

# MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

*One Hundred and Fifth*

*Legislature*

OF THE

STATE OF MAINE

1971

KENNEBEC JOURNAL  
AUGUSTA, MAINE

**HOUSE**

Tuesday, April 20, 1971

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

Prayer by the Rev. Mr. William Dunstan of Gardiner.

The members stood at attention during the playing of the National Anthem.

The journal of the previous session was read and approved.

**Orders Out of Order**

Mr. Hayes of Windsor presented the following Order and moved its passage:

**ORDERED**, that Kathy and Leslie Ault of Wayne be appointed to serve as Honorary Pages for today.

The Order was received out of order by unanimous consent, read and passed.

Mr. Webber of Belfast presented the following Order and moved its passage:

**ORDERED**, that Stephen Boguen and Kern Smith of Belfast be appointed to serve as Honorary Pages for today.

The Order was received out of order by unanimous consent, read and passed.

**Papers from the Senate  
Reports of Committees  
Ought Not to Pass**

Report of the Committee on State Government reporting "Ought not to pass" on Bill "An Act relating to Disclosure of Interests under the Right to Know Law" (S. P. 491) (L. D. 1382)

In accordance with Joint Rule 17-A, was placed in the legislative files.

**Leave to Withdraw**

Report of the Committee on Judiciary on Bill "An Act Abolishing Imprisonment for Debt" (S. P. 433) (L. D. 1253) reporting Leave to Withdraw.

Came from the Senate read and accepted.

In the House, the Report was read and accepted in concurrence.

**Covered by Other Legislation**

Report of the Committee on Appropriations and Financial

Affairs on Resolve Providing for Purchase of Fifty Copies Each of History of the District of Maine, Survey of the State of Maine and Tidewater Ice of the Kennebec (S. P. 326) (L. D. 975) reporting Leave to Withdraw, as covered by other legislation.

Came from the Senate read and accepted.

In the House, the Report was read and accepted in concurrence.

**Ought to Pass**

Report of the Committee on Education reporting "Ought to pass" on Bill "An Act Creating an Advisory Commission for the Study of Public Support for Post-secondary Education in Maine" (S. P. 473) (L. D. 1492)

Report of the Committee on Judiciary reporting same on Bill "An Act relating to Restitution of Funds Defrauded from Consumers" (S. P. 357) (L. D. 1053)

Came from the Senate with the Reports read and accepted and the Bills passed to be engrossed.

In the House, the Reports were read and accepted in concurrence, the Bills read twice and tomorrow assigned.

**Ought to Pass with  
Committee Amendment**

Report of the Committee on Health and Institutional Services on Bill "An Act to Provide Temporary Licenses for Administrators of Medical Care Facilities Other Than Hospitals" (S. P. 355) (L. D. 1051) reporting "Ought to pass" as amended by Committee Amendment "A" submitted therewith.

Came from the Senate with the Report read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A".

In the House, the Report was read and accepted in concurrence and the Bill read twice. Committee Amendment "A" (S-82) was read by the Clerk and adopted in concurrence, and tomorrow assigned for third reading of the Bill.

**Amended in Senate**

Report of the Committee on Public Utilities on Bill "An Act relating to Schedule of Rates of

Motor Vehicles for Hire by Holders of Certificates of Public Convenience and Necessity from Public Utilities Commission" (S. P. 254) (L. D. 761) reporting "Ought to pass" as amended by Committee Amendment "A" submitted therewith.

Came from the Senate with the Report read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" and Senate Amendment "A".

In the House, the Report was read and accepted in concurrence and the Bill read twice. Committee Amendment "A" (S-75) was read and adopted in concurrence. Senate Amendment "A" (S-90) was read and adopted in concurrence.

Tomorrow was assigned for third reading of the Bill.

#### **Non-Concurrent Matter Tabled and Assigned**

Bill "An Act Appropriating Funds for Overtime in State Employment and Establishing Hours for a Work Day and a Work Week for Certain Employees" (H. P. 278) (L. D. 367) on which the House accepted the Majority "Ought not to pass" Report of the Committee on State Government on March 23.

Came from the Senate with the Minority "Ought to pass" Report accepted and the Bill passed to be engrossed as amended by Senate Amendment "A" in non-concurrence.

In the House:

The SPEAKER: The Chair recognizes the gentleman from Freeport, Mr. Marstaller.

Mr. MARSTALLER: Mr. Speaker, I move that we insist.

Whereupon, on motion of Mr. Martin of Eagle Lake, tabled pending the motion of Mr. Marstaller of Freeport to insist and tomorrow assigned.

From the Senate: The following Order: (S. P. 546)

ORDERED, the House concurring, that the following be recalled from the Governor's Office to the Senate: Bill, "An Act relating to Criminal Trespass in Buildings and on Premises" (S. P. 532) (L. D. 1568)

Came from the Senate read and passed.

In the House, the Order was read and passed in concurrence.

#### **Orders**

Mr. Kelley of Machias presented the following Joint Order and moved its passage:

ORDERED, the Senate concurring, that the Legislative Research Committee be authorized and directed to study the subject matter of the Bill: "An Act Creating the Maine Health Care Facilities Labor Relations Act," House Paper 746, Legislative Document 967, introduced at the regular session of the 105th Legislature, to determine whether the best interests of the State would be served by enactment of such legislation; and be it further

ORDERED, that the State Department of Labor and Industry be directed to provide the Committee with such technical advice and other assistance as the Committee deems necessary or desirable to carry out the purposes of this Order; and be it further

ORDERED, that the Committee report its findings and recommendations together with implementing legislation at the next regular session of the Legislature; and be it further

ORDERED, that upon joint passage of this Order a copy be transmitted forthwith to said Department of Labor and Industry as notice of the pending study. (H. P. 1281)

The Joint Order received passage and was sent up for concurrence.

#### **Tabled and Assigned**

Mrs. Goodwin of Bath presented the following Joint Order and moved its passage:

WHEREAS, modern society is dependent upon efficient communication and modern communication rests largely in the hands of our office secretaries; and

WHEREAS, the secretary has become more and more a key person in the operation of an office and has come to be depended upon not merely for a high level of technical skills in the operation of complex machines and in taking of shorthand, but also has been

given responsibility for countless details; and

WHEREAS, the important role that secretaries play in the economic and governmental life of America has been recognized by establishing the last week in April as Secretaries Week; and

WHEREAS, the Governor of the State of Maine, Kenneth M. Curtis, has proclaimed the period from April 18th through April 24th as Secretaries Week and Wednesday, April 21, 1971, as Secretaries Day in the State of Maine and has urged that the citizens of Maine pay tribute to the secretaries of our State, and to their constant improvement of the secretarial profession which has made it truly a silent partner in American business; now, therefore be it

ORDERED, the Senate concurring, that the Maine State Legislature now assembled in its One Hundred and Fifth regular session does hereby recognize and pay tribute to secretaries everywhere and to the more than 28,000 members of the National Secretaries Association, the largest professional women's association, with chapters throughout the United States and Canada and affiliate chapters in 7 foreign countries; and be it further

ORDERED, upon joint passage, that copies of this Order, duly attested by the President of the Senate and Speaker of the House of Representatives and bearing the great seal of the State of Maine be transmitted forthwith by the Secretary of the Senate to the President of the Kennebec Valley Chapter, National Secretaries Association (International).

(On motion of Mr. Ross of Bath, tabled pending passage and tomorrow assigned.)

#### House Reports of Committees Ought Not to Pass

Mr. Scott from the Committee on Business Legislation reported "Ought not to pass" on Bill "An Act relating to Business, Travel and Recreation on Sunday" (H. P. 696) (L. D. 939)

Mr. Bunker from the Committee on Fisheries and Wildlife reported same on Bill "An Act to Limit the Number of Lobster Traps Per

Lobster and Crab License" (H. P. 846) (L. D. 1157)

Mr. Call from same Committee reported same on Bill "An Act Regulating Lobster Traps on Trawls" (H. P. 847) (L. D. 1158)

Mr. Curtis from the Committee on State Government reported same on Bill "An Act Amending the Uniform Flag Law" (H. P. 861) (L. D. 1185)

Mr. Donaghy from same Committee reported same on Bill "An Act relating to Fallout Shelters in Public Buildings" (H. P. 722) (L. D. 968)

Same gentleman from same Committee reported same on Bill "An Act Prohibiting the Expenditure of Public Funds to Promote or Oppose Measures to Be Voted on at Elections" (H. P. 874) (L. D. 1278)

Mr. Marsteller from same Committee reported same on Bill "An Act relating to Vacation Leave for State Employees" (H. P. 366) (L. D. 473)

In accordance with Joint Rule 17-A, were placed in the legislative files and sent to the Senate.

#### Leave to Withdraw Tabled and Assigned

Mr. Starbird from the Committee on State Government on Bill "An Act relating to Salary of the Supervising Inspector of Elevators" (H. P. 609) (L. D. 820) reported Leave to Withdraw.

Report was read.

(On motion of Mr. Lewin of Augusta, tabled pending acceptance of Report and tomorrow assigned.)

#### Order Out of Order

Mr. Bither of Houlton presented the following Order and moved its passage:

ORDERED, that Dana Gallison and Sean Conlogue of Houlton be appointed to serve as Honorary Pages for today.

The Order was received out of order by unanimous consent, read and passed.

#### Ought to Pass in New Draft New Drafts Printed

Mr. Wight from the Committee on County Government on Bill "An Act Creating Piscataquis County

Commissioner Districts" (H. P. 584) (L. D. 779) reported same in a new draft (H. P. 1279) (L. D. 1679) under same title and that it "Ought to pass"

Mr. Call from the Committee on Fisheries and Wildlife on Bill "An Act Prohibiting the Driving of Deer While Hunting" (H. P. 560) (L. D. 736) reported same in a new draft (H. P. 1280) (L. D. 1680) under same title and that it "Ought to pass"

Reports were read and accepted, the New Drafts read twice and tomorrow assigned.

#### **Ought to Pass Printed Bills**

Mr. Churchill from the Committee on County Government reported "Ought to pass" on Bill "An Act relating to the Transition to be Somerset County Commissioner Districts" (H. P. 1114) (L. D. 1533)

Mr. Stillings from the Committee on State Government reported same on Bill "An Act to Create a Crime Laboratory" (H. P. 919) (L. D. 1271)

Reports were read and accepted, the Bills read twice and tomorrow assigned.

#### **Ought to Pass with Committee Amendment**

Mr. Kelleher from the Committee on County Government on Bill "An Act Creating Aroostook County Commissioner Districts" (H. P. 91) (L. D. 135) reported "Ought to pass" as amended by Committee Amendment "A" (H-147) submitted therewith.

Mr. Wight from same Committee on Bill "An Act Creating York County Commissioner Districts" (H. P. 553) (L. D. 729) reported "Ought to pass" as amended by Committee Amendment "A" (H-148) submitted therewith.

Mr. Bunker from the Committee on Fisheries and Wildlife on Bill "An Act Prohibiting Dragging for Fish in Spruce Creek, York County" (H. P. 264) (L. D. 353) reported "Ought to pass" as amended by Committee Amendment "A" (H-149) submitted therewith.

Mrs. Berube from the Committee on Public Utilities on Bill "An Act

to Incorporate the Andover Water District" (H. P. 1098) (L. D. 1504) reported "Ought to pass" as amended by Committee Amendment "A" (H-150) submitted therewith.

Mr. Williams from same Committee on Bill "An Act Authorizing the Mars Hill Utility District to Enforce Liens to Secure Payment of Rates" (H. P. 1097) (L. D. 1485) reported "Ought to pass" as amended by Committee Amendment "A" (H-151) submitted therewith.

Reports were read and accepted and the Bills read twice. Committee Amendment "A" to each was read by the Clerk and adopted, and tomorrow assigned for third reading of the Bills.

#### **Divided Report Tabled and Assigned**

Majority Report of the Committee on Education reporting "Ought to pass" on Bill "An Act relating to School Construction Aid for All Administrative Units" (H. P. 737) (L. D. 999)

Report was signed by the following members:

Messrs. KATZ of Kennebec  
CHICK of Kennebec  
— of the Senate.  
Messrs. WOODBURY of Gray  
TYNDALE of Kennebecport

HASKELL of Houlton  
SIMPSON of Standish  
BITHER of Houlton  
MURRAY of Bangor

— of the House.  
Minority Report of same Committee reporting "Ought not to pass" on same Bill.

Report was signed by the following members:

Mr. MINKOWSKY of Androscoggin  
— of the Senate.  
Messrs. MILLETT of Dixmont  
LAWRY of Fairfield  
LYNCH of Livermore Falls

LUCAS of Portland  
— of the House.

Reports were read.

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

Mr. BITHER: Mr. Speaker, I move that the Majority "Ought to pass" Report be accepted.

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

The Chair recognizes the gentleman from Dixmont, Mr. Millett.

Mr. MILLETT: Mr. Speaker and Members of the House: I would like at this time to discuss very briefly item 18 on page four, with the hope that we may take action on this item today since it does relate to item five on today's tabled and today assigned matters.

The two deal with the use of state money to finance school construction. The bill before us presently would extend school construction aid to all units regardless of administrative setup and regardless of size. One of the features which has made this particular proposal attractive to its supporters is the availability of a \$50 million bond issue which was ratified by the people in last November's referendum vote.

I feel that there is a basic decision which has to be made here as to whether or not we go along with the intent of the initial legislation which started school construction aid in the first place. This occurred almost simultaneously with the Sinclair Law in 1957 and I would just like to explain what I believe was the intent of construction aid, read the first sentence of the paragraph which started this procedure.

It begins by saying — "To provide further incentive for the establishment of larger school administrative districts, the Commissioner shall allocate state financial assistance to school administrative districts on school construction approved subsequent to the formation of such districts and on school debts, Maine School Building Authority leases assumed by the district."

Now that is quite clear. The intent was to provide incentives for larger combinations. I believe it should be noted that at that time construction aid was also extended to the cities who had high school enrollments of 700 pupils or more,

and I have no doubt but what this was a necessity in order to obtain the votes for passage. That has since been amended down to 500 pupils. So at the present time any city with more than 500 pupils enrolled in its high school also qualifies. The proposal here is to do away with any kind of size criteria and extend this money to all units.

I feel rather awkward because my primary interest is with the small communities in opposing this bill here this morning, but I think that the words I just read to you indicate very clearly that the initial intent was to provide incentives — and we have heard this referred to as financial bribes and other names which I do not subscribe to. But I am very sure that the intent was to make it available to communities to form together so that they might qualify for this construction aid. They have done so in many cases and now with the availability of \$50 million in front of the people this seems very attractive to extend to all people.

Now the bond issue is going to be depleted much faster than originally intended, I am sure of that. This is why I would like to discuss the item that I referred to earlier on tabled and today assigned items also, so that we can decide, in this body at least, whether we want to go on with an accelerated schedule of using the bond issue money.

I am sure you will hear debate here this morning that the voters did not understand this particular bond issue last fall. I am not sure that everybody did and I am sure that not all people in this House did. But I would call your attention to a memorandum which was circulated to all of the members of the 104th Legislature from the Legislative Finance Office, which explains in very clear and concise detail the purpose of the \$50 million bond issue.

I believe the bond issue was jointly sponsored by the gentleman from Belgrade, Mr. Sahagian and the gentleman from Lewiston, Mr. Jalbert. The idea was to avoid a double interest situation and it was projected that the savings to the State of Maine over a period of that bond issue, initially projected

at about ten years, would be in excess of \$50 million itself.

Now this was the purpose that this body acted upon in the 104th Session. There is no doubt in my mind about that. I will not carry this any further. I think that this is an important decision, and I would hope that you would make it on the basis of whether or not you feel that the intent of the initial law and the bond issue is being upheld by this particular bill in front of you. Thank you.

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

Mr. BIRT: Mr. Speaker and Ladies and Gentlemen of the House: This has been the somewhat interesting position that has been before the legislature at various times and in various forms for the last fifteen years. I think the representative from Dixmont covered a good deal of it. I would like to add a few other things to this.

There is down in the library a very interesting book. The representative from Houlton, Mr. Bither covered some of the developments of the Sinclair Bill last week and he did an excellent job of it in reviewing the legislation at the time it was passed. Another book that is down there that is very interesting is a book that is published by the University of Syracuse, called "School Men in Politics," which adequately explains all of the political workings of the passage of the Sinclair Bill.

It goes into some discussion of trying to sell the bill and the need to put in the 700 figure, which became a completely arbitrary figure. It was the figure that was necessary to muster the number of votes necessary for passage. This was passed as an emergency measure and it needed 101 votes; they finally did muster 109.

Since that time there has been one other change that the gentleman from Dixmont did not bring in. The first change in this was to allow student population, non-resident student population, tuition population to change. This consideration was brought in and allowed the towns of Bath and Brewer to also receive school

construction aid. And as he pointed out a short while afterwards, a couple of sessions ago, the 500 figure was adopted.

In fact the main question we are faced with today is why is any figure a reasonable figure. If construction aid is going to be given to any community that is not in a school district then what becomes a reasonable figure? Why is 700 a reasonable figure? Why is 500 a reasonable figure? Why should non-resident students be included? If we are going to work on that premise then it seems only reasonable that all schools should be allowed to receive construction aid.

Now at the time that this 500 figure was adopted and also at the time that the non-resident student population was brought in, it was allowed that the schools that were constructed back to the time of the passage of the Sinclair Bill, which was in August of 1957, could start to receive construction aid as of the time of the passage of the bill — not retroactive, but as of the time of the passage of the bill.

This legislation that we have before us, as I understand it, does not have a retroactive figure in, but it just allows this construction aid to be paid on schools constructed after a given date, which is in the bill. I think that the 700 figure — I have always felt that the 700 figure was an arbitrary figure, the 500 figure is an arbitrary figure. If we are going to pay school construction aid to any school that is not in a district, then the enrollment figure should be removed. There is no justification for any enrollment figure whether it is 700 or 500.

The people of the state are all contributing in this, whether they are in larger schools or smaller schools. The bill does have a good deal of merit and I would certainly hope that you would give it your support.

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

Mr. JALBERT: Mr. Speaker and Members of the House: I would like to give my observations as the author of the \$50 million bond



issue. Construction aid was not the issue as far as how much construction aid we would give out, because the Appropriations Committee and the legislature had already agreed that this \$50 million bond issue would attach itself to the already agreed upon contracts or would-be contracts by the Department of Education, at which time a moratorium would be declared.

Now the big issue was the method of payment—and this was not a departmental bill, it was my bill and the method of payment would save the same amount, \$50 million, was established and over the period of time as was purported to be on the bond issue it would save approximately \$51 million in interest money.

I think that here are two problems — the first one that we are discussing now and the one that lies on the table, item five on the tabled matters on the House calendar. Now somewhere along the line a complete understanding and explanation should be made on both of these items and these are areas that should be discussed, these could be very good items for the leadership of both parties to put on their agendas to be discussed in caucuses; because if we go along with these two items, if we go along as we are going along now, the life of the bond issue will be about two to three years, \$50 million, and the interest with it will be there; we will only have to come back later on and tack on another \$50 million bond issue, or else if we don't we won't even be able to keep up the contracts that we are already committed to.

You are going in now to very very serious items financewise and I would suggest that this item be tabled along with item five on the House calendar. I am not going to make a motion certainly now to table, but these items should lie on the table and should be discussed by the leadership of both parties before we run ourselves into a financial difficulty.

The SPEAKER: The Chair recognizes the gentleman from Freeport, Mr. Marstaller.

Mr. MARSTALLER: Mr. Speaker and Members of the

House: I hope you will support the motion "ought to pass" on this item. Last fall when the voters of this state passed the \$50 million bond issue to pay the state's share of school construction on a lump sum basis, thus helping to reduce the interest cost, the thing that most voters did not know, as has already been pointed out, that this helped only part of our communities and that the small towns educating fourteen percent of our children are not eligible to receive construction aid.

Now this bill L. D. 999 is designed to make all communities eligible for this construction aid and the maximum estimates that I have received from the State Department of Education is that this could use up to six percent of the bond issue or a total of \$3 million through 1978. Now of course if the other items come out of the bond issue and the time is reduced, then these schools would not use as high a percentage.

Since 1957, since the State started paying construction aid, over \$16 million has been paid out in construction aid. And commitments have been made in terms of bond issues and interest commitments for construction aid to another \$54.6 million. These commitments go through 1991, for the next twenty years.

So this is the kind of construction aid that is already on the books and I think it is time that we included all the towns in this construction aid, because all the towns are now paying toward these other commitments, and I think it is only fair that we all participate.

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

Mr. JALBERT: Mr. Speaker and Members of the House: I am not taking issue at all with the gentleman from Freeport, Mr. Marstaller. What I am saying is this. Before these bills get jammed up beyond any repair, before we wind up by bleeding \$50 million for this one and the other one in our present commitments, we should discuss these items thoroughly. I mean it is a split report. I am not in any way taking issue with the gentleman from Freeport, Mr.

Marsteller, but I am not making any idle chatter. We are about ready to pledge ourselves with this one, the present commitment, this bill, and the one that is on the table, to bleed a \$50 million bond issue in the next three or four years.

This certainly was not the purpose of the bond issue as it was understood by me, and I was the sponsor of the program. I am not taking issue at all. I am just telling you that if you don't take heed that somewhere along the line you are going to wind up with having to pass another bond issue, or stop construction aid completely. Now those are the facts.

Whereupon, on motion of Mr. Lynch of Livermore Falls, tabled pending the motion of Mr. Bither of Houlton to accept the Majority "Ought to pass" Report and tomorrow assigned.

#### Divided Report

Majority Report of the Committee on Fisheries and Wildlife on Bill "An Act Regulating Hunting from Certain Public Ways" (H. P. 98) (L. D. 142) reporting "Ought to pass" as amended by Committee Amendment "A" submitted therewith.

Report was signed by the following members:

Messrs. HOFFSES of Knox  
ANDERSON of Hancock  
— of the Senate.  
Messrs. PARKS of Presque Isle  
PORTER of Lincoln  
LEWIS of Bristol  
KELLEY of Southport  
LEWIN of Augusta  
KELLEY of Machias  
BUNKER of Gouldsboro  
CALL of Lewiston  
— of the House.

Minority Report of same Committee reporting "Ought not to pass" on same Bill.

Report was signed by the following members:

Mr. BERNARD  
— of Androscoggin  
— of the Senate.  
Messrs. MANCHESTER  
— of Mechanic Falls  
BOURGOIN of Fort Kent  
— of the House.

Reports were read.

On motion of Mr. Lewin of Augusta, the Majority "Ought to pass" Report was accepted.

The Bill was given its two several readings.

Committee Amendment "A" (H-152) was read by the Clerk and adopted and the Bill assigned for third reading tomorrow.

#### Divided Report

Majority Report of the Committee on Fisheries and Wildlife on Bill "An Act Establishing a State-wide Open Deer Season for the First Three Weeks of November" (H. P. 906) (L. D. 1250) reporting "Ought to pass" as amended by Committee Amendment "A" submitted therewith.

Report was signed by the following members:

Messrs. BERNARD  
— of Androscoggin  
HOFFSES of Knox  
ANDERSON of Hancock  
— of the Senate.  
Messrs. PARKS of Presque Isle  
PORTER of Lincoln  
BOURGOIN of Fort Kent  
LEWIS of Bristol  
KELLEY of Southport  
LEWIN of Augusta  
KELLEY of Machias  
BUNKER of Gouldsboro  
— of the House.

Minority Report of same Committee reporting "Ought not to pass" on same Bill.

Report was signed by the following members:

Messrs. MANCHESTER  
— of Mechanic Falls  
CALL of Lewiston  
— of the House.

Reports were read.

On motion of Mr. Lewin of Augusta, the Majority "Ought to pass" Report was accepted.

The Bill was given its two several readings.

Committee Amendment "A" (H-153) was read by the Clerk and adopted and the Bill assigned for third reading tomorrow.

#### Divided Report

Majority Report of the Committee on Judiciary reporting "Ought not to pass" on Bill "An Act to Authorize Issuance of Warrants for Administrative Searches" (H. P. 744) (L. D. 1006)

Report was signed by the following members:

Messrs. HARDING of Aroostook  
 QUINN of Penobscot  
 —of the Senate  
 Messrs. HEWES of Cape Elizabeth  
 CARRIER of Westbrook  
 Mrs. WHEELER of Portland  
 Messrs. HENLEY of Norway  
 PAGE of Fryeburg  
 —of the House.

Minority Report of same Committee on same Bill reporting "Ought to pass" as amended by Committee Amendment "A" submitted therewith.

Report was signed by the following members:

Mr. TANOUS of Penobscot  
 —of the Senate  
 Mr. LUND of Augusta  
 Mrs. WHITE of Guilford  
 Mr. ORESTIS of Lewiston  
 Mrs. BAKER of Orrington  
 Mr. KELLEY of Caribou  
 —of the House

Reports were read.

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

Mr. HEWES: Mr. Speaker, I move that we accept the Majority "Ought not to pass" Report.

The SPEAKER: The gentleman from Cape Elizabeth, Mr. Hewes moves that the House accept the Majority "Ought not to pass" Report.

The Chair recognizes the gentleman from Augusta, Mr. Lund.

Mr. LUND: Mr. Speaker, Ladies and Gentlemen of the House: I hope that you might all take a moment to look at the provisions of L. D. 1006 and refer to Committee Amendment "A" which is under filing number H-154. I would like to speak in opposition to the pending motion to accept the Majority "Ought not to pass" Report; I hope that you will vote against that report.

The reason that I would like to call this to your attention today is that this legislative document would authorize the courts of our state to issue rules pursuant to which administrative inspections could be made. Now I use the word 'inspections' because the Minority "Ought to pass" Report would change the language

of the title and the language of the body of the bill to use the word 'inspections' rather than 'searches'.

Because the problem that this bill seeks to deal with is this. We have criminal laws in the state which deal with larceny and other serious crimes. We have a body of statute and decisions which provide the means by which police may obtain stolen merchandise and this sort of evidence by means of a search warrant.

However, in recent years the legislature and the municipalities in their wisdom have seen fit to enact sanitation regulations, building codes, plumbing codes, and water pollution laws, which contemplate — not the serious kind of crimes involved in larceny, but crimes which affect the health and the welfare of all of us. And it is important if we are going to pass these laws and if we are going to ask the law enforcement officers at the various state and local levels to enforce these health and sanitation codes that we have enacted, both by ordinance and by statute, if these are going to be enforced it would seem that we ought to provide some procedure by which the offices can enforce them.

And there was a decision issued by the United States Supreme Court a few years ago, the thrust of which indicates that it is up to the states through legislation just like this to establish an orderly procedure under which a person who is enforcing the anti-pollution laws, the building codes, or what have you, under which he can obtain authority to enter upon land or into a building in order to determine whether the laws are being respected or not.

The bite of all of this of course, is that this ability to go onto somebody else's land runs counter to the tradition that a man's home is his castle; and there have been some instances in this state recently in which individuals seeking to avoid inspections connected with enforcement of building codes have refused inspectors authority to come into their build-

ing. I am sure their reasons may have seemed good ones at the time but I think this Legislature should face up to its responsibility and decide whether or not it is going to ask officers to enforce the laws and, if so, is it only going to ask them to enforce the laws and the ordinances against those people who say — “Yes, you may come into my building,” and not to enforce it against those who say — “no, you may not come into my building”?

So part of this picture relates to, we can refer to people — in the case that was referred to there were landlords who were involved and they wanted to avoid having inspectors inspect their apartments. Now I can appreciate that there may be strong feelings about this; however, there is another area in which passage of this legislation is important I think, which affects more of us in a far more important fashion perhaps.

Now we have enacted laws and regulations with respect to the location of septic tanks and the building of drainage beds around our lakes and in our municipalities. An acquaintance of mine the other day called me and related that when he had been away from his home for a couple of days, his summer place, and he came back unexpected and his neighbor was in the process of installing a septic tank and drainage bed, and his neighbor apparently didn't realize that he was home because instead of building a drainage bed in the usual fashion he simply dug a trench from his septic tank to the lake and ran the outfall from the septic tank straight into the lake. And this was one of the lakes here in central Maine.

I have turned this information over to the appropriate authorities and I will be interested to see what is going to happen, because the ordinary inspection procedure for this type of a violation would be for the inspectors to request admission to the house, to put a small amount of dye in the toilet, to flush the toilet a few times to see if the dye comes out in the lake, which would be conclusive probably on the issue whether or

not a proper drainage bed was installed.

I wonder what is going to happen if the inspector goes there and asks if he may come in to check the plumbing, and the owner says no. Because in this type of situation and in parallel situations all over our state, unless we enact some authority to enable our courts to establish an orderly procedure to enforce this kind of administrative regulation we are not going to be able, I believe, to enforce the laws that we have enacted.

I recognize and I anticipate that there are going to be several speakers speaking in opposition to this and they will be very much concerned about this freedom for a reasonable inspection. I will simply close by saying that the courts, I think, will establish in their procedure safeguards so that inspections will not be carried out on a discriminatory basis, but to require the inspector to show that it is part of a systematic inspection which is not intended to harass or annoy any single person.

So I do not want to tire you any longer with going over the issue, but the basic issue I believe in this legislation is, are we going to give the individuals at the municipal and state level, who we are charging with responsibilities of enforcing our sanitary and building codes, are we going to give them the tools to enforce the codes by carrying out inspections or are we going to say to them—“I want you to inspect the buildings, but if somebody says no you will just have to pass over that”? Because as I understand it at the present time if there is a refusal, unless there is grounds to believe that an offense has been committed then there would be no authority to inspect, and this legislation would grant the courts the authority to establish such procedures.

So I hope that you will vote against the motion to accept the “Ought not to pass” Report.

The SPEAKER: The Chair recognizes the gentleman from Auburn, Mr. Emery.

Mr. EMERY: Mr. Speaker and Ladies and Gentlemen of the House: I support the motion for

indefinite postponement as asked for by the gentleman from Cape Elizabeth. This document would authorize under certain rules the issuance of search warrants to administrative agencies. Under our present law today, the only way that a search warrant will be issued by a court is if a crime has been committed.

This would expand the fourth amendment safeguard as to the need for search warrants to our various state and local administrative agencies. This document is very broad. It would in effect, permit the Health and Welfare Department, the Fish and Game Department, the Liquor Commission and any one of the many state agencies that we now have, to apply for a search or inspection warrant in either the District or Superior Court to search homes, places of business, and all other buildings to seek evidence of violations of our administrative code or departmental regulations.

I think that before we embark on such a dangerous course, it is important to remember why traditionally and historically under our Constitution we have required that a search warrant be issued. We all recognize the sanctity of our homes, and the need to have an impartial magistrate determine whether or not a search warrant should be issued before our privacy is invaded.

I question and I doubt very much that there is a need for such legislation. I am concerned because the questionable benefits that might accrue from this do not outweigh the potential abuse by administrative agencies. I question whether it is necessary to give the Commissioner of Health and Welfare, or the Fish and Game Commissioner, or any of these other commissioners, or as the case will be, and the practice will certainly be, their agents or employees the right to request an inspection warrant to find evidence or material indicating a violation of some ruling.

I have discussed this matter with many, many people, and no one has suggested or presented to me a valid argument why there must be such a radical departure

from our existing practices. I don't know of any case where the peace, health, and the safety of the State have been jeopardized because State employees, as it were, did not have the authority or the right to find evidence. It has been suggested that in certain municipalities, building inspectors and fire inspectors are not permitted to enter a home, and that they need this legislation in order to gain entrance to a particular building. At the committee hearing on this bill there were fire inspectors testifying that they had never had refusal or entrance denied to them.

The very broad language of this bill and amendment would permit any state agency or municipal agency to request of a District Court Judge or a Superior Court Judge to issue an inspection or search warrant for any number of reasons. The abuse or potential abuse here is too great to enact such a broad law.

I would ask the members of the House to support the indefinite postponement of this bill.

The SPEAKER: The pending question is on the motion of the gentleman from Cape Elizabeth, Mr. Hewes, that the House accept the Majority "Ought not to pass" Report.

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

Mr. HEWES: Mr. Speaker and Members of the House: A bill similar to this one was here last year and we defeated that. I felt then there was no need for this bill and I feel that way now.

Only one community in the entire state, according to a representative of the Maine Municipal Association at the hearing last year, only one community has been bothered with this problem and I urge you to support the "Ought not to pass" Report. I thank you.

The SPEAKER: The Chair recognizes the gentleman from Norway, Mr. Henley.

Mr. HENLEY: Mr. Speaker and Members of the House: I feel as a signer of the Majority Report "Ought not to pass" I would like to comment briefly on it. I think that one of our criterions that we should use in any new law on the

books is — is it necessary? I think that a good many times you will find when you see a Majority "Ought not to pass" out of committee it will be a bill which the committee has decided unanimously that it is unnecessary. Other times it is because the bill is impractical and will not work.

I think that the majority of us in considering this bill, listening to the testimony in committee, felt that in actuality the bill was really unnecessary. I think that there is something we are losing sight of, and I have mentioned it before. We are trying to do everything in human associations by law and a good many times it has been found that regardless of laws you have got to use a little common sense.

I think that you will find in the past that a good many inspectors, people connected with welfare, fire inspectors, electrical inspectors, and so on, if they will use a little bit of personality, a little bit of salesmanship, as they are supposed to be paid to do, will have very little difficulty in entering premises. I think you will find that if you took a survey that it is very rare when there are any great problems in inspecting in an emergency and so on.

It does seem to us, the majority, again, that this bill is pretty broad, yet again it is another step towards that same thing that we are opposing in this social revolution you might say which is taking place in the cry from here and there across the country — police state, police state. And it is another step. It will be as some of my constituents have said, another law saying that people can come in my home whenever they see fit. All they have got to do is go and give an excuse and get a warrant.

So I think until this has become more of a necessity, that we should go along with the majority report and accept the "Ought not to pass" on this bill.

The SPEAKER: The Chair recognizes the gentleman from Brunswick, Mr. McTeague.

Mr. McTEAGUE: Mr. Speaker and Members of the House: I would join Representative Lund in

asking you to please look at the bill and in looking at it you will see that the bill does not constitute any direct legislation itself; rather it constitutes a grant of authority for our Supreme Judicial Court to promulgate certain rules. The reason the need for this bill came about was that prior to 1967 the Supreme Court had held that these administrative type of inspections, whether they were housing inspections or health and welfare inspections or whatever, were not searches within the meaning of the Fourth Amendment to the Constitution and therefore did not require the issuance of a search warrant.

In 1967 in two cases, one involving Seattle and one involving I believe San Francisco, the Supreme Court reversed itself and held — and I think properly so — property owners were entitled to the protection of a judicial warrant before their home was inspected without their consent.

I feel this has placed us in a rather unhappy position of having laws on the books which can't be enforced or which can't be enforced at least without the cooperation in some cases of potential violators. I don't think this helps the attitude of respect for the law, and I think the sanctity of the law and respect for the law is something we should encourage.

I want to make this point, though, very fundamentally. We have strong in our history and from the time of our own Revolution the idea that no officer of the state or town should be able, and based on his own whim, to enter another man's property. As Representative Emery has mentioned, we have the idea that an impartial magistrate and an impartial judge should screen and review the request of the officials to enter the premises under the standard of reasonableness before authority is granted to enter the premises.

We are not talking about the whim of the inspector, we are talking about the opposite of that. We are talking about an obligation by the inspector to prove to an impartial judge that there is a need and that it is reasonable

to enter before there is entrance. I think that it would be rather anomalous for this legislature, considering our state laws in the area of health and welfare and in the area of environmental protection, and the laws of our municipality in the areas of health and welfare and housing, to pass these laws and to allow our towns to pass these laws, and then to deprive them an enforcement tool.

To me, Mr. Speaker, this is one of the many law and order issues which will come before the legislature and if we want our law to be rational and consistent and in conformity with the Bill of Rights I feel that we should vote for this. Remember there will be the protection of an impartial magistrate between the officer requesting the warrant and the citizen and I think our experience here in Maine with our courts, in the Supreme Judicial Court, through the Superior or the District Court, indicates that our courts are cautious and very reasonable before they issue a warrant.

I have confidence in our courts, Mr. Speaker, and for this reason I hope that the House will vote to accept the "Ought to pass" Report and vote in rejection of the motion now on the floor.

The SPEAKER: The Chair recognizes the gentleman from Auburn, Mr. Emery.

Mr. EMERY: Mr. Speaker and Members of the House: First of all I want you to remember that this is an attorney's bill. Remember police power is a heady thing. I say this has been used indiscriminately in the past. Building and housing inspectors are no exception. Privacy of the home is one of the reasons why myself and many others were overseas in World War II and Korea and now in Vietnam.

This bill is a bad bill; it is full of peril. It is against the Fourth Amendment and we have lived in this state with the Fourth Amendment and in the country for 151 years. I move the indefinite postponement of this bill and all its accompanying papers, and when the vote is taken I ask for the yeas and nays.

The SPEAKER: The pending question now is on the motion of

the gentleman from Auburn, Mr. Emery, that both Reports and Bill be indefinitely postponed.

The Chair recognizes the gentleman from Brunswick, Mr. McTeague.

Mr. McTEAGUE: Mr. Speaker and Members of the House: The recent speaker has engaged in great rhetoric but I fail to be convinced by his logic, because I think it isn't there. First of all, on the subject of an attorney's bill, anyone who would be so foolish in this House with a membership of somewhere five, six, seven attorneys, to think that the attorneys could pass a bill that would be helpful to them is really being very foolish and just can't count. 140 to 10, aren't very good odds.

I am a lawyer and I am also a landlord. I don't think that this is a landlord's bill or a lawyer's bill. I think this is a law enforcement bill. For the information of the gentleman from Auburn, I have never handled a case under health and welfare, sanitation, or the housing laws.

Let us talk about the Fourth Amendment. Mr. Emery suggests that this is contrary to the Fourth Amendment. It is interesting to me that that is his opinion; however, the opinions of the United States Supreme Court, and I have the cases here if anyone wishes to read them, are to the contrary. When there is a dispute on Constitutional law I am more likely to go along with the United States Supreme Court than I am the gentleman from Auburn.

I know that you will vote on this bill on the basis of logic, not rhetoric. But don't let anyone tell you that this is contrary to the United States Constitution. The Supreme Court of the United States has said it isn't. And don't let anyone tell you that our Supreme Judicial Court in Maine would promulgate a rule that is contrary to the Constitution, because those six men are of a higher character than that.

The SPEAKER: The pending question is on the motion of the gentleman from Auburn, Mr. Emery that both Reports and Bill "An Act to Authorize Issuance of Warrants for Administrative Searches,"

House Paper 744, L. D. 1006, be indefinitely postponed.

The yeas and nays have 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 members 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 Auburn, Mr. Emery that both Reports and Bill be indefinitely postponed. If you are in favor of that motion you will vote yes; if you are opposed you will vote no.

#### ROLL CALL

YEA — Albert, Bailey, Barnes, Berry, P. P.; Berube, Binnette, Bither, Brawn, Call, Carey, Carrier, Conley, Cote, Cottrell, Crosby, Curran, Curtis, A. P.; Cyr, Donaghy, Doyle, Dudley, Dyar, Emery, D. F.; Emery, E. M.; Evans, Faucher, Fecteau, Finemore, Gauthier, Hancock, Hardy, Henley, Herrick, Hewes, Jalbert, Jutras, Kelleher, Lebel, Lee, Lessard, Lewin, Lincoln, Lizotte, Lucas, MacLeod, Manchester, Marstaller, McCormick, McNally, Mills, O'Brien, Page, Porter, Pratt, Rand, Rollins, Sheltra, Shute, Simpson, L. E.; Tanguay, Theriault, Trask, Tynedale, Webber, Wheeler, Wight, Williams.

NAY — Ault, Baker, Bartlett, Bedard, Bernier, Berry, G. W.; Birt Boudreau, Bourgoin, Bragdon, Brown Bunker, Carter, Churchill, Clark, Clemente, Cummings, Curtis, T. S., Jr.; Dam, Drigotas, Farington, Fraser, Gagon, Genest, Gill, Good, Goodwin, Hall, Haskell, Hawkens, Hayes, Hodgdon, Immonen, Kelley, K. F.; Kelley, P. S.; Keyte, Lawry, Lewis, Littlefield, Lund, Lynch, Maddox, Marsh, Martin, McCloskey, McKinnon, McTeague, Millett, Morrell, Mosher, Murray, Norris, Orestis, Parks, Payson, Ross, Scott, Shaw, Simpson, T. R.; Slane, Smith, E. H.; Stillings, Susi, Vincent, White, Whitson, Wood, M. W.; Wood, M. E.; Woodbury.

ABSENT — Bustin, Collins, Cooney, Dow, Hanson, Kelley, R. P.; Kilroy, Mahany, Pontbriand, Rocheleau, Santoro, Silverman, Smith, D. M.; Starbird.

Yes, 67; No, 69; Absent, 14.

The SPEAKER: Sixty-seven having voted in the affirmative, sixty-nine in the negative, with fourteen being absent, the motion does not prevail.

Thereupon, the Minority "Ought to pass" Report was accepted and the Bill was read twice.

Committee Amendment "A" (H-154) was read by the Clerk and adopted and the Bill assigned for third reading tomorrow.

#### Order Out of Order

Mr. Gill of South Portland presented the following Order and moved its passage:

ORDERED, that Kevin Kennedy and Frank West of Milbridge be appointed to serve as Honorary Pages for today.

The Order was received out of order by unanimous consent, read and passed.

#### Divided Report

Majority Report of the Committee on State Government reporting "Ought not to pass" on Resolution Proposing an Amendment to the Constitution Repealing the Provisions Which Establish the Treasurer of State As a Constitutional Officer (H. P. 437) (L. D. 572)

Report was signed by the following members:

Messrs. JOHNSON of Somerset  
WYMAN of Washington  
— of the Senate.  
Messrs. HODGDON of Kittery  
CURTIS of Orono  
MARSTALLER  
— of Freeport  
DONAGHY of Lubec  
STILLINGS of Berwick  
— of the House.

Minority Report of same Committee reporting "Ought to pass" on same Resolution.

Report was signed by the following members:

Mr. CLIFFORD  
— of Androscoggin  
— of the Senate.  
Mrs. GOODWIN of Bath



Messrs. FARRINGTON  
of Old Orchard Beach  
COONEY of Webster  
STARBIRD  
of Kingman Township  
— of the House.

Reports were read.

The SPEAKER: The Chair recognizes the gentleman from Lubec, Mr. Donaghy.

Mr. DONAGHY: Mr. Speaker, I move acceptance of the Majority "Ought not to pass" Report.

The SPEAKER: The gentleman from Lubec, Mr. Donaghy moves the House accept the Majority "Ought not to pass" Report.

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

Mr. MURRAY: Mr. Speaker and Ladies and Gentlemen of the House: I rise this morning to oppose the motion of the gentleman from Lubec, Mr. Donaghy. This bill was proposed in the 104th session of the Legislature and passed both bodies by the necessary two-thirds majority, because it is a Constitutional amendment; and then it died when it was reconsidered in the other body.

This year, with the spirit of reform seemingly very high, I am optimistic that it will succeed. It is time we start looking at some of the things that we have created in the past and analyze their present usefulness and their effectiveness, and decide if they are still really needed.

As I see it the Office of State Treasurer is simply a bookkeeping department which should be incorporated into the Department of Accounts and Control. In introducing this bill I hope to help in some small way to build economy into state government. I firmly believe that it can be effected without impairing the operation of state government in the least.

Through the years we have been willing to create new departments, programs, hire new state employees, issue bonds, build new buildings, and generally allow the programs to grow beyond our citizens' ability to pay. However, seldom if ever have we been willing to abolish or substantially change any of these programs or departments.

We have a good government with a strong foundation based on the principles we expound. But the house we have built on this foundation, namely our present government, I sometimes worry about. It is very much weaker than its foundation, and certain parts should be torn down completely.

I strongly feel that the Office of State Treasurer is one of these parts. We have within the present system the facilities and the talents to do whatever work this department does that must be continued. I urge the members of this House to look favorably on the bill keeping in mind the best interest of the citizens of this state. Thank you.

The SPEAKER: The Chair recognizes the gentleman from Lubec, Mr. Donaghy.

Mr. DONAGHY: Mr. Speaker and Members of the House: I am sorry to have to differ with the young man from Bangor. This has been studied at some length, and we find that a man who earns \$11,000 in the past biennium has earned over \$5 million for the State of Maine. Now this is not the kind of man we want to do away with.

It may be, looking at the division on the ballot, I can see perhaps why we want to get it into Accounts and Controls which comes under the Governor's office. This means that the money that comes in would be handled by the Governor's office, and the money that goes out would be handled by the Governor's office, with no checks nor controls.

There are very definite items of business that have to go through the Treasurer's office. If it doesn't it will have to go through someone else's office. And I think the Treasurer is the man to do it.

The SPEAKER: The Chair recognizes the gentleman from Eagle Lake, Mr. Martin.

Mr. MARTIN: Mr. Speaker and Ladies and Gentlemen of the House: I am indeed surprised to hear the gentleman say that someone is playing politics with this bill. I think that the gentleman knows full well where it has been, where it is going to go. But we

ought to remember a few things about this bill, and perhaps also about the office, when we are on that particular subject.

Previous to 1965, of course, the only Democrat that had ever been Treasurer of this state was back about 1912. And I would point out to the gentleman that we didn't have much control where the funds were going. As I well recall there was very little money that was being invested under the Republican Treasurer.

I can also recall, as my facts come back to me, a Republican State Committee Treasurer that was also the Treasurer of the State of Maine. And I am not implying that any monies from the State Republican Committee went to the State of Maine or vice versa. I can also recall that there was very little money that was invested for any worthwhile purpose under the so-called Republican Treasurer, and I would point that out to the gentleman.

So I would think that in 1965 when we assumed the Office of State Treasurer, we at that time made what we thought was a worthwhile approach, that it ought to be not an elected office by the legislature, it ought to be one step away so that politics did not enter into it. And as I recall the Democrats went along with that idea and the Republicans did not. I don't think that things are going to change much today.

As I recall we had a Democratic Treasurer who invested a great deal of money and for the first time made use of idle state monies. And I don't have the figures in front of me, but we made some pretty good money investments, and the State of Maine came out ahead in that deal.

Then two years later, of course, the Democrats lost control of the legislature and so they lost control of that particular office. Now our thinking did not change at all. Our thinking before 1965 was that the Treasurer ought to be chosen in another fashion than it is now. Our feelings remained the same in 1965 when we took over, and in 1967 even when the other party

took over, our feelings didn't change any.

I am not saying today that we are attempting to abolish the Office of Treasurer per se, that we are trying to do with that particular job per se. We ought to remember that the Treasurer of the State will continue whether he is in effect an elected official by this legislature or a constitutional officer. It can be done better somewhere else, and I think that for those of you who care to recall something relatively recent, especially to the Majority Party, I heard criticisms about the particular office, and I would think that you might like to keep that in mind. I am not saying that the Democrats made any criticisms. I would hope also that we would do away with the particular office, and perhaps take one step in the right direction.

As you well recall, and it was pointed out by the gentleman from Bangor, Mr. Murray, the last Legislature passed this by a two-thirds vote in both houses, and lo and behold someone had second thoughts. And the night after there was a reconsideration motion made in the other body. And as you well remember, it was reconsidered and then it was simply killed very neatly, very nicely and effectively.

I would hope that this morning we could take that first step forward and that perhaps there would be no motion made to reconsider. And I know that the gentleman from East Millinocket, Mr. Birt, is about ready to stand up and say this is in error. I would point out to him before he does arise that I am sure that he knows that I am right. And so I would hope that you would defeat the motion to accept the Majority Report. And when the vote is taken I ask that it be taken by the yeas and nays.

The SPEAKER: The Chair recognizes the gentleman from Bath, Mr. Ross.

Mr. ROSS: Mr. Speaker and Ladies and Gentlemen of the House: Since we are harkening back to what some call the good old days, during the 102nd, as you were

told, the Democrats controlled the legislature. I happened to be one of the few Republicans here at that time.

A gentleman by the name of Mr. Eben Elwell was elected Treasurer. He received more publicity in this office than even the Governor that year. So I didn't know until then how valuable and important this job really was. And so I certainly feel the same way today, and I move indefinite postponement of this Resolve and all accompanying papers.

The SPEAKER: The gentleman from Bath, Mr. Ross, now moves the indefinite postponement of the Resolve and all accompanying papers.

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

Mr. BIRT: Mr. Speaker and Ladies and Gentlemen of the House: I wouldn't want to disappoint the gentleman from Eagle Lake, that he might be able to hear at least a couple of thoughts that are going on in my mind.

As I remember what happened two years ago — and I think I recall it quite well — that after it was first given consideration, passage, and then at the time it was reconsidered, that they looked into this and found that actually the saving to the state would not be any money at all; that the office would have to be filled in another manner, and the staff in the office would also have to be maintained because of the work that is involved.

Now I would like to remind the gentleman one other point. He commented about what was done in 1965. But he should remember that the legislature that went out in 1963, the 101st Legislature, did leave a very nice surplus; probably the largest surplus that has even been left in the history of this state, with the exception of the one at the present time. So the Treasurer at that time had plenty of money to play with, and of course he did play with it and he did a good job.

But he also was a very effective salesman to letting everybody in the state know how much he was

doing. This had been done for years; the money available in the state had always been invested. And there had always been an account, as I remember it, in the balance sheet that comes out monthly as to the earnings of the state. But the Treasurer at that time made sure that every month it was in the papers as to how much he had made. But he had \$18 million to play with, and this was more money than any other Treasurer had ever had.

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

Mr. JALBERT: Mr. Speaker and Members of the House: I would like to join my colleague and leader, the gentleman from Eagle Lake, Mr. Martin. I will join him, however, with the comments that as far as I am concerned, when it comes to appropriations measures and when it comes to other matters that come before this body I get up and plead and beg and everything that goes with it. In this particular instance here, there is no pleading, there is no begging with me. You have the numbers, have fun, they may change.

The SPEAKER: The yeas and nays have been requested. For the Chair to order a roll call vote it must have the expressed desire of one fifth of the members present and voting. All members 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 Bath, Mr. Ross, that both Reports and Resolution Proposing an Amendment to the Constitution Repealing the Provisions Which Establish the Treasurer of State As a Constitutional Officer, House Paper 437, L. D. 572, be indefinitely postponed. All those in favor of indefinite postponement will vote yes; those opposed will vote no.

#### ROLL CALL

YEA — Ault, Bailey, Baker, Barnes, Bartlett, Berry, G. W.;

Birt, Bither, Bragdon, Brawn, Brown, Bunker, Call, Churchill, Clark, Collins, Crosby, Cummings, Curtis, A. P.; Curtis, T. S. Jr.; Donaghy, Dyar, Emery, D. F.; Evans, Finemore, Gagnon, Gill, Good, Hall, Hardy, Haskell, Hawkens, Hayes, Henley, Herrick, Hodgdon, Immonen, Kelley, K. F.; Lee, Lewin, Lewis, Lincoln, Littlefield, Lund, MacLeod, Maddox, Marstaller, McCormick, McNally, Millett, Norris, Page, Parks, Payson, Porter, Pratt, Rand, Rollins, Ross, Scott, Shaw, Shute, Simpson, L. E.; Simpson, T. R.; Stillings, Susi, Trask, Tyndale, White, Williams, Wood, M. W.; Wood, M. E.; Woodbury.

NAY — Albert, Bedard, Bernier, Berry, P. P.; Berube, Binnette, Boudreau, Bustin, Carey, Carrier, Carter, Clemente, Conley, Cote, Cottrell, Curran, Cyr, Dam, Doyle, Drigotas, Dudley, Farrington, Faucher, Fecteau, Fraser, Gauthier, Goodwin, Hancock, Hewes, Jalbert, Jutras, Kelleher, Kelley, P. S.; Keyte, Lawry, Lebel, Lessard, Lizotte, Lucas, Lynch, Manchester, Marsh, Martin, McCloskey, McKinnon, McTeague, Mills, Morrell, Murray, O'Brien, Orestis, Sheltra, Slane, Smith, E. H.; Tanguay, Theriault, Vincent, Webber, Wheeler, Whitson.

ABSENT — Bourgoin, Cooney, Dow, Emery, E. M.; Genest, Hanson, Kelley, R. P.; Kilroy, Mahany, Mosher, Pontbriand, Rocheleau, Santoro, Silverman, Smith, D. M.; Starbird, Wight.

Yes, 73; No, 60; Absent, 17.

The SPEAKER: Seventy - three having voted in the affirmative, sixty in the negative, with seventeen being absent, the motion does prevail. It will be sent up for concurrence.

#### Divided Report

Majority Report of the Committee on State Government reporting "Ought not to pass" on Resolution Proposing an Amendment to the Constitution Providing for the Election of the Attorney General by the Electors (H. P. 545) (L. D. 717)

Report was signed by the following members:

Messrs. WYMAN of Washington  
JOHNSON of Somerset  
CLIFFORD

of Androscoggin  
—of the Senate.

Messrs. DONAGHY of Lubec  
HODGDON of Kittery  
COONEY of Webster  
FARRINGTON

of Old Orchard Beach  
—of the House

Minority Report of same Committee reporting "Ought to pass" on same Resolution.

Report was signed by the following members:

Messrs. MARSTALLER

of Freeport

CURTIS of Orono

STARBIRD

of Kingman Township

STILLINGS of Berwick

Mrs. GOODWIN of Bath

—of the House.

Reports were read.

The SPEAKER: The Chair recognizes the gentleman from Lubec, Mr. Donaghy.

Mr. DONAGHY: Mr. Speaker, I move the Majority "Ought not to pass" Report be accepted.

Whereupon, Mr. Bartlett of South Berwick requested a roll call.

The SPEAKER: The yeas and nays have 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 members desiring a roll call 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 Eagle Lake, Mr. Martin.

Mr. MARTIN: Mr. Speaker, Ladies and Gentlemen of the House: It seems that these issues are going to come fast and furious for time immemorial. I would simply ask you to vote against this bill and vote for the motion to accept the Majority Report. I am sure that at that point the Chairman of the State Government Committee is probably saying, what have I done wrong? I think he has done it right, and I would hope that the members of this House would go

along with him and vote against the bill and move for the acceptance of the Majority Report.

The SPEAKER: The pending question is on the motion of the gentleman from Lubec, Mr. Donaghy, that the House accept the Majority "Ought not to pass" Report. (H. in favor will vote yes; those opposed will vote no.)

#### ROLL CALL

YEA — Albert, Ault, Baker, Barnes, Bedard, Bernier, Berry, G. W.; Berry, P. P.; Bither, Bourgoin, Bragdon, Brawn, Brown, Bustin, Call, Carey, Carrier, Churchill, Clark, Clemente, Collins, Conley, Cote, Cottrell, Crosby, Curtis, A. P.; Cyr, Dam, Donaghy, Doyle, Drigotas, Dudley, Dyar, Emery, D. F.; Evans, Faucher, Fecteau, Finemore, Gagnon, Gauthier, Genest, Gill, Good, Hall, Hancock, Hardy, Haskell, Hawkens, Hayes, Henley, Herrick, Hewes, Hodgdon, Immonen, Jalbert, Kelleher, Kelley, K. F.; Kelley, P. S.; Lawry, Lebel, Lee, Lessard, Lewin, Lewis, Lincoln, Littlefield, Lizotte, Lucas, Lund, Lynch, MacLeod, Maddox, Manchester, Marsh, Martin, McCloskey, McCormick, McKinnon, McNally, McTeague, Millett, Mills, Morrell, Murray, Norris, O'Brien, Orestis, Page, Parks, Payson, Porter, Pratt, Rand, Rollins, Ross, Scott, Shaw, Shute, Simpson, L. E.; Simpson, T. R.; Slane, Smith, E. H.; Susi, Tanguay, Trask, Weber, Wheeler, White, Whitson, Williams, Wood, M. W.; Wood, M. E.; Woodbury.

NAY — Bailey, Bartlett, Berube, Binnette, Birt, Boudreau, Carter, Cummings, Curran, Curtis, T. S. Jr.; Emery, E. M.; Fraser, Goodwin, Keyte, Marstaller, Sheltra, Stillings, Theriault, Tyndale, Vincent.

ABSENT—Bunker, Cooney, Dow, Farrington, Hanson, Jutras, Kelley, R. P.; Kilroy, Mahany, Mosher, Pontbriand, Rocheleau, Santoro, Silverman, Smith, D. M.; Starbird, Wight.

Yes, 113; No, 20; Absent, 17.

The SPEAKER: One hundred and thirteen having voted in the affirmative and twenty in the negative, with seventeen being absent, the motion does prevail.

Sent up for concurrence.

#### Divided Report

Majority Report of the Committee on State Government reporting "Ought to be Adopted" on Joint Resolution Memorializing Congress to Lower the Retirement Age Under Social Security from 65 to 62 Years (H. P. 1002) (L. D. 1364)

Report was signed by the following members:

Mr. JOHNSON of Somerset  
— of the Senate.  
Messrs. STILLINGS of Berwick  
STARBIRD  
of Kingman Township  
Mrs. GOODWIN of Bath  
Messrs. FARRINGTON  
of Old Orchard Beach  
COONEY of Webster  
HODGDON of Kittery  
CURTIS of Orono

— of the House.  
Minority Report of same Committee reporting "Ought not to be Adopted" on same Joint Resolution.

Report was signed by the following members:

Messrs. CLIFFORD  
of Androscoggin  
WYMAN of Washington  
— of the Senate.  
Messrs. DONAGHY of Lubec  
MARSTALLER  
of Freeport  
— of the House.

Reports were read.

The SPEAKER: The Chair recognizes the gentleman from Lubec, Mr. Donaghy.

Mr. DONAGHY: Mr. Speaker and Members of the House: I would move the Minority "Ought not to be Adopted" Report and would speak briefly to my motion.

The SPEAKER: The gentleman from Lubec, Mr. Donaghy, moves the acceptance of the Minority "Ought not to be Adopted" Report.

The gentleman may proceed.

Mr. DONAGHY: Mr. Speaker and Members of the House: It is not politically popular to be against motherhood, the elderly, and so forth. I want to say that I am not against the elderly or against motherhood. The reason I have moved against the adoption of this resolution is that the trends are in the opposite direction. We are finding on a nation-wide basis that there is a need for employment for older people. It has been found

that when they have nothing to do at 65 that their longevity is shortened. It also was found that most of them have been unable to lay enough away to supplement social security so that they can live a comfortable old age with just social security.

If we were to start social security at age 62 for regular retirement, we do have it now for disabled far before 62 as far as that goes, and it just seems that we are going in the wrong direction if we even think of this. So I would ask you to go along with me in accepting the Minority Report.

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

Mr. ROLLINS: Mr. Speaker and Members of the House: I believe that all of you in this House know of people in your own area who are still holding down jobs that are too hard for them, solely because they feel that financially they cannot retire until they receive full pension at 65. If the age could be dropped, it would be of great benefit to these people who would be able to retire and perhaps enjoy the last few years of their lives.

The opponents will tell you that the cost of this bill is too high. But I say that when the health and happiness of our older citizens is in the balance, the cost is never too high. I believe that very often in these United States money is spent which will do us far less good than money spent on this resolve.

I did get one of my rare press releases on this bill in the Lewiston Sun. I received many comments from my co-workers in the Oxford Mill, all favorable, even from the younger people who felt that it would open up many jobs and relieve part of our unemployment. And I would ask for a roll call.

The SPEAKER: The yeas and nays have 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 members desiring a roll call 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 Lubec, Mr. Donaghy, that the House accept the Minority "Ought not to be Adopted" Report. If you are in favor of this motion you will vote yes; if you are opposed you will vote no.

#### ROLL CALL

YEAS — Ault, Baker, Bartlett, Bragdon, Crosby, Curtis, A. P.; Cyr, Donaghy, Hall, Hardy, Haskell, Hawkens, Hayes, Henley, Kelley, K. F.; Lawry, Lee, Lincoln, MacLeod, Maddox, Marsteller, McNally, Payson, Rand, Shaw, White.

NAYS — Albert, Bailey, Barnes, Bedard, Bernier, Berry, G. W.; Berry, P. P.; Berube, Binnette, Birt, Bither, Boudreau, Bourgoin, Brawn, Brown, Bustin, Call, Carey, Carrier, Carter, Churchill, Clark, Clemente, Collins, Conley, Cote, Cottrell, Cummings, Curran, Curtis, T. S., Jr.; Dam, Doyle, Drigotas, Dudley, Dyar, Emery, D. F.; Emery, E. M.; Farrington, Faucher, Fecteau, Finemore, Fraser, Gagnon, Gauthier, Genest, Gill, Good, Goodwin, Hancock, Herrick, Hewes, Hodgdon, Immonen, Jalbert, Jutras, Kelleher, Kelley, P. S.; Keyte, Lebel, Lessard, Lewin, Lewis, Littlefield, Lizotte, Lucas, Lund, Lynch, Mahany, Manchester, Marsh, Martin, McCloskey, McCormick, McKinnon, McTeague, Millett, Mills, Morrell, Mosher, Murray, Norris, O'Brien, Orestis, Page, Parks, Porter, Pratt, Rollins, Ross, Scott, Sheltra, Shute, Simpson, L. E.; Simpson, T. R.; Slane, Smith, E. H.; Stillings, Susi, Tanguay, Theriault, Trask, Tyndale, Vincent, Webber, Wheeler, Whitson, Wight, Williams, Wood, M. W.; Wood, M. E.; Woodbury.

ABSENT—Bunker, Cooney, Dow, Evans, Hanson, Kelley, R. P.; Kilroy, Pontbriand, Rocheleau, Santoro, Silverman, Smith, D. M.; Starbird.

Yes, 26; No, 111; Absent, 13.

The SPEAKER: Twenty-six having voted in the affirmative and one hundred eleven in the negative, with thirteen being absent, the motion does not prevail.

Thereupon, the Majority "Ought to be Adopted" Report was accepted, the Joint Resolution adopted, and sent up for concurrence.

#### Passed to Be Engrossed

Bill "An Act to Appropriate Moneys for the Expenditures of State Government and for Other Purposes for the Fiscal Years Ending June 30, 1972 and June 30, 1973" (S. P. 533) (L. D. 1577)

Was reported by the Committee on Bills in the Third Reading and read the third time.

Mr. Wood of Brooks offered House Amendment "B" and moved its adoption.

House Amendment "B" (H-155) was read by the Clerk.

The SPEAKER: The gentleman may proceed.

Mr. WOOD: Mr. Speaker, Ladies and Gentlemen of the House: I have put in the past several days studying the increases in the cost of education and the impact of these costs on the property tax. I find that over the past several years the increase in cost to the school districts has been between 12½ and 15 percent each year. This increase, as you all know, falls the heaviest upon the property taxpayer.

I find that in legislative document 1577 no provision has been made over 1972 and '73 to take care of these increased costs. Without it the burden would fall squarely upon the shoulders of the people that are now overburdened the highest of any taxpayer in this state, that is the old people, the retired people, the young married people that are working for daily wages and trying to own a home, and I believe that they have reached the end of their rope. I think the time has come when this burden must be changed. And the only way we can change it is to have the courage to bring them relief and put this upon the people that can more afford to pay this bill.

We talk at election time about relief for the elderly, property tax relief, and something must be done for the property tax on all the people in the State of Maine, but when we get here we do prac-

tically nothing. I think the time has come for a change.

In the years 1972 and '73, without a further increase in the school subsidy, between six and seven million dollars will fall squarely upon the property tax. I don't believe these people can pay it. They have rebelled this year and last year because they are overburdened with taxes, and I think there will be a higher rebellion next year and in future years.

I urge you people that represent school districts, even small single community districts, that we take action now and pass this increase for school subsidy and do what we can to relieve this burden to the people that are already overburdened with taxes.

The SPEAKER: The Chair recognizes the gentleman from Perham, Mr. Bragdon.

Mr. BRAGDON: Mr. Speaker and Members of the House: I will have to oppose the amendment of the gentleman from Brooks, Mr. Wood. There is one thing that the Appropriations Committee has pretty much insisted on during all of their consideration of this legislative document, and that was the fact that it be completely financed out of existing revenue. We felt that this was very necessary because of the doubtful area—we get into the doubtful area if we offer amendments to this bill where it will require new taxes to finance it. For this reason, I would oppose this amendment.

Before I sit down, I have a statement with regard to this L. D. 1577, which is a redraft of L. D. 230, or the Governor's Part I or Current Services Budget.

"The Appropriations Committee has been reviewing L. D. 230 with the various departments of state government since it came before us early in the session. We have made additions and we have made deductions. We made additions because we found many areas where, in the opinion of the committee, adequate financing had not been provided in the original document. We made deductions partly because L. D. 230, in its original form, used up nearly all of the estimated revenue from existing tax sources for the following bi-

ennium, said estimated revenue being \$371,971,305. The committee started out with the assumption that this Current Services Budget must stay within that figure, namely existing tax revenues. The result of our efforts was that we arrived with an appropriation of \$371,509,610, for the biennium, leaving a revenue balance of \$461,695.

Now what happened? When this document hit the Senate floor, strenuous objections were heard from the front office regarding certain changes which the committee had made. The committee report was unanimous, and there was only \$461,695 left to make adjustments and stay within existing revenues. Leadership was consulted and a decision was reached. That we would resist amendments to this document but would come out with another bill, an amended L. D. 267, which is an act to appropriate moneys for capital improvements, construction, repairs, equipment, supplies and furnishings for the fiscal years ending June 30, 1972 and June 30, 1973.

This document is mainly financed out of surplus, but we agreed to add a clause at the end to meet, in part at least, the objections of the Governor, and in so doing we would use the balance of existing revenue to finance continuing services which were requested.

I point out these matters to attempt to make it clear to anyone who wishes to amend these documents. If they wish to make additions, they must do as the committee has done and make a corresponding deduction elsewhere." I don't believe that the gentleman from Brooks would be able to do this.

"I feel sure we will attempt to insist that these two documents will continue to be financed within the realm of existing revenues."

For that reason, I must move the indefinite postponement of House Amendment "B".

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

Mr. SUSI: Mr. Speaker and Members of the House: I support the indefinite postponement motion on this amendment. I object

to the amendment, not on the basis of its contents or its purpose, but on a procedural basis.

Briefly, our Appropriations Committee, made up of people of extreme experience in the field of state finance, have involved themselves deeply over several weeks with the content of Part I which is before us here this morning. And we are hoping, we, the leadership of the Majority Party and I believe this attitude is shared by the leadership of the Minority Party, too, that Part I can be passed here this morning without opening it up.

The premise is this, that after several weeks of attempting to arrive at a finance package which can be carried by existing revenues, and coming up with this, we feel it would be making a serious mistake to open it up at this time and start amending. We don't know when the amending process would stop.

We will have an opportunity with Part II, or later bills, to alter the amounts of appropriations and of course we will be considering where the money will be coming from to finance all this. But at this time we ask your cooperation in opposing any amendments that might be offered to Part I.

The SPEAKER: The Chair recognizes the gentleman from Eagle Lake, Mr. Martin.

Mr. MARTIN: Mr. Speaker, Ladies and Gentlemen of the House: I think that the gentleman from Brooks, Mr. Wood, knows fully well my feelings on school subsidy. However, this morning I think it is necessary for us to be realistic and to understand full well that this type of an amendment would indeed immediately mean new taxes of one kind or another. It also means that really this is an item that ought to be in the Part II Budget and not in the Part I Budget, when we are talking about increasing school subsidy by this large an amount.

And so I think that, even though reluctantly my personal feelings are with the gentleman, I think it proper practice this morning that we ought to move for the indefinite postponement and I will so vote for that motion.



I think that as time progresses, we must remember that the Part II Budget will come before us, and at that point people who have certain amendments that they want to make, and additions to the expenditures of state government, it would be at that time that they ought to make them.

I also would point out, and keeping in mind that when the Part I Budget came out of the Appropriations Committee, I agree with the gentleman from Perham, Mr. Bragdon, that there were some people who were not happy with it and that some of us worked rather hard to see if we could reach a compromise. And so the compromise that was finally arrived at, which will be in another bill coming before us shortly, is not one that is entirely pleasing to everyone, and certainly not pleasing to the Governor, but it is a compromise, and in the age of politics everyone believes in compromise, at least we hope so.

And so with that in mind, I will vote for the indefinite postponement and I ask the members of this House to go along with that motion.

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

Mr. JALBERT: Mr. Speaker and Members of the House: I would agree with the last three speakers concerning this measure. There was a great deal of feeling concerning the Part I Budget as it had been reported out of committee, or was to be reported out of committee, concerning itself with particularly the language of the University of Maine.

In L. D. 267, which is a bill concerning itself with capitol improvement and construction repairs, you will see, as it was stated, an amendment that will strike out this language. You will also see the monies almost in total other than \$30,000 in the Part I Budget concerning All Other for the Department of Economic Development. The Illustrator, the Economist and the Research, and also the Steno III position will be replaced.

The item concerning itself with Forestry will be — that phase of the program that is in presently the DED, which will now be appropriately so, in my opinion, within the Department of Forestry.

The other areas as covered by other gentlemen are factual. To add to the impetus of the arguments presented, I had asked the House Chairman of the Appropriations Committee and the Senate Chairman of the Appropriations Committee to meet with the members of the Republican Party of the committee and discuss what we could arrive at insofar as compromising is concerned. They met with four of us members of the Democratic Party on the Appropriations Committee and gave us their word which is good enough for me, that their position was that they would reinclude this in L. D. 267.

The amendment, as it was presented, is pleasing to me and has proven to be pleasing to the other members of the Appropriations Committee. And I would join the efforts as made by the gentleman from Brooks, Mr. Wood, that this certainly, if it was to be, would belong, in any event, in Part II, because it means a revenue program.

If the gentleman would have submitted an amendment to the amendment whereas it would indicate how this was to be funded, why it would probably have more consideration. It is my hope that when Part II does appear and it needs more dollars, that there will be tax dollars, tax programs that will join them, or else it would be no go with me.

In the meantime, in the essence of expediting matters, and because the proper amendment by agreement reached by all of the members of the Appropriations Committee and the leadership of both parties, I would hope now that we could go on our way and stop any attempts to amend this bill in the future. And when the vote is taken, I move a division.

The SPEAKER: The Chair recognizes the gentleman from Brooks, Mr. Wood.

Mr. WOOD: Mr. Speaker and Members of the House: I want to say that I have all the respect in the world for the Appropriations Committee. I think they have done a fine job with this budget, but I have been promised so many times since I came here that we would have something in the future that we could depend on to get the things we want for the people. I have heard rumors, quite strong rumors in the last few days that there may not be any supplemental budget. There probably will be, one of some kind.

If I could have assurance that there would be and that we would have a chance then to work for the things that we want, the things that we need, I would feel a whole lot better about it. But I haven't had that assurance and I don't expect there is anything that we can do now with this budget, but I think the people ought to understand that a hold-the-line budget that will burden the property taxpayer with another 15 to 25 percent increase is not a hold-the-line budget.

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

Mr. JALBERT: Mr. Speaker and Members of the House: Because of my past more than friendly association with the gentleman from Brooks, Mr. Wood, I want to make my position, and I am speaking for myself as a lowly member of the Appropriations Committee. As far as I am concerned, any subsequent \$13 million for school subsidies in Part II, Part III, Part IV, or any part, will get my no vote because it means a major tax if we are to entertain other measures that must go in mandatorily in Part II. And I speak now for an item of the property tax for the elderly that I intend to vote for.

The gentleman from Brooks, Mr. Wood, has always been extremely frank with me and I want to be thoroughly frank and honest with him. As far as I am concerned, anything that scales around one item such as this of about fourteen or fifteen million dollars means a major tax, and that means no to me, now or a subse-

quent special session of the Legislature. It means no to me as long as I hold a seat in this 105th Legislature.

The SPEAKER: The Chair recognizes the gentleman from Chelsea, Mr. Shaw.

Mr. SHAW: Mr. Speaker and Members of the House: I would like to tell the House that the Appropriations Committee didn't completely forget education in this bill. We have increased monies for various types of education in excess of \$32.25 million over the last biennium.

One item that I was interested in was the teachers retirement. In the last biennium it was roughly \$14 million. In this appropriation it is \$19,700,000. So I went down to check on why the over 33 percent increase in teachers retirement. I found out in the last biennium that the teachers received a \$1,534 average increase in salary. There has been an increase in teachers of 1.395. Between the increases in salaries, the increased teachers, the state costs of teacher retirements have gone up well over a third.

We don't vote these increases in salary. We don't hire the teachers. It is done on the local level. And if the local level is going broke, that is up to them to bail themselves out as far as I can see.

The SPEAKER: The pending question is on the motion of the gentleman from Perham, Mr. Bragdon, that House Amendment "B" be indefinitely postponed. A vote has been requested. All in favor of indefinite postponement of House Amendment "B" to Bill "An Act to Appropriate Moneys for the Expenditures of State Government and for Other Purposes for the Fiscal Years Ending June 30, 1972 and June 30, 1973," Senate Paper 533, L. D. 1577, will vote yes; those opposed will vote no.

A vote of the House was taken.

120 having voted in the affirmative and 6 having voted in the negative, the motion did prevail.

Thereupon, the Bill was passed to be engrossed and sent to the Senate. (Later Reconsidered)

Bill "An Act to Create the Saco River Environmental Advisory Committee" (S. P. 544) (L. D. 1661)

Bill "An Act to Pay for One Hundred Percent of Health Insurance Plans for State Employees" (H. P. 364) (L. D. 471)

Bill "An Act to Change the Method of Filling Vacancies in Office of Register of Deeds" (H. P. 665) (L. D. 894)

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

### Third Reader Tabled and Assigned

Bill "An Act Requiring Public Hearings by the Park and Recreation Commission Prior to the Exercise of Eminent Domain" (H. P. 825) (L. D. 1115)

Was reported by the Committee on Bill in the Third Reading and read the third time.

(On motion of Mr. Martin of Eagle Lake, tabled pending passage to be engrossed and tomorrow assigned.)

Bill "An Act Providing that House Trailers on Land Owned by the Owner of the Trailer Shall be Taxed as Real Estate" (H. P. 924) (L. D. 1276)

Bill "An Act relating to Clarifying the Sales Tax Law as It Relates to Gratuities and Service Charges in Eating Establishments" (H. P. 1277) (L. D. 1677)

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

### Amended Bills

Bill "An Act Clarifying the Secondary School Tuition Law" (S. P. 276) (L. D. 859)

Was reported by the Committee on Bills in the Third Reading, read the third time, passed to be engrossed as amended by Committee Amendment "A" and sent to the Senate.

Bill "An Act relating to Regulations for Upland Game and Fur-bearing Animals" (H. P. 390) (L. D. 505)

Was reported by the Committee on Bills in the Third Reading and read the third time.

The SPEAKER: The Chair recognizes the gentleman from Oakland, Mr. Brawn.

Mr. BRAWN: Mr. Speaker and Members of the House: I wish to make a motion and speak to my motion. I wish to move for indefinite postponement, and the reason that I am making this motion is in regards to the statement of facts. The statement of facts on this bill says that the purpose of this legislation is to give the Commissioner of Inland Fisheries and Game the authority to regulate the season bag limit of the upland game and the fur-bearing animals. The changes would be made only after and advertising public hearing and public notices of any changes made in the present regulations.

It does not say in this bill that the Commissioner shall abide by their decision, and the reason I say this, this happened just a very short time ago up on Taunton's Strip, a piece of water which has been fought for for three legislatures to open to bait fishing. This was opened to bait fishing, and in the meantime the Commissioner was given the right to make special laws. We had a hearing after the summer people had gone and the campers, but the majority of the people still were against this and the bill did go into effect.

We have also heard from the biologists and the Commissioner in the last two years that if we opened our streams to trout fishing and we did not have any limit and we reduced them—this was passed because the Legislature felt that these men knew what they were doing. They had more knowledge than we.

I fought this in the hearing room, but the streams that I went to before, and I can name them to you, plenty of them, that had three, four, five hundred to a thousand trout in them, and they were one, two, three, up to five or six inches, they went there and they cleaned these fish completely out. Now this was the stock of your ponds and lakes in the future to come.

Now this was done by one man. We also saw the Commissioner and we also saw the biologists who

came before the committee and told them that our deer needed thinning out. They put our season back and gave them a week extra on the front and went up into November on the last. We have lost our deer season. Now I don't want to see this ever happen again. So I am asking you today not to put this power in the hands of one man but to put it into your legislation and keep it there. So I will stand for indefinite postponement of this bill and all of its accompanying papers.

The SPEAKER: The pending question is on the motion of the gentleman from Oakland, Mr. Brawn, that L. D. 505 be indefinitely postponed.

The Chair recognizes the gentleman from Lincoln, Mr. Porter.

Mr. PORTER: Mr. Speaker and Members of the House: I really don't know what this bill is all about when he confuses me by talking about fishing. This is upland game birds and fur bearers, not fishing, fur bearers.

Every session of the legislature we get a number of bills pertaining to the opening and closing or adjusting the seasons for the fur bearers. Ever since I have been here we have had muskrat bills coming out both ears. We have tried to arrange the season for the muskrat and I find that it doesn't work out too well. We have to wait for the next session of the legislature. So it just seems sensible to me to allow the Fish and Game Commissioner to hold hearings and act on those hearings.

We have had bills on sable, fisher, all sorts of fur bearers. The Commissioner already has the authority to control the beavers. We would just like to have him have the authority to control these other fur bearers. And it makes sense to me to have these hearings rather than to come down here, costing \$10,000 a day to keep the session going, and let him have those hearings and then act upon that information. It just makes sense to me. And I hope you will vote not to accept the motion on the floor.

The SPEAKER: The Chair recognizes the gentleman from Bowdoinham, Mr. Curtis.

Mr. CURTIS: Mr. Speaker and Members of the House: I am not

a hunter or a fisherman, but I must say that I do agree with the gentleman from Oakland, Mr. Brawn. I am not in favor of giving more power to the Fish and Game Commissioner.

Now the gentleman from Lincoln is worried about spending \$10,000 a day here to run this Legislature, and wants to designate more authority to the Fish and Game Commissioner. But if we are so anxious to save \$10,000 a day, maybe we should stay to home altogether and let every department run every piece of business for the state.

The SPEAKER: The Chair recognizes the gentleman from Oakland, Mr. Brawn.

Mr. BRAUN: Mr. Speaker and Members of the House: This is going to cost the taxpayer far more money if you have hearings way up at the northern part of the state, hire all these men to go there to these hearings. And when the gentleman said he did not know what the fish had to do, and deer, with this bill, this just goes to show you what will happen if the power is given to all; it was only given to a small portion. Now if he gets it all we won't have any game left. We have lost our deer, we have lost our trout in our streams and I hope he will never be granted this power.

The SPEAKER: The Chair will order a vote. All in favor of indefinite postponement of Bill "An Act relating to Regulations for Upland Game and Fur-bearing Animals," House Paper 390, L. D. 505, will vote yes; those opposed will vote no.

A vote of the House was taken. 39 having voted in the affirmative and 77 having voted in the negative, the motion did not prevail.

Thereupon, the Bill was passed to be engrossed as amended by Committee Amendment "A" and sent to the Senate.

Bill "An Act to Establish a Colt Stake Program for Maine Standard Bred Horses" (H. P. 476) (L. D. 837)

Was reported by the Committee on Bills in the Third Reading, read the third time, passed to be engrossed as amended by Commit-

tee Amendment "A" and sent to the Senate.

**Third Reader  
Tabled and Assigned**

Bill "An Act relating to Conveyance of Secondary Pupils" (H. P. 763) (L. D. 1029)

Was reported by the Committee on Bills in the Third Reading and read the third time.

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

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

Mr. JALBERT: Mr. Speaker and Members of the House: I find this an unusual manner to bring about a vote, because it is the only way that I can address myself to the question. It is my understanding that the gentleman from Augusta, Mr. Lund had an amendment to present wherein it concerned itself with Bill "An Act to Appropriate Moneys for the Expenditures of State Government and for Other Purposes for the Fiscal Years Ending June 30, 1972 and June 30, 1973," Senate Paper 533, L. D. 1577.

Through a misunderstanding apparently he was not aware that the bill would be ruled this morning so that his amendment did not have an opportunity to be presented. And regardless of how one would go with or against the amendment I would urge that someone would make a motion that we reconsider where this bill L. D. 1577 was engrossed and passed, so it will allow him an opportunity to present in fairness his amendment.

The SPEAKER: Does the gentleman so move that we reconsider our action?

Mr. JALBERT: Yes.

The SPEAKER: The Chair understands that the gentleman from Lewiston, Mr. Jalbert, moves that the House reconsider its action whereby L. D. 1577 was passed to be engrossed. Is it the pleasure to reconsider?

(Cries of "No" and "Yes")

The SPEAKER: The Chair recognizes the gentleman from Augusta, Mr. Lund.

Mr. LUND: Mr. Speaker, is the item debatable?

The SPEAKER: A reconsideration motion is debatable, the gentleman may proceed.

Mr. LUND: Mr. Speaker and Ladies and Gentlemen of the House: I hope the Members of the House will forgive this unorthodox procedure. It had been my understanding that this item, item one, An Act to Appropriate Moneys for Expenditures in the Part I budget, was going to be tabled today, and we would have the opportunity in caucus to discuss what the procedure would be that would be followed. I understood that was going to happen, and I was not alert to the issue, and so I apparently fell asleep at the switch and did not have the opportunity to present the amendment which I would now hope to present to you if the motion for reconsideration prevails.

So while the present issue is the motion for reconsideration, which I hope you will support, my purpose in asking you to support the motion for reconsideration is in order for you to consider House Amendment "A" under filing number H-131.

Now House Amendment "A", if we get to consider it, will return to the Part I budget a program which has been in effect for just about one year. And it is a program which is described in the material which I have just asked to be distributed to you. I suppose it might be said that this is a pet project. It was an idea which was presented two sessions ago, which was funded last session.

One of the criticisms that we have of state government is that we are not cost conscious enough; that too many people in state government spend money without consideration as to whether it is being spent in the most effective way, as to whether we are carrying things out as economically as we might be doing. And with a view toward providing one means to correct this, this program was initiated two legislative sessions ago, and was funded last session.

And it was cut out of the budget by the Appropriations Committee, and I would like to tell you very briefly the manner in which it came about.

This board has three members—the Employees Suggestion Award Board—including a Joseph Walsh from Portland, who is employed by the telephone company and who has experience with similar suggestion programs in private industry. Mr. Walsh contributes his efforts free of charge to the state as a member of this board.

On the day of the hearing he called to inquire because of the snow storm that was coming whether he might have a continuance, and have the hearing heard another day. He was told that that wouldn't be necessary, that if there was any problem that he would have an opportunity to make his pitch. And so Mr. Walsh didn't come.

I was not aware of the hearing, and I am operating under what I understand happened. I understand that Mr. Emerson, who is the Executive Director of the program, was there, and was challenged by the committee to justify his own salary. Well perhaps that is a good way to proceed, but it seems to me that question might better be answered by some person other than the man who is receiving the salary. But be that as it may, I think it is fair to say that people who wanted to speak to the Appropriations Committee in behalf of this bill did not have the opportunity to do so. And I suggest no criticism of the Appropriations Committee. I recognize it has a very busy schedule and takes up items of far-reaching importance, and I don't mean to criticize them. But there was something to be said that didn't get a chance to be heard.

As for the program itself, you have before you a brief description of how it has operated this past year. I would be misleading you if I were to suggest that we have saved enough money in this first year to pay for the program. It has only gotten off the ground. But I think it is fair to say that if we project the suggestions which have been received and

which have been adopted over the next year or two that the program will, within that period of time, even if it is terminated now, the program will have paid for itself.

I think there are several beneficial results from the program. The state employees do examine their daily work and do make suggestions, and the suggestions are adopted, and the state does save money in some instances and in some instances carries out its services in a better fashion. And I personally feel this is worthwhile, but I am sure there are people who can differ about it.

People might inquire why it is necessary to have an Executive Director, and I would like to tell you why. It is because if it were not necessary to do some persuading and perhaps a little arm twisting to get these suggestions adopted we wouldn't need to have the program at all. In other words, it is necessary to publicize the program to get the employees, some 6,000 of them, aware of the program; and once the suggestions come in to evaluate them, discuss them with the department people, determine which should be awarded prizes, if there are to be prizes awarded, and then to make sure that the department doesn't ignore the suggestion, but to make sure that it is adopted.

And I think that it may well be that in some instances there has been reluctance or resistance on the part of department people to adopt these suggestions, because after all a suggestion to improve the department carries with it perhaps an implication that somebody else should have thought of it, and it should have been adopted sooner.

I don't want to burden you any longer with it. I hope that you will vote for reconsideration in order that this program which is part of our present ongoing program now, which I feel is properly a part of the Part I Budget. I would hope you would vote in favor of reconsideration in order to continue this program which has proved successful in its first year.

The SPEAKER: The Chair recognizes the gentlemen from Waterville, Mr. Carey.

Mr. CAREY: Mr. Speaker and Ladies and Gentlemen of the House: You have heard both the Majority Leader and the Minority Leader ask you to keep this bill intact. You have heard members of the Appropriations Committee ask you to keep this bill intact. I would certainly hope that you vote against the motion to reconsider.

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

Mr. JALBERT: Mr. Speaker and Members of the House: I find myself in an odd position here. My intent was to help the gentleman from Augusta, Mr. Lund. He himself now has debated the very amendment that had been reproduced, and as a matter of fact if we did vote to reconsider in effect we would almost have to vote to accept the amendment. So that I now will ask you to vote no on my motion to reconsider.

The SPEAKER: All in favor of reconsideration will vote yes; those opposed will vote no.

A vote of the House was taken.

27 having voted in the affirmative and 78 having voted in the negative, the motion to reconsider did not prevail.

Bill "An Act relating to Fees for Recording Marriage Intentions and Issuing License" (H. P. 812) (L. D. 1085)

Was reported by the Committee on Bills in the Third Reading, read the third time, passed to be engrossed as amended by Committee Amendment "A" and sent to the Senate.

### Third Reader

#### Tabled and Assigned

Bill "An Act Authorizing the Bureau of Public Improvements to Assist Municipalities and School Administrative Districts in the Construction of School Buildings" (H. P. 1115) (L. D. 1534)

Was reported by the Committee on Bills in the Third Reading and read the third time.

Mr. Lee of Albion moved that the Bill be tabled pending passage to be engrossed and specially assigned for Thursday, April 22.

Whereupon, Mr. Dam of Skowhegan requested a division.

The SPEAKER: A division has been requested on the tabling motion. All in favor of tabling will vote yes; those opposed will vote no.

A vote of the House was taken.

82 having voted in the affirmative and 23 having voted in the negative, the motion did prevail.

### Order Out of Order

Mr. Susi of Pittsfield presented the following Order and moved its passage:

ORDERED, that Burnett and Wells Hanson of Yarmouth be appointed to serve as Honorary Pages for today.

The Order was received out of order by unanimous consent, read and passed.

### Passed to Be Enacted Emergency Measure

An Act Appropriating Funds for Comprehensive State-wide Planning and Services for the Developmentally Disabled (H. P. 564) (L. D. 740)

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. 118 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.

### Passed to Be Enacted

An Act to Clarify the Sea and Shore Fisheries Laws (H. P. 147) (L. D. 202)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed, passed to be enacted, signed by the Speaker and sent to the Senate.

### Enactor

#### Failed of Enactment

An Act to Create a School Administrative District in the Town of Madawaska (H. P. 641) (L. D. 871)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed.

The SPEAKER: The Chair recognizes the gentleman from Dixmont, Mr. Millett.

Mr. MILLETT: Mr. Speaker and Ladies and Gentlemen of the House: I apologize for sticking with this bill throughout its existence here in this body. But before we do vote on enactment I would like to make one more attempt to explain the ramifications of the bill and to enlist your support in defeating it.

I would just make three points. While I am not an appropriations expert I would say that this bill is very definitely an appropriations measure. It should, therefore, carry a price tag; there is no question about this. I am referring again once more to the fact that it will carry, if the voters in Madawaska were to get a chance at voting on this this fall, a price tag in the vicinity of \$40 million.

Now that price tag, a substantial amount in and of itself, to me comes as close to being a gift as anything we have had a chance to pass on this year. It would carry no—I would correct my statement, I believe I might have said 40 million; I intended to say 40 thousand. The bill itself, as far as the money is concerned, would not in any way carry added responsibilities by the Town of Madawaska.

In fact, I would point out that at the hearing the proponents actually admitted that their primary interest in being a district was to qualify for the bonus. I don't like to indicate industries by name, but 68 per cent of the tax load in this community is shared by one industry. If we were to go on record and support this bill, regardless of its utter lack of merit, we would in effect be providing a very expensive form of property tax relief for one industry.

My second point relates to funds in the Part I budget and I would refer to a circulation that came across our desks about two years ago, I believe, put out by the gentleman from Lewiston, Mr. Jalbert, explaining, giving modification of Part I, an amount of \$575,000 was eliminated from the Part I budget, which in the words of the explanation is generally designed to pay district bonuses. It was eliminated due to the fact that no new districts were in sight.

Now I don't again know the ramifications of this particular modification in the budget, but the only thing I could see is that if this bill were enacted and another one which will be back before us I am sure within the week, the only alternative would be to prorate school subsidies to all other communities.

Now this brings me to my third point and a point which I think we have failed to stress, that every nickel you appropriate by going along with bills of this nature is going to diminish the amount of money that every other person in this House will see returning to his own community. It is an odd thing when we find ourselves in the position by actually voting to express our hostilities toward situations which you haven't altogether approved of, you are in effect voting against yourselves. And this is a point which I have not taken the time to make before, but I would at this time suggest to you that if you see any merit at all in this bill, you are doing so at the expense of your own municipality.

I would just ask that when the vote on enactment is taken it be taken by the yeas and nays.

The SPEAKER: The Chair recognizes the gentleman from Madawaska, Mr. Cyr.

Mr. CYR: Mr. Speaker and Ladies and Gentlemen of the House: I think that this item has been debated enough and I don't intend to get into another debate, although the gentleman from Dixmont has corrected his inconsistency. This one anyway, in regards to \$40 million, but there are other inconsistencies that he hasn't corrected.

I would just like to pass on to you one thought. The Education Department's spokesmen have admitted that changes were long overdue. If they are sincere and succeed in these changes, the passing of this bill wouldn't make any difference. If these are only promises, the passage of this bill will then stand as a reminder of the wishes of this Legislature.

I would hope that those of you that came along with me before



will come along also at this time. Thank you very much.

The SPEAKER: The Chair recognizes the gentleman from Perham, Mr. Bragdon.

Mr. BRAGDON: Mr. Speaker and Members of the House: I am not sure that I understand the gentleman from Dixmont, Mr. Millett completely. I think what he is saying is that this fund, having been reduced, as they pass new bills they will divide up—supposing they double it, those that are now in there would only get half.

I am sure my conception of what happened—should have been rather, that this was a new bill and should have been subject to a place on the Appropriations table with all other bills; and I meant to warn you this morning in my remarks that any bills that we pass from now on, if you proceed along the course that you have, we have got to have a taxation measure or we have got to think in terms of a taxation measure, for we have exhausted, and I say exhausted, every last nickel of current existing revenue.

So in my language this does not make a place, after the change that the Appropriations Committee made in the Current Services budget, in my thinking this would not make a place for these new bills like Madawaska. I feel that they should stand as a bill on the Appropriations Table

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

Mr. FINEMORE: Mr. Speaker and Members of the House: I think Mr. Millett neglected in mentioning also that every dollar you take, if the two of these pass, whatever dollars you are taking off of the subsidy as is, unless there is more appropriation put in there, it would mean that we would not pay a 100 per cent subsidy. Your figures by your sheets which are 100 per cent subsidy are going to be in your districts, your SAD districts, and your unions will be less than 100 percent. We all want to bear that in mind when we vote, and I hope you will go along with the motion of Mr. Millett.

The SPEAKER: The Chair recognizes the gentleman from Madawaska, Mr. Cyr.

Mr. CYR: Mr. Speaker and Members of the House: If that is the logic that we have to follow we may as well tell all the communities in the State of Maine that they are not going to be admitted any more. There is not going to be any more admission into a district, so forget it.

I hope that those of you that will come along with me, you will press the green button this morning. That is the motion of enactment, which is the green button that I want.

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

Mr. HASKELL: Mr. Speaker and Ladies and Gentlemen of the House: There is rather a close connection between this bill and the bill which we debated briefly earlier in the session this morning and tabled; namely the extension of construction subsidy to all the communities in the state. The thing that has concerned the Education Committee in this whole process is the fact that if we grant to Madawaska the right to organize as a single town administrative district we establish a precedent for dozens of towns who can make a much more substantial case for single town districts than can be made for the Town of Madawaska.

So if we do establish a policy of single town districting we are going to be faced with a flood of applications from towns throughout the State of Maine who are going to now want the advantage which the single town districts would be, namely that of construction subsidy. So you are establishing an extremely important precedent if you go along with the single town district for the Town of Madawaska.

If you are going to maintain a consistent policy, you would have to vote against this. Otherwise you would have to accept the very real possibility that you would have to then go from supporting the single town district in Madawaska to supporting the concept of extending construction aid to all the communities in the State of Maine;

and this becomes an extremely substantial program.

Mr. Cyr of Madawaska was granted permission to speak a third time.

Mr. CYR: Mr. Speaker and Members of the House: There again goes the inconsistencies. We are not setting any precedent. There are already seven towns that have single districts. Also, in the last legislature Sanford was approved for a single administrative district, but they turned it down back home.

The SPEAKER: The Chair recognizes the gentlewoman from Falmouth, Mrs. Payson.

Mrs. PAYSON: Mr. Speaker and Ladies and Gentlemen of the House: The gentleman from Houlton, Mr. Haskell, has confused the issue a bit, I think. L. D. 999 which we debated earlier this morning asked only for school construction aid, while this bill asks for construction aid plus 10 percent subsidy on top of what they would normally get.

The SPEAKER: The yeas and nays have 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 members 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 enactment. If you are in favor of enactment of An Act to Create a School Administrative District in the Town of Madawaska, House Paper 641, L. D. 871, you will vote yes; if you are opposed you will vote no.

#### ROLL CALL

YEA — Albert, Bailey, Baker, Bartlett, Bedard, Berry, P. P.; Berube, Binnette, Bither, Bourgoin, Brawn, Call, Carrier, Carter, Clemente, Cote, Cottrell, Curran, Curtis, T. S., Jr.; Cyr, Dam, Doyle, Drigotas, Dudley, Emery, D. F.; Emery, E. M.; Farrington, Faucher, Fecteau, Fraser, Gauthier, Gill, Good, Goodwin, Hancock, Jutras, Kelleher, Kelley, P. S.; Keyte, Lebel, Lewis, Little-

field, Mahany, Manchester, Marsh, Martin, McCloskey, McCormick, McNally, Mills, Murray, Parks, Rollins, Sheltra, Slane, Tanguay, Theriault, Vincent, Webber, Wheeler, Whitson, Williams, Wood, M. E.

NAY — Ault, Barnes, Bernier, Berry, G. W.; Birt, Bragdon, Brown, Bunker, Bustin, Carey, Churchill, Clark, Collins, Conley, Crosby, Cummings, Curtis, A. P.; Donaghy, Finemore, Gagnon, Genest, Hardy, Haskell, Hawkens, Hayes, Henley, Herrick, Hewes, Hodgdon, Immonen, Jalbert, Kelley, K. F.; Lawry, Lee, Lessard, Lewin, Lincoln, Lizotte, Lucas, Lund, Lynch, MacLeod, Maddox, Marstaller, McTeague, Millett, Morrell, Mosher, Norris, O'Brien, Orestis, Page, Payson, Porter, Pratt, Rand, Ross, Scott, Shaw, Shute, Simpson, L. E.; Simpson, T. R.; Smith, E. H.; Stillings, Susi, Trask, Tyndale, White, Wight, Woods, M. W.; Woodbury.

ABSENT — Boudreau, Cooney, Dow, Dyar, Evans, Hall, Hanson, Kelley, R. P.; Kilroy, McKinnon, Pontbriand, Rocheleau, Santoro, Silverman, Smith, D. M.; Starbird.

Yes, 63; No, 71; Absent, 16.

The SPEAKER: Sixty-three having voted in the affirmative and seventy-one in the negative, with sixteen being absent, the Bill fails of enactment.

The Chair recognizes the gentleman from Dixmont, Mr. Millett.

Mr. MILLETT: Mr. Speaker, I move we reconsider our action whereby this bill failed of enactment, and I would hope that you would vote against the motion.

The SPEAKER: The gentleman from Dixmont, Mr. Millett, moves that the House reconsider its action of whereby this Bill failed of enactment. The Chair will order a vote. All in favor of reconsideration will vote yes; those opposed will vote no.

A vote of the House was taken.

45 having voted in the affirmative and 78 having voted in the negative, the motion did not prevail.

Sent up for concurrence.

An Act relating to Appeals on Questions of Law in Criminal Cases (H. P. 885) (L. D. 1206)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed, passed to be enacted, signed by the Speaker and sent to the Senate.

**Enactor  
Tabled and Assigned**

An Act relating to Jurisdiction of Municipal Police Officers in Fresh Pursuit (H. P. 887) (L. D. 1208)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed.

(On motion of Mr. Martin of Eagle Lake, tabled pending passage to be enacted and tomorrow assigned.)

An Act relating to Educational Programs for Optometrists (H. P. 936) (L. D. 1290)

An Act relating to Catering at Events and Gatherings (H. P. 1257) (L. D. 1589)

**Finally Passed**

Resolve Reimbursing Mars Hill Utility District for Bonds Issued for Sewer Construction (H. P. 89) (L. D. 133)

Were 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 tabled and today assigned matter:

HOUSE DIVIDED REPORT — Majority (8) "Ought to pass" in New Draft — Minority (5) "Ought not to pass"—Committee on Judiciary on Bill "An Act to Provide an Implied Warranty and Covenant of Habitability in Leases of Dwellings" (H. P. 267) (L. D. 356) — New Draft (H. P. 1273) (L. D. 1674) under same title

Tabled — April 15, by Mr. Carrier of Westbrook.

Pending — Motion of Mr. Hewes of Cape Elizabeth to accept Majority Report.

The SPEAKER: The Chair recognizes the gentlewoman from York, Mrs. Brown.

Mrs. BROWN: Mr. Speaker, Ladies and Gentlemen of the House:

I am the sponsor of this bill, and I believe that many of you are aware that hearings were held this past year in Bangor, Portland and Lewiston as a result of petitions signed by over 150 citizens requesting investigation of rental housing in this state. As a result of the severity of problems discovered, a citizens committee was formed to look into possible solutions.

Contrary to statements made on the floor of the House last week, the different points of view were fairly represented on this Committee. I give you a list of the committee so now you can judge for yourself. The committee was made up of a deputy attorney general, three landlords from Portland, landlord realtor from Bangor, a legislator, two attorneys from reputable firms, one from Portland, the other from Bangor, two attorneys from Pine Tree Legal Association and I have a note here that says that the tenants also, three tenants also served on the committee. They are each from Lewiston, Portland and Bangor.

I would also like to point out that the landlord's point of view is well represented in the membership of this House, but I dare say among the legislative membership there is not one of us who has been subjected to living in rented premises with the intolerable conditions found during this investigation. Thus there are some of us sponsoring bills who feel strongly that tenants' point of view should be represented in this House also.

Let me describe some of the wretched conditions found — exposed wiring, no fire escapes, stairways with steps and banisters missing, walls and ceilings without plaster, wind blowing through cracks in window frames and doors, bad plumbing, toilets that were not hooked to sewer lines but dumped their contents into cellars. They also found rats, roaches and other vermin, inadequate heat, and so on.

L. D. 1674, a new draft, is to fill the gap in landlord-tenant relationship by implying in all such rental agreements that the land-

lord has a contractual duty to the tenant to provide for rental premises that are fit to be occupied by humans. If the tenant feels that there has been a breach of warranty or contract, he can rescind the contract and recover a just proportion of the rent. Of course, he may pursue other remedies, such as bringing complaint to those in authority in communities where there are building codes. But some communities don't have building codes.

But it is obvious from conditions found that these codes aren't being enforced in many instances. The hard reality is that this has proved of little help in the past. The present law is just not adequate to meet the problems when many of the violations are incapable of being discovered by the tenant in advance of his moving in. Present landlord-tenant law originated in a farm culture. It is not designed to resolve conflicts and problems that develop in urban apartment living today. There does appear to be a real need to have spelled out in our statutes a new approach.

The new draft provides that tenant must give written notice to landlord of condition which makes premises unfit within 7 days of discovery of condition. The rent must be currently paid. The tenant, his family or guests, may not have caused the condition. If the landlord does not repair the condition within 30 days, the tenant may rescind the contract anytime within the next 30 days.

Clearly, the tenants cannot use every minor defect. The defects have to be of a kind and quality that are sufficient to make rented apartments unsafe and unsanitary. Clearly also, the landlord has superior access to knowledge of the conditions and defects in building.

Clearly, these hardships fall on persons in our lower income bracket who are individually limited in many ways to correct situations they may have found themselves in.

New Jersey, the District of Columbia and Oregon have all adopted "the implied warranty of habitability".

There are hundreds and hundreds of landlords in this state that would not be affected by this bill because their premises are safe and sanitary. This bill is to protect tenants from a minority of landlords who knowingly rent premises that do not meet standards of fitness for human habitation.

This concept takes away no rights of the property owner unless in good conscience we sitting here feel the landlord has a right to rent property unfit for human habitation. I urge you to vote in favor of the Majority Report.

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

Mr. CALL: Mr. Speaker and Members of the House: Mindful of references having been made in the past by members of this House, relative to the many and, in some instances, unexplainable bills, I shall say at the outset that this particular item shows me so clearly that the time is not far off when some sort of a screening method shall be employed to stop impossible legislative documents right on the doorstep.

Despite the absence of the words, "by request" on practically all of this session's bills, it is apparent that in most cases the sponsor has been persuaded by others to present a document. An investigatory process would reveal not only the source of the idea but also a complete biographical sketch of the person or persons who have persuaded an often unsuspecting legislator to sponsor a veritable keg of dynamite. One sure way to discourage the eager beaver would be for the established investigating process to call for a written thesis of no less than 20,000 words to accompany the sponsor's request in an effort to explain fully the reason for the presentation of that particular bill.

When all data has been compiled, it can be fed into a computer which, after having gone through its many noisy gyrations, would thrust out the data card with either a big yes or no imprinted thereon. An affirmative response would indicate that the document

was ready for further processing by Mr. Slosberg's office; a negative response from the computer would mean the automatic and decisive refusal to consider the ridiculous matter further. I don't know of any better method to speed up a legislative session than a good process for screening proposed legislative documents. To say that some of this session's legislative bills are utterly preposterous is, in some cases, gross understatement.

Apparently, the basic idea behind this monstrosity is to protect the prospective tenant from the unforeseen—something that the law in general does not necessarily insist upon. This bill asks the landlord to assume liability for some fantastic future eventuality. Such a proposal is decidedly unfair. On the other side of the coin, the prospective tenant is permitted to ignore the philosophy of the legal admonition, "Caveat Emptor," which, translated from the Latin into English, says, "Let the buyer beware," or to make the translation more simple, "A person who buys a pig in a bag does so at his own risk."

When I read this bill, I just could not understand why it was written. I never heard of a tenant renting so much as a single room without first visiting that room and examining it carefully. No property owner grabs some poor unsuspecting person, drags him into a house and says, "You shall live here whether you wish to or not."

Do not be misled by statements which imply that all these so-called landlord bills have remedies in them for the property owner as well as for the tenant. I can assure you that in those instances where such a statement might be even partially correct, it will take much more money and effort for the landlord to collect damages than for the tenant to do so. Very often there is such a complex problem connected with the remedy being sought by the landlord, that he just does not bother to pursue the matter.

All this bill will accomplish if it becomes law is to pour salt into the wounds suffered already by

landlords as a result of persistent legislation which is definitely hostile toward them.

The SPEAKER: The Chair recognizes the gentleman from Auburn, Mr. Emery.

Mr. EMERY: Mr. Speaker and Ladies and Gentlemen of the House: I believe this is just another attorney's bill, and I said before that we are losing the freedom, this proves it. We are. In this bill the landlord is losing it. It nibbles away at our basic concept of freedom. It also tends towards socialism. I therefore move the indefinite postponement of the bill and all its accompanying papers.

The SPEAKER: The pending question now is on the motion of the gentleman from Auburn, Mr. Emery, that both Reports and Bill be indefinitely postponed.

The Chair recognizes the gentleman from Caribou, Mr. Kelley.

Mr. KELLEY: Mr. Speaker and Ladies and Gentlemen of the House: I support L. D. 1674.

Traditionally, a lease was a conveyance of an interest in land and courts have usually relied on specialized rules regarding real estate transactions to resolve controversies between landlords and tenants.

The assumption of landlord-tenant law that a lease primarily conveys to the tenant an interest in land may have been reasonable in a rural, agrarian society. However, in the case of the modern apartment dweller, the value of the rental agreement should be to give him a proper place to live.

Maine tenants seek a place to live that includes not only walls and ceilings, but also adequate heat, light and ventilation, proper sanitation, and proper maintenance.

Modern contract law in Maine has recognized that the buyer of goods and services in an industrialized society must rely upon the skill and honesty of the supplier to assure that goods and services purchased are of adequate quality. The Maine Legislature has recognized this and for this reason has enacted implied warranties of fitness and merchantability in the area of sales law in our Uniform

Commercial Code. Courts have begun to hold sellers and developers of real estate property responsible for the quality of their product as well. Builders of new homes have recently been held liable to purchasers for improper construction on the grounds that the builders had breached an implied warranty of fitness.

The common law must recognize the owner's obligation to keep his premises in a habitable and livable condition. The old assumption that land is the most important element of the lease can no longer be justified in today's society. The tenant must rely upon the skill and knowledge of his landlord at least as much as a car buyer must rely upon the car manufacturer for the quality of his product.

The tenant's position corresponds with the position of the ordinary consumer who cannot be expected to have the knowledge or capacity to make an adequate inspection of mechanical instrumentalities and to decide for himself whether they are reasonably fit for their designed purposes.

Moreover, the inequality of bargaining power which sometimes exists between landlord and tenant means that tenants often have little leverage to compel the landlord to maintain and repair the premises.

Poor housing is detrimental to the whole society and not merely to the unlucky ones who must suffer the daily indignity of living in poverty conditions.

At this time when we have a proper concern for consumer protection, it is important that we act favorably on this bill.

The SPEAKER: The Chair recognizes the gentleman from Westbrook, Mr. Carrier.

Mr. CARRIER: Mr. Speaker and Members of the House: Now that the preliminaries are over let's get into the main bout here. And let's face the blunt facts as they are, and as to concerning our living today. Now I came here this morning ready, willing, and I think able to discuss the L. D. 1674. However, we are distracting ourselves first by this fact sheet that we have deposited on our

desk, and which I want to say a few remarks about.

Now as far as the public hearing on the first paragraph, as far as the public hearings, we all know they were conducted in Portland and apparently in Lewiston and Bangor. And as before, my remarks will be totally towards the Portland hearings of which I think I am familiar with. Although the records of such hearings were not available to me.

Now at the public hearings in Portland, one of the basic things that was missing, they put — the Attorney General put on a nice show, I would say the staff of the Attorney General's office, and they tried hard, and they probably should receive credit for it. But on the other hand, this is a job for somebody that has been both tenant and landlord, and I think I qualify in that respect. And I think I know — I think I believe that I know both of the angles of tenant-landlord relationships.

However, one of the main things that was kind of upsetting at the hearings in Portland was that the tenants were allowed to appear and state whatever they wanted. But at no time at their hearings were they required to show proof that they were a tenant or had been a tenant at any time. And this, I believe, is not correct. Because some of them did not — should not have been there. Some of them that have appeared at that hearing, they are rejects from every part of society because they want to be that way.

And I will also state that at these hearings it is noticeable to say that nobody has been convicted or found to be actually profiteering on these rents. So I submit to you, as I did the last time, that you are getting into property rights. And by actually getting into property rights you might fight the landlord, but sooner or later he will pull off his equity and what will you have? You won't have any rents. And I submit to you that this is bad, this will be a hardship on the elderly people.

It will not be a hardship on the good tenants. We are talking now about a certain class of tenants. We are not talking about all ten-

ants in general. We are talking about a class of tenants that destroy, that don't pay their rent, that don't take care of the place, that they are trouble makers to the other tenants in the building, and they are just trouble makers all around.

And the ones that have hollered the most at the hearing in Portland and also at the hearings that we had here in front of the Judiciary Committee are the ones ladies and gentlemen, that were evicted at times. But they never told you why they were evicted. They were evicted for nonpayment of rent. And this is money in your pocket and money in mine. And this is the dangerous part of it, because this legislation applies to everything but commercial property, as it says here on this bill.

Now this applies whether you want to or not, the bill doesn't say any different. I believe that this applies to cottages, this applies to cabins, motel rooms, hotel rooms, hunting camps, anything you want to, except like it says here, it doesn't apply to commercial rents.

Now this is a very very dangerous bill, and this bill is put at the request, I believe, and for people that don't have any equity in anything. And especially in real estate. It is very easy for me to give away your rights if I don't have any equity in the thing. In other words, I say that the ones that actually feel for this stuff, that all they have to do is get up, put their equity, tell us over here that they got \$30,000 or \$40,000 to invest. We will find some investment places for them, and we will also provide rents for them. We will also provide tenants for them if they want to. And this is the type of tenant that I can tell you that are undesirable; these are the ones we have trouble with. We don't have any trouble with any tenants because most of them keep their place clean and they behave and they pay their rent. This is the way today's society should be.

I could go on forever but I will just try to cut it off. But it was mentioned here on oral leases, and the law and all that stuff. Let me tell you that under any leases that

concerns land it has to be in writing. This bill here calls — the fourth or fifth word here says 'oral lease'. I don't think that this is enforceable at any time. You pick up — you look under Title III, Section 51 of the statute, and it will clearly say that all leases have to be in writing.

Now it also says this bill, it also says that — it is a very ambiguous bill. But assuming they have reported damages and all this stuff, that they shall recover a just proportion of the rent. Well, what is a just proportion of the rent? Is it one week, or two weeks? Or punitive damages that they can collect more than what they have paid in?

Another thing is — and I will give you this, but this is the way that retaliation will come in. It says — the last line on the bill itself says "at the time of notice the rent must be currently paid." Well if you keep the tenant in back pay all the time you don't accept his rent ahead of time, or you don't accept it on time, how will he be able to bring this action? I claim to you that he will not.

Just to show you how this bill has been drafted very fast and poorly, this bill here, there is no statement of fact on this bill. And somebody will refer — somebody will say it doesn't need a statement of fact. But under the Joint Rules over here it says that — 12A, it says "All bills and resolves shall, upon introduction and later amendment thereof, be accompanied by a written statement of fact indicating intent." This is not in this bill. I am not going to try to do away with the bill because of some technicality somewhere.

This here, the landlord has to warrant as to the — this big word here, habitability or something. But this is the way a house should be. What does the tenant warrant? Does the tenant warrant that he will keep it in good shape once he gets there? And to those of you who have rented — who have owned property and have rented, did you ever see a tenant — they come in and they say, "Gee, this is a beautiful apartment, exactly the way I want it." But then when it gets a month later and they are

three weeks behind in their rent, gee everything is wrong. And this is where I submit to you that this is a ridiculous bill.

This is a ridiculous bill in the fact that somebody is trying to give away your rights, your money, your equity, and everything else. I know they are trying to create new rights for somebody that has no rights in the property. If they want their right, all they got to do is buy it.

Now it says — well, I have so much here that — but all in all I think that this is a bill which has a great — would be a great detriment to society as a whole. Because no matter who owns the rent, he has the money, he has the equity, he can afford to pull out. And who is going to have — who is going to provide rent for these people?

We have a case in Portland right now where the tenant refuses because somebody buys. Now if the fellow is buying he should be entitled to possession. And I think that this is his right, and that is the way it should be.

I submit to you that the laws today are not in favor, or all in favor of the landlords. I submit to you that the tenants have stronger recourse, and I submit to you that the good tenant should have proper recourse. But I am not going to stand here and put the general approval on these people that don't pay their rent and crum up all the place and you have to go there and clean it afterwards. I submit to you this is a bad bill and I support the motion for indefinite postponement.

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

Mr. ORESTIS: Mr. Speaker and Ladies and Gentlemen of the House: At the outset I would wish to state to you that I do not speak this morning as a member of the third party of this House — the attorneys party. We have been identified as a very small minority party, and this is certainly not a bill sponsored by the attorney party of this House.

However, it is a bill that is a fairly new concept, and has a great import and I would like to

take a couple moments of your time just to make a few comments.

The gentleman from Westbrook, Mr. Carrier, says that he, in his speech, does not want to punish the good tenant. This bill in fact is aimed at letting the good tenant have some rights against the bad landlord. There are some of both. There are good tenants and bad tenants. There are good landlords and bad landlords. No conscientious, good landlord has anything to fear from this bill. For any good conscientious landlord would certainly correct a condition in his rental unit that made that rental unit unlivable. That is what that big word means—unlivable. A condition so bad that it is unfit for human beings to live in.

The bill calls for a tenant who, having his rent paid up to date, and finding such a condition, it calls for this tenant to give notice of this condition to the landlord. And it calls for him to give notice to the landlord within seven days. It does not call for the tenant to live in this condition for months, and then call it to the attention of the landlord, but rather within seven days of finding the condition. It also calls for the landlord to fix this condition within 30 days. Not the next day, and not two days; but 30 days.

Any good landlord who wanted to keep his property in good condition, and keep the equity in his property protected, would fix such a condition within thirty days so that the landlord, who has nothing to fear by this bill, is speaking in the wind. This bill is not to hurt the landlord, this bill is to give some rights to a tenant who is the victim of a 'slumlord'. That word may hurt, but it does exist—'slumlord'. And perhaps it is a very small percentage of the landlords in this state, and no doubt it is. However, it does exist, and the tenant who is trapped by the slumlord needs some rights.

All this bill does is to allow that tenant, when he finds such a condition in his rent, to notify the landlord to fix it, and if the landlord doesn't fix it, it allow the tenant to move out without giving the thirty-day notice, or to move



out without regard for a lease which might bind him to a year's stay in such place. And it also gives him the right to recover on suit some of the rental that he paid. How do we determine how much rental? The court will decide that according to just how bad the conditions were.

True, this is a departure from our present law. But it is certainly not an unwarranted departure, and it certainly is not a departure for which the good landlord, or the good tenant should have any fear whatsoever. It is a bill which protects the rights of the good and decent people of this state, and there is no reason that any landlord in this House or anyone that owns property in this House, should have any fear of voting for this bill.

The SPEAKER: The Chair recognizes the gentleman from Norway, Mr. Henley.

Mr. HENLEY: Mr. Speaker and Ladies and Gentlemen of the House: It seems like I am forever jumping up this morning, and if my luck is as good on this one as it has been before, why it might be rather futile. But nevertheless, I am going to make an attempt.

You have listened to attorneys on this bill. You have listened to landlords. I think we would like to analyze what we are supposed to do who sit on these committees, whether it be Judiciary, Education or any other committee. We in general are a cross section of the citizens of the State of Maine. We try to analyze a bill when it comes before us in various ways. I presume that if we happen to be an attorney, perhaps we are more likely to look at it from the legal and judicial points of view. If we happen to be a landlord, why I presume we might look at it a little bit more from a landlord's point of view. I am neither. So what do we who are complete laymen on any committee look for when we are deciding how we are going to vote on a bill when we watch and listen to the committee hearing? We have to then judge it entirely upon our own yardstick that we establish.

Now this bill here, I maintain right off the bat, is another unnecessary bill. And I think I can tell you a few reasons why that haven't already been stated. First off, it is a bill aimed at just one segment of rental living, the so-called slums and the slumlords. We do have, of course slums and slumlords in the State of Maine. But I maintain that in general they are the products of the larger industrial cities. I maintain that such regulation, if it becomes necessary, should be a city ordinance and not a state-wide law. Now this law will apply to every rental in the State of Maine whether it be in Mattawamkeag or wherever it happens to be.

Number two, let's ask ourself a question. Why are there so few rents? Why it is that we are told in the newspapers and in the news that people remain in various rents just because there are none? Why aren't there some? If the landlords in this country and in this State of Maine are having such a wonderful gravy train there would be a surplus of rents. There would be plenty of them. Why is it getting increasingly difficult to get investments to build apartment houses, and it seems to be. We have a group from my area that have been approached to set up an area of housing, and the reason why they say they are not interested is because of various governmental restrictions, that and financial, those two items.

Now another thing we look for, and I have partly mentioned this, on the laws and bills that come before us, are the ramifications and the possible side effects. It looks to me as though this law could be applied just as readily to someone who rents a little tar paper shack somewhere. If something goes wrong with the stove pipe why he can sue, regardless of the fact that he may take it as is.

Again I say that a lot of these bills, if they are not absolutely necessary, a state-wide bill should not be put on our law books. And I would only agree that the best of intent, of course, produced this bill. And of course there are cases, and I will agree with Mr.

Orestis there are places of probably unfair landlords and unfair renters, and we find that all over. You will find it regardless of what you put on the books of law. And every law you put on there, there will be those who will find ways of circumventing it. So this will merely complicate matters.

The relationship between landlord and tenant sooner or later must get back to the relationship of personalities and good will. You cannot legislate these things and make it work, because if you do, you just will not have any places to rent.

I go along with the indefinite postponement of this bill.

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

Mr. SHELTRA: Mr. Speaker and Members of the House: I rise to concur with the remarks that have been made thus far by those for indefinite postponement. And I am not going to keep you but a minute here, but I would like to interject the thought that I have been dealing with rental situations practically since I have been knee high to a grasshopper. Insofar as slumlord victims, as the terminology that was used a little bit earlier, I don't think that the prospective tenants are blind. I think that when they walk into a housing situation or development they have full exposure to the surroundings.

And I also would like to say, once a good landlord, always a good landlord. These situations don't change. You are not invited in on a pretense and then suddenly find yourselves without any of the commodities that you should have.

I would like to interject here also that there are two types of rental situations involved here — one orally and one by contract or lease. Certainly anyone going into a lease proposition is going to have some legal savvy, or if he does not, he most certainly will look to an attorney to see to it that the lease is devised in such a way that his rights and interests will be protected.

I have had tenants whereby I have furnished electricity and heat where the windows would remain open. All the lights in the apart-

ment would be left on all night long. You talk about consideration, this is not consideration.

Also in the past I had the pleasure to serve with the VA Administration on repossessing of GI housing. I went around with a gentleman by the name of Nelson Manter at the time who was in charge of this VA exposure, and we went to various homes in York County that were being repossessed by the government. And I must admit and submit to you that it was the most deplorable situation I have ever witnessed in my life. I think that some of the piggeries that we have looked even better.

Now the only thing I can ask of you is as a prospective — if you were going to go into a prospective partnership, would you and you alone share the full financial responsibilities of a certain venture? Would you accept the partner that would have no equities whatsoever to offer to you? I think not. So this is why I concur with these gentlemen, and I hope you will go along with the indefinite postponement of this bill.

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

Mr. HEWES: Mr. Speaker and Members of the House: I feel we should be voting in the best interest of the people of the State of Maine, and I think that many of the ills that we read about and know about in the cities could be cured if tenants had habitable tenements to return to after a day's work and which to start from at the beginning of a day.

Now this bill I think is fair to the landlords and to the tenants. Many other states, New York, Hawaii, New Jersey, Colorado, Wisconsin, California, have similar laws. And I think one court in Washington set forth an accurate statement when they said, "One who chooses to use his property as a dwelling place for others to produce profit for himself cannot avoid compliance with the safety standards properly established for such use merely because it is expensive or difficult."

It has been mentioned in debate here that the tenants should buyer beware — Caveat emptor. I think it was said that a person who buys

a pig in a bag does so at his own risk. I submit that shouldn't apply to a tenant in 1971. Times have changed. Perhaps situations don't change, as the last gentleman just said, but times have changed. And we are going to have many more problems in our country and in our state if we don't pass legislation such as this progressive legislation.

In reply to a few of the comments, it is not contemplated that punitive or penalizing damages can be assessed against anyone under this warranty, only that part of the rent can be taken back by the tenant. And further, the rent must be currently paid at the time of the notice. I hope you will vote against the motion to indefinitely postpone this bill.

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

Mr. DAM: Mr. Speaker and Members of the House: I rise to oppose the motion for indefinite postponement. I have had a little experience in building rentals, and I don't really see anything as bad as has been claimed by the various speakers this morning in this bill. The only thing in this bill that says to me, in my mind, is that if you are a good landlord you have nothing to fear.

If you are out to take the people that you are renting your property to, then you better fear the bill. But if you try to give the people who are renting your property a little something for the money, and you show these people the property and go with them when you rent it, and not like many of the rentals that are done in the State of Maine where you pass the person the key and say, "Well, the apartment is up on the sixth floor or the seventh floor and this is it." But you go with these people and they look at the apartments over, or the houses over, and they agree to this, you have a pretty good chance right then of seeing whether these people are going to be the type of person that you would want for a tenant. And then and there you can decide whether you would want to rent your property.

So I see nothing in this bill that is going to tie the landlord. I see

nothing where it is going to work any hardship on the landlord or where it is going to protect the people that don't pay the rent or the so-called dead beat. This is something that should be needed and it is something that is needed. And if the State of Maine is in any way going to upgrade their housing, then let's get a law on the books that will force these people that just maintain the property for the sake of—or own the property, not maintain it, but own the property for the sake of making money, let's get a law on the book then that will say to them that you have got to upgrade your property a little, and let's recognize that there are some fairly good landlords in the State of Maine.

Mr. Kelley of Caribou requested a roll call.

The SPEAKER: The yeas and nays have 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 members desiring a roll call 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 Westbrook, Mr. Carrier.

Mr. CARRIER, Mr. Speaker and Members of the House: I just wish to say a few words on some of the notes I have taken which were mentioned by the proponents of this bill. And also note some of the things which are noticeable and which I will point out to you.

Now in the first place, as usual, I claim that this is an invasion of your property rights, and I will stick to that. And I think that nobody has argued that. On the other hand, what bothers me a little bit here this morning is the fact that none of the proponents that spoke said anything about them owning any property. This is what bothers me. I still claim that it is very easy to pass laws for me to spend your money, but it isn't that easy to pass laws to spend my own money. So this is one situation which I have noticed.

I have also noticed the fact which has been overlooked, I think, that we had committee hearings on this, and the vote was eight to five "Ought to pass." Now at the committee hearing I want you to know that there were probably 70 or 80 people there representing the landlords, and probably half a dozen representing the other parties. Now I think that the committee report was—some of it was in total disregard of what the majority of the people wanted there. And this is the fact, this is not fabricated. And this is what bothers me.

Now I don't see there are many things saying about landlords this and landlords that, and tenants the same way. But I have no trouble. I have good tenants and I have had for four years. But the main thing is that what you have to think too is it their legal duty for any landlord to provide any rents at all? And this is what is happening in Portland. The landlords are renting two rents out of four and actually the people that need rents can't get them, and you cannot force them to rent, because they figure it will cost them more to keep it rented than to keep it half rented.

Now they say that this is to protect the landlord and all this stuff. Well, what about—this is to protect the tenants and the landlord, but actually in fact it is a bill that protects the tenants, that is what it is.

Let me tell you one thing. This bill here is not the same bill that we had that was heard at the hearing. I would like to see in this House at some time or another that we pass a rule that either you have to vote and come out with the bill itself, not in a new bill. This bill is totally different from the other bill in concept. Not in concept, but actually in form. And the people were not allowed to come here and to speak on this bill.

I think that there is a lot that has been said about slumlords. Well, we won't disagree. I am not here to protect the slumlord, and I am not here to protect the good landlord and the good tenant, and you keep the others away from us, both the slumlord and the bad tenant, and we will all be happy.

So all in all I have also noticed that most of the proponents of this bill, for those of you who seem to have a great love for lawyers in this House, that most of the ones that spoke were lawyers. And personally I have a great love, they are great friends of mine, and we get along real good. But I will say to one of them, it was quoted here that certain states have adopted this. Well, one of them is — I don't know, are we allowed to say which state? At any rate, one of the less progressive states in this United States as far as laws go, and this you learn in law school, and nobody wants to follow their pattern — was mentioned as one of these progressive states that have this sort of thing.

So I submit to you this all comes up under home rule, that the people in the city itself can take care of their own problems, and I only say that there will be times when whoever is in the driver's seat, whoever controls the money, if they shut off the funds, somebody is going to suffer from it. And I really would hate to see the good tenants and the elderly people, and everybody else suffer from it, but I am scared this will happen.

I submit again, this is a very lousy bill.

The SPEAKER: The pending question is on the motion of the gentleman from Auburn. Mr. Emery, that both Reports and Bill "An Act to Provide an Implied Warranty and Covenant of Habitability in Leases of Dwellings," House Paper 267, L. D. 356 be indefinitely postponed. A roll call has been ordered. All in favor of indefinite postponement will vote yes; those opposed will vote no.

#### ROLL CALL

YEA — Albert, Bailey, Baker, Barnes, Bedard, Bernier, Berry, G. W.; Berry, P. P.; Berube, Binnette, Bourgoin, Bragdon, Brawn, Bunker, Call, Carey, Carrier, Clark, Cote, Cottrell, Curtis, A. P.; Cyr, Dudley, Dyar, Emery, D. F.; Emery, E. M.; Fecteau, Fraser, Gauthier, Hall, Henley, Jutras, Kelley, K. F.; Lebel, Lesard, Lincoln, Lizotte, MacLeod,

Maddox, Mahany, Manchester, McCormick, McNally, Millett, Mills, Mosher, Norris, Page, Payson, Rand, Rollins, Scott, Shaw, Sheltra, Shute, Simpson, L. E.; Theriault, Trask, Wight, Williams.

**NAY** — Bartlett, Birt, Bither, Boudreau, Brown, Bustin, Carter, Churchill, Clemente, Collins, Conley, Crosby, Cummings, Curran, Curtis, T. S., Jr.; Dam, Donaghy, Doyle, Drigotas, Evans, Farrington, Faucher, Finemore, Gagnon, Genest, Gill, Good, Goodwin, Hancock, Hardy, Haskell, Hawkens, Hayes, Herrick, Hewes, Hodgdon, Kelleher, Kelley, P. S.; Keyte, Lawry, Lewin, Lewis, Littlefield, Lucas, Lund, Lynch, Marsh, Marsteller, Martin, McCloskey, McTeague, Morrell, Murray, O'Brien, Orestis, Porter, Pratt, Ross, Simpson, T. R.; Slane, Smith, E. H.; Starbird, Stillings, Susi, Tanguay, Tyndale, Vincent, Webber, Wheeler, White, Whitson, Wood, M. W.; Wood, M. E.; Woodbury.

**ABSENT** — Ault, Cooney, Dow, Hanson, Immonen, Jalbert, Kelley, R. P.; Kilroy, Lee, McKinnon, Parks, Pontbriand, Rocheleau, Santoro, Silverman, Smith, D. M. Yes, 60; No, 74; Absent, 16.

The **SPEAKER**: Sixty having voted in the affirmative, seventy-four in the negative, with sixteen being absent, the motion does not prevail.

Thereupon, the Majority "Ought to pass" Report was accepted, the New Draft read twice and tomorrow assigned.

The Chair laid before the House the second tabled and today assigned matter.

**HOUSE DIVIDED REPORT** — Majority (7) "Ought not to pass" — Minority (6) "Ought to pass" in New Draft — Committee on Natural Resources on Bill "An Act to Regulate Noise Pollution of the Supersonic Transport under the Environmental Improvement Commission" (H. P. 657) (L. D. 887) — New Draft (H. P. 1274) (L. D. 1675) under same title.

Tabled — April 15, by Mr. Curran of Bangor.

Pending — Acceptance of either Report.

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

Mr. **CURRAN**: Mr. Speaker, I now move that this bill be indefinitely postponed.

The **SPEAKER**: The gentleman from Bangor, Mr. Curran, now moves that both Reports and Bill be indefinitely postponed.

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

Mr. **MCCLOSKEY**: Mr. Speaker and Ladies and Gentlemen of the House: Last week I catalogued the dangers inherent in the SST. These dangers have been pointed out by the most respected scientists in the field. They cannot be doubted, nor can it be doubted that noise pollution is a problem, as evidenced by the many letters I have received from the people in the Bangor area.

So I will confine my arguments this morning to the only two objections that seem to me possible on this bill. First, that the legislation is premature. I doubt this. I have pointed out that the Federal Aviation Administration has a very poor record in protecting the interests of the people. I don't think this record will improve in the future. Also the Federal Aviation Administration has traditionally looked after the best interest of the airlines. And the Federal Aviation Administration has openly admitted that if the American airlines spent millions of dollars buying SST's the FAA won't set standards the SST's cannot meet. So I don't think this legislation is premature. But as a matter of compromise I am having an amendment drawn up that would make the effective date of this legislation July 1, 1973. If the Federal Aviation Administration hasn't set noise standards by this time they will never set standards. Then we will certainly be justified in our action today.

Let me further point out that this legislation does not affect in any way planes that now are flying. If any of you have heard this, it is untrue. This bill simply takes a present standard and applies it to supersonic planes.

The second argument made against this legislation is that it will hurt the competitiveness of Bangor International Airport. I don't think this is the case. In fact, I sincerely believe that if the SST becomes active it will hurt the airlines industry in general, and thus Bangor International in the long run.

Let me explain. The SST will cause air fares to rise at least 25 percent. This is an industry that can't fill the present planes they now have, and it is an industry that has seen a decline from \$500 million in profit to \$175 million in deficit in two short years. So the SST, in my estimation and in the estimation of many economists, will hurt the airline industry, and thus Bangor International Airport in the long run.

Furthermore, it might be noted that the SST carries only 120 passengers, while the present 747 carries up to 450 passengers. So again, in terms of the tourists on these airlines and their spending in the local area, the present planes would be much preferred. And it seems impossible when New York and Massachusetts are passing similar legislation this bill could hurt Bangor International Airport.

The people of Maine have expressed their support for this legislation in three separate polls by over 80 percent, certainly a large majority.

Finally, let me say that the future does not belong to those who are content with today, and apathetic towards common problems and fearful in the face of new ideas and bold projects; rather the future will belong to those who can blend passion, reason and courage in a personal commitment to the ideals of American society. But this future is not a gift, it is an achievement. And each generation helps make its own future.

This is the essential challenge of politics and public service. And remember, gentlemen, all of us will ultimately be judged, and as the years pass we will surely judge ourselves, on the effort we make to build a new world society, and the extent to which our ideals and our goals have shaped that effort.

Mr. Speaker, I ask when the vote is taken it be taken by the yeas and nays.

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

Mr. KELLEHER: Mr. Speaker and Ladies and Gentlemen of the House: I rise to support the motion of the gentleman from Bangor, Mr. Curran; and one or two items I disagree with my good friend from Bangor, Mr. McCloskey.

The airport people that manage our airport in Bangor are concerned with this bill. They do feel that this may hurt them competitively, and we all know that the airport business is an extremely competitive business. An eighth of a cent on a gallon of gasoline would cost us — we sold 31 million gallons of gasoline last year.

The bill itself to me is a little far-fetched. They are not building them in this country. I don't believe they will be buying them in this country. And if they are, I am quite sure that Washington will set the standards for us. I don't think this State Legislature has to do it this morning.

I hope that the House concurs with Mr. Curran's motion, and indefinitely postpones this bill.

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

Mr. NORRIS: Mr. Speaker and Ladies and Gentlemen of the House: It is late and I will be brief. All I can say is that I have to concur with Mr. Kelleher and Mr. Curran; and I think that if the people in the Bangor-Brewer area—Brewer which I represent—represented this morning, that the majority of them would be definitely against this type of legislation at this time.

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

Mr. McCLOSKEY: Mr. Speaker and Ladies and Gentlemen of the House: I would just point out that I have received over 75 letters in support of this legislation for the Bangor area.

The SPEAKER: The yeas and nays have been requested. For the Chair to order a roll call vote it

must have the expressed desire of one fifth of the members present and voting. All members desiring a roll call 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 the desire for a roll call, a roll call was ordered.

The SPEAKER: The pending question is on the motion of the gentleman from Bangor, Mr. Curran, that both Reports and Bill "An Act to Regulate Noise Pollution of the Supersonic Transport under the Environmental Improvement Commission," House Paper 657, L. D. 887 be indefinitely postponed. If you are in favor of indefinite postponement you will vote yes; if you are opposed you will vote no.

#### ROLL CALL

YEA — Albert, Bailey, Baker, Bedard, Bernier, Berry, G. W.; Binnette, Birt, Bither, Boudreau, Brawn, Bunker, Call, Carey, Carrier, Carter, Conley, Cote, Cottrell, Crosby, Curran, Curtis, A.P.; Dam, Donaghy, Drigotas, Dyar, Emery, D.F.; Emery, E. M.; Evans, Fecteau, Finemore, Fraser, Gauthier, Gill, Good, Hall, Hancock, Hardy, Hawkens, Hayes, Henley, Herrick, Hewes, Hodgdon, Immonen, Jalbert, Jutras, Kelleher, Kelley, K.F.; Keyte, Lawry, Lewin, Lincoln, Littlefield, Lynch, MacLeod, Maddox, Mahany, McCormick, McNally, Mills, Mosher, Norris, Page, Porter, Pratt, Rand, Scott, Shaw, Shute, Simpson, L. E.; Starbird, Theriault, Trask, Wheeler, White, Wight, Williams, Wood, M. W.; Woodbury.

NAY — Barnes, Bartlett, Berube, Bourgoin, Brown, Bustin, Churchill, Clemente, Cummings, Curtis, T. S., Jr.; Doyle, Faucher, Gagnon, Genest, Goodwin, Haskell, Kelley,

P. S.; Lessard, Lucas, Lund, Manchester, Marsh, Marsteller, Martin, McCloskey, McTeague, Millett, Morrell, Murray, O'Brien, Orestis, Payson, Rollins, Ross, Simpson, T. R.; Slane, Smith, E. H.; Stillings, Susi, Tyndale, Vincent, Whitson, Wood, M. E.

ABSENT — Ault, Berry, P. P.; Bragdon, Clark, Collins, Cooney, Cyr, Dow, Dudley, Farrington, Hanson, Kelley, R.P.; Kilroy, Lebel, Lee, Lewis, Lizotte, McKinnon, Parks, Pontbriand, Rocheleau, Santoro, Sheltra, Silverman, Smith, D. M.; Tanguay, Webber.

Yes, 80; No, 43; Absent, 27.

The SPEAKER: Eighty having voted in the affirmative, and forty-three having voted in the negative, with twenty-seven being absent, the motion to indefinitely postpone does prevail. It will be sent up for concurrence.

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

Mr. NORRIS: Mr. Speaker, I would ask that we reconsider our action on L. D. 887, and I hope you all vote against me.

The SPEAKER: The gentleman from Brewer, Mr. Norris, moves the House reconsider its action of earlier whereby Bill "An Act to Regulate Noise Pollution of the Supersonic Transport under the Environmental Improvement Commission," House Paper 657, L. D. 887, was indefinitely postponed. All in favor will say aye; those opposed will say no.

A viva voce vote being taken, the motion did not prevail.

On motion of Mr. Clemente of Portland,

Adjourned until nine o'clock tomorrow morning.