Reading and read the second time.

The SPEAKER: The Chair recognizes the gentleman from Kennebunk, Mr. McMahon.

Mr. McMAHON: Mr. Speaker, Ladies and Gentlemen of the House: I would like to move indefinite postponement of this bill.

I realize the difficulty that I might have in rising to talk about the last item on this particular section of our calendar and I would tell you at the outset that I am also the lone minority signer on the Judiciary Committee's report on this bill, so I guess I am saying to you that if I lose this effort, I am going to understand why.

However, I feel duty-bound to call your attention to this bill and to discuss it with you. I am talking about L. D. 2236 and Committee Amendment "A" to that, which is under filing number S-454. I strongly oppose this bill, because I



believe that this bill, if it is enacted into law, will result in more parties challenging more wills, since under the provisions of this bill, contestants can do so, knowing that the attorneys' fees for either party may be paid out of the estate.

The committee amendment does attempt to minimize this problem and perhaps resulted from comments that I made in the committee when we were discussing this bill. The committee amendment says that "such costs and fines may be denied by the court to any party whose contentions the court finds to be frivolous or entirely without merit." I feel that most attorneys' fees, most contests, would be allowed, because probate judges, in my opinion, would be extremely reluctant to interfere in the appeals process in the case of contested wills.

I would sincerely urge you to consider very seriously that in this bill we are putting into public law something that is not now codified. When you are planning your estate and draft a will and designate a person to be the executor of your estate, you expect that person to defend that will and to carry out the terms of that will when you die. However, I do not believe that you expect your estate to pay the attorneys' fees of those people who might contest your will whether or not they win their appeal.

The SPEAKER: The Chair recognizes the gentleman from Standish, Mr. Spencer.

Mr. SPENCER: Mr. Speaker, Ladies and Gentlemen of the House: The reason that the Judiciary Committee reported this out "ought to pass" is that there are many situations where the intent of the testator is legitimately at issue. For example, if you have somebody who does not possess their full faculties in their last days, they may have written two wills and there may be a question as to which is the valid will. There may be a situation of undue influence where an elderly person is persuaded in the last moments to write his children out of his will by someone that is close to him.

What this provision does, it allows the court, where there is a legitimate contest as to the intent of the deceased, to pay the expenses of both contesting sides, and if you write it so that only the executor gets his attorneys' fees paid for, you might create a situation where somebody who, in effect, forced an older person to sign a will against their will but the executor would have his attorneys fees paid, whereas the children were not able to have the expenses apid.

The law has always been understood to be that where there was a legitimate contest, the court could award attorneys' fees to both sides. This bill now provides, with the committee amendment, that if the claims of one party are frivolous, then the court would not award the attorney's fees. But the problem is, if you don't pass this bill, you are never sure, where there is a legitimate question as to the intent of the testator, you are not sure whether awarding the attorneys' fees to the person that he intended to leave his property to or to the person that he did not intend to get it. The assumption that the executor is always carrying out the intent of the testator is simply not one that would stand up.

The SPEAKER: The Chair recognizes the gentleman from Biddeford, Mr. Farley.

Mr. FARLEY: Mr. Speaker, Ladies and Gentlemen of the House: I think the bill here is attempting to ruin a whole bushel of good apples to get at one bad apple. The cliché in these legislative halls, in an attempt to kill a bill is call it a lawyer's bill, but I assure you today this bill here is a lawyer's bill, it is a bad bill, and it ought to go down.

The SPEAKER: The Chair recognizes the gentleman from So. Portland, Mr. Perkins.

Mr. PERKINS: Mr. Speaker, Ladies and Gentlemen of the House: The good gentleman just said that a lawyer's bill rarely has much

success when it is put in that light. I have to admit that this is really a lawyer's bill. However, the question is, in regard to this bill, who gets the benefit, because it requires a lawyer's services in order for the goodness of this bill to really show.

The case that brought this particular matter to light was one, as I recall, in which two wills were drawn within short order of each other, one in which the testator, individual, had left everything to his or her children. A second one that was drawn subsequently, which left all of the estate or a majority of the estate to one particular individual, who had given kindness to the testator in one form or another and the circumstances, as I recall it, there was a question as to the mental capacity of the testator as to whether she. — I think she had even had psychiatric help or care — and the children had a right to question whether that last will which, incidentally, is the one which should prevail always, where there is no undue influence, as to whether or not the last will should be allowed for probate, cutting them out entirely from the estate and I submit to you, that if anyone of us decide to draw our wills and we were in some manner incapacitated as a result of old age or what have you and someone chose to finagle and have us sign an instrument to be our last will and testament and that will become the one that is allowed in which all of our estate was sidetracked to someone other than our children, we would be very upset and we would want some means or ability to contest that, some means of being able to prove that that second will was, in fact, drawn and signed through some undue influence on the part of the beneficiary.

Everyone assumed in the legal profession that in that situation it was proper for the children to contest the second will and attempt to have the first will allowed. In doing so, the cost, in order to have this done, including witness fees, depositions to learn the truth, attorneys' fees, would be a part of the cost of the estate because the individuals themselves did not have those funds available, and that includes the attorney who was representing the estate that is originally on file, or meaning the second one, so we don't know at this point who is right, but regardless of that, it was assumed that the counsel fees and costs of court to be paid out of the estate.

That case, when it went to the Supreme Judicial Court of the State of Maine, the law court, in its wisdom, indicated that there was no statutes specifically granting that authority to take care of the costs of the depositions or the costs of the attorneys in carrying the case to the law court and that is the reason that bill is here before you today.

It will merely put on the books what has been a practice, whether rightfully or wrongfully. I suggest to you that I certainly would want to have the cost taken out of my estate in order to prove which was the effective instrument that was drawn, which was the proper one drawn and I would not object to that being done. Maybe you can say that is because I am a lawyer, but I would think, whether I was or I wasn't, that I would want that done.

The SPEAKER: The Chair recognizes the gentleman from Old Orchard Beach, Mrs. Morin.

Mrs. MORIN: Mr. Speaker, Ladies and Gentlemen of the House: I hope you do indefinitely postpone this bill. We really do not need the bill in the statutes. If a will is contested and if this person does win his case, he can then pay his attorney fees out of proceeds anyhow.

The SPEAKER: The Chair recognizes the gentleman from Franklin, Mr. Connors.

Mr. CONNORS: Mr. Speaker, Ladies and Gentlemen of the House: Perhaps you know that there is a committee that has been set up

and have been studying over a two-year period the complete revision of our probate laws here in the State of Maine. That report will be out and be in front of the 108th Legislature in the special session and, therefore, I support the motion of indefinite postponement.

The SPEAKER: The Chair recognizes the gentleman from Eastport, Mr. Mills.

Mr. MILLS: Mr. Speaker, Ladies and Gentlemen of the House: I would call your attention in the named body under Section 551 on the fourth line down "to be paid out of the estate in controversy as justice requires." The purpose of this thing is now carried backwards in your statement of fact. This bill provides this authority in line with long established practice in Maine's probate courts, provides clarification as to what type of other costs the public probate court may award, but this is just simply setting up an instrument, in legal form, whereby if somebody dies and they haven't left a will and there is a lot of money involved, the lawyers can really bleed that thing down to zero.

The SPEAKER: The Chair recognizes the gentleman from Cape Elizabeth, Mr. Hewes.

Mr. HEWES: Mr. Speaker, Ladies and Gentlemen of the House: It is with sincere trepidation that I speak after that remark and the one of the gentleman from Biddeford, Mr. Farley. You know, lawyers represent clients, clients who want services rendered. Supposing you change doctors in the course of your treatment, shouldn't the initial doctor that treated a person receive payment also? I, personally, don't get involved in this type of litigation, I have never had a contested will case in my 22 years of practice. Maybe some day I will. It had been the practice, as the gentleman from South Portland and the gentleman from Standish both said, for attorney's fees to be awarded by probate courts in contested matters up until this decision of last year by our supreme court.

Our Probate Court Justice is the Honorable Dana Childs. He testified before us urging passage of this particular bill. As the gentleman from Kennebunk said, he wanted stipulations that no frivolous, worthless, meritless, claimants would have their attorney fees paid and, as a result, the amendment, Committee Amendment "A" was added.

It seems to me that this is a fair bill, it places with the discretion of the probate court judge the payment of fees. I hope you will oppose the motion of the gentleman from Kennebunk to indefinitely postpone.

The SPEAKER: The Chair recognizes the gentleman from Kennebunk, Mr. McMahon.

Mr. McMAHON: Mr. Speaker, Ladies and Gentlemen of the House: In response to the good gentleman from South Portland, I would call your attention to the portion of the decision in the Fenwick Case, which is the case which the good gentleman was referring to on which this bill was based. I am reading a portion of the decision. "It was nowhere demonstrated, however, that the subject" (I am deleting the name) "took any affirmative action in securing his large inheritance." There was no evidence that he suggested the testamentary scheme which Mrs. Fenwick directed her attorney to implement. In fact, there was evidence that Mrs. Fenwick had made her decision to execute a new will immediately after her husband's death, before her nephew became deeply involved in managing her affairs. Further, the new will contained bequests to two beneficiaries not included in the earlier document. The court went on and said in its decision — however, keeping in mind that the trial justice had an opportunity to observe the demeanor of the various witnesses, including that of the subject, we cannot say that his decision not to draw such an inference — and that

would be an inference of undue influence and that inference was not drawn by the trial judge — the law court said we cannot say that that decision was erroneous.

I think we are touching the tip of an iceberg and as the good gentleman from Franklin said, hopefully, in the 108th Legislature and I personally hope that I am here, since this is an area I would like to be involved in, we are going to be discussing the whole subject of probate reform.

I would like to read portions of an article from a Readers Digest reprint to you that might indicate to you the magnitude of this iceberg and perhaps the reason for my concern. The spring of 1971, while helping to persuade the Idaho Legislature to adopt the most thorough probate reform legislation ever devised in the United States, Representative Mel Hammond gave details of two outrageous Idaho estate settlements that he had investigated. One, the McCutchen estate began as a simple \$181,000 bequest by a man to his widow. Before it was finally settled, it had been nicked for 13 percent of its value, some \$24,000 in perfectly legal attorney and bank executor fees and other expenses.

The second case, after 11 years, the Spencer estate still wasn't settled, and in that time, the lawyers and bank executors had managed to extract more than \$48,000 in fees with no settlement in sight. One legislator suggested that the state's lawyers had informally adopted Idaho's own state motto "esto perpetua", which means "endure forever".

Since this is an area that I am not at this point in time terribly expert in, I sent copies of this bill to several of the attorneys in my district. One gentleman, the only gentleman who responded at all, specializes in probate work and I would like to read, with your indulgence, most of the letter that I received, dated March 12th from the firm of Reagan, Ayer, & Adams in Kennebunk. "Dear Jim: I received your note regarding the bill, regarding allowance of attorney fees in probate matters. After rereading the Fenwick Case, I cannot say that my position has changed. Just because the appellants were not successful in validly contesting the will of Mrs. Fenwick, does not, in my mind, give rise to a reason for therefore paying out of her estate the expenses and attorneys' fees for the contestant. If these contestants felt that they had a meritorious case, they had every right to pursue it and pay their own attorneys fees one way or the other.

"Of course, had they been successful, they would have received money from the estate from which to pay the fees. Now, that they are unsuccessful, they still expect the same benefits as if they had been successful. I think this case is the same as the others that I mentioned in our past conversations and does not convince me that the rules should change."

I could go on with the balance of this letter but I won't, suffice it to say that I do hope that you adopt the motion of indefinite postponement. If there is any merit at all to be extracted from this bill, then the other body can do it when the bill arrives down there.

The SPEAKER: The Chair recognizes the gentleman from Eastport, Mr. Mills

Mr. MILLS: Mr. Speaker, Ladies and Gentlemen of the House: In reply to my good friend Representative Hewes, I would still say that this bill guarantees an attorney fee from somebody else's dead money.

The SPEAKER: The Chair will order a vote. The pending question is on the motion of the gentleman from Kennebunk, Mr. McMahon, that this Bill and all accompanying papers be indefinitely postponed in non-concurrence. All in favor of that motion will vote yes; those opposed will vote no.

A vote of the House was taken.

81 having voted in the affirmative and 7 hav-

ing voted in the negative, the motion did prevail.

Sent up for concurrence.

On motion of Mr. Birt of East Millinocket, the House reconsidered its action of earlier in the day whereby Bill "An Act Relating to Location of State Liquor Stores," House Paper 1805, L. D. 1965, was passed to be engrossed.

The same gentleman offered House Amendment "A" and moved its adoption.

House Amendment "A" (H-1052) was read by the Clerk and adopted.

The Bill was passed to be engrossed as amended by House Amendment "A" and sent up for concurrence.

#### Orders of the Day

The Chair laid before the House the first item of Unfinished Business:

Bill, "An Act to Establish the Dates of Legislative Sessions and to Clarify Laws Relating to Expenses of Legislators" (S. P. 663) (L. D. 2087) — In the Senate, passed to be engrossed as amended by Committee Amendment "A" (S-435) as amended by Senate Amendment "A" (S-440), thereto

Tabled — (Till later today) March 23 by Mr. Blodgett of Waldoboro.

Pending — Passage to be Engrossed as amended by Committee Amendment "B" (S-435) as amended by House Amendment "C" (H-1036) thereto, in non-concurrence.

Mr. Silverman of Calais offered House Amendment "F" to Committee Amendment "B" and moved its adoption.

House Amendment "F" to Committee Amendment "B" (H-1046) was read by the Clerk.

The SPEAKER: The Chair recognizes the gentleman from Calais, Mr. Silverman.

Mr. SILVERMAN: Mr. Speaker, Ladies and Gentlemen of the House: An explanation of House Amendment "F", it is an amendment to lay some type of control on the length of the statutes, allowing a hundred days for the first regular session, 50 days for the second regular session. This means a possibility of 20 to 26 weeks, according to how many days we are going to have in each week for the first session and just half that for the second session.

I do believe there should be some control feature on this bill, and I do believe that this is a very liberal type of control feature.

Also, in this amendment there is an extension of eight legislative days, if so voted on by the legislature. With that, I would ask you to adopt this.

The SPEAKER: The Chair recognizes the gentleman from Pittsfield, Mr. Susi.

Mr. SUSI: Mr. Speaker and Members of the House: I oppose this amendment and I move for its indefinite postponement and would explain my reasons.

The SPEAKER: The gentleman from Pittsfield, Mr. Susi, moves the indefinite postponement of House Amendment "F" to Committee Amendment "B".

The gentleman may proceed.

Mr. SUSI: Mr. Speaker and Members of the House: I have no opposition to the hundred days, I have no opposition to the 50 days, I have no opposition to the two-thirds vote for the extensions, but I do stand opposed to the exact limit on the extension, the five days and the three days. We have no opinion after we have used up the five and three, as I understand it. So we put a definite clature date on a session.

Well, let's consider the situation we find ourselves in right here today. We are coming into the end of a session. If you make any trim-

mings out of a session, it is going to be out of the end of a session and not the middle of a session, we agree on that. All right, if it is going to be the end of a session, it is a situation like we are in here now where we have a lawyer, we have a plumber's bill, we have got one and another and to each of these bills, there are people who recognize the importance of them and we are spending 15 minutes, a half hour and it is adding up to eight or nine hours a day.

The way to shorten the session up is to cut back at the end of the session, and the way you do that is to go from 9 hours to 12 hours, to 14 hours. I am going to ask you right now, do you want to go 14 hours a day or 16 hours? That is what you are voting for if you vote for this amendment, because don't think that this device brings us a new leadership that is going to be more responsible than the leadership that we have now. I have no question about the quality of our leadership. I think they are as committed as any of us. Unfortunately, we don't all march to the same drummer, so we don't proceed in this democratic process with everyone working in cooperation with everyone else. Yet, this is the process that we are in, and I for one am happy with it. It is the best we can do. It takes time, and to put a definite clature date on a session I think is a terrible mistake and I hope you vote for the indefinite postponement.

The SPEAKER: The Chair would advise the members of the House that the amendment offered by the gentleman from Calais, Mr. Silverman, was House Amendment "F" to Committee Amendment "B" and not House Amendment "F" to the Bill. Therefore, in order for the gentleman to introduce his amendment, the rules must be suspended in order to proceed any further, in order to reconsider whereby this body voted to adopt Committee Amendment "B". The Chair will order a vote. All those in favor of the rules being suspended will vote yes; those opposed will vote no.

A vote of the House was taken.

38 having voted in the affirmative and 56 having voted in the negative, the rules were not suspended.

Thereupon, the Bill was passed to be engrossed as amended by Committee Amendment "B" as amended by House Amendment "C" in non-concurrence and sent up for concurrence.

On motion of Mr. Lynch of Livermore Falls, the House reconsidered its action of earlier in the day whereby Bill "An Act Relating to Teacher Employment," Senate Paper 640, L. D. 2029 was passed to be engrossed as amended by Committee Amendment "A".

The SPEAKER: The Chair recognizes the gentleman from Cumberland, Mr. Garsoe.

Mr. GARSOE: Mr. Speaker, Ladies and Gentlemen of the House: I appreciate the action of the gentleman from Livermore Falls. I was out of my seat at the time and had planned to call this piece of legislation to your attention.

If I can just back up a little bit to some of the conversations we have had in here relating to collective bargaining and point out to you that the bill is no longer before us, it is the amendment. The bill, as I understand it, came in to repeal what I guess we commonly call the Teacher Tenure Law. But the amendment now directs itself to reducing the number of years of probation that is to be served as a maximum by a teacher and extends itself really into the area of collective bargaining by saying that just cause for dismissal or nonrenewal may be a negotiable item in accordance with the procedures set forth in Title 26.

This has occupied a great deal of time in negotiations between school boards and teacher associations, and up until just recently, teacher associations have been very successful in forc-

ing school boards to write into their contracts a "just cause provision."

No one could really argue that if someone is dismissed that it should indeed not be for just cause, but we have been completely unsuccessful in attempting to substitute words such as capricious, arbitrary, words that were very clearly defined, an act that had to be proven. The problem with just cause, once it has been put into a contract, is that any such action of nonrenewal or dismissal by a teacher then becomes subject to the grievance procedure. Now the individual has two routes of action, either the statutory provisions or the just cause provision.

This has gone into quite a few contracts, and one of the reasons that it has gone into some contracts, you might say willingly, has been the fact that after you have seen repeated instances where arbitrators come in and force boards to put these in the contracts, there is a tendency among others not to go that route, not to keep up the fight, so there have been instances where it has been agreed to by school boards. But the end result is that when a teacher is dismissed by a local school board, a grievance is filed and another area of review comes into play. A hearing is held and, as the gentleman from Durham said, an out-of-state arbitrator, in most instances, sits and casts judgment, reviews the judgment of the school board and makes a determination whether or not this dismissal was indeed for just cause.

Now, just cause means what the reviewer wants it to mean. It comes out of his background, out of his philosophy, out of his standards and it is a real threat to the local control that a school board was elected to effect. The values of a community — I think the language in the statute refers to fitness to teach. This is fitness to teach in the judgment of people who have been elected to operate the school boards, who have been elected to set the standards for the school board. So, there has been this erosion through the device of collective bargaining over the years.

The school boards are beginning to come of age, they are fighting back, and one school board took this subject to court, and in the Superior Court of the State of Maine, it was judged that an arbitrator exceeds his authority when he forces a school board to write this into their contract. This is under appeal to the Supreme Court of the State, and I think this in itself should be a reason that we wouldn't start passing legislation such as this.

I am going to move for the indefinite postponement of this bill and its accompanying papers when I get through. I would hope you would give some consideration to this.

I would like to take you back to the 106th Legislature when school boards were before this body attempting to modify the collective bargaining law. He is not in his seat, but I know he won't challenge my statements, but the distinguished gentleman from Augusta advised those of us who supported these modifications not to come whining to the legislature for things we couldn't win at the table. I want to turn that around now and suggest that we shouldn't condone this coming to the legislature for things that can't be won in the courts. I think I have given you the basis for my feeling, that if you believe your locally elected school board should, indeed, pass its judgment on the dismissal of a teacher, subject to the review of our courts, our courts which have set precedents, which are operated on precedent, which give us a continuing body of review, if you believe that should be continued, then I think you will support my motion, because to allow this to pass means that ad hoc arbitrators, a different one in every situation, will be coming in to review the decisions of your local school boards.

Mr. Speaker, I do move for the indefinite

postponement of this Bill and all its accompanying papers.

The SPEAKER: The gentleman from Cumberland, Mr. Garsoe, moves that this Bill and all its accompanying papers be indefinitely postponed in non-concurrence.

The Chair recognizes the gentleman from Winthrop, Mr. Bagley.

Mr. BAGLEY: Mr. Speaker, Ladies and Gentlemen of the House: I am in sort of a peculiar position in regard to this bill. The original bill, as you all know, was to repeal the present tenure law. Well, while I was superintendent of schools in Island Falls, back in those dim, distant days when teachers and superintendents were still speaking, I was chairman of the Maine Teachers Association Legislative Committee, and I came down here and did my best and actually succeeded in getting through this so-called tenure law, this continuing contract law. You know, the prime opponents of this continuing contract law in 1950 were the superintendents and the State School Board Association. Now we find that when we want to repeal it, the people that want to keep it are the State School Boards Association and the superintendents. I don't know why both sides have suddenly swapped.

I do want to take issue with the statement from the gentleman from Cumberland in regard to this court case. Actually, what happened was that the court ruled that because of our present continuing contract law, this just cause thing was not valid, not that anybody didn't have any right to come in and tell people what is what, if the two sides agreed to have an arbitrator, the arbitrator could do anything as long as it didn't violate the law. It violated the present continuing contract law according to that court decision which, as already as been said, is under appeal at the present time. We don't know what the result may be.

The point that the teachers have in regard to this thing, about 50 percent of the teachers are under contracts that refer to this just cause, about 50 percent are not. I think South Portland is the biggest place that does not have that and there are many of the smaller places that don't. But the point of the teachers is, if a teacher is fired, the teacher is fired by the school board. Then the continuing contract law says that a teacher may file for an appeal and that appeal is held before the school board. In other words, the school board is accuser. The school board is also the judge and jury in the case. That is the whole reason why the teachers want this just contract thing and in many cases have had it approved by the school boards, even though, as was said, this court case has held that due to our present continuing contract law, that was not valid.

All this does is to amend the law to add on the fact that if teachers and school board members have agreed to a just cause, that takes precedence. Otherwise, the present continuing contract law takes precedence. I hope you do not vote for indefinite postponement.

The SPEAKER: The Chair recognizes the gentleman from Cumberland, Mr. Garsoe.

Mr. GARSOE: Mr. Speaker, Ladies and Gentlemen of the House: The repeal of the tenure law is not what you are being asked to vote on right now. That was the original language; that is not what we are talking about now. And I would observe that perhaps one reason that there is a shift in attitudes, and I think that is perfectly permissible under any circumstances, is that we have had a collective bargaining situation develop since this law was put on the books. So I think that should be understandable.

The fact that the gentleman speaks of, about half of our teachers being under this clause, I thought I had discussed but will mention it again, is yes, some of these have been shoved on

by arbitrators and others, school boards seeing it being done all around them, school boards have reluctantly agreed to write this into their contracts.

If we were facing the complete surgical decision of repealing the tenure law and leaving the protection of teachers to their union contracts, we would have a more clear-cut decision, but passing this piece of legislation is going to provide not only legislation coming in while the matter is under consideration by the courts, it is going to leave a double route that can be taken, depending on the intent of the individual. I don't think this makes good legislation.

I would hope that you would defer any action on this, at least until the courts have acted.

The SPEAKER: The Chair recognizes the gentleman from Blue Hill, Mr. Perkins.

Mr. PERKINS: Mr. Speaker, Ladies and Gentlemen of the House: One of the main reasons why this special session was called was because of school funding. One of the biggest items in school funding is the teacher salaries. Therefore, I would find myself today on the side of the gentleman from Cumberland, Mr. Garsoe, and agree with him that we should not hurry into passing something that would remove or dilute more local control.

The SPEAKER: The Chair recognizes the gentleman from Durham, Mr. Tierney.

Mr. TIERNEY: Mr. Speaker, Men and Women of the House: I can't resist this opportunity to watch how the arguments have been turned by history and respond to my good friend from Cumberland's argument about how we shouldn't touch this issue now because it is before the courts.

If you recall, perhaps, since he came here in the 106th, as I did, in the very first days of the 106th Legislature, we had a governor's veto override to act on, and at that time, the arguments by those people asking us to sustain the governor was that we shouldn't deal with this issue because it was currently before the supreme court. I think the good gentleman voted to override it at that time. I was wondering why his change of position now.

The SPEAKER: The Chair recognizes the gentleman from Cumberland, Mr. Garsoe.

Mr. GARSOE: Mr. Speaker and Members of the House: Merely to answer the question, I had forgotten all about that.

The SPEAKER: The Chair recognizes the gentleman from Rangeley, Mr. Doak.

Mr. DOAK: Mr. Speaker, I have a question I would like to pose through the Chair. As a school board member, if we were in the negotiation process and an arbitrator now were called in, if this amendment passes, could the arbitrator then say that just cause will be in your contract and it is not negotiable any further?

The SPEAKER: The gentleman from Rangeley, Mr. Doak, has posed a question through the Chair to anyone who may care to answer.

The Chair recognizes the gentleman from Cumberland, Mr. Garsoe.

Mr. GARSOE: Mr. Speaker, I would say yes, or we wouldn't need this legislation, because we have got to realize that the courts have now said that an arbitrator exceeds his authority when he orders a school board to put this into the contract, he has exceeded his authority.

I can see that the defense is that we have a tenure law protecting the rights of an individual teacher in this situation and that this, I suppose, must have been the basis for the court decision. So if this is passed, you are going to create a great deal of chaos, because school boards, obviously, are going to resist. Now that the superior court has acted, they will continue to resist the efforts to have this put into a contract.

I hope that has answered your question. I would say that if this were passed, then you can

expect to heighten the level of activity at the bargaining table.

The SPEAKER: The Chair recognizes the gentleman from Winthrop, Mr. Bagley.

Mr. BAGLEY: Mr. Speaker, Ladies and Gentlemen of the House: I may be wrong, and I stand corrected if I am, but I think this court decision was not in regard to putting this matter of just cause into a contract. The decision of the court was in regard to what an arbitrator said in regard to actually firing a teacher, not this matter of whether just cause should go into a contract or not. The school board fired the teacher. The teacher repealed under the just cause contract. The arbitrator found for the teacher. Then the thing went to court and the court said the arbitrator had exceeded his authority because we have a present continuing contract law that is supposed to protect the teacher.

The SPEAKER: The Chair recognizes the gentleman from Livermore Falls, Mr. Lynch.

Mr. LYNCH: Mr. Speaker and Members of the House: Two comments. We reduced the probationary period from three to two years. I think it is a step in the right direction. If a teacher is going to be acceptable in any system, he ought to be thoroughly judged in two years, but the difficulty has been that over the years school boards, superintendents, have been lax and have allowed unacceptable teachers to be worked into the system and then can't get rid of them.

Just cause for dismissal or nonrenewal may be a negotiable item. That is a local concern. If teachers in a local unit want just cause, they can negotiate for it. If they don't want it, they can object to it.

Mr. Garsoe of Cumberland was granted permission to address the House a third time.

Mr. GARSOE: Mr. Speaker and Members of the House: I will be very brief. I can understand the gentleman from Winthrop's confusion, but I am going to correct him. This is before the courts in at least two appeals. The one I am referring to is Winslow, where the court said an arbitrator exceeded his authority in ordering this to be put into a contract. It is under appeal in Lubec, it is under appeal in Boothbay Harbor. I think this will give you some background as the magnitude of what we are being asked to do here today.

I hadn't addressed myself to the subject of probationary service. I felt that was a peripheral item as regards the impact of the bill. I think that that is of slight enough consequence not to, I hope, affect your vote on this matter. I have tried to keep my remarks to the heart of this bill, which is this situation that is not going to enhance the relationship between boards and associations.

The SPEAKER: The Chair will order a vote. The pending question is on the motion of the gentleman from Cumberland, Mr. Garsoe, that this Bill and all its accompanying papers be indefinitely postponed in non-concurrence.

The Chair recognizes the gentleman from Brewer, Mr. Cox.

Mr. COX: Mr. Speaker, I ask to be excused pursuant to House Rule 19.

The SPEAKER: The Chair would inquire from the gentleman from Brewer, Mr. Cox whether he is a probationary teacher?

Mr. COX: No, Mr. Speaker, I am not.

The SPEAKER: The Chair will rule that the Chair will not excuse him, since this bill would only directly affect him if he were a probationary teacher and that ruling applies for all other teachers within the body.

Thereupon, a vote of the House was taken. Mr. Kelleher of Bangor requested a roll call vote.

The SPEAKER: For the Chair to order a roll call, it must have the expressed desire of one fifth of the members present and voting. All

those desiring a roll call vote will vote yes; those opposed will vote no.

A vote of the House was taken, and more than one fifth of the members present having expressed a desire for a roll call, a roll call was ordered.

The SPEAKER: The Chair recognizes the gentleman from Standish, Mr. Spencer.

Mr. SPENCER: Mr. Speaker, I ask to be excused under Rule 19, in that one of the partners in my law firm represented the Winslow School Board in the case which this bill would reverse.

The SPEAKER: The Chair would inquire whether the revenues from the law court case —

Mr. SPENCER: They affect my law firm's income.

The SPEAKER: Do they affect the income of the legislator?

Mr. SPENCER: Mr. Speaker, I am paid by the law firm whose income —

The SPEAKER: The Chair would therefore allow the gentleman from Standish, Mr. Spencer, to be excused pursuant to Rule 19.

The SPEAKER: The pending question before the House is on the motion of the gentleman from Cumberland, Mr. Garsoe, that this Bill and all accompanying papers be indefinitely postponed in non-concurrence. All in favor will vote yes; those opposed will vote no.

#### ROLL CALL

YEA — Ault, Berry, G. W.; Berry, P. P.; Bowie, Burns, Byers, Carroll, Connors, Curtis, DeVane, Doak, Dudley, Durgin, Garsoe, Gauthier, Gray, Higgins, Hunter, Hutchings, Immonen, Jackson, Kauffman, Leonard, Littlefield, Lizotte, Lovell, Mackel, MacLeod, Maxwell, McBrearty, McMahon, Morin, Norris, Perkins, T.; Peterson, P.; Sprawl, Strout, Susi, Tarr, Torrey, Tozier, Truman, Twitchell, Tyndale, Wagner, Walker, Webber.

NAY — Albert, Bachrach, Bagley, Bennett, Berube, Birt, Blodgett, Bustin, Call, Carpenter, Carter, Chonko, Churchill, Clark, Connolly, Cooney, Cote, Cox, Curran, P.; Curran, R.; Davies, Dow, Drigotas, Farley, Fenlason, Finemore, Flanagan, Fraser, Goodwin, H.; Goodwin, K.; Gould, Greenlaw, Hall, Henderson, Hennessey, Hewes, Hobbins, Hughes, Ingegneri, Jalbert, Jensen, Joyce, Kany, Kelleher, Kelley, Kennedy, Laffin, LaPointe, Laverty, Lewin, Lewis, Lunt, Lynch, MacEachern, Mahany, Martin, A.; Martin, R.; McKernan, Mills, Miskavage, Mitchell, Morton, Mulkern, Nadeau, Najarian, Peakes, Pearson, Pelosi, Peterson, T.; Pierce, Post, Powell, Quinn, Raymond, Roide, Rollins, Saunders, Shute, Silverman, Snow, Snowe, Stubbs, Talbot, Teague, Theriault, Tierney, Wilfong, The Speaker.

ABSENT — Boudreau, Carey, Dam, Dyer, Farnham, Faucher, Hinds, Jacques, LeBlanc, Palmer, Perkins, S.; Rideout, Smith, Usher, Winship.

EXCUSED — Spencer.

The SPEAKER: Forty-seven having voted in the affirmative and eighty-eight in the negative, with fifteen being absent and one being excused, the motion does not prevail.

Thereupon, the Bill was passed to be engrossed as amended in concurrence.

The Chair laid before the House the Second Item of Unfinished Business:

Bill, "An Act to Increase the Efficiency of the Investigation and Prosecution of Fraud Against the State" (Emergency) (H. P. 2155) (L. D. 2290)

Tabled — (Till Later Today) March 23 by Mr. Rolde of York.

Pending — Motion of Mrs. Berube of Lewiston to Reconsider Adoption of House Amendment "B" (H-1030)

The SPEAKER: The pending question before the House is on the motion of the gentlewoman

from Lewiston, Mrs. Berube, that the House reconsider its action whereby House Amendment "B" was adopted. All in favor of that motion will vote yes; those opposed will vote no.

A vote of the House was taken.

Thereupon, Mr. MacEachern of Lincoln requested a roll call vote.

The SPEAKER: A roll call has been requested. For the Chair to order a roll call, it must have the expressed desire of one fifth of the members present and voting. All those desiring a roll call vote will vote yes; those opposed will vote no.

A vote of the House was taken, and more than one fifth of the members present having expressed a desire for a roll call, a roll call was ordered.

The SPEAKER: The Chair recognizes the gentleman from Ellsworth, Mr. DeVane.

Mr. DeVANE: Mr. Speaker, Ladies and Gentlemen of the House: I would ask you to resist and reject the motion to reconsider and to exercise the same judgment you had when it was put on.

The SPEAKER: The Chair recognizes the gentlewoman from Lewiston, Mrs. Berube.

Mrs. BERUBE: Mr. Speaker, Ladies and Gentlemen of the House: I would ask that you vote to reconsider so that we can have an opportunity to postpone Mr. DeVane's amendment.

First of all, I would remind everyone that this was a unanimous committee report. Secondly, there is an immediate need of the additional investigators and prosecutors which would be accomplished by this bill. They would be needed in order to go after the fraud cases in the Human Services program, namely, vendor fraud cases.

Now, Mr. DeVane's opposition seems to be to the bill because we are retaining one position in the Human Services. The reason for that is simply to qualify this fraud unit investigation for federal funding. Now, if we delete the position from Human Services, there will be no federal funding available, or if there would be, it would take many, many months. The way we are doing it, it would be available immediately.

I have said before, there is an immediate need of these positions and I don't feel that we should procrastinate any longer.

The SPEAKER: The Chair recognizes the gentleman from Ellsworth, Mr. DeVane.

Mr. DeVANE: Mr. Speaker, Ladies and Gentlemen of the House: Very briefly. In direct response to the very able lady, it was the unanimous committee report when the amendment went on. That has not changed. The reference to 'they' is, in fact, to one person and it is not a question of retaining somebody in Health and Welfare, it is a question of somebody going from the Fraud Investigating Unit housed in the Department of Audit either to the Attorney General's Office or to Human Services. It isn't really a question of retaining.

The matter of federal funds, is, I believe — I am looking for Mr. Hinds, who has had some interest in this matter — the federal funds, as I understand it, will be available, it may be more difficult, it may be more tedious, but the first opposition was that there would be no federal funds. It has come to light, I think, that there would be, through a longer procedure, and I would pray to God that the federal government never passes a law which would give a bonus of dollars to legislators that would wear funny hats, because I think some would wear them.

Federal money is important, I think perhaps, in major projects, maybe for highways, maybe for airports, but when we reach down to a single position in a single department and justify what we are doing for some federal dollars, we are in fact encumbering ourselves in a useless way.

The SPEAKER: The Chair recognizes the gentlewoman from Brunswick, Mrs. Bachrach. Mrs. BACHRACH: Mr. Speaker, Ladies and



Gentlemen of the House: I appreciate this business of a federal fund to a certain extent, but I think there is another factor in this reassignment which hasn't been considered. A lot has been said about keeping the unit in one place but, as a matter of fact, the breakdown, as far as we have been able to tell from the study we did last summer in the fraud investigation procedure, has been that there hasn't been very good communication between the Attorney General's Office and what is now the Human Services Department.

It became pretty apparent to us that if we were going to have a really efficient procedure whereby the cases were identified, investigated and then action was taken, that to have at least one of the fraud investigators which, under the federal grant procedure, would actually be four investigators in the Human Services Department, where they would have easy access to all of the files and materials on the cases, would in fact facilitate the investigation on the spot and the communication with the Attorney General's Office.

Therefore, I would urge you to defeat the amendment which, in effect, negates the intent of the committee and pass the bill as originally proposed.

The SPEAKER: The Chair recognizes the gentleman from Brewer, Mr. Norris.

Mr. NORRIS: Mr. Speaker, Ladies and Gentlemen of the House: I see that Mr. Hinds isn't in his seat. I did serve on this committee and I was one of the signers of the unanimous "ought to pass" report. I did not serve on the subcommittee, but I know that they did spend several months, as the members have reiterated before this House.

I do know one thing for certain, that regardless of where this position goes today on this amendment, the gentleman will end up in the Department of Human Services because he is going to go there anyway. The only difference between the amendment and the bill in its original form is the fact that if we pass the bill as originally written there is no question, there is no waiting, the federal government will pay half of his salary. I guess that is exactly boiled down logically to what we are talking about, because the gentleman will go to Human Services, and if he does go to Human Services, when he goes, I should say, the federal government will pay half of his salary.

That is the whole story in a nutshell. It was done with a lot of thought and a lot of consideration and after a lot of agonizing thought. So I would hope that you would reconsider today and let the federal government, without any question, you understand, pay half of this person's salary.

The SPEAKER: The Chair recognizes the gentleman from Portland, Mrs. Najarian.

Mrs. NAJARIAN: Mr. Speaker and Members of the House: I guess I am a little confused by Mrs. Bachrach's last statement, because she was talking about that the bill transferred investigators from the Department of Audit to the Human Services Department. As I read the bill, it concerns itself with four positions. It transfers the director to the Human Services Department but the investigators go to the Attorney General's Office, and the secretary will go to the Attorney General's Office.

The preamble to the bill states that "wherein the investigation and prosecution of fraud perpetrated against the state is currently carried out by several state agencies in a fragmented and inefficient manner," — that is one of the justifications for passing the bill. The positions being considered in this bill are now all in the Department of Audit, they are not fragmented, as stated in the emergency clause, and to place one position in one department and three positions in another department seems to me to be doing exactly what the emergency bill

intended to avoid, and that was fragmentation.

The Statement of Fact says that the Director of Fraud Investigation is placed in the Department of Human Services to investigate active fraud, but the two investigators are left in the Attorney General's Office. That doesn't make a whole lot of sense to me.

Mr. DeVane's amendment would transfer all the positions to the Attorney General's Office. As I understand it, they can still get the federal money, the Attorney General can assign investigators to the Department of Human Services and they would still receive federal money and the same purpose, it seems to me, that the Performance Audit Committee is trying to accomplish would be accomplished through Mr. DeVane's amendment and all of these members of the Fraud Investigation Unit would be in one department, which is what the preamble to this bill states is the intention, or the reason why the bill is being introduced.

The SPEAKER: The Chair recognizes the gentleman from Cape Elizabeth, Mr. Hewes.

Mr. HEWES: Mr. Speaker, Ladies and Gentlemen of the House: In answer to the good lady's question, as I understand it, the federal money would funnel to the state through the HEW, the federal agency of Health, Education and Welfare. It is their practice not to fund money into departments such as the Attorney General's Office in any one of the 50 states. Instead, they funnel their money into departments such as our Department of Human Services. I think it is for that reason that the committee's proposal was proposed.

When the inspector of HEW makes his periodic inspections, he wants to make sure that the federal funds are spent not for tarring roads or Sea and Shore Fisheries matters, but he wants to make sure the money is spent for human service matters. As I understand it, if this man in charge of the Fraud Squad is in the Department of Human Services, it will be easy for this inspector from HEW to check the records.

It is strictly for federal funds, as I see it, the reason the committee came out with the report that it did. I hope you will vote with the good lady from Lewiston, Mrs. Berube, to reconsider.

The SPEAKER: A roll call has been ordered. The pending question is on the motion of the gentleman from Lewiston, Mrs. Berube, that the House reconsider its action whereby House Amendment "B" was adopted. All in favor of that motion will vote yes; those opposed will vote no.

#### ROLL CALL

YEA — Albert, Bachrach, Berry, G. W.; Berube, Birt, Boudreau, Chonko, Clark, Cox, Curran, P.; Curtis, Dam, Dow, Dudley, Faucher, Finemore, Garsoe, Goodwin, K.; Henderson, Hewes, Hutchings, Kennedy, LaPointe, Lavery, Lewis, Lizotte, Lovell, Lynch, Mahany, Martin, A.; McBreairty, McMahon, Mills, Morin, Morton, Norris, Peakes, Quinn, Saunders, Shute, Silverman, Snow, Snowe, Spencer, Stubbs, Susi, Talbot, Tarr, Teague, Theriault, Torrey, Truman, Twitchell, Wagner, Walker.

NAY — Ault, Bagley, Bennett, Berry, P. P.; Blodgett, Bowie, Burns, Bustin, Byers, Call, Carpenter, Carroll, Carter, Churchill, Comers, Connolly, Cooney, Curran, R.; Davies, DeVane, Doak, Drigotas, Durgin, Farley, Farnham, Fenlason, Flanagan, Fraser, Gauthier, Gould, Gray, Greenlaw, Hall, Hennessey, Higgins, Hobbins, Hughes, Hunter, Immonen, Ingegneri, Jackson, Jensen, Joyce, Kany, Kauffman, Kelleher, Kelley, Laffin, Leonard, Lewin, Littlefield, Lunt, MacEachern, Mackel, MacLeod, Martin, R.; Maxwell, McKernan, Miskavage, Mitchell, Nadeau, Najarian, Pearson, Pelosi, Perkins, T.; Peterson, P.; Peterson, T.; Pierce, Post, Powell, Raymond, Roide, Rollins,

Sprowl, Strout, Tierney, Tozier, Usher, Webber, Wilfong, Winship.

ABSENT — Carey, Cote, Dyer, Goodwin, H.; Hinds, Jacques, Jalbert, LeBlanc, Mulkern, Palmer, Perkins, S.; Rideout, Smith, The Speaker.

The SPEAKER: Fifty-six having voted in the affirmative, and eighty-one in the negative, with fourteen being absent, the motion does not prevail.

Thereupon, the Bill was passed to be engrossed as amended by House Amendment "B" and sent up for concurrence.

The Chair laid before the House the third item of Unfinished Business:

An Act to Require an Annual Governor's Report on Employment and the Economy (S. P. 720) (L. D. 2256)

Tabled — (Till Later Today) March 23 by Mrs. Najarian of Portland.

Pending — Passage to be Enacted.

The SPEAKER: The Chair recognizes the gentleman from Bridgewater, Mr. Finemore.

Mr. FINEMORE: Mr. Speaker, Ladies and Gentlemen of the House: I request suspension of the rules for reconsideration.

The SPEAKER: The gentleman from Bridgewater, Mr. Finemore, moves that the rules be suspended for the purpose of reconsideration. The Chair hears objection and the Chair will order a vote.

The Chair recognizes the gentleman from Bridgewater, Mr. Finemore.

Mr. FINEMORE: Mr. Speaker and Members of the House: I withdraw my motion to suspend the rules.

The SPEAKER: The gentleman from Bridgewater, Mr. Finemore, withdraws his motion to suspend the rules.

The gentleman may proceed.

Mr. FINEMORE: Mr. Speaker, Ladies and Gentlemen of the House: I have been here almost 12 years and it is the first time I have asked for suspension of the rules and it is not for myself. It is definitely not for myself. I have been requested to do this. I did the checking on my own, it took a little time, not a great deal of time, not as much as some of the debate here today, and I found that this amendment that I wanted to put on this bill is necessary to make it save money for the state and save time for the Governor. It is a simple amendment, but I will withdraw my motion and let the bill go on its way. I do think it is an odd way to challenge it, and I never before requested suspension of the rules.

The SPEAKER: The Chair recognizes the gentleman from Portland, Mr. Connolly.

Mr. CONNOLLY: Mr. Speaker, Ladies and Gentlemen of the House: First, I would apologize to the gentleman from Bridgewater, Mr. Finemore. The only reason that I objected was because I wanted to try to save the bill in its present form, and it is my understanding that the reason he wanted suspension of the rules was so he could move it back to put an amendment on it.

Just let me explain to you the issue, because I understand the gentleman from Brewer, Mr. Norris is considering moving indefinite postponement of the bill. This was one of the bills that came out of the Jobs Committee and received the unanimous support of the Jobs Committee and also received the unanimous support of the State Government Committee. It is a minor piece of legislation, but what it tries to do is place some burden upon the executive branch to deal with the question of unemployment in the state and it requires the governor to issue an annual report on employment and the economy.

The objections that Mr. Finemore had, and the reason that he wanted to amend it, was that he felt that there was already a report being is-

sued through the Department of Manpower Affairs. I tried to explain to him that this report would ask for more than that which is included in the report that Mr. Levesque supplies to us. It seems to me that we should require the governor to deal with the issue of unemployment and that is why we wanted to try to keep the bill in its present form.

I don't have any objection at all to debating the amendment that Mr. Finemore wanted to put on, but the reason that I objected was to just try to save the bill in its present form.

The SPEAKER: The Chair recognizes the gentleman from Bridgewater, Mr. Finemore.

Mr. FINEMORE: Mr. Speaker, Ladies and Gentlemen of the House: I was not changing any part of the section the last speaker suggested. I was not changing anything. I was just changing the wording and where the report was coming from. With that I will close.

The SPEAKER: The Chair recognizes the gentleman from Brewer, Mr. Norris.

Mr. NORRIS: Mr. Speaker, Ladies and Gentlemen of the House: I held this bill up because I wanted to look at it and then there was an amendment talked about and apparently the amendment is not going to be presented now. I really believe in what the gentleman from Portland is trying to do and I have no quarrel with him and I believe in what his committee is trying to do. But I am concerned about just putting another bill, another law, on the books, that really won't do anything, in my opinion. It just won't do any more than have another law on the books that won't provide any real useful purpose to anyone. That is my feeling on it and I know how the gentleman feels.

Everyone said I was going to move indefinite postponement. I am not going to move indefinite postponement. I am going to ask for a division on the passage and I am perfectly willing to listen to any more debate on the thing, but in my own mind, I can't see that the bill will accomplish anything for the citizens of the State of Maine at this time.

The SPEAKER: The pending question is passage to be enacted. All in favor of passage to be enacted will vote yes; those opposed will vote no.

A vote of the House was taken, 67 having voted in the affirmative and 26 having voted in the negative, the motion did prevail.

Thereupon, the Bill was signed by the Speaker and sent to the Senate.

The Chair laid before the House the fourth item of Unfinished Business:

Bill, "An Act Relating to the Registration of Voters." (H. P. 2039) (L. D. 2212)

Tabled — (Till Later Today) March 23 by Mr. Higgins of Scarborough.

Pending — Motion of the same gentleman to Reconsider Acceptance of the Majority "Ought Not to Pass" Report.

The SPEAKER: The Chair recognizes the gentleman from Scarborough, Mr. Higgins.

Mr. HIGGINS: Mr. Speaker, Ladies and Gentlemen of the House: I have no notions of delaying the apparent death of this bill, but I did see it was a divided report on the calendar yesterday, 8 to 5, and I had received some correspondence from my town's people that they were in favor of this. When I saw it go without debate, I wondered what the problem was. Since then I have talked with people who even signed the "ought to pass" report and they have assured me, I guess, that the bill is no good and so if they signed it out "ought to pass" and then think then it isn't that great, then I guess it isn't that great, so I withdraw my motion.

The SPEAKER: The gentleman from Scarborough, Mr. Higgins, withdraws his motion to reconsider.

Sent up for concurrence.

The Chair laid before the House the first tabled and today assigned matter:

House Divided Report — Majority (9) "Ought Not to Pass" — Minority (2) "Ought to Pass" as Amended by Committee Amendment "A" (H-1007) — Committee on Labor on Bill, "An Act Relating to the Effective Date of Each Individual Establishing a Benefit Year under the Unemployment Law" (Emergency) (H. P. 2145) (L. D. 2285)

Tabled — March 22 by Mr. Mills of Eastport.

Pending — Acceptance of Either Report. On motion of Mr. Mills of Eastport the Minority "Ought to Pass" Report was accepted.

The Bill was read once. Committee Amendment "A" (H-1007) was read by the Clerk and adopted, and the Bill assigned for second reading tomorrow.

The Chair laid before the House the second tabled and today assigned matter:

House Divided Report — Report "A" (7) "Ought Not to Pass" — Report "B" (5) "Ought to Pass" in New Draft Under New Title Bill, "An Act to Strengthen Litter Laws and Improve Solid Waste Management in this State" (H. P. 2225) (L. D. 2315) — Report "C" (1) "Ought to Pass" as Amended by Committee Amendment "A" (H-1015) — Committee on Taxation on Bill, "An Act to Improve Solid Waste Management" (H. P. 2090) (L. D. 2249)

Tabled — March 22 by Mrs. Najarian of Portland.

Pending — Motion of Mr. Drigotas of Auburn to Accept Report "A" "Ought Not to Pass".

The SPEAKER: The Chair recognizes the gentleman from Bangor, Mr. McKernan.

Mr. MCKERNAN: Mr. Speaker, Ladies and Gentlemen of the House: I would oppose the motion to accept the majority "ought not to pass" report on this bill.

I am going to be very brief. I talked too long on a subject earlier today and I think this particular item has been debated in the past, at least the controversial aspect of the bill.

As you all know, this is a bill that came out of a study by the Natural Resources Committee. It dealt with solid waste and litter in this state. It has been reported out by the committee, at least a minority of that committee, in new draft. That new draft contains strengthened litter laws and a returnable beverage container bill, as well as a referendum clause on that section of the bill, to send it out and let the people vote on it.

I don't want to get into specifics of the merits or demerits of the so-called bottle bill. As I have said, we have debated this subject at length in the regular session. It is obvious from the debate that passage of such a bill will reduce litter, reduce solid waste, reduce the amount of energy consumed by the beverage industry and also reduce the cost of beverages to consumers.

We can sit here and haggle over just how much it is going to reduce litter or how much it is going to reduce everything, but I am not sure that serves any purpose.

My feeling on this bill is simply that we have made some mistakes here in trying to convince the people of this state that we are, in fact, acting in their best interest. I think a lot of people feel alienated by the whole political process and government in general.

This is an opportunity to allow the people to vote on something that they are very concerned about and that they favor. I would hope you would not vote to accept the majority "ought not to pass" report and that we would allow this bill to be accepted as Report "B" so the people of the State of Maine could have a chance to vote on whether or not they want returnable containers.

The SPEAKER: The Chair recognizes the gentleman from Orland, Mr. Churchill.

Mr. CHURCHILL: Mr. Speaker, Ladies and Gentlemen of the House: I wholeheartedly support Report "B". This is a question that you must ask yourself, will returnable containers reduce litter? The answer is definitely, yes. It has been proven by the states which now have returnables. Oregon and Vermont now have 75 to 80 percent less litter than they did previously. The savings in container costs are more than enough to offset increases in the handling costs to grocers and distributors. Maine has no beverage container manufacturers, so any decrease in containers manufacturing will not affect Maine labor forces. If anything, jobs should be created to handle the returnables.

The latest poll conducted in Maine indicates that 75 percent of the Maine people favor returnables, so lets pass out this Report "B" and allow the housewives and all the citizens of the state to vote whether they want this bill or not.

The SPEAKER: The Chair would ask the Sergeant-at-Arms to escort the gentleman from Stonington, Mr. Greenlaw, to the rostrum to act as Speaker pro tem.

Thereupon, Mr. Greenlaw assumed the Chair as Speaker pro tem and Speaker Martin retired from the Hall.

The SPEAKER pro tem: The Chair recognizes the gentleman from Perham, Mr. McBrearty.

Mr. MCBREARTY: Mr. Speaker, Ladies and Gentlemen of the House: Last year in the regular session, a Joint Order was put through that required the Natural Resources Committee to make a study of solid waste. I am going to read that order.

"WHEREAS, this is an age of increasing scarcity of energy and of natural resources; and

"WHEREAS, the recycling and reuse of consumer and industrial goods is one of the chief methods of conserving the limited supply of energy and natural resources; and

"WHEREAS, the Legislature recognizes that a comprehensive system of recycling and reuse of consumer and industrial goods is only economically feasible on a state-wide scale; and

"WHEREAS, such recycling and reuse would also have the advantage of significantly decreasing the amount of litter which presently despoils Maine's natural beauty; now, therefore, be it

"ORDERED, the Senate concurring, that the Legislative Council is authorized, through the Joint Standing Committee on Natural Resources, to study the economic, social and environmental feasibility of instituting a state-wide, comprehensive system of recycling consumer and industrial goods and materials; and be it further

"ORDERED, that the experience of other states, especially Massachusetts, in attempting to establish a state-wide system of reuse and recycling be studied in an effort to learn from the efforts of others; and be it further

"ORDERED, that the Council report the results of its findings, together with any proposed recommendations and final drafts of necessary implementing legislation, to the next special or regular session of the Legislature; and be it further

"ORDERED, upon passage in concurrence, that suitable copies of this Order be transmitted forthwith to said agencies as notice of this directive."

The Natural Resources Committee met several times at a considerable expense to the taxpayers of this state. Public hearings were held on three Comprehensive Solid Waste bills which were intended to give the legislature a choice of three different price ranges. I think the intent of the study order was much broader

than to bring back a warmed-over version of Jock's last year's bottle bill. I strongly believe that Committee Report C will do more for all solid waste and litter, than a well-drafted bottle bill. I think it will be a great waste of the thousands of dollars of taxpayers' money put into the solid waste study, if you accept this bottle bill you have before you today.

I strongly feel it is terribly wrong to use a several thousand dollar study order to circumvent Rule 28 and allow anyone to bring back a last year bottle bill in this special session.

I am going to go through this bill that you have before you as briefly as possible. On the first page, I think it is section 2, it makes very unfair competition because it says that the agencies must buy or purchase equipment that has parts to recycle, this could mean a typewriter key or a button, it could force the agencies to buy from a company.

On Page 2, subsection 4, this exempts motorcycles, farm implements and snowmobiles from section 7, which is terribly wrong, because they can litter from snowmobiles and motorcycles just as well as any other equipment.

On Page 5, Section 2273, does absolutely nothing because it says that they "may," if they have the money, do such and such and certain things. On Page 6, Definition, this does nothing for wine, liquor bottles in any way.

Now we get down into a refund value. All this bill says is that you have to have a refund value. It does not in any way say that you have to charge this refund value. When you take Section 1863, saying that all you have to have is a refund value, you don't have to charge it, then you go down to Section 1866, it says that you can refuse the returned bottle, so this bottle bill, the way it is written, does absolutely nothing with dealers, and distributors against the bill and saying that they don't have to ask for a refund value and they don't have to accept the bottles or give it back, it does nothing.

It says in Subsection 3 of 1866, that one cent will be paid to the dealer for handling. The one cent that is being paid to the dealer for handling will amount to \$4 million. Also, the slippage of the bottles that won't be returned will amount to another \$2 million, so there is a price tag on this bill of \$6 million.

The last page of flip tops and detachable plastic container carriers, there is absolutely no lead time. When this becomes law, I don't know what they will do with all these flip top cans that will be left on hand.

Several weeks ago, in order to get first-hand information on how well Vermont's bottle bill was cleaning up the litter along the highways, I spent a good part of my weekend in Vermont. Between Lancaster, New Hampshire and St. Johnsbury, Vermont, I picked up three large trash bags of litter. A good part was New Hampshire bottles, brought in New Hampshire by Vermont people, and thrown out in Vermont.

Believe me, Vermont's bottle bill is still just as controversial as L. D. 1994 is here in Maine. While in Vermont, I visited a farm, small restaurant, a home, a Mom and Pop country store, two supermarkets, and filling stations. I talked with waitresses, customers in stores, State Police, and finally with a District Highway Engineer. Everyone seemed anxious to express their opinion of the bottle bill. I have several written testimonies, one from the highway engineer. I am going to read.

"Dear Sir: The State of Vermont has in recent years, passed a "Bottle Bill" aimed at reducing the litter on state highways. Since it is part of my duty to maintain the state highway, which includes the collection of trash along side the roadways, I offer my personal observations in favor of, and objections to, our present legislation.

"It has been our observation, the number of glass containers has been reduced noticeably.

However, we do have some Vermont beverage bottles, a great deal of containers from other states or Canadian provinces, ferrous and non-ferrous metals, and paper of every description. In general, while the volume of bottles has been reduced somewhat, the volume of trash is noticeably the same.

"Secondly, the cost of trash removal before the "Bottle Bill" was in the vicinity of \$16,000 for the 300 miles of state highway we patrol. Granted, we have experienced higher operating costs in the last few years, but last year our cost was \$18,000, with the "Bottle Bill" in effect. So, no saving in money was affected in maintenance.

"Third, in this section of the state, it is the universal opinion that the retail stores suffer greatly from the loss of business to New Hampshire, for without the taxes on containers and the lower cost of gasoline, it is more profitable to shop across the line for all the weekly groceries. It is evident the stores suffer in Vermont and are gaining in New Hampshire. We, therefore, lose income taxes and business taxes, but also gasoline taxes which pay for our roadside litter program.

"Since my viewpoint is provincial, I would suggest you contact Mr. John A. Durkee, Maintenance Management Engineer, Vermont Department of Highways, Montpelier, Vermont 05602, who would have a broader state-wide assessment and state-wide cost figures on litter collection.

"I am sincerely sorry I was unable to meet with you on February 7th, but I did appreciate your call and admire your perseverance to resolve the problem in your state."

A copy of this letter went to Mr. John Durkee and I tried to reach him. I reached his assistant and to be fair, he did say that it did help somewhat more further inland but still it did not help on the other litter.

I have a statement here that says that Governor Thomson of New Hampshire publicly states opposition to the beverage law. The Governor publicly thanked those people in Montpelier who continue to pass such legislation as the deposit law that drives business out of Vermont into his state and he hopes that they keep on re-electing those people who do so much for New Hampshire instead of considering the needs of their own state.

The Governor also stated that should a New Hampshire legislature consider a deposit law, it would stop at his desk. This clearly indicates that Governor Thomson would veto any New Hampshire deposit law and there is a clear reason for this. The following represents the latest data regarding tax receipts. In the State of Vermont, from September 1, 1973 to October of 1974, our state has lost \$340,000 in beer and excise taxes over the preceding year. In the same period, New Hampshire, picked up about the same amount.

After visiting Vermont and Canada and getting the information I did, I can, in no way, vote for any bottle bill.

This bottle bill, if it did work, with the one cent for handling, and the slippage, or the bottles that will be broken or never returned, has a price tag to the consumer of about \$6 million. Four million will go to the retailer and two million will go to the distributor. This is over \$5 million more in cost to the consumer than the Natural Resources Committee Report C.

I believe we already have driven enough business to New Hampshire and Canada.

One thing I feel many times is done here in Augusta is when the legislature finds a problem, they over-react. If you had a headache, you wouldn't take aspirin, bufferin and anacin all at the same time. I am sure you all realize that an overdose could be fatal, which would be much worse than the headache you started with.

I hope you might first take a couple aspirin by seriously considering Report C. This way, we won't risk a fatality. In two or three years, if our problem isn't taken care of, we can increase the dosage by adding a bottle bill.

I think a good example of how a great problem can sometimes be solved by a very inexpensive simple method, is the way the fatality rate was decreased on our highways. For years we tried many complicated expensive methods. Finally, the energy crunch came, we decreased the speed, and now we are saving thousands of lives.

I urge you to kill this bottle bill, and if you want to really work on recycling and cleaning up our litter, consider the Natural Resources Committee Report C.

Report C is the only bill left to come before you that will generate any money to work on our solid waste and litter problems as a whole by educating and helping towns with recycling and solid waste problems and better state-wide clean-up programs. All I ask is that you give Report C a chance.

When the committee reports back to the legislature in 1978, as the bill calls for, if I am still here, I will be one of the first who will be willing to try something else if we still haven't taken care of the problem.

This last weekend, I drove 30 some miles from my home, I went into Canada. I went across from Van Buren into St. Leonard. I bought a case of coke, which I have under my desk right now. I paid \$4.31 for this case of coke. In Van Buren, just across the bridge in the United States, the price was \$5.25. If you add the cost of the handling, add the deposit, you will drive the price up in Van Buren to \$6.89. This is a difference of \$2.58. We have a Canadian border that nearly surrounds us — you take the New Hampshire and Canadian border that nearly surrounds us and if we pass a bottle bill, we will drive thousands of dollars of business to Canada and New Hampshire.

Mr. McKernan of Bangor requested a roll call. The SPEAKER pro tem: The Chair recognizes the gentleman from Windham, Mr. Peterson.

Mr. PETERSON: Mr. Speaker, Ladies and Gentlemen of the House: I want to go on the record in support of Report B, which is the minority "ought to pass" report. I won't take too much time on this because I think the pro's and con's of this were well debated in the regular session and the arguments are familiar but one of the pressing things that the Natural Resources Committee found was that a large portion, at least 20 percent of the solid wastes that goes into our local dumps, our solid landfills, are bottles and beverage containers. There has to be an incentive for our society to reuse and recycle beverage containers and other articles that are in commerce, and this bill will go a long ways towards getting our citizenry to thinking in terms of reusing and not just burying and wasting.

This bill creates an incentive for people to return beverage containers. It also assists in reducing the volume of solid waste that is generated by our dumps. If we can reduce that volume, it means less land that we are going to have to use to bury our solid waste. It is essential that we take some step.

Now, this bill is a lot less than the Natural Resources Committee passed out as a study report — it is a lot less. It was steered to Taxation because one of the studies had a two-cent disposal charge which was considered to be a tax and that any new tax in this legislature would have rough sledding. So that provision has been taken out of this legislation.

I think that what we have is something less than what I would like to see, but I think it gets us headed in the right direction. It may seem discriminatory that we pick on the beverage

container, but it is one of the items that is most frequently along our roadsides and which contributes greatly to the amount of solid waste that we have to bury. If there is any way that we can reduce that cost to the property taxpayers of your communities, I think this is one of the ways, because we are going to be reducing the total volume of solid waste that goes into our dumps.

The SPEAKER pro tem: A roll call has been requested. For the Chair to order a roll call, it must have the expressed desire of one fifth of the members present and voting. All those desiring a roll call vote will vote yes; those opposed will vote no.

A vote of the House was taken, and more than one fifth of the members present having expressed a desire for a roll call, a roll call was ordered.

The SPEAKER pro tem: The Chair recognizes the gentleman from Ferrisburgh, Mr. McBreairty.

Mr. McBREAIRTY: Mr. Speaker and Members of the House: I have here a report that was given to me yesterday. It is a little hard to understand why I was given this report, because it was given to me by a fellow who three weeks ago was a hundred percent in favor of the bottle bill and this doesn't seem to add any strength to it.

This is an environmental protection publication in the solid waste management series. This was drafted by Mr. Loeb. He is with the Resource Recovery Division Office of Solid Waste Management Programs, U.S. Environmental Protection Agency. I am just going to pick a few subjects as briefly as I can from this. It says: "The actual number of litter beverage containers declined from a monthly average of 12,721 before the law to 4,191 after the law, a decrease of 67 percent or more than 8,500 a month. Although beverage containers in litter since enactment of the law, 26 percent were deposit containers. The remainder were non-returnable, presumably purchased outside the state.

"Price increases from 20 to 40 cents per case were later passed on to consumers. One distributor increased prices by 35 percent per case on February 21, 1974, five months after implementation of the act, and others followed soon after. The increase is said to cover one cent, the 24 cents per case handling charge that distributors must allow by law to pay for the increased handling costs, in addition, 6 to 16 cents per case to cover distributor increased handling costs. Additional increase may occur at the retail level.

"Beer prices: Price increases occurred as soon as the legislation became effective. Wholesalers increased prices from 40 to 60 percent per case. This increase was said to cover (1) the 24 percent per case handling charge paid to the retailer and (2) an additional 16 to 36 cents per case for costs of handling by the wholesaler. Retail stores added up to 15 cents per case as a handling charge above the 24 cents per case required by the law from the wholesaler.

"The state attorney investigated the reasons for these price increases. No charges were filed.

"In the case of the soft drink prices, various costs were increased during this time and, therefore, the price increases could not be attributed to any single cause.

"In summary, price increases occurred both for beer and soft drinks. The prices of soft drinks increased 20 to 40 cents per case, while the price of beer per case jumped almost immediately, September 1, 1973, by around 60 cents per case. This is in addition to the 5 cents for bottle deposits or \$1.20 per case the consumer must initially give.

"The State of Vermont has had about a 10 per-

cent decline in projected overall tax receipts for fiscal year 1974. Data on sales, specifically since September 1973, when the law went into effect, were not generally available. An exception was dated from the Coca Cola Bottling Company, which accounts for slightly one fourth of coca cola sales in Vermont or about one twelfth of the total soft drink market. Their sales for September through August 1973-74 show a three and one tenth percent decline compared with sales for the same month in 1972-73. For the year 1973, the company reported a 10 and 8 percent increase in sales. The Coca Cola Bottling Company of Burlington accounting for slightly less than half of coca cola sales reported a 6 percent sales decline for the 1973 year.

"It is obvious that beer sales in Vermont declined about 10 percent in the first year in sales. On May 1, 1973, four brewers representing eight brands chose not to renew their certificates of approval for Vermont's sales.

"One final comment is required concerning the impact of the price increase on the sales of beer. Even before the law, due to Vermont taxes, beer was cheaper in adjacent states. The Vermont tax per case was about 57 cents, compared with about 10 cents for New York, 17 cents for Massachusetts and 27 cents for New Hampshire. Vermont retailers, by law, cannot sell beer below their cost to bring people into their stores. New Hampshire retailers, near the border, can and do run specials on beer. In fact, one survey, only one, show a 47 percent decline. Budweiser brand, beer sales in Vermont near the New Hampshire border during the first four months of the law, was affected compared to the previous year."

I am not going to take any more of your time, but I could read you many more sections that would go right along with what I have already read.

The SPEAKER pro tem: The Chair recognizes the gentleman from Bangor, Mr. McKernan.

Mr. McKERNAN: Mr. Speaker, Ladies and Gentlemen of the House: Just to clear it up for the members, Report A is the "ought not to pass" report. I would oppose that.

The SPEAKER pro tem: The Chair recognizes the gentleman from Farmington, Mr. Morton.

Mr. MORTON: Mr. Speaker and Members of the House: I just want to make sure everybody does understand that 2249 that is posted on the tote board there is really not the bill we should be looking at. We should be looking at 2314, 2315, in that area, which are Reports A and B of 2249.

The SPEAKER pro tem: The Chair recognizes the gentleman from York, Mr. Rolde.

Mr. ROLDE: Mr. Speaker, I would like to pair my vote with the gentleman from Mapleton, Mr. Rideout, if he were here, he would be voting yes and I would be voting no.

The SPEAKER pro tem: The gentleman from York, Mr. Rolde, wishes to pair his vote with the gentleman from Mapleton, Mr. Rideout. If Mr. Rideout was here, he would be voting yes and the gentleman from York, Mr. Rolde would be voting no.

At this point, Speaker Martin returned to the rostrum.

SPEAKER MARTIN: The Chair would thank the gentleman from Stonington, Mr. Greenlaw, for acting as Speaker pro tem.

Thereupon, Mr. Greenlaw of Stonington was escorted to his seat by the Sergeant-at-Arms and Speaker Martin resumed the Chair.

The SPEAKER: A roll call has been ordered. The pending question is on the motion of the gentleman from Auburn, Mr. Drigotas, that the House accept Report A, "Ought Not to Pass."

All in favor of that motion will vote yes; those opposed will vote no.

#### ROLL CALL

YEA — Albert, Berube, Boudreau, Call, Connors, Curtis, Dam, Drigotas, Durgin, Farley, Faucher, Fraser, Kauffman, Kelleher, Kelley, Lewis, Lizotte, Lunt, Lynch, MacLeod, Maxwell, McBreairty, Morin, Norris, Pearson, Perkins, T.; Peterson, P.; Raymond, Talbot, Tarr, Theriault, Truman, Twitchell, Walker, Webber.

NAY — Ault, Bachrach, Bagley, Bennett, Berry, G. W.; Berry, P. P.; Birt, Blodgett, Bowie, Burns, Bustin, Byers, Carpenter, Carroll, Carter, Chonko, Churchill, Clark, Connolly, Cooney, Cox, Curran, P.; Davies, DeVane, Doak, Dow, Dudley, Farnham, Fenlason, Finemore, Flanagan, Garsoe, Gauthier, Goodwin, H.; Goodwin, K.; Gould, Gray, Greenlaw, Hall, Henderson, Hennessey, Hewes, Higgins, Hobbins, Hughes, Hunter, Hutchings, Immonen, Ingegneri, Jackson, Jensen, Joyce, Kany, Kennedy, LaPointe, Lavery, Leonard, Lewin, Littlefield, Lovell, MacEachern, Mackel, Mahany, Martin, A.; Martin, R.; McKernan, McMahon, Mills, Miskavage, Mitchell, Morton, Nadeau, Najarian, Peakes, Pelosi, Perkins, S.; Peterson, T.; Pierce, Post, Powell, Rollins, Saunders, Shute, Silverman, Smith, Snow, Snowe, Spencer, Sprowl, Strout, Stubbs, Susi, Teague, Tierney, Torrey, Tyndale, Usher, Wagner, Wilfong, Winship, The Speaker.

ABSENT — Carey, Cote, Curran, R.; Dyer, Hinds, Jacques, Jalbert, Laffin, LeBlanc, Mulkern, Palmer, Quinn, Tozier.

PAIRED — Rideout, Rolde.

Yes, 35; No, 101; Absent, 13; Paired, 2.

The SPEAKER: Thirty-five having voted in the affirmative and one hundred one in the negative, with thirteen being absent and two paired, the motion does not prevail.

On motion of Mr. Susi of Pittsfield, the House accepted Report B "Ought to pass".

Thereupon, the New Draft was read once and assigned for second reading tomorrow.

The Chair laid before the House the third tabled and today assigned matter:

House Divided Report — Majority (10) "Ought Not to Pass" — Minority (3) "Ought to Pass" in New Draft (H. P. 2224) (L. D. 2314) — Committee on Taxation on Bill, "An Act to Provide Funding for Action on Solid Waste Litter" (H. P. 2091) (L. D. 2250)

Tabled — March 22 by Mrs. Najarian of Portland.

Pending — Acceptance of either Report.

On motion of Mr. Drigotas of Auburn, the Majority "Ought not to pass" Report was accepted and sent up for concurrence.

The Chair laid before the House the fourth tabled and today assigned matter:

Bill, "An Act to Provide for more Effective Debt Management and for more Effective Administration of the State's Development Financing Capability" (H. P. 1816) (L. D. 1974) Tabled — March 22 by Mr. Cooney of Sabattus.

Pending — Passage to be Engrossed.

On motion of Mrs. Najarian of Portland, retabled pending passage to be engrossed and tomorrow assigned.

The Chair laid before the House the fifth tabled and today assigned matter:

Joint Order Relative to study of several county jails. (H. P. 2218)

Tabled — March 23 by Mr. McKernan of Bangor.

Pending — Motion of Mr. Farley of Biddeford to indefinitely postpone.

The SPEAKER: The Chair recognizes the gentleman from Portland, Mr. Talbot.



Mr. TALBOT: Mr. Speaker, Ladies and Gentlemen of the House: I was sort of waiting to find out why who was going to bring up what concerning this order. It was tabled yesterday. I really don't find any fault with that tabling motion. I was sort of interested in finding out what different people had done insofar as yesterday and today is concerned with this bill before I made any motions or before I did any debating.

The SPEAKER: The Chair recognizes the gentleman from York, Mr. Rolde.

Mr. ROLDE: Mr. Speaker, Ladies and Gentlemen of the House: I basically support this order of the gentleman from Portland, Mr. Talbot. I think it probably is a very good idea that we do look into our county jails. However, I was a little bit disturbed yesterday by some of the remarks he made about conditions in York County and the York County sheriff. I did, following the tabling of this order, talk to the sheriff, tried to get a better picture of what actually had happened in the particular situation down there, and the sheriff told me he would be very happy to talk to Representative Talbot on it and I believe Representative Talbot did call the sheriff. The sheriff himself felt that he would be very willing to have any of his conduct investigated and he felt that there was no wrongdoing in what had gone on in the jail and most of our problems in York County have been because of the conditions in the jail, which has now been condemned and closed.

Basically, I would have no objection to the gentleman's order, but I did feel that perhaps he went a little bit too far in some of his remarks.

The SPEAKER: The Chair recognizes the gentlewoman from Madison, Mrs. Berry.

Mrs. BERRY: Mr. Speaker and Members of the House: I did contact the Department of Corrections this morning, and they do make these inspections of the county jails three or four times a year and they are cracking down somewhat on them. As I said yesterday, they have been in Somerset County and we practically had a law suit, the result of which we have done some improvements on the jail. In fact, I guess from what he said, he considers Somerset County the best county jail in the state and even went as far as to say that the meals were practically excellent. But he did say that they are trying to improve the jails and if they are inspecting the jails three or four times a year, I see no reason why this order needs to be and I would go along with the indefinite postponement.

The SPEAKER: The Chair recognizes the gentleman from Portland, Mr. Talbot.

Mr. TALBOT: Mr. Speaker and Members of the House: I will try to clear up some of that. I did talk to the Representative from York, Mr. Rolde. I did call Sheriff Dutremble and I did talk to him about some of the remarks that I made and what I was trying to do with this order. He agreed with what I was trying to do with the order. I told him that if I had made any derogatory remarks against him personally that I was sorry and I would apologize on the floor sincerely to anybody that I have made a derogatory remark about.

I am upset, mainly with that particular situation because it dealt with a man who had epilepsy and he died after having two epileptic seizures. Why I was so concerned with that and am still concerned with that is the fact that I, myself, am an epileptic and have been so since I was in junior high school. I have been through petit mal and grand mal and seizures and that kind of thing and I have been through the medication aspect of dealing with epileptics, and I also realize and I hope you realize too that 90 percent of the people that are in charge of not only county jails but city jails and state institutions know very, very little about what epilepsy

is or how to control it or what to do in case somebody does have epilepsy. So that case has upset me and I think it should upset everybody in this House. Therefore, I am primarily concerned with our jails and what our county jails are doing insofar as inmates and their incarceration is concerned.

As far as some of the other jails, I checked out the Penobscot County jail, because the gentleman from Hampden, Mr. Farnham, said that they had an excellent jail. Well, I don't think it is excellent, but I checked it out and found out that they were in pretty good shape. There are only one of the jails in this state, and I think there are 14, that are in good shape.

Now, let me get back to the question asked by the last speaker about the inspection of jails. First of all, and I want to make this clear, and if I am repeating myself, I wish somebody would say so, but nobody has any control over our county jails — nobody does, except for the sheriff. The Department of Mental Health and Corrections does have a jail inspector and they can set standards, but that is it. They have no control over county jails whatsoever. The Attorney General's Office has no control over county jails.

Let me go another step further. When the Attorney General went to investigate the deaths of those people who have died in our county jails in the last few months, the sheriff could have told those people to get out, we don't want you here, we don't want you inspecting our jails. That disturbs me. The fact is that the county commissioners have control over county jails only through the budget. In other words, there are 14 autonomous bodies out there that are controlled only through the sheriff and I think somehow, somewhere, we should be doing something about that, whether we have to go through this legislature or some sort of legal binding action to take care of that.

I want to make this perfectly clear, there are problems in our county jails and it is a long and drawn process. I am not saying that I put the sole blame for that on Mental Health and Corrections, because I think to a certain extent, to some extent, they have tried. I don't think they have tried hard enough and I don't have that much faith in them and what they have already done, but I do think that this body has got to take some kind of action now to look at that whole area of county jails, whether it is giving medication, drugs, authority, whether it is inhumane conditions that now prevail in most of our county jails, that entire area must be looked into. I am saying that it doesn't have to be the committee which I have suggested in this order. I don't care whether it is the County Government Committee, I don't care whether it is Health and Institutional Services, but I am just saying, somebody from this body has got to take that kind of action.

I would hope that you would vote against the indefinite postponement so that you can pass this order.

The SPEAKER: The Chair recognizes the gentleman from Biddeford, Mr. Farley.

Mr. FARLEY: Mr. Speaker, Ladies and Gentlemen of the House: I am opposed to this order for the simple reason that the gentleman from Portland went on yesterday and expounded about the conditions in the York County jail. The fact is, we don't have a jail. If he wants to investigate or do some research work on the Cumberland County jail, let the order read so, but if he wants the order to use as a headhunt for every county jail, then let the order read that way too, because that is all that he wants.

The SPEAKER: The Chair recognizes the gentleman from Falmouth, Mr. Snow.

Mr. SNOW: Mr. Speaker, this is perhaps an inquiry. The legislature constituted a select committee to study county government and

county government reform. Some of what the Representative from Portland, Mr. Talbot, is talking about, specifically the authority of the county commissioners, the authority of the sheriffs, the administration of jails are in a sense part of the work which this committee, which is still in existence, can study and perhaps would study.

My question is, can his order be referred to this committee?

The SPEAKER: The Chair would answer in the affirmative, since the other order has not been responded to at this time. The Chair would see no reason why it could not be done.

Mr. SNOW: Mr. Speaker, would a motion to so refer it be in order?

The SPEAKER: The Chair would inform the gentleman that if he wished to refer it to a different committee than what the present order calls for, the order introduced by the gentleman from Portland, Mr. Talbot, would have to be amended to so reflect that.

Mr. SNOW: Mr. Speaker, we would be happy to prepare an amendment if someone would be kind enough to table this.

Thereupon, on motion of Mr. Rolde of York, tabled pending the motion of Mr. Farley of Biddeford to indefinitely postpone and tomorrow assigned.

The Chair laid before the House the sixth tabled and today assigned matter:

Bill, "An Act to Redefine the Administration of Medication in the Nursing Practice Act" (H. P. 1934) (L. D. 2122)

Tabled — March 23 by Mr. Goodwin of South Berwick.

Pending — Adoption of Committee Amendment "A" (H-1025)

On motion of Mrs. Post of Owls Head, retabled pending the adoption of Committee Amendment "A" and tomorrow assigned.

The Chair laid before the House the seventh tabled and today assigned matter:

Bill, "An Act to Revise the Statutes Concerning Alcoholic Beverages" (H. P. 2223) (L. D. 2311)

Tabled — March 23 by Mrs. Najarian of Portland.

Pending — Passage to be Engrossed.

Mr. Pierce of Waterville offered House Amendment "A" and moved its adoption.

House Amendment "A" (H-1048) was read by the Clerk.

The SPEAKER: The Chair recognizes the gentleman from Waterville, Mr. Pierce.

Mr. PIERCE: Mr. Speaker, Ladies and Gentlemen of the House: I might mention first, there are several amendments to this bill; in fact, they are "A" through "G". We are going to try to take them right in order so that they should be easier for you to follow.

This first amendment, the primary portion of it deals with the sales of food, with alcohol restricted. There is one product coming out on the market, perhaps two, which has up to 1.7 by volume equivalent of alcoholic content. This is this product which I have here. It is a little rum cake, and actually I kind of laughed the first time the enforcement division showed it to me, but when they analyzed it, they found that four of these is equal to two cans of beer. So what this amendment does is simply make sure that it is sold in licensed premises throughout the state and cannot be sold to minors.

Thereupon, House Amendment "D" was adopted.

Mrs. Boudreau of Portland offered House Amendment "B" and moved its adoption.

House Amendment "B" (H-1062) was read by the Clerk.

The SPEAKER: The Chair recognizes the gentlewoman from Portland, Mrs. Boudreau.

Mrs. BOUDREAU: Mr. Speaker and

Members of the House: In case they can't find the amendment, all this does is change the ID charge from \$3 to \$2.

Thereupon, House Amendment "B" was adopted.

Mr. Maxwell of Jay offered House Amendment "C" and moved its adoption.

House Amendment "C" (H-1066) was read by the Clerk.

The SPEAKER: The Chair recognizes the gentleman from Jay, Mr. Maxwell.

Mr. MAXWELL: Mr. Speaker, Ladies and Gentlemen of the House: I just want to read the Statement of Fact. "The present statute permits the State Liquor Commission to meet 50 times per year for payment purposes." The figure 30 in the bill is a misprint.

Thereupon, House Amendment "C" was adopted.

Mr. Jensen of Portland offered House Amendment "D" and moved its adoption.

House Amendment "D" (H-1072) was read by the Clerk.

The SPEAKER: The Chair recognizes the gentleman from Portland, Mr. Jensen.

Mr. JENSEN: Mr. Speaker and Members of the House: This amendment simply places the position of the Director of Alcoholic Beverages in the same position as most other directors in all policy-making departments in the state, making it coterminous with the governor.

The SPEAKER: The Chair recognizes the gentleman from Waterville, Mr. Pierce.

Mr. PIERCE: Mr. Speaker, Ladies and Gentlemen of the House: You see before you several amendments here today, some of which I think strengthen this bill and basically most of which I agree with or can go along with. This one, however, I cannot and I will tell you why.

I agree with the philosophy behind this bill that the director would have his term coterminous with the governor, but this is something that we never addressed in committee when we were talking about this bill and it is something that never got a hearing. We are talking about the livelihood of an individual, and to be more specific, this is Mr. Ingraham, and those on the committee will tell you probably that nobody argues longer or harder with Mr. Ingraham than do I, but I don't think that this is the proper vehicle to put this bill in. I think this should be a separate bill presented before the next legislature and, therefore, I would move indefinite postponement of this amendment.

The SPEAKER: The gentleman from Waterville, Mr. Pierce, moves that House Amendment "D" be indefinitely postponed.

The Chair recognizes the gentleman from Portland, Mr. Jensen.

Mr. JENSEN: Mr. Speaker, Ladies and Gentlemen of the House: I would hope that you would vote against indefinite postponement and vote in support of my amendment.

This amendment, like most of those offered, of course did not receive a public hearing, that is true. This bill which is presented to us, L. D. 2311, in fact does deal with this matter. It does say, as does the present law, that the position shall be continuous, which means, basically, you have a policy-making decision maker, a policy maker and of civil service. Now, that is somewhat ironic and is something which is quite unusual in state government. Most all policy makers, in fact, are put in such a position so that they are up and they are appointed by the governor or by some of his people under him on some sort of regular basis, generally being coterminous with the governor. It seems to me that this position ought to also be coterminous.

If you will note, the way the amendment is worded, it is worded in such a way that this will not affect the present Director of Alcoholic Beverages until the present governor is out of office or until he gets reelected. At that point, he will have the opportunity to appoint anyone

he wishes. It seems to me you are not affecting the livelihood of somebody who is in there presently in that sense. The gentleman who is in there presently had a history where he was originally chairman of the State Liquor Commission, he then became director of the Bureau of Alcoholic Beverages, later turned his position into a civil service position. Since then, he has done a wide variety of things and has done a heck of a lot to try and change the state liquor laws. In many cases, what he has attempted to do is increase his own power at the expense of the State Liquor Commission.

One of the things I think is very important when you are doing things of this sort is make it very clear who is responsible to whom. One of the things that would be done by making this position coterminous with the governor is make it very clear that on policy issues the policy makers are to make that choice, i.e., the State Liquor Commission and the Department of Finance and Administration, through its head, whoever that may be, presently John O'Sullivan.

In fact what you are doing, you are giving the elected officials and their appointees power over their own policy makers. That, I think, is extremely important and I hope you would vote no.

The SPEAKER: The Chair recognizes the gentleman from Waterville, Mr. Pierce.

Mr. PIERCE: Mr. Speaker and Members of the House: I would just like to address a couple of points. First of all, if you read 2311 and compare it to the present laws or the original draft, this very, very much diminishes the power of the Director of Alcoholic Beverages. We have shifted the power to the State Liquor Commission, where I believe it belongs. The Director was quite upset about this and offered us, in fact, a series of amendments to this bill, which was unanimously turned down by the committee. This goes a long way in shifting the power to where it belongs.

I would take objection with my friend from Portland, Mr. Jensen, because when I look at these other amendments, every single one of them did come up in the hearing, about election day, about 30 or 50 meetings for the Liquor Commission, every single one of them was discussed, but we never talked about declassifying a state employee's job. I think this is a very important departure from the rest of these amendments and I would gladly support a bill in the next session of the legislature to do this, but adding it onto this vehicle I think is very improper.

The SPEAKER: The Chair recognizes the gentleman from Jay, Mr. Maxwell.

Mr. MAXWELL: Mr. Speaker, Ladies and Gentlemen of the House: I would like to read just a paragraph in number 2311. It has to do with the director of the Bureau of Alcoholic Beverages. "Appointment: The Commissioner of Finance and Administration, with the advice and consent of the State Liquor Commission, shall appoint a Director of the Bureau of Alcoholic Beverages, whose term of office shall be continuous, subject only to removal for cause by the commission and the Commissioner of Finance and Administration." This means that he can be replaced at any time they don't think he is doing his job.

"The salary of the Director shall be fixed by the Governor. In appointing a Director, consideration shall be given to the following qualifications: Sound judgment, practical experience and ability in merchandising, executive administration, salesmanship and sound business principles. The Director shall not be a member of the Commission." I would hope very much that you do indefinitely postpone this amendment.

The SPEAKER: The pending question is on the motion of the gentleman from Waterville,

Mr. Pierce, that House Amendment "D" be indefinitely postponed. All in favor of that motion will vote yes; those opposed will vote no.

A vote of the House was taken.

74 having voted in the affirmative and 13 having voted in the negative, the motion did prevail.

Mr. Faucher of Solon offered House Amendment "E" and moved its adoption.

House Amendment "E" (H-1078) was read by the Clerk.

The SPEAKER: The Chair recognizes the gentleman from Solon, Mr. Faucher.

Mr. FAUCHER: Mr. Speaker, Ladies and Gentlemen of the House: What this amendment does, it says that no alcoholic beverages will be sold on general election day or during a primary until the polls are closed.

Thereupon, House Amendment "E" was adopted.

The SPEAKER: The Chair recognizes the gentleman from St. Agatha, Mr. Martin.

Mr. MARTIN: Mr. Speaker, Ladies and Gentlemen of the House: As I glance through this L. D. 2311, on Page 15, half way across the page, I notice Section 12, Subsection 201-A, and I also remember a similar bill that the other body killed last year in the regular session, and that was L. D. 966. That was, in fact, defeated in the other body and it is identical to Section 12, and I would, therefore, Mr. Speaker, ask the germaneness of this section.

Mr. Speaker, I would postpone my motion. I understand there are two or three other amendments to be added to this bill.

The SPEAKER: The gentleman from St. Agatha, Mr. Martin, withdraws his objection to the question of ruling at this point in time.

Mr. Higgins of Scarborough offered House Amendment "F" and moved its adoption.

House Amendment "F" (H-1088) was read by the Clerk.

The SPEAKER: The Chair recognizes the gentleman from Scarborough, Mr. Higgins.

Mr. HIGGINS: Mr. Speaker, Ladies and Gentlemen of the House: If you will read the Statement of Fact, this amendment proposes to inform the municipalities of applications for special agency stores. Presently, municipalities are not required by law to be notified about special agency store locations, and a proposed site or sites could have an adverse effect on a municipality.

This amendment does not do exactly what I originally planned on doing, but after having talked with several of the esteemed members of the Liquor Control Committee, I decided to water it down a little bit.

Very simply, what this does is, after applications are made to the Liquor Commission for an agency store in a municipality, this mandates that the Commission will then inform the local officials as to who is applying.

I would like to relate a little bit of a story to you, if I might, as to what happened in Scarborough. After they closed the liquor store in Scarborough, applications were made available to local businessmen for an agency store. One of those people that applied was a store that was directly across the street from the high school and the junior high school, our complex. While they met all the criteria of being at least 300 feet away from the school's front door, I guess they measure from the front door, the citizens of Scarborough were quite upset and rightfully so. When I called here in Augusta to find out information regarding this, I wanted to know how many other stores there were and Mr. Ingraham informed me that he didn't feel that he should have to give that out to me. I don't think that is right. I think the people in a municipality that are going to be affected by the agency store should have the right to know who has applied and give them time to reply to the commission, since there is no public hearing, at

least time to reply to the commission in writing their thoughts on whether any of those stores would be detrimental to that town.

There was a great deal of citizen input into this and there was a petition that went around and they got some thousand or so signatures on it and it was forwarded here to the State House, to the Liquor Commission, rather, and after I called Mr. Ingraham back again, he assured me that because of the citizen input, they would not put the store there. But the fact is, they could have put the store there and municipal officials would not be aware of any other locations that were available and they wouldn't have had sufficient time to present any case against.

I would rather have the municipalities have veto power over where that store is going to be, but according to several people who are on the second floor, in the Attorney General's Office, they happen to think that that possibly would be unconstitutional or something like that. But at least this gives the municipality the opportunity to have that available to them, and I would hope that you would go along with this amendment.

Thereupon, the House Amendment "F" was adopted.

The SPEAKER: The Chair recognizes the gentleman from Standish, Mr. Spencer.

Mr. SPENCER: Mr. Speaker, I would like to pose an inquiry through the Chair to anyone on the committee that might answer. In this bill, as I understand it, there is a \$25 increase in the fee for grocery stores that sell beer. There is a reduction in the wine license for grocery stores and my question is, if we are changing around the fee, is there any change in the total revenue and should there be a fiscal note?

I also have a second question which I would like to pose to anyone on the committee that might answer. As the law now exists, a store which has groceries pays a \$100 fee to sell beer. A store which doesn't have \$1,000 worth of groceries in stock pays a \$200 fee. In my district, the effect of that is that Batches Take Out in Baldwin pays \$200, whereas the grocery stores pay \$100. The smaller store seems to be paying twice as big a fee. My question really is, what is the rationale for the different charge between the two different kinds of stores?

The SPEAKER: The gentleman from Standish, Mr. Spencer, has posed a question through the Chair to anyone who may care to answer.

The Chair recognizes the gentleman from Waterville, Mr. Pierce.

Mr. PIERCE: Mr. Speaker, Ladies and Gentlemen of the House: To answer the gentleman's questions, this section of the bill, quite naturally, I am sure, was one of the ones with which we wrestled long and hard.

Presently, the beer license is \$100 and a wine license is \$200. We certainly could find no rationale for that, because stores naturally make more money from beer than they do from wine, so we lowered the wine license \$75 and upped the beer license to make them both even, to \$125.

The rationale behind why a store with groceries pays less than a store without groceries is, of course, that a store without groceries does not have to go to that extra expense of stocking their shelves and going through that whole process that a store with groceries does have.

The same rationale is used that a hotel, for instance, that does sell food has a cheaper license than a hotel that doesn't bother to sell food.

Mr. Garsoe of Cumberland offered House Amendment "G" and moved its adoption.

House Amendment "G" (H-1087) was read by the Clerk.

The SPEAKER: The Chair recognizes the gentleman from Cumberland, Mr. Garsoe.

Mr. GARSOE: Mr. Speaker, Ladies and Gentlemen of the House: This clarifies the language in Section F on Page 3 relative to a

municipal golf course and further stipulates that any municipality or county desiring a license on behalf of such an operation would submit this request to the State Liquor Commission to avoid any possibility of a conflict of interest.

Thereupon, House Amendment "G" was adopted.

The SPEAKER: The Chair recognizes the gentleman from Auburn, Mrs. Lewis.

Mrs. LEWIS: Mr. Speaker, Ladies and Gentlemen of the House: I wanted to ask a question, not about this amendment but the one before, but it came too quickly. I wondered if the committee had given any consideration to charging a fee to sell beer or to sell wine on either the volume of sales or the square footage of the stores? It seems to me that should have been considered when we are talking about these fees. Had that been considered at all?

The SPEAKER: The gentleman from Auburn, Mrs. Lewis, has posed a question through the Chair to anyone who may care to answer.

The Chair recognizes the gentleman from Waterville, Mr. Pierce.

Mr. PIERCE: Mr. Speaker, Ladies and Gentlemen of the House: In answer to the lady's question, yes, that was considered, and I think most of us felt that that would be the most desirable, but we found by talking with the Department of Taxation and so forth, it was just logistically so difficult and cumbersome that it would be impossible to do.

The SPEAKER: The Chair recognizes the gentleman from St. Agatha, Mr. Martin.

Mr. MARTIN: Mr. Speaker, at this point, I would again request a ruling under Joint Rule 21 in reference to Section 12, again on page 15 of this bill.

The SPEAKER: Based on the information available to the Speaker, reading from the Committee on Liquor Control and the order which created the order that directed the study, the Liquor Control Committee was directed by the legislature to study, and I quote, "to review the procedures, regulations and statutes governing the issuance of liquor licenses and the qualifications of liquor licensees."

I read again from the report, "The Committee on Liquor Control broadened the scope of the study to include an evaluation of all liquor laws which are complicated in some case and cumbersome to apply. The committee has undertaken a comprehensive analysis of liquor statutes and, as proposed, the general revision of the statutes."

The Chair therefore would rule that since the bill before us contains a provision which was not in fact ordered by the order which was passed by both Houses but was the result of the Liquor Committee, extending its study into other areas, the Chair would rule that that section of the bill before this body is in violation of the Joint Rules. The Chair would rule, therefore, that the matter dealing with clubs, services of private clubs regulated under that Section 16, is in violation of the rules.

There are two options available at this point, based on my ruling; one is that it be tabled so that that section may be eliminated or, second, I will return the matter to the Committee on Liquor Control.

The SPEAKER: The Chair recognizes the gentleman from Waterville, Mr. Pierce.

Mr. PIERCE: Mr. Speaker, I would move that this item lie on the table two legislative days.

The SPEAKER: The pending question is on the motion of the gentleman from Waterville, Mr. Pierce, that this matter be tabled pending passage to be engrossed as amended and specially assigned for Friday, March 24. All in favor of that motion will vote yes; those opposed will vote no.

A vote of the House was taken.

35 having voted in the affirmative and 47 having voted in the negative, the motion did not prevail.

Thereupon, on motion of Mr. Rolde of York, tabled unassigned pending passage to be engrossed as amended.

The Chair laid before the House the eighth tabled and today assigned matter:

Bill, "An Act to Revise and Clarify the Freedom of Access Law" (H. P. 2226) (L. D. 2316) (H. "A" H-1034) (H. "B" H-1044)

Tabled — March 23 by Mr. Rolde of York.

Pending — Passage to be Engrossed.

The SPEAKER: The Chair recognizes the gentleman from Old Town, Mr. Pearson.

Mr. PEARSON: Mr. Speaker, as a matter of courtesy to Representative Hobbins and Representative Rolde, I move that this lie on the table for one legislative day.

Thereupon, on motion of Mr. Rolde of York, tabled pending passage to be engrossed and tomorrow assigned.

The Chair laid before the House the ninth tabled and today assigned matter:

Bill, "An Act to Redefine 'Subdivision' in the Site Location and Development Act" (H. P. 1979) (L. D. 2169) (C. "A" H-1000)

Tabled — March 23 by Mr. Rolde of York.

Pending — Passage to be Engrossed.

On motion of Mr. Rolde of York, retabled pending passage to be engrossed as amended and tomorrow assigned.

The Chair laid before the House the tenth tabled and today assigned matter:

Bill, "An Act Providing for a Comprehensive State-wide Program of Primary Prevention of Alcohol and Drug Abuse and other Forms of Socially Disruptive and Potentially Self-destructive Human Behavior" (H. P. 1800) (L. D. 1959) (C. "A" H-1006)

Tabled — March 23 by Mr. Norris of Brewer.

Pending — Passage to be Engrossed.

Thereupon, on motion of Mr. Norris of Brewer, was passed to be engrossed as amended by Committee Amendment "A" and sent up for concurrence.

Bill, "An Act Enabling Municipalities to Conduct Soil Tests to Determine Feasibility of Solid Waste Disposal Sites" (Emergency) (H. P. 1948) (L. D. 2134) (C. "A" H-993)

Tabled — March 23 by Mrs. Najarian of Portland.

Pending — Passage to be Engrossed.

On motion of Mrs. Bachrach of Brunswick, under suspension of the rules, the House reconsidered its action whereby Committee Amendment "A" was adopted.

The same gentleman offered House Amendment "A" to Committee Amendment "A" and moved its adoption.

House Amendment "A" to Committee Amendment "A" (H-1063) was read by the Clerk.

The SPEAKER: The Chair recognizes the gentleman from Brunswick, Mrs. Bachrach.

Mrs. BACHRACH: Mr. Speaker and Members of the House: This is a very simple amendment which increases the distance between a residence and the place where a soil test may be taken. Then I would ask to have this tabled one day for debate, because there are people who wanted to discuss it.

Thereupon, House Amendment "A" to Committee Amendment "A" was adopted, Committee Amendment "A" as amended by House Amendment "A" thereto was adopted.

The Bill was passed to be engrossed as amended and sent up for concurrence.

The Chair laid before the House the twelfth tabled and today assigned matter:

An Act Regarding the Rights of Students at the University of Maine in the University Bargaining Process. (H. P. 1966) (L. D. 2155) (C. "A" H-977)

Tabled — March 23 by Mr. Rideout of Mapleton.

Pending — Passage to be Enacted.

The SPEAKER: The Chair recognizes the gentleman from Lincoln, Mr. MacEachern.

Mr. MacEACHERN: Mr. Speaker, I move that this matter be indefinitely postponed.

The SPEAKER: The gentleman from Lincoln, Mr. MacEachern, moves that this bill and all its accompanying papers be indefinitely postponed.

Thereupon, Mr. Davies of Orono requested a vote on the motion.

Mr. Dam of Skowhegan requested a roll call vote.

The SPEAKER: The Chair recognizes the gentleman from Bangor, Mr. McKernan.

Mr. McKERNAN: Mr. Speaker, Ladies and Gentlemen of the House: I hope that you defeat the motion to indefinitely postpone this bill. This is a bill that has been going through the process quite easily so far, by a large majority, it is a bill that a lot of time was spent on, not only by people who are interested in the bill at the University of Maine but also by the labor committee, also by all factions at the university, administration, faculty and students. The bill has been significantly amended. It no longer requires that members of the student body participate in the collective bargaining, it is just that they have a right to be informed. The trustees, the faculty, the students have all agreed on this. I think we should send it on its way and not indefinitely postpone it.

The SPEAKER: The Chair recognizes the gentleman from York, Mr. Rolde.

Mr. ROLDE: Mr. Speaker, Ladies and Gentlemen of the House: I agree with the gentleman from Bangor, Mr. McKernan. I hope you will vote against indefinite postponement. This bill does represent a significant compromise on the part of the students. It is a very reasonable bill and I hope you will support it.

The SPEAKER: The Chair recognizes the gentleman from Bangor, Mr. Kelleher.

Mr. KELLEHER: Mr. Speaker, Ladies and Gentlemen of the House: Based on the overwhelming vote this bill seems to have been getting since it has been going through the legislative process, I would like to know what new information anyone has that they could enlighten the House with to support the motion to indefinitely postpone?

The SPEAKER: The Chair recognizes the gentlewoman from Auburn, Mrs. Lewis.

Mrs. LEWIS: Mr. Speaker, Ladies and Gentlemen of the House: I think I have some new information, although it is really old information, because last year there was a bill that came to the Education Committee that would require us to have a student as a member of the board of trustees of the University of Maine. We turned the bill down unanimously in the committee because a student presently can serve as a trustee of the University of Maine. In fact, one member of our body, the gentleman from Auburn, Mr. Hughes, was a trustee of the University while he was a student. So inasmuch as a student can be a trustee, we saw no reason to mandate such a thing. Presently, a student can still be a trustee. I see no reason for this bill whatsoever.

The SPEAKER: The Chair recognizes the gentleman from Bangor, Mr. Kelleher.

Mr. KELLEHER: Mr. Speaker, I would like to thank the gentlelady from Auburn, Mrs. Lewis, she is right, that is old information.

The SPEAKER: The Chair recognizes the gentleman from Auburn, Mr. Hughes.

Mr. HUGHES: Mr. Speaker and Members of the House: I, too, would like to thank the gentlelady from Auburn, but unfortunately she is not correct. The bill did not receive a unanimous "ought not to pass" report last year. In fact, it was passed by this House and only defeated in the other body. Therefore, I hope this House will again assume that posture and approve this bill.

The SPEAKER: A roll call has been requested. For the Chair to order a roll call, it must have the expressed desire of one fifth of the members present and voting. All those desiring a roll call vote will vote yes; those opposed will vote no.

A vote of the House was taken, and more than one fifth of the members present having expressed a desire for a roll call, a roll call was ordered.

The SPEAKER: The Chair recognizes the gentleman from Corinth, Mr. Strout.

Mr. STROUT: Mr. Speaker, I would like to pair my vote with the gentleman from Gorham, Mr. Quinn, if he were present, he would be voting no and I would be voting yes.

The SPEAKER: The pending question is on the motion of the gentleman from Lincoln, Mr. MacEachern, that this Bill and all its accompanying papers be indefinitely postponed. All those in favor of that motion will vote yes; those opposed will vote no.

#### ROLL CALL

YEA — Byers, Call, Conners, DeVane, Dudley, Durgin, Farnham, Fraser, Immonen, Kauffman, Leonard, Lewis, MacEachern, Peterson, P.; Tarr.

NAY — Ault, Bachrach, Bagley, Bennett, Berry, G. W.; Berry, P. P.; Berube, Birt, Blodgett, Boudreau, Bowie, Burns, Carpenter, Carroll, Chonko, Churchill, Clark, Connolly, Cooney, Cox, Curran, P.; Curtis, Dam, Davies, Doak, Dow, Drigotas, Fenlason, Finemore, Flanagan, Garsoe, Goodwin, H.; Goodwin, K.; Gould, Gray, Greenlaw, Henderson, Hennessey, Hewes, Higgins, Hobbins, Hughes, Hunter, Hutchings, Ingegneri, Jackson, Jensen, Kany, Kelleher, Kelley, Kennedy, LaPointe, Laverty, Littlefield, Lizotte, Lovell, Mackel, MacLeod, Mahany, Martin, A.; Martin, R.; Maxwell, McBreairty, McKernan, McMahon, Mills, Miskavage, Mitchell, Morin, Morton, Nadeau, Najarian, Norris, Peakes, Pearson, Pelosi, Perkins, S.; Perkins, T.; Peterson, T.; Pierce, Post, Powell, Raymond, Rolde, Saunders, Shute, Silverman, Snow, Snowe, Spencer, Sprowl, Stubbs, Teague, Theriault, Tierney, Truman, Twitchell, Usher, Walker, Wilfong, Winship, The Speaker.

ABSENT — Albert, Bustin, Carey, Carter, Cote, Curran, R.; Dyer, Farley, Faucher, Gauthier, Hall, Hinds, Jacques, Jalbert, Joyce, Laffin, LeBlanc, Lewin, Lunt, Lynch, Mulkern, Palmer, Rideout, Rollins, Smith, Susi, Talbot, Tozier, Tyndale, Wagner, Webber.

PAIRED — Quinn, Strout.

Yes. 15; No. 103; Absent, 31; Paired, 2.

The SPEAKER: Fifteen having voted in the affirmative and one hundred three in the negative, with thirty-one being absent and two paired, the motion does not prevail.

Thereupon, the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

The SPEAKER: The Chair recognizes the gentleman from Portland, Mr. LaPointe.

Mr. LaPOINTE: Mr. Speaker, I move reconsideration that we just passed and hope that everybody votes against me.

The SPEAKER: The gentleman from Portland, Mr. LaPointe, moves that the House reconsider its action whereby the Bill was passed to be enacted. All in favor will say yes; those opposed will say no.

A viva voce vote being taken, the motion did not prevail.

The Chair laid before the House the thirteenth tabled and today assigned matter:

An Act to Regulate Drinking Water (S. P. 687) (L. D. 2198) (C. "A" S-431)

Tabled — March 23 by Mr. Kelleher of Bangor.

Pending — Passage to be Enacted.

On motion of Mrs. Berry of Madison, under suspension of the rules, the House reconsidered its action whereby the Bill was passed to be engrossed.

The same gentlewoman offered House Amendment "A" and moved its adoption.

House Amendment "A" (H-1058) was read by the Clerk.

The SPEAKER: The Chair recognizes the gentleman from Bangor, Mr. Henderson.

Mr. HENDERSON: Mr. Speaker, Ladies and Gentlemen of the House: I wonder if there could be a bit of explanation, especially as it relates to seasonal agricultural laborers. To what extent is that being exempted? What is the consequence of that?

The SPEAKER: The gentleman from Bangor, Mr. Henderson, poses a question through the Chair to anyone who cares to answer.

The Chair recognizes the gentlewoman from Madison, Mrs. Berry.

Mrs. BERRY: Mr. Speaker, Ladies and Gentlemen of the House: The federal law will state that this would be 60 days, and that is what I am asking. I am concerned with this because of the harvest labor. In defining the public water supply it refers to anyone — regularly serves an average of at least 25 individuals daily for at least 30 days out of the year. In harvest labor, we might have 25 persons today and less tomorrow and you run anywhere from serving meals to occasional meals or just perhaps having water in the field, and they would come under the same set up as public water systems. It would seem that with the rigamarole that we are going to have to go through with this bill, this shouldn't have to come under this. Many times, probably 99 percent of the time, this water supply would be the same supply that the family, the farmer uses 365 days out of the year. It just seems as this would not be necessary to have this for this type of work.

The SPEAKER: The Chair recognizes the gentleman from Bangor, Mr. Henderson.

Mr. HENDERSON: Mr. Speaker, Ladies and Gentlemen of the House: Sorry, I am somewhat concerned about this. I just don't understand the consequences of it, quite frankly, and pursuant to your admonition, if you don't understand it, vote against it. I may have to do that, but I would hope if someone else is concerned that this might be opening up something undesirable, I would hope they would table this for one day.

Mr. Rolde of York moved that the matter be tabled one legislative day.

Mr. Leonard of Woolwich requested a vote on the tabling motion.

The SPEAKER: The pending question is on the motion of the gentleman from York, Mr. Rolde that this matter be tabled pending adoption of House Amendment "A" and tomorrow assigned. All in favor of that motion will vote yes; those opposed will vote no.

A vote of the House was taken.

75 having voted in the affirmative and 18 having voted in the negative, the motion did prevail.

The Chair laid before the House the fourteenth tabled and today assigned matter:

An Act Relating to the Formation of Political Parties and to Political Designations. (H. P. 1960) (L. D. 2140) (C. "A" H-965)

Tabled — March 23 by Mr. Palmer of Nobleboro.

Pending — Passage to be Enacted.



The SPEAKER: The Chair recognizes the gentleman from South Portland, Mr. Perkins.

Mr. PERKINS: Mr. Speaker, Ladies and Gentlemen of the House: Since this is a rather extensive bill and it has been whizzing along through on a unanimous committee report, I am wondering if somebody from the committee might explain this bill in respect to what it does and how it compares to the present law insofar as the formation of political parties?

The SPEAKER: The gentleman from South Portland, Mr. Perkins, poses a question through the Chair to anyone who cares to answer.

The Chair recognizes the gentlewoman from Portland, Mrs. Boudreau.

Mrs. BOUDREAU: Mr. Speaker, Ladies and Gentlemen of the House: L. D. 2140 outlines two procedures by which the third party might organize. If you are looking at the bill, Section 321 just sort of grandfathers in our two present parties, outlines what we have to do.

When you start with Section 322, that is the first procedure that can be used to organize a new party. That is organization about a candidate. If you had a candidate who received two percent of the vote in the preceding gubernatorial or presidential election, you could organize a party around that candidate. The first thing you would have to do is file a declaration of intent at least 180 days before the primaries, designating the name that you are going to use for your party, the name of the candidate for governor or for president, the signed consent of the candidate that you are organizing the party about. After you have filed your intent, you may enroll voters in that party, then you proceed the same as either of the present parties do. You hold your municipal caucuses prior to April 1, that is all you have to do to get your name on the ballot for the primary election, but you must hold a convention, but that can be up until August 1. If you do that, that completes one procedure.

The second procedure is, if you do not have a candidate who had received two percent of the vote, you can organize a new party by petition. You follow the same procedure, you file your declaration of intent, you designate the name of the party, only in this case, you would furnish the name and addresses of the vote or one of the group of voters who file the intent. After you file your intent, you circulate your petitions, and these must be signed by voters who are not enrolled in a party. You file that with the Secretary of State 180 days before the primary. Then you have your municipal caucus, your convention, you are on the ballot. Those are the two procedures used.

Okay, say you go through the election and in the general election your candidate or your party do not receive two percent of the vote. Then you would have to start all over again.

If you enroll in the new party and they do not receive two percent of the vote, you would then be considered as a non-enrolled voter. The only other changes in the party designation, you cannot use the State of Maine or any abbreviation thereof or any designation that contains more than three words. That is about it.

The SPEAKER: The Chair recognizes the gentleman from Cape Elizabeth, Mr. Hewes.

Mr. HEWES: Mr. Speaker, Ladies and Gentlemen of the House: I thank the gentlelady from Portland. I have a question on this two percent of the vote. Does this have to be a statewide election or could you have somebody running perhaps in a county or a local legislative district and a representative of that party receive more than two percent of the vote but on the statewide geographic area would not receive the two percent?

The SPEAKER: The Chair recognizes the gentlewoman from Portland, Mrs. Boudreau.

Mrs. BOUDREAU: Mr. Speaker, it has to be a gubernatorial or presidential.

The SPEAKER: The Chair recognizes the gentleman from South Portland, Mr. Perkins.

Mr. PERKINS: Mr. Speaker and Members of the House: I do appreciate the explanation given by the gentlewoman from Portland, Mrs. Boudreau; however, I am not entirely sure that she answered the question in respect to how it compares to present law as it may appear for purposes of a party now or having the ability to form — a group having the ability to form a party now. How does this law compare to the present law?

Secondly, am I correct in understanding that this would mean because a group is unlikely to have had a candidate prior in time in order to form the first section in respect to declaration of intent, then it would require 5 percent of the number of voters that had voted for the governor in the last election, and would that approximate 60,000, under the present situation, un-enrolled individuals would have to sign those petitions? Are we not thereby effectively eliminating any possible third party?

I would go on to say that as I read that section of 326, I am not entirely certain when it says "A voter who is enrolled in a party which failed to fill the requirements of Sections 322 and 323, or which is disqualified pursuant to Section 324, shall be considered as an unenrolled voter for all purposes." What does "for all purposes" mean?

The SPEAKER: The Chair recognizes the gentlewoman from Portland, Mrs. Boudreau.

Mrs. BOUDREAU: Mr. Speaker and Members of the House: The answer to the first question, in our present law, there is no procedure to form a third party. In fact, they can't form one.

What does "be unenrolled for all purposes" mean? When the new party has been formed, they are enrolling voters. Say they call in the Women's Party. They go through the November Election. Their candidate does not receive two percent of the vote, so they are no longer considered a party, but you do not want these people to be unable to vote in future elections, so you would treat them just like an independent voter so that if they wanted to enroll in the Democrat or Republican party, they could.

Thereupon, on motion of Mrs. Najarian of Portland, tabled pending passage to be enacted and tomorrow assigned.

The Chair laid before the House the fifteenth, tabled and today assigned matter:

Bill, "An Act to Clarify Various Statutes Relating to Superior Court Fees and Costs" (Emergency) (H. P. 1866) (L. D. 2037) (C. "A" H-1016)

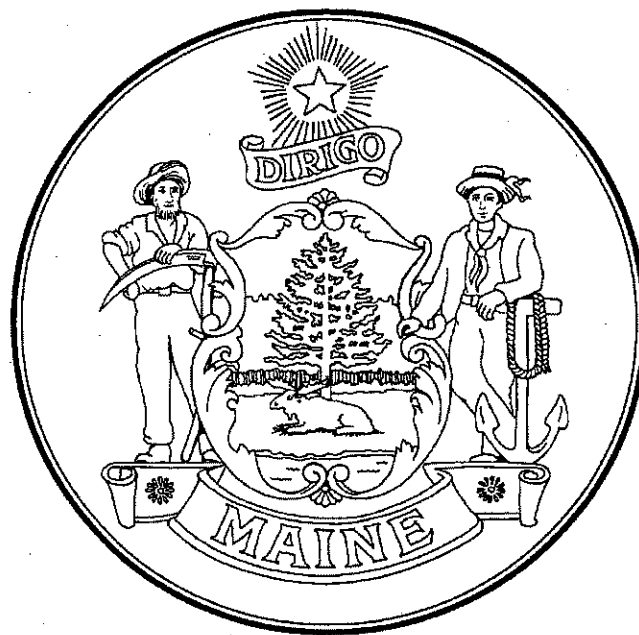
Tabled — March 23 by Mr. Rolde of York.  
Pending — Adoption of House Amendment "A" (H-1055) to Committee Amendment "A" (H-1016)

On motion of Mr. Birt of East Millinocket, retabled pending the adoption of House Amendment "A" to Committee Amendment "A" and tomorrow assigned.

On motion of Mrs. Post of Owls Head,  
Adjourned until nine-thirty tomorrow morning.

# MAINE STATE LEGISLATURE

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**Legislative Record**

**OF THE**

**One Hundred and Seventh Legislature**  
**(First Special Session)**

**OF THE**

**STATE OF MAINE**

**1976**

**KENNEBEC JOURNAL**  
**AUGUSTA, MAINE**

## HOUSE

Thursday, March 25, 1976

The House met according to adjournment and was called to order by the Speaker.

Prayer by Father Michael Newman of Lewiston.

The journal of yesterday was read and approved.

## Papers from the Senate

From the Senate: The following Communication:

THE SENATE OF MAINE  
AUGUSTA, MAINE

March 24, 1976

Honorable Edwin H. Pert

Clerk of the House  
107th Legislature  
First Special Session  
Augusta, Maine 04333

Dear Mr. Pert:

The Senate today voted to Insist and Join in a Committee of Conference on Bill, "An Act Concerning Single Motor Vehicle Registration Plates and Placement of Motor Vehicle Inspection Stickers" (H. P. 2009) (L. D. 2191).

The President appointed the following members of the Senate to the Committee of Conference:

GREELEY of Waldo  
WYMAN of Washington  
O'LEARY of Oxford

Respectfully,

Signed:

HARRY N. STARBRANCH  
Secretary of the Senate

The Communication was read and ordered placed on file.

The Speaker appointed the following Conferees on the part of the House:

BIRT of East Millinocket  
WINSHIP of Milo  
FINEMORE of Bridgewater

From the Senate: The following Communication:

THE SENATE OF MAINE  
AUGUSTA, MAINE

March 24, 1976

Honorable Edwin H. Pert

Clerk of the House  
107th Legislature  
First Special Session  
Augusta, Maine 04333

Dear Mr. Pert:

The Senate today voted to Adhere to its action whereby it Indefinitely Postponed Bill, "An Act to Classify the Positions of Director of Program Review and Evaluation in the Department of Audit, Director of Fraud Investigation in the Department of Audit, and of Employees of the Fraud Investigation Division in the Department of Audit" (H. P. 1992) (L. D. 2174).

Respectfully,

Signed:

HARRY N. STARBRANCH  
Secretary of the Senate

The Communication was read and ordered placed on file.

From the Senate: The following Communication:

THE SENATE OF MAINE  
AUGUSTA, MAINE

March 24, 1976

Honorable Edwin H. Pert

Clerk of the House  
107th Legislature  
First Special Session  
Augusta, Maine 04333

Dear Mr. Pert:

The Senate today voted to Adhere to its action whereby it accepted the Majority Ought Not to Pass report on Resolve, to Reimburse the Town

of Waldoboro for Assisting in the Capture of Escapees from the Maine State Prison in Thomaston (H. P. 1807) (L. D. 1866).

Signed:

HARRY N. STARBRANCH  
Secretary of the Senate

The Communication was read and ordered placed on file.

From the Senate: The following Joint Order: (S. P. 764)

WHEREAS, The Legislature has learned of the Outstanding Achievement and Exceptional Accomplishment of Miss Emma Irish of Lewiston Who On March 27, 1976 Will Celebrate the One Hundredth Anniversary of Her Birth

We the Members of the Senate and House of Representatives do hereby Order that our congratulations and acknowledgement be extended; and further

Order and direct, while duly assembled in session at the Capitol in Augusta, under the Constitution and Laws of the State of Maine, that this official expression of pride be sent forthwith on behalf of the Legislature and the people of the State of Maine.

Came from the Senate read and passed.

In the House, the Order was read and passed in concurrence.

House Reports of Committees  
Divided Report

Majority Report of the Committee on Business Legislation on Bill "An Act to Provide for the Licensure of Speech Pathologists and Audiologists" (S. P. 673) (L. D. 2144) reporting "Ought to Pass" as amended by Committee Amendment "A" (S-461)

Report was signed by the following members:

Mrs. BOUDREAU of Portland  
Mrs. BYERS of Newcastle  
Mrs. CLARK of Freeport  
Messrs. TIERNEY of Durham  
BOWIE of Gardiner  
HIGGINS of Scarborough  
PEAKES of Dexter  
RIDEOUT of Mapleton  
DeVANE of Ellsworth

-- of the House.

Minority Report of the same Committee reporting "Ought to Pass" as amended by Committee Amendment "B" (S-462) on the same Bill.

Report was signed by the following members:

Messrs. REEVES of Kennebec  
JOHNSTON of Aroostook  
THOMAS of Kennebec

-- of the Senate.

Mr. PIERCE of Waterville

-- of the House.

Came from the Senate with the Minority Report read and accepted and the Bill Passed to be Engrossed as amended by Committee Amendment "B" (S-462).

In the House: Reports were read.

The SPEAKER: The Chair recognizes the gentlewoman from Freeport, Mrs. Clark.

Mrs. CLARK: Mr. Speaker, I move that the House accept the Majority "Ought to pass" Report.

The SPEAKER: The gentlewoman from Freeport, Mrs. Clark, moves that the House accept the Majority "Ought to pass" Report in non-concurrence.

The SPEAKER: The Chair recognizes the gentlewoman from Freeport, Mrs. Clark.

Mrs. CLARK: Mr. Speaker, Men and Women of the House: You have before you a divided report from the Committee on Business Legislation regarding the licensure of speech pathologists and audiologists. This is a committee bill which was reported out after an exten-

sive study during the interim period of the regular session and this special session of the 107th Maine Legislature.

Report A differs from Report B in one aspect only, and that aspect is the inclusion of a hearing aid dealer on the Speech Pathologist and Audiologist Board.

The majority members of the Committee on Business Legislation, as reflected on Page 2 of today's advance journal and calendar, are in agreement, and I would share with you the background for the signatures on this divided report.

During the interim period when the committee was studying this issue, an agreement was reached among the parties of interest that a hearing aid dealer be included on the licensing board. That agreement resulted in the unanimous committee report and the introduction of this bill to this special session.

I would say to you clearly and distinctly that had that agreement not been reached by the audiologists of the State of Maine, the speech pathologists of the State of Maine, through their duly elected professional association representative and the hearing aid dealers, which occurred in Room 135 of this building, this bill would not even be before us in this special session, for the Committee on Business Legislation were encouraged by the agreement and the understanding and compromise that was reached in the last day of that work session to sign out our report unanimously.

This is a very controversial measure between the two chambers of this legislature, and you can see the position of the House members as opposed to the Senate members of our committee reflected on the report before us.

I would leave you at this moment and allow the other members of the Committee on Business Legislation to share with you their position on this bill. I would remind you, however, that this is an issue similar to that which has been alluded to before in this House; namely, an understanding and an agreement which was reached back in 1967 between the certified professional accountants and the public accountants of this state. The House upheld that agreement in two other issues, and I would hope that you would support the compromise agreement that was reached during the interim session of this legislature.

The SPEAKER: The Chair recognizes the gentlewoman from Auburn, Mrs. Lewis.

Mrs. LEWIS: Mr. Speaker, Ladies and Gentlemen of the House: I really don't understand why we need this bill at all. It seems to me

— I know it is creating another branch of bureaucracy. If you look at the bill, on Page 5 it does create a Board of Examiners of Speech Pathology, and to my knowledge, we are not having any trouble with speech pathologists in this state.

I wonder if I can paraphrase Mr. DeVane — how many people here have ever had a call from anybody who says there is any trouble that they are having with speech pathologists? As you know, speech pathologists who teach in the schools have to be certified by the schools, so really, we are only talking about the people who are working outside of the school system.

To my knowledge, there is no trouble whatsoever and I don't understand why we would be setting up another board of examiners to create more bureaucracy, and I would like to know why we need this. Otherwise, I would think we would indefinitely postpone the whole bill.

The SPEAKER: The Chair recognizes the gentleman from Standish, Mr. Spencer.

Mr. SPENCER: Mr. Speaker, I would just like to pose a question to anyone on the committee that might answer. How many speech pathologists and audiologists are there in Maine at the present time.

The SPEAKER: The gentleman from Stan-



dish. Mr. Spencer, has posed a question through the Chair to anyone who may care to answer.

The Chair recognizes the gentlewoman from Freeport, Mrs. Clark.

Mrs. CLARK: Mr. Speaker, in response to the gentleman's inquiry, my notes would reflect that this bill would affect 14 audiologists and 15 speech pathologists, that it is a bill that is desired by the members of the profession and that it would, in fact, eventually allow these professional people to be available for third party payment.

The SPEAKER: The Chair recognizes the gentleman from Orland, Mr. Churchill.

Mr. CHURCHILL: Mr. Speaker, Ladies and Gentlemen of the House: This is a little out of my line, but I have had several phone calls. I didn't realize there were these people running around the state, except in a few schools where they have a problem.

My objection would be that Report B would be the motion to accept, because hearing aid dealers are manufacturers and representatives who sell electronic communication devices to individuals with hearing problems. Their presence on the board, in my opinion, would present a conflict of interest.

The concept of licensure is to provide consumer services with protection. The hearing aid dealer is not qualified to provide evaluation and judgments regarding the delivery of speech and language services. A hearing aid dealer has had no formal training or clinical experience in the area of speech and language or hearing remediation or therapy. Speech pathologists and audiologists generally have from five to seven years formal training before becoming nationally certified as clinically competent to provide speech, language or audiological services.

The fact that hearing aid dealers sell electronic equipment to facilitate communication does not qualify a dealer representative to be placed on the state licensure board for speech pathologists and audiologists who provide a broad spectrum of professional services.

Speech pathologists use a number of electronic devices — recorders, mirrors, tongue depressors, printed material, etc., as tools to facilitate delivery of services to handicapped persons. Sales persons, dealers or publishers from these equipment companies do not seek to become members on boards established to monitor the activities of professional providers of services.

Hearing aid dealers indicate, by being represented on the licensure board, that they can better communicate with speech pathologists. Hearing aid dealers do communicate very well, the same way other product vendors do, but let's not put them on this board. Let's have a member from the private sector if we are going to have the other member.

The SPEAKER: The Chair recognizes the gentleman from Gardiner, Mr. Bowie.

Mr. BOWIE: Mr. Speaker, Men and Women of the House: My friend from Orland, Mr. Churchill, has put it very kind as far as the hearing aid dealers are concerned. I have heard them referred to as peddlers and all sorts of various terms have been applied to them. They are licensed. Hearing aid dealers are licensed under the statutes of the State of Maine. However, the audiologists desired to be put on the hearing aid dealers board and were put on the board. You probably have received letters that turn-about is fair play.

I would agree with my good friend from Freeport, Mrs. Clark, that turn-about is fair play. A compromise was reached in the committee. This bill would not be before this legislature at this time if the compromise had not been reached by all parties concerned.

I do believe that the hearing aid dealer can have input into this board. I believe he deals with the same people that the audiologists deal with, and I think if we do not keep the hearing aid dealer on this board, then we certainly will have a conflict, because an audiologist can do the same type of work that a hearing aid dealer can do.

The SPEAKER: The Chair recognizes the gentleman from Waterville, Mr. Pierce.

Mr. PIERCE: Mr. Speaker, Ladies and Gentlemen of the House: I did expect to have a few words to say on this bill this morning; however, one thing I didn't have to expect to say was to answer the words of the gentlelady from Auburn, Mrs. Lewis. I think after an extensive study of this by the Business Legislation Committee, one thing each and every member of that committee agree on is that this is a good bill, and every single one of us on that committee voted unanimously for this bill.

The difference in these two reports, A and B, is what I did expect to say a few words on and there is a very slight difference. I will be very honest with you. I would support either Report A or Report B before letting this bill go down the drain, because there is really a very minor difference. Report A mandates that we have a hearing dealer on the board. Report B says you are going to have two consumers, one or both of whom may be hearing aid dealers, but it doesn't mandate it. I would submit to you that a speech pathologist and an audiologist have considerably more professionalism to be placed on a hearing aid dealer board than a hearing aid dealer has to be placed on a speech pathologist or audiologist board, both of whom are highly trained individuals.

I would like to correct the gentlelady from Freeport, Mrs. Clark, when she says there are 15 speech pathologists in the state. There are over a hundred speech pathologists in the State of Maine and 14 audiologists, so this bill does affect quite a few people. I would hope that you would turn down Report A and accept Report B for those reasons.

Mr. Speaker, when the vote is taken, I would ask that it be taken by the yeas and nays.

The SPEAKER: For the Chair to order a roll call, it must have the expressed desire of one fifth of the members present and voting. All those desiring a roll call vote will vote yes; those opposed will vote no.

A vote of the House was taken, and more than one fifth of the members present having expressed a desire for a roll call, a roll call was ordered.

The SPEAKER: The Chair recognizes the gentlewoman from Old Orchard Beach, Mrs. Morin.

Mrs. MORIN: Mr. Speaker and Members of the House: It doesn't seem reasonable to me that the pathologists do not want a hearing aid dealer on their board because he hasn't had the training that they have; yet, they do approve of having a consumer who might not even know the first thing about a hearing aid. I hope you go along with Report A.

The SPEAKER: The Chair recognizes the gentlewoman from Auburn, Mrs. Lewis.

Mrs. LEWIS: Mr. Speaker, Ladies and Gentlemen of the House: I don't see a fiscal note on this bill, and I am wondering if these people are going to serve without any recompense at all? If that is so, do they get expenses, because there should be a fiscal note on the bill.

Also, I did check this out a little bit, and there are 125 speech therapists, but I think you have got to remember that this bill only applies to the speech pathologists who are not working in the schools. The people who are working in the schools are certified by the schools and this bill does not really apply to them. There are just

about 40 people in this state that this bill does apply to.

I just question whether we need such a bureau, inasmuch as there doesn't seem to be any trouble whatsoever between the public and the speech pathologists in this state. Why do we need this bureau set up?

The SPEAKER: The Chair recognizes the gentlewoman from Freeport, Mrs. Clark.

Mrs. CLARK: Mr. Speaker, Men and Women of the House: I would hope to respond to the concerns expressed by the gentlewoman from Auburn, Representative Lewis, by reviewing the background of this bill.

During the regular session of the 107th Maine Legislature, two gentlemen from the other body, Senator Curtis and Senator Johnston, introduced a similar measure. There was never really a public hearing on the bill during the regular session and it was decided by all concerned parties that instead of presenting testimony at that time, that a study order be introduced to provide time for adequate study and resolve the problems within the profession. The study order that passed was the result, and the Committee on Business Legislation was the committee that assumed the responsibility.

The bill before us is similar in form and structure to the statutes now in effect to regulate other professions, and perhaps the difference here is that I and other members of the Committee on Business Legislation endorsed the concept that members of an industry or profession should be influential in determining the rules and regulations that govern their industry or profession, and that probably is the issue before us.

We believe that it is in the public interest to require the regulation of professions with resulting restrictions of entry into these fields, particularly in matters which deal with hearing, speech and the ear.

The groups who are concerned with this bill are not only speech pathologists and audiologists but hearing aid dealers, otolaryngologist, physicians who specialize in the ear and nose and throat, as well as the consumers of this state. We believe there is a need and the members of the Maine Speech and Hearing Association, which comprises more than 100 members of this community profession, do support passage of this bill.

The SPEAKER: A roll call has been ordered. The pending question is on the motion of the gentlewoman from Freeport, Mrs. Clark, that the Majority "Ought to pass" Report be accepted in non-concurrence. All in favor of that motion will vote yes; those opposed will vote no.

#### ROLL CALL

YEA — Boudreau, Bowie, Byers, Carroll, Chonko, Clark, Curran, P.; Curran, R.; Curtis, Drigotas, Finemore, Flanagan, Fraser, Gauthier, Greenlaw, Hunter, Kennedy, Laffin, Laverty, LeBlanc, Lunt, Maxwell, Morin, Nadeau, Najarian, Peterson, T.; Post, Powell, Rideout, Rolde, Rollins, Saunders, Silverman, Snow, Snowe, Tarr, Theriault, Tierney, Tozier, Truman, Tyndale, Usher.

NAY — Albert, Ault, Bachrach, Bagley, Berry, G. W.; Berry P. P.; Berube, Birt, Burns, Bustin, Call, Carey, Carpenter, Carter, Churchill, Conners, Connolly, Cooney, Cote, Cox, Dam, Davies, Doak, Dow, Dudley, Durgin, Dyer, Farley, Farnham, Fenlason, Garsoe, Goodwin, H.; Goodwin, K.; Gould, Gray, Hall, Henderson, Hennessey, Hewes, Hinds, Hobbins, Hughes, Hutchings, Immonen, Ingegneri, Jackson, Jalbert, Jensen, Joyce, Kany, Kelleher, Kelley, LaPointe, Leonard, Lewin, Lewis, Littlefield, Lizotte, Lovell, Lunt, MacEachern, Mackel, MacLeod, Mahany, Martin, A.; McBreairey, McKernan, McMahan, Mills, Miskavage, Mitchell, Morton, Muikern, Norris, Pearson, Pelosi, Perkins, S.; Perkins,

T.; Peterson, P.; Pierce, Raymond, Shute, Spencer, Sprowl, Stubbs, Susi, Talbot, Teague, Torrey, Twitchell, Wagner, Walker, Webber, Wilfong, Winship.

ABSENT — Bennett, Blodgett, DeVane, Faucher, Higgins, Jacques, Kauffman, Martin, R.; Palmer, Peakes, Quinn, Smith, Strout.

Yes, 42; No, 95; Absent, 13.

The SPEAKER: Forty-two having voted on the affirmative and ninety-five in the negative, with thirteen being absent, the motion does not prevail.

Thereupon; the Minority "Ought to pass" Report was accepted in concurrence and the Bill read once. Committee Amendment "B" (S-462) was read by the Clerk and adopted in concurrence and the Bill assigned for second reading tomorrow.

**Non-Concurrent Matter**

Joint Order Relative to Committee on State Government reporting out a Bill to Facilitate the Setting of Financial and Tax Policy by the Legislature (H. P. 2227) which was Read and Passed in the House on March 23, 1976.

Came from the Senate indefinitely postponed in non-concurrence.

In the House: Thereupon, the House voted to insist.

**Non-Concurrent Matter**

Bill "An Act Relating to Charitable Solicitations" (H. P. 1983) (L. D. 2165) which was Passed to be Engrossed as Amended by Committee Amendment "A" (H-996) and House Amendment "A" (H-1045) in the House on March 23, 1976.

Came from the Senate. Passed to be Engrossed as Amended by Committee Amendment "A" and House Amendment "A" and Senate Amendment "B" (S-470) in non-concurrence.

In the House: On motion of Mr. Tierney of Durham, the House voted to recede and concur.

**Messages and Documents**

The following Communication:

STATE OF MAINE  
DEPARTMENT OF STATE  
AUGUSTA, MAINE

March 23, 1976

Mr. Edwin H. Pert, Clerk  
House of Representatives  
State House  
Augusta, Maine 04333  
Dear Mr. Pert:

Pursuant to Rule 111, Section 641 of the Rules of the House of Representatives, U.S.A., I have been directed by Mr. Edmund L. Henshaw, Jr., Clerk, House of Representatives, U.S.A., to deliver a printed copy of the Journal of the House to your office.

With kind regards, I am

Sincerely,

Signed:

MARKHAM L. GARTLEY  
Secretary of State

The Communication was read and with accompanying papers ordered placed on file.

**Orders**

Mr. Doak of Rangeley presented the following Joint Order and moved its passage: (H. P. 2244)

WHEREAS, The Legislature has learned of the Outstanding Achievement and Exceptional Accomplishment of Mrs. Arbeth Hodgkins Who Has Completed 30 Years of Faithful Service as the Town Clerk of Rangeley

We the Members of the House of Representatives and Senate do hereby Order that our congratulations and acknowledgement be extended; and further

Order and direct, while duly assembled in session at the Capitol in Augusta, under the Constitution and Laws of the State of Maine, that this official expression of pride be sent

forthwith on behalf of the Legislature and the people of the State of Maine.

The Order was read and passed and sent up for concurrence.

Mr. DOW of West Gardiner presented the following Joint Order and moved its passage: (H. P. 2245)

WHEREAS, the Department of Inland Fisheries and Wildlife administers the regulation of snowmobiles and watercraft; and

WHEREAS, these programs comprise a significant responsibility for that Department; and

WHEREAS, no assessment has been made of the level and method of levying fees, their subsequent distribution and use and the organizational placement of the two programs; and

WHEREAS, some activities of State Government are regulated, implemented and enforced by separate independent entities such as commissions; and

WHEREAS, this form of governing is not necessarily the most efficient and economical; and

WHEREAS, general revenues are expended for these programs; now, therefore, be it

ORDERED, the Senate concurring, that the Joint Standing Committee on Performance Audit shall review current Snowmobile and Watercraft registration programs to find the most efficient method of carrying out that function of the Department, and to determine whether a different procedure or Department is better equipped to carry out those responsibilities; and shall review programs that might be more efficiently and economically carried on within the Department of Inland Fisheries and Wildlife, such as the Salmon Commission, the level of funding necessary to carry out those programs and the most equitable source of funding them; and be it further

ORDERED, that the committee shall complete this study no later than 90 days prior to the next regular session of the Legislature, and submit to the Legislative Council within the same time period its findings and recommendations, including copies of any recommended legislation in final draft form; and be it further

ORDERED, that upon passage of this Order in concurrence, the Clerk of the House shall forward a suitable copy of this Order to the Senate and House chairmen of the committee.

The Order was read.

The SPEAKER: The Chair recognizes the gentleman from West Gardiner, Mr. Dow.

Mr. DOW: Mr. Speaker and Members of the House: The Performance Audit Committee did a study on Fish and Game and we made some recommendations. This is one that we didn't have time to finish and we would like to have a chance to look at these two items, so I move the passage of this order.

Thereupon, the Order received passage and was sent up for concurrence.

Mr. Spencer of Standish presented the following Joint Resolution and moved its adoption: (H. P. 2246) (Cosponsors: Mrs. Goodwin of Bath, Mr. Peterson of Windham, Mr. Jalbert of Lewiston)

Joint Resolution Concerning Federal Requirements for Use of Minibus Service for the Elderly Funded Under the Social Security Act

WHEREAS, many elderly citizens in the rural areas of the State of Maine currently depend on minibus transportation services which are partially funded under Title XX of the Social Security Act; and

WHEREAS, the income verification procedures established by the regulations adopted pursuant to Title XX of the Social Security Act are discouraging many of these

elderly citizens from continuing to use these minibus transportation services; and

WHEREAS, there is now pending before the Congress of the United States legislation which would suspend the income verification requirements for elderly citizens utilizing said minibus transportation services while the Congress reviews these requirements; now, therefore, be it

RESOLVED: That we, the Members of the 107th Legislature assembled in Special Session, do hereby respectfully urge and request that the Members of the Maine Delegation of the United States Congress seek to have the requirements referred to above suspended in order to permit Maine's elderly citizens to use minibus services without being required to disclose their annual income; and be it further

RESOLVED: That duly attested copies of this Resolution be immediately transmitted to those congressional delegates with our thanks for their prompt attention to this important matter.

The Resolution was read and adopted and sent up for concurrence.

**Later Today Assigned**

Mr. Palmer of Nobleboro presented the following Joint Order and moved its passage: (H. P. 2247) (Cosponsor: Mr. Rolde of York)

WHEREAS, the subject of state taxation policy has been of great concern to both the regular and first special session of the 107th Legislature; and

WHEREAS, the Governor of this State has indicated his concern over state tax policy and has received recommendations concerning state tax policy from a committee which he appointed and directed to study the subject; and

WHEREAS, it is apparent to the Members of this Legislature that state tax policy must be looked at as a whole, and not merely in part, as it concerns one or another aspect of state or local government; now, therefore, be it

ORDERED, the Senate concurring, that there is created a Joint Select Committee on State Tax Policy, to consist of 5 Representatives to be appointed by the Speaker of the House, 3 Senators to be appointed by the President of the Senate, and 6 public members to be appointed jointly by the Speaker of the House and the President of the Senate, one public member to be representative of the interests of consumers, one public member to be representative of the interests of agriculture, one public member to be representative of the interests of industry, one public member to be representative of the interests of local government, one public member to be representative of coastal interests and one public member to have served on the Governor's Tax Policy Committee; the chairman of the committee to be elected by a majority of the members of the committee; and be it further

ORDERED, that this committee shall study the past and present tax policy of this State and of other states and shall attempt to recommend a clear and comprehensive tax policy which is equitable for each of Maine's citizens and which yields the maximum benefits for all of Maine's people; and be it further

ORDERED, that the committee shall submit its report, together with complete and final drafts of any proposed legislation, to the Legislative Council by November 15, 1976; and be it further

ORDERED, that members of this committee shall be reimbursed from the legislative account in the same manner as if they were members of a joint standing committee of the Legislature; and be it further

ORDERED, that the Legislative Administrative Director shall furnish the committee reasonable staff assistance as the chairman

of the committee shall request; and be it further

ORDERED, that, upon passage of this order in concurrence, the Clerk of the House shall send a copy of it to each member of the committee.

The Order was read.

The SPEAKER: The Chair recognizes the gentleman from Portland, Mr. Talbot.

Mr. TALBOT: Mr. Speaker, because I have some questions, I would move that this be tabled for one legislative day.

Whereupon, on motion of Mr. Hewes of Cape Elizabeth, tabled pending passage and later today assigned.

#### Later Today Assigned

Mr. Wilfong of Stow presented the following Joint Order and moved its passage: (H. P. 2248) (Cosponsors: Mr. Martin of Eagle Lake, Mr. Smith of Dover-Foxcroft, Mr. Spencer of Standish)

ORDERED, the Senate concurring, that there shall be a Joint Select Committee of the Legislature which shall be known as the Legislative Budget Committee, hereafter called the committee. The committee shall consist of 23 members, who shall be: The President of the Senate; the Majority Leader of the Senate; the Minority Leader of the Senate, who shall be the leader of the party holding the second largest number of seats in the Senate after the majority party; the Speaker of the House; the Majority Leader of the House; the Minority Leader of the House, who shall be the leader of the party holding the second largest number of seats in the House after the Majority party; the Senate and House chairmen of the Joint Standing Committees on Appropriations and Financial Affairs; one Member of the Senate serving on the Joint Standing Committee on Appropriations and Financial Affairs, who shall be of the opposite political party from the Senate Chairman of the Joint Standing Committee on Appropriations and Financial Affairs; one Member of the House serving on the Joint Standing Committee on Appropriations and Financial Affairs, who shall be of the opposite political party from the House Chairman on Appropriations and Financial Affairs; the Senate and House Chairmen of the Joint Standing Committee on Taxation; one Member of the Senate serving on the Joint Standing Committee on Taxation, who shall not be of the same political party as the Senate Chairman of the Joint Standing Committee on Taxation; one Member of the House serving on the Joint Standing Committee on Taxation, who shall not be of the same political party as the House Chairman of the Joint Standing Committee on Taxation serving on the Joint Standing Committee on Taxation; and 6 Members of the House of Representatives and 3 Members of the Senate to be apportioned by political party to reflect as nearly as possible the numbers of members of each political party in the House and Senate respectively. The Speaker of the House and President of the Senate shall determine, upon recommendation by the Secretary of State, the exact number of members of each party who shall be chosen by caucus to sit on this committee. The President of the Senate, the Speaker of the House and the Majority and Minority Leaders shall be members of the committee by virtue of their offices. All other members of the committee shall be chosen by their respective party caucuses in the Senate and the House.

The committee shall elect a chairman and a vice-chairman from among the 9 members who are chosen by party caucus to be members of the committee; and be it further

ORDERED, that the purpose of the Legislative Budget Committee shall be to provide a suitable vehicle for the Legislature to more deeply involve itself in the state budget

process and to formulate budgetary and taxation policy for consideration by the Legislature. The state budget process includes review of the budgetary needs of the departments and agencies of State Government and the formation of funding priorities which equate those funding needs to state revenues; and be it further

ORDERED, that on or before March 1st of each regular session of the Legislature, the committee shall present to the Legislature an order establishing the level of total state expenditures for the next fiscal year. In addition, the committee shall present to the Legislature an additional order which shall determine, by percentage, the total of state expenditures to be allocated to each of the following budget areas:

1. General Government;
2. Economic Development;
3. Educational and Cultural Services;
4. The University of Maine;
5. Human Services;
6. Mental Health and Corrections;
7. Manpower Affairs;
8. Natural Resources;
9. Inland Fisheries and Wildlife;
10. Public Protection; and
11. Transportation.

Within 14 days after the submission of the first 2 orders to the Legislature, the committee shall submit to the Legislature a final order establishing the amount in dollars to be raised from each major source of revenue. A major source of revenue is a source of revenue which, during the previous fiscal year, yielded one million or more dollars to the State; and be it further

ORDERED, that Orders presented to the Legislature from the committee may be altered or amended by the Legislature, but shall be passed or finally rejected within 20 legislative days after they are reported out of the committee. No revenue or appropriation measures shall be enacted by the Legislature subsequent to the adoption of these orders except in accordance with the budgetary levels and allocations established by these orders. The orders of the committee may be amended by the Legislature at any time after their initial passage; and be it further

ORDERED, that the committee is authorized to establish special task forces for the purpose of studying the operations, performance and viability of the various departments, agencies and programs funded in whole or in part by the Legislature. The committee shall use these task forces to provide the Legislature with a factual basis for establishing fiscal priorities, eliminating unnecessary activities, personnel and equipment and increasing the economic efficiency of the State Government in general. In addition, these task forces may be used to investigate state tax policy. This investigation may include the efficacy of various methods, the effects of current and proposed tax policy and the environmental, economic and social aspects of the lives of Maine citizens; and be it further

ORDERED, that any task force created by the committee may have as many members as the committee deems necessary for the performance of its duties, but there shall always be at least one member of the budget committee, one member of the Appropriations and Financial Affairs Committee and one member of the Joint Standing Committee of the Legislature having expertise in the subject area to be dealt with by the task force.

Signed:

JOHN L. MARTIN  
of Eagle Lake

Signed:

DOUGLAS M. SMITH  
OF Dover-Foxcroft

Signed:

RICHARD A. SPENCER  
of Standish

The Order was read.  
(On motion of Mr. Kelleher of Bangor, tabled pending passage and later today assigned.)

Mrs. Najarian of Portland presented the following Joint Order and moved its passage: (H. P. 2250)

WHEREAS, the Commissioner of Human Services, the Maine Human Services Council, the Maine Municipal Association and Members of the 107th Legislature have expressed concern about the conduct of the State's medical care and intermediate care programs; and

WHEREAS, the subject of medical and intermediate care is extremely complex and interwoven with federal and state laws, regulations, administrative practices and court rulings; and

WHEREAS, it is important to the people of this State that the medical care and intermediate care programs be conducted with the highest degree of economy, efficiency and effectiveness consistent with federal and state laws, regulations, administrative practices and court rulings; and

WHEREAS, the total expenditure for medical care by the Department of Human Services has risen from \$1,500,000 a year in 1962 to \$68,000,000 in fiscal year 1975; and

WHEREAS, there is pending before the special session of the 107th Legislature an appropriations act which again substantially increases payments to medical care and intermediate care providers; and

WHEREAS, the Department of Human Services currently has no capability for direct auditing of the medical care and intermediate care programs; now, therefore, be it

ORDERED, the Senate concurring, that the Joint Standing Committee on Appropriations and Financial Affairs shall study and review the medical care and intermediate care programs of the Department of Human Services, including methods of determining provider payments, history of and reasons for increases in provider payments, and efficiency, economy and effectiveness of the program and its accounts; and be it further

ORDERED, that the Department of Human Services, as well as any fiscal intermediaries under contractual services with the Department of Human Services, is requested to cooperate to the fullest extent possible with the committee in carrying out this study, and is requested to provide the committee any reasonable staff and secretarial assistance requested by the committee; and be it further

ORDERED, that the committee shall complete this study no later than 90 days prior to the next regular session of the Legislature, and submit to the Legislative Council within the same time period its findings and analysis, together with recommendations including copies of any recommended legislation in final draft form; and be it further

ORDERED, that upon passage of this Order in concurrence, the Clerk of the House shall forward a suitable copy of this Order to the Senate and House chairmen of the committee.

The Order was read and passed and sent up for concurrence.

#### (Off Record Remarks)

#### House Reports of Committees Leave to Withdraw

Mr. Leonard from the Committee on Public Utilities on Bill "An Act Relating to Electric Utility Rate Structures" (H. P. 2080) (L. D. 2244) reporting "Leave to Withdraw"

Report was read and accepted and sent up for concurrence.

**Divided Report**

**Tabled and Assigned**

Majority Report of the Committee on Taxation on Bill "An Act to Establish a Maine Community Jobs Act" (H. P. 2185) (L. D. 2293) reporting "Ought Not to Pass"

Report was signed by the following members:

Messrs. WYMAN of Washington  
JACKSON of Cumberland  
— of the Senate.

Messrs. DRIGOTAS of Auburn  
MORTON of Farmington  
COX of Brewer  
IMMONEN of West Paris  
MAXWELL of Jay  
TWITCHELL of Norway  
SUSI of Pittsfield  
FINEMORE of Bridgewater  
DAM of Skowhegan  
— of the House.

Minority Report of the same Committee reporting "Ought to Pass"

Report was signed by the following members:

Mr. MERRILL of Cumberland  
— of the Senate.

Mr. MULKERN of Portland  
— of the House.

Reports were read.

Mr. Drigotas of Auburn moved that the House accept the Majority "Ought not to pass" Report.

(On motion of Mr. McKernan of Bangor, tabled pending the motion of Mr. Drigotas of Auburn to accept the Majority Report and tomorrow assigned.)

**Divided Report**

**Tabled and Assigned**

Majority Report of the Committee on Taxation on Bill "An Act to Revise and Reform the Maine Personal Income Tax Law" (H. P. 2036) (L. D. 2211) reporting "Ought Not to Pass"

Report was signed by the following members:

Messrs. WYMAN of Washington  
JACKSON of Cumberland  
— of the Senate.

Messrs. MORTON of Farmington  
DRIGOTAS of Auburn  
MAXWELL of Jay  
TWITCHELL of Norway  
SUSI of Pittsfield  
FINEMORE of Bridgewater  
IMMONEN of West Paris  
DAM of Skowhegan  
— of the House.

Minority Report of the same Committee reporting "Ought to Pass"

Report was signed by the following members:

Mr. MERRILL of Cumberland  
— of the Senate.

Messrs. COX of Brewer  
MULKERN of Portland  
— of the House.

Reports were read.

Mr. Mulhern of Portland moved the House accept the Minority "Ought to pass" Report.

On motion of the same gentleman, tabled pending his motion to accept the Minority Report and tomorrow assigned.

**Divided Report**

Majority Report of the Committee on State Government on Bill "An Act to Implement a Central Licensing Division within the Department of Business Regulation" (H. P. 2153) (L. D. 2294) reporting "Ought Not to Pass"

Report was signed by the following members:

Messrs. GRAHAM of Cumberland  
WYMAN of Washington

CURTIS of Penobscot

— of the Senate.

Mrs. SNOWE of Auburn  
Mrs. KANY of Waterville  
Messrs. PICLOSI of Portland  
QUINN of Gorham  
LEWIN of Augusta  
STUBBS of Hallowell  
CARPENTER of Houlton

— of the House.

Minority Report of the same Committee reporting "Ought to Pass"

Report was signed by the following members:

Messrs. FARNHAM of Hampden  
COONEY of Sabattus  
WAGNER of Orono

— of the House.

Reports were read.

The SPEAKER: The Chair recognizes the gentleman from Sabattus, Mr. Cooney.

Mr. COONEY: Mr. Speaker and Members of the House: I am the sponsor of this bill and was the sponsor of a very similar bill in the regular session. It is a major piece of legislation. It came out of the Maine Management and Cost Survey and encompasses a number of the most significant findings of that report.

It has a divided report this morning, I think because many people on the committee fear that it is a tremendous step to put the 31 or so licensing boards into a single division and I think there is some political fear that every barber and beautician in the state will be whispering bad things about them if they were to vote for this bill, because every single one of the boards in the state has its own little bailiwick set up under its own law with its own board and its own ability to charge fees and to run its own office.

But I would like to give you a little bit of the background, explain to you what the Cost Management Survey recommendations were, what steps have been taken in the compilation of this particular bill, and I am going to ask you to accept the minority "ought to pass" report so that we can put the bill at a second reader stage and each of you can have a serious chance to look at this measure and make sure before you vote it up or vote it down. There are those I believe who, if it is at second reader, will have amendments to propose on it.

Let me just read you the recommendations of the Cost Management Survey so that you will be aware of what this bill tries to do. "Organize administrative and servicing functions of boards into a central professional and occupational licensing bureau." That is the title. "Require boards to provide centralized automation of license renewals and preparation of statistics as soon as possible. Renew licenses every two years instead of on an annual basis." This bill seeks to do that as well, and there is a tremendous efficiency to all of the boards in doing that.

"Appoint a public member to each of 25 boards." We have done that. "Require each board to provide an annual report of its fiscal and program activities." Since these are state agencies, it is reasonable that we could expect that each of them will operate according to the efficient practices of the state.

"Establish guidelines for annual reports, establish a procedure at annual meetings of allowing for oral reports and answering questions. Include the boards not now covered under the administrative code. Require the boards to maintain and purge their files in accordance with approved record retention schedules. Establish limits for out-of-state travel costs for board members, coordinate inspection activities of the barbers and hairdressers boards, require boards receiving free staff support or from general fund departments to pay costs for services. Require the boards of hairdressers to

sublet or discontinue running its facilities, transfer dedicated funds and standardize per diem payments." Not every single one of those recommendations is attacked in this bill, some of them have been deleted, but most of them are addressed in this central licensing bill.

There are 31 separate licensing boards in the state. They are all over Augusta, they are all over the state. Some are receiving free or nearly free space; others are paying tremendous amounts for it, and it is an administrative nightmare. So Governor Longley, before he was governor he was chairman of the Cost Management Study, made this a major proposal. It came into the regular session under my sponsorship and there were problems with the bill. It simply had not been drafted adequately, so what we did, as an effort to try to give the Governor and the Commissioner of Business Legislation time in which to draft this particular measure, was we passed a skeleton bill, one that gave the commissioner the power to work with the State Government Committee and to work with the different boards and commissions in preparing this legislation. So there has been a long process of meeting with the different boards to try to smooth feathers, to find out their individual problems, to try to prepare this particular piece of legislation.

It is opposed by many boards, but several of the largest boards support it. The real estate brokers support it, the nurses support it. Another board which has slipped my mind supports it, and then there are a number of boards, of course that don't support it.

I propose to you that it is a measure which deserves your consideration, that the minority "ought to pass" report at least ought to get a favorable vote this morning so that all of you will have a chance to give it very careful scrutiny. It is a major piece of government reform legislation.

The SPEAKER: The Chair recognizes the gentlewoman from Portland, Mrs. Najarian.

Mrs. NAJARIAN: Mr. Speaker and Members of the House: I had been asked to table this bill for one day. I hope that you would accept the minority "ought to pass" report as a courtesy to members of the House that want to offer amendments. If you don't like the bill, we can still have an opportunity to vote against it and kill it tomorrow.

Thereupon, the Minority "Ought to pass" Report was accepted, the Bill read once and assigned for second reading tomorrow.

**Divided Report**

**Later Today Assigned**

Majority Report of the Committee on Business Legislation on Bill "An Act to Require a Majority of Consumer Representation on Governing Boards of Nonprofit Hospital and Medical Service Organizations" (H. P. 1865) (L. D. 2036) reporting "Ought to Pass"

Report was signed by the following members:

Messrs. THOMAS of Kennebec  
JOHNSTON of Aroostook  
— of the Senate.

Mrs. BYERS of Newcastle  
Messrs. RIDEOUT of Mapleton  
DeVANE of Ellsworth  
BOWIE of Gardiner  
PIERCE of Waterville  
TIERNEY of Durham

— of the House.

Minority Report of the same Committee reporting "Ought to Pass" as amended by Committee Amendment "A" (H-1069) on the same Bill.

Report was signed by the following members:

Mr. REEVES of Kennebec  
— of the Senate.  
Mrs. CLARK of Freeport



Mrs. BOUDREAU of Portland  
Messrs. PEAKES of Dexter  
HIGGINS of Scarborough  
— of the House.

Reports were read.

Mr. Bowie of Gardiner moved that the House accept the Majority "Ought to pass" Report. (On motion of Mrs. Byers of Newcastle, tabled pending the motion of Mr. Bowie of Gardiner to accept the Majority Report and later today assigned.)

#### Divided Report

Seven Members from the Committee on Public Utilities on Bill "An Act to Prohibit Public Utilities from Including Certain Political Advertising Material along with Customer Bills" (H. P. 1809) (L. D. 1968) reporting in Report "A" that the same "Ought to Pass" in New Draft (H. P. 2249) (L. D. 2323)

Report was signed by the following members:

Mrs. CUMMINGS of Penobscot  
Mr. CYR of Arostook  
— of the Senate.

Messrs. KELLEHER of Bangor  
NADEAU of Sanford  
SPENCER of Standish  
BERRY of Buxton  
Mrs. SAUNDERS of Bethel  
— of the House.

Four Members from the same Committee reporting in Report "B" that the same "Ought Not to Pass"

Report was signed by the following members:

Mrs. TARR of Bridgton  
Messrs. LUNT of Presque Isle  
LITTLEFIELD of Hermon  
GRAY of Rockland  
— of the House.

One Member from the same Committee reporting in Report "C" that the same "Ought to Pass as amended by Committee Amendment "A" (H-1089).

Report was signed by the following member:  
Mr. LEONARD of Woolwich  
— of the House.

Reports were read.

The SPEAKER: The Chair recognizes the gentleman from Bangor, Mr. Kelleher.

Mr. KELLEHER: Mr. Speaker, I move that we accept Report A "Ought to pass in New Draft" and would like to speak to my motion.

The SPEAKER: The gentleman from Bangor, Mr. Kelleher, moves that the House accept Report A "Ought to pass."

The gentleman may proceed.

Mr. KELLEHER: Mr. Speaker, Ladies and Gentlemen of the House: I think the members of this House are very much well aware of what this particular act does and it is "An Act to Prohibit Public Utilities from Including Certain Political Advertising Material along with Customer Bills."

In the past, the utilities of this state have, under the law, been able to insert into the bills that go back to their consumers information pertaining to particular issues that may be confronting the state of referendum questions, and a good example of that would be the public power bill that has confronted this state over the past few years.

If I may take a moment of your time, I would like to read you the Statement of Fact on the redraft. "This bill prohibits any public utility from including along with the customers' bills any material which promotes or opposes certain measures voted on local, state or national elections, which promotes or opposes any candidate for public office, which promotes or opposes the appointment of any administrator or executive official or which promotes or opposes any changes in local, state, federal rules and regulations."

The committee worked extremely hard on this bill and it wasn't easy to get a majority report together, but you might notice that there were seven of us that came out with this particular report. This doesn't prohibit the utilities from spending their monies, meaning the stockholders' money, to influence any issue that may be before the state or may be before the national Congress, but it does prohibit them from using your consumers' money in trying to influence the outcome of any election on a referendum question or any donations to a political party or any of the individual political candidates.

It is a reasonable piece of legislation. It is something that should have been taken care of, I believe, years ago. One of the main questions that was before the committee was, are we prohibiting the stockholders or the utilities themselves in being able to influence or participate in any election? We certainly are not, but we are prohibiting the utilities from using the consumers' money to argue against cases that may be for or against themselves. We feel this is an individual matter that should be determined by the stockholders of these utilities or by the company officials themselves, but in no way should they be using my money or your money as ratepayers to argue for or against an issue for ourselves or for or against candidates for public office or for political parties. So I would urge the House to accept the Majority "Ought to pass" Report this morning.

The SPEAKER: The Chair recognizes the gentleman from Woolwich, Mr. Leonard.

Mr. LEONARD: Mr. Speaker, Ladies and Gentlemen of the House: Every time my name appears on a report, it seems to be by itself. I would like to explain why I signed a minority report of one.

I am not against the bill, and the amendment that I have, Committee Amendment "A", simply clears up some of the language in the original bill, the bill that was originally submitted to us, and it does everything, I think, unless I missed something that Mr. Kelleher has said, it does everything that he said were the merits of this particular piece of legislation or why we should go along with the majority "ought to pass" report.

The majority "ought to pass" report contains two other things that were not in the original piece of legislation: one, political contributions, that being that no utilities shall make any contribution of money or services to any political party or any candidate for state, county, etc., etc., down through. In the cost of referendum activities, it is basically the same thing. I didn't sign that report because I don't think it is even germane to the bill.

The bill, and I will read the title, the redraft is "An Act to Prohibit Public Utilities from Including Certain Political Advertising Material along with Customer Bills." Political contributions and costs to referendum activities has absolutely nothing to do with the original bill, the title of the bill. Therefore, Mr. Speaker, I ask a ruling on its germaneness.

The SPEAKER: The Chair is in an awkward position to rule on the germaneness, since it is his bill.

The Chair would rule that the new draft is germane, it deals with the same title as the original bill; therefore, the Chair would rule that it is germane.

The Chair recognizes the gentleman from Enfield, Mr. Dudley.

Mr. DUDLEY: Mr. Speaker and Members of the House: I don't see any need for this bill, I don't believe it will be a saving to the consumer. I believe if they are going to mail out something, it will be in another mailing and postage is now 13 cents and this will be a business expense. Anything they mail out, at least I don't think the department that governs

them gets into postage, what they spent their postage for, so it is going to be an extra expense to the consumer.

When I mail out bills, I put what I want in with them, a thank you note or any other kind of a note, I think other businesses do. The Bangor Daily News puts any insertion they want to into their paper, and I don't think we should pick out one industry and say that you can't put what you want to in your envelope. But as far as saving the public a nickel, it is going to cost them money, because if they want to mail something to their consumers, they will send another mailing in another envelope and we will pay for it, 13 cents on every mailing.

I see no need for the bill and I move that it be indefinitely postponed.

The SPEAKER: The gentleman from Enfield, Mr. Dudley, moves that this bill and all its accompanying papers be indefinitely postponed.

The Chair recognizes the gentleman from Buxton, Mr. Berry.

Mr. BERRY: Mr. Speaker, Ladies and Gentlemen of the House: I hope you don't go along with the indefinite postponement. My good friend from Enfield, Mr. Dudley, suggests that this might cost the consumer more money when in fact the very reverse of this is true if you adopt the bill.

Right now, it can be proven that inserts included with utility bills do cost the consumer money. Granted, it is a small portion of money, but they do cost the consumer something.

If you enact the bill, take those inserts out, the consumer is not paying any of that cost, because the bill clearly states that if any utility wants to make an additional mailing, it will not be part of the base rate-making procedure. It will have to come from the stockholders' share of the pot.

The SPEAKER: The Chair recognizes the gentleman from Bangor, Mr. Kelleher.

Mr. KELLEHER: Mr. Speaker, Ladies and Gentlemen of the House: Mr. Dudley brought out a point which I think could be somewhat confusing. As far as the inserts are concerned going into your utility bills, if the utility cares to insert a saving program on the use of your utility or a safety insert, this is not prohibited. We tried to be extremely careful in this particular bill so that if in fact the utilities do have a program recommending savings in the use of your electrical consumer participation, they can put it in, or even for safety values.

The argument that Mr. Dudley raised is not completely accurate to that point. I would hope you would oppose the motion to indefinitely postpone and then accept the majority report.

The SPEAKER: The Chair recognizes the gentleman from Hampden, Mr. Farnham.

Mr. FARNHAM: Mr. Speaker, I would pose a question through the Chair to anyone who may care to answer. This is a theoretical question. Let us assume, and this happened during the referendum a few years ago, both sides, in my opinion, at times distorted the facts. But let us assume that the facts are distorted and are deliberate lies and the public utility corrects that and there is no question but they are factual and points that could be proven. Would that be political or not?

The SPEAKER: The gentleman from Hampden, Mr. Farnham, has posed a question through the Chair to the gentleman from Bangor, Mr. Kelleher, who may answer if he so desires.

The Chair recognizes that gentleman.

Mr. KELLEHER: Mr. Speaker, no, Mr. Farnham, I don't think that would be political. I think the obligation is on the public utility itself to prove in fact what arguments are being presented on the other side, either to be accurate or inaccurate, and they have the opportunity to do that through themselves as com-

pany directors or through the stockholders, but when they do specifically spell out that an argument is in error, it is obligated on them to do it through their own monies and not through the consumers who participate in the use of that facility.

The SPEAKER: The Chair recognizes the gentleman from Woolwich, Mr. Leonard.

Mr. LEONARD: Mr. Speaker and Members of the House: I didn't mean to put you in an awkward position and embarrass you, which I obviously did.

The SPEAKER: It didn't bother the Speaker.

Mr. LEONARD: Mr. Speaker, Ladies and Gentlemen of the House: This bill was before us, and I, quite frankly, am very much in favor of the original piece of legislation, in that the one thing that we keep talking about is not allowing the utilities to include material which would, as we said, influence referendums, political situations or whatever, not allow those utilities to include that along with their bills. That makes sense, because for one thing, the public utility has no accountability, they can't separate the two things when a company comes to them for a new rate they can't determine how much of the 13 cents was for the referendum issue, for example and how much was actually for the cost of sending the bill out. One of the old adages is, just because the bus is going to Boston doesn't mean that you can ride for nothing. It is pretty hard to determine just how much you should have paid for the trip in the first place.

That part of the bill is correct and I go along with it. The problem I see in two and three is two things — one is that I do not in my own mind feel that it is germane to the bill to the extent that it never had a public hearing. People who came up to testify either for or against the "including" advertising material along with customer bills, they didn't testify about political contributions or cost of referendum activities.

The other thing is, I think it is somewhat of a gag on a particular segment of our industry. Just because they are a public utility doesn't necessarily — I don't think that we should just treat them separately. If we feel that corporations should not make political contributions, then we should uniformly address that issue across the state, and all corporations not be able to make contributions. I think it is a completely different issue. I think it is one that quite frankly — I am not a lawyer, but I would think it is a gag on a particular segment of the industry and I would think it would be unconstitutional.

Every time you bring that up, everybody screams and runs to the Attorney General's Office. I am not about to do that, I am not that concerned about it, but if we didn't accept the motion to indefinitely postpone, let's pass the bill, let's take one of the two reports, either my report or the majority report, one of the two, and then maybe we can at least — each of them have some admirable pieces of legislation and then let the court of law determine whether Item 2 and Item 3 are actually constitutional.

The SPEAKER: The pending question is on the motion of the gentleman from Enfield, Mr. Dudley, that this Bill and all its accompanying papers be indefinitely postponed. All in favor of that motion will vote yes; those opposed will vote no.

A vote of the House was taken.

20 having voted in the affirmative and 52 having voted in the negative, the motion did not prevail.

The SPEAKER: The pending question is on the motion of the gentleman from Bangor, Mr. Kelleher, that the House accept Report A. "Ought to pass." All in favor of that motion will vote yes; those opposed will vote no.

A vote of the House was taken.

54 having voted in the affirmative and 24 having voted in the negative, the motion did prevail.

Thereupon, the New Draft was read once and assigned for second reading tomorrow.

#### Consent Calendar First Day

In accordance with House Rule 49-A, the following items appeared on the Consent Calendar for the First Day:

(H. P. 1882) (L. D. 2060) Bill "An Act to Clarify Municipal Development Authority" (Emergency) — Committee on Local and County Government reporting "Ought to Pass" as Amended by Committee Amendment "A" (H-1077)

(H. P. 2187) (L. D. 2301) Bill "An Act to Increase the Borrowing Capacity of the Topsham Sewer District and to Specify and Clarify Eminent Domain Powers" (Emergency) — Committee on Public Utilities reporting "Ought to Pass" as Amended by Committee Amendment "A" (H-1081)

No objections having been noted, the above items were ordered to appear on the Consent Calendar of March 26 under listing of Second Day.

(H.P. 2143) (L.D. 2286) Bill "An Act to Reorganize or Repeal Certain Activities and Agencies in Maine State Government" — Committee on State Government reporting "Ought to Pass" as amended by Committee Amendment "A" (H-1079)

On the request of Mr. Dam of Skowhegan, was

Thereupon, the Report was accepted and the Bill read once. Committee Amendment "A" (H-1079) was read by the Clerk and adopted and the Bill assigned for second reading tomorrow.

#### Later Today Assigned

(H. P. 1797) (L. D. 1956) Bill "An Act Relating to Exceptional Children" (Emergency) — Committee on Education reporting "Ought to Pass" as amended by Committee Amendment "A" (H-1083)

On the request of Mr. Greenlaw of Stonington, was removed from the Consent Calendar.

Thereupon, the Report was accepted and the Bill read once.

The SPEAKER: The Chair recognizes the gentleman from Stonington, Mr. Greenlaw.

Mr. GREENLAW: Mr. Speaker, Ladies and Gentlemen of the House: I rise in support of this piece of legislation before us today, but I also rise to address some questions to, hopefully, the Chairman of the Education Committee or the Representative from Vassalboro, Mrs. Mitchell. I address questions to these two people because they, like myself, served as members from this House, together with Mr. Mackel, on the Education Finance Commission. During our deliberations, we discovered one day, talking with the Commissioner, or perhaps I might say he discovered and we discovered with him that we really did not have a handle on defining what special education was. The commission asked the Commissioner of Education to give us some recommendations for how we could make changes in the law regarding special education, and before he had an opportunity to really report back to us, I believe the good gentleman from Wayne, Mr. Ault, who was the original sponsor of this piece of legislation, had introduced L. D. 1956.

Special education, in my opinion, is perhaps one of the most important aspects of our education funding law. It has been an aspect that I think has caused us more problems in terms of estimating the cost than any other aspect of the law.

The report includes a substantial committee amendment and basically the question that I would address to Mr. Lynch or Mrs. Mitchell or any member of the Education Committee is, does the provision in the committee amendment specifically define special education in such a way that the Commissioner of Education will be able to accurately project for us special education costs in the future?

The SPEAKER: The Chair recognizes the gentleman from Livermore Falls, Mr. Lynch.

Mr. LYNCH: Mr. Speaker, Ladies and Gentlemen of the House: Because I was in opposition to special education and foresaw many of the problems the state was going to be faced with, I would rather have the bill defended, if possible, by a supporter of special education.

The SPEAKER: The Chair recognizes the gentleman from Bar Harbor, Mr. MacLeod.

Mr. MACLEOD: Mr. Speaker, I have one question that I would direct to the chairman or members of the Committee on Education as pertains to special education. It has been brought to our attention throughout the state that many of the school departments, in trying to offer or seek out a school for these children, some that are unable to be taken care of at the local level, there are contracts going out and I stand corrected on this statement, but I have understood that at least one school system sends some children out of state at a considerable cost and I am hearing some rather large figures on costs for these children. I understand there is something in this amendment, which is quite lengthy, that does address itself to this. Could somebody please give me further information on this.

The SPEAKER: The Chair recognizes the gentleman from Livermore Falls, Mr. Lynch.

Mr. LYNCH: Mr. Speaker, Ladies and Gentlemen of the House: I don't mind answering that question. I think the commissioner has the authority to approve tuition students in or out of the state to special institutions.

I think I would point out that in the school funding law, we have provided that superintendents will provide an estimate of the costs of special education tuition. He may adjust those figures so that there is no deficit in that particular part of the school funding program. If a school unit wants to go beyond what the commissioner feels they are entitled to, they would have to do it on local dollars.

The SPEAKER: The Chair recognizes the gentleman from Auburn, Mrs. Lewis.

Mrs. LEWIS: Mr. Speaker, Ladies and Gentlemen of the House: I will attempt to answer the question. I think one thing you will notice, that in tuition we have cut the increase, we used to allow a 15 percent increase from one year to the next for tuition to these schools and we now have limited it to 10 percent instead of 15 percent, so the state will not be obligated to pay any more than a 10 percent increase from one year to the next to the same school.

Then the question of Mr. Greenlaw — there are some parts of special education that are much easier to work with than others, but if you do look at the amendment, you will notice that we say that we are educating children between the ages of 5 and 20 who require special services in the area of vision, and that is not too difficult to determine: audition, speech and language, cerebral or perceptual functions. I won't go on to read it, you can read it yourselves; physical mobility functions, all of those areas, some being much easier to determine than others, but we have to remember that this whole field is very new. It is something that the state has just embarked upon and we are still feeling our way a little bit but we feel that we have a much better handle on it, and the evaluation teams that we have set up in the schools to work with us to help us determine which children are in need of special education are

able to do it much better and we feel as a committee that we do have a better handle on it in that we won't run into a deficit again in this subject.

The SPEAKER: The Chair recognizes the gentleman from Livermore Falls, Mr. Lynch.

Mr. LYNCH: Mr. Speaker, Ladies and Gentlemen of the House: I would like to voice one concern that I have in the special education program. I am concerned that mainstreaming these exceptional children into the classroom without proper safeguards, that we are having and will probably have more physical abuse of teachers. I am concerned that mainstreaming the exceptional child into the classroom may have a very disruptive effect on the education of other children in the classroom. I think the local units have to be fully aware that while we are concerned that exceptional children are provided the benefits of an education, that we safeguard the education of all the other children in the classrooms.

The SPEAKER: The Chair recognizes the gentlewoman from Portland, Mrs. Najarian.

Mrs. NAJARIAN: Mr. Speaker, Ladies and Gentlemen of the House: I have a question for any member of the Education Committee. I notice Item 6 in the Statement of Fact extends the date of compliance with the law from 1977 to 1978. I wonder if someone could explain the implications of that delay?

The SPEAKER: The gentlewoman from Portland, Mrs. Najarian, has posed a question through the Chair to anyone who may care to answer.

The Chair recognizes the gentlewoman from Vassalboro, Mrs. Mitchell.

Mrs. MITCHELL: Mr. Speaker, Ladies and Gentlemen of the House: Mrs. Najarian has prompted me to ask a question I needed to ask earlier. I have an amendment to this committee amendment. Do I need to ask to have this tabled to put it on?

The SPEAKER: The Chair would inform the gentlewoman that we will read the committee amendment and then it would be proper to table it until later today if the gentlewoman wants.

Mrs. MITCHELL: Mr. Speaker, my amendment gives you an opportunity to decide whether or not you want to delay this deadline. Personally, I am opposed to delaying the deadline, as only a small number of schools have any problems with implementation. I feel that the 108th can adequately deal with them if there are problems. The other reason I do not wish to delay the deadline, we have already gone to a 90-10 funding level, which I consider a disincentive for getting the special education programs off the ground, and then to change the deadline would be a second disincentive which I am opposed to. So for the sake of my amendment, after you have asked your questions, I suggest someone table this until later in today's session.

Thereupon, Committee Amendment "A" (H-1083) was read by the Clerk.

On motion of Mrs. Najarian of Portland, tabled pending adoption of Committee Amendment "A" and later today assigned.

The SPEAKER: The Chair would ask the Sergeant-at-Arms to escort the gentleman from Stonington, Mr. Greenlaw, to the rostrum to act as Speaker pro tem.

Thereupon, Mr. Greenlaw assumed the Chair as Speaker pro tem and Speaker Martin retired from the Hall.

#### Second Reader

##### Later Today Assigned

Bill "An Act Relating to the Geologists and Soil Scientists Certification Act" (H. P. 2240) (L. D. 2322)

Was reported by the Committee on Bills in

the Second Reading and read the second time. On motion of Mrs. Clark of Freeport, tabled pending passage to be engrossed and later today assigned.

#### Second Reader

##### Later Today Assigned

Bill "An Act to Strengthen Litter Laws and Improve Solid Waste Management in this State" (H. P. 2225) (L. D. 2315)

Was reported by the Committee on Bills in the Second Reading and read the second time.

Mr. McKernan of Bangor offered House Amendment "A" and moved its adoption.

House Amendment "A" (H-1090) was read by the Clerk.

The SPEAKER: pro tem: The Chair recognizes the gentleman from Bangor, Mr. McKernan.

Mr. MCKERNAN: Mr. Speaker, Ladies and Gentlemen of the House: Let me explain to you what this amendment does. There was what we considered could be construed to be a loophole in the bill that was passed which did not require that a deposit be charged. So this just says that a deposit shall be charged by stores on returnable beverage containers.

Also, it changes the types of containers that have to be accepted by distributors from 'clean' to 'reasonably clean'. We were afraid that people would argue what was clean and what was not. This is just a minor amendment.

Thereupon, House Amendment "A" was adopted.

The SPEAKER pro tem: The Chair recognizes the gentleman from Skowhegan, Mr. Dam.

Mr. DAM: Mr. Speaker, could this be tabled until later in today's session?

The SPEAKER: pro tem: The Chair recognizes the gentleman from Bangor, Mr. McKernan.

Mr. MCKERNAN: Mr. Speaker, I would ask for a vote.

The SPEAKER pro tem: The pending question before the House is the motion of Mr. Dam of Skowhegan, that this be tabled until later in today's session pending passage to be engrossed. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken. 46 having voted in the affirmative and 38 in the negative, the motion did prevail.

#### Passed to Be Enacted

Bill "An Act to Require Registration and Reporting of Professional Lobbyists" (Emergency) (S. P. 766) (L. D. 2313) (S. "C" S-466)

Was reported by the Committee on Bills in the Second Reading and read the second time.

Mr. Henderson of Bangor offered House Amendment "A" and moved its adoption.

House Amendment "A" (H-1084) was read by the Clerk.

The SPEAKER pro tem: The Chair recognizes the gentleman from Bangor, Mr. Henderson.

Mr. HENDERSON: Mr. Speaker, Ladies and Gentlemen of the House: This amendment restores one aspect of the original bill, and that is a limited exemption for religious organizations or religious officials. The Statement of Fact fairly indicates what this amendment does. They exempt individuals officially representing a religious society only when they speak to protect their constitutional rights to exercise their religion but not when they seek to impose their views of various kinds on others or if they seek any economic advantage. That is, if a church, let's say, is seeking a tax exemption, then they would be considered a lobbyist under the bill. If a church promotes or opposes abortion, capital punishment, imbibing of alcohol,

whatever, they would be considered lobbyists under the bill and the amendment, but if a religious society is trying to protect its own practices internally within their own organization from something that we might pass, then in that case, they are not considered lobbyists. They may come and speak about the way they practice their religion and how our legislation might impinge on them. Only in that very narrow way does it exempt them from the bill.

The SPEAKER pro tem: The Chair recognizes the gentleman from Bangor, Mr. Kelleher.

Mr. KELLEHER: Mr. Speaker, I move indefinite postponement of this amendment and I request a roll call.

The SPEAKER pro tem: The Chair recognizes the gentleman from Hampden, Mr. Farnham.

Mr. FARNHAM: Mr. Speaker, Ladies and Gentlemen of the House: I hope you will not go along with indefinite postponement. I am going to be a little bit more open than the gentleman from Bangor, Mr. Henderson.

This amendment applies, you might say, 100 percent to one group and that is the Christian Scientist — I am not one. What its purpose is is this. Very often we have bills in here that pertain to medical practices. The Christian Scientists do not lobby against that bill or those bills, only as it applies to them when we pass something that requires everyone to take a flu shot. They are not concerned that I take a flu shot, but they do not want on the books that those who oppose taking flu shots for their spiritual purposes or their beliefs should be forced to take the flu shots. In other words, they are not trying to impose their thinking or their doctrine on any one of us. What they are trying to do is say, don't impose your doctrines on us.

This is a good amendment. It was in the original bill and I hope it passes.

The SPEAKER pro tem: The Chair recognizes the gentleman from Bangor, Mr. McKernan.

Mr. MCKERNAN: Mr. Speaker, Ladies and Gentlemen of the House: I support the motion of the gentleman from Bangor, Mr. Kelleher to indefinitely postpone this amendment. I don't like to get into specifics when we discuss problems on why an amendment is presented, but the gentleman from Hampden is absolutely correct. The only person that I know of who is pushing this amendment is the person who represents the Christian Scientist Church here in front of the legislature.

The gentleman is also correct in that he does speak supposedly in order just to protect their religious beliefs. However, there are also indications that he speaks on bills, and this is one of them, by lobbying for this one. It doesn't necessarily reflect their religious beliefs. I will give you an example: The Child Abuse Act. As I recall, it says that a doctor, when treating a child who had been abused, had to report that abuse. Assume that the Christian Science Church came in to oppose that bill simply because they have the right to take care of their children as their religion dictates and they, therefore, might want an amendment for that bill. The point is that all the bill required was that doctors report these abuses, and since Christian Scientists don't go to doctors, it is not part of their belief, therefore, they should have no concern with that bill. That would be an example where they would be lobbying, claiming to be protecting their religious beliefs when, in fact, they were not. I say that only because of the statements made by the gentleman from Hampden.

I think the concern we should have is on the whole question of religion as it appears in the Constitution. We went through this, as I said



yesterday, last year, and we decided not to grant this exemption, the simple reason being that religious organizations don't have to worry about our infringing on their rights. The United States Constitution says that Congress should make no laws respecting the establishment of religion or prohibiting the free exercise thereof. That applies to state legislatures as well through the 14th amendment. They have absolutely no need to be over here, because we can't do anything that is going to infringe on their rights.

One more thing that I would like to bring out is that if we are concerned about knowing what laws will affect the Christian Science Church, we have that opportunity in two ways. The first one is that under the lobby bill, anyone who wants to may appear at a public hearing and give his views on a bill without having to register as a lobbyist. That person may also engage in what we consider to be lobbying activities for a total of eight hours every month without having to register. There is ample opportunity without even registering to protect the views of the Christian Science Church.

In addition to that, if you want to spend more time than that and actually twist arms and try to get your point of view across, you can register as a lobbyist and can express those views, just the way everyone else does.

I think this religious exemption amendment is really a red herring, because it is absolutely unneeded because there is nothing that we can do to infringe on their rights anyway, and that is the way it ought to be. Nothing we do in this legislature is going to matter because they are totally protected under the United States Constitution, so I would hope that you indefinitely postpone the amendment.

The SPEAKER pro tem: A roll call has been requested. In order for the Chair to order a roll call, it must have the expressed desire of one fifth of the members present and voting. Those in favor of a roll call vote will vote yes; those opposed will vote no.

A vote of the House was taken, and more than one fifth of the members present and voting having expressed a desire for a roll call, a roll call was ordered.

The SPEAKER pro tem: The Chair recognizes the gentleman from Bangor, Mr. Henderson.

Mr. HENDERSON: Mr. Speaker, Ladies and Gentlemen of the House: I would like to make a few rebuttal remarks. First of all, while this does affect one group, the Christian Scientists, in a very clear way, I don't think we should say that just because it affects them that we are not to consider some other possibilities.

For instance, if we did pass a law relating to days people would have to work and we said, six days a week for some certain state employees and the seventh would be a Sunday, obviously, that would interfere with some people's rights to exercise their religion, if their Sabbath came on a Saturday. As far as school lunches or other kinds of dietary rules that we might set up or allow to be set up, those also might affect the actual exercise of one religion, even though those individuals might not be trying to impose it on us.

The point has been made that we can't pass anything that is unconstitutional, but that is not literally true, we can pass things that are unconstitutional. I bet we have been able to do that from time to time.

After having done that, we really place a burden on the group, in this case the religious group that is affected, because the law would be on the books. Our state law enforcement people will be obliged to enforce that law, and in order to show otherwise, there may well be a court decision if the affected group has the resources and the gumption to test it in court and then, that takes money and time and amounts to

harassment, it would seem to me, that we might have been able to avoid if we could have considered those alternatives at the outset.

There is another element to this, and this is the problem of tax exemption for religious institutions. Some of those groups feel that if they do have to register as lobbyists, that they may be losing their tax exempt status and, as I say, from my own point of view, I don't mind that if they are promoting some kind of political cause by trying to tell me how to run my life implicitly by voting for or against something. But on the other hand, if I as a legislator tried to tell them what to do in the free exercise of their own religion, then I don't think they should have to risk the possibility of losing their tax exempt status merely to defend what they feel is their constitutional right.

Finally, I do think we have a problem, generally, of moral leadership and inhibition on the part of some groups. I think, to speak out on very important issues, and I afraid that that is true of the religious community as well as many other communities. I would like not to do anything that would inhibit that any more than is necessary, and I think this exemption will at least leave the door open for people to speak out on what they feel directly affects their own individual practice without possibly being subject to harassment later on.

The SPEAKER pro tem: The Chair recognizes the gentleman from Bangor, Mr. McKernan.

Mr. MCKERNAN: Mr. Speaker, Ladies and Gentlemen of the House: Very briefly, in response to the arguments of the gentleman from Bangor concerning the tax exempt status, it is Section 501C3 of the Internal Revenue Code which grants religious organizations tax exempt status. That section has had occasion to be litigated and numerous court decisions on lobbying by those groups.

I would like to read you one quote from Haswell vs. the U.S. Court of Claims — decision made in 1974, which says "An organization which engages in substantial activities and influencing legislation is disqualified from a tax exemption, whatever the motivation." So, what we do here is going to have absolutely no effect and religious organizations cannot come over here and do anything which is lobbying which just has an effect on legislation, regardless of whether we call it lobbying or not.

The SPEAKER pro tem: The pending question before the House is on the motion of gentleman from Bangor, Mr. Kelleher, that House Amendment "A" be indefinitely postponed. Those in favor will vote yes; those opposed will vote no.

#### ROLL CALL

YEA — Albert, Bennett, Berry, P. P.; Berube, Birt, Blodgett, Boudreau, Bowie, Burns, Bustin, Byers, Call, Carey, Carroll, Carter, Churchill, Connors, Cote, Curran, R.; Drigotas, Dudley, Dyer, Farley, Faucher, Fenlason, Finemore, Flanagan, Fraser, Garsoe, Goodwin, H.; Gould, Hall, Hennessey, Higgins, Hobbins, Hunter, Hutchings, Immonen, Jackson, Jacques, Joyce, Kelleher, Kennedy, Laffin, Laverty, Leonard, Lewin, Littlefield, Lizotte, Lovell, Lynch, MacEachern, Mackel, MacLeod, Mahany, Martin, A.; Martin, R.; Maxwell, McBreairty, McKernan, McMahon, Mills, Miskavage, Morton, Mulhern, Nadeau, Norris, Palmer, Peakes, Perkins, S.; Perkins, T.; Peterson, P.; Peterson, T.; Pierce, Post, Powell, Raymond, Rolde, Rollins, Silverman, Snow, Spencer, Sprowl, Stubbs, Susi, Tarr, Teague, Theriault, Tozier, Truman, Twitchell, Tyndale, Usher, Walker, Webber, Wilfong.

NAY — Ault, Bachrach, Bagley, Berry, G. W.; Chonko, Clark, Connolly, Cooney, Cox, Curran, P.; Curtis, Dam, Davies, Doak, Dow, Durgin, Farnham, Gauthier, Goodwin, K.;

Gray, Henderson, Hewes, Hinds, Hughes, Ingegneri, Jensen, Kany, Kauffman, Kelley, LaPointe, Lewis, Lunt, Mitchell, Morin, Najarian, Pearson, Pelosi, Quinn, Rideout, Saunders, Shute, Snowe, Talbot, Tierney, Torrey, Wagner, Winship.

ABSENT — Carpenter, DeVane, Greenlaw, Jalbert, LeBlanc, Smith, Strout.

Yes, 96; No, 47; Absent, 7.

The SPEAKER pro tem: Ninety-six having voted in the affirmative and forty-seven in the negative, with seven being absent, the motion does prevail.

Mr. Quinn of Gorham offered House Amendment "B" and moved its adoption.

House Amendment "B" (H-1088) was read by the Clerk.

The SPEAKER pro tem: The Chair recognizes the gentleman from Gorham, Mr. Quinn.

Mr. QUINN: Mr. Speaker, Ladies and Gentlemen of the House: After the discussion we had yesterday on the two versions of the lobbyist bill, there was no doubt about the intention of the House, they preferred the minority report. I feel that since it is very definitely in the interest of this legislature and of the State of Maine to have a lobbyist bill, I did my best yesterday afternoon and today to work out the compromises for those positions which we on the majority of the committee felt should be included.

I will offer two amendments today, one is not yet printed and we may have to table to get it out, but the amendment you have before you is the one rock on which the ship may founder. All of the other amendments that you will see, at least from me, have been agreed. This particular one we could not reach compromise on and it is a very simple one and I will speak to it only briefly in substance.

Presently, when a lobbyist reports under the bill that we passed yesterday, the lobbyist reports only that time spent on the third floor of the State House. I feel, and the majority of the committee feels, that this does not prevent the reasonably accurate picture of the economic impact on the legislative process which is, after all, the name of the game. This is why we are concerned with the entire question of lobbying.

I don't feel and I don't think any member of our committee feels that lobbyists are improper or immoral or I don't believe that they try to buy things for us or influence us unfairly, in no way. They are as far as I know, sincerely honest, able men, well worth the money they earn. But there lies the key to this whole question. How much money do they earn? The only figures that we have available accurately, the most recent appear for the special session of the last legislature and in that session more money was reported as paid to lobbyists than the entire expense of the legislature. Now, that is a self-evident thing. People don't spend large amounts of money unless they feel they are getting their money's worth consistently over a period of time.

I don't feel that the lobbyists influenced the 106th or influenced the 107th in immoral or illegal or in fattening ways, for that matter. I simply feel that there is a very real impact in our economy and in our society that is expressed through the activities of the lobbyists, and I think that is and should be very properly a matter of open record for everybody to see and everybody to understand.

If a lobbyist reports only the time spent on the third floor of the State House, the implications of what they don't have to report are obvious, and I quote again the example I used yesterday. The Portland Water District, under the amendment I will offer this afternoon, will have to register as a lobbyist if they attempt to influence legislation. They had a new charter last year that brought all the laws since 1907 up to

date. That was a major piece of legal work, a major piece of effort to affect the laws of the State of Maine. They reported that they spent \$865 for the services of Verrill Dana, and so forth for this service, and the reason, you know as well as I do, that that cost them thousands and thousands of dollars, but the reporting made by Verrill Dana was a perfectly legitimate report under the old law. All they reported was the time they spent shaking hands on the floor, convincing people on the floor, using their considerable persuasive powers here in this building. They did not report the time they used for drafting, planning, considering, strategy conferences, telephones, trips, all of these things that went into, I submit, the influencing of legislation in the final analysis and that is your question. If you vote for this amendment, this amendment attempts to require that they report all of their activities which are directly or indirectly connected with attempts to influence legislation, and that they will no longer be allowed this wide gate to drive through of avoiding reporting their legal expenses. I, therefore, urge that you support the amendment.

The SPEAKER pro tem: The Chair recognizes the gentleman from Pittsfield, Mr. Susi.

Mr. SUSI: Mr. Speaker, Ladies and Gentlemen of the House: I would like to support the amendment. In my opinion, this amendment is the very heart of this issue of lobbyist disclosure. Without it, I wouldn't give a nickel for it, we have got just a shell. It is of no use to me nor any member of the public to go down to the Secretary of State's Office and find out that some person has reported that he spent so many hours in the corridors out here in the state house. It doesn't mean a thing to me nor anyone in the public, it is no indication of anything. If you can go down there however, and find out that 20, 50 or more thousands of dollars are being spent on an issue, immediately, the scope of that issue is identified as being a serious issue and something that deserves our attention because it has been identified through large expenditures as an important issue. Without this amendment, we are nowhere. We have no lobbyist bill that is worth the name.

People might say, look, why do you or anyone else care how much one of these people out here make for an income? I could care less so long as they confine their activities to private affairs, but we all agree, without any question, that lobbying is an integral part of the legislative process and a very important part. The previous speaker has indicated that in a special session more was spent on lobbying than there was on all of our salaries and everything involved here. Now, certainly you have to recognize that this is an important part of the legislative process.

Further, every cent that is spent on every other element of the legislative process is public record, the public you or I or anyone else can identify, just exactly how much is spent in every element of the legislative process, except lobbying. If we don't put this amendment on and if we aren't successful in keeping it on, we still won't know how much is being spent on lobbying and neither will the public, we will have done nothing.

I hope that you support the amendment without it we have wasted our time.

The SPEAKER pro tem: The Chair recognizes the gentleman from Enfield, Mr. Dudley.

Mr. DUDLEY: Mr. Speaker, Ladies and Gentlemen of the House: I draw a line on this amendment. I think a lobbyist is when he is here, lobbying people, and what he gets for pay should be a separate bill. If you want to know what people are paid, that work for a company, that should be a bill, if you want to pass it, to

find out what everybody is paid in the State of Maine, the vice president of a company or assistant vice president or the legal counsel of a company, that is one thing, but when you are talking about a lobby bill, you are talking about what went on in this building.

Now, I come here pretty early in the morning and what I do is a matter of record during the day, but what I do evenings and weekends, that is my business and I don't think that is part of my work here and I don't think what they do other than in this building, lobbying, I view it in the same light. What they draw for pay, if you want to know, should be a separate bill. It should be put in as such, that you want to know what people are paid in the State of Maine.

What I am interested in, and I think what this bill deals with is what lobbying is done within this building. I think what the man draws for his salary by the year or what he gets for legal fee, that has no bearing whatsoever on lobbying.

Now, it tends to point a bad picture to the public when it says in the press that this lobbyist got \$50,000. Why, my God, they say, that is enough that he could have bought all them people a new automobile. This is not the case. This is not what he got while he was lobbying here in the building and it points a bad picture or image to the people of this state. They think that these lobbyists are getting this \$100,000 and \$50,000 to come down here and make you people better off. This, I know, is absolutely not the case. This was his salary for legal fee or his salary for the year as vice president of the company or his legal counsel for the company.

I think we should have a record for what he done while he was here, that I will go along with, but when you start putting big figures like this in the paper, it makes us look like they was down here dividing it with us, and I think it even makes us look bad. I hope that if you want to know what people get for pay, that you put that in under a different bill, that has nothing to do with lobbying.

The SPEAKER pro tem: The Chair recognizes the gentleman from Bangor, Mr. McKernan.

Mr. MCKERNAN: Mr. Speaker, Ladies and Gentlemen of the House: I also oppose this amendment. This is a major provision that we rejected yesterday and we accepted the minority report. Now it is back in front of us trying to be put back into the bill.

I would like to make a couple of comments. The first one, really is more of a rhetorical question to the gentleman from Gorham, Mr. Quinn, and that is, if he is so interested in this Portland Water District Bill that he keeps talking about, has talked about yesterday on this very issue and again today, I just question whether or not he has gone and looked at the records of the Portland Water District to find out just how much they did spend to have that bill drafted.

Secondly, I am in disagreement with my good friend from Pittsfield, Mr. Susi, whom I do not disagree very often, but I think in this particular issue, he is also missing the point. What we are talking about here is whether or not money spent in a private arrangement between an employer and somebody who wants a contract with that employer, probably a law firm, is anything that we in the legislature should be concerned with.

I used a couple of examples yesterday, I would like to use them again to try to drive home my point which is that this particular point is terribly unfair. The main reason is that only lobbyist are required to file any reports. So, what we are saying, if we pass this amendment, is that to use Mr. Quinn's example, if, in fact, the law firm of Verrill Dana drafted the charter change for the Portland Water District and if, in fact, and I don't have the facts on this whether or not they lobbied for the bill, assume

that both occurred, under this amendment we should be able to find out how much the Portland Water District paid to have the bill drafted and to consult with them, as well as what was spent actually communicating with legislators. I think we should know how much time was spent passing the bill, how much time was spent by a lobbyist communicating with any member of this body, or the body at the other end of the hall. I think that is important because that is the only time we are influenced.

To give you an example, as I said, only lobbyist are required to file with the Secretary of States Office. Again, yesterday I said that my law firm does not lobby but we do draft legislation for somebody. We do represent Bangor-Hydro Electric Company. Now what if Bangor-Hydro came to our law firm, asked us to draft a piece of legislation, and according to Mr. Quinn, major piece of legislation, that we charge \$2,500 or \$3,000 just for the drafting time, doing the actual mechanical work of looking up and finding out how to draft a bill, then Harold Beckett, who is a registered lobbyist for the Bangor-Hydro is over here, the bill is introduced by someone from Bangor and Mr. Beckett files \$200 for lobbying. That is all he has to file, and you are never going to know what Bangor-Hydro paid to have the bill drafted and what difference does it make? I certainly don't think we want to extend this to say that anyone who drafts a piece of legislation has to file a report saying how much they were compensated for it, if they never appear in front of the legislature and no one ever knows who drafts it. The same thing would apply, — our law firm represents one of the major beer distributors. Now, what if someone in our law firm, God forbid, drafted an amendment against the bottle bill, and Ken MacLeod lobbied for it. You would never know how much our law firm was paid for that amendment. You would know how much money that Ken MacLeod received for trying to influence the rest of us to go along with it and that is what we ought to find out. I think that this is unfair and really it is impossible, I think, to write an amendment or a bill which is going to get at activities that really take place apart from the legislature. Right in the bill, is a provision that says that any drafting which is done while communicating with a legislator or any action that is taken by a lobbyist trying to influence a legislator to draft legislation or to work with a lobbyist in drafting legislation, has to be reported. That is really what we are talking about, communications with legislators, that is what we want to get at. Under the bill without the amendment, that is taken care of.

I hope that this bill would be indefinitely postponed.

The SPEAKER pro tem: The Chair recognizes the gentleman from Gorham, Mr. Quinn.

Mr. QUINN: Mr. Speaker, Ladies and Gentlemen of the House: The gentleman from Bangor, Mr. McKernan, posed a rhetorical question to me and on a subject as important as this, I will answer rhetorical questions as well as factual questions. The first question he posed was, he suggests that I search Portland Water District records for how much they actually did pay for this particular piece of legislation. I did, I discovered that they paid \$28,000 to some organization known as the Maine Association of Public Utilities but since they had not employed a lobbyist themselves, according to the record, I couldn't find out if they had, in fact, paid Verrill Dana. I also discovered that they had paid \$16,000 or \$18,000 to several law firms but whether that was for labor negotiations or not, I don't know. The point I make is, there is no way to find out, that is a simple fact, smoke screen or no.

Mr. McKernan must have cheaper legal rates in Bangor if he considers a major piece of

work to be worth only \$2,500 then I shall take my legal work to Bangor in the future. I would consider that, under legal fees today at the rate of \$60 an hour a relatively minor piece of work. That brings us back to the question again of what we are trying to do. In all fairness, Mr. McKernan points out something that is a weakness, it is true, the way the law is structured, this law we adopted yesterday, that a company or a person who wishes to avoid reporting this can, in fact, hire one firm of attorneys and can, in fact, pay them and then can hire another firm of attorneys as lobbyists and they will have escaped through this door. That is only one of the doors this bill you adopted yesterday has, there are some that are double doors through which you can drive trucks. This happens to be one and all I am attempting to do is put one small dam in the way of the flood of evasion that will exist with this bill if people do choose to use it as evasion. Frankly, I don't think they do. From the lobbyist reports that I have studied and contrary to what people tell you, people do go to the Secretary of State's Office and look at them. They are honest, open, above board, straight-forward reports and I have never detected anyone that is trying to evade. They do exactly what attorneys are trained to do, they do what the law tells them, they do no more, and I don't blame them.

This is an imperfect attempt to get at this kind of information, it is granted that if a person wishes to systematically evade it, they may. Nevertheless it is an honest attempt, it will do no harm to the profession of lobbying, it may provide some information for us and it will give us a very definite step in the direction of, hopefully, repairing this relatively loose law in years to come.

One final comment I would make, is addressed to the gentleman from Enfield, Mr. Dudley. I am not interested in either the total pay of a lobbyist or Mr. Dudley's evening activities. I am interested only in those portions of a lobbyist time which are spent in preparation of material which attempts to influence legislation. He, too, may spend the rest of his evenings entirely free from my surveillance.

The SPEAKER pro tem: The Chair recognizes the gentleman from Standish, Mr. Spencer.

Mr. SPENCER: Mr. Speaker, Ladies and Gentlemen of the House: I rise to support the amendment proposed by Representative Quinn of Gorham. It seems to me that one of the critical issues that the public ought to be legitimately concerned about is the total impact of the private sector on the legislative process. I think that if you are talking only about the time that is actually spent in these halls, you see only a very thin slice of the time and resources that are actually devoted to shaping the legislative future of the state.

I think that Mr. McKernan is correct, that there is going to be, even with this amendment, a large area of legal work that is done on behalf of people who have particular axes to grind in the legislature, that will not be visible. I think that is not an argument as to why Representative Quinn's amendment should not be adopted but perhaps why we should continue to look at this thing in the future and see if the overall impact of the people who are trying to shape and influence legislation, can be more fully covered. I think the amendment before us is an important one and I think that without it, you really are not giving the public any real sense of the magnitude of the efforts that are made to shape the legislation that we see. I would urge you to support Representative Quinn's amendment.

The SPEAKER pro tem: The Chair recognizes the gentleman from Pittsfield, Mr. Susti.

Mr. SUSTI: Mr. Speaker, Ladies and Gentlemen of the House: The point has been made here that if we allow this amendment to become part of our lobbyist disclosure law, then it will be a situation where the public will be informed of the tremendous amounts of money that are being spent on affecting legislation here and it will make us look cheap and everything. My reaction to this situation is exactly the opposite. So long as we continue to attempt or to be a part of an effort which is leading to sweeping this under the rug, keeping all the reports on an unofficial basis in the form of rumors and all, then I think that we continue in a situation where we lack the public confidence in this area.

If we come out and adopt a meaningful lobbyist disclosure bill where people will be reporting what their fees are, then I think that the people in the public, our constituents, can adopt a reasonable attitude towards it. I think that we are fast approaching a time when we are going to have to make this a part of the public record. I hope that it is today. I hope you will support this amendment.

The SPEAKER pro tem: The Chair recognizes the gentleman from Skowhegan, Mr. Dam.

Mr. DAM: Mr. Speaker, Ladies and Gentlemen of the House: I would hope that you would not support this amendment. It seems kind of strange to me that some of the speakers that have spoken previously in support of this amendment, could do so, after the position they took when it came to the snoop book regarding state employees salaries which are directly paid by the taxpayers. Now, if they are interested in disclosing everything to the public, why was not the interest just as strong at that time so we could have a state salary so if anybody asked us who was getting paid what, we could report to them.

It seems to me that this is merely an attempt to really open up and find out just what is going to certain firms and to the lobbyist. I have no objection. I believe I feel the same as Mr. McKernan. I have no objection to what the lobbyist receives, this should be a matter of public record, but what private firms receive, this is a matter of their own business, this is not a matter of the legislature and is not a matter of the people of this state, this has nothing to do with the lobbying. If a bill is drafted, and I am sure that many of you people have had a lobbyist draft a bill for you and they have not charged us, they have done it for nothing because we have asked them to do it as a favor. I am sure that this has happened, I am sure that many of the lobbyists would draft bills for private individuals if the individual did not have the way to make payment for them such as a corporation would have, so, I can see that this is really tightening up where it can be really hard to get bills drafted by individuals if the individual citizen wanted a change made and maybe their legislator wasn't exactly keen to the idea, he would say, yes, he would have it done but he could have it drafted in the way that it would defeat the purpose of that individual. If that individual had a chance to come down here and sit down and talk with the lobbyist and explain their position, then they could, hopefully, get a bill drafted and get it presented to really reflect their views. Personally, I think this is a bad amendment and we should indefinitely postpone it.

The SPEAKER pro tem: The pending question is on the motion of the gentleman from Gorham, Mr. Quinn, that House Amendment "B" be adopted. All in favor of that motion will vote yes; those opposed will vote no.

A vote of the House was taken.

Mrs. Najarian of Portland requested a roll call vote.

The SPEAKER pro tem: A roll call has been requested. For the Chair to order a roll call, it must have the expressed desire of one fifth of the members present and voting. All those desiring a roll call vote will vote yes; those opposed will vote no.

A vote of the House was taken, and more than one fifth of the members present having expressed a desire for a roll call, a roll call was ordered.

The SPEAKER pro tem: The Chair recognizes the gentleman from Durham, Mr. Tierney.

Mr. TIERNEY: Mr. Speaker, Ladies and Gentlemen of the House: I rise to speak in favor of this amendment. I would like to tell you what I consider the major fallacy to be in the argument made by the eminent legislator from Bangor, Mr. McKernan.

The underlying assumption in Mr. McKernan's argument is that research, drafting, and consultation is a process distinct from the lobbying process. Lobbying process being defined in the bill as an attempt to communicate with legislators, to sway legislators in order to enact law. This basic assumption on the part of Mr. McKernan is wrong. It is obviously wrong. If a person drafts a bill, he is drafting that bill with an eye towards success and that eye by definition, will be calculated to meet the varying arguments and the varying points which a particular interest group might bring. So the very drafting process itself is extremely political. It is not something done in isolation, and the consultation is even more apparent. Consultation, as we know, the very many, many groups come to Augusta on a regular basis and they meet and they consult outside of these halls and this is information that the people want to know. Ladies and gentlemen of the house, research, drafting and consultation is an essential part of lobbying. This is a good amendment, it should be passed because the public wants to know.

The SPEAKER pro tem: The Chair recognizes the gentleman from Cumberland, Mr. Garsoe.

Mr. GARSOE: Mr. Speaker, Ladies and Gentlemen of the House: I would hope you would not approve this amendment. I would just like to bring us back to what I think we are really talking about.

I don't believe this legislation is something we need. In fact, we have been functioning here since January with absolutely no protection at all from the lobby. I hope none of you have had any bad experiences or feel threatened, this is for the public's interest.

The definition of lobbyist is to communicate directly with any official in the legislative branch for the purpose of influencing legislation when you are paid for it. This is what we should hang on to. I will submit that it is of no consequence on my vote as to the amount of hours or the degree of skill that was spent in drafting. We are trying to put something here that will reinforce the public's confidence in the operation that goes on here. I think there is a public interest in knowing that there are people up here who, for pay, are attempting to influence our votes. When it goes beyond that, we are beginning to branch out into the never, never land of dotting all the t's and crossing all the i's.

I would hope we confine this to what lobbying is. It is the impact that it has on us as legislators, this should be made a matter of public knowledge unless it titillates you in some way to know how much money was spent in drafting. I submit it has absolutely no worth at all, I hope we would not adopt this amendment.

The SPEAKER pro tem: The Chair recognizes the gentleman from Lewiston, Mr. Jalbert.

Mr. JALBERT: Mr. Speaker, Ladies and Gentlemen of the House: I wouldn't be so im-

polite as to say to my very fine young friend from my area, Mr. Tierney, that the remarks he made could verge a little bit on the asinine.

You know, we are right back to where we were yesterday. I would like to ask any of you here to raise your hand, all of you here raise your hand who have been asked, at any time, who drafted this bill? One, two, maybe, seven or eight. Thirty-two years — I mean I have had bills here that I presented, I have written to California to send me a copy of the bill, they send me the copy of the bill, I have taken the name off whosever bill was on, dropped it into the hopper and that is the end of it. What difference does it make if 6,500 people get together in Portland or in Chicopee Falls and draft a bill. What influence is that going to have here? The influence, if there is to be influence, is by the members of the third house and you have got two things to do, listen to them, and don't listen to them. One or the other. We are right back to where we were before and, as usual, I disagree with the gentleman from Pittsfield, Mr. Susi, because as usual he is wrong.

The SPEAKER pro tem: The Chair recognizes the gentleman from Ellsworth, Mr. DeVane.

Mr. DeVANE: Mr. Speaker, Ladies and Gentlemen of the House: I would direct a question through the Chair to the gentleman Mr. Tierney. Do I understand logically then, sir, that bills that are drafted, say, by committee aides and by departments would be non-political or any less political than those that you have told us are political, because they are drafted by a lobbyist?

The SPEAKER pro tem: The gentleman from Ellsworth, Mr. DeVane, poses a question through the Chair to the gentleman from Durham, Mr. Tierney, who may answer if he so desires.

The Chair recognizes that gentleman.

Mr. TIERNEY: Mr. Speaker, Ladies and Gentlemen of the House: Of course, any amendment drafted per the direction of a legislator has political ramifications, and just as obviously, that is not the issue before us because the question of a staff assistant, who is drafting a piece of legislation, his compensation, he is an employee of the legislature, he is not an employee of an outside interest group. The question which we are trying to find out is the amount of money spent by outside interest groups in order to secure their particular needs before the people of this state and we are their vehicle. I think the people want to know that information.

The SPEAKER pro tem: The Chair recognizes the gentleman from Standish, Mr. Spencer.

Mr. SPENCER: Mr. Speaker, Ladies and Gentlemen of the House: I think that, in this debate, at least a certain element is being missed, which is that the impact of the private interests on the legislative process goes far beyond simply influencing how individual members vote on a particular piece of legislation. The real shaping force I think, is the direction that the legislature takes to a large extent in the determination of what is, in fact, presented to the legislature for its decision. An example that occurs to me is the whole area of current use taxation.

In 1971, the state passed a constitutional amendment to allow current use taxation of timberland, farm land, and open space.

Immediately after that provision was approved in referendum, the forest landowners got together and drafted a very good bill for current use taxation for forest land. There was a very ineffective bill put together for agricultural land. So, the decision that the legislature made was to tax forest land at current use but really not to tax farm land at current use. Now, that was not a decision that

was actually — if someone had been asked to vote on that issue, no one probably would have voted that way but because the people who were retained to look out for the forest landowners, drafted an effective forest land bill, that is what the legislature acted on. I think that is what the public, to a large extent is interested in seeing what forces are at work in the legislative process and I think if we confine the disclosure to the time that is actually spent on the third floor of the state house, we are only allowing them to be aware of a very small part of the actual process that is going on and I think the public ought to be able to see where money is being spent to shape legislation. I think that the Quinn amendment is essential to give them any real understanding of what processes are at work in shaping the legislation that this state is enacting.

The SPEAKER pro tem: The Chair recognizes the gentleman from Brewer, Mr. Norris.

Mr. NORRIS: Mr. Speaker, Ladies and Gentlemen of the House: I would just say, briefly, I am confused, as I usually am, with this bill, this type of legislation and particularly this amendment because my experience the few semesters I have been here, has been that if somebody were foolish enough to pay somebody \$500 or \$5,000 or \$25,000 to draft a piece of legislation to present to this legislature would be a fool and his money soon parted because I have never seen anything come here but was torn apart and put back together and changed and rechanged and then like this bill that we have before us this morning, amended seven or eight or ten times. So, if anybody thinks they are going to influence legislation by the person that drafts it, I think they are completely being misled. This conversation this morning is completely misleading the public or any group that thinks that the price of the drafting of the legislation will have any effect at all on its effectiveness or the way it goes through here. I would hope that you would vote against this amendment.

The SPEAKER pro tem: The Chair recognizes the gentleman from Sanford, Mr. Gauthier.

Mr. GAUTHIER: Mr. Speaker, Ladies and Gentlemen of the House: In regard to the statement made by my dear, dear friend, Mr. Jalbert, I would like to say that I have been here in the legislature for several years with Mr. Jalbert and Mr. Susi, but I would say this morning that Mr. Susi is dead right.

The SPEAKER pro tem: The Chair recognizes the gentleman from Biddeford, Mr. Farley.

Mr. FARLEY: Mr. Speaker, Ladies and Gentlemen of the House: This bill leaves me a little — I don't know exactly what to do — but it leaves me with some questions I would like to ask. If we are going to in fact ask the lobbyist or professional lobbyist to submit expenses for lobbying or drafting of legislation come August or September or October, how much it costs them, what about groups like PURG? Are they going to have to also report, and what do we do, dip into the University of Maine budget or to different budgets as to where that money comes from? If we are going to play the game here of reporting, let's do it for everybody. I would love to see just how much money — some of these consumer groups, where they come from, and see how much money they spend into it. I am sure in the end result the consumer groups spend a lot of time, who are not professional people, I assure you, but surely there is much time put into, as much lobbying done when it gets here. People are going to look at each report and say, well, the big bad boys, they influence, and the little guys with just a few dollars they — but I think we all know different. I think if we are going to do it for one group we

ought to do it for all groups. I think in a lot of cases we are not going to get accurate reports, and it is something that will deceive the public. I would ask you to please indefinitely postpone this amendment.

Mr. Quinn of Gorham was granted permission to speak a third time.

Mr. QUINN: Mr. Speaker, Ladies and Gentlemen of the House: In answer to what I understood to be a question from Mr. Farley of Biddeford, PURG will have to register. PURG will have to report their preparation and consultation time. The only people who will be excluded from this are people who are not lobbyist or municipalities of the State of Maine or the University of Maine and the Maritime school. But with those exceptions which you will get to address in another amendment in just a minute, the fact remains, in answer to your question, PURG and all of those other groups will report exactly the same as will Verrill and Dana.

The SPEAKER pro tem: The Chair recognizes the gentleman from Kennebunkport, Mr. Tyndale.

Mr. TYNDALE: Mr. Speaker, Ladies and Gentlemen of the House: I have been around here a few years myself, too. If I would ever be so naive to believe that a professional lobbyist who is interested in a vested interest in preparing such legislation would be rather foolish to prepare it so as not to deceive you on the point of the legislation, I think that Mr. Susi is perfectly right in this case.

The SPEAKER pro tem: A roll call has been ordered. The pending question is on the motion of the gentleman from Gorham, Mr. Quinn, that House Amendment "B" be adopted. All in favor of that motion will vote yes; those opposed will vote no.

#### ROLL CALL

YEA — Bachrach, Berry, P. P.; Blodgett, Boudreau, Burns, Bustin, Carpenter, Carroll, Chonko, Clark, Connolly, Cooney, Cox, Curran, P.; Davies, Dow, Drigotas, Farnham, Faucher, Fenlason, Flanagan, Gauthier, Goodwin, K.; Greenlaw, Hall, Henderson, Hennessey, Hewes, Hinds, Hobbins, Hughes, Ingegneri, Jensen, Joyce, Kany, Kennedy, Laffin, LaPointe, MacEachern, Martin, R.; Maxwell, McMahon, Mitchell, Morin, Mulhern, Nadeau, Najarian, Peakes, Pearson, Pelosi, Perkins, S.; Peterson, T.; Post, Powell, Quinn, Saunders, Shute, Smith, Snowe, Spencer, Sprowl, Susi, Talbot, Tierney, Truman, Tyndale, Usher, Wagner, Wilfong, Winship.

NAY — Albert, Ault, Bagley, Bennett, Berry, G. W.; Berube, Birt, Bowie, Byers, Carey, Carter, Churchill, Connors, Cote, Curran, R.; Curtis, Dam, DeVane, Doak, Dudley, Durgin, Dyer, Farley, Finemore, Fraser, Garsoe, Gray, Higgins, Hunter, Hutchings, Jackson, Jacques, Jalbert, Kauffman, Kelleher, Kelley, Laverty, LeBlanc, Leonard, Lewis, Littlefield, Lizotte, Lovell, Lunt, Lynch, Mackel, MacLeod, Mahany, Martin, A.; McBreaity, McKernan, Mills, Miskavage, Morton, Norris, Palmer, Perkins, T.; Pierce, Raymond, Rideout, Rolde, Rollins, Silverman, Snow, Stubbs, Tarr, Teague, Theriault, Torrey, Tozier, Twitchell, Walker, Webber.

ABSENT — Call, Goodwin, H.; Gould, Immonen, Lewin, Peterson, P.; Strout.

The SPEAKER pro tem: Yes, 70; No, 73; Absent, 7.

The SPEAKER pro tem: Seventy having voted in the affirmative, and seventy-three in the negative, with seven being absent, the motion does not prevail.

Mr. Palmer of Nobleboro moved the House reconsider its action whereby House Amendment "B" failed of adoption.

Mr. Peterson of Windham moved the reconsideration motion be tabled and later today assigned.



Mr. Kelleher of Bangor requested a vote on the tabling motion.

The SPEAKER pro tem: The pending question is on the motion of the gentleman from Windham, Mr. Peterson, that this matter be tabled and later today assigned, pending the motion of the gentleman from Nobleboro, Mr. Palmer to reconsider. All in favor of that motion will vote yes; those opposed will vote no.

A vote of the House was taken.

57 having voted in the affirmative and 82 having voted in the negative, the motion did not prevail.

Mr. Spencer of Standish requested a roll call vote on the motion to reconsider.

The SPEAKER pro tem: A roll call has been requested. For the Chair to order a roll call, it must have the expressed desire of one fifth of the members present and voting. All those desiring a roll call vote will vote yes; those opposed will vote no.

A vote of the House was taken, and more than one fifth of the members present having expressed a desire for a roll call, a roll call was ordered.

The SPEAKER pro tem: The Chair recognizes the gentleman from York, Mr. Rolde.

Mr. ROLDE: Mr. Speaker, Ladies and Gentlemen of the House: I have been quite torn on this particular amendment and I had wanted in the previous debate to ask a question. I would like to pose this question to anyone who may care to answer. What exactly is meant by consultation under the amendment? Does that relate to specific legislation that is being drafted or does that relate to any type of discussion that anyone would have with a potential lobbyist?

The SPEAKER pro tem: The gentleman from York, Mr. Rolde, poses a question through the Chair to any member who cares to answer.

The Chair recognizes the gentleman from Gorham, Mr. Quinn.

Mr. QUINN: Mr. Speaker, Ladies and Gentlemen of the House in answer to the question, consultation means anything for which reimbursement is received, which consultation aims to promote the influence of legislation.

The SPEAKER pro tem: The Chair recognizes the gentleman from Kennebunkport, Mr. Tyndale.

Mr. TYNDALE: Mr. Speaker, Ladies and Gentlemen of the House: Perhaps I did not make myself clear in my last statement. This is what I wanted to get the point over to you; you can not separate that particular advice and consultation and also in the writing of legislation, because you all realize that if a man is hired to certainly get over a piece of legislation, he is going to write the legislation slanted in that direction. I hope you will carefully consider this and reconsider the last vote.

The SPEAKER pro tem: The Chair recognizes the gentleman from Bangor, Mr. McKernan.

Mr. MCKERNAN: Mr. Speaker, Ladies and Gentlemen of the House: I hope that you will not reconsider our action. We have debated it now for two days and both days we have decided this should not be included in our lobbyist bill.

In response to the gentleman from Kennebunkport, Mr. Tyndale, I would say that I would hope that anybody that drafted legislation would slant it in the direction that they hoped the legislation would go. I think that is a total red herring in this bill.

The SPEAKER pro tem: The Chair recognizes the gentleman from Kennebunkport, Mr. Tyndale.

Mr. TYNDALE: Mr. Speaker, Ladies and Gentlemen of the House: In answer to my dear friend, Mr. McKernan, I don't think it is a red herring at all. Certainly, he as a lawyer ought to know better than that.

The SPEAKER pro tem: The Chair

recognizes the gentleman from Windham, Mr. Peterson.

Mr. PETERSON: Mr. Speaker, Ladies and Gentlemen of the House: It seems to me that if one has the ability, and usually when one hires somebody to draft legislation, that person has an amazing way with the word, the written word and the oral word, and you go to that person because you want him to present legislation reflecting your perspective. We are all politicians in this room. We know that when we ask certain questions of people, oftentimes the framing of that question elicits a certain response, we all know that. Those that have been around here a little while are masters at it.

Now, it seems completely fool-hardy not to consider, under the lobbyist disclosure law, those activities which one engages in, one researches, one consults, one refines his persuasive argument or his persuasive perspective to pass the legislature. That is what they pay people like myself — I don't receive \$60 an hour but some people, I understand, do, and more, to draft legislation. Now, if you are going to pay that kind of money, you are going to want it to be framed in a way that is favorable to your perspective and possibly not to the perspective of the public which we represent, and that is why I think it is important to find out every cent that is spent to influence the laws of this state. I believe that is what this amendment does. I wish you would support reconsideration.

The SPEAKER pro tem: The Chair recognizes the gentleman from Owls Head, Mrs. Post.

Mrs. POST: Mr. Speaker, Men and Women of the House: It seems to me in reading over this, the bill and the amendment which we have before us, that perhaps what the amendment does is close a rather large loophole, and there are many in the bill that I think need closing, but perhaps this is one that deals with one, in that all the way through we talked about how much a lobbyist actually gets paid but we never talked about how much is necessarily spent to defeat a piece of legislation. I think that we are all very familiar with the setup some of the lobbyists work under, that maybe the law firm may indeed be paid \$10,000 to lobby a particular bill, while the actual lobbyist who is out here performing the function may only get paid \$5,000. This particular amendment would help to close that loophole somewhat and would require that we have a much more accurate listing of the expenditures which are made to either promote or defeat a particular bill. I would urge you to reconsider this if you expect to have a lobbying bill which has any teeth in it at all.

The SPEAKER pro tem: The Chair recognizes the gentleman from Lewiston, Mr. Jalbert.

Mr. JALBERT: Mr. Speaker and Members of the House: This should partially answer my very good friend from Kennebunkport, Mr. Tyndale. It certainly would answer my young friend from Windham, Mr. Peterson. I can go down to see David Silsby and tell him I want a bill drafted and I tell him what I want in the bill from the beginning of the bill, including the commas, the semicolons or colons and the periods, and he puts it down there the way I want it for nothing.

The SPEAKER pro tem: The Chair recognizes the gentleman from Orono, Mr. Wagner.

Mr. WAGNER: Mr. Speaker, Ladies and Gentlemen of the House: I hope you will very carefully listen to what we have said this morning and will reconsider our action on this. I think this is one of the crucial votes of the session.

A few days ago, this body voted to remove our per diem allowance, responding in a very sensitive way to what they perceive to be the public

view of this body as a body politic. I don't think anyone here felt that we are overpaid for the time and responsibility we bear, but they felt that the public would respond in a negative way to our voting for not a pay increase but an allowance that we had in a time of economic adversity.

I cannot understand the same body that took that view today wishing to not let the public know how much is being spent by people who are drafting bills and trying to influence that legislative process. It doesn't seem consistent to me.

We have listened to many attorneys, who are in the business of drafting bills dealing with words, object to regulation of their industry as it bears upon the public process of passing legislation. I can understand that from a parochial view, self interest. I am happy to see that some of the attorneys in this body have recognized the obvious fact that time spent drafting and researching legislation does, of course, reflect the economic value, the economic ability to influence legislation. It seems so obvious to me that this is an important part of the picture of lobbying, and I hope that as close as we are, you should look very carefully at this and not be put in a position of going home and telling your constituents that you voted to close the records on this very important part of the legislative process.

I hope you will vote to reconsider.

The SPEAKER pro tem: The Chair recognizes the gentleman from Bangor, Mr. McKernan.

Mr. MCKERNAN: Mr. Speaker and Members of the House: I would just like to object to the insinuations of the gentleman from Orono. As I have said, our law firm, in particular, does not lobby. Therefore, we would not come under this. And were I not in the legislature and just an attorney not lobbying, I would also not come under this bill, but I don't think there is any way we can bring those people under this bill. Therefore, what I am trying to say is, we are not getting at the thing we think we are getting at with this bill.

I think it is perfectly valid to debate the merits of whether or not those few people who happen to be not only lobbying but also lawyers who draft legislation, whether those few people should be the ones who should have to register all that, when people who go to someone else to draft a bill with another person lobbying it, that they won't have to, it is a perfectly valid debate on an issue before the legislature, but I do object to the insinuation of the gentleman from Orono.

The SPEAKER pro tem: The Chair recognizes the gentleman from Wells, Mr. Mackel.

Mr. MACKEL: Mr. Speaker, Ladies and Gentlemen of the House: There has been some insinuation that perhaps our constituents are demanding this particular bill. Personally, I would like to say that none of my constituents have indicated any interest whatsoever in any form over lobbyist bills.

I really don't see the need for this amendment. I don't see the need for this additional information. I am not sure there is a need for any lobbyist bill.

The SPEAKER pro tem: The Chair recognizes the gentleman from South Portland, Mr. Perkins.

Mr. PERKINS: Mr. Speaker, Ladies and Gentlemen of the House: I can certainly understand the position of Representative McKernan, and frankly, I am torn in regard to this particular amendment because I am not sure just which may be the proper way. However, I am concerned a little bit by virtue of the remarks that have been made that suggest that we as legislators draft their own legislation or we give it to the Director of



Legislative Research Office and he does what we tell him to do. I think we all know that that is not always true.

I have in front of me four pieces of paper which are copies of correspondence from a law firm in Portland to the Director of Legislative Research Office, one of which is a letter from a law firm in New York, on Wall Street, which deals with a particular piece of legislation, and in fact was the party that actually drafted the Maine Port Authority Bill. One of the pieces of correspondence deals with — well, it says: "Dear Director: I am enclosing herewith a copy with a preamble for the Maine Industrial Port Authority, which the legislator will present to the bill review committee."

I do think, and I think you all know that I have been concerned about opening up that particular office as to what is in our files and I, frankly, am of the opinion that that material does influence legislation and should be something that we control from the standpoint of what is spent for it.

I would support Representative Quinn's amendment.

The SPEAKER pro tem: A roll call has been ordered. The pending question is on the motion of the gentleman from Nobleboro, Mr. Palmer, that the House reconsider its action whereby it failed to adopt House Amendment "B". All in favor of that motion will vote yes; those opposed will vote no.

#### ROLL CALL

YEA — Bachrach, Berry, P. P.; Blodgett, Boudreau, Burns, Bustin, Carpenter, Carroll, Carter, Chonko, Churchill, Clark, Connolly, Cooney, Cox, Curran, P.; Davies, Doak, Dow, Drigotas, Farnham, Faucher, Fenlason, Flanagan, Gauthier, Goodwin, H.; Goodwin, K.; Gray, Greenlaw, Hall, Henderson, Hewes, Hinds, Hobbins, Hughes, Ingegneri, Jacques, Jensen, Joyce, Kany, Kennedy, Laffin, LaPointe, LeBlanc, MacEachern, Martin, R.; McMahon, Mitchell, Morin, Mulhern, Nadeau, Najarian, Peakes, Pearson, Pelosi, Perkins, S.; Peterson, T.; Post, Powell, Quinn, Rolde, Saunders, Shute, Snow, Snowe, Spencer, Sprowl, Susi, Talbot, Tierney, Truman, Tyndale, Usher, Wagner, Wilfong, Winship.

NAY — Albert, Ault, Bagley, Bennett, Berube, Birt, Bowie, Byers, Carey, Churchill, Connors, Cote, Curran, R.; Curtis, Dam, DeVane, Dudley, Durgin, Dyer, Farley, Finemore, Fraser, Garsoe, Gould, Hennessey, Higgins, Hunter, Hutchings, Immonen, Jackson, Jalbert, Kauffman, Kelleher, Kelley, Laverty, Leonard, Lewis, Littlefield, Lizotte, Lovell, Lunt, Lynch, Mackel, MacLeod, Mahany, Martin, A.; McBreairty, McKernan, Mills, Miskavage, Morton, Norris, Palmer, Perkins, T.; Pierce, Raymond, Rideout, Rollins, Silverman, Smith, Stubbs, Tarr, Teague, Theriault, Torrey, Tozier, Twitchell, Walker, Webber.

ABSENT — Berry, G. W.; Call, Lewin, Maxwell, Peterson, P.; Strout, The Speaker.

Yes, 75; No, 69; Absent, 7.

The SPEAKER pro tem: Seventy-five having voted in the affirmative and sixty-nine in the negative, with seven being absent, the motion does prevail.

Thereupon, House Amendment "B" was adopted.

The SPEAKER pro tem: The Chair recognizes the gentleman from Brewer, Mr. Norris.

Mr. NORRIS: Mr. Speaker, I rose to ask for a roll call, but apparently the hammer is faster than my hand.

The SPEAKER pro tem: The Chair feels that in fairness to the House, that perhaps he was a little quick with the hammer.

The Chair understands the gentleman from Brewer, Mr. Norris, requests a roll call vote. For the Chair to order a roll call, it must have

the expressed desire of one fifth of the members present and voting. All those desiring a roll call vote will vote yes; those opposed will vote no.

For what purpose does the gentleman rise.

Mr. GAUTHIER: Mr. Speaker, I was closed at one time because the hammer went down and I think this is the way that the legislature should be run.

The SPEAKER pro tem: The Chair recognizes the gentleman from Lewiston, Mr. Jalbert.

Mr. JALBERT: Mr. Speaker, I agree wholeheartedly with my good friend from Sanford, Mr. Gauthier. The hammer came down, the thing is no longer before us but it will come back.

Under the rules, this item is no longer before us.

The SPEAKER pro tem: The Chair thanks the gentleman for the advice, the Chair has ruled that a roll call is in order.

The Chair recognizes the gentleman from Gorham, Mr. Quinn.

Mr. QUINN: Mr. Speaker, it is my understanding that the body may appeal the ruling of the Chair, and I do so appeal.

Whereupon, Mr. Norris of Brewer withdrew his motion for a roll call vote.

At this point, Speaker Martin returned to the rostrum.

SPEAKER MARTIN: The Chair thanks the gentleman from Stonington, Mr. Greenlaw.

Thereupon, Mr. Greenlaw of Stonington returned to his seat on the floor, amid applause of the House and Speaker Martin resumed the Chair.

The SPEAKER: The Chair recognizes the gentleman from Lewiston, Mr. Jalbert.

Mr. JALBERT: Mr. Speaker and Members of the House: I think the gentleman from Stonington, Mr. Greenlaw, did a fine job as Speaker pro tem. I go according to the rules. At first, the item was defeated, then it was reconsidered, and I am amazed, but it was reconsidered and then it was reconsidered. The hammer did come down. The gentleman from Stonington, a fine gentleman, made a ruling, it was appealed. The gentleman from Brewer, Mr. Norris, took another stand. As far as I am concerned, I lost and I think this thing now ought to be given its ride. It will come back here anyway, and I am going to vote to engross it.

The SPEAKER: The Chair recognizes the gentleman from Augusta, Mr. Bustin.

Mr. BUSTIN: Mr. Speaker, I now move that this bill be passed to be engrossed.

The SPEAKER: The Chair recognizes the gentleman from Kittery, Mr. Kauffman.

Mr. KAUFFMAN: Mr. Speaker, I move that this bill and all its accompanying papers be indefinitely postponed and request a roll call vote.

The SPEAKER: For the Chair to order a roll call, it must have the expressed desire of one fifth of the members present and voting. All those desiring a roll call vote will vote yes; those opposed will vote no.

A vote of the House was taken, and more than one fifth of the members present having expressed a desire for a roll call, a roll call was ordered.

The SPEAKER: The pending question is on the motion of the gentleman from Kittery, Mr. Kauffman, that this Bill and all its accompanying papers be indefinitely postponed in non-concurrence. All in favor of that motion will vote yes; those opposed will vote no.

#### ROLL CALL

YEA — Albert, Connors, Cote, Curtis, Dyer, Fraser, Hewes, Kauffman, Lewis, Lovell, Norris, Rideout, Rollins, Theriault, Torrey, Tozier, Walker, Webber.

NAY — Ault, Bachrach, Bagley, Bennett, Berry, G. W.; Berry, P. P.; Berube, Birt,

Blodgett, Boudreau, Bowie, Burns, Bustin, Byers, Carey, Carpenter, Carroll, Carter, Chonko, Churchill, Clark, Connolly, Cooney, Cox, Curran, P.; Curran, R.; Dam, Davies, DeVane, Doak, Dow, Drigotas, Dudley, Durgin, Farley, Farnham, Faucher, Fenlason, Finemore, Flanagan, Garsoe, Gauthier, Goodwin, H.; Goodwin, K.; Gould, Gray, Greenlaw, Hall, Henderson, Hennessey, Higgins, Hinds, Hobbins, Hughes, Hunter, Hutchings, Immonen, Ingegneri, Jackson, Jacques, Jalbert, Jensen, Joyce, Kany, Kelleher, Kelley, Kennedy, Laffin, LaPointe, Laverty, LeBlanc, Leonard, Littlefield, Lizotte, Lunt, Lynch, MacEachern, Mackel, Mahany, Martin, A.; Martin, R.; Maxwell, McBreairty, McKernan, McMahon, Mills, Miskavage, Mitchell, Morin, Morton, Mulhern, Nadeau, Najarian, Palmer, Peakes, Pearson, Pelosi, Perkins, S.; Perkins, T.; Peterson, T.; Pierce, Post, Powell, Quinn, Raymond, Rolde, Saunders, Shute, Silverman, Smith, Snowe, Spencer, Sprowl, Stubbs, Susi, Talbot, Tarr, Teague, Tierney, Truman, Twitchell, Tyndale, Usher, Wagner, Wilfong, Winship, The Speaker.

ABSENT — Call, Lewin, MacLeod, Peterson, P.; Strout.

Yes, 18; No, 128; Absent, 5.

The SPEAKER: Eighteen having voted in the affirmative and one hundred twenty-eight in the negative, with five being absent, the motion does not prevail.

Thereupon, the Bill was passed to be engrossed as amended by Senate Amendment "C" and House Amendment "B" in non-concurrence.

On motion of Mr. Quinn of Gorham, the House reconsidered its action whereby the Bill was passed to be engrossed.

The same gentleman offered House Amendment "C" and moved its adoption.

House Amendment "C" (H-1097) was read by the Clerk and adopted.

The Bill was passed to be engrossed as amended by Senate Amendment "C" and House Amendment "B" and House Amendment "C" in non-concurrence and sent up for concurrence.

Bill "An Act to Revise Requirements for Permanent Markers under the Land Subdivision Law" (S. P. 717) (L. D. 2269) (C. "A" S-451 as amended by S. "B" S-463)

Was reported by the Committee on Bills in the Second Reading, read the second time and passed to be engrossed as amended in concurrence.

#### Second Reader

##### Tabled and Assigned

Bill "An Act to Amend the Employment Security Law" (S. P. 691) (L. D. 2210) (C. "A" S-453)

Was reported by the Committee on Bills in the Second Reading and read the second time. (On motion of Mr. Rolde of York, tabled pending passage to be engrossed as amended and tomorrow assigned.)

Bill "An Act to Amend the Procedures of the Maine Labor Relations Board" (H. P. 1961) (L. D. 2148) (C. "A" H-1022)

Was reported by the Committee on Bills in the Second Reading and read the second time.

Mr. Tierney of Durham offered House Amendment "A" and moved its adoption.

House Amendment "A" (H-1074) was read by the Clerk and adopted.

The Bill was passed to be engrossed as amended by Committee Amendment "A" and House Amendment "A" and sent up for concurrence.

#### Second Reader

##### Later Today Assigned

Bill "An Act to Promote Efficiency in Maine

State Government" (Emergency) (S. P. 699) (L. D. 2223) (C. "A" S-450)

Was reported by the Committee on Bills in the Second Reading and read the second time.

(On motion of Mr. LaPointe of Portland, tabled pending passage to be engrossed as amended and later today assigned.)

Bill "An Act Relating to the Effective Date of Each Individual Establishing a Benefit Year under the Unemployment Law" (Emergency) (H. P. 2145) (L. D. 2285) (C. "A" H-1007)

Was reported by the Committee on Bills in the Second Reading and read the second time.

The SPEAKER: The Chair recognizes the gentleman from Scarborough, Mr. Higgins.

Mr. HIGGINS: Mr. Speaker, I would pose a question to some of the members of the Labor Committee as to the disposition of this bill in the House. It was my understanding that there were three or four bills in front of the Labor Committee that seemed to tighten up the laws on the unemployment fund to help it be at least a little more solid than it is at the present time.

This bill was reported out of committee 9 to 2 "ought not to pass", it was moved and went under the hammer to accept the minority of two "ought to pass" report. I looked over the bill and it does call for \$3 million annually to be spent on unemployment compensation, and Mr. Tierney informed us, I believe, two or three days ago, that the committee had agreed on these bills, that they would be killed and that the fund would try to be tightened up. I would just like to pose a question to that committee, why is this such a good bill and why are we letting it go this far if the intent of this legislature, or at least that committee, is to tighten up the unemployment laws?

The SPEAKER: The Chair recognizes the gentleman from Hope, Mr. Sprowl.

Mr. SPROWL: Mr. Speaker, Ladies and Gentlemen of the House: I will try to answer some of the questions that were posed by the previous speaker. I am on the Labor Committee and we did report this out 9 to 2 "ought not to pass."

I would venture to say that this is even a worse bill than the one that I submitted and you so soundly defeated. The difference, I guess, between my bill and this bill is that I was trying to tighten up the fund, bring money into the fund, and what the gentleman asked before, the answer to that is that this does cost the fund \$3 million.

I think it was submitted for a very small group of people, the longshoremen in Portland, because they couldn't draw unemployment because they were not making the required amount of money in two quarters, the \$250, and they were not making the \$900. So this bill puts the requirement back to \$600 from the \$900 and it is a very, very costly bill. It is \$3 million that it would cost the fund, and I submit that the fund, in the situation that it is in, this is a very poor bill and I would make the motion that we indefinitely postpone this bill.

The SPEAKER: The Chair recognizes the gentleman from Eastport, Mr. Mills.

Mr. MILLS: Mr. Speaker, Ladies and Gentlemen of the House: I am totally amazed at the lack of knowledge on this bill. Mr. Sprowl has testified that it is for a select group in Portland. This is not true, it never has been and it never will be. This applies to more than 6,000 people along our coast that are employed in the fish packing business. This has been running for a period of 10 or 12 years, hacking away at this thing to kill the people along the coast. This is an effort to help the towns along the coast so that the people who are willing to work can have jobs to work.

I have got a bill going through here that is going to provide 35 jobs in Eastport packing fish. All of these things that are being done along the

coast by Representatives down in those areas are trying to help the economy of the State of Maine, they are trying to provide the work for the people that will work, and if you kill this bill here, you are simply moving them over onto welfare rolls and what have you.

I have letters here from people along the coast and I wish I had had the time to testify before the committee and let them know what the real situation was, because this all ties in and overall, it is a big, big picture.

As briefly as I can, I will tell you I went down to Albuquerque, New Mexico two years ago and introduced a resolution there on the federal concept of supporting the 200 mile limit out to sea and it was adopted by 50 states at that time. It was the only state resolution to be adopted. I went to Philadelphia last time around and put in one down there which would make it mandatory, almost, for the Secretary of State's Office, before they enter into an agreement with a foreign country, to consult the coastal states that would be involved.

Now we come down here to a local issue and we are trying every way that we can to provide jobs along the coast so the people can work and make a living. We have changed the income tax around, lowered the property tax so they can pick up the property tax in the local municipalities. How are these people going to pay anything if we don't let them have a chance to work? That is what this bill is all about.

That is why I stood up and asked the gentleman from Portland to draft up some memo on his knowledge of what it applies to in his area. I am talking about the coast going east. I am not talking about Portland, and I am telling you, this is something here that we should pass so we can let people go back to work and hold up their respect and make a decent living.

The SPEAKER: The Chair recognizes the gentleman from Portland, Mr. Flanagan.

Mr. FLANAGAN: Mr. Speaker, Ladies and Gentlemen of the House: Action and reaction relative to the L. D. 1537, which created a situation which knocked 6,000 individuals off the unemployment rolls, urged me to put together what you have before you today in L. D. 2285. I did this because in my estimation the bill that would institute a new formula for qualifying for unemployment compensation, the bill, L. D. 1537, was an arbitrary bill, it was drawn up and written with many, many figures and ideas which later on wouldn't stand up. It is unrealistic, particularly in our present environment of record-breaking unemployment and it affects the 6,000 workers in the State of Maine, and I want all of you to realize, when it affects 6,000 workers in the State of Maine, it is affecting 40 constituents, on an average, for each and every one of us in this house.

To further prove the point that L. D. 1537 was not a good bill, let me quote for you the policy of the unemployment security law. This can be found in Title 26, Chapter 13, paragraph 1042 and it says: "Economic insecurity due to unemployment is a serious menace to the health, morals and welfare of the people of this State of Maine Unemployment is therefore a subject of general interest and concern which requires appropriate action by this legislature to prevent its spread and to lighten its burden which may fall upon the unemployed worker, his family and his community."

In this policy, the legislature is charged with the responsibility of taking appropriate action to prevent these hardships caused by unemployment. Legislative Document produces unemployment, it does not prevent it.

Legislators in former years put together a wonderful program which included the persons dropped from the rolls by recent legislation. The people received their benefits which failed to show any strain on the program's general

trust fund. The fund created a reserve while meeting all its responsibilities and paying these 6,000 people that they have dropped with this new bill and as of January 1975, held a reserve of \$25 million. This definitely shows that there was no reason why these 6000 insured workers should be cut from the rolls. However, with the sudden burst of unemployment in 1975, the large reserve was depleted, not by the claimants that the formula intended to affect but by the thousands of newly unemployed.

This bill, 2285, was devised to roll back the qualifying formula to its status of early 1975, hold a new formula in abeyance until January 1977 and have the Labor Committee review and make necessary changes to keep this program within the spirit of its own policy.

The SPEAKER: The Chair recognizes the gentleman from Eastport, Mr. Mills.

Mr. MILLS: Mr. Speaker, Ladies and Gentlemen of the House: I hope that you will defeat this indefinite postponement and I request a roll call when the vote is taken.

The SPEAKER: The Chair recognizes the gentleman from Westbrook, Mr. Laffin.

Mr. LAFFIN: Mr. Speaker, Ladies and Gentlemen of the House: I would like to kind of impress upon the members of this House that the unemployment compensation program is not a welfare program. This program is for unemployed workers who lose their jobs because there is no work. That is what the unemployment compensation program is all about. In many cases, the longshoremen and many other workers of this state cannot meet the qualifications of the two periods in order to earn enough money to be qualified to draw unemployment when they do not work. This is an injustice to the working people of this state. Therefore, Mr. Flanagan's bill has brought it down to \$600 and the quarters then can be reached by these people who, when they are out of work, will be eligible to draw unemployment compensation.

I repeat, this is not a welfare program. It has nothing to do with the general fund of the State of Maine. This is a program that is unemployment compensation paid for by the employers of this state and it is designated for when people are out of work, that they shall have the income until they find another job. I support this bill and I certainly urge the members of this house to.

The SPEAKER: The Chair recognizes the gentleman from Hope, Mr. Sprowl.

Mr. SPROWL: Mr. Speaker, Ladies and Gentlemen of the House: The bill that the gentleman from Portland, Mr. Flanagan, referred to, L. D. 1537, that we passed in the 107th, the last regular session, which he refers to as a bad bill, as I remember, and I will stand corrected, but that came out of committee with a unanimous "ought to pass" and Mr. Flanagan was one of those who voted that way.

That bill did put this requirement of the two quarters and the requirement of \$900. There was a trade-off in that bill whereby we gave the dependency allowance. Labor people would not have bought this, putting the two-quarter requirement and the \$900, had we not traded off the dependency allowance. I think perhaps we should have fought a little harder but that is another story today.

My point is, the bad bill that was referred to, 1537, was unanimous, and I submit that it was not the best bill in the world because of the trade-offs but, nevertheless, it's here.

The SPEAKER: The Chair recognizes the gentleman from Westbrook, Mr. Laffin.

Mr. LAFFIN: Mr. Speaker, Ladies and Gentlemen of the House: I am on the Labor Committee and I don't know of any trade-offs. No one said anything to me about trading and I am on that committee. This is the first I knew of it, from my very good friend, which we don't agree with, but he is my good friend. I don't

know of any trade-off. No one talked trade to me.

The SPEAKER: The Chair recognizes the gentleman from York, Mr. Rolde.

Mr. ROLDE: Mr. Speaker, Ladies and Gentlemen of the House: The gentleman from Hope, Mr. Sprowl, has perhaps made a point that when the original bill that the gentleman from Portland, Mr. Flanagan, referred to was passed, they did not have a total viewpoint of how it was going to affect people, and if that bill affected 6,000 people, all the gentleman from Portland, Mr. Flanagan, was asking is that the effective date of that bill be held off, or just one section of that bill be held off so that the Labor Committee can spend the intervening time looking more closely at what it did do.

So, I would urge you to defeat the motion to indefinitely postpone this bill and go along with the gentleman from Portland, Mr. Flanagan.

The SPEAKER: The Chair recognizes the gentleman from Scarborough, Mr. Higgins.

Mr. HIGGINS: Mr. Speaker, I would like to perhaps correct, if I am right, the previous speaker, Mr. Rolde. I believe that the bill is now the amendment, or the amendment is now the bill, one or the other, and there is nothing in there about delaying the action that was taken. This is a straight emergency measure that lowers it from \$900, I believe it is that was acted on last session, to \$600, and there is no provision in there for any delaying. This is an emergency measure that will take effect immediately and will continue forever, until changed, at least, by another piece of legislation.

While I am on my feet, I had no big gripes with this bill except when I saw the \$3 million price tag on it, to the fund. Granted, that it is not to the people of the State of Maine and through taxes, but I submit to you that it is to the people of this state because it is the employer who pays it and if he is making money, at least, as the good gentleman from Westbrook would tell you, he is passing his increased costs onto the consumers.

So let's face facts here. Any increase that an employer gets from an increase in his unemployment benefit that he pays in is passed onto you, so let's not shadow this with the fact that no matter how much money we pay out, the employer is just going to continue to pay in more money and not get money to replace that from the general public.

My concern, when I brought this up, was that it had been brought to our attention that this session we were going to try to at least forestall some of this tremendous amount of overruns that we are having in borrowing money from the federal government of \$30 million or \$60 million. I just don't want to see it continue for much longer.

I think that this bill could be a dangerous bill, and if it is going to cost the fund \$3 million, then I am going to most certainly agree with my friend Mr. Sprowl from Hope and I hope you will indefinitely postpone it.

The SPEAKER: The Chair recognizes the gentleman from Augusta, Mr. Bustin.

Mr. BUSTIN: Mr. Speaker, Ladies and Gentlemen of the House: As usual, when we come down to this issue of unemployment compensation, the lines are usually drawn much the same way as they have been on the other bills relating to this subject — Mrs. Tarr's bill, that wonderful woman from Bridgton, who denied that I say anything nice about her the other day, as well as the other ones. I think it is pretty clear that there is a need for this measure. I think Mr. Flanagan is on target with a remedy, and I think we all ought to go along with him on this bill and vote against Mr. Sprowl's motion.

The SPEAKER: The Chair recognizes the gentleman from Hampden, Mr. Farnham.

Mr. FARNHAM: Mr. Speaker, Ladies and Gentlemen of the House: I am not running for Congress. This is a bad bill and I will tell you

why. We have talked a little about longshoremen, they are one of the small groups that have abused this fund. The biggest abuse comes from the thousands of people who work in our tourist industry during the summer, in the motels, hotels, waitresses, chambermaids, you name it. They go to work, generally in the middle of June and it builds up — we only have a two-month season in tourists, July and August. They work those two or three weeks in June, the months of July and August and they are laid off after Labor Day, and then they take a sleigh ride for 30 weeks and possibly over that. This is where the fund has been drained. This represents a group of people who normally are not in the labor market year-round.

The amendment reduces this figure to \$600. Just stop and take a pencil out. At the minimum wage, you only have to work 260 hours in the whole year long and then you can have a sleigh ride of 39 or 65 weeks, I don't know what they have got it up to now.

The bill that was passed last year was a trade-off. Sorry Mr. Laffin didn't hear it on the floor of the House here, but the Lord givevith and the Lord taketh away. The Lord gave the dependency allowance and he took away this big loophole that they have been driving a wagon through for years. I am sorry that he missed it.

This is where the fund has been bled white for years and years and years. I ought to know, I worked for the unemployment compensation commission years ago. I was on the advisory council for 15 years, and labor admitted on that council they couldn't say it publicly to their membership, that this was one of the big loopholes. You have your chance today to leave the law as it is and close the loophole.

The gentleman from York, Mr. Rolde, says, well, this is only for one year. He is a smart guy, he knows that if we let this go this way it will be right back next year and the same blooming arguments being used. You want to take \$3 million more from a fund that hasn't any money. Why, that is typical Washington thinking, deficit spending, print more money. It is time we got over that kind of thinking and got down to brass tacks and start using our heads for a change.

Mr. Laffin of Westbrook was granted permission to speak a third time.

Mr. LAFFIN: Mr. Speaker, Ladies and Gentlemen of the House: I have the greatest respect for my very good friend across the aisle, but I certainly do take exception to some of the things that he has said here this morning.

First of all, you must realize when we have seasonal workers, such as the longshoremen which he brought up, and I don't believe they are trying to get a sleigh ride, sure, when a ship comes in, they work hard, they work long hours and they make a lot of money in a short time, but those ships don't come in every day. The blueberries aren't harvested every day; the apples aren't picked every day, and the fish don't run every day. These are the things that we are talking about, to get them by in a period when there is no work. Sure they make money when they are working, we all make money when we are working, but you are getting off the issue. There are jobs in this state that require the working people to work a short time of the year — and I am not running for Congress. That is the way it is. When you have that situation and it will help 6,000 people, I don't care about the money or what it is going to cost this fund, for the simple reason that I believe that people are far more important than the money, I believe they are a lot more important. That is the issue that is facing us today.

Sure, they dropped it to \$600, they had to. If we didn't drop it to \$600, how would we let these people that are out of work get into this fund?

We have a big company in Westbrook. The S. D. Warren Papermill, has paid in over \$5 million to this fund and rightly, they should.

They are a money-making proposition, they are a big corporation and they certainly should pay into it. They don't object to paying into this fund. Not once has the management objected to paying into this fund, and S. D. Warren has had the lowest layoff of about anyone in the business today, especially in the paper industry. We did lose four paper machines and we lost 124 employees, but within 5 months most of those were called back to work in different parts of the mill.

Now, S. D. Warren realizes that they pay in more than they will ever draw for their employees, but they are helping the longshoremen, the fishermen, and everyone else that is out of work and they know that and they realize that. To take and say, well, because somebody can't work all year, they shouldn't be entitled to draw under this fund, I certainly do take exception to my very good friend.

No one is trying to cheat the fund on this bill. This bill is for the working people of this state, and if you turn them down, you turn down the seasonal workers. I say they have just as much right to draw on that fund as the employees that work at S. D. Warren that are working 12 months of the year. It is just as simple as that. It is not their fault that they can't work every day. Unfortunately, we have those situations, and I believe that they are entitled to it and I certainly support this bill.

The SPEAKER: The Chair recognizes the gentleman from Madison, Mrs. Berry.

Mrs. BERRY: Mr. Speaker, Ladies and Gentlemen of the House: There is one statement that the gentleman from Westbrook was correct in, and that is that apples aren't picked every day. They aren't even picked when they are ready to be picked because the unemployment in this state won't do it. They bring the cards up from the unemployment office and beg us not to hire them, and this is the type of people that we are passing this bill for. I am experienced in this and I would like you to know that apples aren't even picked when they should be picked.

The SPEAKER: The Chair recognizes the gentleman from Portland, Mr. Mulhern.

Mr. MULKERN: Mr. Speaker, Ladies and Gentlemen of the House: I can't speak for the apple pickers, but I think I can speak with some authority about the longshoremen. An inaccurate statement that was made by the Representative from Hampden, Mr. Farnham, in that he said that the longshoremen are receiving unemployment compensation. I can tell you that the longshoremen in my area haven't been receiving any unemployment compensation for some time because they haven't even been eligible for it. However, I can say this, the longshoremen in my area, and I am going to defend them to the hilt, things have been turning around, we have had shipping coming into the Port of Portland for the first time in a long time. There are a 150 men now working. The payrolls are improving, they are turning around. These men want to work, they do not want to collect unemployment compensation, but they would like to have the opportunity, if this should turn around and these ships should not be here, this is seasonal work, it is unsteady, they have been lucky and fortunate so far but things may change, and they would like to have the opportunity to be under this.

I would hope that you would go along with this bill today and approve it. After all, we are not just talking about longshoremen, we are talking about 6,000 workers in this state. I hope you will support the workingman today.

The SPEAKER: The Chair recognizes the gentleman from Augusta, Mr. Bustin.

Mr. BUSTIN: Mr. Speaker, Ladies and Gentlemen of the House: Two of the previous speakers have indicated in their remarks that they were not a candidate for the U.S. Congress. I would suggest that if they wish to

be, it is wide open. Mr. Laffin can come in and run against Mr. Emery, if he wishes, and Mr. Farnham can do whatever he might care to do up there. I don't think that their position, or at least Mr. Farnham's position on this bill, is in any way purified because he is not a candidate for Congress.

I think what I object to and what the working people of this state object to, are the implications involved in the very term that he uses in order to denigrate this measure, and that is the sleigh ride. The people want a sleigh ride. Well, that is probably all they can ride in because they couldn't put any gasoline or buy an automobile to drive to Florida and bask in the sun. You are talking about people who cannot find work and who need help, that is what this bill is about.

The SPEAKER: The Chair recognizes the gentleman from Woolwich, Mr. Leonard.

Mr. LEONARD: Mr. Speaker, Ladies and Gentlemen of the House: I would hope that our candidate for Congress will go to the people and find out really what they want.

An issue that has not been brought up and is one that concerns me is the \$3 million price tag. While I don't necessarily object to possibly increasing the unemployment benefits in this state, if we can afford them, I suggest at this point that maybe we cannot afford them.

Those of you, and I suggest that there are many people who probably don't understand and I for one don't but I do understand a certain amount of this bill and some of the unemployment compensation laws, we have a scale that the Employment Compensation Commission follows in deductions from employers for putting money into this fund. I have forgotten the low end of the scale and the top end of the scale, but it goes by the amount of drain there is on the fund and that regulates where on the scale the employers are and the amount of deductions. On the lowest and the most minimal deduction taken from an employer, when we are in dire straits like we are right now where we have a high unemployment in the state, it is 2.4 percent, it will go the other way to 1. something, I apologize to this House, I don't know what it is because I don't think we have ever been at it.

If this were a responsible piece of legislation, then it would have attached to it a change on that minimum or that maximum deduction from the employer so that we would not be further depleting the fund. I repeat, if it were responsible, then we would have on this bill a method of funding it.

The unemployment fund, at the present time, is \$60 million in the hole; it is bankrupt. It will be \$63 million in the hole if you pass this legislation and there is absolutely nothing attached to this piece of legislation that will provide for any additional income in the fund. Is that responsible?

Like Mr. Farnham said, this is deficit spending and you are going to continue, it is going to continue to get higher, and as Mr. Tierney said the other day, we can't pay it back because we won't attract new industry. What industry in their right mind would come in, with a \$63 million deficit in the unemployment fund and knowing full well that they would be expected to pay it back if they settle in this state? Now, let's stop kidding ourselves. We are not attracting new industry with this type of legislation, and regardless of whether the merits of this bill — and I am not arguing that, I am arguing the responsibility of this legislature, to face the facts that we are deficit spending and that we have no method of paying this money back. With that, I rest my case.

The SPEAKER: The Chair recognizes the gentleman from Bangor, Mr. Kelleher.

Mr. KELLEHER: Mr. Speaker, Ladies and Gentlemen of the House: Particularly to my good friend from Woolwich, Mr. Leonard, I think you should face the fact and see that

there are over 6,000 people being affected by a very bad bill. I might remind this House that in years past we have changed and adjusted the unemployment laws to benefit people, and only a year ago, we changed it to help the packers of potatoes in Aroostook County on seasonal employment, and that was justified.

I would hope that you would take a good look at the bill that Mr. Flanagan has here from Portland. It is a bill that corrects an error, in my opinion, on the threshold of the unemployment laws and I would hope that you would support him.

The SPEAKER: The Chair recognizes the gentleman from Nobleboro, Mr. Palmer.

Mr. PALMER: Mr. Speaker, I would like to pose a question through the Chair to someone on the Labor Committee. How does the figure of \$600 or \$900, whichever one you want to take compare with what the threshold is in other New England states?

The SPEAKER: The gentleman from Nobleboro, Mr. Palmer, has posed a question through the Chair to any member of the Labor Committee who may answer if they so desire.

The Chair recognizes the gentleman from Portland, Mr. Flanagan.

Mr. FLANAGAN: Mr. Speaker, Ladies and Gentlemen of the House: There have been a number of dollar signs spread around here in the last few minutes that have no background and they are untruths. I would suggest to all of you to get in touch with the Manpower Division.

Relative to the question that was asked by the minority leader, this \$900 base, according to figures from the Manpower Affairs Office, would save \$1,100,000. The \$250 for the two earned quarters figures from the Manpower Affairs, says that it will save \$1,800,000 for a total of \$2,900,000. This was supposed to balance off a cost of \$300,000 or more from the 1536 bill on dependency. However, with my research in the past week, it has been brought to light to me that the cost of the dependency bill, instead of being \$300,000, will be in the vicinity of \$1,800,000. It is safe to assume that those figures that state the savings here from \$600 to \$900 will drop in like manner.

It was just stated a moment ago, that we are in the hole here for \$53 million, yet the report from the Employment Insurance Weekly Gram ending January 31, 1976, federal advances outstanding, \$3,400,000. Now, that is a far cry from \$53 million that is being spread here in scare tactics across this floor.

I don't mind people stating what is correct. It was stated here by my colleague to the right, a short time ago, that it was these people that were draining the fund. It was not these people that were draining the fund. I reported to you here that for years this program was being carried on — why? What is our seasonal and part-time employment set up in the State of Maine here in comparison to other states in this country of ours? Instead of draining the reserve, even paying these people, right up until January 1975, a reserve accrued amounting to \$25 million or more. I don't see how any sensible thinking man can say that these are the people that were draining this program. They are not; they are being hurt and I am asking you, please help us.

The SPEAKER: The Chair recognizes the gentleman from Nobleboro, Mr. Palmer.

Mr. PALMER: Mr. Speaker and Members of the House: I am very serious in asking the question that I did, and I think it has a great bearing on what happens to Maine industry in the future of Maine's business. I would think that some member of the Labor Committee could tell us whether or not the threshold of \$600 or \$900, how it compares with other states in New England where we are strictly in competition?

The SPEAKER: The gentleman from Nobleboro, Mr. Palmer, has posed a question

through the Chair to any member of the Labor Committee who may care to answer.

The Speaker recognizes the gentleman from Portland, Mr. Flanagan.

Mr. FLANAGAN: Mr. Speaker, I have some statistics on that. This is a revised issue of January 1975. In the State of Connecticut, the base period was \$600, with a minimum high quarter of \$150. In Maine, it was \$600 in January 1975. In Massachusetts, there is no comparison, it is \$1,200. The State of New Hampshire, the base period is \$600. In Rhode Island, the base period is \$400. Ours was \$400 until 1967 and then they increased it to \$600. Before the \$400, it was \$200, and our legislature, in their wisdom, created this and moved accordingly with it. In Vermont, the base is \$600.

The SPEAKER: The Chair recognizes the gentleman from Waterville, Mr. Carey.

Mr. CAREY: Mr. Speaker, the gentleman from Bangor, Mr. Kelleher, asked a little earlier for us to study the committee's report. I would like to know if I could have the Clerk give us a count, at least, as to how the committee reported this bill out and what the number was. I am not interested in who signed what.

The SPEAKER: The Chair would inform the members of the House that the Report was 11 to 2 "Ought not to pass."

The Chair recognizes the gentleman from Eastport, Mr. Mills.

Mr. MILLS: Mr. Speaker, Ladies and Gentlemen of the House: I have sat here and listened to an awful lot of peculiar discussions in the years gone by, but I have never sat here and listened to anything like we have got here this morning where certain ones are putting a dollar sign on human lives.

Mr. Sprowl of Hope was granted permission to speak a third time.

Mr. SPROWL: Mr. Speaker, Ladies and Gentlemen of the House: I don't want to prolong this any longer than anyone else, but I don't think the question that Mr. Palmer asked has been answered. I have someone making a telephone call to Manpower Affairs to get that. If Mr. Palmer feels that there is a need to get that, then it is on its way.

The SPEAKER: A roll call has been requested. For the Chair to order a roll call, it must have the expressed desire of one fifth of the members present and voting. All those desiring a roll call vote will vote yes; those opposed will vote no.

A vote of the House was taken, and more than one fifth of the members present having expressed a desire for a roll call, a roll call was ordered.

The SPEAKER: The Chair recognizes the gentleman from Bridgton, Mrs. Tarr.

Mrs. TARR: Mr. Speaker and Members of the House: I hope you will support the indefinite postponement of this bill. We were concerned in the Labor Committee when Mr. Flanagan introduced this measure. I am sorry that the chairman of the committee was not in his seat, but we are not happy with this bill. It is going to really put the employment security fund in just chaos. I realize there is a problem. I understand how you feel, but I don't think you realize what is going to happen when you change back. The other states that you mentioned, the dependency allowance that we are trying to have here, you are just going to put this into a tailspin and I urge you to support the indefinite postponement of this bill.

The SPEAKER: The pending question is on the motion of the gentleman from Hope, Mr. Sprowl, that this Bill and all its accompanying papers be indefinitely postponed. All in favor of that motion will vote yes; those opposed will vote no.

#### ROLL CALL

YEA — Ault, Bennett, Berry, G. W.; Berube, Bowie, Byers, Carey, Chonko, Curtis, Dam,



Doak, Durgin, Farnham, Faucher, Finemore, Garsoc, Goodwin, II, Goodwin, K., Gould, Gray, Hall, Higgins, Hinds, Hunter, Hutchings, Immonen, Jackson, Kauffman, Laverty, Lewis, Littlefield, Lovell, Lynch, Mackel, MacLeod, Martin, R.; McBreaarty, McKernan, McMahon, Morin, Morton, Palmer, Pearson, Perkins, S.; Perkins, T.; Pierce, Raymond, Rideout, Rollins, Snow, Snowe, Sprowl, Susi, Tarr, Teague, Tierney, Torrey, Tozier, Twitchell, Tyndale, Usher.

**YAY** — Albert, Bachrach, Berry, P. P.; Blodgett, Boudreau, Burns, Bustin, Carpenter, Carter, Churchill, Clark, Connors, Connolly, Cooney, Cote, Cox, Curran, P.; Curran, R.; Davies, DeVane, Dow, Drigotas, Dyer, Farley, Fenlason, Flanagan, Fraser, Greenlaw, Henderson, Hennessey, Hewes, Hobbins, Hughes, Ingegneri, Jacques, Jalbert, Jensen, Joyce, Kany, Kelleher, Kennedy, Laffin, LaPointe, Lizotte, MacEachern, Mahany, Martin, A.; Maxwell, Mills, Miskavage, Mitchell, Mulkern, Nadeau, Najarian, Norris, Peakes, Pelosi, Post, Powell, Rolde, Saunders, Stubbs, Talbot, Theriault, Truman, Wagner, Wilfong, Winship.

**ABSENT** — Bagley, Birt, Call, Carroll, Dudley, Gauthier, Kelley, LeBlanc, Leonard, Lewin, Lunt, Peterson, P.; Peterson, T.; Quinn, Shute, Silverman, Smith, Spencer, Strout, Walker, Webber.

Yes, 61; No, 68; Absent, 21.

The **SPEAKER**: Sixty-one having voted in the affirmative and sixty-eight in the negative, with twenty-one being absent, the motion does not prevail.

Thereupon, the Bill was passed to be engrossed as amended by Committee Amendment "A" and sent up for concurrence.

The **SPEAKER**: The Chair recognizes the gentleman from Brewer, Mr. Norris.

Mr. **NORRIS**: Mr. Speaker, having voted on the prevailing side, I now move reconsideration and hope you vote against me.

The **SPEAKER**: The gentleman from Brewer, Mr. Norris, moves the House reconsider its action whereby this Bill was passed to be engrossed as amended by Committee Amendment "A". All in favor of that motion will say yes; those opposed will say no.

A viva voce vote being taken, the motion did not prevail.

On request of Mr. Rolde of York by unanimous consent, unless previous notice was given to the Clerk of the House by some member of his or her intention to move reconsideration, the Clerk was authorized today to send to the Senate, thirty minutes after the House recessed for lunch and also thirty minutes after the House adjourned for the day, all matters passed to be engrossed in concurrence and all matters that require Senate concurrence; and that after such matters had been so sent to the Senate by the Clerk, no motion to reconsider would be allowed.

On motion of Mr. Farnham of Hampden,  
Recessed until two-thirty in the afternoon.

After Recess  
2:30 P.M.

The House was called to order by the Speaker.

Passed to Be Enacted  
Emergency Measure

An Act Increasing the Indebtedness Limit of the Mexico Sewer District and Creating a Special Debt Limit for Interim Financing (H. P. 2190) (L. D. 2302)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure and a two-thirds vote of all the members elected to the House being

necessary, a total was taken. 106 voted in favor of same and none against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

Emergency Measure

An Act Concerning the Seining of Mackerel in the Territorial Waters of Washington County (H. P. 2157) (L. D. 2291) (C. "A" H-991)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure and a two-thirds vote of all the members elected to the House being necessary, a total was taken. 108 voted in favor of same and one against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

Emergency Measure  
Failed of Enactment

An Act to Permit the Town of Camden to Vote on June 8, 1976 on Certain Local Option Questions Concerning the Sunday Sale of Liquor (H. P. 2147) (L. D. 2289)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 95 voted in favor of same and 10 against and accordingly the Bill failed of passage to be enacted. Sent up for concurrence. (Later Reconsidered)

Emergency Measure

An Act to Charge Supplemental Weekly Benefits for Dependents to the General Fund Account of the State Unemployment Trust Fund. (H. P. 2117) (L. D. 2266) (C. "A" H-989)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure and a two-thirds vote of all the members elected to the House being necessary, a total was taken. 114 voted in favor of same and 2 against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

On motion of Mr. Sprowl of Hope, the House reconsidered its action whereby An Act to Permit the Town of Camden to Vote on June 8, 1976 on Certain Local Option Questions Concerning the Sunday sale of Liquor, House Paper 2147, L. D. 2289, failed of passage to be enacted.

The **SPEAKER**: The pending question now before the House is on passage to be enacted. This being an emergency measure and a two-thirds vote of all the members elected to the House is necessary. All in favor of that motion will vote yes; those opposed will vote no.

A vote of the House was taken.

121 having voted in the affirmative and 3 having voted in the negative, the motion did prevail.

Signed by the Speaker and sent to the Senate.

Finally Passed

Resolve, Authorizing Marilyn Young, or her Legal Representative, to Bring Civil Action Against the State of Maine (H. P. 2174) (L. D. 2297) (C. "A" H-1011)

Passed to Be Enacted

An Act to Permit an Employee to Review His Personnel File. (H. P. 2121) (L. D. 2270) (C. "A" H-999)

An Act to Exempt Community Based Retardation Services from the Sales Tax (H. P. 2070) (L. D. 2240)

An Act to Conform Certain Maine Statutes to the 14th Amendment of the Constitution of the United States, to Title VII of the United States Civil Rights Act of 1964, as Amended in 1972, and to the Maine Human Rights Act. (H. P. 2052) (L. D. 2219) (C. "A" H-1008)

An Act to Grant the Power to Confer Graduate Degrees of Doctor of Osteopathy to

St. Francis College of Biddeford (H. P. 1929) (L. D. 2116) (C. "A" H-1005)

An Act to Revise the Personnel System (S. P. 677) (L. D. 2166) (C. "A" S-433, H "A" H-1001)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. Bills passed to be enacted, Resolve finally passed, all signed by the Speaker and sent to the Senate.

Orders of the Day

The Chair laid before the House the first item of Unfinished Business:

Joint Resolution Concerning the Desirability of Repealing the Safe Water Drinking Act Enacted by Congress (H. P. 2235)

Tabled — (Till Later Today) March 24 by Mr. Leonard of Woolwich.

Pending — Adoption.

The **SPEAKER**: The Chair recognizes the gentleman from Woolwich, Mr. Leonard.

Mr. **LEONARD**: Mr. Speaker, I request that this be tabled until later in today's session.

Subsequently, Mr. Leonard of Woolwich withdraw his motion to table.

Thereupon, the Resolution was adopted and sent up for concurrence.

The Chair laid before the House the second item of Unfinished Business:

House Report "Ought to Pass" as amended by Committee Amendment "A" (H-1056) — Committee on Health and Institutional Services — on Bill "An Act to Repeal Certain Statutory Provisions for the Licensing of Boarding Homes and Day Care Facilities" (H. P. 1965) (L. D. 2154) — In the House, Report Read and Accepted. Committee Amendment "A" (H-1056) read.

Tabled — March 24 by Mr. Goodwin of South Berwick.

Pending — Adoption of Committee Amendment "A" (H-1056)

The **SPEAKER**: The Chair recognizes the gentleman from South Berwick, Mr. Goodwin.

Mr. **GOODWIN**: Mr. Speaker, Men and Women of the House: This is the infamous nursery school bill that everybody has been waiting for with bated breath. What I would like to do is take a minute to explain this, why it is before us and the changes that we have made in it, and then I understand there are going to be a couple of amendments offered.

In the last session of the legislature, we established in the statutes the authority for the Department of Human Services to establish rules and regulations for licensing of nursery schools. What they did, they developed some drafts and came up with some rules and regulations that were practically impossible to follow and probably would have put half or three quarters of the nursery schools in the state out of business. Many of you felt that this was not exactly what we had intended to do.

So what we did, we took the bill that was introduced by Mr. Hennessey and we rewrote it so that we could accomplish several things.

First of all, for the first time, we defined the term "nursery school." We defined the difference between nursery schools and day care centers.

In the amendment which you have, Committee Amendment "A" under filing number H-1056, and this is the bill itself, what we have said is that nursery schools, first of all, serve children seven and under. They serve for consideration only; in other words, for pay. They serve three or more children. No sessions will be more than three and a half hours in length. A child will attend no more than one session per day, although the nursery school itself could have two sessions — one in the morning and one in the afternoon, and no hot meals are served.

If the nursery school does not meet one of these criteria, they most likely would be in a



day care situation which would then come under more stringent rules.

We then established that a license is needed to operate and that it be issued each year. Next, the committee decided to establish specific recommendations, specific requirements, for the licensing of nursery schools rather than leave it in the hands of the Department of Human Services.

The first thing that we established was that a nursery with under 20 students will have to meet the bare minimum fire safety standards as are set down or established in the life safety code, 1973, which is right here. If they have more than 20 students, then they are inspected under a more stringent standard, but they still have to meet the following four requirements, which I will get into in a minute.

After we set the fire safety standards, we then set down four additional requirements, and these will be the only additional requirements that a nursery school has got to meet. The first is that any staff member at a nursery has to be declared free of communicable diseases by a licensed physician, and that is annual. In other words, they have to have a physical, be checked to make sure that they don't have tuberculosis or communicable diseases.

Second, if the drinking water which is available at the nursery school is from other than a public water system, in other words, from a well, that well must pass the minimum bacteria, nitrate and nitrite test each year and every four years a chemical test. This is at a very minimal cost.

Third, the nursery school shall carry a minimum liability insurance of \$100,000 per person and \$300,000 per occurrence. I feel that this is one of the most important requirements that we could put in in terms of protecting the parents and the child itself.

The last additional requirement that we put on was a staff ratio requirement that says that if you have up to 10 children, you need one staff person and one person available in case of an emergency. It could be a neighbor or a person that is in the same house who is available at a moment's notice if you have an emergency and you have to take one of the kids to a doctor or the hospital. Over 10 children, you need an additional staff person for each 10 children. We felt this was very minimal. Many of the nursery school people who came in and testified and talked to us felt that we should have a 1 to 6 ratio or 1 to 7. We felt that 1 to 10 was extremely minimal. That is basically it.

Then we established the \$10 licensing fee to cover the cost of the inspections. And on the very last section, we have for existing nursery schools that cannot meet any of these requirements, which are extremely lenient and I feel that just about 99 percent of the existing nursery schools could meet these requirements, that they will be grandfathered for one year, until July 1, 1977.

That is basically the bill. I am not sure if I mentioned it, but if in a case of a municipality that wishes to accept the life safety code, we have also made provisions that that particular municipality can do the inspecting so that the state fire marshal would not have to, which is one more attempt to get away from any bureaucratic delays or anything.

What we basically have said, we have defined nursery schools, established that they have to meet the minimum fire safety regulations for 20 and under and then established four additional very lenient health, safety requirements, and that is basically the bill.

I would hope you would all go along with it. It is a unanimous report out of the committee.

Thereupon, Committee Amendment "A" was adopted.

On motion of Mr. Leonard of Woolwich, the House reconsidered its action whereby Committee Amendment "A" was adopted.

The same gentleman offered House Amendment "B" to Committee Amendment "A" and moved its adoption.

House Amendment "B" to Committee Amendment "A" (H-1080) was read by the Clerk.

The SPEAKER: The Chair recognizes the gentleman from Woolwich, Mr. Leonard.

Mr. LEONARD: Mr. Speaker, Ladies and Gentlemen of the House: The amendment you have before you is an amendment to do with the adult to child ratio. In the committee amendment, it is 10 to 1, that there will be an adult present for every ten children in the class and also have an adult on standby, not changing the standby requirement but the amendment would delete the ratio of 10 to 1 and leave any ratio that the nursery school felt it could operate under.

The reason for that, and there are many, number one is, we have to keep in mind that nursery schools are not funded by the state, they are not something that comes under the Department of Education or Health and Welfare of anything like that. By their very nature, they are totally funded by the individual sending their children to those nursery schools.

Now, not everyone is as fortunate and some people have difficulty being able to afford to send their children to nursery school, and if you limit the ratio to 10 to 1, then perhaps it is that much money, it will cost that much more to operate that nursery school and as a result will deny those individuals who wish to send their children to a nursery school that might operate with a 15 to 1 or 20 to 1 ratio in order to keep the price down that would enable those people to send their children to nursery school.

It is a local control issue and no one is forced to send their child to any nursery school that is not of their choosing. If they don't agree with the 15 to 1, 20 to 1 or whatever, I hate to go beyond that, but if they don't agree with that ratio, then they don't have to send their child to that nursery school. There are many and they certainly have the option of sending them wherever they wish.

But if it is that 20 to 1 ratio that makes the nursery school operate that less expensive, then I think we should leave that option open to those individuals who might not be able to afford to send their children to nursery school otherwise.

You will hear there is a safety problem, there is a fire problem or what have you, and I will say yes, I agree, there is a fire problem, quite possibly there is. But isn't there a problem in everything we do in this world? There is an element of risk if you walk outside this door and don't happen to see the doorstop when you walk through and you trip over it and you break your nose.

I am just saying that maybe we are discriminating against those people we are trying to help. As long as it is not a part of the Department of Education and funded by the taxpayers and the option is available to the people, they have the option of going in to the nursery school and inspecting that nursery school, asking the question of how many students they have to the number of adults they have, and if it is not of their liking, and they have the ability to pay more and go elsewhere, then, fine, they have that right.

I do think we are denying the right to some individuals that might not be able to afford nursery school otherwise, so I hope you will go along with the amendment and leave it up to the people in this state to decide where they want to send their children.

The SPEAKER: The Chair recognizes the gentleman from Portland, Mr. LaPointe.

Mr. LAPOINTE: Mr. Speaker, I move the indefinite postponement of House Amendment "B" to Committee Amendment "A" under filing H-1080 and would speak briefly.

The SPEAKER: The gentleman from Portland, Mr. LaPointe, moves the indefinite postponement of House Amendment "B" to Committee Amendment "A" and the gentleman may proceed.

Mr. LAPOINTE: Mr. Speaker, Men and Women of the House: I think that the Health and Institutional Services Committee has done an outstanding job in attempting to reach some sort of unanimous feeling as to what we should be doing with nursery schools and deal with the question of the over-repressive regulations that were developed by the Department of Human Services, and I think that this amendment here is most unfortunate. I think if there is any amendment that is reasonable, it is one that might be offered as House Amendment "A". I hope you will go along with indefinite postponement.

The SPEAKER: The Chair recognizes the gentleman from Owls Head, Mrs. Post.

Mrs. POST: Mr. Speaker, Men and Women of the House: When our committee first started deliberating on this bill, I think we had people of just about every persuasion on the committee, and needless to say, some of our sessions were relatively hot and heavy. But it came down to what we decided was that if licensing is to take place, and we all agreed eventually that it should, it should only be for health and safety matters. That is mandatory licensing.

When we had our hearing on this bill, and I think approximately 30 people testified, all except one person agreed that although they did not — approximately half those people came and said they liked the very stringent regulations that Human Services was proposing. Half those people opposed those regulations, but even of all those opposing those regulations, only one said that they didn't think there should be any licensing at all, all except one said they thought at least it should be for health and safety reasons.

So what it comes down to, I guess, is whether the child-staff ratio is a safety. I guess I only have to ask you to think of what it would be like for you as an individual to be in a room with 20 children from the ages of 2½ to 5 years of age. Try to think if you in any way were going to be able to protect those children. For instance, if there were a fire and one individual was dealing with 20 children, is there any way that that person could ever hope to get those children out of that room in time? We have, in conjunction with the fire marshal, have relaxed the fire standards somewhat, to a point where he thinks they would be safe. But in my own mind, I think they are only going to be safe if we have the child-staff ratio.

The kind of situations you come up with, if you have an accident and only have one person present, that individual has to make a choice. Does that individual deal with the accident the child has had or does he call for help? In the meantime, who takes care of the other 19 children?

There was a situation brought to light where a woman was caring for 20 children in her home, one child left. Because the woman could not leave her other children that she had, the child ended up walking across a super highway, going a fairly long distance, but there was no other option because there was no one else available there.

I think, to my mind anyway, certainly a 10 to 1 ratio is purely a safety measure. We are not talking about programming. You are talking about what kind of ratio you would need in order for an adult to provide any kind of program to those programs. You are talking around a 6 or 7 to 1 level. This one is a safety measure.

I sent the regulations out to all the nursery schools in my area. The comments that I have gotten on these have been favorable, primarily. I haven't had any unfavorable comments about the 10 to 1 child-staff ratio, and I was surprised about that, because I

thought there might be. One sent back and said a capable nursery school teacher is certainly able to handle 10 children safely, as long as someone is on call in case of emergency. If, however, the age of the children there is 3 or under, which they would be, there should be no more than 8 children per teacher.

From another small nursery school teacher comes, "I am in favor of having one adult present for every 10 children. This seems to be a fair ratio."

From all the nursery school teachers that I have talked with, and there have been a great many, all of them were opposed to the original regulations which came out, they have supported this 10 to 1 ratio, so I would ask you to support the move for indefinite postponement.

The SPEAKER: The Chair recognizes the gentlewoman from Auburn, Mrs. Lewis.

Mrs. LEWIS: Mr. Speaker, Ladies and Gentlemen of the House: Looking through the other amendment and this amendment too, I don't see anything that relates to a nursery school that you might have where you don't charge. I used to have a nursery school and I didn't charge anybody. It was just neighborhood children. If I did that again, would I have to conform to all these regulations?

The SPEAKER: The gentlewoman from Auburn, Mrs. Lewis, has posed a question through the Chair to anyone who may care to answer.

The Chair recognizes the gentlewoman from Owls Head, Mrs. Post.

Mrs. POST: Mr. Speaker, yes, what it says is that a nursery school is defined as a program that cares for, maintains or otherwise carries out for consideration, which means for pay. We particularly wanted to address that so if somebody has a play group within their home, or if it is a cooperative where parents come together for children to play together, there is no pay involved in that, they do not have to be licensed and do not come under these regulations.

The SPEAKER: The Chair recognizes the gentleman from Woolwich, Mr. Leonard.

Mr. LEONARD: Mr. Speaker and Members of the House: One thing the lady from Owls Head pointed out is that the person can't leave these children if one of her students or children gets injured, or whatever, one took off across the road. I am not amending that portion of the bill. That portion is having an available adult that is on call in the event something like this happens. That is a red herring because I am not even touching that part.

Let me remind you that in public school, the majority of the classes, at least in my town, are from 25 to 35 children — one teacher. Who are we kidding? The difference is one year. Do you think that makes them that much wiser? They are three times as wise when they get to kindergarten or first grade than they are when they are in nursery school. My children, all four of them, are veterans. They haven't progressed that rapidly.

I hope you will accept this amendment because it is a local issue, it is something that the parents have the prerogative, they have the choice, and let's not get ourselves into the position of getting nursery school so expensive that in two or three years the Department of Education comes in and says, folks, nursery schools are so expensive, we have got to fund them on the state level, so we propose — and we are going to introduce 1994 to take care of it.

Let's take care of it now. It is a local issue, it is one that we can take care of, and I don't think it is an unjust request. If the parents think that their child will be safe, they have the option of reviewing the facility, if they think their child will be safe 20 to 1, it is their option. Are we doing them more harm by leaving them home and not giving them that option of being able to go

to nursery school, and nursery school is supposed to be something that will progress our children towards greater levels. It prepares them for kindergarten. Are we doing them more harm by leaving them at home or are we doing them more harm by letting them come under some sort of risk that we are intangibly talking about on a 20 to 1 or 15 to 1 or 12 to 1 or 11 to 1 ratio, something mythical beyond the 10?

The SPEAKER: The Chair recognizes the gentlewoman from Millinocket, Mrs. Laverty.

Mrs. LAVERTY: Mr. Speaker and Members of the House: I only want to say that it seems that this bill is calling for 12 children in a home instead of 10. We worked on that figure ourselves in the committee, and I want to point out that what he is concerned with is the money involved in this number of children. Please consider the product that you are buying, because if you crowd children into a home with one adult to 10 children, we figured that is much too great a ratio and we are not putting the nursery school, although it is called a school, in a public building. In most instances, they are within the home and we felt very strongly that the number we chose was it. We hope you will vote immediately and do away with this amendment.

The SPEAKER: The Chair recognizes the gentleman from Sanford, Mr. Lovell.

Mr. LOVELL: Mr. Speaker, Ladies and Gentlemen of the House: This bill came out of committee unanimously "ought to pass." Let's vote on it and let's stop talking.

The SPEAKER: The Chair recognizes the gentleman from Ellsworth, Mr. DeVane.

Mr. DEVANE: Mr. Speaker and Members of the House: Mr. Leonard's amendment is a perfectly reasonable amendment. The only protection parents need when they take a child to a nursery school is their own good sense. They don't need the state to tell them whether it is safe, sanitary or anything else. It is perfectly reasonable amendment. I do hope, when the committee amendment comes up, that you will approve that, because as improbable as it may seem, it is less ridiculous than the regulation we have now, sir.

The SPEAKER: The Chair recognizes the gentleman from Portland, Mr. LaPointe.

Mr. LAPOINTE: Mr. Speaker, Ladies and Gentlemen of the House: The gentleman from Ellsworth, Mr. DeVane, has seemed to indicate that everything can be left up to people's good sense, but the simple fact of the matter is, under Title 22, we have a whole host of licensing provisions that run a gamut of services, there are there, it is a legitimate police power of the state.

The SPEAKER: The pending question is on the motion of the gentleman from Portland, Mr. LaPointe, that House Amendment "B" to Committee Amendment "A" be indefinitely postponed. All in favor of that motion will vote yes; those opposed will vote no.

A vote of the House was taken.  
Mr. Goodwin of South Berwick requested a roll call vote.

The SPEAKER: A roll call has been requested. For the Chair to order a roll call, it must have the expressed desire of one fifth of the members present and voting. All those desiring a roll call vote, will vote yes; those opposed will vote no.

A vote of the House was taken, and more than one fifth of the members present having expressed a desire for a roll call, a roll call was ordered.

The SPEAKER: The Chair recognizes the gentleman from South Berwick, Mr. Goodwin.

Mr. GOODWIN: Mr. Speaker, Ladies and Gentlemen of the House: Very briefly, we are dealing with children ages 2½, 3, 4 and 5. Okay, we are not dealing with school age kids. If you people feel comfortable putting 15 or 20 kids that age in with one person, then go ahead and vote for this amendment. I don't and I think

it is very dangerous. Not in any letters or testimony that our committee received was there one iota of proof that showed by going to a staff ratio of 1 to 10 or 1 to 12 or a staff ratio right around in that area, were we going to cause any economic hardship on any nursery school in this state.

We got a lot of letters regarding the proposed rules and regulations, regarding specific regulations, but not once did we get anything that I saw that came across my desk in regard to any proof of an economic hardship if we had a staff ratio of around this figure.

I think in terms of a public school, sure you have one teacher to 25 kids, but you also have a much more controlled area and many more people available on a moment's notice.

The SPEAKER: The Chair recognizes the gentleman from South Portland, Mr. Curran.

Mr. CURRAN: Mr. Speaker, Ladies and Gentlemen of the House: I rise for the first time this session to speak because I feel so strongly about this particular issue. I was one of those on the committee that wanted a 1 to 6 ratio. I compromised for a 1 to 10.

If the gentleman from Woolwich could guarantee that all 20 children were going to be in one room and not spread out in three rooms with one adult, I might perhaps bend a little. At this point I cannot.

You all know that I operate a summer camp, it is a little bit of an environment, but even in our bunk houses, we are required a 1 to 5 ratio for six and under, and we don't hit 1 to 10 until we hit 15 to 18-year-olds.

Now you want people to set their own totals. Well, I cannot put profit above safety.

Mr. Leonard of Woolwich was granted permission to address the House a third time.

Mr. LEONARD: Mr. Speaker, Ladies and Gentlemen of the House: All I am asking is, let these parents decide. They have the option of going to the school, determining whether it is feasible to send their children to the school, and if it is all they can afford, then they have the option of determining what will do the child the most good — sending them to school with an element of risk or leaving them home and not letting them progress.

The SPEAKER: The Chair recognizes the gentleman from South Portland, Mr. Curran.

Mr. CURRAN: Mr. Speaker, Ladies and Gentlemen of the House: I would ask the good gentleman from Woolwich if he would be willing to let parents exercise total common sense in all of the areas which we regulate that involve children?

It wasn't too many years ago, when we instituted child labor laws, that parents had the good sense to let their children work in dimly lighted factories where they lost fingers and hands.

The SPEAKER: The Chair recognizes the gentleman from Durham, Mr. Tierney.

Mr. TIERNEY: Mr. Speaker, Ladies and Gentlemen of the House: For those of you who might still be sitting on the fence on a vote which is obviously going to be close, I would like you to know that I will be voting to indefinitely postpone this amendment because I do feel the staff ratio is needed, but I will be offering an amendment, if this amendment is indefinitely postponed, to increase that ratio from 10 to 12 as a more realistic figure. I don't want to debate that amendment now, but I did think it would help you to know there would be another amendment coming, were this indefinitely postponed.

The SPEAKER: The Chair recognizes the gentlewoman from Owls Head, Mrs. Post.

Mrs. POST: Mr. Speaker, Ladies and Gentlemen of the House: I think earlier in the debate, Mr. Leonard brought up the issue of we have children in public schools with maybe a 30 to 1 ratio and those children are, after all, only a year older. What is the difference, is so much

wisdom gained within a year? I think anybody would tell you that is involved with children, and you can probably say from your own children, children of 5 years old are much more capable of following directions than are children of 3 years old.

There are also some other differences. Our educational buildings have to meet very, very strict fire regulation. These fire regulations we have, at least programs for 20 and under, relaxed somewhat for nursery schools and that has been with the agreement of the fire marshal. I, for one, if we don't have any kind of a staff ratio set, would have to think myself about the section of this bill which allows those fire regulations to be relaxed.

The other difference is, also, that you have other people in the building on call. When you are talking about having 20 children, you may be the only person in the building. In schools, if an accident happens, there is someone else that you can go to.

Mr. Leonard mentioned that he was not removing that particular section and that may be perfectly true but it is the same kind of system of a reasonable risk. When you have under 10 children, there is a less risk that something is going to happen, and that is the same kind of basis that we use in terms of dealing with the fire regulations.

In terms of talking of red herrings, I think it is important to mention that all the nursery school people that I have talked to agreed with this staff ratio. Only because someone stands here now and says that there might be a possibility of some economic damage, which nobody has been able to prove, and all of our nursery schools that have contacted me said there is not going to be a problem, then we are questioning defeating this particular issue in the bill, and I simply don't understand that.

The SPEAKER: The Chair recognizes the gentleman from Biddeford, Mr. Farley.

Mr. FARLEY: Mr. Speaker, Ladies and Gentlemen of the House: I would ask that you indefinitely postpone this amendment. I have five boys between the ages of 2 and 13 and the 4 year old is a day student at a nursery school now. I will tell you, that lady must have her hands full because I know what it is. I think to ask all those children of one teacher, I think is just impossible for us to ask, and for the kid to pick up anything at all, the boy or girl, whatever they may be. I would ask for indefinite postponement. I think there is a better deal coming and I hope you all vote to support the indefinite postponement motion.

The SPEAKER: A roll call has been ordered. The pending question is on the motion of Mr. LaPointe of Portland that House Amendment "B" to Committee Amendment "A" be indefinitely postponed. All in favor of that motion will vote yes; those opposed will vote no.

#### ROLL CALL

YEA — Albert, Ault, Bachrach, Bagley, Bennett, Berry, G. W., Berube, Birt, Blodgett, Boudreau, Burns, Bustin, Byers, Call, Carey, Carroil, Chonko, Clark, Connolly, Cooney, Cote, Cox, Curran, P.; Curran, R.; Dam, Davies, Doak, Drigotas, Durgin, Dyer, Farley, Farnham, Faucher, Fenlason, Flanagan, Fraser, Goodwin, H.; Goodwin, K.; Greenlaw, Hall, Henderson, Hennessey, Hinds, Hobbins, Hughes, Jalbert, Jensen, Joyce, Kany, Kaufman, Kelleher, Kennedy, Laffin, LaPointe, Laverty, Lewin, Lizotte, Lovell, Lynch, MacEachern, Martin, A.; Martin, R.; Maxwell, McMahon, Mills, Miskavage, Mitchell, Morin, Morton, Mulkern, Nadeau, Najarian, Norris, Peakes, Pearson, Pelosi, Peterson, T.; Post, Raymond, Rolde, Rollins, Silverman, Smith, Snow, Spencer, Sprowl, Strout, Stubbs, Susi, Talbot, Tarr, Teague, Tierney, Truman, Twitchell, Tyndale, Usher, Wagner, Wilfong, Winship, The Speaker.

NAY — Berry, P. P.; Bowie, Carpenter, Carter, Churchill, Connors, Curtis, DeVane, Dow, Dudley, Garsoe, Gould, Gray, Hewes, Higgins, Hunter, Hutchings, Immonen, Jackson, Kelley, Leonard, Lewis, Littlefield, Lunt, Mackel, MacLeod, Mahany, McBreairty, McKernan, Palmer, Perkins, S.; Perkins, T.; Peterson, P.; Pierce, Quinn, Rideout, Saunders, Shute, Snowe, Theriault, Torrey, Tozier, Walker, Webber.

ABSENT — Finemore, Gauthier, Jacques, LeBlanc, Powell.

Yes, 102; No, 44; Absent, 5.

The SPEAKER: One hundred and two having voted in the affirmative and forty-four in the negative, with five being absent, the motion does prevail.

Mr. Tierney of Durham offered House Amendment "A" to Committee Amendment "A" and moved its adoption.

House Amendment "A" to Committee Amendment "A" (H-1075) was read by the Clerk and adopted.

Committee Amendment "A" as amended by House Amendment "A" thereto was adopted and the Bill assigned for second reading tomorrow.

The Chair laid before the House the third item of Unfinished Business:

House Report — "Ought to Pass as amended by Committee Amendment "A" (H-1028) — Committee on Local and County Government on Bill "An Act Relating to Town Ways" (H. P. 1920) (L. D. 2108) — In the House, Report Read and Accepted; Committee Amendment "A" (H-1070) to Committee Amendment "A" read.

Tabled — (Till Later Today) March 24 by Mr. Dam of Skowhegan.

Pending — Adoption of House Amendment "A" (H-1070) to Committee Amendment "A".

The SPEAKER: The Chair recognizes the gentleman from Bangor, Mr. Henderson.

Mr. HENDERSON: Mr. Speaker, Ladies and Gentlemen of the House: This problem with amending is a little more difficult than I wish it were. I had prepared a second amendment to replace House Amendment "A" and was going to withdraw it, but for people who are not aware of various problems, I want to say that I will continue to ask you to adopt House Amendment "A" today. The other problem that was attempted to be dealt with in House Amendment "B" will have to be dealt with in some other amendment. After the issue of House Amendment "A" is disposed of, I would hope that someone might be able to table this before we engross it.

With respect to House Amendment "A" per se, as I indicated the other day, this will preserve the municipality's right to use abandoned town ways, and I guess I will just refresh you briefly about this. There are a lot of old town ways that have been laid out over many hundred years, the records have become lost and the town officials are not even sure where they are, but someone else might know where they are, come in and develop a subdivision or build a house at the end of one of these ways and then require that the town open them and maintain them. But, in effect, they may have been overgrown and long since forgotten. This bill will say that for all these old roads that have not been maintained for, I believe, 30 years, will be considered abandoned and discontinued. That will simplify a lot of these complications for many towns.

The amendment that I am offering, House Amendment "A", will just say, but, a town may at some later time use these ways for recreational purposes if the town so votes. It is not automatic, but if the town wants to use these old roads for hiking trails or whatever, the town may so vote and preserve that interest in that recreational usage. That is the effect of

House Amendment "A" and I hope you vote to adopt it.

The SPEAKER: The Chair recognizes the gentlewoman from Brunswick, Mrs. Martin.

Mrs. MARTIN: Mr. Speaker, Ladies and Gentlemen of the House: I am sorry, but I cannot go along with my friend Mr. Henderson, and he is really my friend. The committee worked very hard on this bill. I can't see destroying the meaning or the strength of the whole bill.

The reason why I voted for the bill, it would have come out with a minority report — the only reason I voted for it was because the recreation was taken out of it. I am not against walking paths, I am not against bicycling, but I am against motor vehicles, powered motor and motorized vehicles, machines that would go in these pathways. I don't want to destroy things, because I know that some of these motors do destroy. People are very careless, and I am thinking about the trees that are growing and I am thinking about the birds that are around the place. I am not an environmentalist, but I do think about birds and bees, if that is what you want to call it. I hope you will vote this amendment down and I do ask for a roll call.

The SPEAKER: A roll call has been requested. For the Chair to order a roll call, it must have the expressed desire of one fifth of the members present and voting. All those desiring a roll call vote will vote yes; those opposed will vote no.

A vote of the House was taken, and more than one fifth of the members present having expressed a desire for a roll call, a roll call was ordered.

The SPEAKER: The Chair recognizes the gentlewoman from Madison, Mrs. Berry.

Mrs. BERRY: Mr. Speaker, Ladies and Gentlemen of the House: Might I ask a question through the Chair to the chairman of the committee? I would like to ask if by chance a discontinued road is swamped out or something like this, if it could be called maintained and then somebody could open it up for a road?

The SPEAKER: The gentlewoman from Madison, Mrs. Berry, poses a question through the Chair to the gentleman from Skowhegan, Mr. Dam, who may answer if he so desires.

The Chair recognizes that gentleman.

Mr. DAM: Mr. Speaker, Ladies and Gentlemen of the House: Yes, it could. When Mrs. Berry asks if it is swamped out, it is quite clearly in the statutes that if there has been any maintenance done at all on that road, and under this bill it would be during that 30 years before presumption of abandonment, and it has been done by the municipalities. Now, this is the whole key to the bill. If the money has been expended by the municipality, no matter what is done on that road, then that road would not be under the presumption of abandonment. But if it were done by an individual, like a road commissioner could go in on his own and do work on that road, then it could be said that the municipality had not authorized it, then that road would become an abandoned road under the 30 year presumption of abandonment. It would almost have to be in a town, a direct dealing of the municipality as far as appropriating money to put money onto that road to say that the town had done maintenance. I would say that if no money had been authorized for expenditures on that road by the legislative body, then, regardless of what was done, it would be done as an individual and the presumption of abandonment would hold.

The SPEAKER: The Chair recognizes the gentleman from South Berwick, Mr. Goodwin.

Mr. GOODWIN: Mr. Speaker, Ladies and Gentlemen of the House: I am going to have to disagree with my good friend from Brunswick, Mrs. Martin, on this.

Without Representative Henderson's amendment on this bill, let me tell you what could hap-

pen. Many towns have a lot of old town ways. If they haven't been maintained for 30 years but have been used considerably by a snowmobile club or snowmobilers, trail bike riders, hikers, hunters, this road, as I read the bill, it would be abandoned as a town way and all the right would then go to the abutting owners.

Now, if at some point in time those abutting owners wanted to close off the use of that right of way, they could, and under Representative Henderson's amendment, the town, at some point in time, would be able to reopen this way as a recreational way. Without this amendment, just stop and think what is going to happen if in five years after we pass this bill and some abutting landowner has closed off a right of way that has been used for years by. I will use the term again, a snowmobile club or a group of hikers or hunters getting to a certain area, think of the yelling and the screaming that is going to go on, because those people aren't going to be able to use that right of way any longer. Representative Henderson's amendment would allow the local legislative body of the town to reopen that for recreational access.

The SPEAKER: A roll call has been ordered. The pending question is on the adoption of House Amendment "A" to Committee Amendment "A". All in favor of adopting House Amendment "A" to Committee Amendment "A" will vote yes; those opposed will vote no.

#### ROLL CALL

YEA — Albert, Bagley, Bennett, Berry, P.P.; Birt, Blodgett, Boudreau, Bowie, Burns, Bustin, Byers, Call, Carroll, Carter, Chonko, Churchill, Clark, Connors, Connolly, Cooney, Cote, Cox, Curran, P.; Curran, R.; Curtis, Dam, Davies, DeVane, Doak, Dow, Drigotas, Dudley, Durgin, Dyer, Farley, Faucher, Fenlason, Flanagan, Fraser, Goodwin, H., Goodwin, K.; Gould, Gray, Greenlaw, Hall, Henderson, Hinds, Hobbins, Hughes, Hunter, Hutchings, Immonen, Ingegneri, Jackson, Jalbert, Jensen, Joyce, Kany, Kauffman, Kelleher, Kennedy, LaPointe, Laverty, Lewin, Littlefield, Lovell, Lunt, Lynch, MacEachern, Mackel, MacLeod, Mahany, Martin, R.; Maxwell, McBreairty, McMahon, Mills, Miskavage, Mitchell, Morin, Morton, Mulkern, Nadeau, Najarian, Norris, Palmer, Peakes, Pearson, Pelosi, Perkins, S.; Perkins, T.; Peterson, P.; Peterson, T.; Pierce, Post, Quinn, Raymond, Rolde, Rollins, Saunders, Shute, Silverman, Smith, Snow, Snowe, Spencer, Sprowl, Strout, Stubbs, Susi, Talbot, Tarr, Teague, Theriault, Tierney, Torrey, Tozier, Twitchell, Tyndale, Usher, Wagner, Walker, Webber, Wilfong.

NAY — Ault, Bachrach, Berry, G. W.; Berube, Carey, Carpenter, Farnham, Garsoe, Hennessey, Hewes, Laffin, Lewis, Lizotte, Martin, A.; Rideout, Truman.

ABSENT — Finemore, Gauthier, Higgins, Jacques, Kelley, LeBlanc, Leonard, McKernan, Powell, Winship.

Yes, 124; No, 16; Absent, 10.

The SPEAKER: One hundred and twenty-four having voted in the affirmative and sixteen in the negative, with ten being absent, the motion does prevail.

The Chair recognizes the gentlewoman from Portland, Mrs. Najarian.

Mrs. NAJARIAN: Mr. Speaker, Ladies and Gentlemen of the House: You are not adopting the Committee Amendment yet are you?

The SPEAKER: The Chair would answer in the affirmative.

Mrs. NAJARIAN: Mr. Speaker, Ladies and Gentlemen of the House: Well, somebody spoke to me who had an amendment to offer to the committee amendment, which isn't quite ready yet, and I wonder if somebody would table this for one more day.

On motion of Mr. Dam of Skowhegan, tabled pending adoption of Committee Amendment "A" as amended by House Amendment "A" and tomorrow assigned.

The Chair laid before the House the first tabled and today assigned matter:

Bill "An Act Relating to Conflicts of Interest in Offices Subject to Legislative Confirmation" (H. P. 2127) (L. D. 2279).

Tabled — March 23 by Mr. Palmer of Nobleboro.

Pending — Passage to be Engrossed.

The SPEAKER: The Chair recognizes the gentleman from South Portland, Mr. Perkins.

Mr. PERKINS: Mr. Speaker and Members of the House: This was a divided report of the Judiciary Committee. I want to apologize at this time to the good gentleman from Lewiston, Mr. Jalbert, because he asked the other day what the definition of a conflict of interest was and I said at that time that this bill did not deal with that and I was absolutely wrong. It primarily deals with that. The first paragraph sets forth a definition of what is a conflict of interest. I submit that the definition that has been presented in the form of this bill, indicating that a conflict of interest occurs whenever a nominee's private financial interest that would survive, etc., ultimately one who has any financial interest where it would affect the nominee's position would result in a conflict of interest.

I submit that there are many instances where a conflict of interest could well develop when there was no financial interest at all in respect to a particular nominee's position.

The second paragraph deals with legislative review. And as I indicated the other day, I was interested in knowing how this would be dealt with by virtue of the transfer of the confirmation powers to the Joint Standing Committees and I find that paragraph two does absolutely nothing more than what is already a matter of the form by which the executive council, through its confirmation process, as it would be transferred to us as a legislative body, would conduct it and, therefore, this particular paragraph does nothing.

I would hope that we would see fit, if we are going to put down in statutory form what would constitute a conflict of interest, that we would do it whereby it would meet agreement with all people. I am afraid that cannot be done. There have been many different segments of our particular society here in Maine that has a difference of opinion as to what does constitute a conflict of interest and have expressed it as such. Some would say, if there was any remote chance that the position that you are taking would in any way conflict with your position in life, regardless of financial status or what have you, that that is, in effect, a conflict of interest.

We as individual legislators quite often have to toy with the idea of what constitutes a conflict, because we deal with so many different matters, and quite often a matter will deal with a particular area that we in private life have to live with and therefore we wonder if it is not a conflict.

The Supreme Judicial Court of the State of Maine, by virtue of a case that is now quite old, did set forth what it termed to be a conflict of interest. It had nothing to do with finances in terms of its definition as they recited it, and it has been stated on page two or the back side of this legislative document, to read, "The law requires of the individual perfect fidelity in the exercise of the powers and duties of their office, whatever has a tendency to prevent their exercise of such fidelity is contrary to the policy of the law and should not be recognized as lawful."

I submit that the attempt, and it certainly, probably, was well intended, the attempt to define conflict of interest, as it appears in this legislative document, is not as has been purported to be what could constitute a conflict by the Supreme Judicial Court of the State of Maine. Therefore, I would move at this time for indefinite postponement of this bill.

The SPEAKER: The gentleman from South

Portland, Mr. Perkins, moves the indefinite postponement of this Bill and all accompanying papers.

The Chair recognizes the gentleman from Saco, Mr. Hobbins.

Mr. HOBBS: Mr. Speaker, Ladies and Gentlemen of the House: I rise today to oppose the motion made by the gentleman from South Portland, Mr. Perkins. I think that this bill is essential in order that we establish some type of guidelines to be enacted into law so that individuals such as the Governor and nominees that the Governor nominates and the Legislature and the public will know basically what is and what is not acceptable as a conflict or not a conflict. I think the real important part of having something on the books relating to a definition of conflict of interest is to assure the public that we have a clear understanding of why a person would or would not have a conflict.

Now, basically this bill establishes a definition which is similar, which is derived from the common law definition of many court cases. The only difference is the addition of one word, and that word is "financial." A definition under this bill states that a conflict of interest occurs whenever a nominee's private financial interest that would survive the nominee's appointment to office would tend to interfere with the complete fidelity in the exercise of the powers and duties of the office which the office holder holds. If a definition of standard of conflict of interest in a particular office is set forth in the statutes relating to the powers and duties of the office, that definition of standard shall be applicable pursuant to this section.

I admit that this bill and the definition is not a perfect one, but I think in order to have some surety in the law and in order for the people of this state to know that this legislature can define in some words what a conflict is, that this bill is essential.

In the past, as you probably know, we have had two instances of recent history in which there has been some question of whether individuals who have been nominated by the Governor were held in conflict. Those two individuals were Mr. Robinson of Farmington, and Mr. Levine of Winslow. In both cases, the Attorney General of the State of Maine cited the case regarding what perfect fidelity is and basically what the common law definition is that this bill pertains to.

As you know, this body can define many words and many definitions. I think it is essential that this body, and not the Attorney General's Office through court decisions, should be the final say of what a word is that means so much to the state.

When the vote is taken, Mr. Speaker, on the motion for indefinite postponement, I request the yeas and nays.

The SPEAKER: The Chair recognizes the gentleman from Lewiston, Mr. Jalbert.

Mr. JALBERT: Mr. Speaker, Ladies and Gentlemen of the House: I hope that someday there is a committee formed that is certainly more knowledgeable than I would be and would really go into — it would not necessarily have to be people within the legislative branch — would really go digging into this, to me, all-important matter, conflict of interest. I think it has been harmful to some, I don't know. I think this is one of the most important things, one of the things that has been most overlooked since I have been here.

But restricting myself to this measure here, I have talked to some people in this House and outside of this House who are extremely knowledgeable in legal matters, and from where I sit, it is generally their opinion, for the purposes that this would serve, that it is not necessary. Consequently, I would go along with the gentleman from South Portland, Mr. Perkins, in his motion to indefinitely postpone this measure.



The SPEAKER: A roll call has been requested. For the Chair to order a roll call, it must have the expressed desire of one fifth of the members present and voting. All those desiring a roll call vote will vote yes; those opposed will vote no.

A vote of the House was taken, an more than one fifth of the members present having expressed a desire for a roll call, a roll call was ordered.

The SPEAKER: The Chair recognizes the gentleman from Saco, Mr. Hobbins.

Mr. HOBBS: Mr. Speaker, Ladies and Gentlemen of the House: I know everyone is scurrying in and out of the House and we are all tired, but I hope you do look at L.D. 2279 and read it, and not just vote for indefinite postponement because you might be confused about the issue involved, with what is a definition of a conflict or what is not a definition of a conflict.

As you know, the bill does more than just define what a conflict of interest does. It also shows how the legislature will review conflicts of interest. As you know, the legislature has established a mechanism whereby different joint standing committees will investigate and look into appointments for different offices. For example, because the executive council will be dissolved, the Judiciary Committee will look into the nominations by the Governor to the bench, the Supreme Judicial Court and also to the District and Superior Courts.

Each standing committee will have the same type of investigative powers. The legislative committees will be required to inquire into the possibilities of conflict of interest of nominees made by the Governor of the State of Maine. I think it is very important that these joint standing committees have some guidelines to follow and to look into in order to determine whether a person has a conflict of interest. So before you vote on this, I do hope that you look at that at least, and not just vote against it because you are unsure.

The SPEAKER: The Chair recognizes the gentleman from South Portland, Mr. Perkins.

Mr. PERKINS: Mr. Speaker, Ladies and Gentlemen of the House: Very briefly, yes, I hope that you look at it, because the day that we say that private financial interest is the only time that there can possibly be a conflict of interest, then we are closing our eyes to the facts of life. We are sticking our heads in the sand. The law court didn't say that it was confined to private financial interests. It took into account that there could be any number of reasons why there could develop a conflict of interest. Why it was written this way, I have no way of knowing, but I do not know if we pass this, we are locking ourselves into something that we really don't want and we are opening up a real Pandora's box.

The SPEAKER: The Chair recognizes the gentleman from Auburn, Mr. Hughes.

Mr. HUGHES: Mr. Speaker, Ladies and Gentlemen of the House: My comments would come in the form of a question to the gentleman from South Portland or to anyone else who would know. If we do not pass this bill, do our legislative committees have the right to inquire into such matters as financial conflict of interest or will we be leaving the people of Maine unprotected from inquiries into this kind of subject?

The SPEAKER: The Chair recognizes the gentleman from South Portland, Mr. Perkins.

Mr. PERKINS: Mr. Speaker, Ladies and Gentlemen of the House: In answer to that question, that was the reason that I tabled it initially the other day. No, we don't lose that right. If we in our joint standing committees need the authority to inquire as a result of an investigation, this legislature can give it and it will give it. I was here when they have given it. This second paragraph does nothing more than

say what can already be done and we didn't need that one bit. It seems to me that we were really talking about Item 1, which is what would cause a conflict of interest.

The SPEAKER: The Chair recognizes the gentleman from Waterville, Mrs. Kany.

Mrs. KANY: Mr. Speaker, Ladies and Gentlemen of the House: In answer to Mr. Hughes' question, we could always go to the courts and ask their opinion, we can always go to the Attorney General and ask their opinion, and definitely there would be a ruling based on case law derived from the common law, but this is basically what the common law has stated, and it would save a lot of money and a lot of the court's time if we had such a guideline which would be applied just to those confirmable positions which various legislative committees would be having to address.

The SPEAKER: A roll call has been ordered. The pending question before the House is on the motion of the gentleman from South Portland, Mr. Perkins, that this bill and all its accompanying papers be indefinitely postponed. Those in favor will vote yes; those opposed will vote no.

#### ROLL CALL

YEA — Albert, Aull, Bagley, Bennett, Berry, G. W.; Berube, Birt, Bowie, Burns, Byers, Call, Carey, Carpenter, Churchill, Conners, Cote, Curtis, Dam, DeVane, Doak, Dow, Drigotas, Dudley, Durgin, Dyer, Farnham, Fenlason, Garsoe, Gould, Gray, Hall, Hewes, Higgins, Hinds, Hunter, Hutchings, Immonen, Jackson, Jalbert, Kauffman, Kelley, Laffin, Laverty, Leonard, Lewin, Lewis, Lizotte, Lovell, Lunt, Lynch, MacEachern, Mackel, MacLeod, Martin, R.; Maxwell, McBreairty, McKernan, McMahon, Miskavage, Morton, Mulkern, Palmer, Peakes, Pearson, Perkins, S.; Perkins, T.; Peterson, P.; Pierce, Quinn, Raymond, Rollins, Saunders, Shute, Silverman, Snow, Snowe, Sprowl, Strout, Susi, Tarr, Teague, Theriault, Torrey, Tozier, Truman, Twitchell, Usher, Walker, Webber, Winship.

NAY — Bachrach, Berry, P. P.; Blodgett, Boudreau, Bustin, Carroll, Carter, Chonko, Clark, Connolly, Cooney, Cox, Curran, P.; Curran, R.; Davies, Farley, Faucher, Fraser, Goodwin, H.; Goodwin, K.; Greenlaw, Henderson, Hennessey, Hobbins, Hughes, Ingegneri, Jensen, Kany, Kelleher, Kennedy, LaPointe, Martin, A.; Mills, Mitchell, Morin, Nadeau, Najarian, Pelosi, Peterson, T.; Post, Rolde, Spencer, Stubbs, Talbot, Tierney, Tynedale, Wilfong.

ABSENT — Finemore, Flanagan, Gauthier, Jacques, Joyce, LeBlanc, Littlefield, Mahany, Norris, Powell, Rideout, Smith, Wagner.

Yes, 90; No, 47; Absent, 13.

The SPEAKER: Ninety having voted in the affirmative and forty-seven in the negative, with thirteen being absent, the motion does prevail.

Sent up for concurrence.

The Chair laid before the House the second tabled and today assigned matter:

Bill "An Act Concerning the Analysis of Unexpended Balance and Payment Maximums under the Aid for Dependent Children Program" (H. P. 1904) (L. D. 2091) — In House, Passed to be Engrossed. — In Senate, Indefinitely Postponed in non-concurrence.

Tabled — March 23 by Mrs. Berube of Lewiston.

Pending — Further Consideration.

On motion of Mrs. Berube of Lewiston, tabled pending further consideration and specially assigned for Monday, March 29.

The Chair laid before the House the third tabled and today assigned matter:

HOUSE DIVIDED REPORT — Majority (7) "Ought To Pass" as Amended by Committee Amendment "A" (H-1049) — Minority (6)

"Ought To Pass" as Amended by Committee Amendment "B" (H-1050) — Committee on Fisheries and Wildlife on Bill, "An Act to Clarify the Fish and Game Laws" (H. P. 1933) (L. D. 2121)

Tabled — March 24 by Mrs. Najarian of Portland.

Pending — Acceptance of either Report.

On motion of Mr. Mills of Eastport, the Bill and all its papers were recommitted to the Committee on Fisheries and Wildlife and sent up for concurrence.

The Chair laid before the House the fourth tabled and assigned matter:

Bill, "An Act Relating to Residency for the Purposes of Municipal Relief of the Poor" (S. P. 738) (L. D. 2288)

Tabled — March 24 by Mr. Lizotte of Biddeford.

Pending — Passage to be Engrossed.

The SPEAKER: The Chair recognizes the gentleman from Biddeford, Mr. Lizotte:

Mr. LIZOTTE: Mr. Speaker, Ladies and Gentlemen of the House: I would like to apologize for having this bill tabled yesterday. I was told that this bill was to be amended. Now they tell me that it does not need to be amended, so once again I would like to ask any member of the Judiciary Committee to please tell us what this bill will do.

The SPEAKER: The gentleman from Biddeford, Mr. Lizotte, has posed a question through the Chair to anyone who may care to answer.

The Chair recognizes the gentleman from Standish, Mr. Spencer.

Mr. SPENCER: Mr. Speaker, Ladies and Gentlemen of the House: In the last session of this legislature, we passed a bill to solve the problem of people who are residents of one town who got sick and then went to the hospital in another town or city and then, because their hospital bill exceeded their resources, had to receive assistance from the town or died in the hospital and had to have their funerals paid for. The problem with the law before the last regular session was that the town where the hospital was located ended up, in many cases, paying the bills for the people who were really residents of another community.

In the last session, we passed a law to change this situation so that if someone were admitted to a hospital and then stayed in the hospital and either died or was unable to support themselves while they were in the hospital, the town in which they lived before they went into the hospital would be responsible for their general assistance. The way that we defined that was to say that the town in which they lived for 30 days prior to their admission to the hospital was the town in which they were a resident.

We then went further on and said that if a person was in a municipality and he was not a resident of the municipality in which he was located or another municipality, then the municipality in which he was located would have to provide general assistance.

The 30-day provision for the hospital has created some confusion and some communities have thought this bill established a 30-day residency requirement in a town before somebody could be eligible for general assistance. This was not the intent of the original law, which was designed only to deal with this hospital situation, and in order to avoid further confusion and possible litigation in this area, we are adding a simple sentence to the section which says that nothing in this section which was designed to deal with this hospital situation establishes a durational residency requirement for the receipt of general assistance. The purpose of the bill is simply to clarify what the intent of the law was in the last session and I don't believe that there is any substantive change. The thrust of it is simply to eliminate some



confusion which otherwise may end up in litigation.

Thereupon, the Bill was passed to be engrossed in concurrence.

The Chair laid before the House the fifth tabled and today assigned matter:

Bill "An Act to Provide for more Effective Debt Management and for more Effective Administration of the State's Development Financing Capability" (H. P. 1816) (L. D. 1974)

Tabled — March 24 by Mrs. Najarian of Portland.

Pending — Passage to be Engrossed.

The SPEAKER: The Chair recognizes the gentleman from Sabattus, Mr. Cooney.

Mr. COONEY: Mr. Speaker, Ladies and Gentlemen of the House: The reason that this bill has been tabled for so long is that we have been working hard with some people interested in the measure on trying to develop an alternative proposal which would get away from the Industrial Finance Bank, which would have the power to issue \$100 million worth of bonds and many people had reservations about the credit risk to the state. We have developed a different approach to this and have provided for some limits on the Maine Guarantee Authority and the maintenance of the Debt Management Committee. The amendment was finally drafted and finished today and has gone to the Research Office and it should be ready by tomorrow. I will have it for you then if this could be tabled until then.

On motion of Mr. Rolde of York, tabled pending passage to be engrossed and tomorrow assigned.

On request of Mr. Dam of Skowhegan, the following matter was taken up out of order by unanimous consent:

Bill "An Act to Strengthen Litter Laws and Improve Solid Waste Management in this State" (H. P. 2225) (L. D. 2315) which was tabled earlier in the day and later today assigned, pending passage to be engrossed as amended by House Amendment "A".

Mr. Dam of Skowhegan offered House Amendment "B" to and moved its adoption.

House Amendment "B" (H-1093) was read by the Clerk.

The SPEAKER: The Chair recognizes the gentleman from Skowhegan, Mr. Dam.

Mr. DAM: Mr. Speaker, Ladies and Gentlemen of the House: I see there are some smiles on some of the members faces when they see this and they see the title, "Newspaper Litter Control." I can assure you today that there is nothing frivolous in offering this amendment to this house. It just so happens that the bill itself, "An Act to Strengthen Litter Laws and Improve Solid Waste Management in this State" deals directly with this problem.

Secondly, it so happens that this very same amendment is before the Kentucky State Legislature right now, so it is nothing that is originated in the State of Maine. It is nothing that Everett Dam has originated, going along with the supplement bill which you are all aware of. This deals directly with the problem of newspaper and newspaper waste and recycling of newspapers. It was changed over by Legislative Research to move the various sections into conformity with the law of the State of Maine and not the way it was written for the State of Kentucky.

What it primarily does is set a deposit on newspapers. It allows for the refund to be made when the newspapers are delivered to a redemption center. It creates within the Department of Environmental Protection a litter fund. This would be funded by these papers that are not redeemed. It also allows for payment for a partial return of newspapers, including supplements. And the main thing of this is, what it would do, by recycling newspaper

wastes or old newspapers, it would save thousands upon thousands of cords of wood from being cut from our forests and going into paper manufacturing in this state.

The day is coming, contrary to what we are told, that the forests are increasing 2 percent a year faster than we can cut them, the day is going to come with the increased usage of wood, not only by this country but from what we are shipping abroad, that we will find our forests in Maine will not be adequate to support our industry.

Also, there has been an increased usage of burning of wood to heat homes, there is also talk now of methane gas being made from wood, there is talk of maybe industrial steam generation being done by wood, so we are cutting trees down faster and somebody might think we are cutting them a little too fast. I am sure that if you go over the areas where they have been clearcut, you will find that this is true, so something has to be done to start recycling, something has to be done to control litter. If you go into your public dumps, you will see newspapers being dumped, and while newspapers will decay in time, when they are dumped into a pack or a bundle or any amount at all, they tend to compact and they don't decompose quite as readily as they do if they were separated. With separation, you would have a problem, especially if you did not cover immediately in a sanitary landfill, of the wind blowing them away and blowing them all over the place.

What this does, this speaks very well to that problem. Another thing that this would do by reclaiming, it would get this newsprint back, and I realize that all of it cannot go back into the manufacturing of newsprint because you can only recycle only so much to go back in and the rest has to have raw material to supplement the recycle. There are industries in this state that use recycled paper. One of those industries being located in the City of Waterville and partly in the town of Fairfield, Keyes Fiber, another one, they make a molded paper product, a plate. You will recall just recently that the gentleman from Waterville, Mr. Carey, presented the good Speaker, Mr. Martin, with a bundle of bicentennial plates.

This stuff can be used when you make fiberboard, egg cartons, which are nothing more than a pulp paper carton. Also, in Gardiner there is a mill that uses recycled paper in paper board manufacture. We also have an industry in this state, that uses newspapers, they grind them up, fireproof them and burn proof them and package them up and it is sold for pouring insulation to insulate homes for those people who will pour that insulation in their own buildings. There is a need for this.

Also, it would take a big burden off the dumps in the municipalities. That is the reason for introducing this, because if we have concern for litter, then we should look at all areas of litter and I am sure that if we really have a true concern, come the next session, we will be expanding the so-called bottle bill.

I don't think bottles are the only litter we have to deal with or the only recyclable thing that we are going to have in the state. I think the time has come that we have to look at our natural resources and we have to start thinking of how many times can we recycle in order to save our natural resources and not get to the day when we will find that we don't have the natural resources to do with.

Only a few years ago, we thought that we would never run out of oil but now we are down to the point where it is crucial or down to the point where we have even heard bills in this session to put a gas guzzler tax on, and unless we do something in the area of our woods and recycling paper, you will come — and I say very shortly and I strongly believe this — that we will have to start thinking of enacting legisla-

tion to curtail the use of wood in this state. I would not want to see this because we have so many industries that do rely on wood in order to keep going and especially those that burn wood to keep their houses warm. If they were denied this because of an acute shortage at a future date, and I am sure the oil situation will stay with us, this would put a tremendous burden on them. That is the reason for offering this amendment today, that is the sole reason.

If I had wanted to talk about supplements, I would have said, let's put a cent apiece more there and give it to the newspaper boy and let him pick up the newspapers and return them, but that I am not interested in. I am interested in only one thing — recycling, recycling the newspapers and getting them used up and not having them wasted. For that reason, I offer this amendment and I hope you will support it. I request a roll call when the vote is taken.

The SPEAKER: The Chair recognizes the gentleman from Bangor, Mr. McKernan.

Mr. MCKERNAN: Mr. Speaker, Ladies and Gentlemen of the House: What can I say? It is imaginative.

I would move the indefinite postponement of this amendment, I would also ask for a roll call.

I think you really just have to look at the committee report and see that the gentleman from Skowhegan was opposed to the bill and I think this is an obvious attempt to kill the bill, so I really can't add anything else and I hope you vote against it.

The SPEAKER: The Chair recognizes the gentleman from Standish, Mr. Spencer.

Mr. SPENCER: Mr. Speaker, I would like to pose an inquiry through the Chair. I notice that each newspaper has to have a refund value of 5 cents, yet, each partial newspaper has to have a refund value of 2 cents. I also notice that a partial newspaper is a quarter of a newspaper, so that it would appear to me that you would get 8 cents if you took back your newspaper in four parts, whereas you would only get 5 cents if you took your newspaper back in one part. I would ask the gentleman from Skowhegan whether this would not result in additional litter as people were separating all the pages of their newspapers in attempting to drive them back to the redemption centers?

The SPEAKER: The Chair recognizes the gentleman from Skowhegan, Mr. Dam.

Mr. DAM: Mr. Speaker, Ladies and Gentlemen of the House: First off, if the good gentleman would read first, it says that a partial newspaper shall consist of less than three quarters of pages produced for a particular edition, including the advertising inserts distributed as part of that edition, but shall include at least one fourth of the pages comprising that edition.

That answers the question. Now I would like to pose a question through the Chair to the good gentleman. Have all bills that have been presented from other state legislators before this committee been perfect in their first draft?

The SPEAKER: The Chair recognizes the gentleman from Standish, Mr. Spencer.

Mr. SPENCER: Mr. Speaker, have all bills passed by other legislatures presented by this legislature relating to the subject matter of this bill been passed by this legislature the first time around?

The SPEAKER: The Chair recognizes the gentleman from Biddeford, Mr. Farley.

Mr. FARLEY: Mr. Speaker, Ladies and Gentlemen of the House: I would only ask the gentleman from Standish, Mr. Spencer, and the gentleman from Bangor, Mr. McKernan, to read the original order that implemented this bill here.

I am going to support the amendment of Mr. Dam. I am not stupid enough to think that it is going to get anywhere or I am not going to fight the bottle bill today, I am not going to object

against it, but I will ask you one thing, all of you here today, to read the original order, what it asks for, and if you think that this little bottle bill is going to solve the problem of solid waste, energy conservation or the huge problems that we have coming down the road, you are grossly mistaken.

The people who are going to get the bottle bill are going to run away and we are not going to hear from them for a few years and the total energy problem of a solid waste form of landfill, we are going to keep making exceptions for the lady from Brunswick, the lady from Casco Bay, have what you want, we are just going to keep making exceptions. You know, it is a copout we have here.

The order said, let's work on solid waste and conserve the energy out of that solid waste. As I said, I am not naive enough to think we are going to get anywhere with this, but if you want to delay a program and support this bill and let it go through this House and the other body, we will be 10 years before we get back to the real issue of what this order asks for.

The SPEAKER: The Chair recognizes the gentleman from Brunswick, Mrs. Bachrach.

Mrs. BACHRACH: Mr. Speaker, Ladies and Gentlemen of the House: I just wanted to say that recycling newsprint is not that much of a problem but it has a certain value on the market and if the municipality which is to collect papers, it will be at least a self-sustaining project.

Brunswick has baskets under all of the trash trucks. The citizens tie up their papers and they are put in the baskets and are taken to the town public works department and collected there. Mr. Goodman from Portland picks them up and we just about break even on the operation, and there is no addition of a large amount of paper to the landfill. We have tried a lot of ways to reduce our trash.

The SPEAKER: A roll call has been requested. In order for the Chair to order a roll call, it must have the expressed desire of one fifth of the members present and voting. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken, and more than one fifth of the members present and voting having expressed a desire for a roll call, a roll call was ordered.

The SPEAKER: The Chair recognizes the gentleman from Skowhegan, Mr. Dam.

Mr. DAM: Mr. Speaker, Ladies and Gentlemen of the House: This is not to debate the bill but this is to set the record straight as far as Mr. McKernan's statement. Now, Mr. McKernan, I think you said to the House that I had voted against the bill, and this was the method I was using to kill the bill. Well, I would like to assure the good gentleman from Bangor that yesterday, when I voted, I made an error in voting, because I thought I would have to vote the "ought not to pass" in order to offer the amendment which I signed as one member. Immediately after voting, I knew this was wrong. I sent a note to the Speaker of the House and also the Clerk trying to straighten this out, but there was no way because the vote had been announced. Also, both of my seatmates well understand this.

There was no move on Everett Dam's part, from Skowhegan, to kill the bill at all. It was strictly an error.

The SPEAKER: A roll call has been ordered. The pending question is on the motion of the gentleman from Bangor, Mr. McKernan, that House Amendment "B" be indefinitely postponed. All in favor of that motion will vote yes; those opposed will vote no.

#### ROLL CALL

YEAS: Bachrach, Bagley, Bennett, Berry, P.P.; Berube, Birt, Blodgett, Bowie, Bustin, Carter, Churchill, Clark, Connors, Cooney, Curran, P.; Curran, R.; Davies, DeVane, Dow, Drigotas, Durgin, Dyer, Farnham, Fenlason, Flanagan, Fraser, Garsoe, Gould, Greenlaw, Hall, Henderson, Hennessey, Hewes, Hinds, Hughes, Ingegneri, Jackson, Jalbert, Jensen, Kany, Laverty, Leonard, Lewin, Lewis, MacEachern, Mackel, MacLeod, Martin, A.; Martin, R.; McKernan, McMahon, Miskavage, Mitchell, Morton, Mulkern, Palmer, Peakes, Pelosi, Perkins, T.; Peterson, T.; Pierce, Quinn, Raymond, Rolde, Rollins, Shute, Snow, Snowe, Spencer, Sprowl, Stubbs, Susi, Talbot, Teague, Theriault, Tyndale, Wagner, Willfong.

NAYS: Albert, Berry, G.W.; Boudreau, Burns, Byers, Call, Carey, Carpenter, Carroll, Chonko, Connolly, Cote, Cox, Curtis, Dam, Doak, Dudley, Farley, Faucher, Goodwin, K.; Gray, Hobbins, Kauffman, Kelleher, Kelley, Kennedy, Laffin, LaPointe, Lizotte, Lovell, Lunt, Lynch, Mahany, Maxwell, McBrearty, Mills, Morin, Nadeau, Najarian, Norris, Pearson, Peterson, P.; Post, Rideout, Saunders, Silverman, Tierney, Torrey, Tozier, Truman, Twitchell, Usher, Walker, Webber, Winship.

ABSENT: Ault, Finemore, Gauthier, Goodwin, H.; Higgins, Hunter, Hutchings, Immonen, Jacques, Joyce, LeBlanc, Littlefield, Perkins, S.; Powell, Smith, Tarr.

Yes, 78; No, 56; Absent, 16.

The SPEAKER: Seventy-eight having voted in the affirmative and fifty-six in the negative, with sixteen being absent, the motion does prevail.

Thereupon, the Bill was passed to be engrossed as amended by House Amendment "A" and sent up for concurrence.

By unanimous consent, ordered sent forthwith to the Senate.

The Chair laid before the House the sixth tabled and today assigned matter:

JOINT ORDER Relative to study of several county jails. (H. P. 2218)

Tabled — March 24 by Mr. Rolde of York.

Pending — Motion of Mr. Farley of Biddeford to Indefinitely Postpone.

Mr. Snow of Falmouth offered House Amendment "A" and moved its adoption.

House Amendment "A" (H-1098) was read by the Clerk.

The SPEAKER: The Chair recognizes the gentleman from Falmouth, Mr. Snow.

Mr. SNOW: Mr. Speaker, Ladies and Gentlemen of the House: This amendment merely places the order in the hands of the Select Joint Committee on Local and County Government. This committee is working under an order which empowers it and orders it to study the structure of county government, to make recommendations for reform of county government and I believe it would be an appropriate study group for this order.

Mr. Connors of Franklin requested a vote on the adoption of House Amendment "A".

The SPEAKER: The Chair recognizes the gentleman from Madison, Mrs. Berry.

Mrs. BERRY: Mr. Speaker and Members of the House: I opposed this order yesterday, and just because we are putting the study of it into a different committee, I still believe that there is no need of the order, so I would hope that when you have a division that you will think of whether there is a real need for this where the department has these studies.

The SPEAKER: The Chair recognizes the gentleman from Enfield, Mr. Dudley.

Mr. DUDLEY: Mr. Speaker and Members of the House: I think if we need any studies, we could consult the library, because we have made several since I have been here and they

are all basically the same. I don't think we need any more studies, just take the time to go down to the library and read the studies that have already been made.

The SPEAKER: A vote has been requested. The pending question is on the adoption of House Amendment "A". All in favor of House Amendment "A" being adopted will vote yes; those opposed will vote no.

A vote of the House was taken.

59 having voted in the affirmative and 44 having voted in the negative, the motion did prevail.

The SPEAKER: The Chair recognizes the gentleman from Biddeford, Mr. Farley.

Mr. FARLEY: Mr. Speaker, I now move the indefinite postponement of the bill and all its accompanying papers.

The SPEAKER: The Chair would advise the gentleman that we do not have a bill in front of us.

The Chair recognizes the gentleman from Skowhegan, Mr. Dam.

Mr. DAM: Mr. Speaker, I would move the indefinite postponement of this order and speak briefly.

As Mr. Dudley told you, there have been several detailed studies done on the county jail problem, and this is the latest book that is in the State Law Library, December 1974. This is a more detailed and comprehensive study than any legislative committee would have done. I think the legislature, especially this session, has really seen a need for modernizing county jails without any further study.

We did pass legislation here and we changed the wording in a bill to allow Hancock County to go ahead and build a new detention facility, which are no longer called jails, they are called detention facilities.

This legislature also allowed Washington County to build a new detention facility. We also allowed Knox County, and this will be going out to bid in two or three weeks. Waldo County, which was allowed in the previous session, is already under construction at this time.

The 106th Legislature also allowed a referendum vote in the County of York so they can build a new detention facility. Penobscot County is now winding up phase two of a three phase plan, and that will completely modernize their detention facilities. Piscataquis County meets tomorrow on the female and juvenile sections of their detention facility, so they will be up to date. Somerset County has submitted a plan and are now already in the process of updating their detention facility.

This report went down through every section of a jail. They broke down the lockup — and I won't go all through it because it is real detailed, but just to give you an example — the lockup facility, food service, the deficiencies, fire prevention, physical plant, administration, sanitation, the whole thing is broken down in this report. It is available in the State Law Library if anybody wants to read it, and the one that precedes this was December 1973, and the one that preceded that was December 1972. There should be another one coming out pretty soon to take care of December 1975. They are continually upgrading the jail system, so there is no need for this order and I would hope you would support the motion for indefinite postponement.

It is very seldom that a chairman stands up and tries to kill an order for their committee, but I feel that this has already been studied to death and it will save us some money if we don't go along with it.

The SPEAKER: The Chair recognizes the gentleman from Portland, Mr. Talbot.

Mr. TALBOT: Mr. Speaker, Ladies and Gentlemen of the House: I am sort of surprised in one sense but very happy in another sense. I am surprised that the gentleman from that par-

ticular committee is opposing this particular amendment and order, but I am happy to say that I am glad that he has advised us that there is a county study out on county jails that was released in 1974 and in 1973 and in 1972. But I would also advise you that the gentleman from that particular committee is a year behind the times, because there was one issued in 1975 dealing with county jails and an inspection report. I might remind him that he can pick his up at the Mental Health and Corrections, which is in the office building over here.

I think there is a need for this order, because none of these reports that I have looked at, and I have looked at just about all of them dealing with the county reports and Crime in Maine and In the Public Interest, which is a digest of the findings of the Governor's Task Force on Corrections, in none of them did I find anything dealing with human rights and people and their physical makeup. If I am correct, the order says in part "First-hand information as to existing conditions and concerns for human rights in such facilities and to determine what impact, if any, appropriate agencies of the state have in improving conditions and preventing additional deaths."

The gentleman from that particular committee will not find that report in the library, in this body, in the office building across the way or even in his committee. Therefore, I would hope that you would go along and vote against the indefinite postponement so that we can set up this kind of committee to do this kind of study which is vitally needed.

In the report, I might add, on the first page it says, "New standards for county jails will be completed by March 1, 1976." March 1 was almost 25 years ago and we haven't seen any standards yet.

To address the gentlewoman from Madison, Mrs. Berry, new county jail recommendations and implementation were supposed to have taken place in that jail, as in all other county jails, sometime this month, by this month, and none of them have taken place.

I was sort of disturbed yesterday when this order came up, because the day before, which was Tuesday I believe, there was quite an uproar as to why we shouldn't have this order and it was tabled by several people, but when the order came up yesterday, nobody said anything, because really, nobody really looked into the issue. I don't think they don't want the order because they don't want the order, I don't think they don't want the order because it is not needed, I think it is definitely needed.

The gentleman from Nobleboro, Mr. Palmer, said yesterday, maybe we should take a look at some of the orders that are coming into this House, and this was one that he was going to take a look at to find out if we needed it or not, and I would say to this body that I have done some checking in that area, and I have found out that there have been over 130 orders in this House and nobody has objected to one, which gives you a little bit of an idea of what I think is taking place.

I have been very, very concerned, since I have started looking into this issue of county jails, not because I am upset just to be upset, but I am upset because we are dealing with people and human beings, whether they be inside the institution or outside the institution. That bothers me and I think it should bother everybody in this House. I can't speak for any other body. As I stated yesterday on the floor of this House, I don't care what committee does the study, because I have faith in all of our committees. I don't care what committee does that study, as long as somebody does it. One of the things that I don't want happening is what was implied by the gentleman from Skowhegan, Mr. Dam, that the study will be a study and it will be shelved and it will be down there for

everybody else to look at but nothing done about it. I happen to believe that if we are going to make a study, then it is going to be a study that we are going to do something about and we are going to make recommendations and we are going to implement those recommendations and they are going to be good recommendations and they are going to take care of the situation.

Monday, and I am not going to be here very long standing on my feet, but Monday I explained to you that from testimony that I have from a law enforcement person that has extensive law behind him, who was a guard at one of our county jails and I will not name now, he said that there definitely will be other deaths, other suicides in our county jails. Now, if that shakes you up, too bad, if something like that needs to be said to shake you up, I am glad, because when we are talking about death, which we are talking about, I think somebody somewhere along the line has got to be shaken up. I definitely don't want to see more deaths, any kind of deaths, but I definitely don't want to see more deaths in an area where we can start doing something about them now.

I would hope that you would not go along with the indefinite postponement of this order and we can get on and take care of the business that we have to take care of and need to take care of now.

Let me just make one more point clear, if I can find the point. I had a list of some of those organizations that were and are interested in this agency. Through all my papers, I don't know where it is.

The SPEAKER: The Chair recognizes the gentleman from Buxton, Mr. Berry.

Mr. BERRY: Mr. Speaker, Ladies and Gentlemen of the House: I don't quite know whether I am going to help this order or help defeat this order or just what is going to happen. I am only standing here today because I went to the Cumberland County jail the day after a prisoner burned there and I went all through the jail just a matter of hours after this incident took place, and there were two or three things that disturbed me that I saw in the jail, and I asked questions about them and nobody could answer the questions.

Number one, how does a prisoner that is locked in a very small room get matches? Nobody knew. He apparently was searched, so they concluded that probably the matches were hidden in the padding on the walls, well, maybe they were. So as I toured more of the Cumberland County jail, I noticed areas where fires had been set inside the cell blocks, not one area, but three, three different fires set inside of the cell blocks. So I asked the question again. There is no padding on these walls. How did the prisoners get the matches? Well, prisoners have got a right to smoke, why shouldn't they have matches? I guess I could go along with that if that is all those matches were being used for. But in one instance in the Cumberland County jail, a pair of boots were tied to the bars, paper was stuffed into the boots and the boots were set afire and burned, burned the paint off the bars and the paint on the ceilings, and so forth.

If you people who live in Cumberland County haven't been in to look at the Cumberland County jail which, by the way, I think is one of the newest and most modern in the state, I wish you would.

Let me get back to this room where the prisoner burned, which happened in the night. As you enter the Cumberland County jail, there is a little office enclosed partially by glass, half high with glass on, I believe, three sides, and one glass partition in that room looks down over a flight of stairs of about 13 or 14 stairs, and it was directly at the bottom of this flight of stairs where the room caught fire and burned and a man burned inside the room. There is a guard

supposedly stationed inside of this little glass enclosure, and I would ask you again, to me it is conceivable that a room could catch fire and burn, but I wish you could have seen the inside of the jail. The walls were just covered with smoke from the basement to the second floor, to the third floor. How on earth did a fire get going fast enough and long enough and not be detected by the man who supposedly was in that little glass enclosure to cause all of that smoke damage and the other damage that was caused?

This fire burned hot enough to melt the solder in the joints on copper pipes that were run through the corridors. It burned all of the electrical wiring inside of metal conduit. As a matter of fact, it burned enough of the electrical wiring so that the electrically operated cells couldn't be opened, only by means of cranking them open manually.

I don't know whether we need an order or not, and I guess I question that a little more when the chairman of the committee that this order was supposedly going to be channeled to says that he is opposed to it. I am not certain it is a good idea to send an order to a committee when the chairman says that. I am not certain that orders do anything anyway, but if an order isn't the answer and the answer is not to send the order to the County Government Committee — personally, I would rather not see it go to that committee, if there is a study, but I do think there is a problem and the problem is not only in the Cumberland County jail, I visited the York County jail three times just prior to its closing — the same thing, fires, pipes ripped off the walls and all kinds of damage. I visited the York County jail once after it was closed, still one prisoner there, there was at that time, they were holding one person in that facility, and I suggest that there are things going on that could be and should be taken care of.

I don't know what the man did that burned to death. Perhaps it was justifiable that he did burn to death, I don't know. I don't know what kind of a crime you have to commit to be burned to death or not to be burned to death, but I do know that there are things going on in at least two of those facilities that shouldn't be going on, and nobody can tell me why they are going on, or nobody has to this point.

The SPEAKER: The Chair recognizes the gentlewoman from Brunswick, Mrs. Martin.

Mrs. MARTIN: Mr. Speaker and Members of the House: This order that you are talking about here, I don't think it is the facility that you should be investigating, it is the people that you elect and you appoint to run these jails. They are the ones that should be investigated. There are some that don't belong in those places; they are worse than the prisoners that they keep.

The SPEAKER: The Chair recognizes the gentleman from Falmouth, Mr. Snow.

Mr. SNOW: Mr. Speaker and Members of the House: I feel that the gentleman from Skowhegan, my former seatmate, was so carried away by the support he received on his amendment that he forgot himself and said that he was chairman of the committee to which this study order has been referred. If he will read it more carefully, I think he will find that he is not the chairman of the committee.

One of the main points which Mr. Talbot made in asking for the order was questioning the administration of our county jails by the sheriffs, and it is distinctly part of the function of this committee to investigate and recommend on the control of the jails in this area.

The SPEAKER: The Chair recognizes the gentleman from Skowhegan, Mr. Dam.

Mr. DAM: Mr. Speaker, Ladies and Gentlemen of the House: I did not look at the amendment. It is my error as far as that part is concerned. But, number one, jails are operated by the county. In order for a county to get money, the legislative delegation meets with

the commissioners and approves the budgets. If they want to make a change in their jail, they can make it in their own county on December 20 when they meet prior to the convening of the legislature and have their budget.

I would also remind this body that in the regular session this very body defeated a bill before us that would have allowed the Department of Mental Health and Corrections to set mandatory regulations for every jail in this state. It was the feeling of the majority of people at that time that each county should handle its own business. It is my feeling that way today.

Now we speak about how come the prisoners have matches? Well, that is very simple, because this very legislature and previous legislatures have made it possible, through furlough programs, that when the prisoner is taken in the front door he has gone out the back door so he can get his matches, then he takes them back in. Under the rules that they have to live by, your personnel that manage your jails, they can't search a prisoner every time he comes in, because if they did, Pine Tree Legal would get after them. So it is easy to smuggle matches in. But that is neither here nor there.

I think when we can say that six counties have already started building new detention facilities, the people are concerned and they are making headway. I think, too, speaking of my good friend Mr. Talbot, the Representative from Portland. I did not go over to Mental Health and Corrections to pick up this. This was issued to me back in February. It went into the Law Library on March 24, but I had mine at home and I didn't want to bother to bring it down just for one day, so I went to the Law Library and picked this up. I think I said to this House that there would be a new one coming out very shortly dated December 1975. This one went to the Law Library on March 24, 1975, so it is probably March 1976 that the 1975 report would be filed.

But in this report, they have covered all the activities. They have noted the deficiencies and there is a move on now to correct them and there is no need for further studies. There is no need to spend more money where it is not necessary. The jails are being updated and they are going along good, and if there is such a concern by the people for the jails, I would suggest that maybe when they do their county budgets that they just add a little more money in so that they can hire a few more people and they can put the sofa beds and colored TV's in the recreation room in their jail in their county and not burden the other counties because one county wants plush headquarters.

The SPEAKER: The pending question is on the motion of the gentleman from Skowhegan, Mr. Dam, that this Order and all its accompanying papers be indefinitely postponed. All in favor of that motion will vote yes; those opposed will vote no.

A vote of the House was taken.

Whereupon, Mr. Connolly of Portland requested a roll call vote.

The SPEAKER: For the Chair to order a roll call, it must have the expressed desire of one fifth of the members present and voting. All those desiring a roll call vote will vote yes; those opposed will vote no.

A vote of the House was taken, and more than one fifth of the members present having expressed a desire for a roll call, a roll call was ordered.

The SPEAKER: The Chair recognizes the gentleman from Portland, Mr. Talbot.

Mr. TALBOT: Mr. Speaker, Ladies and Gentlemen of the House: Now that I have found some of my papers, I would just mention to you briefly, some of the organizations that are very, very concerned also with the conditions of our county jails include: The American Federation of County, State and Municipal Employees,

Council 74, The United Low Income, NAACP, The National Organization for Women, the United Working Low Income, Skowhegan, Lewiston Tenants Union, Bangor Tenants Union, the Portland Women's Center, Maine's Peace Action Committee, Women's Counseling Center, Brunswick, Rap Place, Lewiston, We Who Care, Portland, Students Bar Association and more.

Mr. Speaker, Ladies and gentlemen of the House, I don't want anybody to get the impression that, as was mentioned in the House yesterday, I believe, that I was trying to head hunt or look in the direction of any one particular county, because we in Cumberland County, which the county jail in Cumberland County is located in Portland, also has its problems and many of them. I am also disturbed by that. And the remarks by the gentleman from Buxton, Mr. Berry, that he made a few minutes ago, are very, very true. I also visited that jail directly after that fire.

Also, some of the people that I have talked to, they support the order and are in agreement with what we are trying to do through the order. Richard Gunn, who is executive secretary of the Epilepsy Foundation here in Augusta; Bob Carlson out of Mental Health and Corrections was the advocate; Sheriff Richard Dutremble from York; Assistant Attorney Brennan — not the Attorney but one of the assistant attorneys general — who did the investigating of the death of Armand Turgeon in York County and all of the people that I have talked to about county jails and about the conditions of county jails support it.

I just fail to comprehend some of the reasons why you want to kill this order. It doesn't deal with bottles and it doesn't deal with septic tanks and it doesn't deal with trash and it doesn't deal with taxes, it deals with death. If that is not going to bother you, then if I were you, I would sit in my seat and vote for indefinite postponement. But I think if you have any compassion and if you have any responsibility about doing what is right and doing what we should be doing in this area, then you will vote against the indefinite postponement.

The SPEAKER: The pending question is on the motion of the gentleman from Skowhegan, Mr. Dam, that this Joint Order and all accompanying papers be indefinitely postponed. All in favor of that motion will vote yes; those opposed will vote no.

#### ROLL CALL

YEA — Bennett, Berry, G. W.; Berube, Birt, Burns, Call, Carey, Carter, Churchill, Connors, Curran, R.; Curtis, Dam, Drigotas, Dudley, Durgin, Farley, Farnham, Fenlason, Fraser, Garsoe, Gray, Hall, Hewes, Higgins, Hinds, Immonen, Jalbert, Kauffman, Kelley, Laverty, LeBlanc, Leonard, Lewin, Lewis, Littlefield, Lizotte, Lovell, Lunt, Lynch, Mackel, MacLeod, Mahany, Martin, R.; Maxwell, McKernan, Miskavage, Palmer, Perkins, S.; Perkins, T.; Peterson, P.; Pierce, Raymond, Rideout, Rollins, Shute, Silverman, Smith, Snowe, Sprawl, Strout, Stubbs, Susi, Teague, Torrey, Truman, Twitchell, Walker, Webber, Wilfong, Winship.

NAY — Albert, Bachrach, Bagley, Berry, P. P.; Blodgett, Boudreau, Bowie, Bustin, Byers, Carpenter, Carroll, Chonko, Clark, Connolly, Cooney, Cox, Curran, P.; Davies, DeVane, Doak, Dow, Dyer, Flanagan, Goodwin, H.; Goodwin, K.; Gould, Greenlaw, Henderson, Hennessey, Hobbins, Hughes, Ingegneri, Jackson, Jensen, Kany, Kelleher, Kennedy, LaPointe, MacEachern, Martin, A.; McMahon, Mitchell, Morin, Mulhern, Nadeau, Najarian, Norris, Peakes, Pearson, Pelosi, Peterson, T.; Post, Quinn, Rolde, Saunders, Snow, Spencer, Talbot, Tarr, Theriault, Tierney, Tozier, Tyndale, Usher, The Speaker.

ABSENT — Ault, Cote, Faucher, Finemore, Gauthier, Hunter, Hutchings, Jacques, Joyce,

Laffin, McBreairey, Mills, Morton, Powell, Wagner.

Yes, 71; No, 65; Absent, 15.

The SPEAKER: Seventy-one having voted in the affirmative and sixty-five in the negative, with fifteen being absent, the motion does prevail.

The Chair laid before the House the seventh tabled and today assigned matter:

Bill "An Act to Redefine the Administration of Medication in the Nursing Practice Act" (H. P. 1934) (L. D. 2122)

Tabled — March 24 by Mrs. Post of Owls Head.

Pending — Adoption of Committee Amendment "A" (H-1025)

Mrs. Post of Owls Head offered House Amendment "B" to Committee Amendment "A" and moved its adoption.

House Amendment "A" to Committee Amendment "A" (H-1091) was read by the Clerk.

The SPEAKER: The Chair recognizes the gentleman from Owls Head, Mrs. Post.

Mrs. POST: Mr. Speaker and Members of the House: Essentially, what the amendment does, it does not change the intent of what the bill did when it came out of committee. It only deals with that section of the bill containing the provisions dealing with ambulance personnel.

The Department of Human Services came to us and told us of a need that they had to license people under advanced emergency treatment. There were some people who were being trained as ambulance drivers who would be able to do such things as start IV's and perform some other kinds of advance treatment. Actually, they weren't able to perform these functions as ambulance drivers, because the department was not able to license them as such.

We reported out a section which we thought dealt with that. The problem that came up, if you remember, in the special session last year, the Department of Human Services was considering regulations that would have required EMT training of all ambulance drivers, and my concern was, the way the committee amendment was originally passed out, we may have wiped out that section and actually set up a mechanism where Human Services could require EMT training of all ambulance drivers and this bill takes care of that.

What it says is, they can set up at least two different kinds of training, but as far as basic emergency training, what many of us might consider advanced first aid, they can't make the requirement for the EMT training unless they meet the provisions that we passed last year.

Thereupon, House Amendment "A" to Committee Amendment "A" was adopted.

The SPEAKER: The Chair recognizes the gentleman from Brewer, Mr. Norris.

Mr. NORRIS: Mr. Speaker, Ladies and Gentlemen of the House: This bill is an act to redefine the administration of medication in the nursing practices act. I am not going to take any steps today, I am not going to try to hold this up, but while it is before us, I simply want to call the attention of the members of this House to what this does, particularly to the length of time that this has been going on. This is an act that has been going on, as you can see, the date has been changed from July 20, 1973 to July 1, 1975, and now it goes until 1977.

I voted for this when it first came before us because it was obvious that there was some time needed in order to get professionals enough to do the job, but it is becoming apparent now, to me, anyway, that this is just being put off and put off and rolled along. So I would suggest that everybody in this House contact the nurses and the nursing associations and so forth and so on in your areas, because this now seems to be just something to continue on to allow



unauthorized persons to administer drugs and medication.

I also noticed another thing in here that apparently the Committee on Health and Institutional Services are setting themselves up on a study into the future to carry out examinations for the licensure of various health care professionals and personnel, and as I say, this thing has been studied now for several years, and the answer is always the same, they always come up with the same answer, we have got to extend, we have got to allow non-professional people to administer medication.

I have talked long enough, but I would suggest that all of us here check with the nurses and check with the professionals, and I will probably have a motion later on when this comes back to us.

The SPEAKER: The Chair recognizes the gentleman from South Berwick, Mr. Goodwin.

Mr. GOODWIN: Mr. Speaker, Men and Women of the House: I just want to point out that if this bill does not pass right now, we are going to face not only some serious problems in the nursing and boarding homes in this state, but also in our correctional facilities and every other state facility other than Augusta and Bangor Mental Health Institute.

I can pledge to you right now that our committee is going to come in the 108th with some legislation that is going to clearly define the administration of medication and treatment and everything else and all the problems that are happening right now between the different boards, and it is a real problem. It is one that we just could not get into, given the limited amount of time for this special session.

Thereupon, Committee Amendment "A" as amended by House Amendment "A" thereto was adopted.

Under suspension of the rules, the Bill was read the second time, passed to be engrossed as amended and sent up for concurrence.

The Chair laid before the House the eighth tabled and today assigned matter:

Bill "An Act to Revise and Clarify the Freedom of Access Law" (H. P. 2226) (L. D. 2316) (H. "A" H-1034) (H. "B" H-1044)

Tabled — March 24 by Mr. Rolde of York.

Pending — Passage to be Engrossed.

On motion of Mr. Rolde of York, retabled pending passage to be engrossed as amended and tomorrow assigned.

The Chair laid before the House the ninth tabled and today assigned matter:

Bill "An Act to Redefine 'Subdivision' in the Site Location and Development Act" (H. P. 1979) (L. D. 2169) (C. "A" H-1000)

Tabled — March 24 by Mr. Rolde of York.

Pending — Passage to be Engrossed.

On motion of Mr. Spencer of Standish, under suspension of the rules, the House reconsidered its action whereby Committee Amendment "A" was adopted.

The same gentleman offered House Amendment "A" to Committee Amendment "A" and moved its adoption.

House Amendment "A" to Committee Amendment "A" (H-1082) was read by the Clerk.

The SPEAKER: The Chair recognizes the gentleman from Standish, Mr. Spencer.

Mr. SPENCER: Mr. Speaker, Ladies and Gentlemen of the House: The effect of this amendment would be to retain the 10-acre lot size in the site location law and yet to deal with the so-called spaghetti lot problem by establishing a required lot width for the 10-acre lot.

Under the present site location development law, a subdivision is not covered by the DEP law if each lot is more than 10 acres in size.

The measure currently before the legislature would reduce that to 5 acres in size, so that a

developer who had a development involving perhaps 200 acres, who was putting in 45-acre lots with 40 houses, building roads and developing the 200 acre area, would not be required to go before the DEP under the site location law.

This bill would retain the 10-acre requirement so that if any of the lots were less than 10 acres, the developer would have to go before the DEP.

There is a problem with the administration of the site location law, which is that certain developers have begun to employ spaghetti lots or bowling alley lots where they take a large tract of land and divide it up into long pieces of spaghetti with 100 foot frontage and the lot is 100 feet wide and 2,000 feet deep, half a mile deep. By doing that, they are able to put one house every hundred feet and yet they are able to avoid the DEP requirements. In order to deal with that problem, this amendment would require that the frontage of the lot be at least 200 feet, and it does that by establishing a rectangle that has to fit into the front of the lots.

But my concern is, if we reduce the requirement from 10 acres to 5, first of all, that a number of large developments, which can have a very significant impact on the area where they are being put in, will not be reviewed. Also, by lowering the requirement from 10 to 5 acres, we will create a strong incentive to people to go to 5 acre lots in order to avoid DEP review. I think that the more the requirements tend to alter the manner in which people plan their developments, the more of a problem we create. If we make it practical for people to avoid the DEP in these situations, we will end up with a lot of additional land use problems which I don't think the state needs.

The SPEAKER: The Chair recognizes the gentleman from Gorham, Mr. Quinn.

Mr. QUINN: Mr. Speaker, Ladies and Gentlemen of the House: This is my bill and so far I have avoided speaking on it in the interest of getting it through the procedure.

I would like to point out, however, we have before us a classic case. The bill originally, as conceived, I made an agreement with the people who wanted the bill that I would sponsor the bill on the condition that we would accept any amendments the DEP wanted. They have a real problem, as Mr. Spencer touched very lightly and slid right by, a real problem in the so-called spaghetti and bowling alley lots. They are doing a great deal of damage to the State of Maine. Some responsible developers wanted to address this problem and one way of addressing it is through reducing acreage size.

I agreed to sponsor the bill on the condition that we would accept any amendment that DEP wanted. So we went to the DEP and we talked to them, and they said, yes, we have no objection whatsoever to your 5 acres, providing you put some minimum widths in it, and the minimum width was put in in committee on agreement.

The thing came out of committee and through my absence and the absence of other people from time to time, the bill has been allowed to lay around and we see the same thing that has happened to this bill that has happened to so many others, everybody that has an afternoon without much to do amends it. First, a committee member who decided he was no longer satisfied with what the committee did decided to amend it and I went along with that, because that did exclude the one other thing that Mr. Spencer mentioned, these are not large developments, they are limited to a hundred acres — 5 into 100 gives you 20, so that is not what you would call a huge development. I accepted that with no complaint in the interest of getting it through, then Mr. Spencer spotted it and he has an amendment to it which — and don't let anyone fool you — kills the bill. That is precisely exactly, clearly, totally, what it does. I suppose if we leave it here for another day, Mr.

Hickey will have an amendment to it, too, but for the time being, I urge your vote.

I won't take any more of your time. If you wish to approach the problem of the spaghetti lots in Maine and you wish to do it in a realistic manner that is approved and been agreed by the Natural Resources Council, by the developers themselves, by the DEP and by the overwhelming majority of the committee, you have a chance to do it; if you don't want to address the problem, vote for Mr. Spencer's amendment.

The SPEAKER: The Chair will order a vote. All those in favor of House Amendment "A" to Committee Amendment "A" being adopted will vote yes; those opposed will vote no.

A vote of the House was taken.

Whereupon, Mr. Peterson of Windham requested a roll call vote.

The SPEAKER: For the Chair to order a roll call, it must have the expressed desire of one fifth of the members present and voting. All those desiring a roll call vote will vote yes; those opposed will vote no.

A vote of the House was taken, and more than one fifth of the members present having expressed a desire for a roll call, a roll call was ordered.

The SPEAKER: The Chair recognizes the gentleman from Windham, Mr. Peterson.

Mr. PETERSON: Mr. Speaker, Men and Women of the House: As House Chairman of the Natural Resources Committee, I am probably in a very embarrassing and very difficult situation to justify what I am about to say, but it has been a long, hard special session for the Natural Resources Committee. This was the piece of legislation that was presented to us which had the agreement of the Department of Environmental Protection and the Coastal Resources Action Committee Group agreed to do this.

Present at the public hearing on this legislation were developers from the Bangor area. I don't know if anybody outside of the Bangor area testified for this piece of legislation, and they showed us a real problem, the development of spaghetti lots a hundred feet wide and going back 2,000 feet. In other words, they were going back half a mile in order to avoid DEP regulations. Their argument is — and DEP has to respond to these subdivisions within 30 days and they do unless there are special circumstances, but the developers are not happy with this and in order to avoid DEP, they develop these 10-acre lots, which are 100 feet wide and go back 2,000. They say this is bad land use management. Well, it is bad land use management because they are trying to avoid the law, so they want to reduce the lot size to 5 acres. The Coastal Resource Action Group agreed to it, the DEP agreed to it.

I think that the site location law was a landmark law that this legislature passed and one that we shouldn't tamper with at this time. I don't think there is a member of the Natural Resources Committee, including myself, that really understands the ramifications of this piece of legislation.

I don't like voting one way on a committee report, and I did support the compromise measure, and today I guess I am going back on that signature, but I just don't think that at this day in time, in the special session, when we have a land use study going on presently in the Natural Resources Committee which could deal with this area, it is ongoing now and it has been ordered to report back to the 108th Legislature, why we should now play with this law. If we are going to let's strengthen it and require that developers not be able to avoid the law by having these spaghetti lots. Let's adopt Mr. Spencer's amendment or let's kill this legislation and let it go to the study that is already ongoing so that we don't foul up a law that I don't think anyone really understands how com-



plex and how important it is to the state's environmental laws.

In the southern part of the state we don't have this problem, because land values evidently are high enough so that we don't have to avoid the DEP regulations. But for some reason, the farther you go north, there is a tendency to avoid the DEP, because they say it ties up their money so that they can't develop.

We have got some unscrupulous developers from out of state that are operating in this state, and I think that the Natural Resources Committee, through its land use study, should be able to study this during the interim and then come back with some suggestions for the 108th. I just don't think we should tamper with this law. If we are going to tamper with it, let's make it stronger, not weaker. I would urge you support the amendment.

The SPEAKER: The Chair recognizes the gentleman from Standish, Mr. Spencer.

Mr. SPENCER: Mr. Speaker, Ladies and Gentlemen of the House: I would like to put a characterization on this bill other than that put on it by Mr. Quinn. I think that this is a classic case and the classic case that we have here is that we have developers who are willing to go to the point that they will take a 100 foot lot and make it a half a mile deep in order to avoid the law. Then they come in here and they say, look at what we are doing to avoid the law. The solution to this problem is to make it easier for us to avoid the law so that we only have to make a lot a quarter of a mile deep to avoid the law.

Now, to me, the answer to this problem is not to weaken, not to make it easier for them to avoid the law but to make it harder for them to avoid the law so that we will have fewer people avoiding this law instead of more people avoiding the law. To me, that is clear.

Mr. Quinn says this is a case where everyone worked out the solution to this. Well, I have talked to people on the DEP staff who were sick at seeing what is going on with this bill. I have talked to people who were supposed to be representing the environmental groups who say, well, the DEP felt that we were going to lose this and that they had to go along with it, so we figured we were going to lose it, so instead of fighting it, we tried to compromise with it and we made an agreement that we would go along with the compromise amendment, because we thought that we were going to lose this bill. So now they are locked into this agreement that they made with the lobbyist for the developer from Bangor who got this bill in in the first place.

I think that if we want to solve the problem of spaghetti lots, let's solve it, but don't solve it by weakening the law. It is just a bad bill. It has been worked out in this compromise process, and every once in awhile, that process goes haywire and I think that this is one of those cases.

The SPEAKER: The Chair recognizes the gentleman from Lincoln, Mr. MacEachern.

Mr. MacEACHERN: Mr. Speaker, Ladies and Gentlemen of the House: After the gentleman's speech, this sounds like Catch 22 to me.

I testified before that committee on this bill and I testified for a different reason than anybody has mentioned here today. Being a member of the Lincoln Town Council, I had experience with development up there, and I feel that we should reduce the size to 5 acres. We only have so much land in the State of Maine and any other state, as far as that goes, and some day it is probably going to run out. The bigger the lots that you have in a development, the more problems you have as far as the municipality. You have to provide streets, sewers, water, fire and police protection. If you have more houses concentrated in a smaller area, you have less cost in that respect and you generate more taxes per acre. I feel that this is a very good bill, and I don't think that we should

kill the bill by placing an amendment on it that puts the law back to where it was before.

The SPEAKER: The Chair recognizes the gentleman from Dexter, Mr. Peakes.

Mr. PEAKES: Mr. Speaker, Ladies and Gentlemen of the House: I was a member of the Dexter Planning Board and we had this developer, his name was mentioned in the pass-out, and he came before our board, we had just started out and we of course passed laws down here and these little planning boards trying to carry them out. In they came with their drawings and their experts and their big name attorneys, and we have these spaghetti lots in Dexter. This is a real problem. I think that if we go along with Mr. Spencer's amendment, this will in some way approach it in a realistic manner. I think if you want to have driving ranges, stay with Mr. Quinn's bill.

Mr. Spencer of Standish was granted permission to speak a third time.

Mr. SPENCER: Mr. Speaker, Ladies and Gentlemen of the House: I think this is a Catch 22 situation, because the very reason that I have put in my amendment is for the precise reason that Mr. MacEachern pointed out, that if we lower the lot size that allows you to avoid the DEP, we may get much more attractive to go to these larger lots in order to avoid the DEP. So, instead of having a few screwy situations where people go to these spaghetti lots because of the 10 acre lot size, we are making it easier for people to avoid the DEP by going to the 5 acre lot size.

The minimum lot size in this state is 20,000 square feet. When the DEP reviews a subdivision under the site location law that involves 20 acres, that can involve as many as 40 lots if the thing is properly designed. If we make it attractive enough for people to go to larger lots to avoid the DEP, instead of coming in with 20 acre lots and one acre lots and one and a half acre lots, everybody is going to be going to 5 acre lots because they can avoid the DEP. So, in fact, by reducing this minimum lot size, we are creating a strong incentive to people to go larger and larger lots and we are going to be eating up more and more land when we don't need to do it, when the people who are buying the houses may only want an acre or an acre and a half or two acres.

So, if you are interested in trying to prevent the situation where we eat up a lot of land unnecessarily, the way to deal with that is to strengthen the law as it is and try to prevent these spaghetti lots, but don't create a strong incentive for people to avoid the DEP by going to these larger lots. The more we lower the size of the lot that you can have and still avoid the DEP, the more we encourage people to go up to that lot size.

The SPEAKER: The Chair recognizes the gentleman from Sanford, Mr. Lovell.

Mr. LOVELL: Mr. Speaker, Ladies and Gentlemen of the House: I agree fully with Mr. Quinn. I think that Maine has 26,000 square miles, and we have got plenty of land and 5 acres is enough for a lot. I don't care whether it is spaghetti lot or what kind of a lot, but we need more people in Maine to help pay the taxes. You have seen what has happened in this session, how we are crying for money and need money, so let's get more people in Maine. Our population has increased the last two years some 4,000 people but we need more than that in. Let's get more taxes from more people and let's have some out-of-state people come in, but a 10 acre lot is too much. Five acres, as Mr. Quinn states, in my opinion is sufficient. I hope you will go along with Mr. Quinn on his motion.

The SPEAKER: The Chair recognizes the gentleman from Gorham, Mr. Quinn.

Mr. QUINN: Mr. Speaker, Ladies and Gentlemen of the House: Having as I do such an absolute, complete dependence upon the trust and veracity of Mr. Spencer, I find myself in a

little bit of difficulty. I sat for two hours and talked to Mr. Adams, who, if I am not mistaken, is the head of the DEP and to a Mr. Warren, who I gathered was one of his more prominent outriders. They agreed to this.

Mr. Spencer now says that he has friends within the DEP who tell him, sub rosa, this is a terrible thing and what those people are saying up there they don't really mean, they are scared to death of some lobbyist. I respect this charge, and I am perfectly willing to ask to withdraw my bill if this charge is in fact true. So, therefore I will be very happy to rest my case entirely on the DEP and I would hope that someone would table this for one day and let's go to the DEP and ask them. If they say no, I say no. If they say yes, I will leave it up to you for a vote.

There is one aspect which both Mr. Spencer and Mr. Peakes go by very quietly. They talk about the spaghetti lots, and that is true. The spaghetti lots exist, and this bill was an effort to prevent spaghetti lots because it has in it a minimum width, they must be 200 feet wide. The 5 acres lends itself to a more proper architectural utilization of the natural resources of the state and the 200 feet demands that there shall be decent size frontage. So, it is not an attempt to make mini-bowling lots by any means, it is an attempt to improve what is currently an egregious situation. If the people who are now so anxious to put the minimum on the 10 acre lot by means of this amendment, why didn't they propose legislation to do such? Why do they have to use this amendment as a vehicle to essentially kill what I believe to be an improvement. I reiterate, I rest my case entirely with the DEP. Mr. Spencer, if you are interested in going to the DEP, I suggest you table.

The SPEAKER: A roll call has been ordered. The pending question is adoption of House Amendment "A" to Committee Amendment "A". All in favor will vote yes; those opposed will vote no.

#### ROLL CALL

YEA — Bachrach, Bennett, Berry, P. P.; Burns, Carter, Chonko, Connolly, Cooney, Davies, Doak, Dow, Farnham, Flanagan, Goodwin, H.; Goodwin, K.; Greenlaw, Henderson, Hughes, Jensen, Kany, Kennedy, LaPointe, McMahon, Mitchell, Morton, Najarian, Peakes, Pearson, Pelosi, Peterson, T.; Post, Rolde, Silverman, Snow, Spencer, Strout, Tierney, Tyndale, Wagner, The Speaker.

NAY — Albert, Bagley, Berry, G. W.; Berube, Birt, Boudreau, Bustin, Byers, Call, Carey, Carpenter, Carroll, Churchill, Clark, Connors, Cox, Curran, P.; Curtis, Dam, DeVane, Drigotas, Dudley, Durgin, Dyer, Farley, Faucher, Fenlason, Fraser, Garsoe, Gould, Gray, Hennessey, Hewes, Higgins, Hinds, Hobbins, Immonen, Ingegneri, Jackson, Jalbert, Kelleher, Kelley, Laverty, LeBlanc, Leonard, Lewin, Lewis, Littlefield, Lizotte, Lovell, Lunt, Lynch, MacEachern, Mackel, MacLeod, Mahany, Martin, A.; Martin, R.; Maxwell, McBairty, McKernan, Mills, Miskavage, Morin, Nadeau, Palmer, Perkins, S.; Perkins, T.; Peterson, P.; Pierce, Quinn, Raymond, Rideout, Rollins, Saunders, Shute, Snowe, Sprowl, Stubbs, Tarr, Teague, Theriault, Torrey, Tozier, Truman, Twitchell, Usher, Walker, Wilfong, Winship.

ABSENT — Ault, Blodgett, Bowie, Cote, Curran, R.; Finemore, Gauthier, Hall, Hunter, Hutchings, Jacques, Joyce, Kauffman, Laffin, Mulkern, Norris, Powell, Smith, Susi, Talbot, Webber.

Yes, 40; No, 90; Absent, 21.

The SPEAKER: Forty having voted in the affirmative and ninety in the negative, with twenty-one absent, the motion does not prevail.

Thereupon Committee Amendment "A" was adopted.

Mr. Doak of Rangley offered House Amendment "A" and moved its adoption.

House Amendment "A" (H-1041) was read by the Clerk.

The SPEAKER: The Chair recognizes the gentleman from Rangley, Mr. Doak.

Mr. DOAK: Mr. Speaker, Ladies and Gentlemen of the House: The object of this amendment is simply to protect the land in the State of Maine from developers who would come in, like a gentleman that I passed the literature out on the other day and who had an article in the Maine Times several days ago. It would help protect the State of Maine from that type of operation and I would hope that by saying 100 acres or over the DEP would have approval on, it would help save some of the State of Maine's land.

I was opposed to this bill in the first place and my position was this, that at this time there are three definitions of subdivisions on the statutes of this state. One for site locations administered by the DEP, one by the Land Use Regulation Commission, and one administered by local officials. The critical features of these definitions, number of lots, DEP would be five, Land Use Regulation Commission would be three, local would be three. The years are the same, five years. Exempt lot size, exempt from DEP supervision, the DEP site would be ten acre lots, Land Use Regulation Commission would be 40 acre lots, local would be 40 acres. Total minimum acreage for all three was 20.

Number of questions presented by the three laws and their definition. Land Use and local officials have essentially the same role, then why isn't the qualifying language in the statutes the same? I don't know the answer to that question, that is why I am asking it. Why must the Land Use Regulation Commission definition be more restrictive in exempting lot size than the DEP?

I could go on, I have got two or three papers here, but I know it is getting late ladies and gentlemen, but my opposition to the bill in the first place was, first of all, I do not believe it is emergency legislation. Secondly, I think we have, too many times, allowed people to come in here with bills changing and redefining and clarifying and making perfectly clear, as some people say, and then in the next session, here they come again trying to do something more and only confusing the issue.

I would hope that even if this bill does pass this time, that the Natural Resource Committee, of which I am a member, and I would try to do something about it, would take a real hard look at subdivision laws in this state and do something so that the people in the back country wouldn't be confused.

For instance, you have got 211 communities in the State of Maine that do have planning boards. You have 211 out of about 497. The rest of the groups, municipalities, local officials handle it or DEP or Land Use in unorganized townships.

All I am suggesting to you is that they are in trouble, because you get some high powered people coming in here and say well, you are delaying me, I am going to take you to court. You take a selectman back in the small town and they don't want to cost the town another \$1,200 going to court to defend this, so therefore they give in. All I am suggesting is that we put something on the law books that is going to be uniform, easily understood, and easily administered. I don't know whether that is possible or not. I am not a lawyer, I am just a plumber that has taken a hard look at this thing. I am going to tell you, it is difficult for anybody to understand it.

I would move the adoption of House Amendment "A" to the bill in order to get that 100 acre limitation on there.

The SPEAKER: The Chair recognizes the gentleman from Bangor, Mr. Henderson.

Mr. HENDERSON: Mr. Speaker, Ladies and Gentlemen of the House: This may not be the time for an education, but it is just a point of order, I think, to you. I don't understand, if we just adopted Committee Amendment "A" which talks about this part five subdivision and now we may adopt House Amendment "A" to the bill, which deals with the very same part of the bill, I don't understand the technical procedures. It seems we have just adopted two different part five's. If you could just clarify that for me I would appreciate it.

The SPEAKER: The Chair would inform the members of the House that House Amendment "A" was not adopted. The Chair would advise the gentleman from Bangor that House Amendment "A", if adopted, would mean that we would have to go back and reconsider whereby we voted to adopt Committee Amendment "A" and that would have to be then indefinitely postponed and then that would be in proper perspective.

The Chair recognizes the gentleman from Gorham, Mr. Quinn.

Mr. QUINN: Mr. Speaker, Ladies and Gentlemen of the House: Inasmuch as I perfectly approve of the kind of thing Mr. Doak is trying to do, I will be glad to recite it if you will lead me back through it and make the necessary motions.

The SPEAKER: The Chair would announce that what would take place is that we would adopt House Amendment "A" to the Bill, then simply move to reconsider adoption of Committee Amendment "A", kill that and then that would be what the bill would be.

The Chair recognizes the gentleman from Lincoln, Mr. MacEachern.

Mr. MacEACHERN: Mr. Speaker, Ladies and Gentlemen of the House: You have me completely confused now, what are we discussing, Mr. Doak's amendment?

The SPEAKER: The Chair answers in the affirmative.

Mr. MacEACHERN: I would move indefinite postponement of this amendment.

The SPEAKER: The Chair recognizes the gentleman from Perham, Mr. McBreairty.

Mr. McBREAIRTY: Mr. Speaker, Ladies and Gentlemen of the House: The Natural Resource Committee probably spent nearly as much time on this bill as any we had. We had people back at least two or three times. We had somebody there from DEP. They didn't seem to object at the meeting. Mr. Angus, who represents an environmental group, stated at one of those meetings that as far as their group was concerned, this was much better than we have now because it did force people to have at least a 200 foot lot. Now, when you cut this down to 100 acres, as Mr. Doak has suggested, the lots in our area that might be involved would be farms of 160 acres and this would force them to DEP. We do have a problem or two in my own district, so I would hope that you might indefinitely postpone this amendment and go along with the bill and let's try it a year.

The SPEAKER: The pending question is on the motion of the gentleman from Lincoln, Mr. MacEachern, that House Amendment "A" be indefinitely postponed. All in favor of that motion will vote yes; those opposed will vote no.

A vote of the House was taken.

Mr. Quinn of Gorham requested a roll call vote.

The SPEAKER: A roll call has been requested. For the Chair to order a roll call, it must have the expressed desire of one fifth of the members present and voting. All those desiring a roll call vote will vote yes; those opposed will vote no.

A vote of the House was taken, and more than one fifth of the members present having expressed a desire for a roll call, a roll call was ordered.

The SPEAKER: The Chair recognizes the gentleman from Caribou, Mr. Peterson.

Mr. PETERSON: Mr. Speaker, Ladies and Gentlemen of the House: I would like to inquire through the Chair, if I might, as I understand this, if a person were to see a farm, 160 acres, would this mean he would have to go through DEP just to sell a farm so a man could plant potatoes again?

The SPEAKER: The gentleman from Caribou, Mr. Peterson, poses a question through the Chair to any members who cares to answer.

The Chair recognizes the gentleman from Rangley, Mr. Doak.

Mr. DOAK: Mr. Speakers, Ladies and Gentlemen of the House: The answer is no, sir.

The SPEAKER: The pending question is on the motion of the gentleman from Lincoln, Mr. MacEachern, that House Amendment "A" be indefinitely postponed. All in favor of that motion will vote yes; those opposed will vote no.

#### ROLL CALL

YEA — Albert, Bagley, Berry, G. W.; Birt, Blodgett, Byers, Call, Chonko, Cox, Dam, DeVane, Drigotas, Dudley, Durgin, Farley, Faucher, Fenlason, Gray, Hinds, Hobbins, Jalbert, Kauffman, Kelleher, Kelley, Lavery, Lovell, Lunt, Lynch, MacEachern, Mackel, MacLeod, McBreairty, McKernan, Mills, Miskavage, Nadeau, Palmer, Perkins, S.; Perkins, T.; Pierce, Raymond, Rideout, Shute, Snowe, Sprowl, Stubbs, Tarr, Teague, Theriault, Tierney, Tozier, Truman, Wilfong.

NAYS: Bachrach, Bennett, Berry, P.P.; Berube, Boudreau, Bowie, Burns, Bustin, Carey, Carpenter, Carroll, Carter, Clark, Connors, Connolly, Cooney, Curran, P.; Curtis, Davies, Doak, Dow, Dyer, Farnham, Flanagan, Fraser, Garsoe, Goodwin, H.; Goodwin, K.; Gould, Greenlaw, Henderson, Hennessey, Higgins, Hughes, Immonen, Ingegneri, Jackson, Jensen, Kany, Kennedy, LaPointe, Leonard, Lewin, Lewis, Mahany, Martin, A.; Martin, R.; Maxwell, Mitchell, Morin, Morton, Najarian, Peakes, Pelosi, Peterson, T.; Quinn, Rolde, Rollins, Saunders, Silverman, Spencer, Strout, Torrey, Usher, Wagner, Walker, Webber, Winship, The Speaker.

ABSENT — Ault, Churchill, Cote, Curran, R.; Finemore, Gauthier, Hall, Hewes, Hunter, Hutchings, Jacques, Joyce, Laffin, LeBlanc, Littlefield, Lizotte, Mulkern, Norris, Pearson, Post, Powell, Smith, Snow, Susi, Talbot, Twitchell, Tyndale.

Yes, 54; No, 70; Absent, 27.

The SPEAKER: Fifty-four having voted in the affirmative and seventy in the negative, with twenty-seven being absent, the motion does not prevail.

Thereupon House Amendment "A" was adopted.

On motion of Mr. Quinn of Gorham, under suspension of the rules, the House reconsidered its action whereby Committee Amendment "A" was adopted.

On motion of the same gentleman, Committee Amendment "A" was indefinitely postponed.

The Bill was passed to be engrossed as amended by House Amendment "A" and sent up for concurrence.

The Chair laid before the House the tenth tabled and today assigned matter:

Bill "An Act to Regulate Drinking Water" (S. P. 687) (L. D. 2198) (C. "A" S-431)

Tabled — March 24 by Mr. Rolde of York.

Pending — Adoption of House Amendment "A" (H-1058)

The SPEAKER: The Chair recognizes the gentleman from Madison, Mrs. Berry.

Mrs. BERRY: Mr. Speaker, Ladies and Gentlemen of the House: I now withdraw my amendment. I have had a different interpretation from the department. Mr. Henderson, who was concerned about it, assures me he will be

back next year and will take care of it if anything happens. It is a little different tune than he sang the other day on the pay bill when it was said that legislators couldn't raise their own pay, but I guess I will take his word for it.

The SPEAKER: The gentlewoman from Madison, Mrs. Berry, withdraws House Amendment "A".

The Chair recognizes the gentleman from Woolwich, Mr. Leonard.

Mr. LEONARD: Mr. Speaker, Ladies and Gentlemen of the House: I am going to give you one last chance to redeem yourselves and maybe send me on my way home feeling a little better. I don't like to speak as many times as I have today and if enough of you gang up, you can break my jaw and maybe I won't be able to speak any more. I spoke on this bill before, I am speaking again. I really am against the bill and I can tell you why.

Read the title again, "An Act to Regulate Drinking Water". refresh your memory? The federal government, last year or the year before, passed what they termed a Safe Water Drinking Act. What they have done in the process is much like OSHA. They are going to tell us what standards we have to have for our drinking water supply within the state. If we do not wish to be regulated by the federal government, directly regulated, then we have the choice of obtaining primacy. Primacy is, if you are not clear on that, is that we would take the rules and regulations promulgated by the federal government and with this legislation now before you, inject those rules and regulations into the Department of Human Services and we would then regulate ourselves, that the state would be regulated by the federal government and the state would regulate the utilities, the water districts.

I object to that. We passed a joint resolution this morning and I did want to table, but I didn't want to be accused of pulling a fast one on this body. I wanted to table that and have it come after this bill. That resolution says to our Maine Delegation in Washington, reassess what you have done, don't create another bureaucracy, we are doing fine the way we are now, we lead the nation in water quality control, reassess, repeal.

Fine, if other states have a problem but because they have a problem, don't force feed us.

Aside from that, what are we talking in terms of an emergency? The special session in an emergency. It means legislation goes through that is necessary because if we don't pass it, we are going to be in whole bunch of trouble next year. I guess. This is not necessary this year and that is my basic objection to it because, number one, the law was just passed on the federal level, number two: they are in the process of promulgating rules and regulations. They have not been finalized, those rules and regulation on the federal level and they won't be finalized until June of 1977. In addition to that, as we all know, when we get caught up with the bureaucrats in Washington, there is a lot of red tape. At this time, we have no idea what the administrative procedures will be involved in carrying out the requirements of this legislation. We have no idea what kind of documentation we are going to have to have from the water districts to the state and from the state to the federal government. No idea. If you don't believe me, call up Mr. Hoxie of the Water Quality Control Department.

The federal government, if they are to enforce this legislation on a federal level, and it would be out of Boston, it would be some time in the 1980's before they would be able to enforce these rules and regulations that they have already or they are in the process of promulgating. So, what is the rush? We simply, at this point in time, do not know what we are getting into.

I can go into the cost features of this, that since we started on a committee, and that was last year, we had a bill before us then, we found there was so many errors in it that we just committed it to a study and that is the product of what you see today.

One of the things that the federal government said last year and they said it throughout the winter and they ultimately changed it to the first of this year, they said that the turbidity level in our water systems will be no greater than one and if it is, it will have to be processed. Now, turbidity, if you are not familiar what it is, is discoloration of various organic matter that might be in your water supply system and over one, at that time, the federal government said that it constituted a health hazard. They changed their mind already, they say now, well, if it approaches as much as five, maybe it isn't. We are not going to tell you if it is or isn't but you send us a sample, we will tell you whether or not it is a health hazard.

If we had gone along, and who knows we might still have to go along with the federal government and enforce their rules and regulations. I don't see anybody, first off, keeling over at the water fountain out here. I haven't seen anybody in the state keel over lately. I really don't know of a problem but we do have a turbidity problem in this state that if we have to treat turbidity in the water districts in this state and we will assume that the federal government comes back with a one turbidity factor and we will assume that anything over one constitutes a health hazard, I have — I don't know just how many water districts are in category two, they call it, and it says, these water systems will need to provide primary secondary treatment and in a few cases direct filtration may be sufficient. Cost, \$28,795,000. Category three: these water systems through increased monitoring may be found to require primary or secondary treatment or a combination of these. Cost, \$37,467,000. Four: these systems at the source generally have very little surface run off to cause turbidity. It goes on to say, possibly, they might have a problem. If they do, \$14,740,000.

We have one page where we comply. It is the smallest page. Fewest number of water districts, Mr. Goodwin will be happy, Berwick is on there. Very few that will comply with the existing standards.

All I am saying ladies and gentlemen is that we don't need this legislation this year. If we put it off until next year, we can still pass this in time to obtain primacy and if we put it off to the year after, what is going to be the problem? We are leading the nation in water quality control, and the federal government isn't going to be able to come in and enforce us on a federal level until in the early 1980's. Another beautiful bureaucratic point they brought forth is — I will tell you the money that is involved, it is \$150,000 a year that the federal government will give us to carry out the requirements of this bill, but even though we are leading the nation in water quality control, many states do not have a water quality department or if they have one, it is very, very much insufficient and inadequate to the needs of the state that if we take the \$150,000, we can't use it towards the personnel we already have in that department. So, that means we have to use it for, I don't know what. The department has already said that they can probably comply with this legislation but they don't know what the red tape is involved so I assume it must be \$150,000 worth of red tape between the state and the federal government.

It is premature, we don't need to do it now, it is not necessary, it is not that I totally disagree with water quality, certainly I drink it and I want it to be as fit for me as anybody else. But let's not get ourselves into something, right now, that is not necessary. We have got time, let's wait and let's have the foresight to sit back

— as long as we are taking care of the situation and we are, we lead the nation, let's sit back, wait, to find out what the government is going to do.

The SPEAKER: The Chair recognize the gentleman from Sanford, Mr. Nadeau.

Mr. NADEAU: Mr. Speaker, Ladies and Gentlemen of the House: The Public Utilities Committee was presented with four major policy choices under the federal statutes. First, the state could cease its present regulation of drinking water quality and allow the federal government to enforce federal standards directly within the state. Second, the state could continue its present regulation of drinking water quality without seeking primary enforcement status and allow the federal government to enforce a federal standards directly within the state. Third, the state could seek primary enforcement status and directly enforce the federal standards as part of state law and abandon state standards or requirements that exceed the federal minimum standards or fourth, the state could seek primary enforcement status and directly enforce the federal standards as part of state law but where state standards or requirements exceed federal standards, the higher state standards would be continued.

In seeking primacy, the state is already very close to meeting the central requirement. The establishment and enforcement of the specific contaminate levels allowable in drinking water, except for mercury levels and turbidity which the gentleman from Woolwich mentioned, where federal standards are more restrictive than state standards, and the pesticide level where Maine has no such standards, are permissible levels, the state's standards equal or exceed the federal standards.

My main problem with not passing this bill on to be engrossed, we have to, because I feel that if we do not seek primacy at this time and the bill goes down in defeat, imagine the problem that your water district might have with trying to face up to these turbidity levels.

Now, at least with the state having primacy, your local individual water districts will be able to go to the people in Augusta and hopefully get an exemption for a time, anyway, if they feel this would be a great economic hardship to them. Imagine what is going to happen if they have to go to Boston to get this, talk about red tape. If the federal government forces it on us, how much of a burden will it be on the water district? I feel, at this time, it would be the utmost urgency that the state takes primacy at this time and not wait for the federal government to really push it on us and we might all pay dearly in the end.

The SPEAKER: The Chair recognizes the gentleman from Hampden, Mr. Farnham.

Mr. FARNHAM: Mr. Speaker, if the motion has not already been made, I am going to move that this bill and all its accompanying papers be indefinitely postponed.

I talked last weekend with a little municipal water company, it has a 108 customers. He said, you fellows can concoct a bill of 16 pages and four pages of amendments to regulate this little 16 customer water company. I think it is about time we put minutemen down at the border and when they saw any feds coming, put the lead to them.

The SPEAKER: The Chair recognizes the gentleman from Bangor, Mr. Kelleher.

Mr. KELLEHER: Mr. Speaker, Ladies and Gentlemen of the House: I hope that you oppose the gentleman's motion and I would like to tell my good friend from Hampden, Mr. Farnham, that his company was well represented at all the hearings that we had concerning this particular bill because their lobbyist, their well trained, well paid and articulate Mr. Healy said before the committee, both when we had the sessions during the summer and the fall and

believe me, he watched this like a bird dog watching a partridge, and when it came out of that committee, it came out with the approval both from him and from the department, as well as from the majority members of the committee, so you can rest assured that that little water company was well looked after, as well as everybody else's in here and it should well be, because the committee didn't want to pass something out that would certainly disrupt or dismantle the water companies in this state. It was through some hard work on some members of the committee, not so much myself but other members, that got us to the point that we are at here today.

Don't worry about the crystal ball gazing that my fine friend from Woolwich has been trying to spread over and confuse the House this afternoon. We would be far better off if our water companies, who had complaints or wells that were being presented or water that is servicing the public of this state were able to go down to the Human Services Department and be looked after by the people of the State of Maine.

The federal government, at this point, has not mandated one thing onto us, but this gives us a level of an opportunity to discuss what they may want to present to this state or any other state in the near future.

I would appreciate it if you would heed the remarks of the gentleman from Sanford, Mr. Nadeau, and reject the good gentleman's motion.

Mr. Jackson of Yarmouth moved the previous question.

The SPEAKER: For the Chair to entertain a motion for the previous question, it must have the expressed desire of one third of the members present and voting. All those in favor will vote yes; those opposed will vote no. The Chair opens the vote.

A vote of the House was taken, and obviously more than one third of the members present having voted for the previous question, the motion was entertained.

The SPEAKER: The question now before the House is, shall the main question be put now? This is debatable for five minutes by any one member.

The Chair recognizes the gentleman from Brewer, Mr. Norris.

Mr. NORRIS: Mr. Speaker, Ladies and Gentlemen of the House: Back a few years ago I guess I was probably most guilty as any member in the House for moving the previous question and I think over the years, and with the type of legislature that we have become, I have learned the error of my ways. I realize that although the hours get late and we all get up tight, I believe that everyone that wants to speak on any measure that comes before this House, should have the opportunity to do so.

I admit that we should move as rapidly as we can, it is costing money, but we are all here to represent our constituencies and each and everyone of us, if we want to talk, should have the opportunity to talk.

I would say and feel that we should be very careful, because during this whole session we have had very little calling on for the previous question and I notice now that it is starting to become a habit and as I say, as a previous sinner in this area, I would suggest that it can create embarrassment for people who do like to speak.

The SPEAKER: If you are in favor of the main question being put now, you will vote yes; those opposed will vote no.

A vote of the House was taken.

48 having voted in the affirmative and 19 in the negative, the main question was ordered.

The SPEAKER: The question now before the House is on the motion of the gentleman from Hampden, Mr. Farnham, that this Bill and all its accompanying papers be indefinitely post-

poned. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

Mr. Nadeau of Sanford requested a roll call.

The SPEAKER: For the Chair to order a roll call, it must have the expressed desire of one fifth of the members present and voting. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken, and more than one fifth of the members present having expressed a desire for a roll call, a roll call was ordered.

The SPEAKER: The pending question before the House is on the motion of the gentleman from Hampden, Mr. Farnham, that this Bill and all its accompanying papers be indefinitely postponed in non-concurrence. Those in favor will vote yes; those opposed will vote no.

#### ROLL CALL

YEA — Albert, Ault, Bachrach, Berry, G. W.; Berry, P. P.; Berube, Birt, Bowie, Burns, Byers, Call, Carey, Carter, Churchill, Conners, Curtis, Dam, DeVane, Doak, Dudley, Durgin, Farnham, Faucher, Fraser, Garsoe, Goodwin, H.; Gould, Higgins, Hutchings, Immonen, Kelley, Lavery, Leonard, Lewin, Lewis, Lovell, Mackel, MacLeod, Mahany, Martin, A.; McBrairty, Miskavage, Morton, Palmer, Perkins, S.; Perkins, T.; Peterson, P.; Pierce, Post, Rideout, Rollins, Shute, Snowe, Sprowl, Strout, Stubbs, Teague, Theriault, Torrey, Tozier, Walker, Webber, Wilfong.

NAY — Bennett, Boudreau, Carpenter, Chanko, Clark, Connolly, Cooney, Cox, Curran, P.; Davies, Dow, Drigotas, Farley, Fenlason, Flanagan, Goodwin, K.; Gray, Greenlaw, Hendergon, Hennessey, Hobbins, Hughes, Ingegneri, Jackson, Jensen, Kany, Kauffman, Kelleher, Kennedy, LaPointe, Lunt, Lynch, MacEachern, Martin, R.; McMahon, Mitchell, Nadeau, Najarian, Norris, Peakes, Pearson, Pelosi, Peterson, T.; Raymond, Rolde, Saunders, Spencer, Tarr, Tierney, Truman, Usher, Wagner, Winship.

ABSENT — Bagley, Blodgett, Bustin, Carroll, Cote, Curran, R.; Dyer, Finemore, Gauthier, Hall, Hewes, Hinds, Hunter, Jacques, Jalbert, Joyce, Laffin, LeBlanc, Littlefield, Lizotte, Maxwell, McKernan, Mills, Morin, Mulkern, Powell, Quinn, Silverman, Smith, Snow, Susi, Talbot, Twitchell, Tyndale.

Yes. 63; No. 53; Absent, 34.

The SPEAKER: Sixty-three having voted in the affirmative and fifty-three in the negative, with thirty-four being absent, the motion does prevail.

Sent up for concurrence.

The Chair laid before the House the eleventh tabled and today assigned matter:

An Act Relating to the Formation of Political Parties and to Political Designations (H. P. 1960) (L. D. 2140) (C. "A" H-985)

Tabled — March 24 by Mrs. Najarian of Portland.

Pending — Passage to be Enacted.

On motion of Mrs. Boudreau of Portland, under suspension of the rules, the House reconsidered its action whereby this Bill was passed to be engrossed.

On further motion of the same gentleman, under suspension of the rules, the House reconsidered its action whereby Committee Amendment "A" was adopted.

The same gentleman offered House Amendment "A" to Committee Amendment "A" and moved its adoption.

House Amendment "A" to Committee Amendment "A" (H-1193) was read by the Clerk.

The SPEAKER: The Chair recognizes the gentleman from Portland, Mrs. Boudreau.

Mrs. BOUDREAU: Mr. Speaker, Ladies and Gentlemen of the House: All this amendment

does, normally the Democratic State Committee and the Republican State Committee are the ones that call the State Convention, this amendment will authorize a third party, either the voter or the group of voters, to call the initial state convention. If any of you have any doubts that this bill is being opposed by anyone in the executive department, this amendment came from them and they are very happy with the bill.

Thereupon, House Amendment "A" to Committee Amendment "A" was adopted.

The SPEAKER: The Chair recognizes the gentleman from South Portland, Mr. Perkins.

Mr. PERKINS: Mr. Speaker, Ladies and Gentlemen of the House: My concern with this bill has been strictly one of technical problems and I do appreciate the new amendment because it clears up some of the questions that I had about it.

There is one additional problem that I find with it, personal preference I should say, and that is on Page 6, Section 4, at the bottom of the page, dealing with nomination petitions. It appears that we have stricken from the present statutes under Title 21, Section 492, a provision that would read: "It must contain the name of only one candidate, his place of residence, the office sought and his political designation expressed in not more than 3 words" and we have stricken the words "and his political designation expressed in not more than 3 words" and substituted merely the candidate's place of residence and his office sought be given there.

I am wondering if this will not, in some measure, create some confusion, because it would seem to me, under the nomination process, the petition process for the party members, we still retain the requirement, in fact, that the political designation on their nomination papers be stated as either Republican or Democrat. Under the nomination process for anyone else, under this section, we do not require it and it would seem to me that at least the designation that one is an Independent candidate should be on those nomination petitions. Without requiring anything, it would be blank, the individual could be or could say that he was a Democrat, a Republican or what have you and they would just have to take his word for it. I think it is important that, at least, the designation that the individual is running as an Independent, that that is his political designation because that is all we have, we have a Republican and a Democrat and an Independent and I am concerned by virtue of this having been stricken.

The SPEAKER: The Chair recognizes the gentleman from Portland, Mrs. Boudreau.

Mrs. BOUDREAU: Mr. Speaker, Ladies and Gentlemen of the House: In reply to that question, recently there was a ruling that political designations, unless it is Democrat or Republican, cannot go on the ballots. If you want to put it on the nomination paper, there is nothing that says you can't, but it is kind of useless to put it on the nomination paper when it is not going to appear on the ballot.

We have had some people request this, so we are holding an Errors and Inconsistency Omnibus Bill, or whatever you want to call it, and to satisfy people, we are going to add that into it. It is not going to do any good as far as the ballot is concerned. If you want it on the petition, fine, but you can use it on the ballots.

Thereupon, Committee Amendment "A" as amended by House Amendment "A" thereto was adopted.

The Bill was passed to be engrossed as amended by Committee Amendment "A" as amended by House Amendment "A" thereto in non-concurrence and sent up for concurrence.



The Chair laid before the House the twelfth tabbed and today assigned matter:

Bill "An Act to Clarify Various Statutes Relating to Superior Court Fees and Costs" (Emergency) (H. P. 1866) (L. D. 2037) (C. "A" H-1016)

Tabbed — March 24 by Mr. Birt of East Millinocket.

Pending — Adoption of House Amendment "A" (H-1055) to Committee Amendment "A" (H-1016)

The SPEAKER: The Chair recognizes the gentleman from Standish, Mr. Spencer.

Mr. SPENCER: Mr. Speaker, I move the indefinite postponement of House Amendment "A" to Committee Amendment "A" and would speak briefly to my motion.

The SPEAKER: The gentleman from Standish, Mr. Spencer, moves the indefinite postponement of House Amendment "A" to Committee Amendment "A".

The gentleman may proceed.

Mr. SPENCER: Mr. Speaker, Ladies and Gentlemen of the House: The purpose of this amendment is to transfer the cost of prosecuting prisoners in state institutions from the county to the state, in essence.

The legislature, in the last session, passed a law which established a state court system and required that each county pay to the state the amount that was expended in 1975 for the operations of the Superior Court.

Mr. Gray from Rockland has put an amendment which would say that in computing the expenses of the Superior Court for 1975, the expense of criminal prosecutions of inmates in state institutions should not be included. In effect, the cost of prosecuting people in Thomaston would not be included in paying this amount.

I would point out that if this amendment were passed, it would in effect create a reduction in the amount of the payment to the state, which would require an appropriation. I think, for the state to make up the cost of these prosecutions.

I would also point out that this bill, this payment, is concerned with the expenses of the Superior Court that the county had in 1975 and not with the expenses of the district attorneys. So what somebody would have to do would be to go back and try to figure out how much of the heat, how much of the use of the space and so on was attributable to the prosecution of inmates at Thomaston. I think it would create a burdensome problem. There is not a lot of money involved. There is no fiscal note on this, and I think that the amendment simply shouldn't be adopted.

The SPEAKER: The Chair recognizes the gentleman from Rockland, Mr. Gray.

Mr. GRAY: Mr. Speaker, Ladies and Gentlemen of the House: If this amendment isn't adopted, those counties with state institutions would be assessed a greater amount because they would have the burden of the court costs dealing with those state institutionalized persons. Worded differently, a county would end up paying the same bill twice, the original court cost of prosecuting the institutionalized inmates, which is what the law that we passed during the regular session would require, then this same cost would have to be included in computing the county's payment to the state. So it is just like a hundred percent tax.

It would seem that this should be the problem of the state, not just those counties that have institutions in them. So I would ask that you not indefinitely postpone this amendment and that we make it part of the bill.

The SPEAKER: The pending question is on the motion of the gentleman from Standish, Mr. Spencer, that House Amendment "A" to Committee Amendment "A" be indefinitely postponed. All in favor of that motion will vote yes; those opposed will vote no.

A vote of the House was taken.

Whereupon, Mr. Norris of Brewer requested a roll call vote.

The SPEAKER: For the Chair to order a roll call, it must have the expressed desire of one fifth of the members present and voting. All those desiring a roll call vote will vote yes; those opposed will vote no.

A vote of the House was taken, and more than one fifth of the members present having expressed a desire for a roll call, a roll call was ordered.

The SPEAKER: The Chair recognizes the gentleman from Brewer, Mr. Norris.

Mr. NORRIS: Mr. Speaker, Ladies and Gentlemen of the House: I have been talking with my seatmate down front here and, unquestionably, Penobscot County would be affected by this bill, because we have had escapees from the mental health institute on a certain those people were under the jurisdiction of the state and those trials, I think, should fall to the burden of the state.

So I would hope that all good members of Penobscot County would take that into consideration.

The SPEAKER: The Chair recognizes the gentlewoman from Owls Head, Mrs. Post.

Mrs. POST: Mr. Speaker, Men and Women of the House: The problem that this faces for us in Knox County is, as you all know, we do have Thomaston State Prison which has approximately 400 inmates, although the number does vary. Whenever these inmates break the law, if they leave and don't come back from furlough, if they escape, do something, break a law within the prison that requires a court case, the county has to absorb the cost of the transportation of that, which really amounts to a respectable amount for such a small county as ours.

I think that the amount is around \$10,000 a year, though I wouldn't want to be held to that figure. So I do hope that you would support this particular amendment.

The SPEAKER: The Chair recognizes the gentleman from Standish, Mr. Spencer.

Mr. SPENCER: Mr. Speaker, Ladies and Gentlemen of the House: This bill, as it was passed in the last session, said that the counties would pay to the state the cost of the Superior Court. The cost of the district attorneys, who are prosecuting criminals, are left, except for the salaries of the district attorneys, all of the expenses of prosecution are left with the counties, so the expenses of prosecution of inmates in state institutions are not being paid by the counties to the state under the bill we passed last year. The cost of prosecutions are left with the county. The payment that goes to the state is the actual expense of operating the court in 1975. So there is no double accounting here. The state isn't getting double payment.

If you subtract the expenses of the prosecutor from the court payment, what you are in effect doing is creating a very difficult situation. In Cumberland County, which I represent, we have the Boy's Training Center and we have the Men's Correctional Center in Windham. There is no record kept anywhere that is reasonably accessible where you could go and figure out how much of the expenses of the court were attributable to prosecutions of people in those institutions.

I would also point out that there is no fiscal note on this bill and if there are any expenses that would be covered by this, they ought to be reflected in a fiscal note. I would pose an inquiry to the Chair as to what the proper procedure is to raise the point that there is no fiscal note on this amendment?

The SPEAKER: The Chair would advise the gentleman and members of the House that if there is a fiscal note required and it is not inserted, then the bill would not be passed to be enacted in this body.

The Chair recognizes the same gentleman.

Mr. SPENCER: Mr. Speaker and Members of the House: In conclusion, I would just point out that what we are doing is making it very complex to figure out how much each county is supposed to pay to the state for the Superior Court costs, and I think they were just for a relatively small amount. We are creating an enormous complication in this whole procedure, and we are also compounding the deficit which the state courts are going to run into, and if we are going to pass something like this, we ought to know exactly what the impact is in each county and we ought to appropriate some money to make up the costs. I think this is going to end up as an appropriations bill if this thing is put on it, and I would urge you to support the motion to indefinitely postpone.

The SPEAKER: The Chair recognizes the gentleman from South Portland, Mr. Perkins.

Mr. PERKINS: Mr. Speaker and Members of the House: Just a couple observations. One is that if this amendment passes, it will be virtually impossible to implement in terms of accounting procedures. Secondly, the amendment speaks in terms of criminal prosecution of any inmate of a state institution. We are not talking about just the Maine State Prison, the Men's Correctional Center, the Boy's Training Center, we are talking about any institution of the State of Maine in which there happens to be criminal prosecution of an individual. That includes our mental health institutions, includes all of the branches, housing or facilities of shelter available for individuals that is a state institution. Therefore, if we really want to create a serious problem, we should pass this amendment, no matter how good it might affect all of our counties.

The SPEAKER: The Chair recognizes the gentleman from East Millinocket, Mr. Birt.

Mr. BIRT: Mr. Speaker, Ladies and Gentlemen of the House: I can't believe that this is going to be a very difficult fact to figure out how much the cost of an individual case is. I don't see the difficulty in the mechanics of doing this. It appears to me that with the method of funding court costs, which has been established by the last legislature, that this amendment is a reasonable amendment and I hope you do not vote to indefinitely postpone it.

The SPEAKER: The Chair recognizes the gentleman from Bangor, Mr. Henderson.

Mr. HENDERSON: Mr. Speaker, I would pose a question to the gentleman from Rockland or anyone else who could answer it, if he could itemize for me exactly what would be included in expenditures caused by criminal prosecution. Give me the kind of things what would be involved and, also, if he could explain to me how he would calculate them?

The SPEAKER: The gentleman from Bangor, Mr. Henderson, has posed a question through the Chair to anyone who may care to answer.

The Chair recognizes the gentleman from Rockland, Mr. Gray.

Mr. GRAY: Mr. Speaker and Members of the House: I am not a lawyer and I am not sure that I could itemize the costs per se, although I do know this has been a problem. This has been brought to the attention of Knox County legislators for the past 20 years. The point that we are trying to correct here, if it costs, for instance, \$10,000 during 1975 to dispose of the institutionalized individuals in Thomaston, then this \$10,000 is used in computing our cost that we pay to the state. In other words, it is like a 100 percent tax.

This has been a burden to our county for some time, and unless we take care of it now, it is going to be a cost that we are going to have to continuously pay into the state year after year. We have no problem isolating our figures down in

Knox County, and if we can do it, it would seem that Cumberland County would be able to do it also.

The SPEAKER: The Chair recognizes the gentleman from Bangor, Mr. Henderson.

Mr. HENDERSON: Mr. Speaker and Members of the House: I think that with all due respect, the answer points out the complication, that it is not clear how those can be discovered.

The SPEAKER: The Chair recognizes the gentleman from Standish, Mr. Spencer.

Mr. SPENCER: Mr. Speaker, Ladies and Gentlemen of the House: The point that I am trying to make here is that you have two sets of expenses: one is the expense of the court and the other is the expense of prosecution, of the district attorney and so on. The bill that we passed last year said that the expense of the Superior Court in 1975, in each county, would be paid to the state. It doesn't say that the expense of the prosecutions will be paid over to the state. So none of the expenses of the district attorney, the lawyer who handled the prosecution, the investigation of the case, the witness fees that may have been paid, none of those expenses are going to be included in this payment to the state. The only thing that will be included are the costs of the Superior Court in 1975. Now, those are costs for the maintenance of the courtroom, the heat attributable to the Superior Court, all of the expenses actually attributable to the court itself.

If we subtract the expenses attributable to the court that were incurred because of prosecutions of residents of state institutions, somehow you are going to have to try to figure out how much of the heat had to be provided because of the prosecution of residents in state institutions, how much of the maintenance that was provided by the court and so on. If Mr. Gray wants to subtract from the court payment the actual costs of the prosecutor in prosecuting these institutions, then he ought to have this tabled and have this amended to do that. But that is not what it does. It says that the costs attributable to the Superior Court expended in prosecutions for inmates of state institutions shall be subtracted. You will never figure that out for last year, which is what you would have to do. There is just no way that you would figure out how much of the cost of the court was attributable to those inmates of those institutions.

The SPEAKER: The Chair recognizes the gentleman from Brewer, Mr. Norris.

Mr. NORRIS: Mr. Speaker and Members of the House: It is obvious that my good friend from Standish is an attorney and not an accountant by the way he is talking about figures. I assure him that in Penobscot County, we can handle the problem and this is a one-shot deal and this is the one-shot deal that establishes from now on out what each county is going to contribute toward the court costs, and it is only fair that the county pay for their own part of the problem, but certainly they shouldn't be expected to pay, as the good gentleman from Rockland has stated; they shouldn't be expected to pay for those problems that were incurred by the state. This is a one-shot deal, and I assure you that in Penobscot County we do have some people there that can figure this out very easily and it will be taken care of nicely, and down in Rockland, they can take care of it, too, I am sure.

The SPEAKER: A roll call has been ordered. The pending question is on the motion of the gentleman from Standish, Mr. Spencer, that House Amendment "A" to Committee Amendment "A" be indefinitely postponed. All those in favor of that motion will vote yes; those opposed will vote no.

#### ROLL CALL

YEA — Berube, Burns, Call, Carroll, Connolly, Davies, Doak, Dow, Fraser, Goodwin, H., Henderson, Hobbins, Hughes, Mahany, Mitchell, Morton, Najarian, Peakes, Perkins,

S., Peterson, T., Raymond, Spencer, Teague, Theriault, Tierney, Tozier, Usher, Wilfong.

NAY — Albert, Ault, Bachrach, Bennett, Berry, G. W., Berry, P. P., Birt, Blodgett, Boudreau, Bowie, Byers, Carey, Carpenter, Carter, Chonko, Churchill, Clark, Connors, Cooney, Cox, Curran, P., Curtis, Dam, DeVane, Drigotas, Dudley, Durgin, Farley, Farnham, Faucher, Fenlason, Planagan, Goodwin, K., Gould, Gray, Greenlaw, Hennessey, Higgins, Hutchings, Immonen, Ingegneri, Jackson, Jensen, Kany, Kauffman, Kelleher, Kelley, Kennedy, LeBlanc, Laverty, Leonard, Lewin, Lewis, Littlefield, Lovell, Lunt, MacLeod, Martin, R., McBreairey, McMahon, Miskavage, Nadeau, Norris, Palmer, Pearson, Pelosi, Peterson, P., Pierce, Post, Rideout, Rolde, Rollins, Shute, Snowe, Sprowl, Strout, Stubbs, Tarr, Torrey, Truman, Wagner, Walker, Webber, Winship.

ABSENT — Bagley, Bustin, Cote, Curran, R., Dyer, Finemore, Garsoe, Gauthier, Hall, Hewes, Hinds, Hunter, Jacques, Jalbert, Joyce, Laffin, LeBlanc, Lizotte, Lynch, MacEachern, Mackel, Martin, A., Maxwell, McKernan, Mills, Morin, Mulhern, Perkins, T., Powell, Quinn, Saunders, Silverman, Smith, Snow, Susi, Talbot, Twitchell, Tyndale.

Yes, 28; No, 84; Absent, 38.  
The SPEAKER: Twenty-eight having voted in the affirmative and eighty-four in the negative, with thirty-eight being absent, the motion does not prevail.

Thereupon, House Amendment "A" to Committee Amendment "A" was adopted. Committee Amendment "A" as amended by House Amendment "A" thereto was adopted.

The Bill was passed to be engrossed as amended in non-concurrence and sent for concurrence.

The SPEAKER: The Chair recognizes the gentleman from Durham, Mr. Tierney.

Mr. TIERNEY: Mr. Speaker, is the House in possession of Bill "An Act to Prohibit Payment of Dependency Allowance to Persons with a Spouse Employed Full Time." House Paper 2118, L. D. 2287?

The SPEAKER: The Chair would answer in the affirmative.

Mr. TIERNEY: Mr. Speaker, there seems to be some technical problem with the committee amendment, so I am going to move that we reconsider our action whereby the Bill was passed to be engrossed and hope someone would table it for one legislative day.

Thereupon, on motion of Mr. Rolde of York, tabled pending the motion of Mr. Tierney of Durham to reconsider and tomorrow assigned.

The Chair laid before the House the following matter:

Joint Order relative to creating a Joint Select Committee on State Tax Policy, House Paper 2247, which was tabled earlier in the day pending passage.

Thereupon, the Order received passage and was sent up for concurrence.

The Chair laid before the House the following matter:

Joint Order relative to creating a Joint Select Committee of the Legislature known as the Budget Committee, House Paper 2248, which was tabled earlier in the day pending passage.

Mr. Kelleher of Bangor offered House Amendment "A" and moved its adoption.

House Amendment "A" (H-1102) was read by the Clerk.

On motion of Mr. Rolde of York, tabled pending adoption of House Amendment "A" and tomorrow assigned.

The Chair laid before the House the following matter:

House Divided Report — Majority (8) "Ought to pass" — Minority (5) "Ought to pass" as

amended by Committee Amendment "A" (H-1069) — Committee on Business Legislation on Bill "An Act to Require a Majority of Consumer Representation on Governing Boards of Nonprofit Hospital and Medical Service Organizations" (H. P. 1865) (L. D. 2036) which was tabled earlier in the day and later today assigned, pending the motion of Mr. Bowie of Gardiner to accept the Majority Report.

On motion of Mrs. Clark of Freeport, tabled pending the motion of Mr. Bowie of Gardiner to accept the Majority Report and tomorrow assigned.

The Chair laid before the House the following matter:

Bill "An Act Relating to Exceptional Children" (H. P. 1797) (L. D. 1956) which was tabled earlier in the day and later today assigned pending adoption of Committee Amendment "A".

Mrs. Mitchell of Vassalboro offered House Amendment "A" to Committee Amendment "A" and moved its adoption.

House Amendment "A" to Committee Amendment "A" (H-1104) was read by the Clerk and adopted. Committee Amendment "A" as amended by House Amendment "A" thereto was adopted and the Bill assigned for second reading tomorrow.

The Chair laid before the House the following matter:

Bill "An Act Relating to the Geologists and Soil Scientists Certification Act" (H. P. 2240) (L. D. 2322) which was tabled earlier in the day and later today assigned pending passage to be engrossed.

Mrs. Clark of Freeport offered House Amendment "A" and moved its adoption.

House Amendment "A" (H-1100) was read by the Clerk and adopted.

The Bill was passed to be engrossed as amended by House Amendment "A" and sent up for concurrence.

The Chair laid before the House the following matter:

Bill "An Act to Promote Efficiency in Maine State Government" (S. P. 699) (L. D. 2223) (C. "A" S-450) which was tabled earlier in the day and later today assigned pending passage to be engrossed.

On motion of Mrs. Kany of Waterville, the House reconsidered its action whereby Committee Amendment "A" was Adopted.

The same gentleman offered House Amendment "A" to Committee Amendment "A" and moved its adoption.

House Amendment "A" to Committee Amendment "A" (H-1099) was read by the Clerk and Adopted.

Committee Amendment "A" as amended by House Amendment "A" thereto was adopted in non-concurrence.

The Bill was passed to be engrossed as amended by Committee Amendment "A" as amended by House Amendment "A" thereto in non-concurrence and sent up for concurrence.

The SPEAKER: The Chair recognizes the gentleman from Corinth, Mr. Strout.

Mr. STROUT: Mr. Speaker, is the House in possession of L. D. 2198?

The SPEAKER: The Chair would answer in the affirmative. An Act Relating to Drinking Water, Senate Paper 687, L. D. 2198, is in the possession of the House.

Mr. STROUT: Mr. Speaker, I move we reconsider our action whereby this Bill and all its accompanying papers were indefinitely postponed.

The SPEAKER: The Chair recognizes the gentleman from York, Mr. Rolde.

Mr. ROLDE: Mr. Speaker, I move this item lie on the table for one legislative day.

Whereupon, Mr. Leonard of Woolwich requested a vote on the tabling motion.

The SPEAKER: The pending question is on the motion of the gentleman from York, Mr. Rolde, that this matter be tabled pending the motion of Mr. Strout of Corinth to reconsider and tomorrow assigned. All in favor of that motion will vote yes; those opposed will vote no.

A vote of the House was taken.

54 having voted in the affirmative and 33 having voted in the negative, the motion did prevail.

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(Off Record Remarks)

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On motion of Mr. LaPointe of Portland, Adjourned until nine-thirty tomorrow morning.

**Caswell, Lynne**

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**From:** roadways@juno.com  
**Sent:** Tuesday, November 19, 2019 2:13 PM  
**To:** gcorbin@memun.org  
**Cc:** Caswell, Lynne  
**Subject:** abandoned rds part 3  
**Attachments:** ROADWays LegRec\_1976-03-29\_SP\_p0777-0792 LD 2108.pdf

This message originates from outside the Maine Legislature.

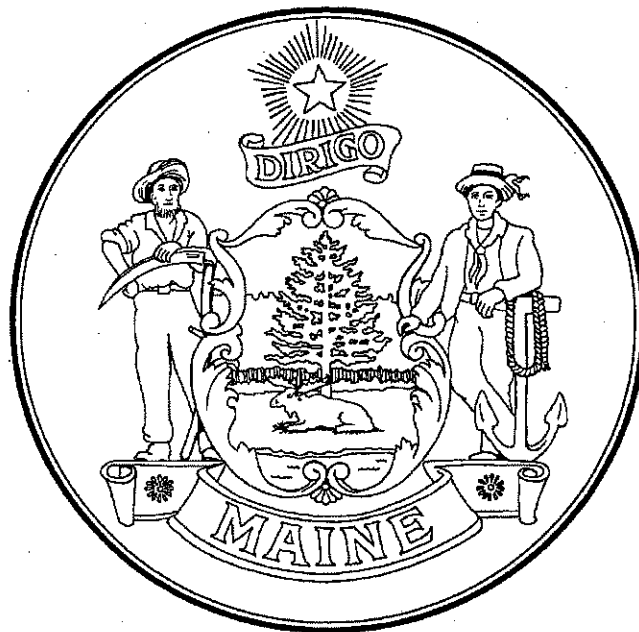
Here is the remainder of the legislative discussion on the bill that created section 3028, beginning on page 77.

Roberta Manter  
Maine ROADWays



# MAINE STATE LEGISLATURE

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**Legislative Record**

OF THE

**One Hundred and Seventh Legislature**

(First Special Session)

OF THE

STATE OF MAINE

**1976**

KENNEBEC JOURNAL

AUGUSTA, MAINE

## SENATE

Monday, March 29, 1976

Senate called to order by the President.

Prayer by The Honorable Charles P. Pray of Millinocket:

Lord, help us be successful today in our actions, and let those actions be beneficial to the people of this great state. Amen.

Reading of the Journal of Friday, March 26, 1976.

Papers from the House  
Non-concurrent Matter

Bill, "An Act Relating to the Effective Date of Each Individual Establishing a Benefit Year under the Unemployment Law." (H. P. 2145) (L. D. 2285)

In the House March 25, 1976, the Minority report Read and Accepted and the Bill Passed to be Engrossed as Amended by Committee Amendment "A" (H-1007).

In the Senate March 25, 1976, the Majority Ought Not to Pass report Read and Accepted, in non-concurrence.

Comes from the House, that Body having Insisted and Asked for a Committee of Conference.

Mr. Roberts of York moved that the Senate Adhere, and Mr. Conley of Cumberland subsequently moved that the Senate Insist and Join in a Committee of Conference.

On motion by Mr. Pray of Penobscot, a division was had. Seven having voted in the affirmative, and 19 having voted in the negative, the motion did not prevail.

Thereupon, the Senate voted to Adhere.

## Non-Concurrent Matter

Bill, "An Act to Amend the Employment Security Law." (S. P. 691) (L. D. 2210)

In the Senate March 23, 1976, Passed to be Engrossed as Amended by Committee Amendment "A" (S-453).

Comes from the House, Passed to be Engrossed as Amended by Committee Amendment "A" and House Amendment "B" (H-1117), in non-concurrence.

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

Mr. SPEERS: Mr. President, I would like to ask a question through the Chair to any Senator who may be able to answer this. I note that House Amendment "B", under Filing No. H-1117, has to do with members of the legislature, and on a quick reading of this amendment, without being able to correlate it with the law, I am wondering whether or not this allows members of the legislature to collect unemployment during the time that the legislature is not in session.

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

The Chair recognizes the Senator from York, Senator Roberts.

Thereupon, on motion by Mr. Roberts of York, tabled until later in today's session, pending Consideration.

## Senate Papers

Mr. Collins of Knox presented, Bill, "An Act Delaying the Effective Date of the Maine Criminal Code in Order to Allow Sufficient Time to Make Certain Necessary Revisions." (S. P. 776)

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

Mr. COLLINS: Mr. President and Members of the Senate: The bill containing the revisions of the criminal code will be on the Senate calendar this afternoon. The present effective date of the criminal code is April 1st, however, because we anticipate that it will take a few days to move the revision bill through the legislative process, and because we think it is necessary

that there be a little time elapse to get these revisions out to the courts, the prosecutors, and the enforcement officials, we are submitting this bill to delay the effective date until May 1st. We do not feel that this bill needs a public hearing and, therefore, I would move that this bill be passed to be engrossed without reference to committee and sent forthwith to the House.

The PRESIDENT: Is it now the pleasure of the Senate that the rules be suspended in order that this bill, without reference to committee, be given its first reading at this time?

Thereupon, under suspension of the rules, the Bill was given its First and Second Readings and Passed to be Engrossed.

Under further suspension of the rules, sent down forthwith for concurrence.

Committee Reports  
House

## Ought to Pass — As Amended

The Committee on Education on, Bill, "An Act Relating to Exceptional Children." (H. P. 1797) (L. D. 1956)

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-1083).

Comes from the House, the Bill Passed to be Engrossed as Amended by Committee Amendment "A", as Amended by House Amendment "A" Thereto (H-1104).

Which report was Read and Accepted in concurrence and the Bill Read Once. Committee Amendment "A" was Read. House Amendment "A" to Committee Amendment "A" was Read and Adopted in concurrence.

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

Mr. GAHAGAN: Mr. President, I would like to pose a question through the Chair. Is it the intent of Committee Amendment "A" to prevent a parent of an exceptional child from going outside of the State of Maine to seek educational opportunities for an exceptional child, or is it the intent to bring this completely in the control of the Commissioner of Education? I am trying to establish whether or not a parent would have the discretion to go outside of the State of Maine and have the state assist in any exceptional programs of the child.

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

The Chair recognizes the Senator from Kennebec, Senator Katz.

Mr. KATZ: Mr. President, the wording of this bill as it pertains particularly to the Baxter School is confusing, but neither this bill nor the amendment makes a substantive change in the procedures. When it comes to tuitioning a child out of state for a unique program not available in the state or to a program which serves the needs of a child better, under existing law, as under this proposed change, the Commissioner of Education must approve every contract of such a nature.

The PRESIDENT: Is it now the pleasure of the Senate to adopt Committee Amendment "A" as amended by House Amendment "A"?

It is a vote.

Thereupon, under suspension of the rules, the Bill, as Amended, was Read a Second Time.

Mr. Katz of Kennebec then presented Senate Amendment "A" and moved its Adoption.

Senate Amendment "A", Filing No. S-482, was Read.

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

Mr. KATZ: Mr. President, this is the first legislative action to make any changes at all in what was originally L.D. 965, and because it is major legislation, I am sure that many of you will be getting queries on it.

Along with this bill is the requirement that the department promulgate regulations, and in

this particular case the promulgation of the regulations is going to be just as important as the bill itself. Senate Amendment "A" will require that the department, having formulated regulations, must present them to the next legislature prior to January 15th for our approval.

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

Mr. SPEERS: Mr. President, this is the first that I have seen this particular amendment, and I have to agree with the intent of the amendment very strongly. I would take issue with the comments that were made by the good Senator from Kennebec, Senator Katz, in that he explained that this would require the department to submit rules and regulations to the legislature for approval. I think, if you will read the amendment, you will find no such language whatever in that amendment. And for that reason, I am afraid that I find the amendment objectionable as it has been drawn.

We faced this issue a little earlier in this session when we were faced with an order requesting or ordering the Committee on State Government to report out a bill which would require that all rules and regulations be approved or reviewed by the legislature before they go into effect, and again I cannot state strongly enough that I fully agreed with that intent. But we did have a rather lengthy discussion at that time over the problems of doing this piecemeal or doing it too quickly, and we do have an order on the table that will direct the State Government Committee to go into this matter during the interim and come out with a bill which hopefully will cover all departments and cover the procedures which should be followed very carefully before rules and regulations can go into effect to make sure that they are reviewed by the appropriate committees in the legislature before being taken into effect.

Now, as to this particular amendment, there are a couple of very real and serious problems, I feel. No. 1, the amendment states that regulations and guidelines shall be presented to the legislature for review. Now, what is meant by review? The good Senator from Kennebec mentioned that the legislature would have to approve these rules and regulations before they go into effect, but that is not really what the amendment says. The amendment simply states "for review". And as I suggested when we were discussing this whole question of legislative review of rules and regulations, there are some very serious constitutional questions involved that will take some very careful drafting. I feel, to avoid. The word "review" is extremely vague in this case, and we really have no guideline from this amendment as to whether or not the legislature must approve or disapprove, or what happens if the legislature disapproves of the rules and regulations that are suggested. So that is a very vague term, and I feel that by adopting this at this time it would create more problems than it would alleviate.

The second question, of course, is the wording in the amendment "by the appropriate committee". Now, what is the appropriate committee? and here again we have a very basic policy question involved: in submitting to the legislature suggested rules and regulations, should they be submitted to the various committees in the area of the various departments; for example, education to the Education Committee, or transportation to the Transportation Committee, judicial matters to the Judiciary Committee, etc., or should there be one separate committee set up by the legislature, perhaps Performance Audit, perhaps something else, that would be charged with looking at all of these rules and regulations. I think these are very basic policy questions that deserve to have some very careful consideration given to them.

So very reluctantly, Mr. President, and only

because it is at this time and at this moment. I feel that I must move the indefinite postponement of this amendment.

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

Mr. KATZ: Mr. President, I would like the majority leader to put himself in the position of a legislative committee which was hearing an extremely important piece of legislation controlling the lives of thousands of people in an emotional atmosphere. And we realize that the regulations which will be promulgated are just as important as the legislation, and we know that there are some problems in the whole question of review and approval of promulgated regulations, but we are faced with the fact of life that something has to be done now. But our intent was to tell the Department of Education that whatever rules they promulgated would be reviewed, and we wanted this deterrent or this encouragement to them to be right in front of them so they would know that there would be a legislative review.

Now, whether or not that is in its optimum form, and whether or not an interim study committee can do something better, I don't know, but these regulations are in the process of being promulgated now, they are going to be affecting people in the interim, and I would recommend to the majority leader that it is absolutely essential that we right here now say that these particular rules and these particular regulations are going to get legislative attention.

Now, I didn't put in "the Committee on Education", I just put in "the appropriate committee", because I don't know what committee. There are many people around here perhaps who feel that the Committee on Education should be abolished and some other vehicle established, but this was the best we could do, and I would ask the majority leader either to withdraw his motion or to table so that this important matter can be pursued.

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

Thereupon, on motion by Mr. Speers of Kennebec, tabled until later in today's session, pending the motion by that same Senator to Indefinitely Postpone Senate Amendment "A".

The Committee on Local and County Government on, Bill, "An Act Relating to Town Ways." (H. P. 1920) (L. D. 2108) Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-1028).

Comes from the House, the Bill Passed to be Engrossed as Amended by Committee Amendment "A", as Amended by House Amendments "A" (H-1070) and "D" (H-1122) Thereto.

Which report was Read and Accepted in concurrence and the Bill Read Once. Committee Amendment "A" was Read. House Amendment "A" to Committee Amendment "A" was Read and Adopted in concurrence. House Amendment "D" to Committee Amendment "A" was Read and Adopted in concurrence. Committee Amendment "A", as Amended by House Amendments "A" and "D" Thereto, was Adopted in concurrence.

Thereupon, under suspension of the rules, the Bill, as Amended was Read a Second Time. The PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Merrill.

Mr. MERRILL: Mr. President, I haven't kept up with all the amendments on this bill. Could I ask somebody on the committee to explain this in its present form?

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

The Chair recognizes the Senator from Cumberland, Senator Merrill.

Thereupon, on motion by Mr. Merrill of Cumberland, tabled until later in today's session, pending Passage to be Engrossed.

Ought to Pass in New Draft

The Committee on Legal Affairs on, Bill, "An Act to Permit Executive Sessions in Certain Labor Negotiations." (H. P. 1891) (L. D. 2071)

Reported that the same Ought to Pass in New Draft under New Title: "An Act to Revise and Clarify the Freedom of Access Law" (H. P. 2226) (L. D. 2316).

Comes from the House, the Bill in New Draft Passed to be Engrossed as Amended by House Amendments "A" (H-1034), "B" (H-1044), and "E" (H-1110).

Which report was Read and Accepted in concurrence, and the Bill in New Draft Read Once. House Amendment "A" was Read.

Mr. Corson of Somerset then moved that House Amendment "A" be Indefinitely Postponed.

The PRESIDENT: The Senator has the floor.

Mr. CORSON: Mr. President and Members of the Senate: House Amendment "A" would amend the bill in section 404, which is the section of the bill which authorizes recorded and live broadcasts of proceedings of public policy making bodies. House Amendment "A" would add a section which would exempt the House of Representatives and the Senate from the provisions of this law.

We naturally have been in the practice of allowing press coverage, live broadcasting, and recording of proceedings as the press has desired. We have the authority very clearly to establish all the rules and regulations we need to control this coverage, and I feel that exempting the legislature from this law is unnecessary and, for that reason, I move that this amendment be indefinitely postponed.

The PRESIDENT: Is it now the pleasure of the Senate to indefinitely postpone House Amendment "A"?

The motion prevailed.

House Amendment "B" was Read.

Mr. Corson of Somerset moved that House Amendment "B" be Indefinitely Postponed.

The PRESIDENT: The Senator has the floor.

Mr. CORSON: Mr. President and Members of the Senate: House Amendment "B" would amend section D of subsection 6 of section 405, which deals with labor negotiations and whether or not they should be held in a closed session. The Committee on Legal Affairs debated this at considerable length, and we finally concluded that as a rule negotiations should be conducted openly unless both parties to the negotiations feel that they should be closed.

House Amendment "B" would simply reverse the situation such that all negotiations will be closed unless both parties agree to have them open. The committee felt that they should be open unless both parties wanted them closed. For that reason, I move the indefinite postponement of House Amendment "B", and hope I haven't completely confused the issue.

The PRESIDENT: The Senator from Somerset, Senator Corson, now moves that the Senate indefinitely postpone House Amendment "B". Is this the pleasure of the Senate?

The motion prevailed.

House Amendment "E" was Read and Adopted in concurrence.

Thereupon, under suspension of the rules, the Bill, as Amended, was Read a Second Time and Passed to be Engrossed in non-concurrence.

Sent down for concurrence.

#### Divided Report

The Majority of the Committee on Business Legislation on, Bill, "An Act to Require a Majority of Consumer Representation on Governing Boards of Nonprofit Hospital and Medical Service Organizations." (H. P. 1865) (L. D. 2036)

Reported that the same Ought to Pass.

Signed:  
Senators:

THOMAS of Kennebec  
JOHNSTON of Aroostook

Representatives:

RIDEOUT of Mapleton  
BYERS of Newcastle  
DEVANE of Ellsworth  
BOWIE of Gardiner  
PIERCE of Waterville  
TIERNEY of Durham

The Minority of the same Committee on the same subject matter reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-1069).

Signed:  
Senator:

REEVES of Kennebec

Representatives:

CLARK of Newport  
BOUDREAU of Portland  
PEAKES of Dexter  
HIGGINS of Scarborough

Comes from the House, the Minority report Read and Accepted and the Bill Passed to be Engrossed as Amended by Committee Amendment "A".

Which reports were Read.

On motion by Mr. Thomas of Kennebec, the Minority Ought to Pass as Amended Report of the Committee was Accepted in concurrence and the Bill Read Once. Committee Amendment "A" was Read and Adopted in concurrence.

Thereupon, under suspension of the rules, the Bill, as Amended, was Read a Second Time and Passed to be Engrossed in concurrence.

#### Senate

Ought to Pass — As Amended

Mr. Katz for the Committee on Education on, Bill, "An Act to Clarify Certain Provisions in the Education Laws." (S. P. 651) (L. D. 2056)

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (S-480).

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

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

Mr. KATZ: Mr. President, this is education errors and inconsistencies and it is a rather long and complicated bill. By tomorrow morning I will have an explanation of every section on my desk, and I might request of the Chair if it could be assigned for a second reading the next legislative day.

Thereupon, the Bill, as Amended, was Tomorrow Assigned for Second Reading.

#### Reconsidered Matter

On motion by Mr. Conley of Cumberland, the Senate voted to reconsider its former action whereby it Passed to be Engrossed Bill, "An Act to Revise and Clarify the Freedom of Access Law" (H. P. 2226) (L. D. 2316).

The same Senator then moved that the Senate reconsider its former action whereby House Amendment "B" was Indefinitely Postponed.

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

Mr. SPEERS: Mr. President, I wonder if the good Senator would explain the problem with the indefinite postponement of House Amendment "B"?

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

The Chair recognizes that Senator.

Mr. CONLEY: Mr. President, I feel that if House Amendment "B" is indefinitely postponed it is going to make it extremely difficult for municipal bodies to negotiate labor contracts. I think that anyone who has been involved in negotiations knows that it is give and take on both sides, and if you get into a situation whereby you are negotiating not with just one public union within a community, but when you have seventeen or thirteen different unions within a community, it obviously makes it even more difficult to bargain. The fact is that I



think most communities try to treat their employees fair, but I think if we were to indefinitely postpone House Amendment "B" it is going to take away an area of confidence that public officials must have in able to negotiate fairly. That is why I believe it is important that this amendment be placed on the bill.

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

Mr. ROBERTS: Mr. President, I agree with the good Senator from Cumberland, Senator Conley. We discussed it at some time in the Labor Committee because we had a bill which covered this very subject with respect to labor disputes only in the public sector. There was also this bill before the Legal Affairs Committee which covered negotiating and meetings in general, as well as those in the labor field. We felt that in the labor field these negotiations should remain closed and secret unless the parties agreed to open them themselves, and this is what this amendment would do. If we don't have this, then it is the other way around and they are open unless they agree to be closed, and usually at that stage of a labor negotiation they won't even agree on what day of the week it is, so certainly they are not going to agree to have them open. So I support Senator Conley's motion that we adopt House Amendment "B".

The PRESIDENT: Is it now the pleasure of the Senate to reconsider its action whereby it indefinitely postponed House Amendment "B"? The motion prevailed.

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

Mr. KATZ: Mr. President, can I clarify my thinking? By our previous action, I understood in killing this amendment that we said it would take one party to go into an executive session. Would somebody clarify that for me please.

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

The Chair recognizes the Senator from Somerset, Senator Corson.

Mr. CORSON: Mr. President and Members of the Senate: I would answer the question. As the bill is drafted, it would require the consent of both parties for the negotiations to be conducted in a closed session. House Amendment "B" would require the consent of both parties for the negotiations to be conducted in an open session. If both parties did not consent, under House Amendment "B", then the sessions would by law automatically be closed to the public. The reverse is true as it is drafted in the bill, that unless both parties agreed that the sessions be closed, they would by law be open. I hope that clarifies the situation.

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

Mr. CONLEY: Mr. President, if I can just read the statement of fact on House Amendment "B", which I think clarifies it, it says that "This amendment provides that negotiations between the representatives of a public employer and public employee may be open to the public provided both parties agree to conduct negotiations in open sessions." In other words, both parties must be agreeable to that. It certainly gives them leverage to do that. If one party says no, we are not ready to go public with it, and they are still in the process of negotiations, then they have the right to remain within the confines of private negotiations.

The PRESIDENT: Is it now the pleasure of the Senate to adopt House Amendment "B"?

The Chair recognizes the Senator from Somerset, Senator Corson.

On motion by Mr. Corson of Somerset, a division was had, 18 having voted in the affirmative, and 11 having voted in the negative. House Amendment "B" was Adopted and the Bill, as Amended, Passed to be Engrossed in non-concurrence.

Sent down for concurrence.

#### Ought to Pass in New Draft

Mr. Collins for the Committee on Judiciary on Bill, "An Act Repealing the Expungement Law and Providing for the Control of Access of and Disclosure of Criminal History Record Information." (S. P. 730) (L. D. 2273)

Reported that the same Ought to Pass in New Draft under New Title: "An Act Repealing the Expungement Law and Providing for the Control of Access to and Disclosure of Criminal History Record Information" (S. P. 773) (L. D. 2326).

Mr. Hichens for the Committee on Agriculture on Bill, "An Act to Establish an Agriculture Lien Law." (S. P. 726) (L. D. 2261)

Reported that the same Ought to Pass in New Draft under New Title: "An Act to Establish a Potato Lien Law" (S. P. 775) (L. D. 2328).

Which reports were Read and Accepted and the Bills in New Draft Read Once.

Thereupon, under suspension of the rules, the Bills in New Draft were Read a Second Time and Passed to be Engrossed.

Sent down for concurrence.

#### Second Readers

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

##### House

Bill, "An Act to Establish a Division of Travel Information." (H. P. 2022) (L. D. 2201)

Which was Read a Second Time.

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

Mr. DANTON: Mr. President and Members of the Senate: I think we all agreed that the state needs to have a vacation travel office to promote tourism for Maine. The methods that have been put forth up to now are an increase in the sales tax or a room tax.

Over the weekend I have been working on this and I think I have an amendment that I can offer to this bill that will take care of the problem without a need to raise any taxes whatsoever, and I hope that someone would table this for me until tomorrow.

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

Thereupon, on motion by Mr. Marcotte of York, tabled and Tomorrow Assigned, pending Passage to be Engrossed.

#### House — As Amended

##### In Non-concurrence

Bill, "An Act to Improve Solid Waste Management." (H. P. 2090) (L. D. 2249)

Which was a Read a Second Time.

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

Mr. COLLINS: Mr. President, an amendment to this bill has been prepared and is now being printed but is not yet ready for distribution, and I therefore hope that someone might table it until later in today's session.

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

Thereupon, on motion by Mr. Speers of Kennebec, tabled until later in today's session, pending Passage to be Engrossed.

#### Orders of the Day

The President laid before the Senate the first tabled and Specially Assigned matter:

Bill, "An Act to Change County Budgets to an Annual Basis." (H. P. 2094) (L. D. 2253)

Tabled — March 25, 1976 by Senator Jackson of Cumberland

Pending — Passage to be Engrossed

(In the House — Passed to be Engrossed)

On motion by Mr. Speers of Kennebec, retabled and Tomorrow Assigned, pending Passage to be Engrossed.

The President laid before the Senate the second tabled and Specially Assigned matter:

Resolution, Proposing an Amendment to the Constitution to Assure Revenues for Bond Service and Prohibit State Bonding of Current Expenditures. (S. P. 689) (L. D. 2206)

Tabled — March 25, 1976 by Senator Speers of Kennebec

Pending — Motion of Senator Corson of Somerset to Reconsider Final Passage (In the House — Finally Passed)

On motion by Mr. Speers of Kennebec, tabled pending the motion by Mr. Corson of Somerset to Reconsider Final Passage.

The President laid before the Senate the third tabled and Specially Assigned matter:

Bill, "An Act Relating to Costs in Contested Cases and Depositions in Probate Court." (S. P. 709) (L. D. 2236)

Tabled — March 26, 1976 by Senator Speers of Kennebec.

Pending — Consideration.

(Comes from the House — Bill and Accompanying Papers Indefinitely Postponed)

In the Senate — Passed to be Engrossed as Amended by Committee Amendment "A" (S-454).

On motion by Mr. Clifford of Androscoggin, the Senate voted to Insist and Request a Committee of Conference.

The President laid before the Senate the fourth tabled and Specially Assigned matter:

House Reports — from the Committee on Business Legislation — Bill, "An Act Concerning the Geologist and Soil Scientist Certification Act." (H. P. 1993) (L. D. 2182) Ought to Pass in New Draft Under New Title of "An Act Relating to the Geologists and Soil Scientists Certification Act." (H. P. 2240) (L. D. 2322).

Tabled — March 26, 1976 by Senator Thomas of Kennebec.

Pending — Motion of Senator Cyr of Aroostook to Indefinitely Postpone bill and papers.

(In the House — Bill in New Draft Passed to be Engrossed as Amended by House Amendment "A" (H-1100).

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

Mr. CYR: Mr. President and Members of the Senate: I did move the indefinite postponement on this bill because I thought that we were restricting this. The original bill restricted the site investigation only to soil geologists and soil scientists, and my only objection to it is that I thought they were over-qualified for the job. Correspondingly, the cost was becoming prohibitive. In my own county, for instance, there is only one of these people that would meet the requirements, and he charges \$75 to look over the site, 60 cents a mile for his traveling expenses, and then \$16 an hour to sketch out the septic tank field.

Now, I have discussed this with Eugene Moreau from the plumbing control section, and the thing that I couldn't understand was the logic of trying to restrict site investigations to only these people but at the same time having the control and the enforcement under the plumbing section of Health and Welfare. It just didn't make sense to me at all.

Now, last year 188 people took the exam to become licensed for this site investigation, and 86 passed. Out of these 86, 35 were others, mostly master plumbers, 35 were professional engineers, and 26 were soil scientists and geologists, which this bill is talking about. Now, I asked Mr. Moreau what happened to the other 102 that didn't pass, were there any soil scientists and soil geologists in that group, and he said yes, there were quite a few. Well, come to find out, probably these people know the texture of the soils but they don't know the plumbing

code. Accordingly, they do not meet the requirements to be a site investigator.

Now, it is all right to have these qualifications for soil tests, for solid waste programs, for instance, or for large buildings where you are looking for the bearing capacity of the soil, but these site investigators only deal with septic tank systems and, therefore, I felt it was over-qualification on their part.

Now, what disturbed me very much was the requirements in this bill here, the second bill that we have, but come to find out, these requirements have been piggy-backed onto this bill by the Board of Certification of Geologists and Soil Scientists, and has nothing to do with the site investigation. So this is what really alarmed me, and after I was told that in this new bill we still have others. I mentioned in last Friday's debate that last year I introduced a bill to enlarge this field to agronomists, soil conservationists, master plumbers that have passed the exams, and so forth and so on, and I withdrew my bill upon the information I received at the hearing that in the original bill there is a provision for others. It is a very poor terminology to use because "others", you think it may mean anybody, but it doesn't. You have to take some courses. They have four courses available, and they have to pass an exam before they are licensed for site investigation. And in many cases they might be old master plumbers that know what they are talking about. They know the percolation, what soil will percolate and the soil that won't percolate. As a result of that, many of them have passed these exams.

So we have right now, for instance, 150 site investigators over the State of Maine, and this new bill does include others. So I am satisfied with that and, with this explanation, I now ask leave to withdraw my motion for indefinite postponement.

The PRESIDENT: The Senator from Aroostook, Senator Cyr, now requests leave of the Senate to withdraw his motion to indefinitely postpone this legislation. Is it the pleasure of the Senate to grant this leave?

It is a vote.

The Chair recognizes the Senator from Cumberland, Senator Berry.

Mr. BERRY: Mr. President and Members of the Senate: The good Senator from Aroostook, Senator Cyr, has perhaps cleared his own objections to the bill. I have some that he has not, and I think that my objections would find a favorable echo with Senator Cyr because, in my opinion, the bill as proposed unduly restricts people entering into the professions of geologist and soil scientist, and in addition have impractical or perhaps illegal methods of determining rules and regulations.

On page 3 of the new bill, L. D. 2322, it is proposed that the Board of Certification for Geologists and Soil Scientists which is created, and its office shall be within the Department of Conservation, shall cause to be prepared and adopt a code of professional conduct, which shall be made known in writing to each applicant and registrant. And listen to this: Each applicant shall subscribe to this code of ethics by signature. Now, this I am sure arouses in some of us the question of how are these rules and regulations being determined, has adequate public notice been given, and has a public hearing been held and provision made for input as a result of such a hearing. And the answer to all those questions in the bill is no.

It says that the publication of this code of ethics — and you will note that the publication is merely the mechanism of giving to each applicant a copy of these rules, not publishing it in a paper — the bill continues: This publication shall constitute due notice to all registrants. And then it goes on, to compound the power of the board — and I think it is a chance to compound its own illegal acts — that the board may amend this code of ethics from time to time,

and all it has to do is so notify each registrant that it has so made the change. Now, this is a tremendous amount of power to be in a board. And then, as I pointed out the other day about that immunity jewel that went through us, they have the clincher here that this notification shall be acknowledged by the registrants by signature to the revised code. I think this is totally an impractical method and I don't like the mechanical procedure provided.

On the next page, under the restrictions — and that is the word — for examinations, as I read the provisions for a geologist, only a college graduate can even hope to apply for examination and certification, and the same criticism applies to soil scientists. Now, these are certainly acts which I think Senator Cyr would agree would restrict people getting into this field. I am not talking now about plumbers, I am talking about people who are going to be registered by this Board of Registration for Geologists and Soil Scientists. I see nothing in here which grandfather anybody who at present is a registered geologist or soil scientist.

I think these are real defects to the bill. We are in a posture of passing it to be engrossed, and I have no objections to having an opportunity for amendment, but I certainly am not going to commit myself to doing this in the short time available to us. I think this is a basic problem with the bill which should have been corrected before it reached this stage. As a matter of fact, the more I listen to myself talk, the more I think I will make the motion that the bill be indefinitely postponed.

The PRESIDENT: The Chair would advise the good Senator from Cumberland, Senator Berry, that the present posture of the bill is acceptance of the ought to pass in new draft report of the committee.

The Senator from Cumberland, Senator Berry, now moves that this bill and all its accompanying papers be indefinitely postponed.

The Chair recognizes the Senator from Aroostook, Senator Cyr.

Mr. CYR: Mr. President and Members of the Senate: I certainly am not going to shed blood on this one here with my good friend, Senator Berry, because I had the same objections. However, at the time of my objections, I thought that they needed to have all of these qualifications to become a site investigator, but I found out that all of this that he is talking about, first of all, the State Board of Certification for Geologists and Soil Scientists, apparently they don't have that, so it is the association or the professional organization of soil geologists and soil scientists that wants this bill and these requirements and this exam and all of that. They piggy-backed this information onto this bill which has nothing to do with the site investigation per se. You don't have to have these requirements to become a site investigator. And as far as site investigation, as far as the geologists and scientists are concerned, this is just a sideline, that's all it is.

And as I mentioned a while ago, I couldn't understand the logic of why you required soil scientists and geologists and site investigators to be so qualified, and then after that to have the plumbing code inspector here in charge of the enforcement of this thing. So whatever you want to do is all right with me. We will just live under what we have now.

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

Mr. THOMAS: Mr. President and Members of the Senate: As I said last week, I am no expert in this particular field, but Senator Berry of Cumberland did mention the grandfathering factor, and I understand that there will be an amendment on this bill, if we pass it in the Senate, that will grandfather it. It is being put on by someone in the other body.

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

Mr. BERRY: Mr. President, responding to Senator Cyr's comment, we have boards of registration of soil scientists and geologists now. Whether they are one or separate, I don't know, but such people are licensed in this state.

The PRESIDENT: The pending question before the Senate is the motion by the Senator from Cumberland, Senator Berry, that this bill and all its accompanying papers be indefinitely postponed.

The Chair will order a division. Will all those Senators in favor of indefinite postponement please rise in their places until counted. Those opposed will rise in their places until counted.

A division was had, 19 having voted in the affirmative, and five having voted in the negative, the Bill was Indefinitely Postponed in non-concurrence.

Sent down for concurrence.

The President laid before the Senate the fifth tabled and Specially Assigned matter:

House Reports — from the Committee on Public Utilities — Bill, "An Act to Prohibit Public Utilities from Including Certain Political Advertising Material along with Customer Bills." (H. P. 1809) (L. D. 1968) Report A — Ought to Pass in New Draft Under Same Title (H. P. 2249) (L. D. 2323); Report B — Ought Not to Pass; Report C — Ought to Pass as Amended by Committee Amendment "A" (H-1089)

Tabled — March 26, 1976 by Senator Cummings of Penobscot.

Pending — Acceptance of any Report.

(In the House — Report "A" accepted and the Bill, in New Draft, Passed to be Engrossed.

Mr. Trotzky of Penobscot moved that the Bill be Indefinitely Postponed.

The PRESIDENT: The Senator has the floor.

Mr. TROTZKY: Mr. President and Members of the Senate: What this bill does is that it is an attempt by the public power advocates in the state to deprive the public utilities in the state of the right to defend themselves and to inform the customers of their side of the story.

Now, I think that the public can make an adequate decision at a referendum, but I feel that both sides of an argument should be put forth.

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

Mr. KATZ: Mr. President and Members of the Senate: I think the Senator from Penobscot, Senator Trotzky, would agree that there are only two really objectionable sentences or phrases within this bill, and both are found in section 106 of paragraph 1. I wonder before the Senator attempted to kill the entire bill if we might address ourselves to the positive aspects of the bill and see whether or not we can amend this to the liking of himself and others who feel like he does.

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

Mrs. CUMMINGS: Mr. President and Members of the Senate: I think if you will read the statement of fact that you will see it really covers pretty well what this bill was designed to do. I will have an amendment which will remove that the cost of any expenditure to influence a referendum issue from expenses may be charged to the ratepayers, which to me makes it a little more palatable. Actually the rest of this I think is a good bill. It spells out clearly which items can be inserted into the bills that public utilities hand out.

I think this was originally designed for electrical utility operations, but actually we have had a great deal of interest in this from truckers and railroads and water companies who feel that they need this method of communicating with their customers who feel that they need this method of communicating with their customers in order to give their point of view without the added expense of new envelopes and addressing these things.

Although there is some objection that they have a captive audience, I still think that this bill has merit. And there are two amendments that I know of in the offing, one of which would take away this referendum insertion prohibition, and I would like to see this at least move along to its second reading.

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

Mr. COLLINS: Mr. President, I have to have some very grave doubts about any legislation that denies the use of the United States mails to any business to express its opinions. It seems to me we get into very dangerous constitutional territory when we do this. If we can do this for public utilities simply because they are regulated, simply because they provide a necessary service, what is going to be the next step? Oil Dealers? It is pretty important for everybody to have fuel. Milk producers? Lawyers? Doctors? I just feel that it is a trend that ought not to ever start.

Now, the question of who pays the expense of distributing opinions about referenda or other political topics is a separate question. It is my understanding that the Public Utilities Commission has been ruling that that has to go against stockholders, not against ratepayers. Perhaps I am mistaken as I don't follow those things closely. But to do to the extent that this bill goes seems to me extremely dangerous.

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

Mrs. CUMMINGS: Mr. President, this bill, I feel, is not actually to restrict these companies from using the mails but rather, as Senator Collins pointed out, just who is going to pay the bill. It became rather apparent to the Public Utilities Committee that these things, most of these that are outlined here, should be paid for not by the ratepayers but rather by the stockholders, who would in many instances stand to benefit by it. So to me this is not an important restriction of the use of the mails so much as it is just the allocating of where the expenses are going to be paid.

I went to a hearing by the Public Utilities Commission at which the former president of the CMP was asked a question regarding the public power referendum two years ago, and he was asked such things as "Were you able to decide how much heat was used in the office by the secretaries who were inserting your opinion on the referendum into the bills?" Well, I think that is going a little far, but I do think that there are methods of deciding which of these costs should be borne by the ratepayer and which should be borne by the stockholder, and I think this clarifies those regulations.

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

Mr. CONLEY: Mr. President and Members of the Senate: I would urge the Senate to vote against the motion of the Senator from Penobscot, Senator Trotzky, that this bill be indefinitely postponed. Personally, I disagree with the Senator from Kennebec, Senator Katz, and I violently disagree with the good Senator from Knox, Senator Collins, because I don't quite look upon lawyers and plumbers and a few other industries that he mentioned as public utilities.

I think today utility companies are under great suspect by the public. I think they are even under suspect by governing municipal bodies, particularly when they see their increased costs coming down the pike as to how much street lights cost in each community around the state, and the same with the water districts and a few other utilities.

But I think this bill makes it pretty clear as to what they can do as far as inserts are concerned. It basically just tells them to keep their nose out of anything political. I think that is what it comes down to. As far as the promotion of electricity or the promotion of telephone use

in inserts, that is perfectly legal and there is no problem there. But when they get themselves involved in spreading their views on a referendum, it is certainly my strong feeling that I, as one ratepayer in the State of Maine, I certainly don't want to see my hard-earned dollars going to the utilities to help promote their further growing capacities, or whatever it may be. And I would request when the vote is taken on this motion that it be taken by the "Yeas" and "Nays".

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

Mr. TROTZKY: Mr. President and Members of the Senate: Let's assume that this legislature put out a bill to the people for referendum putting a moratorium on nuclear power. Now, there is an organization in the State of Maine called Safe Power for Maine which is violently opposed to nuclear power, which has strong backing behind it and could go on a campaign to demonstrate to the people that nuclear power is dangerous and unsafe.

Now, my question is who is going to oppose it? Well, naturally it is going to be the public utilities which are running the nuclear power plant in Maine. And under this bill, it specifically states that no public utility shall include with any bill for services or commodities furnished to any customer any advertising literature designed or intended to promote the passage or defeat of a measure. Well, that information that is put out by the public utility can also be educational, in the same way Safe Power for Maine's materials could be educational. But again, it is up to the public in getting both sides of the story to make the decision, and this bill would stifle one side of the story.

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

Mr. CONLEY: Mr. President, it was my understanding that the good Senator from Penobscot, Senator Cummings, made it very clear that if these utilities want to make their views known, then they do it through their stockholders.

Now, I am certainly aware of the public power issue a few years ago, and I know in one meeting that I had with one of the trustees of Central Maine Power that they had taken a poll throughout the state as to exactly what the feeling was on public power, and they found out that people were in favor of public power by a vote of seven-to-one, and they were quite hamstrung as to how they were going to combat that.

I can assure you that my light bill that month with the little insert didn't convince me that public power was bad or that the private utility was good. I think they poured into television throughout the state. And if they want to continue to do that, they can do it, but I think it should be done through the stockholders and not through the ratepayers of the utility.

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

Mr. KATZ: Mr. President, I am a little confused by the usually flawless logic of the Senator from Cumberland. I don't understand how the public's interest is affected.

When St. Johnsbury Trucking delivers a carton of china to my business, and double bottoms are a political item of the day — and incidentally, I have voted against double bottoms every time it has come up — but along with the bill for the services in delivering the china to my business they put an insert in that says, "You will notice that the costs reflect a 5 percent increase which we reluctantly have made application for. We really believe that we can deliver merchandise more cheaply to you were the laws of the State of Maine changed to permit double bottoms, and we pass this along to you as a buyer of our services as an alternative for you to consider to constantly increasing rates." Now, where is the immorality in that? We tend to talk only about public power, but this is the real guts

of the question I would like to throw at you and the other proponents.

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

Mr. MERRILL: Mr. President, I am surprised at the inability of the usually very perceptive and intelligent Senator from Kennebec, Senator Katz, to perceive the difference between the St. Johnsbury Trucking Company and utilities that are regulated by the Public Utilities Commission. As the Senator well knows, and as the members of the Senate well know, in setting the rates the Public Utilities Commission has to set the rates in such a way as to guarantee a profit or to make it possible to make a profit for the public utilities. If they don't do so, their decisions are susceptible to court review and overruling.

What we are talking about here is simply a matter of who is going to pay. There is no question, if Senator Katz is upset by the fact that St. Johnsbury Trucking adds onto their prices a little bit by putting that notice in, he has a choice. That is not the case in public utilities. That is why we regulate them. And because we regulate them, we have to guarantee a profit. This is purely and simply a question of who has to pay.

Now, right now Senator Katz and I, and every other member of this state have to pay the public utilities to hire their lawyers and to put together their experts to go before the Public Utilities Commission and ask for higher rates. Well, we had a bill that went through this legislature, that was vetoed by the governor, that would let Senator Katz and I pay the other side also, so that we could at least pay for the side that is arguing for lower rates as well as the side arguing for higher rates.

Now, this is just an extension of that question. Right now the public utilities are allowed not only to use our money to hire lawyers to argue for higher rates, they are allowed to use our money to put advertising in our bills to convince us that we like higher rates. And that is what the thing is all about. It is not a civil liberties question, it is not a question of what they can say, it is a question of who is going to pay for it.

Frankly, I think it is just a matter of simple justice to allow us not to have to pay for a notice to us telling us that we like it the way it is.

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

Mr. KATZ: Mr. President, I am reading the bill carefully. It is a simple bill that even I can understand. And this bill addresses itself not to the question of who shall pay, because I agree with the Senator from Cumberland, Senator Merrill, but whether or not they can take this action at all. And it was my impression, although I may be in error, that as trucks are regulated by the PUC and they are common carriers, I would suspect that I am unclear in my mind whether it is only the power company or the telephone company we call upon. If you pursue the argument as to who shall pay, we are in agreement, but it is not relative to the particular piece of legislation in front of us.

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

Mrs. CUMMINGS: Mr. President and Members of the Senate: In that first paragraph, to answer the Senator from Kennebec, Senator Katz, it says, "No public utility shall include with any bill", and I think that is the crux of the situation, in that the cost of sending out bills is a part of the consideration in rate structures. This does not mean that they could not send things out exclusive of the bills in a different envelope. So, while there is no question here of who pays for what, the fact of what is going to be included with the bill is the essence.

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

Mr. SPEERS: Mr. President, I have some very real concerns about this bill. I think it goes

to a very basic issue of whether or not there can be a degree of information given to the public.

Now, I approach these matters perhaps in a different manner than perhaps some others in this body in that I really feel very deeply that the more information that can be given to the general public the far better the decision will be that will be made by the general public, and that, far from trying to prohibit information to go out to the general public, this body ought to be very much concerned with opening the avenues of communication to finding ways to insure that more information be given to the public on items on which they must render a decision, exercise a judgment, and I do feel that this particular bill would prohibit that kind of information being given. I view this as more of a promotion of ignorance rather than a promotion of enlightenment.

Now, as to the idea that if a utility, or any other company for that matter, wishes to send out additional information that they would be prohibited from disseminating should it be included with customers' bills, let's just stop for a moment and give some thought to that. What is happening in that case? Very simply, what is happening is that twice the volume of mail is going to be sent out than would otherwise be the case. They are prohibited from including in a particular mailing which is going out, certainly to every customer, that they have information which they wish to have disseminated. And if they do wish then to get this information across, they turn right around and send out another complete mailing at twice the amount of money that they have to spend for the first mailing. Well, ultimately, Mr. President, where is that going to end up? It is very simple; it is going to end up in the operating costs of this organization or that organization and it is going to be paid by the ratepayers, whether or not we agree that it should be.

I feel very strongly that this bill is an impediment to an intelligent information gathering by the public of the State of Maine.

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

Mr. MERRILL: Mr. President, I would like to inquire — and this is a legitimate inquiry — in reading over the bill, it includes advertising for political candidates, and now that the United States Supreme Court has said that the states and the federal government are unable to regulate what a person does on his own to expend for a candidate, is it possible, if we don't pass this law, that CMP could run Senator Speers' advertisements in every bill that goes out week after week, or even more scary, that they could put something about me in a positive frame in there when they have their next increase in rates?

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

The Chair recognizes the Senator from Kennebec, Senator Reeves.

Mr. REEVES: Mr. President and Members of the Senate: I also was interested in the logic of the good majority leader, Senator Speers, who wants a lot of information to go out. And yet in the past when both sides have asked to send out information in these mailings, the Central Maine Power Company wouldn't allow that. So perhaps if he amended the bill to allow both sides to send out information, I think that would achieve his purpose of more information. But I think as it is now, this provides the public utilities with several unfair advantages.

It doesn't deny them the access to media that both sides on any question might have, or deny them the use of the mail, as the Senator from Knox, Senator Collins, had wondered about. But certainly having this mailing list of all of the

customers is an advantage. Having this up to date mailing list is an advantage over the other side, whether it be Safe Power or any other citizens' group advocating changes in the public utilities, and it certainly is an advantage to make customers when they get their bill think that this referendum is going to increase or decrease their bill. And of course these same customers may not ever hear, regardless of what the other side does, what the arguments are on the opposing side.

I think, as one further point, if we don't pass this bill, I think it would further encourage the Central Maine Power Company, the New England Telephone Company, and others to continually use envelopes instead of going to post cards, as has been done in other places and done by other utility companies. So I hope we can defeat this motion and pass this bill.

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

Mr. ROBERTS: Mr. President and Members of the Senate: Like a lot of these short, clear, and concise bills, when you read them the second time, they are a little too short and a little too concise because they are too broad and they are not limited by additional language.

I was just looking under section 2, which supposedly is all right because supposedly section 1 is the one that has the problem, and section 2 says "Political Contributions". That sounds fine, but then it goes on and says that no contribution will be made to any fund raising organization. Now, that would include the chamber of commerce, that would include all of your community chests and things of that sort, because even though it says "Political" under 2, it doesn't describe it as political when you read it; it is too brief and too broad.

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

Mr. SPEERS: Mr. President and Members of the Senate: Very briefly, I really cannot speak for the good Senator from Cumberland, Senator Merrill, as to whether or not he invites Central Maine Power to participate in his campaign, but I can certainly speak for myself and can assure the Senator and this body that I will be conducting my own campaign, and look forward to it with great relish.

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

Mr. CORSON: Mr. President and Members of the Senate: When I was a, believe it or not, younger man, I used to read very extensively the writings of Thomas Jefferson. In fact, I agreed so strongly with the sentiments he expressed that I made the philosophical decision to join the Republican Party, because I felt that party best stood for what Jefferson advocated.

Jefferson believed very, very strongly that for a democracy to survive it must have an interchange of information and promulgation of ideas, regardless of the merit of those ideas. I think throughout our history we have seen many examples of governments attempting to regulate to some degree whose ideas and which ideas should be promulgated or allowed to be disseminated to the public and under what circumstances. Everyone is familiar, of course, with the famous Scopes Monkey Trial, which came about because the legislature of Tennessee decreed that no longer should evolution be taught in public schools.

That is sort of bordering on the area, I believe, of censorship, and this is not a new issue by any means. In ancient Rome during the time of the emperors they enacted a law which banned obscenity. A year later they passed another law which decreed that criticism of the emperor was obscene.

The entire concept of attempting to regulate who is going to say what and when and how they are going to say it bothers me a great deal. We have seen examples too that people who feel very strongly that anyone who would advocate

communism or even discuss it should be perhaps strung from a lamp post, and we have seen little flurries now and then about people at the university teaching courses on Marxism or using the Communist Manifesto in a class. I don't agree with the theories advocated by the proponents of Marxism, but I feel very strongly that these theories should be taught, if for no other reason, looking at it from a purely perhaps gut patriotic reaction, that one should know thine enemy.

For a democracy to exist, people have to be able to make intelligent rational decisions. And if the public is not smart enough to make these decisions, that they are so easily influenced that we have to control the information to which they are going to be exposed, then it is futile and it is a farce for us to be here going through the motions of being a free and democratic institution. I would concur heartily that this bill should be indefinitely postponed.

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

Mr. MERRILL: Mr. President, I am afraid this last speaker misunderstood the thrust of this debate. It may be summed up as follows: I do not mind, and as a matter of fact I encourage, the dissemination of this information, including political information, say, for example, re-election material for Senator Speers.

What I reject is the idea that the state enforces a monopoly, guarantees a profit, and therefore guarantees that I have to pay for the dissemination of Mr. Speers' literature. That is what CMP wants to do. What we are talking about here is pure and —

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

Mr. SPEERS: Mr. President, I rise to a point of personal privilege. I would ask the Senator to refrain from referring to any political activities of mine and the relationship of CMP or any other organization with regard to that. It does not exist, it will not exist, and I object to his continuing reference to it.

The PRESIDENT: The Chair would ask the Senator from Cumberland, Senator Merrill, to keep his remarks more to the issue.

Mr. MERRILL: I am sorry that the hypothetical upset the Senator and I apologize to him. But the case is here and it is possible. The language I think is clearly trying to prevent it, and it is clearly the subject matter of who is going to pay. And that is what is before us and that is what is troubling so many of us. It is not the fact, as a matter of fact, that I disagree with much of what Central Maine Power puts in there: I agree with a great deal of what Redi-Kilowatt has to say. But it is simply a matter of who has to pay for this, and it includes political information.

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

Mr. WYMAN: Mr. President, I move the previous question.

The PRESIDENT: The Senator from Washington, Senator Wyman, has moved the previous question. In order for the Chair to order the previous question, it must be the expressed desire of the majority of those present and voting. Will all those Senators in favor of entertaining the previous question please stand in their places until counted. Those opposed will rise in their places until counted.

A division was had, 19 having voted in the affirmative, and seven having voted in the negative, the previous question was ordered.

The PRESIDENT: The pending question before the Senate is the motion by the Senator from Penobscot, Senator Trotzky, that this bill and all its accompanying papers be indefinitely postponed. A roll call has been requested. In order for the Chair to order a roll call, it must be the expressed desire of one-fifth of those Senators present and voting. Will all those



Senators in favor of ordering a roll call please rise in their places until counted.

Obviously more than one-fifth having arisen, a roll call is ordered. The pending question before the Senate is the motion by the Senator from Penobscot, Senator Trotzky, that this bill, L. D. 1968, and all its accompanying papers be indefinitely postponed. A "Yes" vote will be in favor of indefinite postponement; a "Nay" vote will be opposed.

The Secretary will call the roll.

#### ROLL CALL

**YEAS:** Senators Berry, R.; Carbonneau, Collins, Corson, Curtis, Graffam, Greeley, Hichens, Huber, Jackson, McNally, Roberts, Speers, Thomas, Trotzky, Wyman.

**NAYS:** Senators Berry, E.; Cianchette, Clifford, Conley, Cummings, Gahagan, Graham, Katz, Marcotte, Merrill, O'Leary, Pray, Reeves.

**ABSENT:** Senators Cyr, Danton, Johnston.

A roll call was had, 16 Senators having voted in the affirmative, and 13 Senators having voted in the negative, with three Senators being absent, the Bill was Indefinitely Postponed in non-concurrence.

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

Mr. WYMAN: Mr. President, having voted on the prevailing side, I move reconsideration, and hope the motion fails.

The PRESIDENT: The Senator from Washington, Senator Wyman, now moves that the Senate reconsider its action whereby it indefinitely postponed this bill. All those in favor of reconsideration will please say "Yes"; all those opposed will say "No".

A viva voce vote being taken, the motion did not prevail.

Sent down for concurrence.

The President laid before the Senate the sixth tabled and Specially Assigned matter:

Bill, "An Act to Assure Resources for the Resolution of Disputes," (S. P. 666) (L. D. 2296)

Tabled — March 26, 1976 by Senator Huber of Cumberland.

Pending — Enactment.

(In the House — Indefinitely Postponed)

(In the Senate — Enacted — subsequently Enactment Reconsidered)

On motion by Mr. Huber of Cumberland, placed on the Special Appropriations Table.

The President laid before the Senate the seventh tabled and Specially Assigned matter:

Resolution, Proposing an Amendment to the Constitution to Permit the Governor to Veto Items Contained in Bills Appropriating Money and to Permit the Legislature to Override All or Part of Such a Veto by a Two-Thirds Vote of Each House, (H. P. 1981) (L. D. 2170)

Tabled — March 26, 1976 by Senator Conley of Cumberland.

Pending — Final Passage

(In the House — Failed of Final Passage)

On motion by Mr. Speers of Kennebec, tabled and Specially Assigned for March 31, 1976, pending Final Passage.

On motion by Mr. Speers of Kennebec, the Senate voted to take from the table the following matter tabled earlier in today's session by that same Senator:

Bill, "An Act to Improve Solid Waste Management," (H. P. 2090) (L. D. 2249)

Pending — Passage to be Engrossed.

Mr. Collins of Knox then presented Senate Amendment "A" and moved its Adoption.

Senate Amendment "A", Filing No. S-484, was Read

Thereupon, on motion by Mr. Speers of Kennebec, tabled until later in today's session, pending Adoption of Senate Amendment "A".

Mr. Hichens of York was granted unanimous consent to address the Senate:

Mr. HICHENS: Mr. President and Members of the Senate: If I have been reminded once, I have been reminded 100 times that "you cannot legislate morality", and I wholeheartedly agree. But we can have concerned moral minded people making our laws and others looking out for what is good in a common sense sort of way.

Such a man, I am inclined to believe is Mr. Charles Sanford, General Manager of WGAN Portland, who relied on his managerial judgment in refusing to accept the gory Charles Manson family and its role in the Tate-Labianca murders program for showing on his television station. Exercising his right to run shows, whether locally originated or from the national networks, Mr. Sanford stated, "that violence and explicitness very definitely entered into our decision not to carry the show."

Meanwhile Mr. George Gonyer, Director of Operations for WABI-TV Bangor, stating that because the show is a dramatization of a real event it is a strong reason for showing it, and because these people are real, are nasty, and did nasty things, audiences should have opportunity to view these happenings in their own living rooms."

I submit to you, my fellow Senators, and to Mr. Gonyer, that there are a lot of real things happening around us but that does not mean that they should be presented for entertainment, especially on television, where children especially have opportunity to view them. If the films are that necessary to show, let them be shown in the theaters with the proper ratings applied where those who want to see them may do so. Mr. Gonyer has suggested that the dials may be tuned to other programs, but he as well as you and I know that curiosity alone will keep many minors especially tuned in to see the show.

A few years ago the Public Broadcasting System scheduled some questionable programs which, compared to Helter Skelter, the show in question, were like Snow White and the Seven Dwarfs. Concerned viewers contacted legislators and the Trustees of the University of Maine, Orono, and the shows were immediately cancelled because of fear of losing taxpayers' monies to finance the system. Such pressures cannot be used on these commercial broadcasting stations but public opinion can be used, and I hope that people will use pressure at this time on this Bangor station.

Meanwhile, Mr. Sanford, who, through means of the polls taken by WGAN listeners on many subjects, has sensed the feelings of his viewers. He is to be commended for the decision he has made, and I hope will continue to make, for better viewing for his audiences in mid and southern Maine.

Mr. Curtis of Penobscot was granted unanimous consent to address the Senate:

Mr. CURTIS: Mr. President and Members of the Senate: I do not have a prepared statement but I would like to respond very briefly to the previous statement just made. I know Mr. George Gonyer, he is a constituent of mine and a friend, and he has the same high standards personally that have been attributed to other concerned citizens, including, I am sure, Mr. Sanford. I have not seen the show that is involved and I am not sure any other member of this Senate have, but it seems to me that what we are concerned about here is the danger of censorship in any form, whether or not it is pressure as applied by concerned citizens for one point of view or for another point of view. But just so that we set the record straight, Mr. President, I would like to point out that WABI and its management and its personnel, including Mr. Gonyer, are very fine people and I

am sure that they would use their discretion very carefully.

Mr. Katz of Kennebec was granted unanimous consent to address the Senate.

Mr. KATZ: Mr. President, I guess the discussion here this morning indicates that many of the basic decisions of society are made outside of these chambers and, good heavens, that is the way it should be. I would like to read you just a paragraph of a letter, that I read here as I was sitting, which came in my mail this morning. It is from a constituent, and she writes:

"Recently when in a local market I noticed that the Playboy magazines were unwrapped and on the lower racks near the floor with the children's comic books. It is too bad that food stores carry this type of publication anyway with so many children frequenting them. Only months ago Playboy and other magazines were wrapped and individually placed at the rear on the upper racks, which made it more difficult for children to see. When this was the case, I could shop while my children browsed for a comic book, but no more."

The question of morality continues to be a very, very perplexing one.

On motion by Mr. Speers of Kennebec, the Senate voted to take from the table the following matter tabled earlier in today's session by Mr. Roberts of York:

Bill, "An Act to Amend the Employment Security Law," (S. P. 691) (L. D. 2210)

Pending — Consideration.

On further motion by Mr. Speers of Kennebec, the Senate voted to Recede and Concur.

#### Reconsidered Matter

The following bill was held on March 26, 1976 at the request of Senator Trotzky of Penobscot, pending Consideration:

Bill, An Act Relating to Teacher Employment, (S. P. 640) (L. D. 2029)

(In the Senate — Enacted in concurrence)

Mr. Trotzky of Penobscot then moved that the Senate reconsider its former action whereby the Bill was Passed to be Enacted.

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

Mr. SPEERS: Mr. President, there was considerable debate with regard to this particular item. I think that the issue is well before the Senate, has been placed well before the Senate before and decided at that time, and I would oppose the motion to reconsider, and ask for a division.

The PRESIDENT: A division has been requested.

The Chair recognizes the Senator from Penobscot, Senator Trotzky.

Mr. TROTZKY: Mr. President, may I debate this motion?

The PRESIDENT: The Chair would answer in the affirmative.

Mr. TROTZKY: Mr. President and Members of the Senate: My school board and my superintendents are opposed to this bill. Right now, if a teacher is incompetent, the principal can recommend to the superintendent that the teacher be dismissed, a public hearing can be held in front of the school board, and the school board can dismiss the teacher. If the teacher feels that he or she has been dismissed without just cause, that teacher can appeal to the courts. This is my understanding of the present situation. But it leaves the dismissal of a teacher basically under local control.

With the passage of this bill, what will take place is that teacher associations will negotiate for a third party dismissal, and it is my understanding from my superintendents and school board that they will be granted this right of third party arbitration. I feel this is wrong. I feel that right now the teachers have plenty of



protection, and I believe it is going to take the dismissal of teachers out of the hands of local control.

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

Mr. KATZ: Mr. President, I call the Senate's attention to the fact that since the recent court case the only appeal a teacher has from a capricious and personality prone dismissal is to the school board. And if the teacher doesn't like the ultimate decision of the appeal authority, which is the school board, which actually directly or indirectly was involved in the first instance, he can go to court, and then he is in court for a couple of years, or at least that is our experience.

I think it is incorrect to conclude that with the passage of this bill the things the Senator from Penobscot, Senator Trotzky, said will occur will necessarily occur. With the passage of this bill, it will be up to local control at the local level exactly what they negotiate. Now, if they want to negotiate third party review with an out-of-state arbitrator, this is possible that local people may choose to do this. But it is also possible that they will seek other alternatives that are not like that, and it is also possible that they will just refuse to grant this in a contract. But it is a negotiable item and, if you believe in local control, and I do, this says that local people can negotiate that which they wish.

The PRESIDENT: The pending question before the Senate is the motion by the Senator from Penobscot, Senator Trotzky, that the Senate reconsider its action whereby L.D. 2029 was passed to be enacted.

A division has been requested. Will all those Senators in favor of reconsideration please rise in their places until counted. Will those opposed to reconsideration rise in their places until counted.

A division was had, 11 having voted in the affirmative, and 19 having voted in the negative, the motion did not prevail.

The PRESIDENT: The Chair would like to direct the Senate's attention to Rule No. 4, and I will read: "The President, when he speaks to any member of the Senate, and the members, when referring to each other in debate, shall use in their addresses the title of Senator, and by way of distinction name the county in which he resides."

I would like to point out how important it is for us to maintain our respect for one another in order to maintain the high level of decorum which has always been the hallmark of this Senate. I think sometimes in the heat of debate it is easy to forget some of these things, and I would urge the members of this body to use the degree of deference to one another that you each deserve of one another.

There being no objection, all matters previously acted upon in today's session requiring concurrence were sent down forthwith for concurrence.

On motion by Mrs. Cummings of Penobscot, Recessed until 3 o'clock this afternoon.

After Recess  
Called to order by the President.

#### Papers from the House

Out of order and under suspension of the rules, the Senate voted to take up the following:

#### Non-concurrent Matter

Bill, "An Act to Regulate Drinking Water." (S. P. 687) (L. D. 2198)

In the Senate March 15, 1976. Passed to be Engrossed as Amended by Committee Amendment "A" (S-431).

Comes from the House. Bill and accompanying papers Indefinitely Postponed, in non-concurrence.

Mrs. Cummings of Penobscot moved that the

Senate Insist and Ask for a Committee of Conference.

Mr. Berry of Cumberland then moved that the Senate Recede and Concur.

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

Mrs. CUMMINGS: Mr. President and Members of the Senate: This bill is extremely complicated. The Public Utilities Committee met with Mr. Hoxie from the Health and Welfare Department several times, and the bill was designed originally in order to go along with the federal regulations which are going to be imposed on all states supposedly next year. At first they said the regulations were going to be imposed in July of this year, then they said December, and now their prediction is that perhaps these regulations will not be forced upon us before June of 1977. So the heat is off, so to speak, as far as getting these regulations onto Maine statutes.

The main reason why the committee wanted to get this bill passed and get some of these regulations onto the books was so that when the federal regulations are superimposed on the State of Maine we will have some reasons for agreeing or disagreeing with them before they become actual laws. At this point they are still being discussed in Washington. They still would be adaptable if there were educated input as to why some of these regulations should be changed. And this was in order to give the departments in the State of Maine the opportunity to work with the regulations and then, if they are impossible to work, then they can get in touch with the federal government and protest, and we figured that then we would be having a positive input to Washington on some of these regulations which sometimes are put on us and they are absolutely impossible. So that is the story.

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

Mr. CYR: Mr. President and Members of the Senate: To give you a little background of this legislation, if you recall last spring we had a clean water bill that came before our committee, and at the time of the hearing, just before the hearing, we were passed 18 amendments. The committee objected very violently, very strongly, to that kind of tactic, plus the fact that the bill that was presented to us in four areas was quite a bit more stringent than what the federal standards called for. As a result of that, we sent it to 17-A, and subsequently the Senate passed a study order.

Now, we studied this all this summer and I think that the department got the message. The bill that we passed has four features which I hope would become a trend in this type of legislation.

Number one, the standards that we accepted in this bill are no more stringent than the federal standards. They are no less but they are also no more than the federal standards.

Second, if the department wants to come out with a more stringent standard, rule or regulation, then they have to call a public hearing, at which time they have to prove that the more stringent standards are needed for the health and welfare of the people of the state. The burden of the proof is on them, not vice versa.

The third one is that this bill allows the department to promulgate rules and regulations. You have heard me expound on this before, and this is a concession to me. I think the people of the State of Maine are sick and tired of living under rules that have been promulgated by the bureaucrats but never legislated by legislators, so in this bill they can promulgate rules and regulations but they have to come back to the next legislature for approval.

The fourth one is that in this bill the bill will not take effect until the federal legislation takes effect. The federal legislation was supposed to

go into effect the 31st of December of '76. It has been extended to June of '77. The bill says specifically that this will not become law until the federal legislation goes into effect, so if it only goes into effect in '78, this bill will not go into effect before '78. In the meantime, we are living under the standards and regulations that we have lived under that have been promulgated by the department.

I think there is enough safeties in this bill. What we are passing doesn't become law until the rules have been promulgated and have come back for approval by the next legislature. So the play that you see before you right now and the play in the House is not necessary, it is not needed, it is political in nature, and I don't think we will accomplish anything. Because what they want, they want this legislature to send a message to Washington and say we are against this clean water act. Well, how can we impose our will on the rest of the 49 states? I don't think that it is necessary, I don't think it is needed, and I think we should pass this bill as is. There is plenty of safety and plenty of protection in it, and it is a good bill. I hope you vote for the motion to adhere.

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

Mr. BERRY: Mr. President and Members of the Senate: I am in total sympathy with the problems that are faced by the Public Utilities Committee as have been enumerated by Senator Cyr from Aroostook County, and I am no part of any ploy of any other part of our bicameral legislature. I just think the bill basically has some real problems on it. It might be that, as I have been sitting here listening to the Senator from Aroostook, Senator Cyr, that maybe some last attempt should be made to save it, but if it is, it has to have something done to it.

I would suggest that we are having placed before us some rather extreme measures required of the state to conform with federal requirements. And having been through the vicissitudes of our Marine Resources Committee being faced with the same thing in commercial seafood federal regulations, that is the background of my sympathy with the Public Utilities Committee's dilemma. But I think this bill should be cleaned up. If there is time left in this session to do it, then I think we should do it. If there isn't, I think it has just got to be put off until January and then passed as emergency legislation.

The Senator from Kennebec, Senator Speers, this morning mentioned a problem in connection with another bill which I think is a very broad problem and has been brought out in this bill here. It is a problem that we have to face. There is something wrong about requiring any rules and regulations that are promulgated by departments or state agencies having to have the approval of the legislature. This is a philosophical problem, and right here we are faced with it in concrete terms. If we are going to require that the legislature approve everything that every state department does, we are going to get into a hopeless morass of red tape and delay. It would be the height of inefficiency for the legislature to try to administer the operations of the state, which is what is contemplated when we are saying that rules and regulations, before they can become in effect, must have the approval of the legislature. I think that is one thing that should be taken out of this bill here. If we are going to approve the broad principles, fine, and leave to the departments the drawing up of specific requirements. And this certainly leaves to the citizenry the relief that they should have, the chief administrative judge and then the courts.

Another specific complaint I have with the particular bill is this: it provides in here, quite properly, for two exceptions to compliance with department regulations. One is entitled

"Variances" and the other is entitled "Exemptions". It spells out how these two exceptions must be complied with, after all sorts of hearings and public notices and so forth, and then when the water system has done everything it needs to do to get a variance and exemption, and has it physically in hand, it must do this: because it is subject to a variance and because it is subject to an exemption, it shall, as soon as it has been granted the exemption and the variance, notify the local health officer, the Health and Welfare Department, and the Administrator of the U.S. Environmental Protection Agency, and the communications media serving the area served by the system, of the fact, the nature, extent, and possible health effects of that fact. And as long as the non-compliance and so forth continues, then every 90 days it must put a notice in the paper.

Here is a situation where an exemption and a variance has been granted, and yet immediately the system has to turn around and act as if it hadn't been granted a variance. The variance is granted by the department to begin with, and obviously the variance and the exemption must be in proper legal order and necessary or the department wouldn't get it.

We get into rather specific regulations on the licensing of water plant operators, and here again we have through the past sessions been faced with legislation of this type, and there has been the continuing tendency to make it more and more restrictive, more and more difficult for small systems to qualify.

I do not see in here the necessary grandfathering that is desirable for people already registered to operate treatment plants to so continue. I think this will work a hardship on the smaller systems.

I would be very mindful of the concern of the viewpoint represented by Senator Cyr of Aroostook, and, as I say, hoping that we could work out something, I will, with the permission of the chair and body, withdraw my motion and support the motion of the Chairman of the Public Utilities Committee, the Senator from Penobscot, Senator Cummings. But I would hope that we are going to end up with something that is going to be of the type we can live with. If not, I think the Senate should eventually kill this legislation and let the 108th start up on January 1st, and it will not be too late to do it at that time.

The PRESIDENT: The Senator from Cumberland, Senator Berry, now requests leave of the Senate to withdraw his motion that the Senate recede and concur with the House. Is it the pleasure of the Senate to grant this leave?

The Chair recognizes the Senator from Aroostook, Senator Cyr.

Mr. CYR: Mr. President, if I understand this motion correctly, and I would like to have this straightened out, the Senate passed this, as I understand it, and the House defeated it, indefinitely postponed it. So we are in non-concurrence with the House. If we adhere, that means we are adhering to our former action and, therefore, we want the bill to pass. Am I correct?

The PRESIDENT: The motion to adhere is not before the body.

Mr. CYR: But if it were?

The PRESIDENT: If it were, then that means we would be adhering to our former action. There are two other motions before the body at this time, Senator Cyr, that must be disposed of before the motion to adhere would take priority.

Mr. CYR: What I want to clarify, Mr. President, is that the adhere motion was to pass the bill, as we passed it before when it came before us.

The PRESIDENT: The Chair would answer in the affirmative.

Mr. CYR: Mr. President, I don't know which one would be the best motion of the good Senator

from Penobscot, Senator Cummings, or not. However, I would like to explain to -

The PRESIDENT: The Chair would advise the Senator, if he might defer his debate, the pending question before the Senate is whether or not the Senate will grant leave to the Senator from Cumberland, Senator Berry, to withdraw his motion that the Senate recede and concur. Is it the pleasure of the Senate to grant this leave?

It is a vote.

The Chair recognizes the Senator from Aroostook, Senator Cyr.

Mr. CYR: Mr. President and Members of the Senate: I would like to remind the members of the Senate that this bill is only for the State of Maine to accept the primacy, to be the prime sponsor of this legislation. Now, there are two ways to go. We can refuse this primacy. If we refuse this primacy, it means that when the Clean Water Act of 1974 becomes effective, which date is June '77, right now, when it becomes effective, then we will be under the jurisdiction of the EPA Office in Boston. We will have the same bill, the same thing, except that the federal office of EPA in Boston will run the show. This bill accepts the primacy, the state primacy, which means that we in the State of Maine accept the responsibility of running the show. So this is what you have to choose right now, the primacy.

As I said a while ago we have built-in clauses in this bill, this legislation, for our own protection here in the State of Maine whereby we are not going to be asking our people to impose on themselves extra expenses to meet standards that are much more stringent than the federal. Right now the State of Maine has the best water in the country, so we are already, without any effort whatsoever, we are meeting those federal standards. And what we are trying to say is that, okay, we will meet the federal standards but we are not going to impose any extra cost on our own people here in the State of Maine in doing that.

Now, the Department worked very closely with EPA, the EPA lawyers, to try to come out with this version right here, which has been studied quite extensively by the Public Utilities Committee in their hearings this summer, and it is modeled on the federal Clean Water Act.

The variances that the good Senator from Cumberland, Senator Berry, talks about are particularly in regards to the turbidity test. The turbidity test is the only one that will give us some trouble here in the State of Maine, and it could be a very expensive one. As a result of that, for the sake of the small communities, we have built into it seven years, that they can be granted a variance of up to seven years for them to work into this turbidity test, and this is what they are talking about. But regardless of that, this legislation has to come back to the legislature next year for approval of the rules and regulations that have been promulgated by the department. So I hope that — don't know which way to go right now — actually I would like to adhere but —

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

Mr. BERRY: Mr. President, is the motion before the body the motion of the Senator from Penobscot, Senator Cummings, that the Senate insist and request a committee of conference?

The PRESIDENT: The Chair would answer in the affirmative. The pending motion before the Senate is the motion by the Senator from Penobscot, Senator Cummings, that the Senate insist and join in a committee of conference with the House. Is this the pleasure of the Senate?

The motion prevailed.

#### Communications

State of Maine  
One Hundred And Seventh Legislature  
Committee On Natural Resources

March 18, 1976

Legislative Council  
107th Legislature  
State House  
Augusta, Maine 04330  
Gentlemen:

In accordance with H. P. 1669 directing the Natural Resources Committee to study the solid waste problem in particular as it relates to the scarcity of energy, recycling and reuse of consumer and industrial goods, decreasing the amount of litter and to study the economic, social and environmental feasibility of instituting a state-wide, comprehensive system of recycling consumer and industrial goods and materials: the committee hereby submits its report.

Respectfully,  
HOWARD M. TROTZKY  
Senate Chairman  
THOMAS J. PETERSON,  
House Chairman  
(H. P. 2260)

Comes from the House. Read and with accompanying papers Ordered Placed on File.

Which was Read and with accompanying Papers Ordered Placed on File.

Edwin H. Pert  
Clerk  
Maine  
House of Representatives  
Augusta, Maine 04333

March 29, 1976

Honorable Harry N. Starbranch  
Secretary of the Senate  
107th Legislature  
Augusta, Maine

Dear Mr. Secretary:

The House voted today to Adhere to its former action whereby it accepted the Majority "Ought Not to Pass" Report of the Committee on Election Laws on Bill "An Act Relating to the Registration of Voters" (Emergency) (H. P. 2039) (L. D. 2212).

Respectfully,  
EDWIN H. PERT  
Clerk of the House

Which was Read and Ordered Placed on File.

Edwin H. Pert  
Clerk  
Maine  
House of Representatives  
Augusta, Maine 04333

March 29, 1976

Honorable Harry N. Starbranch  
Secretary of the Senate  
107th Legislature  
Augusta, Maine

Dear Mr. Secretary:

The Speaker appointed the following conferees to the Committee of Conference on the disagreeing action of the two branches of the Legislature on Bill "An Act to Establish the Dates of Legislative Sessions and to Clarify Laws Relating to Expenses of Legislators" (S. P. 663) (L. D. 2087):

Rep. CAREY of Waterville  
Rep. GREENLAW of Stonington  
Rep. FINEMORE of Bridgwater

Respectfully,  
EDWIN H. PERT  
Clerk of the House

Which was Read and Ordered Placed on File.

Edwin H. Pert  
Clerk  
Maine  
House of Representatives  
Augusta, Maine 04333

March 29, 1976

Honorable Harry N. Starbranch  
Secretary of the Senate  
107th Legislature  
Augusta, Maine

Dear Mr. Secretary:

The Speaker appointed the following con-

ferences to the Committee of Conference on the disagreeing action of the two branches of the Legislature on Bill, "An Act Enabling Municipalities to Conduct Soil Tests to Determine Feasibility of Solid Waste Disposal Sites" (H. P. 1948) (L. D. 2134):

Rep. BACHRACH of Brunswick  
Rep. MARTIN of Brunswick  
Rep. AULT of Wayne  
Respectfully,

EDWIN H. PERT  
Clerk of the House

Which was Read and Ordered Placed on File.

#### Committee Reports House

##### Divided Report

Nine members of the Committee on Health and Institutional Services on, Bill, "An Act to Provide for the Licensing of Denturists." (H. P. 1991) (L. D. 2178)

Report in Report "A" that the same Ought Not to Pass.

Signed:  
Senators:

HICHENS of York  
BERRY of Androscoggin  
GREELEY of Waldo

##### Representatives:

CURRAN of So. Portland  
LOVELL of Sanford  
HENNESSEY of Bath  
LAVERY of Millinocket  
SPROWL of Hope

Two members of the same Committee on the same subject matter report in Report "B" that the same Ought to Pass in New Draft under Same Title (H. P. 2254) (L. D. 2324).

Signed:  
Representatives:

GOODWIN of So. Berwick  
LaPOINTE of Portland

Two members of the same Committee on the same subject report in Report "C" that the same Ought to Pass in New Draft under Same Title (H. P. 2255) (L. D. 2325).

Signed:  
Representatives:

POST of Owls Head  
MORIN of Old Orchard Beach

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

Which reports were Read.

On motion by Mr. Conley of Cumberland, the Majority Ought Not to Pass Report of the Committee was Accepted.

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

Mr. HICHENS: Mr. President, I move that we reconsider our action whereby this majority report was accepted, and hope that you vote against my motion.

The PRESIDENT: The Senator from York, Senator Hichens, now moves that the Senate reconsider its action whereby it accepted the majority ought not to pass report of the committee. Will all those Senators in favor of reconsideration please say "Yes": those opposed will please say "No".

A viva voce vote being taken, the motion did not prevail.

#### Senate Divided Report

The Majority of the Committee on Judiciary on, Bill, "An Act Relating to Mental Health and Retardation Programs in the Department of Mental Health and Corrections." (S. P. 698) (L. D. 2222)

Reports that the same Ought to Pass as Amended by Committee Amendment "A" (S. 483).

Signed:  
Senators:

COLLINS of Knox  
CLIFFORD of Androscoggin

##### Representatives:

PERKINS of So. Portland  
SPENCER of Standish  
HEWES of Cape Elizabeth  
MISKAVAGE of Augusta  
HENDERSON of Bangor  
McMAHON of Bangor  
BENNETT of Caribou  
HUGHES of Auburn  
HOBBINS of Saco

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

Signed:  
Senator:

MERRILL of Cumberland

Which reports were Read, the Majority Ought to Pass as Amended Report of the Committee Accepted and the Bill Read Once. Committee Amendment "A" was Read and Adopted.

Thereupon, under suspension of the rules, the Bill, as Amended, was Read a Second Time and Passed to be Engrossed.

Sent down for concurrence.

##### Enactors

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

AN ACT to Amend the Procedures of the Maine Labor Relations Board. (H. P. 1961) (L. D. 2148)

AN ACT Relating to Location of State Liquor Stores. (H. P. 1805) (L. D. 1964)

(On motion by Mr. Huber of Cumberland, placed on the Special Appropriations Table.)

AN ACT Appropriating Funds for the Purchase of Town Histories. (H. P. 1949) (L. D. 2135)

(On motion by Mr. Huber of Cumberland, placed on the Special Appropriations Table.)

AN ACT to Provide for Primary Prevention of Alcohol and Drug Abuse. (H. P. 1800) (L. D. 1959)

(On motion by Mr. Huber of Cumberland, placed on the Special Appropriations Table.)

AN ACT Relating to Residency for the Purposes of Municipal Relief of the Poor. (S. P. 738) (L. D. 2288)

AN ACT to Allocate Part of Lobster and Crab Fishing License Fees to the Lobster Fund and Boat Fund. (H. P. 2079) (L. D. 2242)

AN ACT Relating to Voting Places in Certain Unorganized Townships. (H. P. 1982) (L. D. 2151)

(On motion by Mr. Huber of Cumberland, placed on the Special Appropriations Table.)

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

An Act Relating to Charitable Solicitations. (H. P. 1983) (L. D. 2165)

On motion by Mr. Cianchette of Somerset, the Senate voted to reconsider its action whereby the Bill was Passed to be Engrossed.

The same Senator then presented Senate Amendment "C" and moved its Adoption. Senate Amendment "C", Filing No. S-487, was Read.

The PRESIDENT: The Senator has the floor. Mr. CIANCHETTE: Mr. President and Members of the Senate: It came to my attention that I think this amendment should be admitted to this bill. I am very much involved with the Boy Scouts and the Scouting program in the state, and I really don't think that it is necessary that these people be put through the process in their daily routine business as outlined in this law. This would simply exempt them from the day to day activities, and would not exempt them in case they have major fund raising effort. So I would hope that you accept the amendment.

The PRESIDENT: Is it now the pleasure of the Senate to adopt Senate Amendment "C"? It is a vote.

The PRESIDENT: Is it now the pleasure of the Senate that this bill as amended be passed to be engrossed and sent down for concurrence?

The Chair recognizes the Senator from Knox, Senator Collins.

Mr. COLLINS: Mr. President and Members of the Senate: I mentioned previously that I was bothered by this bill. As the bill now stands, it has been shot full of exceptions and I think we ought to seriously consider whether it should be passed at all.

As I understand, the original purpose of the bill was to get a better examination of possible abuses in charitable solicitations, but in going back to my home area on two weekends I have had opportunity to inquire of many people who take part in charitable activities and who give to about everything that comes along, and I have not found any significant evidence of abuse. We all know that there are some things that come through the mail from time to time that are of questionable value. Sometimes there is even an element of fraud. We are protected as to those items by federal law which permits challenging those organizations through the Post Office laws.

As to more localized situations, the bill as amended applies to those organizations that raise more than \$15,000 a year for their purposes, and when you begin to think of who is left that is covered, you don't get a very long list. Some community chests, united charitable efforts of that nature, are covered, some are not. I think that YMCA's and that type of effort, perhaps to build a new building or improve a building, something of this nature, would be covered. There are probably a few others that I have not tried to catalog, but these few that remain to be covered by this registration procedure have to employ a certified public accountant to file a statement which includes year to year comparisons, includes fourteen or fifteen different categories of expenditure, and of course if there are any contracts given to professional fund raising counsel or solicitors, those must be reported and the solicitors or the fund raising counsel must also file reports and obtain licenses.

I looked at the material from the committee that had to do with cost. This will be lodged with the Secretary of State, the responsibility, and it is clear that there will be additional clerical time required, additional file cabinets, desks, typewriters, and so on. Exactly how much is not clear. Whether the fees that are generated will pay for it isn't clear. And I just wonder if the abuse is really large enough and significant enough to take this very narrow segment and require this sort of treatment.

I also wonder if there is a question here about this applying to political parties. I raised this with our good minority leader and he said that his party was not charitable. I read the definition of the word "charitable" and I found it said that charitable means patriotic, and I expect that our parties are that. It says educational, and I think our parties are that. It says philanthropic, and I am not sure whether our parties are that or not; it depends on the context, I guess. But there are questions in my mind about the extension of the scope of these definitions. So I submit to the Senate that the value of this is very limited. It just creates another licensing, paper work problem for good people who are trying to do something for their communities and the causes that they believe in. I would request a division.

The PRESIDENT: A division has been requested.

The Chair recognizes the Senator from Kennebec, Senator Thomas.

Mr. THOMAS: Mr. President, I ask to be ex-

cused from voting on this particular issue because of an apparent conflict of interest.

The PRESIDENT: The Senator from Kennebec, Senator Thomas, requests leave of the Senate to refrain from voting on L. D. 2165 because of the possibility of an appearance of conflict of interest. Is it the pleasure of the Senate to grant this leave?

It is a vote.

A division has been requested. Will all those Senators in favor of the passage of this bill as amended to be engrossed and sent down for concurrence please rise in their places until counted. Those opposed will please rise in their places until counted.

A division was had, 10 having voted in the affirmative, and 19 having voted in the negative. The Bill failed of Passage to be Engrossed in non-concurrence.

Sent down for concurrence.

An Act to Revise Requirements for Permanent Markers under the Land Subdivision Law. (S. P. 717) (L. D. 2268)

Mr. Berry of Cumberland then moved the pending question.

Thereupon, 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.

#### Emergency

An Act Relating to Borrowing Capacity of Community School District No. 915 Consisting of the Towns of Litchfield, Sabattus and Wales. (H. P. 2256) (L. D. 2329)

This being an emergency measure and having received the affirmative votes of 27 members of the Senate was Passed to be Enacted and, having been signed by the President, was by the Secretary presented to the governor for his approval.

#### Committee Reports Senate

##### Divided Report

The Majority of the Committee on Judiciary on Bill, "An Act to Revise the Maine Criminal Code as Recommended by the Criminal Law Revision Commission." (S. P. 697) (L. D. 2217)

Reports that the same Ought to Pass in New Draft under Same Title (S. P. 777) (L. D. 2334)

Signed:

Senators:

COLLINS of Knox

CLIFFORD of Androscoggin

Representatives:

HENDERSON of Bangor

McMAHON of Kennebec

PERKINS of So. Portland

HEWES of Cape Elizabeth

HOBBINS of Saco

BENNETT of Caribou

MISKAVAGE of Augusta

SPENCER of Standish

The Minority of the same Committee on the same subject matter reports that the same Ought to Pass in New Draft under New Title: "An Act Making Certain Revisions in the Maine Criminal Code (S. P. 778) (L. D. 2333).

Signed:

Senator:

MERRILL of Cumberland

Representative:

HUGHES of Auburn

Which reports were Read.

The PRESIDENT: Is it now the pleasure of the Senate to accept the majority ought to pass in new draft report of the committee?

The Chair recognizes the Senator from Cumberland, Senator Merrill.

Mr. MERRILL: Mr. President, if I understand the motion before the body, it is that we accept the majority ought to pass in new draft report of the

committee. Is that presently the motion before the body?

The PRESIDENT: That is the motion that the Chair posed to the Senate. There has been no affirmative motion to that extent.

Mr. MERRILL: Mr. President, I have no problem in speaking to this in that posture I simply would like to point out the difference in the two drafts that are before us so that the Senate may make a conscious decision, and I will be brief.

It can be noted from looking at Supplemental Journal No. 2 that Senator Collins of Knox and Senator Clifford of Androscoggin are both on the other side, and whenever I go up against these two gentlemen on a judiciary matter I feel a little bit like David going up against Goliath without a slingshot. But I would like to just point out to the Senate, so that we can have a conscious decision on this issue, what is before us.

The only difference in the two drafts comes to when it is proper for a person to use deadly force against another person. Presently the code that we passed last session tries to draw a pretty clear line, based on the previous law, the common law, that basically says that you can use deadly force to defend yourself or another person against deadly force but you cannot use deadly force to defend your property.

Also the code, I think, probably stretched the common law just a little bit. It certainly gave it the best interpretation from the standpoint of those who would like to use force, deadly force, by making it clear that when it came to using deadly force in a dwelling house that it wasn't necessary even for the party using the deadly force to believe that the other party was going to use deadly force against him, but to simply believe that it was likely that the party in the dwelling house illegally was going to use any force against him. So the situation currently in the code is that you can use deadly force to defend yourself against deadly force, except that in your dwelling house you are allowed to use deadly force to defend yourself if there is any likelihood that the person in the dwelling house wrongly — and that is interpreted to mean he is in there to commit burglary or has trespassed to commit some crime. If he is in there for that purpose, or you believe that he is in there for that purpose, then you can use deadly force if you think it is likely that he is going to use any force.

When we put this into the law, even though I think that everyone would admit that studied the matter that this is certainly a liberal interpretation of the present law with regard to the right of an individual to use force in defending his dwelling house, a lot of citizens became outraged..... outraged because they believe that if somebody was trespassing on their property they should have the right to use deadly force just to bring an end to that trespass.

I am not going to suggest to this Senate that this hasn't been a matter that has been well worked over in committee. It has. And the draft that the majority of the Judiciary Committee supports is as responsible a draft as could be written. If the Senate believes that it is ever proper for a person to use deadly force for a purpose other than protecting human life or protecting himself against the use of force in his dwelling house what I am suggesting to the Senate is that the line is pretty clearly drawn by the two positions here.

I frankly come to my position not from a concern for the person in a house committing burglary — I have no great concern for that person, and if somebody were to use deadly force against them I have to admit that I shed no great tears — my concern is with the general

growing problem of homicides in America, which are growing from this very sort of situation. Every homicide isn't committed between two strangers or between some member of organized crime shooting somebody walking down the street; it takes place in somebody's dwelling house as often as not, and often it involves one member of a family shooting another member of the family, and this sort of thing. Although I, or maybe partly because I couldn't support gun legislation in the last session, I have to examine my own position in regards to this sort of question in light of the fact that society is arming itself. And recognizing that this difference of opinion between myself and the majority of the members of the Judiciary Committee has to do with what could be a successful defense against a charge of unlawful homicide brought by the state, I sincerely believe that the effect of this, if it has any effect on primary conduct, will be to encourage members of the citizenry to take up arms against each other. The result of this, I think, won't be that a lot of burglars will get shot but that a lot of people who aren't burglars will get shot.

Last week we stayed fairly late into the night discussing this for its last round, and I would like to compliment the Senator from Knox, Senator Collins, in giving this more than a fair hearing in the committee. It was fairly late in the evening when I left, and I went to the Holiday Inn and there were no rooms, so I went over to John Martin's house and entered his house at about 2 o'clock at night without waking anybody up, and I couldn't help but reflect on how happy I was that the Speaker of the House doesn't normally keep loaded firearms in his house. It is going to lead to this sort of accidental killing, and I am afraid also that by making bigger what can be a successful defense to a crime of unlawful homicide it is also, although that certainly is not our desire, going to allow some people to take advantage of this defense who actually have set out to commit first degree murder.

The bill, as it is drafted, would allow somebody to use deadly force to defend their dwelling house without the belief that force is going to be used against them, without that belief, and without a warning, without giving a warning to the person in the dwelling house, if they believe that by giving a warning they could put themselves in danger, so obviously if it was late at night and you thought the person might have a gun, to give a warning at that time could reasonably make you think that it would put you in danger. What I am afraid of is a situation where we find ourselves bringing charges, for example, against a spouse who shoots a spouse in the dead of night, and then makes the defense that they were acting under the rights granted by this section. Without a requirement for a warning, I am afraid it would be very difficult if the only witness, the only living witness, were the spouse who has used the deadly force, it would be very difficult under those circumstances to bring a successful action.

It is for those reasons that I have signed a revision to the code that has that one difference. And because it is such an important issue, I would ask the Senate to indulge me and to let this vote be taken by the "Yeas" and "Nays" so that we may state our positions clearly.

The PRESIDENT: A roll call has been requested.

The Chair recognizes the Senator from Knox, Senator Collins.

Mr. COLLINS: Mr. President and Members of the Senate: The Senator from Cumberland, Senator Merrill, has very ably described the issue before us. It has not been an easy issue for the Judiciary Committee.

In exploring the history of justification defenses, we found that only the State of Texas



goes all out in permitting the use of deadly force to protect property. In the State of Maine for 97 years the prevailing principle has been that human life is more important than property. I think that is still our posture as a general philosophical proposition. But I submit that the draft favored by the majority of the committee is a moderate middle ground that permits the householder to have greater protection in defending his own dwelling place.

I ask you, if you care to study the provisions in question, to note that we have confined this use of deadly force to the dwelling place. This doesn't mean that you can just go shooting anybody that is robbing a store, factory, or some other place that is not the dwelling place. It comes to that old English axiom that a man's dwelling place is his castle.

The good Senator is quite correct that many of the most difficult homicide questions come between and among those who are well acquainted, sometimes closely related by blood or marriage, but in weighing this decision today I would ask you to place particular emphasis on two or three words that are very carefully drafted into these sections. The sections in question that are the difference between the two versions submitted to you in this bill are sections 104 through 108 of the criminal code. Those are not the numbers in these drafts because they come up in sections that you need to look at the criminal code number to find the exact portion. The two sections that we are concerned with really here, 104 and 108, allow the occupant of the dwelling place to use deadly force under two circumstances.

Number one is when it reasonably appears necessary to prevent an intruder from inflicting bodily injury upon a person in the dwelling place or upon a person attempting to prevent the intrusion. This part I think is easy because when bodily safety of the person in the dwelling is involved we have to meet this threat with deadly force, if necessary.

The second condition is when it reasonably appears necessary to prevent or terminate the criminal trespass by an intruder who it reasonably appears is committing or is likely to commit some other crime within the dwelling place.

The question has been raised of why do we have to set out these rights in two separate sections. Section 108 is commonly called a crime prevention statute, and this has important substantive implications. In contrast with section 104, section 108 does not limit the right to use deadly force to persons licensed or privileged to be in the dwelling place, thus, a police officer or a passerby who observed a burglary of a dwelling place could use deadly force to prevent the infliction of bodily injury upon an occupant of the dwelling place. This would be true even if the officer or passerby were not physically within the confines of the dwelling place.

Both sections 104 and 108 contain a number of prerequisites which must be met before the defense of justification is available. I am only going to dwell on two of them because I think that they ought to be the determinative prerequisites, and I know that there are limits to what we can grasp in this sort of a dissertation.

The first limitation is that there must be reasonable belief. This means that the jury must find that the defendant honestly believed that the circumstances which gave rise to the right to use deadly force actually existed. If they believe the defense to be contrived, the defendant can be found guilty of an intentional crime, such as criminal homicide in the second degree.

The other word of importance is "necessary", and this is perhaps the most important word in these statutes. We have no intention of granting people a license to execute other people when it is not necessary. Generally speak-

ing, this means that deadly force must be the only viable remedy under the circumstances.

I think that this is all I would like to say. I am hopeful that our other member of the Judiciary Committee, Senator Clifford, may give us his views, and I believe that he has an amendment coming along, if this report is adopted, which will further sharpen the language that we have used here.

I have had letters running into the several hundreds by this time from people all over the state who have read in newspaper letters to the editor all over the state commentary on the criminal code, a commentary which suggests that in passing this code last year we weakened the right of the homeowner. That was not the case, however. Last year we were simply codifying the existing common law of the State of Maine as it has developed in the last 97 years.

But it is clear that in a rural state, partially rural at least, like Maine, that there are many people who are quite a long ways away from a police officer who can really help them. And we know that there is an increasing amount of burglary. So we felt that we were justified in strengthening in the dwelling place the use of deadly force reasonably necessary to alleviate the problems that the householder would face in these circumstances.

The PRESIDENT: The Chair recognizes the Senator from Androscooggin, Senator Clifford.

Mr. CLIFFORD: Mr. President and Members of the Senate: As has been stated, the difference between the majority and the minority report of the Committee on Judiciary goes to the differences between when one can use deadly force in the dwelling under certain circumstances to protect the home.

And as has been stated, the criminal code, when it was enacted, not much attention I think, frankly, was paid to this section, and the law was simply codified. And once that law became published and was studied by people from throughout the state, many people were surprised at what the law was. Therefore, the Judiciary Committee, in hearing the revisions to the criminal code, heard extensive testimony as to what the law should be. And I think it is fair to say that we heard a great many requests to greatly strengthen the rights of the homeowner; indeed, we heard many requests to greatly strengthen the rights of the property owners in general, especially as it relates to the use of deadly force.

I think it is fair to say that we did not greatly strengthen the rights of the homeowner, and we did not at all strengthen the rights of the property owner. We did slightly change the law. And I think it was certainly in the prerogative of the Judiciary Committee, and is the prerogative of this legislature, to look at the policy of the law, as opposed to the technical language, and to make that change if the legislature feels it is in the public interest to make it. So that the majority committee report does in fact slightly change the existing Maine law, and it gives the homeowner some more rights in the protection of the sanctity of the home. It does not go anywhere near to the extent in giving rights to the homeowner that were recommended by some of the people who testified before our committee.

I think if you will look at L. D. 2334, which is the new draft bill being recommended by the majority of the Judiciary Committee, on page 9, I think some of the phrases were quoted by the Senator from Knox, Senator Collins, and that is what we are talking about. And I think it is fair to summarize that what we are recommending the legislature adopt as policy for the State of Maine in the use of deadly force in protection of the dwelling — and it is only the dwelling, and not other property — is that deadly force can be used, first of all, only when it is necessary to prevent certain things from hap-

pening, as the Senator from Knox, Senator Collins, has pointed out. It is not an unlimited right to use deadly force. There is no license to use deadly force. And I think that the circumstances under which deadly force may be used are pretty tightly drawn.

So that deadly force, under the revised version, or the one that the majority is recommending, would be able to be used by the homeowner to protect life when life is in jeopardy — and that right exists of course today — and also in situations where there is a criminal trespass occurring within the dwelling; and further, the criminal trespasser is not only committing a criminal trespass but is engaging in some other criminal activity, normally, of course, the burglary. There are further restrictions that in normal circumstances the homeowner, before he is allowed to use deadly force, must give a warning to the person who is committing the criminal trespass and the other criminal activity, unless he reasonably believes that to give that warning would be to jeopardize his own life. Only then, and only if the criminal trespasser who is committing the other criminal activity fails to desist from the criminal trespass, only then is the use of deadly force authorized. For example, if the person ceases the trespass and begins to retreat, the use of deadly force is not authorized. If the person ceases the trespass and begins to retreat with property in his possession that he has stolen, the use of deadly force is not authorized. If that person begins to retreat from the criminal trespass, even though he is continuing the commission of the crime, which would normally be the burglary, under this amendment the use of deadly force would not be authorized. It is only when the criminal trespasser persists in the criminal trespass and in the commission of the other criminal activity.

So I do think it is narrowly drawn, I think it is carefully drawn, and I think it is a change in policy which reflects, in my opinion, what the law in Maine should be. I think perhaps that circumstances in Maine are different today than they were in 1870, and I think that perhaps the rights of property owners have been eroded. I think that this is one small step, reasonable step, towards making the home the castle, toward the sanctity of the home, if you will. I think it is reasonable and I think that this Senate should go along with the majority of the Committee on Judiciary and adopt Report "A", L. D. 2334. Thank you, Mr. President.

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

Mr. MERRILL: Mr. President and Members of the Senate: I think that the issue is probably pretty clearly before us. I just want to make clear that a warning isn't always necessary. This is one of the places where the committee and I parted company, that a warning isn't necessary if a person reasonably believes that it will put him in danger to give a warning. And I submit that that probably would be the case any time when it was dark enough so you couldn't see whether or not the person was armed. Certainly if there was a possibility that you had an intruder committing a burglary, which is breaking and entering with the intent to commit any crime, and if you thought that he was armed, or reasonably could believe that he was armed, it could put you in danger to warn him.

I really see this question as one between whether or not we want to treat a perceived problem at the expense of making a real problem worse. The perceived problem is that burglary is increasing, that crimes against people's dwelling houses are increasing, because people don't have the legal right to use their arms — usually we are talking about a gun here — against the people that are breaking in. That is the perceived problem. Those of us who



are familiar with the inability usually to use this as a solution to the problem I think would recognize that if the problem isn't one that is only perceived, the solution is one that is only perceived. It necessitates obviously having a loaded handgun ready or a handgun with its ammunition nearby which, if you have children, is a very dangerous condition to have present. This is the perceived problem.

The real problem that we put in danger by passing this bill is the real homicide situation in this state today, which is either an accidental killing or a killing that is provoked by the heat of anger. And if we encourage people to have weapons ready and available for use to prevent people from burglarizing their homes, then we have to recognize that part of the consequences of that encouragement is that those weapons will be ready and available for use by a husband against a wife or a child against his father, under those sorts of circumstances. If we are going to encourage this activity, we have got to realize its natural consequences. And I suggest, if you have read the crime statistics, if you are concerned with the homicide rate in this country, that you know the real problem is the latter, and not the one that this seeks to overcome.

There is a lot of talk about homes being castles, and even when phrased in very precise and careful legal tones and intonations, it sort of raises a red flag over this issue, and I wonder how many people think of their home as a castle after somebody grabs a loaded handgun that has been kept around to get the burglar and in a moment of passion shoots their spouse or shoots their parent. The home probably doesn't look much like a castle after that has happened. And that is the reality that we are talking about in the United States today as self help becomes more and more desirable and more and more of our citizens arm themselves to prevent this burglary that may happen in the future.

The PRESIDENT: A roll call has been requested. In order for the Chair to order a roll call, it must be the expressed desire of one-fifth of those Senators present and voting. Will all those Senators in favor of a roll call please rise in their places until counted.

Obviously more than one-fifth having arisen, a roll call is ordered. The pending question before the Senate is the acceptance of the majority ought to pass in new draft report of the committee. A "Yes" vote will be in favor of acceptance of the majority ought to pass report; a "Nay" vote will be opposed.

The Secretary will call the roll.

#### ROLL CALL

YEAS: Senators Berry, E.; Berry, R.; Carboneau, Clanchette, Clifford, Collins, Corson, Cummings, Curtis, Cyr, Danton, Gahagan, Greeley, Hichens, Huber, Jackson, Johnston, Katz, Marcotte, McNally, Pray, Roberts, Speers, Thomas, Wyman.

NAYS: Senators Conley, Graffam, Graham, Merrill, Reeves, Trotzky.

ABSENT: Senator O'Leary.

A roll call was had, 25 Senators having voted in the affirmative, and six Senators having voted in the negative, with one Senator being absent, the Majority Ought to Pass in New Draft Report of the Committee was Accepted and the Bill in New Draft Read Once.

The PRESIDENT: Is it now the pleasure of the Senate that the rules be suspended in order for this bill to be given its second reading by title only at this time?

The Chair recognizes the Senator from Knox, Senator Collins.

Mr. COLLINS: Mr. President, I would request that we not have second reading at this time. There are a couple of amendments being prepared, one to correct typographical errors, and one that I have already mentioned which I feel should be put on before this goes further.

The PRESIDENT: What time does the Senate wish for the second reading of this bill?

Thereupon, the Bill in New Draft was Tomorrow Assigned for Second Reading.

The President laid before the Senate the following tabled and Specially Assigned matter:

Bill, "An Act Relating to Exceptional Children." (H. P. 1797) (L. D. 1956) (Emergency)

Tabled — March 29, 1976 by Senator Speers of Kennebec

Pending — Motion of Senator Speers of Kennebec to indefinitely postpone Senate Amendment "A" (S-482)

(In the House — Passed to be Engrossed as Amended by Committee Amendment "A" (H-1083), as Amended by House Amendment "A" (H-1104) Thereto)

(In the Senate — Committee Amendment "A" Adopted as Amended by House Amendment "A" thereto)

Mr. Speers of Kennebec was granted leave to withdraw his motion to Indefinitely Postpone Senate Amendment "A".

Mr. Katz of Kennebec was then granted leave to withdraw Senate Amendment "A" from consideration.

Whereupon, on motion by Mr. Speers of Kennebec, the Senate voted to reconsider its former action whereby Committee Amendment "A" was Adopted.

Thereupon, on further motion by the same Senator, tabled and Tomorrow Assigned, pending Adoption of Committee Amendment "A".

The President laid before the Senate the following tabled and Specially Assigned matter:

Bill, "An Act Relating to Town Ways." (H. P. 1920) (L. D. 2108)

Tabled — March 29, 1976 by Senator Merrill of Cumberland

Pending — Passage to be Engrossed (In the House — Passed to be Engrossed as Amended by Committee Amendment "A" (H-1028), as Amended by House Amendments "A" (H-1070) and "D" (H-1122) Thereto.

(In the Senate — Committee Amendment "A" adopted as Amended by House Amendment "A" and "D" Thereto)

Mr. Merrill of Cumberland then requested a roll call.

The PRESIDENT: A roll call has been requested. In order for the Chair to order a roll call, it must be the expressed desire of one-fifth of those Senators present and voting. Will all those Senators in favor of a roll call on the passage to be engrossed of Legislative Document 2108 please rise in their places until counted.

One-fifth having arisen, a roll call is ordered. The Chair recognizes the Senator from Cumberland, Senator Graham.

Mr. GRAHAM: Mr. President, I wonder if some member of the Senate would care to explain this bill a little more.

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

The Chair recognizes the Senator from Cumberland, Senator Jackson.

Mr. JACKSON: Mr. President and Members of the Senate: This bill is the result of a piece of legislation that was put in, and evidently there have been some municipalities throughout the state that have had the problem with roads that were presumed to be abandoned, or were abandoned, with people moving into these abandoned places and then petition the town to improve the road that continued to their place of residence. Evidently this cost many municipalities throughout the state great sums

of money to put these roads in proper condition so that they could be maintained.

The committee amendment took out the section of the bill which provided for taking by eminent domain for recreational purposes. I do notice that a House amendment that was put onto the bill does provide for this being reinstated by taking it back. Supposedly, in the original bill it was supposed to have been passed on to the abutting landowners and they would gain title to the property. The House Amendment which was put on, H-1070, does provide for the town to take this back by eminent domain without any retribution to the landowners that do acquire the property.

The bill did come out of committee with a unanimous report. I was hesitant on signing the bill out because I had reservations as to the workings of it. The old bill provided that the appeals procedure would go to the county commissioners, if somebody was aggrieved. Under this bill, they go directly to the superior court.

I do think at the time, whereas developers are buying many parcels of land which are on discontinued ways, or are presumed discontinued, that it is kind of a burden to a small community to have to repair these roads and put them into a situation where they would be passable or maybe even better than that. I do think that the Senate would be stepping in the right direction to assist some of these small municipalities in the passage of this bill.

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

Mr. MERRILL: Mr. President, I am obviously no expert on this bill. I asked for an explanation this morning, and later on I had a chance to talk to someone from the Maine Municipal Association who has an interest in this bill, and I have some understanding of it, but I would be anxious to be corrected in my misunderstandings.

I think the heart of this bill has to do with the right to have what is now a public road no longer be a public road. Now, if it is not a county road, if it is a town road, as I understand it, that can be done now by the town. What this bill does though is provide that if thirty years have passed, and the town hasn't put any money into keeping the road up, that there is an automatic presumption that the road is thereby terminated, that it was in fact ended, even though there may be nothing in the town records to ever show that the town voted to have that road come to an end.

Now, the merit, as I can understand it, on the one hand there is the possibility of the town finding out about these roads that it has neglected, somebody finally wants the town to keep it up, as they are supposed to do, and that is costing the town a lot of money. That is the weighing concern on the one hand; My concern, on the other hand, is how about the owner of the land who bought a piece of property that was on a public road, who never had the town take a legal action through their elected officials to bring an end to that road, or through the town meeting process to bring an end to that road, and suddenly finds that through no fault of his own he no longer lives on a public road.

Now, if I understand correctly again, the result of that decision, the result of that legislative fiat, is that there is a public easement over the land between that owner and a public road. But this public easement is the property not only of the abutting landowners but is free for the use of anybody who may care to pass over it. So the situation that the person could be in would be that he would find himself maintaining a road that would be used that he couldn't prevent use of by the public.

Now, I think that in passing this law, which may in fact do the most good for the most people, the town citizens who would have to pay to have these roads fixed up, we have to recognize

that the price we pay by doing it by a legislative fiat of this kind is that there are going to be some legitimately aggrieved parties. There are going to be in some places some people who have owned this land legitimately who have, maybe through an understanding with their town government or one person that serves in it not insisted on the road being fixed up because they didn't intend to use that house, maybe they were going to save it for their child, and then the situation comes along all of a sudden where by legislative fiat we say that the person no longer lives on a public road. And I think if that happens, there is going to be a great public hue and cry about why the 107th took away the public road past this old person's house. That is the negative that we have to weigh against the public good, that the Maine Municipal Association and the other sponsors of this bill would have us do.

I just have trouble with doing it this way. I think that the proper approach is for the towns to find out what roads they do in fact have and, if there are more than they want, to bring their necessary action to bring an end to these public roads. Now, I am told that some towns don't know what roads they have and what roads they don't have, and I am sympathetic with their burden, but I am also sympathetic with the situation we are going to find some landowners in when they don't live on a public road any more as a result of this action we took.

There are some middle ground remedies that I understand were discussed in the committee; for example, giving landowners a year to come forward and defeat this presumption. But that action wasn't taken by the committee. I just think that the effect of this is going to be very, very harsh on a few individuals.

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

Mr. CARBONNEAU: Mr. President and Members of the Senate: This bill was heard in the Local and County Government Committee, and it came as a result of many small towns having all kinds of town roads but no records. Whether these town roads are abandoned or not, I think from here on in they are going to have to make a record of it. And if the road is to be discontinued by a town, there will be a public hearing to that effect so those people who own property on a town road will have a chance to speak.

Another thing this bill does is give the towns the authority to abandon a road or the presumption of abandoning a road that the town has not put any brand into for the last twenty or thirty years. I am not sure what the last figure was, but I think it was twenty-five or thirty years.

What is happening is that some of the real estate people, the brokers, the sellers, go out of state, they sell land on these supposedly town roads that have not been abandoned, get a pretty good price for it, and at the other end of that town road there may be, of course, another county line, and this guy comes in and picks up the land or some barn somewhere, and he wants the town to make a road for him. So this is costing these people an awful lot of money. Now, I have heard of some towns where they have perhaps \$70,000 to maintain the roads of the town, and to pick up a road like that would probably cost them \$125,000. Of course, that is quite a tax burden to the citizens of that community, and that is why this bill was brought in.

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

Mr. MERRILL: Mr. President and Members of the Senate: I think it just should be clear that the towns have the ability to discontinue these roads. What they are asking us to do is to, in essence, discontinue a whole parcel of those — heaven knows which ones they are, because part of the reason for us doing it is that

supposedly the towns don't know which ones they are — sort of by legislative fiat. I just don't think it is the proper approach to take in bringing about this result, and it seems to me there are going to be some examples of some people for whom we can have sympathy and I recognize it is hard for us to have a lot of sympathy for land developers who are attempting to take advantage of the towns — but, you know, the problem we have as the legislature is that we can't pick out those that we don't like from those that we do when we pass this sort of broad sweeping legislation, and I think we have to keep that in mind when we vote for these things.

The PRESIDENT: A roll call has been ordered. The pending question before the Senate is the passage to be engrossed of L. D. 2108, "An Act Relating to Town Ways." A "Yes" vote will be in favor of the passage of this bill as amended to be engrossed; a "Nay" vote will be opposed.

The Secretary will call the roll.

#### ROLL CALL

YEAS: Senators Berry, E.; Berry, R.; Carbonneau, Cianchette, Clifford, Collins, Corson, Cummings, Curtis, Cyr, Gahagan, Graffam, Greeley, Huber, Jackson, Johnston, Katz, Pray, Reeves, Speers, Thomas, Wyman.

NAYS: Senators Conley, Danton, Graham, Marcotte, McNally, Merrill, Roberts, Trozky.

ABSENT: Senators Hichens, O'Leary.  
A roll call was had. 22 Senators having voted in the affirmative, and eight Senators having voted in the negative, with two Senators being absent, the Bill, as Amended, was Passed to be Engrossed in concurrence.

The President laid before the Senate the following tabled and Specially Assigned matter:

Bill, "An Act to Improve Solid Waste Management," (H. P. 2090) (L. D. 2249)

Tabled — March 29, 1976 by Senator Speers; of Kennebec

Pending — Adoption of Senate Amendment "A" (S-484)

(In the House — Bill in New Draft (H. P. 2225) (L. D. 2315) Passed to be Engrossed as Amended by House Amendment "A" (H-1090)

(In the Senate — Committee Amendment "A" (H-1015) Indefinitely Postponed)

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

Mr. COLLINS: Mr. President, Senate Amendment "A" contains a troublesome provision and an error, and I have redrafted my amendment. I would therefore ask leave at this time to withdraw Senate Amendment "A" from consideration.

The PRESIDENT: The Senator from Knox, Senator Collins, now asks leave of the Senate to withdraw Senate Amendment "A". Is it the pleasure of the Senate to grant this leave?

It is a vote.

The same Senator then presented Senate Amendment "B" and moved its Adoption.

Senate Amendment "B", Filing No. S-486, was Read.

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

Mr. COLLINS: Mr. President and Members of the Senate: I would like to just describe to you a bit of what this amendment will do to this solid waste management bill.

The first change is to allow the Department of Transportation to erect signs as their budget permits, instead of requiring them to put up signs every hundred miles. Obviously, the reason for this is that there would be a \$5,000 fiscal note needed if we made it mandatory, but by making it permissive, they will have to see whether it fits into their budgets.

The next change, in section 16 of the bill, which is the bottle part of the bill, it changes some definitions. The definition of beverage is

changed by deleting any reference to wine, liquor or alcohol. The reason this change is made is because we are not putting any financial requirement on those items. We have also deleted the definition of commissioner, department, operator of vending machine, premises, refillable, refundable containers, and so on, because we do not use those terms in the bill as amended.

Section 1864 of the bill is deleted because we are not going to have a disposal charge, but rather what we are requiring, as of January 1, 1978, is that beverage containers be returnable.

We have deleted section 1868 because we do not feel we should mandate the type of container which a business can use. I think this matter has to be controlled by the free enterprise system.

Sections 1871 and 2 have been deleted because it deals with the distribution of money collected from the tax and we have deleted the tax from the bill. The amendment also adds in place thereof a new section which provides for penalties for violating the provisions of the chapter on returnable containers.

We have also deleted section 17 that would set up a program in the DEP for solid waste. Again, there will be no money for this program, so there is no need to have that section of the bill.

The referendum clause has also been amended to have only the returnable beverage container section of the bill sent out to the people. That is section 16 of the act. We have changed the wording of the question to read: "Shall section 16 of 'An Act to Improve Solid Waste Management', which section bans non-returnable beverage containers, as passed by the Special Session of the 107th Legislature, become law?"

Since the printing of Senate Amendment "B", I have discovered one more typographical omission and I would expect, if Senate Amendment "B" is adopted, to offer Senate Amendment "C" following that to provide for some section references corrections and to refer to the word "unbroken" with respect to containers, and I think that any of you who are merchants or are close to merchants will be glad to know that the containers returned have to be reasonably clean.

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

Mr. CLIFFORD: Mr. President, with respect to the pending amendment, I would make a parliamentary inquiry as to whether or not this amendment would be in violation of Joint Rule 28. I am not an expert in this area by any means, but it seems to me we are talking about a returnable bottle bill which, as I understand it, was rejected at the regular session. Thank you, Mr. President.

The PRESIDENT: The Chair would advise the Senator from Androscoggin, Senator Clifford, that in the opinion of the Chair and its advisers this amendment is not in contravention to Joint Rule 28.

The Chair recognizes the Senator from Androscoggin, Senator Clifford.

Mr. CLIFFORD: Mr. President, if this is the proper time, I would offer Senate Amendment "A" to Senate Amendment "B", under Filing No. S-490, and move its adoption.

The PRESIDENT: The Senator from Androscoggin, Senator Clifford, now offers Senate Amendment "A" to Senate Amendment "B" and moves its adoption. The Secretary will read Senate Amendment "A".

Senate Amendment "A", Filing No. S-490, to Senate Amendment "B" was Read.

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

Mr. CLIFFORD: Mr. President, this is a very short amendment and it changes the wording of the referendum to include the fact that a 5 cent deposit on all returnable beverage containers

will be part of the law. It seems to me that we had some discussion this morning about the public's right to know. It seems to me if they are going to vote that the best place to put as much information as possible about the effect of the bill would be in the question that appears on the ballot so that the people will know a little more about the bill. Thank you, Mr. President. I hope you adopt Senate Amendment "A" to Senate Amendment "B".

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

Mr. COLLINS: Mr. President, I would ask the Senate to reject the amendment proposed by the good Senator from Androscoggin, Senator Clifford. The wording which now is set forth in Senate Amendment "B" clearly says that the purpose is to ban the non-returnable beverage container. It seems to me that this effort to talk about the 5 cent deposit and so on, with the word "minimum" before it, is an attempt to weaken the bill, weaken the referendum, and to give the voters the impression that things are going to cost more, and I would ask the Senate to reject the proposed amendment.

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

Mr. KATZ: Mr. President, I would like the Senator from Knox, Senator Collins, to expand a little bit. I didn't quite follow his reasoning because this legislature has always found it in the last two sessions helpful rather than confusing to have a fiscal note on our legislation.

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

The Chair recognizes the Senator from Knox, Senator Collins.

Mr. COLLINS: Mr. President, I recognized the twinkle in the good Senator's eye when he asked that question, and obviously fiscal notes relate to what it costs the state and not what it costs the customer in the field, and therefore the 5 cent limitation would not be required.

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

Mr. TROTZKY: Mr. President and Members of the Senate: This amendment is an attempt to kill the bill by rewording the question.

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

Mr. CIANCHETTE: Mr. President, I would like to ask a question. I am sorry I am not quite up on this, and I am confused now. Would someone please explain to me does the bill, as amended at this point, call for a 5 cent deposit on returnable beverage bottles? Would you please answer that? Is that in the law, or is this something new added to the law?

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

The Chair recognizes the Senator from Knox, Senator Collins.

Mr. COLLINS: Mr. President, Senate Amendment "B" which I have proposed would require these deposits, yes. That is a change from the original bill.

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

Mr. JACKSON: Mr. President and Members of the Senate: I rise to support the good Senator from Androscoggin, Senator Clifford, with his amendment. I think it is only too fair to put this 5 cent deposit in the referendum so the people will know exactly what they are voting for. We can read the referendum clause which is in Senate Amendment "B", it says "Shall section 16 of 'AN ACT to Improve Solid Waste Management,' which section requires returnable beverage containers, as passed by the First Special Session of the 107th Legislature, become law?" How many people out there

realize what that does? How many people realize what the bill means?

I think Senator Clifford's amendment is explicit and I think it is right to the point, and the people will have the right to decide as to whether they want to pay 5 cents extra for returnable containers or whether they don't. So I think it is only fair that we put this out to them where they can see the question and where they can answer the question in its proper perspective.

The PRESIDENT: Is the Senate ready for the question?

The Chair recognizes the Senator from Penobscot, Senator Trotzky.

Mr. TROTZKY: Mr. President, if this amendment offered by Senator Clifford is a returnable deposit, the way it reads right now I think misrepresents the bill.

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

Mr. CARBONNEAU: Mr. President, I have kept quiet on this thing for some time and I just can't sit in my chair any more. It is getting kind of warm.

I would suggest to the good Senator from Penobscot, Senator Trotzky, that by the amendment as it reads, Senate Amendment "B", that you are actually camouflaging this whole thing and you are afraid the people are going to know about it. And I would like to second Senator Clifford here with his 5 cent deposit because then people will know. We are always talking about the right to know, that people should know. Let them know what you are talking about, let them know what you are trying to do. Don't camouflage it, and don't be scared of it either.

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

Mr. COLLINS: Mr. President, I would request a division.

The PRESIDENT: A division has been requested. The Chair recognizes the Senator from Cumberland, Senator Berry.

Mr. BERRY: Mr. President, in responding to Senator Carbonneau from Androscoggin, I am sure that by the time this plebiscite takes place everybody in the State of Maine is going to be so well informed on all the features of the thing that they will know more about the bill than we do now when we vote on it.

The PRESIDENT: The pending question before the Senate is the adoption of Senate Amendment "A" to Senate Amendment "B". A division has been requested. Will all those Senators in favor of adopting Senate Amendment "A" to Senate Amendment "B" please rise in their places until counted. All those opposed will please rise in their places until counted.

The Chair recognizes the Senator from Cumberland, Senator Jackson.

Mr. JACKSON: Mr. President, I request a roll call.

The PRESIDENT: A roll call has been requested. In order for the Chair to order a roll call, it must be the expressed desire of one-fifth of those Senators present and voting. Will all those Senators in favor of a roll call please rise in their places until counted.

Obviously more than one-fifth having arisen, a roll call is ordered. The pending question before the Senate is the adoption of Senate Amendment "A" to Senate Amendment "B". A "Yes" vote will be in favor of adopting Senate Amendment "A" to Senate Amendment "B"; a "Nay" vote will be opposed.

The Secretary will call the roll.

#### ROLL CALL

YEAS: Senators Berry, E.; Carbonneau, Cianchette, Clifford, Conley, Cyr, Danton, Graffam, Jackson, Johnston, Katz, Marcotte, Merrill, Pray, Wyman.

NAYS: Senators Berry, R.; Collins, Corson,

Cummings, Curtis, Gahagan, Granam, Greeley, Hichens, Huber, McNally, Reeves, Roberts, Speers, Thomas, Trotzky.

ABSENT: Senator O'Leary.  
A roll call was had, 15 Senators having voted in the affirmative, and 16 Senators having voted in the negative, with one Senator being absent, the motion did not prevail.

Whereupon, Senate Amendment "B" was Adopted in non-concurrence.

Mr. Collins of Knox then presented Senate Amendment "C" and moved its Adoption.

Senate Amendment "C", Filing No. S-489, was Read and Adopted in non-concurrence.

The PRESIDENT: Is it now the pleasure of the Senate that this bill as amended be passed to be engrossed and sent down for concurrence?

The Chair recognizes the Senator from Kennebec, Senator Speers.

Mr. SPEERS: Mr. President and Members of the Senate: A year ago this Senate was faced with this question of solid waste management, commonly known as the bottle bill, under really considerably more difficult circumstances than it is facing at the present time, but the issue still is one of very great importance to the state and to the people in the State of Maine.

At the time a year ago there were many of us who did feel very sincerely that there had to be a better way to approach the particular problem with which we were being faced. And indeed my own feelings with regard to this matter are that this particular item is simply an interim proposal because, as was stated by the good Senator from Oxford, Senator O'Leary, stated very well on the floor of this body several days ago, in which I concurred wholeheartedly, that the real question that is facing the people of the State of Maine, and facing them today, but which will be facing them in ever more pressing circumstances in the very near future, that real question is the question of recycling of all solid waste, not just beverage containers, and the question of what kind of a policy this state will adopt with regard to this solid waste disposal.

It is quite obvious, I believe, that we are going to have to move away from the policy which we have now in the State of Maine of simply digging holes and burying solid waste, waste that can be recycled. And by recycling we could gain funds from recycling, as well as saving funds by allowing the municipalities not to have to search out areas which are entirely unsuitable for simply burying solid waste. In my own district I have seen a number of problems arise this year with regard to finding suitable areas for dumping the solid waste, and this is going to increase, and increase tremendously, in the next few years statewide.

So I think this measure is just an interim proposal, because we are going to have to find and adopt a broader policy to implement a recycling policy throughout the entire State of Maine. I made such a proposal last fall, and I still feel that that matter has not yet been given its fair hearing and a fair airing, and that in the future a policy of recycling will have to be given its fair airing. In that proposal the State of Maine would have been able to receive a minimum of 2 million dollars per year from unreclaimed deposits, unrecycleable beverage containers, and it would have presented an incentive for municipalities to go into a total recycling policy. So, as I mentioned, I think that it will have its airing in the future, but in the meantime I do believe that the people of the State of Maine have evidenced a tremendous interest in approaching this problem in this manner, in the manner of the bill that we now have before us. It is probably a good interim proposal and I do feel that the people of the state ought to have an opportunity to express their opinions with regard to it. I therefore intend to support

the motion to engross this bill in its present form, and I do ask for a roll call.

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

Mr. CLIFFORD: Mr. President and Members of the Senate: It seems to me from the statement of the majority floor leader that he has admitted in the statement — he has used the words "this issue, this bill before us one year ago" — I think it is pretty clear that we do have in fact the same issue before us now as we had before us a year ago and which the legislature rejected. And certainly one would call to question whether Rule 28 is any longer of any effect.

This bill is symbolic. Its real accomplishments are little. It is symbolic for the people involved in environmental movements and it is very symbolic for people in political life who want to get on the record. Unfortunately, however, it does great damage to many people and many industries. In my opinion, in these times of economic hardship, we should not be looking at ways to do great harm to industries in Maine, unless doing great harm is necessary and is going to accomplish something that outweighs the harm which we are going to do to those industries. I think it is pretty clear here that that is not true, that the benefits of this are symbolic only, but the damages are real.

I also think it is unfortunate that the legislature will not vote on this issue one way or the other. I have always believed that when you are elected to the legislature you are elected to represent your districts, and to vote yes or to vote no, one way or the other, on the issues that come before the legislature. I think that we ought to vote yes or no on this issue here in these halls since we have the opportunity to become informed of what the bill does and doesn't do. And I think it is unfortunate that we cause this to be sent out to referendum. I think it is an abdication of our responsibility, and I think it is an unnecessary expense to be borne by the taxpayers of the State of Maine. Thank you, Mr. President.

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

Mr. BERRY: Mr. President and Members of the Senate: The Senator from Androscoggin, Senator Clifford, made perhaps what might have been a slip of the tongue. If at any time any member of this body is dissatisfied with a ruling of the Chair, according to the procedure of the body here under the Roberts Rules, he has every right to appeal the ruling of the Chair, and I think that is the course to take, and not be critical of the Chair.

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

Mr. KATZ: Mr. President, when this issue came up before us before, the question of the referendum came up at that time, and I want to be consistent in my approach to the referendum.

This is a unique issue. I think the Senator from Androscoggin was absolutely right when Senator Clifford said, by implication, that this was tokenism. I think this is a gesture. The fact is, to put it as harshly as I can, that we have over the years degenerated into a nation of snobs, and I can't think of any other way to put it. We share this distinction with some other nations, but not all of them, and I suspect not most of them.

The people of my constituency have very clearly indicated by an absolutely extraordinary outpouring of sentiment to me that this is not just an ordinary issue. On most occasions they seem to be perfectly content to send me up here, having elected me to do what I consider is right, and then give a report card in two years, but this is not that kind of an issue, and I think the people clearly want in. So with a very clear conscience, I think any member of this body can vote for a referendum on this unique issue.

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

Mr. GAHAGAN: Mr. President and Members of the Senate: Before the vote on this issue in the last session of the legislature I held several constituent meetings at which both sides of this issue were very well represented. Both proponents and opponents attended the meetings that I had and were lined up on both sides of the wall, and it was a very emotional scene, and I felt that because of that we should take a closer look at this issue and I voted against the bill.

As a response, what I felt was a responsible response from a member of the legislature. I set up what were termed as citizens advisory committees on solid waste management and resource recovery. At the first meeting there was one opponent to the bottle bill who attended, just one. At the second meeting there were none. And throughout the summer the proponents to the bottle bill faithfully attended the meetings and faithfully pursued all courses and all alternatives to this situation concerning solid waste management, resource recovery, and the bottle bill. So I say there were no opponents who expressed any interest at all throughout the summer.

As to the matter of the Senator from Androscoggin, Senator Clifford, saying there would be harm done, if this is the case, I must consider that the harm was not sufficient to cause these people to come out and participate in what I felt was a very open and honest discussion of this issue. I believe that support of this bill today accurately represents the views of my constituency, and I have no hesitation in supporting it. I think we have a better bill before us this time than we did last year and I can in good conscience support it today.

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

Mr. CONLEY: Mr. President and Members of the Senate: Frequently I drive up Western Avenue and I pass by dear old St. Mary's over there, and I notice outside it says confessions being heard on Saturday afternoon between the hours of 5 and 7. It appears to me that there are several confessions being made here today, and I want them to know that all their sins are forgiven.

However, the likeness of this bill and the one that we debated a year ago, there is very little change in it. I mean, it is very poorly drafted. I don't believe there is any way in the world, even if it is approved by the voters in referendum, that we are going to notice any great change. Slobs are slobs, and they will continue to be slobs until enforcement is put to work.

I am going to vote for engrossment of the bill and let it go to the voters, but I think there is going to be a real clean-up job taking place, not on the highways, but in the next legislative session to clean up this bill.

The PRESIDENT: A roll call has been requested. In order for the Chair to order a roll call, it must be the expressed desire of one-fifth of those Senators present and voting. Will all those Senators in favor of a roll call on the passage of this bill to be engrossed please rise in their places until counted.

Obviously more than one-fifth having arisen, a roll call is ordered.

The Chair recognizes the Senator from Washington, Senator Wyman.

Mr. WYMAN: Mr. President and Members of the Senate: To me, the bill we killed the other day, the solid waste bill, 2250 I think it was, was a much better bill than this bill we have here. I don't think it had any referendum on it and I don't think it put the decision off for two years. I think it was an excellent bill. However, the legislature in its wisdom did not pass that bill, and so I will vote for this bill today which I think won't do nearly as much for solid waste as the bill we had previously.

The PRESIDENT: The pending question

before the Senate is the passage to be engrossed of L. D. 2249. A "Yes" vote will be in favor of passage to be engrossed; a "Nay" vote will be opposed.

The Secretary will call the roll.

#### ROLL CALL

YEAS: Senators E. Berry; R. Berry; Collins; Conley; Corson; Cummings; Curtis; Cyr; Gahagan; Graham; Greeley; Hichens; Huber; Jackson; Katz; McNally; Merrill; Pray; Reeves; Roberts; Speers; Thomas; Trotzky; Wyman.

NAYS: Senators Carbonneau, Cianchette,

Clifford, Danton, Graffam, Johnson, Marcotte.

ABSENT: Senator O'Leary.

A roll call was had, 24 Senators having voted in the affirmative, and seven Senators having voted in the negative, with one Senator being absent, the Bill was Passed to be Engrossed, as Amended, in non-concurrence.

Sent down for concurrence.

#### Reconsidered Matter

Mr. Collins of Knox moved that the Senate reconsider its former action whereby "An Act Relating to Charitable Solicitations" (H. P. 1983) (L. D. 2165) failed of Passage to be Engrossed.

A viva voce vote being taken, the motion did not prevail.

On motion by Mrs. Cummings of Penobscot, Adjourned until 10 O'Clock tomorrow morning.