

# MAINE STATE LEGISLATURE

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**LEGISLATIVE RECORD**

**OF THE**

***One Hundred and Fifth  
Legislature***

**OF THE**

**STATE OF MAINE**

**Volume III**

**June 16, 1971 to June 24, 1971**

**Index**

**1st Special Session**

**January 24, 1972 to March 10, 1972**

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**KENNEBEC JOURNAL  
AUGUSTA, MAINE**

**HOUSE**

Wednesday, February 23, 1972

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

Prayer by the Rev. Mr. Elbert Brewster of Oakland.

The journal of yesterday was read and approved.

**Paper from the Senate  
Report of Committee  
Ought to Pass with  
Committee Amendment**

Report of the Committee on State Government on Bill "An Act Implementing the Reorganization of the Department of Public Safety" (S. P. 718) (L. D. 1991) 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-348) was read by the Clerk and adopted in concurrence, and tomorrow assigned for third reading of the Bill.

**Orders**

On motion of Mrs. Wheeler of Portland, it was

ORDERED, that Theresa, Christine and Barbara Anne Boudreau of Manchester, Connecticut be appointed to serve as Honorary Pages for today.

On motion of Mrs. Doyle of Bangor, it was

ORDERED, that David Myerowitz of Bangor be appointed to serve as Honorary Page for today.

On motion of Mr. Mills of Eastport, it was

ORDERED, that Reginald W. Emery Jr., of Auburn be appointed to serve as Honorary Page for today.

On motion of Mr. Lucas of Portland, it was

ORDERED, that Dennis Lucas of

Brunswick be appointed to serve as Honorary Page for today.

Mr. Bustin of Augusta presented the following Order on behalf of Mrs. Goodwin of Bath and moved its passage:

ORDERED, that Geoffrey and Elisabeth Doyle of Bangor be appointed to serve as Honorary Pages for today.

The Order received passage.

**House Reports of Committees  
Ought to Pass with  
Committee Amendment  
Tabled and Assigned**

Mr. Marsteller from the Committee on State Government on Bill "An Act Implementing the Reorganization of the Department of Secretary of State" (H. P. 1535) (L. D. 1978) reported "Ought to pass" as amended by Committee Amendment "A" (H-557) submitted therewith.

Report was read and accepted and the Bill read twice.

Committee Amendment "A" (H-557) was read by the Clerk.

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

Mr. PORTER: Mr. Speaker and Ladies and Gentlemen: We have been told that these reorganization bills save the State money. This amendment takes from the Secretary of State the snowmobile and watercraft registrations--

Excuse me, sir, they tell me that I am on the wrong bill.

(Mr. Porter spoke at the wrong time — he is now recognized and continues speaking.)

Mr. PORTER: Mr. Speaker, I think, although I am not sure, that I am in the right church; now I hope I am in the right pew.

I have been told that this amendment that I am about to move to indefinitely postpone would save \$40,000 and be a real convenience to the people of the State of Maine. Therefore, Mr. Speaker, I move the indefinite postponement of Committee Amendment "A".

The SPEAKER: The gentleman from Lincoln, Mr. Porter moves the indefinite postponement of Committee Amendment "A". Is this the pleasure of the House?

The motion prevailed.

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

Mr. DONAGHY: Mr. Speaker, I would like to ask through the Chair an explanation of where this \$40,000 saving could be.

The SPEAKER: The gentleman from Lubec, Mr. Donaghy poses a question through the Chair on a matter that is no longer before us. Is it the pleasure of the House to reconsider our action whereby Committee Amendment "A" was indefinitely postponed?

The motion prevailed.

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

Mr. MARTIN: Mr. Speaker, I wonder if the gentleman from Lincoln would indeed explain the actions.

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

Mr. PORTER: Mr. Speaker, I am very sure there are many members in the House who can do it much better than I.

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

Mr. GILL: Mr. Speaker and Members of the House: As I understand it, in the original bill it would put the legislation of snowmobiles and watercraft under the Secretary of State. The savings that we were told in Appropriations would amount to \$40,000 includes the salaries of the directors involved in these two departments now and some other personnel savings.

It would also appear that it would be an advantage if the Secretary of State were to take care of this because the people would be able to register their snowmobiles and their watercraft at the various car registration bureaus around the state. That is all the information I have on it.

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

Mr. MARTIN: Mr. Speaker and Members of the House: It seems to me that this apparently came from State Government Committee unanimously to accept the Committee Amendment. It seems to me

that at this point it would be premature of us to postpone a unanimous committee report from the State Government Committee, and I would ask you to oppose the request made by the gentleman from Lincoln, Mr. Porter.

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

Mr. MARSTALLER: Mr. Speaker and Members of the House: A word of explanation as to why the amendment was put on. In the discussion of the bill before the committee there was quite a bit of discussion about the safety programs both in the snowmobile and the boat registration program, and this wasn't really fully resolved as to how we would handle this in terms of separating the registration and still having people in the other departments working with the safety programs. This is the major reason that the amendment went on, that we didn't resolve this problem, and there will still be the safety programs in the other departments; so it wasn't a clear-cut issue.

The SPEAKER: The Chair recognizes the gentleman from Casco, Mr. Hancock.

Mr. HANCOCK: Mr. Speaker, I am still a little confused here and I would like to pose a question through the Chair to any member of the State Government Committee. I think perhaps where I am confused is between licensing and excise taxes. At the present time the towns where the taxes are paid get some proportion of this tax.

What happens to this under this amendment, how is it handled between the State and the various towns? If some member from the State Government Committee could clarify this for me, I would appreciate it.

The SPEAKER: The gentleman from Casco, Mr. Hancock poses a question through the Chair to any member of the State Government Committee, who may answer if they choose.

The Chair recognizes the gentleman from Kittery, Mr. Hodgdon.

Mr. HODGDON: Mr. Speaker and Ladies and Gentlemen of the House: The amendment would not

change the division of the \$10 fee in any way whatsoever. The six dollars that now is returned to the municipalities would still be returned. The only thing this would do would be the actual registration; all other facets of the snowmobile and watercraft would remain with the present agency.

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

Mr. GAGNON: Mr. Speaker and Members of the House: I may be a little heavy this morning in the head, but as I see this amendment it appears to me that this would be taking the physical registering of these away from the registry bureaus; and to me this doesn't sound very reasonable, and very inconvenient to the public. I would think that it would be best kept within the registry bureaus and to keep this convenience for the public. If this is the way it reads to me, I would think we should kill this amendment.

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

Mr. SIMPSON: Mr. Speaker, I would like to pose a question also. At the present time the snowmobiles are regulated and policed through the Department of Inland Fisheries and Game. Now under this new setup I would like to ask how they are to be policed.

The SPEAKER: The gentleman from Millinocket, Mr. Simpson poses a question through the Chair to any member of the State Government Committee, who may answer if they choose.

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

Mr. DONAGHY: Mr. Speaker and Members of the House: The only intent of this bill was to change the actual physical registration, passing of pieces of paper through the Secretary of State's office. This is already done with motor vehicles, it is done with the trailers that are used for the boats, the trailers that are used for snowmobiles. It seemed only logical to tie this operation all under one roof, and it would be as far as the regulation and safety and all

this sort of thing, leave it right where it is.

The SPEAKER: The Chair recognizes the gentleman from Southport, Mr. Kelley.

Mr. KELLEY: Mr. Speaker and Members of the House: The registration of snowmobiles and the registration of boats are done at the present time here in Augusta. The boating people would very much like to see it stay here in Augusta and I think most of the snowmobile people would. Several other states have tried expanding in the number of places that you could register these types of vehicles and found that it doesn't work too well. I can't name them offhand, but if somebody would table this bill I could come in tomorrow and tell you of several states where they have gone back to a centralized location. The boating people and the snowmobile people I feel sure would like to keep the system the way it is now.

Whereupon, Mr. Silverman of Calais moved that the matter be tabled until tomorrow.

The SPEAKER: The gentleman from Calais, Mr. Silverman moves that this Bill "An Act Implementing the Reorganization of the Department of Secretary of State," House Paper 1535, L. D. 1978, be tabled until tomorrow pending the motion of the gentleman from Lincoln, Mr. Porter that Committee Amendment "A" be indefinitely postponed. Is this the pleasure of the House?

(Cries of "No")

The Chair will order a vote. All in favor of the motion to table will vote yes; those opposed will vote no.

A vote of the House was taken.

91 having voted in the affirmative and 28 having voted in the negative, the motion to table did prevail.

Mr. Stillings from the Committee on State Government on Bill "An Act relating to Relocation Assistance and Land Acquisition in State Projects" (H. P. 1554) (L. D. 2015) reported "Ought to pass" as amended by Committee Amendment "A" (H-558) submitted therewith.

Report was read and accepted and the Bill read twice. Committee Amendment "A" was read by the Clerk and adopted, and tomorrow assigned for third reading of the Bill.

**Divided Report**

Majority Report of the Committee on Appropriations and Financial Affairs on Bill "An Act Reallocating Funds for Professional Contractual Employees of the Joint Standing Committees of the Legislature" (H. P. 1450) (L. D. 1893) reporting "Ought to pass" as amended by Committee Amendment "A" submitted therewith.

Report was signed by the following members:

Messrs. SEWALL of Penobscot  
 CONLEY of Cumberland  
 DUNN of Oxford  
 — of the Senate.

Messrs. GILL of South Portland  
 CAREY of Waterville  
 BRAGDON of Perham  
 BIRT

of East Millinocket  
 — of the House.

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

Report was signed by the following members:

Messrs. CARTER of Winslow  
 JALBERT of Lewiston  
 SHAW of Chelsea  
 — of the House.

Reports were read.

Mr. Bragdon of Perham moved the acceptance of the Majority "Ought to pass" Report.

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

Mr. SHAW: Mr. Speaker and Members of the House: I would request a division on the motion. This gives the Legislature a pay raise of \$1,000, which is roughly 40 per cent or a little over. After giving the state employees an increase of 11 per cent I think 40 per cent is a bit too much to hand the Legislature.

The SPEAKER: The pending question is on the motion of the gentleman from Perham, Mr. Bragdon, that the House accept the Majority "Ought to pass" Report. If you are in favor of that motion

you will vote yes; if you are opposed you will vote no.

A vote of the House was taken. 88 having voted in the affirmative and 32 having voted in the negative, the motion did prevail.

The Bill was read twice.

Committee Amendment "A" (H-559) 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 relating to Penalty for Sale of Certain Drugs" (H. P. 1529) (L. D. 1972)

Report was signed by the following members:

Messrs. TANOUS of Penobscot  
 HARDING of Aroostook  
 QUINN of Penobscot  
 — of the Senate.

Messrs. LUND of Augusta  
 ORESTIS of Lewiston

Mrs. WHITE of Guilford  
 Mr. KELLEY of Caribou  
 Mrs. WHEELER of Portland  
 Mr. PAGE of Fryeburg  
 — of the House.

Minority Report of same Committee on same Bill reporting same in a new draft (H. P. 1582) (L. D. 2040) under same title and that it "Ought to pass"

Report was signed by the following members:

Messrs. HENLEY of Norway  
 HEWES

of Cape Elizabeth  
 Mrs. BAKER of Orrington

Mr. CARRIER of Westbrook  
 — of the House.

Reports were read.

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

Mr. JALBERT: Mr. Speaker and Members of the House: Insofar as this measure is concerned, it being my bill I followed my custom of not lobbying individual members of either branch. I have talked to members of the Judiciary Committee on the measure, period.

Recently in a somewhat flattering article in the press it stated that I could turn the wheels of an indication of temper to compassion. Wherein it concerns this measure here I feel so strongly

about this measure that I would practically say that I would beg you on bended knee to accept the Minority "Ought to pass" Report.

At the last session of the Legislature this measure was debated for over one hour and passed by this body overwhelmingly. I believe the vote was 118 to 16 or 17, and it was debated of an evening. When the measure went into the unmentionable other body, another report was accepted which deleted the major portion of my measure. It came back here and I even tried to kill the bill because it did not go far enough in my opinion.

Now I know fully well that the arguments as brought forth, particularly by one member of the Judiciary Committee who is a trial lawyer, making the statement what happens if a child sells to my youngster or your youngster heroin or a heavy drug for the same price that he bought it for. That is exactly the procedure that is used. It even goes sometimes that the individual will give a heavy drug that he might have bought himself to a friend or a companion. The next time he may well sell it to him for the amount of money that he paid for it, and that might be repeated a couple of more times.

But then comes the real operation. Then comes the individual who is hooked as well as the seller is, and then if the seller goes to this individual that he has been so kind to by feeding him heroin for free or feeding it to him at the price that he bought it, then he really gives it to him. The price goes double, triple, quadruple and so on; and then the money runs out. And then there is only one alternative or the other, the alternative of stealing, the alternative of even raiding anything of value within the home, or else becoming himself a seller.

I would like to quote from the February issue of the American Legion National Magazine, in part, "You can arrest every pusher in the town and a fresh lot of them will appear overnight." I would like to quote from the February issue of Newsweek, "Fight the pusher, not the poppy. Stop pampering."

I wonder how many of you have seen what happens in your

community insofar as the attitude of the seller or the pusher so-called. This bill incidentally does not touch marijuana; it touches upon hard drugs.

As you well know in my community, recently a splendid job was done by the enforcement officers in Lewiston, aided by the county officers, county sheriff's department, and other enforcement officials. They swooped down with undercover agents and they finally arrested and indicted several individuals — and incidentally while we were talking about a notice that you might have gotten about the endorsement of our \$36,000 a year Dr. Schumacher, who conducts courses on drug abuse, it might be well if he might have spent a little time in our place called "Rap Place," because one of the directors of Rap Place was indicted and he was indicted because he made a sale in Rap Place of heroin to an undercover agent.

Now somewhere along the line it would be my suggestion that that agency headed by Dr. Schumacher shift their affection from CMVTI to Rap Place on Park Street in Lewiston, and when we have stopped talking about doing it physically, being rather fond of CMVTI — I haven't had a chance to drop in over there, but when I do believe me certain projects are going to come to a damn dead end.

While these people had been arrested after their indictment high bond was set for them. On more than one instance the high bond was provided. I happened to be in the sheriff's office in Auburn on one Saturday afternoon when the bail had been reduced for one of those indicted from seven thousand to four thousand dollars. The young man personally appeared, reached into his pocket and counted off \$4,000 in cash and went on his way, on his way back to the bowery and back Saturday night in business.

There isn't a piece of legislation — and by far that includes the third bridge which went to referendum, and by far that includes the vocational school and food stamp plans and amendments

that might benefit my city in many areas. There isn't a bill that I have presented before this body since 1945 that means more to me and should mean more to the people of the State of Maine than this measure here.

I want this measure so desperately I can taste it. It was within my grasp and this body passed it overwhelmingly before, and it was put away by trial lawyers; and I don't blame them and I am not taking any issue with lawyers as individuals. I certainly don't blame one member of the committee for signing a report "ought not to pass," because he was a court appointed lawyer, for a pretty fair fee, to defend a couple of clients that were convicted of possession or sale of these hard drugs.

Our county budget at home, our court appointed lawyers has risen from a budgeted item of \$6,000 to near \$50,000 in the last year, mainly due to these projects here. I have voted as a member of the Appropriations Committee, and no doubt shall continue to do so, for programs that would involve themselves with drug abuse, with treatments, also with alcoholic problems. But believe me, ladies and gentlemen, members of the House, there is only one way to treat a drug salesman and a drug peddler, and that is to throw him in the can and throw the key away. Cash means nothing to them.

I think you people here will remember that I offered to make a wager during the debate the last time with a member of this House, an attorney who is now a law enforcement official. The bail had been set that very day, imposition for an individual at \$25,000. I offered to bet that within one hour he would be on Commercial Street having a brew. I was wrong, I called him in twenty minutes and he was leaning over a bar having a brew, and he had put up the bail of \$25,000.

Many of you who have been here in the last few years remember how hounded and pounded we were by the ruthless manner in which siding and roofing and windows and electrical appliances and

whatnot were being sold at ten and fifteen and twenty times the prices that they should be sold for. The Research Committee made a study of it, a bill was passed whereby they would have to register through the Treasurer's office, and if your memory goes back and serves you correctly you never hear of this problem now. And it was far less serious than the problem that I am presenting to you today.

The problem of drugs should be treated as it is treated in a programming of drug abuse. But it also should be treated in a manner that these people should not come in here and feel that they can sell their products which makes addicts, which turns people into animals, and just get away with it. I wonder how many of you here have seen one of your own neighbors or friends of your neighbor on a trip as I have, of a young man six foot two, with a college degree, a splendid record in the service, turn to drugs and in a trip rip his eye out. And if I told you the name of the individual it would come fairly close to my own heart.

Kill this bill if you may. I make no threats and I was told that I had made a threat before the Judiciary Committee, and in that there must be some sort of levity to anything I was also told that I was somewhat arrogant in doing so. Well I have been arrogant all my life and I have never denied it, but I think I do it in the right places. I make no threats but a promise, that I got a lousy shuffle on this bill the last time I presented it.

Unfortunately for me today, the House Chairman of the Judiciary Committee is not here, who signed the report along with me "ought to pass," the honorable gentleman from Cape Elizabeth, Mr. Hewes. I am not asking that this bill be tabled because I too want to get out of here as soon as we can, and I am in a position now to ask that it be tabled, but I do not want to.

I am only this morning, with the deepest of compassion, begging this House to go along with this legislation because it is right legislation; it is honest legislation. It



is legislation that will correct the situation that must be corrected. And there might be those who might say, and I might say it myself, that even though some of those who have been indicted and have one notch against them might continue to go along. They are of a rarity but they exist. In my opinion they are complete idiots and I am glad they are still on the market, because at least if they are grabbed away they will go because my original bill called for mandatory after the first offense. I now feel that the situation is strong enough, that this would be called for mandatory sentence at the first offense.

I think it is justifiable. I am sure the judges can handle the situation properly. There are those who might say that the judiciary would not be for this. At the last hearing the late Supreme Honored Justice Albert Beliveau, Sr. because of illness could not attend but wired to me that he was entirely in favor of this measure. I have talked to judges. One individual who was in the Senate put mandatorial legislation through this House concerning drunken drivers, so I think no precedent is being set.

I am not only urging but I am beseeching this House to accept the "ought to pass" report on this most important — and I say it humbly because it is my bill, most important piece of legislation which will benefit Maine and keep Maine where it is, in its proper perspective insofar as these murderers are concerned.

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

The SPEAKER: The pending question is on the motion of the gentleman from Lewiston, Mr. J. Albert that the House accept the Minority "Ought to pass" Report.

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

Mr. LUND: Mr. Speaker, Ladies and Gentlemen of the House: The bill that has been debated this morning is in redraft form L. D. 2040. On the second page of that bill. I would like to read portions of Section 212C to call it to your attention. Perhaps some of you

might like to look at it as I read portions of it.

"Whoever, gives or furnishes any of the substances," and it goes on to define the drugs, "shall, upon conviction thereof, be punished by not less than one nor more than five years," and so on. "The imposition or execution of sentences for conviction or violation of this section shall not be suspended and probation shall not be granted."

This is the bite of the bill that we are concerned with today. And this specifically is the portion of the bill that a majority of your Judiciary Committee found to be unacceptable. Calling your attention again to the provision referring to giving away.

Now, the Judiciary Committee has no particular insight in the matter of drug problems. Some of us have had opportunity to have some contact with it in court. But probably the greatest influence upon the committee report that you see before you, the Majority "Ought not to pass" Report, was the statements made by several people who appeared before the committee who opposed the provisions of the principal bill. And I have had reproduced and placed upon your desks, letters from some of those. There were others who appeared in opposition to the bill and I have also a letter here from the Chairman of the Governor's Committee on Children and Youth, Mr. Royal Parent. There were persons who appeared in support of the bill, but they were very few.

The Committee wishes very much that we could join in the sponsor's enthusiasm for this measure as a way of solving our drug problems in Maine. I would like very much to be able to believe that we can solve our drug problem by writing a few more lines on the statute books, and I earnestly mean that. I wish we could solve it in this way.

However, other states have attempted to solve their drug problems in this way. We have jail sentences in some states, as I recall it, running as high as 50 years. And not one person who spoke before this committee could show that that kind of sentence has done

any good anywhere as applied to our drug problem.

Our Federal Government, a few years ago, also embodied the philosophy of harsh mandatory sentences in the federal drug laws. At the federal level again, this was found to be ineffective and was changed and the federal laws now no longer call for harsh mandatory penalties for drug offenses. There were other written statements submitted to the committee outlining various ways that the sponsors felt might be more effective in dealing with the drug problem. I felt that it was not worth your time nor the expense of reproducing them to provide copies of them for you.

I simply would like to bring to this House's attention the thought that the opposition to this bill is not the muddleheaded thinking of a few softheaded social philosophers, nor the biased thinking of lawyers who somehow have an interest in not solving the drug problem. And, incidentally, I might say as an attorney, that probably the attorneys in this House, if they were to vote their own selfish self interest, would vote for this bill because if your child were tangled up or a child of your neighbor were tangled up, and faced a mandatory prison sentence or a mandatory sentence at the place we call Men's Correctional Center, cost would be no object to you in defending your child against that result. So, if the lawyers were to really act on a selfish basis, they would all vote for this bill, because it would mean money in their pockets.

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

Mr. EMERY: Mr. Speaker, Ladies and Gentlemen: You have heard the Honorable Louis Jalbert speak in favor of this bill. I happened to be down in the City of Lewiston when this drug raid took place, I witnessed some of these people that were arrested there. If you ever saw a pathetic sight, you should have witnessed some of these young people in the condition they were in.

Now the fact was mentioned that penalties will not stop this. I will tell you what the penalties are in

some foreign countries. They put them against a wall, they put a 45 in their ear and pull the trigger. If this bill saves one young person, it will be worth all of our effort today and whatever expense the bill will cost.

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

Mr. KELLEY: Mr. Speaker, Members of the House: This bill poses a very serious threat to our Court system's ability to dispense justice. There can be no question that the supporters of minimum mandatory sentences, as this bill would impose, are well intentioned and motivated by the very real hope that sentence would deter future offenders.

However, the effect of minimum mandatory sentences is to cut down considerably on the discretion of our judges in passing out sentences. For example, under this bill, if an eighteen-year-old should be at a party and give away, say, a tablet of a drug to another, the judge would have no choice but to impose a one year imprisonment term on that particular teenager.

Now, what do the courts do when they have these minimum mandatory sentences challenging them, what they do to avoid the possible destruction of a young life is to dismiss the case and kick it out of Court. Now the judge and the prosecutor do this in order to avoid an unjust sentence and I think, as Representative Lund just touched upon, trial lawyers stand to benefit by the passage of this bill because when a client comes in on a drug charge and wants us to represent his teenage daughter or son, he is going to pay according to the results that we can get for him. But under the present law, the judge has the discretion with probation and other means to impose a sentence which meets the particular circumstances. So quite often the effect is that a guilty verdict is found and that the attorney's role is to reduce and keep down the punishment as best as possible.

However, in this case, if we are hired and we go in, and the result which very often would occur would be that the case would be

kicked out and dismissed. Obviously, the bill that the attorney can charge a client is enhanced considerably by the result that he gets.

I agree very much, as I think everybody in this House does, that the hard-core pushers of drugs should be put away as long as possible. But this bill has the effect of punishing the little guy, the person who may use drugs or who is giving a drug to a friend. If we seriously want to kill the source of these drugs, we should consider appropriating money so that undercover agents can purchase drugs from the big pushers and lead to their convictions.

I am on the Judiciary Committee and on the day that the hearing was held three persons who were witnesses brought in by Mr. Jalbert testified to us later in private session, and at that session they said that they were tremendously hamstrung and that they wished that they could get to the hard-core pushers. But, unfortunately, sometimes it requires ten or fifteen or \$20,000 to purchase and therefore convict these people and they don't have these means, so the result is that they are getting the smaller fellow, which quite often would be our children or relatives and these people are the ones that, under this law, under this bill, are put in prison for a minimum of one year.

I feel that this bill should be defeated so that the Courts can continue to use the discretion they have to pass out sentences which the particular circumstances of the person before them demand. And I would point out right now that the laws of the State of Maine and many of the drug abuse statutes now impose a sentence of up to 20 years if the judge feels that the circumstances require it.

Accordingly I urge you to support the Majority "Ought not to pass" Report and defeat the motion now pending.

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

Mr. JALBERT: Mr. Speaker and Members of the House: At the hearing, of course I could have had a lot of people that were to come to the hearing, but in order to go

to the hearing they would have had to get out of their jobs in the mill or the shoe shops or tending their shops or one thing or another.

It was very easy for Dr. Schumacher to come over to the hearing at nine o'clock, nine-thirty in the morning, and he waited until noontime, it is simple for him to sit there and wait for the bill to come up for hearing. He is getting \$36,000 a year from us. Easiest thing in the world to do for him, but quite difficult for the poor sucker that is in the mill or a shoe shop grinding out \$7.40 a day. So that shatters that argument.

Now, as far as the words "furnishes or gives away," it would be very easy, and I will be very happy if Mr. Lund and Mr. Kelley will pass this bill today, and they talk about giving away, and amend the bill that would strike out, "furnishes or gives away or offers to sell," and just leave "sell" in there. That will satisfy me perfectly well because that was the intent of the bill in the first place and I would not accuse anybody of redrafting it or misdrafting it, but I have just noticed those words there.

My measure and my bill that I want includes itself with merely the selling, the pushing of these drugs. If the Minority Report is accepted, I will be more than happy to present an amendment that will strike out the words, "furnishes or gives away or even offers to sell," I will be more than happy to strike that out of there. I want to get to that guy that makes four, five, six thousand dollars.

There is one individual whose name I will not mention on the floor of this House, who is now incarcerated in Thomaston, who put up \$50,000 bail; and I went to him and I said where did you get that kind of money to get a bondsman to put up that kind of bail, He says, "Why that's a soft touch, I make four grand a year. I can't make it in jail, I can make it out here. He told me that in a business establishment in Lewiston.

So, it will be perfectly all right with me to satisfy the attorneys that the words, "furnishes or gives

away or offers to sell," even "offers to sell" will be struck out of the bill by amendment, and I will be more than happy to present the amendment myself.

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

Mr. BRAWN: Mr. Speaker, Ladies and Gentlemen: I should hate to see the words "give away" taken out. Our Courts' hands are tied right now. You would never catch a pusher in the world because you do not see this money change hands, and he would say right off, "I gave it to him." I would hate to see this ever come out. I have seen a girl who took a pill, it was given to her by another girl, who went unconscious. She was unconscious for 48 hours. This happened in my own town. This girl who gave her this pill knew exactly what she was doing. We have got to do something to stop this.

If we stop just one person, this is all I ask. It could be my boy or your girl and we have got to stop and think of it and think good. I should hate to ever see this, "give away" taken out.

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

Mr. SILVERMAN: Monday morning I happened to be sitting in a deputy sheriff's car in Calais and I asked him how the drug problem was in our area. And he said, "We could almost pick up every pusher, small or large, but what's the good of it, Harold." He says, "They will get a \$150 fine, they will appeal it to Superior Court and it will probably be thrown out and dismissed." He says, "Our hands are tied." And he says, "We don't like to see this."

Of course, many young people who, just by temptation, can get themselves in a pretty bad mess in life and can live with it the rest of their lives. I think the legal profession realizes this too, that there aren't harsh enough measures in this state to prevent the drug pusher who is profiting, and that is his reason for doing it, large or small, to stop it from reaching our young people. Our young people getting involved are

learning to laugh, and I literally say again, laugh at our judicial system because it doesn't mean anything if they are not punished or prevented from committing the same act again. They are laughing at this deputy or our police because his hands are tied.

Now we can sit here, and I don't know how many of us have acknowledgment or knowledge in this field, but I do know that when it starts to reach home, when it starts to reach your children, your grandchildren, you are not going to like it. You are going to get a different idea that something must be done. The soft approach such as we are receiving here of people opposed to it is not working either. And when the Representative from Lewiston says a place for rehabilitation for drug abuse is turning into, if the words are right, "a rat's nest," I think he is speaking the truth, that is a mess.

Now, I am saying some type of preventive measure, some type of harsher measure to show our young folks that we believe in leading them and guiding them in the right path of life should come out of this Legislature. This is important legislation. It will affect our future generations and I believe that if a pusher who is profiting off of selling the drugs, and these are hard drugs, then he should be put away with the lock and key. He doesn't belong in our society to infect other children to be taken advantage of.

Now, I hope you consider this bill very strongly. If there have to be amendments put to it to be made proper, I think we will consider it. But let's not make our judicial system and our police officers a laughing boy because you're going to end having nothing but crime, crime and more crime, especially people under the influence.

The SPEAKER: The Chair recognizes the gentleman from Casco, Mr. Hancock.

Mr. HANCOCK: Mr. Speaker, Ladies and Gentlemen of the House: The gentleman from Lewiston, Mr. Jalbert has said on several occasions that he hates to get up and oppose me. I certainly can return the compliment. I deeply

hate to get up and oppose his thinking and I am in great sympathy with what he is trying to do. I am also concerned about the hard-core pusher, what I call a professional pusher. I think that these people should be put away, as Mr. Silverman said, and I think I am going to practically throw away the key. I am all for this.

I am not a member of the legal fraternity as all of you know. However, I have served on criminal juries a number of times and this I do know, that you don't have to be concerned about the judge, you don't have to be concerned about the lawyers involved in any of these cases. If the penalty is too high, the jury is going to bring in a not guilty verdict regardless of the evidence presented. This is going to happen. So that these people are not going to get off with just a slap on the wrist, they are going to get off, period. The juries will not convict, twelve people will not convict if the penalties are too high. I feel that this should be taken into consideration.

Now, I would like to see, somehow, among this House, I know that there is sufficient intelligence so that we can construct a bill that will get at these professional pushers and do something to them that will get them out of our way. And once they are out of the way, these kids who are only passing out a few cigarettes or a few pills or a few thisers or thaters will not have any supply. I am all for what Mr. Jalbert is trying to do, but I am convinced that this bill will not do it.

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

Mr. AULT: Mr. Speaker, Ladies and Gentlemen of the House: I and my people share the concern of Mr. Jalbert as expressed in his remarks. In fact, last week, I supported a \$450,000 appropriations measure that would have provided the state with a Crime Laboratory because I believe that a Crime Laboratory such as this would have helped us in the conviction of these pushers.

I now urge you to support Mr. Jalbert's motion for the Minority

"Ought to pass" Report.

Mr. Jalbert of Lewiston was granted permission to speak a third time.

Mr. JALBERT: Mr. Speaker, I would just like to comment, and he knows how serious I am when I say that he is my very dear friend, the gentleman from Casco, Mr. Hancock, in the instance of cases as tried in Lewiston in the Androscoggin County Court of recent months all of them were not jury trials. They were all done by the judge. And on one occasion, at least, I saw the County Attorney go livid when he came down after practically being held in contempt by the judge who practically sent the young man on his way, a seller, and when he walked downstairs, he made a comment to a couple of his friends, down to here, this is the place to come to. So that he got away scot-free, he got away very easy.

There was no jury trial, it was a judge that let him get away.

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

Mr. HENLEY: Mr. Speaker, Ladies and Gentlemen of the House: I hesitate to inject myself into the oratory that we have heard. I have certainly got sympathy for both sides of the picture but I feel, inasmuch as I did sign the "ought to pass" report and no one else from the committee on that side has chosen to get up, why, I think I'll discuss it a bit.

I have been proven wrong many times, of course. I am not a lawyer but it seems to me that all the time and the period of time that I have been in the Legislature, and for some time before that, there has been a hassle between the judiciary system, possibly our judges, I am not certain, opposing mandatory sentences, mostly because as we understood it both in the press and here in the Legislature, the judicial people did not want to be hampered by any preconceived ideas as to how they should sentence people convicted of a crime.

There is one outstanding thing that I think we should consider, and that is all this time through the years, in the past five or six

years particularly, the expansion of the drug situation has been alarming. We can be entertained by psychologists in the philosophy of rehabilitation as being a substitute for punishment. But is it working, and must we not try something else? We have been given to understand by the fine talk of Mr. Lund, and I am sure he is very sincere in his objection to any mandatory sentences of this type, that it had been tried in other areas and had been discontinued.

Well, to be possibly a bit facetious, several things have been tried and discontinued and then taken up again. There are several towns in the state, for instance, that tried parking meters, discontinued them, and now they are bringing them back again. And along the same line, we know of many people who divorced their spouse and then remarried them. There can be mistakes along that line and there may be a way for a mandatory sentence under certain circumstances to be effective and we do know in the history of bygone days that possibly it will be charged to the fact that there was more ignorance then.

But as I stated before, two years ago, three years ago on this same subject, anyone who is a student of English history knows that the mandatory sentence over there practically wiped out the crime of highway robbery. And the crime was death, a very hideous death, and very drastic. I am not recommending such a thing, for selling dope to the first pusher. Nevertheless, there have been times in history where mandatory sentences paid off.

I am not sure about the experiences in this country, but we must try something else. This seems right now to be one of the things to attempt, mandatory sentences. Now you can't tell me that regardless of the generation gap, credibility gap and so on that we read in these learned decisions, and it would seem to me, and I was young once, that if I knew very well that if I sold a little pill or a package of any kind of dope, if I knew and it was well publicized, if caught and convicted it would

mean at least a year in the so called unspeakable place down at Thomaston, I am very sure that I would certainly burn my hand off before I touch it.

I think perhaps that it has been shown that the addict perhaps, the confirmed addict, might risk his life in order to get some. But the pusher himself, small time or bigtime, is going to consider it pretty carefully if he knows conviction is going to actually lock him up for at least a year.

I think one criticism I would have with this bill is that I think that the maximum should be taken off, I think under certain circumstances a maximum should not be five years, but should be a hundred years. And I think that the maximum should be completely removed in most of these paragraphs. But, I signed the "ought to pass" report and I hope that the move to accept the "ought to pass" report prevails.

The SPEAKER: The Chair recognizes the gentleman from Casco, Mr. Hancock.

Mr. HANCOCK: May I pose a question through the Chair, to the gentleman from Lewiston, Mr. Jalbert?

The SPEAKER: The gentleman may pose his question.

Mr. HANCOCK: Mr. Jalbert stated that in these cases in Lewiston that they were held before a judge. My question is, and as Mr. Jalbert knows is a perfectly honest one, is it possible in cases like this for the defendant to ask for a jury trial?

The SPEAKER: The gentleman from Casco, Mr. Hancock, poses a question through the Chair to the gentleman from Lewiston, Mr. Jalbert who may answer.

Mr. JALBERT: Absolutely, it is possible, but it wasn't done in these cases.

The SPEAKER: The Chair recognizes the gentleman from Strong, Mr. Dyar.

Mr. DYAR: Mr. Speaker, Members of the House: The arguments this morning seem to be based on mandatory sentencing. If the good gentleman from Lewiston would recess this House one hour and go

across the river and see young people over there who are in for brain damage who have been sentenced for life in an institution without due process of law, there certainly would be no argument.

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

Mr. COTTRELL: Mr. Speaker and Members of the House: I certainly didn't plan to say anything this morning, but over the weekend, rather accidentally, I was presented with very hard evidence by a person who is working with the kids in Portland on this drug issue, and he gave me this hard evidence that in one of our junior high schools drug pills are being passed. Now that is a pretty young age to get involved in this big situation here.

I am against the drug pusher. It seems to me though that mandatory sentences, as I understand it, to be applied to 13 and 14 year old kids in junior high school is something that should be given attention to, and perhaps an amendment could be constructed to take care of a situation like that.

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

Mr. JUTRAS: Mr. Speaker and Ladies and Gentlemen of the House: I have listened to the arguments from Representative Lund from Augusta. They are very valid arguments. Representative Jalbert from Lewiston also has the finest of intentions, and Representative Hancock from Casco also has very solid arguments. However, I think that we are missing the real fundamental problem in drug use, in drug distribution, because it is an international problem.

Drugs come in — the United States is being flooded with drugs from the near East, the Middle East and especially the Far East who have a policy, an announced policy even from the people who are being visited by the Chief Executive of this nation right now, a few years ago made a statement that they would supply and see that our servicemen in Vietnam have

the best of drugs, and that was their number one goal, and all these other nations are infiltrating. The international greeting agents from other countries are pushing drugs, so to say, down our throats. Local legislation will never cure the ills caused by these international agents. I believe a state law will not do it. For that reason I will vote against this bill.

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

Mr. DUDLEY: Mr. Speaker and Members of the House: I am not an attorney, but I don't believe that you can give a juvenile a mandatory sentence as of today. I hope some attorney would enlighten the House, but I don't believe that a juvenile can receive a mandatory sentence as of today. And my thought is very brief on this matter.

I am not satisfied with the situation as it exists today. I am not satisfied that — I am not going to lean on anybody, except that I am not satisfied with the situation that exists, and for this reason I am ready at this time to try a new course, and I think Mr. Jalbert's bill is that new course that I would like to try. I realize too that the legislature will be back in January and amend it and try to improve it, but I think it is time in our life when we take a new direction in this case of hard drugs and I hope we do it today.

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

Mr. BINNETTE: Mr. Speaker, Ladies and Gentlemen of the House: I believe this bill concerns every man in this House very much so, and after listening to both sides of the story I would like to pose a question to the former county attorney, Mr. Lund. He made a statement that many of these states have this law but it has been rather unsuccessful. I am wondering if there are any states that have this law that have been successful and if so I wish he would inform us.

The SPEAKER: The gentleman from Old Town, Mr. Binnette, poses a question through the Chair to the gentleman from Augusta, Mr.

Lund, who may answer if he chooses. The Chair recognizes that gentleman.

Mr. LUND: Mr. Speaker, Ladies and Gentlemen of the House: I am not sure that I can answer the question fully. We were made aware that there are some states that have harsher mandatory jail sentences. Nobody who spoke on behalf of the bill called to our attention any success or any evidence of success in dealing with the drug problem in those states with mandatory sentences.

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

Mr. MILLS: Mr. Speaker and Ladies and Gentlemen of the House: We have had these drug laws in here for three sessions to my knowledge. In my own personal district, in Eastport we had an attorney down there who was the cause of drugs coming into Washington County. That man is now under a 3 to 5 at Thomaston and he is on the lam; nobody knows where.

But that isn't the point either. The whole point here on this law, or this bill that Mr. Jalbert has sponsored, is the fact that if we don't have the law on the books there is nothing that can be enforced.

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 on the motion of the gentleman from Lewiston, Mr. Jalbert, that the House accept the Minority "Ought to pass" Report on Bill "An Act relating to Penalty for Sale of Certain Drugs," House Paper 1582, L. D. 2040. If you are in favor of that motion you will vote yes; if you are opposed you will vote no.

### ROLL CALL

YEA — Albert, Ault, Bailey, Baker, Barnes, Bartlett, Bedard, Berry, G. W.; Berube, Binnette, Bither, Bourgoin, Brawn, Brown, Bunker, Carey, Carrier, Carter, Churchill, Clark, Conley, Cote, Cottrell, Curran, Dam, Dow, Dudley, D'yar, Emery, D. F.; Emery, E. M.; Farrington, Faucher, Fecteau, Finemore, Fraser, Gagnon, Genest, Good, Henley, Herrick, Hodgdon, Immonen, Jalbert, Kelleher, Kelley, K. F.; Kelley, R. P.; Keyte, Lawry, Lebel, Lewin, Lewis, Lincoln, Littlefield, Lizotte, Lynch, MacLeod, Maddox, Mahany, Manchester, Marsh, Marstaller, McCormick, McKinnon, McNally, Millett, Mills, Murchison, Parks, Payson, Pontbriand, Porter, Rand, Rollins, Ross, Santoro, Scott, Shaw, Sheltra, Shute, Silverman, Slane, Stillings, Tanguay, Theriault, Tynedale, Webber, Whitzell, Wight, Williams, Wood, M. W.; Wood, M. E.; Woodbury.

NAY — Berry, P. P.; Boudreau, Bragdon, Bustin, Call, Clemente, Collins, Cooney, Cummings, Curtis, T. S., Jr.; Doyle, Evans, Gil, Goodwin, Hall, Hancock, Haskell, Jutras, Kelley, P. S.; Kilroy, Lee, Lucas, Lund, Martin, McCloskey, McTeague, Morrell, Mosher, Murray, Norris, Orestis, Page, Pratt, Simpson, L. E.; Simpson, T. R.; Smith, E. H.; Susi, Trask, Vincent, Wheeler, White.

ABSENT — Bernier, Birt, Crosby, Curtis, A. P.; Cyr, Donaghy, Driogtas, Gauthier, Hardy, Hawkins, Hayes, Hewes, Lessard, O'Brien, Rocheleau, Smith, D. M.; Whitson. Yes, 92; No. 41; Absent, 17.

The SPEAKER: Ninety-two having voted in the affirmative and forty-one in the negative, with seventeen being absent, the motion does prevail.

The New Draft was read twice and tomorrow assigned.

### Order Out of Order

Mr. Bustin of Augusta presented the following Order and moved its passage:

ORDERED, that Jonathan Eaton Goodwin of Bath be appointed to serve as Honorary Page for today.

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



**Divided Report**

Majority Report of the Committee on Judiciary on Bill "An Act to Grant Adult Rights to Persons Eighteen Years of Age" (H. P. 1544) (L. D. 2000) reporting same in a new draft (H. P. 1581) (L. D. 2038) under same title and that it "Ought to pass"

Report was signed by the following members:

Messrs. TANOUS of Penobscot  
HARDING of Aroostook  
QUINN of Penobscot  
— of the Senate.

Messrs. ORESTIS of Lewiston  
LUND of Augusta

Mrs. WHEELER of Portland  
Mr. KELLEY of Caribou

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

Report was signed by the following members:

Mr. CARRIER of Westbrook  
Mrs. BAKER of Orrington  
Mrs. WHITE of Guilford  
Messrs. PAGE of Fryeburg  
HENLEY of Norway  
HEWES of Cape Elizabeth  
— of the House.

Reports were read.

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

Mr. LUND: Mr. Speaker, Ladies and Gentlemen of the House: I am sure that at least as many people would like to debate this bill as debated the last one, and it would be my hope that we might accept the "ought to pass" report and debate the bill more fully at third reader.

Mrs. Baker of Orrington requested a vote on the motion.

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

A vote of the House was taken.

87 having voted in the affirmative and 35 having voted in the negative, the motion did prevail.

Thereupon, the New Draft was read twice and tomorrow assigned.

**Divided Report**

Majority Report of the Committee on Labor on Bill "An Act relating to Inherent Managerial Functions Under the Municipal Employees Labor Relations Law" (H. P. 1531) (L. D. 1974) reporting same in a new draft (H. P. 1583) (L. D. 2041) under title of "An Act to Clarify the Scope of Collective Bargaining Under the Municipal Employees Labor Relations Law" and that it "Ought to pass"

Report was signed by the following members:

Mr. TANOUS of Penobscot  
— of the Senate.

Messrs. GENEST of Waterville  
KELLEY of Machias  
McTEAGUE of Brunswick  
SIMPSON of Millinocket

Mrs. LINCOLN of Bethel  
Mr. ROLLINS of Dixfield  
— of the House.

Minority Report "A" 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. MARCOTTE of York  
— of the Senate.

Messrs. LEE of Albion  
BEDARD of Saco  
— of the House.

Minority Report "B" of same Committee on same Bill reporting that it be referred to the 106th Legislature.

Report was signed by the following members:

Messrs. WHITZELL of Gardiner  
GOOD of Westfield  
— of the House.

Reports were read.

The SPEAKER: The Chair recognizes the gentleman from Westfield, Mr. Good.

Mr. GOOD: Mr. Speaker, I move that we accept the Minority Report "B" and would speak briefly to my motion.

The SPEAKER: The gentleman from Westfield, Mr. Good, moves the House accept the Minority Report "B." The gentleman may proceed.

Mr. GOOD: Mr. Speaker, Ladies and Gentlemen of the House: This bill deals with a very complex problem. In my estimation the committee has not had time or

resources to research this problem thoroughly, and I do admit we do have a problem and before long someone will have to solve this. With that thought in mind I hope you go along with my motion so that I can introduce an order to refer this problem to the Legislative Research.

The SPEAKER: The Chair recognizes the gentleman from Albion, Mr. Lee.

Mr. LEE: Mr. Speaker and Members of the House: First of all I would like to ask for a division, and in that case I will present the Minority Report "A," if we should win, which is essentially the bill itself as it was originally presented. If we are having any feeling for the small communities in the State of Maine in the educational field, we have got to do something.

The SPEAKER: The pending question is on the motion of the gentleman from Westfield, Mr. Good, that the House accept the Minority Report "B." All in favor of that motion will vote yes; those opposed will vote no.

A vote of the House was taken.

53 voted in the affirmative and 65 voted in the negative.

Mr. Ross of Bath requested a roll call vote.

The SPEAKER: The yeas and nays have been requested. For this 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 Chair recognizes the gentleman from Houlton, Mr. Haskell.

Mr. HASKELL: Mr. Speaker, Ladies and Gentlemen of the House: The Chairman of the House Labor Committee, Mr. Good, has indicated that in his judgment we do have an extremely serious problem that we should attempt to resolve. I am certain that most of you feel that we can't resolve it by ignoring it and hoping that it will go away because that is not going to happen. I think that it

would be fruitful if we did have this morning a sort of discussion of the issue and attempt to resolve it at this time. A great deal of time and effort has gone into this. I am sure many of you have formed opinions on it, and I am hopeful that we can defeat the motion to refer this to the next legislature and then I am equally hopeful that we can consider the bill itself and get the intent of the legislature on that bill.

So I do urge you to defeat the motion that is on the floor.

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

Mr. McTEAGUE: Mr. Speaker and Members of the House: I did not, as a member of the Labor Committee, sign the Report "B" which is advanced before us today by the House Chairman, Representative Good. I think though that there is at least some merit to that position. It is not a matter of hiding your head in the sand and hoping that the problem will go away, and this was the reason for it.

This bill, as I understand it, basically arose out of a situation in one of our towns in the southern part of the state, and that particular case is at this time on appeal before the Supreme Judicial Court. In the normal course of events we would probably expect a decision from the Supreme Judicial Court in early summer. If this is the case it would seem to me that we would have the benefit of legislating or determining whether there is a need for additional legislation and after we have the court decision interpreting the present law.

As it stands now, it has taken us in the neighborhood of two years to get a case to the law court that could give an authoritative interpretation. If we amend the law, we will again be faced with uncertainty for a period of approximately two years, until we can get that authoritative interpretation.

So although I did not sign the report with Mr. Good, the position which he advocates is not one of being like the ostrich. It is not one of trying to avoid the problem. I think it is one that

recognizes the grave complexity and importance of the area and recognizes that one of the keys to unlocking this complexity; namely, decision by our Law Court, is not yet available, but it will be available for the 106th Legislature.

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

Mr. ROSS: Mr. Speaker and Ladies and Gentlemen of the House: I helped write the law as it is on the books now, and this educational policy was one of the things that certain people were against. Now if you take educational policy out entirely, you might as well not have members of the school board, you might as well let the teachers run the whole show.

We wanted to define educational policy, but the redraft does not define it and the bill does not define it because it leaves out certain things that were not intended to leave out, that they can negotiate hours, wages and working conditions. So I don't think we are really in any position in this session to redefine this, and that is why I am in favor of having it studied further.

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

Mr. CAREY: Mr. Speaker and Members of the House: Unlike Mr. McTeague from Brunswick I am not a labor lawyer, so I would like to have this thing settled now. We are just like any other towns and cities in the state currently talking contracts with our teachers, and our prime concern now is what is going to be built into the current contracts that we won't be able to take out once and if the Supreme Court decides anything.

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

Mr. McTEAGUE: Mr. Speaker and Members of the House: I would like to provide some information for the other members of the House, and particularly my good friend the gentleman from Waterville, Mr. Carey. I do not and have never represented any teachers associations; I do not and have never represented any school committees. And as far as I know,

and I think that since the — and I think I am quite certain in my knowledge, although one can never predict the future with certainty, I don't anticipate representing any, either side.

For the further information of my good friend, the gentleman from Waterville, Mr. Carey, my partner is the town attorney for the Town of Brunswick and has worked with the school committee on that side of things. I thought you might be interested in that information.

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

Mr. SIMPSON: Mr. Speaker and Members of the House: If you will look at your report, you will notice that not one of the committee has signed an "ought not to pass" report. We recognize that there are problems in this bill. During the hearing one of the members of the committee asked the people involved, both sides, if they would endeavor to get together and come up with a definition of educational policy. They both agreed that they would try.

Now in the weeks that have gone by since, they have not come up with an educational policy definition, and while I did not sign the report sponsored by Mr. Good, I am not opposed to it because I do feel that further study on this bill is necessary. I urge you to vote for the motion as presented by Mr. Good.

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

Mr. GAUTHIER: Mr. Speaker and Members of the House: I am a member of the Sanford school committee and three gentlemen here have spoken, and I would like to answer the three of them; we have Mr. McTeague and Mr. Good that spoke to refer this to the 106th Legislature. When you want to kill a bill, this is the way to do it. And I would like to answer the gentleman from Bath, Mr. Ross, that at the present time I remember two or four years ago the gentleman that sat next to me from Rockland was the chairman of the — he is on the council at

the present time — told us, got up here and told us that if we accepted that bill at that time, that the school boards would be in trouble. And I am telling you, at the present time the school boards are not the boss.

The SPEAKER: The Chair recognizes the gentleman from Albion, Mr. Lee.

Mr. LEE: Mr. Speaker, Ladies and Gentlemen of the House: I am neither a lawyer nor a school board member nor a town official or anything else, but I am a member of this Legislature. If there ever was a time that I wish I could speak as flowery as some of the folks here, instead of using the construction type of language that I can use more effectively, I wish this was it.

If we are going to give up the God given right we have got as State of Mainers to control some part of our school system we have got to do something with this bill.

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

Mr. MARSTALLER: Mr. Speaker, Ladies and Gentlemen of the House: Everyone that has spoken on this bill has indicated we have a serious problem. Some want to put it off for some future time to decide; some want to let the courts decide for us. I think as members of this Legislature that it is our duty to try to enact reasonable legislation, and I hope that you will at least keep this bill alive for the present so that maybe we can come up with something that will be helpful to education.

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

Mr. WHITZELL: Mr. Speaker and Members of the House: Some of the other speakers have mentioned that we are trying to kill the bill. I don't think that Mr. Good and I, either one of us have that in mind. What we are asking is that time be given to study this bill. The words that have been used, educational policy and management and inherent and managerial right, these are ambiguous and there is no definition given.

Our committee has met mostly and spent most of our time trying to decide this one bill, and I think we have given it a lot of consideration. I have spent time in the library and I am sure that many others have. Of course if I were to be assured that all members of the House now were ready to go down and research this bill further during this special session, then I would go along with any other motion, but right now I am committed to Mr. Good. I feel that if we refer it to the 106th, and let the Standing Committee on Legislative Research look at this bill, they will come up with some language that will suit all of us.

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

Mr. ROSS: Mr. Speaker and Ladies and Gentlemen of the House: You have before you a very strange situation today because you have three decisions of the committee, and if you will look at the new redraft, that doesn't even change educational policy at all, and that is what we are talking about. If you will look at the amendment, that just takes off the emergency clause and does nothing that goes to the original bill. If we wanted to do something we would have to get before the House the original bill and then amend it. So I see nothing else that we can do except to go with Mr. Good on this.

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

Mr. HASKELL: Mr. Speaker and Ladies and Gentlemen of the House: My understanding of Minority Report "A" would bring the original bill before the House minus the emergency preamble. So in my judgment, if we defeat the motion of Mr. Good to accept Minority Report "B" and you accept Mr. Lee's motion to accept Minority Report "A", you would have the bill before you and we can work constructively on it.

I would simply like to make the point that there is a great deal of urgency, in my view, that we take some action in this area. The

language of the original bill is supported by the State Superintendent Association, the State School Board Association and by the Maine Municipal Association. The language that has been offered is the language of the legislation that is in effect in the State of Pennsylvania. It is the best definition that is available in the country at the moment to define educational policy.

This is the bill that will be before us if we defeat this motion to refer this to Legislative Research. So I hope now that we can defeat the motion to refer it and then can consider Minority Report "A", which is the bill.

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

Mr. LYNCH: Mr. Speaker, Ladies and Gentlemen of the House: I think it would be a great mistake to close the file on this particular bill at this moment. We have spent comparatively little time in session, and where there is a problem of this magnitude it certainly deserves an open and wide-ranging hearing, an airing of views, and this is the place to do it. We certainly can kill the bill if we can't agree later.

The SPEAKER: The pending question is on the motion of the gentleman from Westfield, Mr. Good, that the House accept the Minority Report "B" on Bill "An Act relating to Inherent Managerial Functions Under the Municipal Employees Labor Relations Law," House Paper 1531, L. D. 1974. If you are in favor of that motion you will vote yes; if you are opposed you will vote no.

Mr. Bustin of Augusta and Mr. Millett of Dixmont did not vote because of a possible conflict of interest.

**ROLL CALL**

YEA — Albert, Bailey, Baker, Bartlett, Berube, Binnette, Boudreau, Bunker, Churchill, Clark, Clemente, Cooney, Cote, Cottrell, Curran, Cyr, Doyle, Emery D. F.; Emery, E. M.; Farrington, Fraser, Gill, Good, Hancock, Hawkens, Immonen, Jutras, Kelleher, Kelley, P. S.; Keyte, Lebel, Lucas, Lund, Mahany, Marsh, Martin, McClos-

key, McCormick, McKinnon, McTeague, Mills, Morrell, Murray, Orestis, Porter, Rollins, Ross, Santoro, Scott, Silverman, Simpson, T. R.; Slane, Stillings, Theriault, Vincent, Webber, Wheeler, Whitzell, Wood, M. E.

NAY — Ault, Barnes, Bedard, Berry, G. W.; Berry, P. P.; Bither, Bourgoin, Bragdon, Brawn, Brown, Call, Carey, Carrier, Carter, Collins, Cummings, Curtis, T. S., Jr.; Dam, Donaghy, Dow, Dudley, Dyar, Evans, Faucher, Fecteau, Finemore, Gagnon, Gauthier, Genest, Hall, Hardy, Haskell, Henley, Herrick, Hodgdon, Jalbert, Kelley, K. F.; Kelley, R. P.; Kilroy, Lawry, Lee, Lewin, Lewis, Lincoln, Littlefield, Lizotte, Lynch, MacLeod, Maddox, Manchester, Marstaller, McNally, Mosher, Murchison, Norris, Page, Parks, Payson, Ponthriand, Pratt, Rand, Shaw, Sheltra, Shute, Simpson, L. E.; Smith, E. H.; Susi, Tanguay, Trask, Tyndale, White, Wight, Williams, Wood, M. W.; Woodbury.

ABSENT—Bernier, Birt, Conley, Crosby, Curtis, A. P.; Drigotas, Goodwin, Hayes, Hewes, Lessard, O'Brien, Rocheleau, Smith, D. M.; Whitson.

Yes, 59; No, 75; Absent 14.

The SPEAKER: Fifty-nine having voted in the affirmative and seventy-five in the negative, with fourteen being absent, the motion does not prevail.

The Chair recognizes the gentleman from Albion, Mr. Lee.

Mr. LEE: Mr. Speaker, Ladies and Gentlemen of the House: I move the Minority Report "A".

The SPEAKER: The gentleman from Albion, Mr. Lee, moves the House accept Minority Report "A".

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

Mr. McTEAGUE: I oppose the motion and would hope that it would be defeated so that we could accept the Majority Report of the committee. As Mr. Haskell has previously stated, the Minority Report "A" is basically the bill as he introduced it and I understand he intends to put an amendment on to take off the emergency clause.

Now, we are talking about trying to get definitions here, definitions of concepts like educational policy and none of these bills have it. And they don't have it because you can't do it; and anyone that thinks that you can do it, that you can come up with a definition of educational policy, I invite them to try. Because the thirteen members of the Labor Committee have tried for the last month, and we have been unable to do it. And I would suggest probably, although he can provide us with more explicit information, that the gentleman from Houlton, Mr. Haskell and other people interested in this legislation have tried and they can't do it either.

It takes a person who is quite optimistic or even perhaps a little bit foolish to think that problems that are complex like this are easily solved. They are not. And there is nothing wrong with our Legislative Research Committee, between the 103rd and the 104th, but they could not come up with a definition. They couldn't come up with one because there isn't an easy definition. And neither could the Labor Committee in the 104th or this time in special session of the 105th.

So the term is ambiguous, that is in our present law, and so is the term "inherent managerial rights" ambiguous. This is what is in this report and it is nowhere defined. And it is not defined for the same reason that educational policy is not defined, because it cannot be defined. Life is not all that simple. Now what happens when you try some of these type solutions?

We have learned from the sponsor that the language that Mr. Lee urges us to accept under his motion, namely the language of inherent managerial rights is adopted from the Commonwealth of Pennsylvania. Research by our committee indicated that only one state in the nation, and if I am wrong, perhaps I am and someone will correct me, but only one state in the nation has tried this approach, Pennsylvania. No other state has tried it, Maine is in the majority of 49. Pennsylvania is in the minority of one. Well, the dif-

ferent states have had different degrees of problems in the areas of public employees labor relations. Maine has not been a paradise, but we have been compared to Pennsylvania because Pennsylvania has the third highest rate of teacher strikes and closed schools and children not being educated in the country.

Now I don't have the figures at my fingertips regarding the State of Maine but as far as I know we haven't had a strike in the State of Maine in the two years under this act. It seems to me there is quite an argument about the proof being in the pudding. If this law is so good, why is Pennsylvania the only state that has it? And if it is so good, then why is Pennsylvania up into the hundreds of thousands of man days of teachers and probably millions of days of educational days for students lost? Pennsylvania has not provided a perfect solution.

Now, if you look at the Majority Report, it's not a perfect solution either. Again the reason is because there isn't a perfect solution. What we tried to do in the Majority Report, and if you happen to have the L. D. in front of you, perhaps you can look at it, the Statement of Fact explains what we tried to do. We made some rather small, slight changes. We changed the phrase from working conditions to terms and conditions of employment. Why did we do that? Does it mean the same thing or something different?

Well, I think it means the same thing, but the reason we made the change in committee was that we wanted to adopt the language of the National Labor Relations Act which has been in force for 35 years, and which has been interpreted thousands of times in federal court decisions. We thought that it might be of some benefit to both sides in these matters to have language that has been used in a federal act that applies to 50 or 60 million employees, and language which has been interpreted many many times by the Federal Courts and the National Labor Relations Board.

But it would be an attempt to delude you to tell you that this

is a perfect solution to the problem. But it is also, not out of any desire to do so, but in fact it is also an attempt to delude you to tell you that there is any perfect solution to the problem. This problem is no more capable of perfect solution than many of the other complex problems we deal with. But Pennsylvania does not lead the way. If there is one state that we should not pattern ourselves after, it is a state that has lost millions of school days for children due to strikes. If their law is so good, why do they have so many strikes, and if our law is so bad, as it stands now or we suggest to change it only slightly, why have we not had any strikes?

Now we have had things that have not been good under our law. We have had contention, we have had disagreements, and we have had litigation; and none of those things are pleasant, but they are all a lot better than strikes. We have now a case, as we are all aware, going before the Supreme Judicial Court. This case, I hope, will result in a little bit more guidance, but again not a perfect solution, not the perfect answer, but a little bit more guidance than we have now.

It takes a period of time after legislation is enacted without an emergency clause, and we have had a representation from Mr. Haskell that he intends to offer that amendment, but it takes 90 days after we adjourn to get a law into effect. As I understand it, these contracts run from year to year, so you are dealing with a fairly significant period of delay in any case before you run into your next period of negotiations. Perhaps some of those who are conversant in the area of teacher negotiations would know better than I when we will run into the next period, when contracts have to be signed for the next academic year.

But if you change the law again, if you make a significant change in the law, you go into the phrase, "inherent managerial rights." Now, I guess we know what rights are. I guess rights are the things that we want on our side and we don't want the other people to have, and there is such a thing as rights of

management and we know what management is.

But pray tell me, what does inherent mean? Inherent may mean one thing, it is almost a philosophical word rather than a legal word. It may mean one thing when you are dealing with a Mohammedan, and another thing a Christian and a third a Jew. Inherent to whom? And inherent in whose mind and whose eyes? If anyone wanted to create a paradise for the greedy motives, if there be such and I don't think there are, but if anyone wanted to create a paradise for the greedy motives of people who profit from discord, let them adopt this language of "inherent managerial rights." That is not the opinion of Pat McTeague; that is the experience of the Commonwealth of Pennsylvania.

The figures were provided to us and I believe that Mr. Haskell is aware of them. Again ask yourself the fundamental question. If Maine is so bad, why no strikes, and if Pennsylvania is so good, why so many? Don't jump into it, it is an emotional thing, we have all been properly subjected by our constituents on different sides. The teacher says, "Oh, this is terrible, don't do it." The superintendent or the member of the School Committee says, "Oh, this is salvation." This is their right as citizens in our democracy, they are both well intentioned. But it is our obligation as the representatives of all the people, and in particular our obligation as parents and representatives of parents who have children in the school systems, not to jump into an area that is going to increase the boiling point, not only make tempers short, but likely make strikes as it has in Pennsylvania.

If we really care and if we know how important it is, and if we are convinced that there are not simplistic solutions, you may not think that the Labor Committee in the 105th Legislature is a great deal, but you know the same thing happened in the 104th and the same thing happened with Legislative Research. There has been probably a total of 30 or 40 concerned, interested and I believe fairly intelligent fellow legislators of yours who have looked into this in depth,

and there is not an easy answer. Mr. Speaker, I would like to close by mentioning the obvious on these various reports.

This is not in any way an issue between the Republican Party and the Democratic Party. It is not a partisan issue. We are all over the lot on this. It's an emotional issue, but it's a real important one, because remember the millions of days of students education lost in Pennsylvania and you might say, well, there are other conditions in Pennsylvania that don't exist in Maine and well there may be; but should we take a chance?

Now, what your committee majority, and a significant majority of your committee has proposed has been to adopt the language of the federal law. And again, it is not a miracle solution. I don't think really, it is very much of a change at all. But we hope that it might be of just a little bit of help to the parties on both sides in helping them to understand the law. We deal with a new law, it's only two years old, in a complex and emotional area. We have had a fairly good record in Maine, quite a good record.

We are developing competency on both sides of the bargaining table, labor and management. We have recently seen the formation of a School Management Association. This is a good and healthy thing because we already have in existence a Maine Teachers Association, which is quite competent in representing their interests. And for a system of collective bargaining to work, there must be ability and experience and knowledge on both sides. We have seen the Maine Municipal Association move in to help municipalities, particularly in the non-educational areas. This also is healthy. We need more sophistication, knowledge and time, and things aren't really going so bad. This is our first case in the Law Court. But don't get shook and buy a pig in a poke from the Commonwealth of Pennsylvania because there is a little bit of heat on in both directions.

I hope, Mr. Speaker, that we do reject the motion to accept the

particular Minority Report suggested by Mr. Lee so that we may go on to accept the Majority Report from the committee. And I suggest that it is possible that we may be legislating on this again in the 106th Legislature, because it is complex and we may know more by then. There is something wrong with that; we are not trying to hide our heads in the sand, but we are trying to keep our feet down on earth, and not look before we leap because we don't want the strikes they have had in Pennsylvania.

The SPEAKER: The Chair will interrupt debate temporarily. The Speaker observes in the rear of the hall of the House former Governor Robert N. Haskell, and the Chair would invite the former Governor to visit with him on the rostrum this morning. Will the Sergeant-at-Arms escort former Governor Haskell to the rostrum.

Thereupon, former Governor Robert N. Haskell was escorted to the rostrum, amid the applause of the House, the Members standing.

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

Mr. ROSS: Mr. Speaker, Ladies and Gentlemen of the House: If you will look at the redraft, 2041, which the majority of the Labor Committee supported, you will see that they did not change educational policy at all. So it is going to be just the same as it is now. All they changed were working conditions to terms and conditions of employment.

So it will be the same as it is now. I am happy enough with that because it leaves educational policy just as broad as it is now, but it does not solve the problem.

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

Mr. HODGDON: Mr. Speaker, Ladies and Gentlemen of the House: The debate this morning has been most interesting. I would like to review two or three statements that have been made and I would direct the first one to Mr.



McTeague, although I see he is absent from his seat.

When he refers to the phrase, "inherent rights" may I suggest to you ladies and gentlemen that that is exactly as clear as a phrase that appears in all labor contracts by the other side when it says that they shall have work historically performed. Now, if somebody can explain the phrase, historically performed, I would be most happy to explain the inherent right bit.

I think we are being led to believe that this is developing into an issue between one municipality in the State of Maine, namely Biddeford, and the MTA. I can assure you ladies and gentlemen, that is not the case. There are many, many towns in the State of Maine now who are striving to come up with an answer to avoid duplication of the situation that now exists in Biddeford. I would submit to you ladies and gentlemen that it is my belief that it is now the policy of MTA that in any contract they try to negotiate and in which they do not receive what they believe to be their full rights, that it will end up in Court regardless of whether it be in Biddeford or Presque Isle or Kittery.

There is some doubt in some people's minds what is meant by a comprehensive contract. It is a novel; it is a mystery; it is a book of many pages and many articles and borders on the ridiculous. Whether or not your municipality is now faced with this, you can be assured in the very near future that you will be. And I submit, as I appreciate the hard work that the committee has done to try to come with an answer, I hope everybody will realize the tremendous amount of work that is being done by local officials to try to keep this on an even keel and come up with a satisfactory answer to both sides.

As far as I can see, there is one issue and one issue only at stake, and that is whether or not the school boards in the State of Maine, who are the duly elected representatives of the taxpayers of the State of Maine, will have a right to sit down at a negotiating table and once they have clarified the air in regard to hours and

working conditions of the teachers, that they have something left that they have control over and that is, namely, the educational policy in the schools of the State of Maine.

It has been referred that the bill as presented by Mr. Haskell is ambiguous. I submit to you, ladies and gentlemen, that the redraft and the phraseology that has been inserted is ambiguity personified, and if I was the MTA I would jump with joy to think that we could get a bill like this before us and possibly passed, as the redraft calls for.

Pressure has been brought on all of us from both sides. I submit to you ladies and gentlemen that there is grave doubt in my mind — grave doubt that fifty percent of the teachers in the State of Maine, who have written to their legislator asking them to defeat this bill have taken time out to read the bill and know what is in it. It is very evident that by some of the missals that have been presented to this legislature that they have not read this bill because the terminology used in their protest has not appeared anywhere in the bill and has never been discussed on the floor of this House.

As we consider this bill, ladies and gentlemen, I ask you once and for all to consider the taxpayer, consider the people who are retired. I am speaking somewhat from experience. At the present time — and I am not on the school board by the way, ladies and gentlemen, in the Town of Kittery we are discussing a budget for all departments in the Town of Kittery — all departments in the Town of Kittery, public works, police, fire, municipal offices and all.

We have had a budget presented to us this year which is \$40,000 over last year's budget. At the same time, for the consideration of the council in the Town of Kittery, we have before us a budget from the school department which is \$267,000 over our budget of last year, and the reason is that this is the year that the MTA is trying to foster onto the Town of Kittery a comprehensive contract. Do not count your-

self out if you have not been faced with this problem. I will guarantee you will be. I ask you to support the bill and the motion that is before the House now.

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

Mr. GAUTHIER: Mr. Speaker and Members of the House: I would like to answer Mr. McTeague, ladies and gentlemen. I think Mr. McTeague has been hounding on Pennsylvania, about the strikes that have happened in that state. As I recall it, Pennsylvania wasn't the only state that had strikes. I think New York, Manchester, New Hampshire had quite a big strike not too long ago, and I think there are many states that have been on strike, I mean as far as teachers are concerned, associations. And I am not blaming the teachers, because we have a good rapport with our teachers in Sanford. And one of the reasons today, I am getting up on my feet, I have been asked by the people in my town, the taxpayers, to say something on this, because at the last town meeting, and I am not surprised that the Maine Municipal Association is involved in this because all the towns are going to be involved.

We went to the town meeting for our budget and for our school in Sanford, with a population of about 16,000 people, and we are not an SAD or a single district, we have our own town schools, and the budget was \$2.5 million. And on top of that, two or three years ago we built a new high school of almost \$4 million, so the taxpayers have reached a peak where they can't afford it any more.

You have a serviceman who comes out of the service, buys himself a home, and the first thing you know he has got a mortgage and interest that he can't afford to pay because the taxes are going up and going up. Our budget in Sanford at the present time, 80 percent is for salaries of the school budget, so you have got only 20 percent to take care of the rest of your buildings in that town, and I am going to tell you that the attention that they are getting is not too good because

we can't with 20 percent, and you have to take 80 percent out of \$2.5 million to pay salaries, you haven't got too much for repairs.

I am chairman this year, I wasn't chairman last year, but the gentleman when we were negotiating with our teachers last year and at that time we were asked by the teachers, the Sanford Teachers' Association and ourselves to agree that we ourselves would be involved only in negotiations. The first thing we knew, the reports were coming out that after every meeting the teachers were reporting here by telephone what happened at our meetings.

So at the next meeting we asked them. We said we thought that we had agreed to settle this thing between ourselves. So we accused them of it and they said, "Yes, it is true. Every meeting we have," the spokesman for the teachers said, "we call up MTA to get our orders." Well this is what is going on. So if this keeps on going on this way and you don't do something to relieve your towns, your school boards, your hands are tied at the present time, and I am telling you because I have had that experience.

Mr. Norris of Brewer moved the previous question.

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

A vote of the House was taken, and a sufficient number not having voted for the previous question the motion was not entertained.

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

Mr. HASKELL: Mr. Speaker and Ladies and Gentlemen of the House: First off I would like to attempt to dispel some of the smoke screen that my good friend Mr. McTeague has thrown up. Mr. McTeague knows very well, as I am sure many in the House also know, that the only state in the nation that allows strikes is the State of Pennsylvania.

I feel equally sure that Mr. McTeague knows that Pennsylvania experienced a series of illegal strikes in this area prior to the passage of the negotiation law that we have reference to here. I also feel sure that he is acquainted with the fact that about five states have attempted a definition of educational policy. The Pennsylvania definition seems to be the best definition that has been developed so far, and that is the reason that it was offered.

The State of Maine is not alone in attempting to exclude negotiations from the policy area: This is common feature in this type of legislation throughout the country because it is recognized that you have peculiar problems in education where you have people that are experts that want to have a voice in policy and that they should have a voice in policy. Our law recognized this and there is a meet - and - consult provision, as Mr. McTeague, again I am sure is well aware of. I am sure that he also knows that the people representing the School Board Association and the superintendents are in complete agreement that if they wish to substitute the term "terms and conditions of employment for working conditions," this is perfectly acceptable.

I would also like to describe the process that Mr. Simpson of Millinocket referred to when he said that the committee asked that the school boards, superintendents and the MTA get together and attempt to resolve the language. A meeting was held, all parties were in attendance, the school board people and the superintendents indicated the language changes that were acceptable to them. The MTA representative was adamant that they did not wish to discuss educational policy or to offer any constructive criticism of the language so that any attempt to better the language by negotiation failed, simply because of the fact that the MTA was not willing to work constructively in this area.

Now the basic problem here is who is going to be making educational policy in the State of Maine from now on out. Public negotia-

tion is new and certainly this is not the final solution that is offered in this bill. There is going to be repeated language changes in the terms of this act probably in every session of the legislature until finally you reach a point of equilibrium. So nobody is suggesting that this is a total solution. However, we do have the problem that until and unless we define educational policy, there is nothing to bar negotiations in the State of Maine in the policy area.

Now the real danger in all of this has not been described to you as yet because the real danger in all of this is the fact that we have a "no strike" provision in our law, and to compensate for the "no strike" provision we have compulsory arbitration. So when you have compulsory arbitration and you have a law that does not clearly describe the policy area in which you cannot negotiate, you are immediately in the situation where your policy decisions are going to be subject to arbitration. And when you have that condition you are going to have your policy decisions resolved by arbitration.

This is an extremely costly process. It requires extremely sophisticated negotiation. It is made to order for anybody who is interested in forming a large group of professional negotiators because the negotiation becomes highly technical, all the absence of a definition of the policy area that should be excluded from negotiation. Now that is all that is involved here.

We have taken the best definition that we could find that is in existence in the United States. We have introduced it as a solution to the weakness that has developed in our Maine law where it has been found that the policy definition is not adequate. I think that you know from your own experience that negotiations in the policy area are being attempted in almost every community in the State of Maine, and until we do come up with an adequate definition in this area these attempts are going to continue.

I think it might interest Mr. McTeague to know that I have talked with the Labor Relations

Board of the State of Pennsylvania concerning the strike situation there. They informed me that the majority of the strikes in Pennsylvania are concerned about attempts to negotiate in the policy area. This is precisely the reason that I am interested in this bill. I would like to see a negotiation in the state kept in the constructive area of wages and hours and working conditions. I think when you have a group that is committed to the idea that educational improvement is going to come across the bargaining table, you are in a situation that can only lead to a greatly increased volume of fact finding and arbitration. I think it is going to become an extremely costly process for both sides of the bargaining table. I think we would be well advised to accept the Pennsylvania definition here now as the best available definition in this area in the country and to proceed with it.

Now I have talked again with the Pennsylvania Labor Relations Board and asked them on the basis of two years' experience with this language if they would suggest any change in it. Their reply to me was that they would not change so much as a comma, that the definition is working well in their situation. They are having strike activity as they attempt to test the definition, but their indication to me was that they believed that this type of activity had peaked and was now tapering off as more and more of the policy area became firmly established and negotiation was returned to the area where it properly belongs, which is in wages and hours and working conditions.

So it seems to me that the wisest course to prevent future and increased labor discord, and fact finding and arbitration, is to insert this definition into our law, not to change it, but to carry out the original legislative intent when the law was passed, which very clearly was to exclude bargaining from the policy area.

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

Mr. SHELTRA: Mr. Speaker and Ladies and Gentlemen of the

House: I would like to tell my good friend, Pat McTeague, that conditions do vary, not only from one state to another but certainly within one given state. For example, back along a few years I had a colleague of mine purchase a home in the Town of Richmond, a two-tenement family structure, and he purchased it by only paying \$7,000. The same identical structure in my home Town of Biddeford sold for better than \$14,000, so you can see how important working conditions and the economy of an area are.

So consequently, personally I am very much in favor of home rule. As far as your Board of Education, they are elected by the people. If they don't do their job properly they would be voted out the succeeding year. So I say it is up to every given area to have some kind of home rule decision on this. What I feel most is that when any laws are made they are always established by some sort of precedent, and I think this is what the MTA is trying to accomplish in some of these small towns and rural areas so that they then can come back to us or to the powers that be and say, "Well it was done in so and so's town, why can't it be done all over?"

So I strongly urge your support of this bill here and I concur wholeheartedly with the remarks that have been made, particularly by my good friend and colleague, Henry Hodgdon.

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

Mr. SIMPSON: Mr. Speaker, Ladies and Gentlemen of the House: I have sat at the bargaining table. I grant that I was on the side of labor, but I also went into management later on; and while I didn't sit at the bargaining table I was asked for advice from management.

Now the big bone of contention has been the phrase "educational policy" in our teacher-school board negotiations. This is almost the same as the old horse trading game. They come up, one fellow has a horse, the other fellow has money. All right, during the negotiations or during the trading

the fellow with the money says, "Well, how about throwing in the saddle?" And the other fellow says, "No," a flat no. So they talk awhile longer. The fellow says, "Please." The fellow still says no. So they talk a little more and the fellow with the money says "Pretty please." "Well, maybe." Of course at the same time he is offering a little more money. Finally the fellow with the horse agrees to sort of throw in the saddle.

Now this essentially is what the majority of the committee had in mind when they eliminated that phrase "educational policy," and we substituted terms and conditions of employment, and we felt that that would be an all embracing term, and the school board said that if they didn't want to negotiate on a certain thing they could say no, and if the teachers felt that it was something that they were concerned with in terms of education, terms and conditions of employment, then they could say no; or say yes, whichever they wanted to do.

So I don't like this phraseology in the bill. I would like to have you look at Standards of Service. Now from the school board angle that could mean anything, that could mean anything at all. It is the overall budget. Naturally the school teachers' salaries and so forth come out of the budget; therefore they are interested in it. Utilization of technology. If you have got a backward school board that doesn't want to include technology in it and the school teachers feel a need for it, then it is debatable.

The organizational structure. There again in my experience I have found that in private industry that we have to get into the realm of organizational structure. In the selection and direction of personnel, naturally the teachers are interested in this. So, if you grant it, if passing this bill as is, you are giving the school boards a club, and that is saying the club, and the teachers wouldn't have a leg to stand on. So you are negating the whole bargaining process, and this is my objection to the bill.

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

gentleman from Albion, Mr. Lee, that the House accept the Minority Report "A" of the Committee.

Whereupon, Mr. Simpson of Millinocket requested a roll call vote.

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 on the motion of the gentleman from Albion, Mr. Lee, that the House accept Minority Report "A" on Bill "An Act relating to Inherent Managerial Functions Under the Municipal Employees Labor Relations Law," House Paper 1531, L. D. 1974. If you are in favor of that motion you will vote yes; if you are opposed you will vote no.

Mr. Bustin of Augusta and Mr. Millett of Dixmont did not vote because of a possible conflict of interest.

**ROLL CALL**

YEA — Ault, Barnes, Bartlett, Bedard, Berry, P. P.; Binnette, Bither, Bourgoin, Bragdon, Brawn, Brown, Call, Carey, Carrier, Clark, Collins, Cummings, Dam, Dow, Dudley, Dyar, Evans, Faucher, Fecteau, Finemore, Gagnon, Gauthier, Hall, Hardy, Haskell, Henley, Herrick, Hodgdon, Immonen, Lawry, Lebel, Lee, Lewin, Littlefield, Lizotte, Lynch, MacLeod, Maddox, Manchester, Marstaller, McCormick, McNally, Mills, Mosher, Murchison, Page, Parks, Payson, Porter, Pratt, Rand, Ross, Scott, Shaw, Sheltra, Shute, Silverman, Simpson, L. E.; Trask, Tyndale, Wight, Williams, Woodbury.

NAY — Albert, Bailey, Baker, Berry, G. W.; Berube, Boudreau, Bunker, Carter, Churchill, Clemente, Conley, Cooney, Cote, Cottrell, Curran, Curtis, T. S., Jr.; Cyr, Doyle, Emery, D. F.; Emery, E. M.; Farrington, Fraser, Genest, Gill, Good, Goodwin, Hancock, Jal-

bert, Jutras, Kelleher, Kelley, P. S.; Kelley, R. P.; Keyte, Kilroy, Lewis, Lincoln, Lucas, Lund, Mahany, Marsh, Martin, McCloskey, McKinnon, McTeague, Morrell, Murray, Norris, Orestis, Pontbriand, Rollins, Santoro, Simpson, T. R.; Slane, Smith, E. H.; Stillings, Susi, Tanguay, Theriault, Vincent, Webber, Wheeler, White, Whitzell, Wood, M. W.; Wood, M. E.

**ABSENT**—Bernier, Birt, Crosby, Curtis, A. P.; Donaghy, Drigotas, Hawkens, Hayes, Hewes, Kelley, K. F.; Lessard, O'Brien, Rocheleau, Smith, D. M.; Whitson.

Yes, 68; No, 65; Absent, 15.

The **SPEAKER**: Sixty-eight having voted in the affirmative and sixty-five in the negative with fifteen being absent, the motion does prevail.

Thereupon, the Bill was read twice. Committee Amendment "A" (H-561) was read by the Clerk and adopted and tomorrow assigned for third reading of the Bill.

#### Passed to Be Engrossed

Bill "An Act relating to Restoration to State Service" (H. P. 1579) (L. D. 2036)

Bill "An Act relating to Per Diem Allowances and Expenses for Members of the State Board of Barbers and State Board of Hairdressers" (H. P. 1580) (L. D. 2037)

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 Bill Tabled and Assigned

Bill "An Act to Correct Errors and Inconsistencies in the Education Laws" (H. P. 1468) (L. D. 1911)

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

(On Motion of Mr. Millett of Dixmont, tabled pending passage to

be engrossed and tomorrow assigned.

#### Orders of the Day

The Chair laid before the House the first tabled and today assigned matter:

Bill "An Act Establishing a Forest Lands Taxation Policy Using a Productivity Approach" (H. P. 1577) (L. D. 2034)

Tabled — February 22, by Mr. Susi of Pittsfield

Pending — Passage to be engrossed.

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

Mr. **MARTIN**: Mr. Speaker and Members of the House: We are still waiting for a decision by the Attorney General's department and also by other attorneys involved in the case, or I should say the bill, and so I would ask that someone table this for another day.

Thereupon, on motion of Mr. Ross of Bath, retabled pending passage to be engrossed and tomorrow assigned.

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

Bill "An Act Reallocating Funds for Auburn-Lewiston Airport Provided by 1967 Bond Issue" (H. P. 1574) (L. D. 2031)

Tabled — February 22, by Mr. Henley of Norway.

Pending — Passage to be engrossed.

Mr. Henley of Norway offered House Amendment "A" and moved its adoption.

House Amendment "A" (H-560) was read by the Clerk and adopted.

The Bill was passed to be engrossed as amended and sent to the Senate.

On motion of Mr. Porter of Lincoln,

Adjourned until nine o'clock tomorrow morning.